The Semantics of Crime

A Linguistic Analysis

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DECLARATION

Except where otherwise acknowledged, this thesis is my own work

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[Name]
KEY WORDS IN DEFINITIONS OF EXPRESSIONS REFERRING TO CRIMES ........................................... 68

PHYSICAL ELEMENTS ....................................................................................................................... 70
Act .................................................................................................................................................... 75
Omission .......................................................................................................................................... 83
Voluntary .......................................................................................................................................... 90
Circumstance .................................................................................................................................... 96
Result ................................................................................................................................................ 99
Conduct ............................................................................................................................................ 102

FAULT ELEMENTS ....................................................................................................................................... 110
Intention ............................................................................................................................................ 113
Knowledge ....................................................................................................................................... 127
Recklessness ..................................................................................................................................... 128
Negligence ......................................................................................................................................... 137

CONCLUSIONS ..................................................................................................................................... 143

CHAPTER 4 DOING BAD THINGS TO A PERSON .......................................................................................... 149

INTRODUCTION ................................................................................................................................. 149

MURDER ............................................................................................................................................... 150
Previous analysis of murder, manslaughter and homicide ................................................................ 150
Murder in ordinary language ........................................................................................................... 152
Murder in legal language .................................................................................................................. 158

MANSLAUGHTER .................................................................................................................................. 165

HOMICIDE ............................................................................................................................................. 169

SUICIDE .................................................................................................................................................. 171

GENOCIDE ............................................................................................................................................ 174
Genocide in ordinary language ........................................................................................................ 174
Genocide in legal language ................................................................................................................ 179

RAPE ...................................................................................................................................................... 181
Rape in ordinary language ................................................................................................................. 181
Rape in legal language................................................................................................................... 192
Persuasive definitions of rape........................................................................................................... 197
KIDNAPPING................................................................................................................................. 203
Kidnap in ordinary language........................................................................................................... 203
Kidnap in legal language.................................................................................................................. 207
ABDUCTION....................................................................................................................................... 208
FALSE IMPRISONMENT.................................................................................................................. 212
ASSAULT........................................................................................................................................... 214
Assault in ordinary language............................................................................................................. 215
Assault in legal language.................................................................................................................... 219
TORTURE........................................................................................................................................... 222
Torture in ordinary language............................................................................................................. 222
Torture in legal language..................................................................................................................... 226
CONCLUSIONS.................................................................................................................................. 228

CHAPTER 5 DOING BAD THINGS TO THINGS................................................................................. 233

INTRODUCTION..................................................................................................................................... 233

STEALING.......................................................................................................................................... 234
Steal in ordinary language.................................................................................................................. 234
Steal in legal language........................................................................................................................ 238

ROBBERY........................................................................................................................................... 241
Rob in ordinary language..................................................................................................................... 241
Rob in legal language........................................................................................................................... 245

BURGLARY.......................................................................................................................................... 246
Burgle in ordinary language................................................................................................................. 247
Burgle in legal language....................................................................................................................... 251

CRIMINAL DAMAGE......................................................................................................................... 252
Damage in ordinary language.............................................................................................................. 254
Criminal damage................................................................................................................................ 256
CONCLUSIONS ...................................................................................................................................... 324

CHAPTER 7 DISCUSSION .................................................................................................................. 326

INTRODUCTION ................................................................................................................................. 326

THE SEMANTICS OF CRIME .............................................................................................................. 327

PROBLEMS WITH LEGAL DEFINITIONS .......................................................................................... 335

PRACTICAL APPLICATIONS OF NSM IN LEGAL CONTEXTS .......................................................... 337

Legal Interpreting.............................................................................................................................. 338

Police Cautions .................................................................................................................................. 345

Trial Preparation................................................................................................................................ 351

Jury Instructions................................................................................................................................ 363

CONCLUSIONS .................................................................................................................................. 368

CHAPTER 8 CONCLUSIONS .................................................................................................................. 369

TABLE OF STATUTES ........................................................................................................................ 372

TABLE OF STATUTORY INSTRUMENTS ............................................................................................. 373

TABLE OF CASES ............................................................................................................................ 374

APPENDICES ...................................................................................................................................... 376

APPENDIX A COBUILD DIRECT CORPUS CONTENTS .................................................................. 376

APPENDIX B COBUILD DIRECT SEARCHES .................................................................................. 380

APPENDIX C EXPLICATIONS ............................................................................................................ 383

Doing bad things ................................................................................................................................ 383

Doing bad things to a person ............................................................................................................. 387

Doing bad things to things ............................................................................................................... 400

Doing bad things to many people .................................................................................................... 409

BIBLIOGRAPHY .................................................................................................................................. 415
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Abstract

_Murder, rape, kidnap, steal, rob and hijack_ are expressions referring to crimes in English. They are expressions well known and understood by ordinary speakers and occupy an important semantic field in the lexicon of English. Their legal meanings are also known and understood by lawyers, who speak _legal English_, commonly known as _legal language_. They are a very important part of the lexicon of that variety.

The semantics of crime in ordinary English has received very little attention from linguists. There have been many lexical explorations of other semantic fields in English, such as emotions, colours, speech act verbs, motion, artefacts and animals and some studies of aspects of the semantics of English Grammar. No major study has, however, reported on the semantics of crime. This is a significant gap in our knowledge of English lexical semantics.

The semantics of crime in legal language, and indeed, the semantics of legal language as a whole, have also received very little attention from linguists. The first major work on legal language, written by a lawyer, did not appear until 1963. Previous studies were mostly complaints about the unintelligibility of the variety and proposals for its reform. During the past thirty years, the study of language and the law, which includes the study of legal language, forensic phonetics and other aspects of language use in legal contexts, has developed into a subdiscipline of linguistics. During this time a considerable body of knowledge has been built up concerning the syntax, pragmatics and other aspects of legal language, but no major study of its semantics has been reported. This is a major gap in our knowledge of the variety.
The aim of this thesis is to add to our knowledge of the semantics of crime in English by analysing the meanings of expressions referring to crimes in both ordinary and legal language. The thesis is in three parts, the background to the analysis, the analysis and the synthesis.

The background contains a history of legal language, a description of its structure and lexicon, a description of statutory language, a review of current knowledge of the semantics of legal language, a description of legal semantic method and explanations of the methodology and data collection.

The analysis contains explications of the meanings of nearly sixty expressions referring to crimes and the meanings of expressions used to define them. These cover terms of criminal responsibility (including act, omission, intention, recklessness and negligence), homicides (including murder, manslaughter, suicide and genocide), offences against the person (including rape, kidnapping, assault and torture), offences against property (including stealing, robbery, fraud and blackmail) and offences against society (including counterfeiting, riot, piracy, hijacking and libel).

The synthesis is a discussion of the results of the analyses which include practical applications of the analyses in legal contexts such as interpreting, police cautions, trial preparation and jury instructions. The synthesis concludes with a statement of how the analyses have achieved the aim of adding to the existing knowledge of the semantics of crime.
Chapter 1 Introduction

Problem Statement

_Murder, rape, kidnap, steal, rob and hijack_ are expressions referring to crimes in English. They report on the acts of someone who has done certain things whilst presumably thinking certain thoughts. Society views those acts, when combined with those presumed thoughts, as wrong and punishable. They are expressions well known and understood by ordinary speakers and occupy an important semantic field in the lexicon of English. Their legal meanings are also known and understood by lawyers, who speak _legal English_, commonly known as _legal language_. They are a very important part of the lexicon of that variety.

The semantics of crime in ordinary English has received very little attention from linguists. In using the term, “ordinary English” I do not claim that this is a distinct variety of the language, but a general worldwide English used by native speakers in many domains. The concept ignores dialectal variation and assumes a common core of structural and lexical features for English. In the context of this research it specifically assumes that the meanings of the lexical items studied do not vary between dialects. Ordinary English is of course the usual subject for investigation by linguists and lexicographers and the study of a part of its lexicon needs no justification. There have been many lexical explorations of other semantic fields in English, such as emotions, colours, speech act verbs, motion, artefacts and animals as well as many studies of aspects of the semantics of English Grammar. No major study has, however, reported on
the semantics of crime. This is a significant gap in the knowledge of English lexical semantics.

The semantics of crime in legal language, and indeed, the semantics of legal language as a whole, have also received very little attention from linguists. Legal language is an important variety of English of considerable antiquity and with a remarkable grammar and lexicon. It plays an important part in the life of society, regulating public conduct and private dealings. In its written form it is found in many genres such as statutes enacted by legislatures, contracts regulating business and consumer dealings, wills passing property on death, court pleadings setting out the nature of claims and defences to claims, and the judgments that decide court cases. In its spoken form it is found in the court room discourse of lawyers and in communications between lawyers out of court.

Studies of legal language are recent and far from comprehensive. The first major work on legal language, written by a lawyer, did not appear until 1963 (Mellinkoff 1963). Previous studies were mostly complaints about the unintelligibility of the variety and proposals for its reform. During the past thirty years, the study of language and the law, which includes the study of legal language, forensic phonetics and other aspects of language use in legal contexts, has developed into a subdiscipline of linguistics. Its own journal, Forensic Linguistics, commenced publication in 1994. During this time a considerable body of knowledge has been built up concerning the syntax, pragmatics and other aspects of legal language, but no major study of its semantics has been reported. This is a major gap in the knowledge of the variety.
Aim

The aim of this thesis is to add to knowledge of the semantics of crime in English by analysing the meanings of expressions referring to crimes in ordinary and legal language.

Research Approach

To achieve this aim I have separated the thesis into three broad parts: the background to the analysis, the analysis and the synthesis.

Background

Chapter 2 is the background to the analysis. It contains a brief history of legal language, a short description of its structure and lexicon, a description of statutory language, a review of current knowledge of the semantics of legal language and an outline of criminal law and procedure. I then describe the semantic methodology of the analyses, which is Natural Semantic Metalanguage Semantics ("NSM"). The chapter concludes with an explanation of the method for collection of data. Examples of use of ordinary language are collected from a 56 million word corpus of English called CobuildDirect, and examples of use of legal language from legal texts.

Analysis

Chapters 3-6 contain the analysis. The outstanding feature of the lexicon of legal language is a three part structure made up of ordinary items with ordinary meanings, such as circumstance and result, ordinary items with legal meanings, such as conduct and intention, and legal items with legal meanings, such as manslaughter, false
imprisonment and counterfeiting. It follows that a description of the semantics of crime in legal language must include analyses of both the ordinary and the legal meanings of items in its lexicon. I therefore begin by describing the ordinary and legal meanings of terms used in defining expressions referring to crimes, and then the ordinary and legal meanings of the expressions themselves. The expressions referring to crimes are words such as murder, manslaughter and steal, and the terms used to define them are words such as conduct, intention and recklessness. Sometimes the legal meanings could not be represented in any convincing way. In those cases I give the ordinary meanings and comment on the difficulties of explicating the legal meanings. Chapter 3 examines the metalanguage of the criminal law in the context of the Australian Model Criminal Code ("the Code"). These are the "physical elements" in the Code, act, omission, voluntary, circumstance, result and conduct, and the "fault elements", intention, knowledge, recklessness, and negligence. Chapters 4, 5 and 6 are analyses of the expressions referring to crimes themselves. Chapter 4 deals with crimes which affect a person's body: murder, manslaughter, homicide, suicide, genocide, rape, kidnapping, false imprisonment, assault and torture. Chapter 5 deals with the property offences: steal, rob, burgle, fraud, blackmail, and forgery. Chapter 6, covers offences which affect the whole community in one way or another: counterfeiting, riot, piracy, hijacking and libel.

Synthesis

Chapters 7 and 8 are the synthesis. Chapter 7 is a discussion of the results of the analyses, including conclusions about the semantic field of crime, a discussion of problems with legal definitions and suggestions for practical applications of the
analyses. They can be used to help people understand and apply criminal law concepts in activities such as legal interpreting, police cautions of suspects, trial preparation by lawyers and instructions given by judges to juries. Chapter 8 concludes by saying how the analyses have achieved the aim of adding to the existing knowledge of the semantics of crime.
Chapter 2 Background

Introduction

The aim of this thesis is to add to the knowledge of the semantics of crime in English by analysing the meanings of expressions referring to crimes in ordinary and legal language. Before beginning the analyses, and so that the analyses can be better understood, it will be necessary to give a background to them, by discussing written legal language, the basic principles of criminal law, the methodology used and how data was collected. The aims of this chapter are therefore to describe the history, structure and lexicon of written legal language, to discuss the language of criminal statutes, to explain the basic principles of criminal law and the criminal justice system, to describe the descriptive methodology and the method of data collection.

To achieve this aim I have divided this chapter into four parts. The first part covers the history of legal language, its structure and lexicon, the structure of statutory language, a review of previous work on the semantics of legal language and work on the semantics of expressions in evidence. The second part deals with criminal law and procedure. The third part covers the methodology, NSM Semantics and the fourth part is an explanation of how data was collected for the examples of use of expressions in ordinary language and in legal language.
Legal language

History of legal language

For much of the last millennium, people working in the law maintained three languages, Latin, French and English. For example, counsel appearing at the bar would recite pleadings in law French, read court papers in law Latin and question witnesses in English. It was simply not possible to work in the law without knowing these three languages. In their everyday work, lawyers shifted between these three codes and mixed them in their speech and writing. They preserved this situation throughout a five hundred year period of stable multilingualism. At different times, one or other of the languages was dominant. Latin was the main language of the law during the eleventh and twelfth centuries. French was predominant from the thirteenth to the sixteenth centuries and passed out of use in the eighteenth century. English, a pre-conquest legal language, was revived in the early fifteenth century. Today lawyers no longer have any need to be trilingual, but they do need to be “bidialectal” in ordinary and legal English. Indeed their legal education can be thought of as a course for the acquisition of the grammar, lexicon and pragmatics of legal English as a second “dialect”.

Before the Norman Conquest of 1066 there was no established legal profession, no judicature and no legislature. There was however a legal system with law terms such as *writ, doom* (judgment), *moot* and *oath* (Tiersma 1999, 11-12). Folk-right or customary law and book law or statutory law regulated conduct (Baker 1990, 4). The Anglo-Saxon Kings issued codes declaring the law or containing directions to reeves or lords (Baker
1990, 11) and the oldest surviving text in English is one of these, a statute from 600 AD (Tiersma 1999, 10). During this period there was no law common to the whole of England and justice was not a Crown prerogative (Baker 1990, 4). English and Latin were the languages of legal texts.

When William claimed the Crown of England in 1066 he took over a well developed system of government and law and he made few changes to it (Baker 1990, 14). The invaders of course spoke French, which was the language of the Royal Court and the upper classes. But it was not until the late thirteenth century that French appeared in documents. After the Conquest it was Latin, not French, which replaced English as the written language of official documents. The effect of the invasion on language use in England was slight. English and Latin continued in use and French was used only in restricted domains (Woodbine 1943, 404-410). In due course, French fell out of use, even in those domains. In legal contexts, the opposite happened. By one of those strange turns in the history of a language, French flourished and came to be the dominant language of the law. There seem to be two reasons for this. Firstly, after 1300, the courts were centralised in London. Judges who had previously traveled round the country holding sittings, began to sit regularly in London. They set up the Courts of Kings Bench, Exchequer and Chancery in Westminster Hall, and there they remained for nearly, six hundred years, until a move to the Strand in 1882 (Baker 1990, 44). Once the judiciary was established in London, a legal profession began to appear, and it needed a language. The language it chose was French. Secondly, at the same time, there was a second invasion of French speakers following the marriage of Henry II to Eleanor of
of Acquitaine. Her retinue of followers appears to have influenced the new legal profession to adopt French as their professional language. From this time French began to appear in statutes and court reports called “Yearbooks”. In the statutes the language shift can be clearly seen. In 1267 Latin was in sole use, in 1327 70% of statutes were written in French and later reached a point where 95% were in French. The Yearbooks were written in French for their entire history, from 1280 to 1535.

French was the spoken language of the bar during the thirteenth century but by 1400 it appears to have been replaced by English. We know this, because after 1360, the language of the Yearbooks begins to show reduction in vocabulary and simplification of grammar, a classic sign that it was written by non-native speakers. French legal terms were retained, but for ordinary expressions, English words were freely used. For example, in the Yearbooks we find, “il ringe les belles” (“he rings the bells”), the English words “ring” and “bells” being given French inflections (Baker 1990b, 10). There was massive loss of inflection, so that case marking on nouns, pronouns and adjectives was lost, number marking was anglicised, gender marking was lost and four verbal conjugations were reduced to one (Baker 1990b, 10-15). Partial language death had occurred as speakers shifted to English, but kept French for a restricted domain of use. By 1700 law French ceased regular use and the last book in that language was published in 1731 (Baker 1990b, 6).

Written legal English came into use rather late. Most legal literature before the Seventeenth Century is in French or Latin (Baker 1990b, 1). There had been an attempt
in the 1356 Statute of Pleadings to ban the use of French in pleadings. However the ban was confined to that genre and in any event, was ignored. The reason for the shift to English was not a statute, but the decision of Henry V in 1417 to use English in his letters and warrants (Richardson 1980). By doing so, he committed officialdom to the vernacular. It was an act of language status planning, a major event in the history of legal language and indeed in the history of the English language. Officialdom of the period was the Chancery, the main national government office through which passed a mass of paperwork. All court cases in the King’s courts and all cases involving inheritance or land began here. Clerks took instructions spoken or written in the dialects of England and transcribed them in official documents in a house style of standardised English called “Chancery English” (Fisher 1977, 875-876). In 1400 there were 120 clerks in the Chancery with lifetime tenure, overseen by twelve Masters in Chancery. Fisher says of them:

This compact, disciplined, hierarchical body of civil servants is not merely an antiquarian curiosity, but a fact of capital importance in the evolution of standard written English, for this is the group which introduced English as an official language of central administration between 1420 and 1460 (Fisher 1977, 877)

Enjoying great prestige, Chancery English was spread throughout the land in official documents that became models which were an important influence in the development of standard written English. Close on the heels of the switch from French to a standardised English for official purposes, came the invention of printing. This
facilitated the spread of model documents throughout the community. Printing also meant that definitive versions of texts could be made widely available in multiple copies. Statutes, for example, could be copied from the Parliamentary Rolls and published for use in law office and in court. Printed form books appeared with precedents of pleadings and other legal documents. Form books are still in use today and they have fixed a frozen style in legal language as time-worn expressions have been passed down the centuries.

Lawyers were required to know Chancery English in order to understand the forms of writs, pleas and other documents in the King’s Courts (Richardson 1980). They learnt these forms by attending a training programme for would-be Chancery Clerks (Fisher 1977, 891-893). However, unlike the Chancery Clerks, they clung to law French, until the shift to English was finally forced upon the legal profession after the Revolution. In 1650 Parliament passed “An Act for turning the books of the Law and all Proces and Proceedings in Courts of Justice, into English”. By this time the use of law French was in decline. Latin remained the language of writs, court records and common-law pleadings (Mellinkoff 1963, 126). Unlike the 1356 Statute of Pleadings before it, this law was effective. In 1652 an English judge created history by delivering the first ever judgment in English, in the case of White and Kebblewhite (82 Eng. Rep. 695). At the Restoration in 1660 the law was repealed, but in 1731 it was substantially re-enacted, forcing lawyers to at last abandon the use of law Latin and law French.

Chancery English was an important influence on the development of Standard Written
English. It may also have been important in the development of legal English, but we know little of its origins. Certainly the lexicon and structure of Legal English and Standard Written English have diverged. Today there are great differences between them. I will discuss these distinguishing features in the next section of this Chapter. Just how legal English came to diverge from Standard English is mostly an unanswered question. One process may have been the “ossification” of features that were originally functional and which later came to be a badge of the variety and a mark of solidarity amongst users of legal English. For example a feature such as absence of pronouns might function to avoid ambiguity of reference, and was later kept on or elaborated as an earmark of the variety. In Art History this is called “skeuomorphy”. For example characteristic features of timber beams in Greek architecture were repeated on stone buildings in a later period, although they were no longer functional (Burridge 2002). No comprehensive history of its structure and use has been written. The early history of legal language from William I (1066) to Edward I is covered in Woodbine’s *The Language of English Law* (Woodbine 1943). The story of the rise of Chancery English is told in Fisher (Fisher 1977) and Richardson (Richardson 1980). Mellinkoff (Mellinkoff 1963, 36-282) contains a history of the language of the law from pre-Roman times to the present. His analyses are confined predominantly to the vocabulary of legal language as he appears to have been unaware of the importance of morphology and syntax in language. Tiersma (Tiersma 1999, 9-47) has an overview of the history of legal language. From these somewhat limited sources I will describe what is known of the development of legal English in the modern English period.
During the modern English period writing came to be more and more authoritative. Counsel who once had stated their cases in oral pleadings ceased to do so. Pleadings came to be written before they were presented in court. (Mellinkoff 1963, 139). In Anglo Saxon times, willmakers made their wills by speaking them, and a clerk recorded what they had said (Danet and Bogoch 1994, 106). Later a written will would become the actual will, and the Statute of Wills 1540 required most wills be in writing. Similarly, transfers of land, which once had been by a ceremony handing over soil called “delivery of seisin”, were required to be evidenced in writing. If they were not in writing a court would not enforce the transfer (Statute of Frauds 1677). This emphasis on writing led to an insistence on the correct form of legal language. Correct form had been present in oral pleading, but spoken language is generally not as fixed in its expression as written language. The insistence on form reached its nadir during the period when a writer who made the slightest error could lose his client’s case. For example, a case was dismissed when praecipimus (“we command”) was spelt praecipipimus (Griffithe v. Thomas, 82 Eng. Rep. 785).

By the seventeenth century writing had became long winded, encouraged by payment of legal writers by the page (Mellinkoff 1963, 190). The text was padded out and writers of court orders and private documents made them still longer by adding recitals at the beginning, which told a story of the events leading up to the making of the document (Mellinkoff 1963, 190). The form of legal English was also very much influenced by the difficult transition to English only discourse. After the legislation in 1650 and 1734 requiring the use of English, legal writers accustomed to writing in Latin wrote English
influenced by Latin. Their pleadings read like schoolboy translations from Latin into English (Baker 1990, 103) The following example is a pleading called a “declaration”, which is a document filed at court to commence the court action. It is from a form book used as a model for other lawyers to copy when writing a declaration in case of lost property. Edward (“Edw”) has lost some animals and Thomas (“Tho”) has found them:

And so being thereof possessed, the sayd Beasts out of his hands and possession casually lost, which Beasts afterwards; that is to say, the 19th. day of Decemb.
then next following at C. aforesaid to the hands and possession of the foresaid Tho: by finding came, notwithstanding the sayd Tho.: knowing the Beasts aforesaid to be the proper Beasts of the said Edw: and to the sayd Edw: of right to belong and appertain, craftily and fraudulently intending the sayd Edw: in that behalf craftily and subtley to deceive and defraud, the said sheep to the said Edward, though often thereunto requested, hath not delivered cited in
(Brownlow 1654, 482 cited in; Mellinkoff 1963, 146)

English signals grammatical relations by word order, so that we know the subject because it usually comes first, followed by the verb, with the object last. In the declaration, the order is subject-object-verb: Thomas (subject) “the sayd Beasts (object) ... lost (verb)”. The next sentence is verb final so that the animals into Thomas’s hands “by finding came”. The last sentence is also verb final. The declaration has been translated from Latin, which signals grammatical relations by word endings indicating subject or object, allowing a relatively free order with verbs in sentence final position.
Except for a few archaic words, the vocabulary is easy to understand. It is the Latin syntax forced onto English which makes the pleading hard to understand. In modern English it would look something like this:

(1) Edward lost some animals
(2) On 19 December Thomas found them
(3) Edward has often asked Thomas to return them
(4) Thomas knows that they belong to Edward
(5) Thomas has intended to craftily deceive and defraud Edward by failing to return them

The genre of legislative language became more and more complex, obscure and archaic (Tiersma 1999, 42). Contemporary observers resorted to satire in their comments on the genre. In the sixteenth century legislative texts had been sufficiently obscure for the celebrated lawyer and saint, Sir Thomas More, to imagine, in his Utopia, a place where transparent laws were highly prized:

The chief fault they find with other nations is that even their infinite volumes of laws and interpretations are not adequate. They think it completely unjust to bind people by a set of laws that are too many to be read or too obscure for anyone to understand. .... For the laws are very few, as I said, and they consider the most obvious interpretation of a law to be the fairest. As they see things, all laws are promulgated for the single purpose of advising every man of his duty. Subtle
interpretations admonish very few, since hardly anybody can understand them, whereas the more simple and apparent sense of the law is open to everyone. If laws are not clear, they are useless; for simple-minded men (and most men are of this sort, and must be told where their duty lies), there might as well be no laws at all as laws which can be interpreted only by devious minds after endless disputes. The dull mind of the common man cannot understand such laws, and couldn’t even if he studied them his whole life, since he has to earn a living in the meantime. (More 1995, 195-197).

The situation was not better in the sixteenth century. During the interregnum, new ideas were in vogue, and reformers put forward many wild new schemes, from “votes for all” to a ban on the use of French and Latin in the law. One of the most visionary of these schemes was for a pocket book code of the laws in Plain English (Baker 1990, 244). In the Eighteenth Century the great satirist Jonathan Swift reserved some of his most venomous satire for lawyers and their language in Gulliver’s Travels. On his second voyage, Gulliver visits a state whose laws are absurdly simple:

No law of that Country must exceed in Words the Number of Letters in their Alphabet; which consists only of two and twenty. But indeed, few of them extend even to that Length. They are expressed in the most plain and simple Terms, wherein those People are not Mercurial enough to discover above one Interpretation. And, to write a Comment upon any Law, is a capital Crime.

(Swift 1971, 130).
Swift turned his venomous prose against lawyers and their language when Gulliver, on his fourth voyage, stays at a house and tells his host about a “Race of Lawyers” in England engaged in a “Confederacy of Injustice” (Swift 1971, 255):

I said there was a Society of men among us, bred up from their Youth in the Art of proving by Words multiplied for the Purpose, that White is Black, and Black is White, according as they are paid. To this Society all the rest of the People are Slaves. ... It is likewise to be observed, that this Society hath a peculiar Cant and Jargon of their own, that no other Mortal can understand, and wherein all their Laws are written, which they take special Care to multiply; whereby they have wholly confounded the very Essence of Truth and Falsehood, of Right and Wrong; so that it will take Thirty Years to decide whether the Field, left me by my Ancestors for six Generations, belong to me, or to a Stranger Three Hundred Miles off. (Swift 1971, 252-253)

By the nineteenth century statutory writing had become ever more complex and obscure. In an attempt to reverse this development, an English barrister George Coode, made a linguistic analysis of taxation laws and published this analysis in a manual for writing comprehensible legislation. Of legislative writing of the time he said:

...it is a matter of astonishment that expressions so intricate as those in which the law is now ordinarily expressed can ever be brought to a grammatical close. It
requires the most consummate skill in language to interweave cases, conditions, subjects, and actions, with all their limitations, exceptions, qualifications and consequences into one sentence; and when it is considered that this is sometimes done in a phraseology which is not English, it passes comprehension how the draftsman could ever get through his task. (Coode 1843, 533)

Writing in 1843, and working within the limits of traditional grammar, Coode analysed the structure of legislative sentences and made suggestions for improvements in legislative writing. He related the purpose of legislation to its structure, saying that its purpose is to give a benefit to someone by giving a right, privilege or power to that person by requiring that someone else do something. Rights are benefits for all persons, privileges are benefits for a class of persons and powers are privileges which benefit someone other than the privileged person (Coode 1843, 3)

The purpose of a legislative statement is achieved through a syntax made up of the legal Subject (someone who “may or may not or shall or shall not do something”), the legal Action (which defines the right privilege, power or liability), the Case (which confines the legal action) and the Conditions (conditions for the performance of the legal Action). He prescribed the correct order of parts of a sentence as: firstly the Case, secondly the Conditions, thirdly the legal Subject and fourthly the legal Action (Coode 1843, 30) For example:

Case Where any Quaker refuses to pay any church rates, or any
customary or other rights, dues, or payments belonging to any church or chapel, or which of right by law and custom ought to be paid for the stipend or maintenance of any minister or curate officiating therein.

*Conditions*  If any church warden or other person who ought to receive or collect the same complain thereof and if such Quaker have reasonable warning of such complaint:

*Legal Subject*  ONE OF THE NEXT JUSTICES of the peace, Of the same county Other than such justice of the peace as is patron of such church or chapel;

*Legal Action*  *may by warrant under his hand and seal, summons such Quaker before the next justices of the peace, of the same county:*

(With 1843, 30–32)

Coode’s work was very influential and least one modern text on the skill of legal drafting recommends his rules for use in many business documents (Aitken 1991, 18). However, as the research in this thesis reveals, complexity remains a feature of today’s statutory language.

Much more research needs to be done to properly describe the history of the structure and use of English for legal purposes. The various genres of legal English, such as statutes, wills, contracts, conveyances, pleadings, law reports and textbooks, should be described as they were during particular periods. Diachronic description of this kind
should reveal how the variety has come to be like it is. Another approach might be to trace the development of a structure typical of the variety, such as the passive voice, subjunctive mood or co-ordination. A number of very interesting sociolinguistic questions are unanswered. For example, what were the effects of multi-lingualism and language contact on the development of the variety? Another sociolinguistic question is the diglossia that seems to have existed, where law French was the high variety and English the low variety. Brenda Danet considers that legal English exists today in a form of diglossia as the high variety, with ordinary English as the low variety (Danet 1980, 473). Another question that might be investigated is semantic change in important legal terms such as “reasonable”.

**The structure of legal language**

I will present two short passages to illustrate some typical grammatical features of present day written legal English. The first is the definition of *murder* in New South Wales and the second is the enactment clause which begins statutes in the United Kingdom.

In New South Wales, Australia, the statutory definition of *murder* is:

(18)(a) Murder shall be taken to have been committed where the act of the accused, or thing by him omitted to be done, causing the death charged, was done or omitted with reckless indifference to human life, or with intent to kill or inflict grievous bodily harm upon some person, or done in an attempt to commit, or during or immediately after the commission, by the accused, or some
accomplice with him, of a crime punishable by penal servitude for life or for 25 years. (b) Every other punishable homicide shall be taken to be manslaughter. (Section (18)(a) Crimes Act 1900 New South Wales)

Set in the passive voice, which is common in legal texts, the sentence is a long one of eighty four words, much longer than sentences in ordinary discourse. The main clause is “... the act of the accused was done ...” + adverbial complement “with reckless indifference to human life ...” etc. This is relatively simple, but the sentence is made more complex by adding three adverbial complements as disjunctions following or. Long and complex sentences with coordination and subordination are common in legal language. A count of sentence length in the British Road Traffic Act 1972 revealed a mean of 79.25 words per sentence with the shortest 7 words and the longest 740. A comparison with scientific prose revealed 27 words per sentence and drama 7 words per sentence (Tiersma 1999, 56). The text is overly concise, another common feature of the variety. A better organisation would be to expand it and list the complements in separate sentences. Another hallmark of legal texts is the extensive use of nominalisation, seen here in intent, attempt and commission. Like passives, nominalisations allow the writer to omit the agent from the sentence, making it harder for the reader to process. Further, where legal texts impose obligations, omitting the agent from a sentence can create ambiguity as to who is obliged to do what. The absence of anaphors such as pronouns or other linking expressions is another typical feature of legal language. Noun phrases are repeated because anaphors might be ambiguous as to their antecedents. In the example text, the pronoun him is used, but later its antecedent, the accused, is repeated.
Here is another example of legal language, the British enactment clause which begins statutes. The analysis is by Tiersma (Tiersma 1999, 93):

(1) Be it enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present parliament assembled, and by the authority of the same as follows

*Be it enacted* illustrates the use of the passive, and it is in the subjunctive mood as the base form of the verb is used. Subjunctives, like passives, are a feature of legal language. In *Lords spiritual and temporal* we see French word order, where adjectives follow the noun. In ordinary English, adjectives appear before nouns. This shows convergence in syntax between legal English and law French, a common result of prolonged and stable multilingualism. In *Queen’s most Excellent Majesty* is the use of formal language with honorifics. Co-ordination appears in *by and with* and in *advice and consent*. The phrase in *Parliament assembled* has an odd word order.

**The lexicon of legal language**

The lexicon of legal language mirrors its grammar with its numerous archaic, complex and formal words. It has a great many technical terms, many of them from law French, it has jargon words, and it also has many ordinary words, some of them with legal meanings.

A major influence on lexical choice in legal language is use in very formal settings. A statute is written in parliament and court-room language is spoken in court, both of
which are very public and formal settings. Contracts are written to regulate private dealings and are intended to be given in evidence in court in the event of a dispute between the parties to the contract. Wills are written to take effect after death. A person named in the will, the executor, must lodge the will at court to prove that it is valid. In these settings, writers have chosen expressions which are complex, pompous, ritualistic and archaic.

Many simple words in ordinary English have complex formal equivalents in ordinary English which are preferred in legal language. So the lawyer uses prior and subsequent for before and after in expressions such as prior interests and subsequent disability. 

*Approximately* is used instead of around/about, commence/initiate instead of begin, employ instead of use, expedite instead of hasten, necessitate instead of require, and present instead of give (Tiersma 1999, 103). These formal words are semantically more complex than their non-formal equivalents, because their equivalents are indefinables such as before and after.

Perhaps the best example of the use of complex expressions in legal language is the widespread occurrence of complex prepositions made up of Preposition+Noun+Preposition such as in relation to, in respect of, with respect to, with regard to. They are complex because simple prepositions such as of or in can be used in their place. In the following example of use, in relation to introduces a topic noun-phrase and could be replaced by a simple preposition such as concerning, for, about or in (suggested replacements in brackets):
In relation to the alleged variation, that is in relation to the work done of the 19th and 20th of July, I make the following comments and findings...

[Concerning the alleged variation, that is for the work done of the 19th and 20th of July, I make the following comments and findings...]

Roger Smith v Leon Dupuy Dozer Hire Pty Ltd. Supreme Court of Victoria. 25 May 2000

Another formal feature of the legal lexicon is its ritual quality, reminiscent of religious language. The language of conversation can be heard anywhere, but the language of court and church is heard only in special buildings with special spaces for different people to sit. In both places, participants dress in special clothes. It is therefore not surprising that they clothe their language in the words of ritual. Courts in the United States open with the words Oyez, oyez, oyez or Hear ye, hear ye, hear ye and witnesses swear oaths to a formula (Tiersma 1999, 100). Contracts, deeds and wills are clothed with many words beginning with capitals. They often begin with ritual incantations called recitals in contracts and deeds and declarations in wills. The following is an extreme example of a declaration in a will:

In the name of God, Amen: Know all men by these presents: That I, ________,
of the City of ________, County of ________, and State of ________,
being in good bodily health and of sound and disposing mind and memory and
not acting under duress, menace, fraud or undue influence of any person
whosoever, calling to mind the frailty of human life, and being desirous of disposing of my worldly estate with which it has pleased God to bless me, while I have strength and capacity so to do, do make, publish and declare this my Last Will and Testament, hereby revoking all other wills, legacies, bequests or codicils by me heretofore made, in the manner and form following:

(Cooper 1953, 190)

This piece has overt references to religion: *In the name of God, Amen, and worldly estate* and *pleased God bless me.* It has the once common ritual formula *Know all men by these presents,* the formal expression *being desirous* and the archaic words *presents,* *whosoever* and *heretofore.* There are many redundant doublets and triplets, a very common feature of the legal lexicon: *mind and memory* and *any person whosoever* and *make, publish and declare* and *heretofore made.* The sentence structure is arranged to give a poetic balance seen in *strength and capacity so to do* and *by me heretofore made.* Indeed the poetic device of alliteration appears in *mind and memory* and *desirous of disposing* and *form following.* This device, a hallmark of Old English poetry and a feature of the verse of Gerard Manley Hopkins, is common in legal documents. Some other examples are *rest, residue and remainder, aid and abet* and *any and all* (Tiersma 1999, 14-15). Since these poetic devices have their greatest effect when spoken, the will declaration must have been intended to have been spoken. Many texts in the language of religious ritual are also written to be spoken and to be sung. The writer of these texts must choose structures and vocabulary with phonological considerations in mind (Crystal and Davy 1969,150).
Archaisms are another formal feature of the legal lexicon shared with religious language. Expressions are used which were once common in ordinary language but now long since passed out of common use. In the will declaration there are two archaisms, *these presents* and *heretofore*. Some other examples are *hereafter, herein, hereof, and herewith* (Mellinkoff 1963, 13). There seems to be especially productive, so we find *thereabout, thereafter, thereat, thereby, therefore, therein, thereon, thereto, theretofore, thereupon and therewith*. We find the words *same, said and aforesaid* as a pronoun as in “She made an offer in letter to buy the machinery, and I accepted *same*” (Tiersma 1999, 88).

Like any discipline, whether it be linguistics or medicine, the law has many technical terms. Lawyers call them “terms of art”. For example an *indictment* which charges a person with a crime contains *counts* (charges). It is *presented* to the court and the *defendant is arraigned* (the charges are put to him/her). A person who buys freehold land purchases an *estate in fee simple absolute in possession*. An *estate* is a period of time, *fee* means an inheritable estate, *simple* means “largest”, *absolute* means “not limited” and *in possession* means that the person has the land. All of these words are borrowed from law French, as is the word order, where three adjectives follow the noun *fee*. The presence however of technical terms in the legal lexicon is not in itself a special feature of legal English. What does distinguish it is the use of jargon, a lexicon of non-technical expressions which are not precisely defined in textbooks. Some examples are *black letter law, case on all fours and judge shopping* (Tiersma 1999, 107).
The language of statutes

The two major students of statutory language have been Vijay K Bhatia, who works in genre analysis and Dennis Kurzon in speech act analysis.

The concept of genre, first used in folklore studies to analyse myths and legends, has been employed in many fields, in linguistic anthropology, the ethnography of speaking, conversation analysis, rhetoric, literary theory, sociology of language and applied linguistics (Paltridge 1997, 5-28). There are numerous definitions of genre, varying between disciplines, and based on concepts such as the structure of a text and social practice (Paltridge 1997, 29-30). In research in English for specific purposes, the key concept is the communicative purpose of the text (Swales 1990, 46). Bhatia, who works in English for specific purposes, defines genre as:

.... A recognizable communicative event characterised by a set of communicate purpose(s) identified and mutually understood by the members of the professional or academic community in which it regularly occurs. Most often it is highly structured and conventionalised with constraints on allowable contributions in terms of their intent, positioning, form and functional value. These constraints, however, are often exploited by the expert members of the discourse community to achieve private intentions within the framework of socially recognized purpose(s). (Bhatia 1993, 12)

Legal language for Bhatia is made up of genre classified by their communicative
purposes, their settings and events associated with them, social relationships and participants' background knowledge (Bhatia 1993, 100). The communicative purpose of the genre of legislative language is to impose obligations on people and to give rights to people. It is impersonal and decontextualised because it appears to be to be written by parliament for citizens, but it is actually written by lawyers to be read by lawyers and judges (Bhatia 1993, 102). Another feature of impersonality is the nominal character of legislative sentences. For example:

No will shall be revoked by any prescription of an intention on the ground of an alteration in circumstances.

Section 14 Wills Act, Republic of Singapore.

In this example, prescribe, intend and alter are deverbalised as prescription, intention and alteration, so that the subjects and objects of the verbs are omitted. Other syntactic features are long sentences, complex prepositions, such as for the purpose of and in accordance with, and binomial and multinominal expressions, such as in whole or in part and advice and consent. (Bhatia 1993, 105-110). These features are of course shared with many other genres of written legal English, but legislation is distinguished by long initial case descriptions, usually beginning with where or if, and it is particularly distinguished by the use of numerous qualifications which limit the application of a general provision (Bhatia 1993, 110-111). For example:

(1) Where a person appointed executor by a will—
a) survives the testator but dies without having taken out probate of the will; or

b) is cited to take out probate of the will and does not appear to the citation; or

c) renounces probate of the will—

his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his estate shall devolve and be committed in like manner as if that person had not been appointed executor.

Section 16 (1) Administration and Probate Act, Victoria, Australia

The qualifications in (a), (b) and (c) limit the general statement: "a person appointed executor by a will ... his rights in respect of the executorship shall wholly cease,". Qualifications like this interact with the syntax and impose discontinuities within units such as noun phrases and prepositional phrases, all of which makes the legislative statement hard to understand.

When describing the history of legal language, I mentioned George Coode's analysis of the legislative sentence as made up of the case, conditions, legal subject and legal action. Bhatia regards Coode's analysis of legislative sentences as an oversimplification, because there can be more qualifications than just the case (Bhatia 1993, 114). He suggests an analysis in terms of cognitive structuring, which divides the legislative sentence into a provisional clause and qualifications. For example:
Provisionary clause

the Chief Land Registrar shall

supply him

With an office copy of any
document required by the Secretary
of State.

and shall

allow any person authorised by the
Secretary of State to inspect and
make copies of and extracts from
any register or document which is
in the custody of the chief Land
Registrar and relates to the

Qualifications

Where the dwelling-house with
respect to which the right to buy is
exercised is a registered land,

If so requested by the Secretary of
State

(on payment of the appropriate fee)

For the purpose of executing a
vesting order with respect to the
dwelling-house

(notwithstanding section 112 of the
land Registration Act 1925)
Dwelling-house.


Dennis Kurzon’s main work on statutory language is, *It is hereby performed* ...

*Explorations in Legal Speech Acts* (Kurzon 1986). He sees the statute as a rule-enacting document with an enacting formula containing the explicit performative verb “enacted”:

Be it enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows...

(Kurzon 1986, 9)

The highly unusual clause “Be it enacted” is a passive imperative. Private legal documents, in contrast, usually begin their operative part with a passive declaratives. For example, “This Contract is made by and between the Vendor and the Purchaser …” (Young 1990, 8124). Kurzon considers the whole statute to be a speech act within the formula:

Be (the entire statute which follows) enacted.

(Kurzon 1986, 11)

In other words, the “it” of “be it” is a cataphor to a following antecedent, which is the
rest of the statute. This formula is the master speech act, and within the statute there are legislative sentences which Kurzon suggests are speech acts within the master speech act. These sentences are identified by the verbs: “may”, “shall” and “shall not”. For example, “The court may, if it thinks fit, at any time afford to any person facilities for inspecting the panel, although not given the right by subsection (2) above.” (Kurzon 1986, 15). Kurzon sees here a hierarchy of enactment and constituent sentences which can be subjected to pragmatic, sociolinguistic or literary analysis (Kurzon 1986, 16-18)

**Previous studies of the semantics of legal language**

In a recent article on the meaning of homicide terms, I coined the term *forensic semantics* to refer to the semantics of legal and evidentiary texts (Langford 2000). Writers on language and the law use the term *forensic phonetics* and phoneticians have their association, the International Association for Forensic Phonetics. I see no reason why semantics should not be elevated at least to the level of phonetics and given its own field within language and the law. In this subsection I define *forensic semantics*, classify the various kinds of legal expressions, then discuss work on the semantic analysis of expressions used in law and evidence.

Forensic semantics is the analysis of the meaning of expressions used in law and evidence through the methods of linguistic semantics. Expressions used in law are those which appear in texts that state the law, such as statutes and judgments. Expressions used in evidence are those which appear in spoken and written texts that are tendered in evidence. Evidence is spoken by a witness in court or written by him/her in an affidavit, or is a document or a thing tendered through a witness. Statutes and judgments, on the
other hand, are not tendered in evidence. They are cited by counsel to the judge who simply takes note of them, without further proof. Some legal expressions however will find their way into evidence. For example, when a contract containing legal terms is tendered to prove the existence of a contract or the terms of contract. Generally though, legal and evidentiary texts are quite distinct.

Legal expressions can be of three kinds, classified according to whether they are technical terms with legal meanings, ordinary words with ordinary and legal meanings or ordinary words with ordinary meanings. Firstly, technical terms belonging only to legal language, such as assault and battery, manslaughter, infanticide, homicide, gross indecency, obtaining property by deception and evasion of liability by deception. Texts containing these terms will either state their meaning or leave it up to the reader to search elsewhere for the legal meaning. Secondly, expressions belonging to both legal language and ordinary language, but with different meanings, such as intention, recklessness, wounding, murder, rape, theft, robbery, blackmail and forgery. Texts containing these terms will always define them or refer to a document in which they are defined. Thirdly, expressions with ordinary meanings such as circumstance and result. These expressions are simply left undefined or declared to have an ordinary meaning. The declaration can be in the text itself or in another statute or judgment. These categories are not fixed, so that the law in one jurisdiction may give a legal meaning to say omission, but in another jurisdiction omission may have an ordinary meaning.

Forensic semantic analysis of expressions in legal texts is a mostly unexplored field.
Considerably more work has been done on the semantic analysis of evidence. I will review some representative studies in both areas.

In *The Corporation is a Person: the Language of a Legal Fiction*, Schane explored the history, theory and meaning of corporate personality (Schane 1987). The law recognises natural persons and artificial persons such as incorporated companies, statutory bodies, churches and so on. Like natural persons, artificial persons can sue and be sued, enter into contracts and do many other things, but they cannot hold public office, vote or be imprisoned. In his analysis of corporate personality, Schane divided English nouns into four classes, mythical, human, collective and institutional. He argued that “... an analysis of the agreement phenomena and the selectional restrictions affecting nouns and verbs can shed light on the linguistic treatment of institutional nouns and can enable us to see in what ways corporations are like persons” (Schane 1987, 596). He found that nouns such as corporation do not have bodies and do not appear with physiological verbs. They do however think, feel and say because they appear with cognitive verbs. He concludes that as an entity which thinks, feels and speaks but has no body, the corporation belongs to an unique class of nouns. Schane’s study is semantic analysis of a kind, in terms of the sentence slots available for a noun and in terms of which noun can appear with which verb, that is, in terms of syntax. This is a useful pointer towards word meaning and has been used to describe count and mass nouns (Wierzbicka 1996, 392). It is not however fully explanatory and relies on complex and obscure expressions such as physiological, cognitive, mythical, collective, and institutional.
Maley analysed the meaning of *murder*, *manslaughter* and other expressions referring to crimes in New South Wales law, using a systemic functional approach (Maley 1985). Her method was to compile a table of numbered features of the semantic field of homicide, features such as *agent*, *victim*, *human* and *non-human*, and to define expressions by numbers. For example the definition of *murder* is “*MURDER 5; 17; 21; 22; 24*” (Maley 1985, 166-167). The reader is left to substitute the features for the numbers and to try and understand a mere collocation of obscure terms. I will discuss her analysis in more detail in Chapter 4.

Cunningham made a linguistic analysis of the meaning of *search* in the United States Constitution (Cunningham 1988). This article is remarkable in the literature on forensic semantics because the author actually attempts a semantic representation. The Constitution forbids unreasonable government searches of people and property except by court order. The meaning of *search* has been extensively interpreted by the courts in fact scenarios such as officials viewing the backyard of a house from an aircraft, tracking movement of a drum containing a radio transmitter and looking into a barn for a drug laboratory (Cunningham 1988, 542). Cunningham analysed the ordinary meanings of *search* and applied his analysis to competing interpretations of the legal text with the object of clarifying statutory interpretations of the word. His method was to examine *Webster's Dictionary* and the *Oxford English Dictionary* as a lead in to the range of meanings of *search*. He then represented the conceptual structure through semantic features in what he called a “... partial semantic description of the three senses of ‘search’”. The senses are distinguished by the prepositional phrase which follows
search, so that X can make a search of a house, or search for Y or search out John Smith.

(1) SEARCH X ("search of")
[purpose to find Y] [movement through X]
[activity] [achievement]
<X is affected object> <X has surface or interior>

(2) SEARCH FOR Y
[purpose to find Y]
[activity]

(3) SEARCH OUT X
[purpose to find Y] [find X]
[achievement]
<X is affected object> <X is hard to find>
(Cunningham 1988, 549)

These representations have the merit that they are written in natural language, but it is a complex language, lacking a full sentence structure, and set within two kinds of brackets. The meaning is not immediately clear, so the reader is left to decode the meaning from explanations in the surrounding text.
Butters analysed the meaning of the phrase *for pecuniary gain*, in the sentence *The capital felony was committed for pecuniary gain*, which appears in South Carolina statutes (Butters 1993). His explanation was:

> The ordinary language interpretation of G.S.§ 15A-2000(e)(6) requires at least three conditions on the phrase *for pecuniary gain*. First, *gain* must be reasonably certain. Second, *gain* must be significantly intended. Third, *gain* must be directly related to the capital felony".

(Butters 1993, 87).

He then gives an explanation of each requirement with examples and counter examples. Again this representation has the merit of being written in a natural metalanguage, but it is an unrestricted and obscure one.

Solan’s book *The Language of Judges* is a study of how and why judges write linguistic descriptions of the structure and meaning of language when they interpret statutes and other legal texts (Solan 1993, 1). Solan is a supporter of Chomskyan linguistics and not surprisingly his analyses are concerned with techniques such as resolving ambiguity with phrase structure trees (Solan 1993, 32), and rules for conjunction, disjunction and the interpretation of pronouns. He reviews some work on lexical semantics (Solan 1993, 139-171), such as the meaning of *search* and *corporation*, and offers a partial lexical representation of *search* as: “agent SEARCH (theme) (for goal) (with instrument)”. Otherwise this major study, much of which is concerned with the semantics of legal
language, is remarkably free of semantic representation. This is not surprising, as Solan does not consider that linguists have any special expertise in semantics:

At the heart of the matter is the fact that linguists generally are not semantic experts in the sense that they know better than lay people what ordinary English words or expressions mean.

(Solan 1998, 92)

This statement was made in an article entitled *Linguistic experts as semantic tour guides*. Despite its title, the analyses in the article use the methods of syntax, pragmatics and discourse analysis, and not the methods of semantics. I think that linguists can be experts on the semantics of ordinary English words and expressions, just as they can be experts on the syntax, morphology or phonology of ordinary English. Solan limits the role of linguists in semantics to studies of word use, experiments, information gathering and explaining alternative interpretations. Of course linguists can do these things, but they can go further and offer representations, just as syntacticians represent the syntax of a sentence in phrase structure trees or phonologists represent meaning contrasts in phonemic characters.

Cliff Goddard, who works in the NSM framework, made representations of the meaning of expressions in legal language in his ground breaking article, *Can linguists help judges know what they mean: Linguistic semantics in the court-room* (Goddard 1996).

He presented explications of *enterprise*, a key word in a United States racketeering
statute, *reckless* in the criminal law and *sudden* in business insurance policies (Goddard 1996). This was the first paper to use NSM to represent the meaning of ordinary words in legal texts. His explication of *enterprise* was:

\[
\text{an enterprise} = \\
\]  
when people say 'an enterprise' they think about something like this)

1. sometimes some people do things together for some time
2. because they think something like this:
   we want to be able to do something more than we can do now
   if we do these things together maybe we will be able to
3. at the same time they think something like this:
   we know some bad things can happen if we do these things together
   we don't want to do these things because of this
4. people think it is good if people do things together in this way

(Goddard 1996, 264)

One can immediately see how much better this representation is compared with the previous ones by Maley, Cunningham and Butters. It is in complete sentences of natural language with a simple lexicon and syntax, free of symbols and sequenced in a way which is intuitively appealing.

In 1997 I completed a thesis called, *The Semantics of Legal Speech Acts: Property*
Transfer Verbs, using NSM to describe and analyse the verbs agree, offer, accept, give, devise, bequeath, guarantee, indemnify and mortgage (Langford 1997). The examples of use were taken from standard form contracts, wills, mortgages and other documents used in Australia and Papua New Guinea. These property transfer verbs all have special legal meanings, although most occur also in ordinary English. Here is an explication of the meaning of *devise*, to give land in a will, a meaning unknown in ordinary English:

(35) X devised A to Y

1. X said to Y
2. you can have A after I die
3. When X said it, it was as if X was saying at the same time
4. I know that A is a place
5. I know that some time after now I will die
6. I want people to know that you can have A after I die
7. I know this won't happen if someone doesn't do something after I die
8. I know this won't happen if you say that you don't want A
9. I think that you won't say it
10. I know that because I say this now, someone has to do something after I die

(Langford, 1997, 71)

The analyses in that (1997) thesis made complex legal concepts readily understandable to any one able to understand the words and syntax of the simple metalanguage of
NSM. The explications were clear, fully substitutable for the defined term in all examples of use, and accurate. Furthermore the analyses threw light on fundamental concepts recognised by the law, such as the distinction between real and personal property and the elements of a binding contract. The study also revealed patterning within the semantic field of legal speech acts, similar to the high degree of patterning between speech acts in ordinary language.

In a later publication I examined the meanings of murder, manslaughter, and homicide (Langford 2000). That study revealed a tripartite structure of criminal law terms and applications for forensic semantics in legal translation, jury instructions, police cautions and trial preparation. Explications from that article appear in Chapter 4 of this thesis.

The semantic analysis of expressions in evidence is the analysis of the meaning of expressions in spoken and written texts which are tendered in evidence. To complete this picture of forensic semantics I will give some examples of work in the area.

Roger Shuy was asked to help a court to decide the meaning of accuracy in the phrase an accurate accounting, contained in the text of a contract for the sale of a business (Shuy 1986). His approach was to try five ways to determine the meaning of a word: (1) consult a dictionary, (2) consult a thesaurus, (3) apply semantic field analysis, (4) apply componential analysis and (5) apply frame semantic analysis. Like most linguists he was skeptical of the utility of dictionary definitions which he likened to "a train of boxcars, so to speak, strung together by means of form" (Shuy 1986, 298). However, in
a thesaurus, he found a fair representation of the semantic field of *accuracy* in the words *exactness*, *precision* and *correctness*. The meaning he represented through so-called componential analysis, as [+noun], [+abstraction], [+conformity to fact], [+mental attitude], [+truth], [+care]. This representation with its complex metalanguage is of course obscure and little better than a dictionary definition. Finally he claimed that all the concepts in these analyses are defined by the frame of established usage in the field of accounting (303). The court found the accounting accurate, based in part on Shuy’s analysis.

For a later court appearance, Lenitine and Shuy investigated the meaning of the prefix *Mc*, in a case brought by McDonalds Corporation, with the object of stopping Quality Inns International opening hotels called *McSleep Inns*. They searched an electronic corpus of newspapers and magazines and found that *Mc* behaved liked an ordinary derivational affix, but unlike most others, it had the following several “functions and senses” (Lentine and Shuy 1990, 334):

1. Ethnic associations (includes surnames)
2. Alliterative patternings arising from a proper name
3. Acronyms
4. Products of the McDonald's Corporation
5. Macintosh computer products or related businesses
6. Parodies of a fast food product or service
7. The meaning 'basic, convenient, inexpensive, standardised'.
In this list, only number 7 could be a representation of the “sense” of Mc, but it is written in a complex and unrestricted metalanguage.

Durant studied the meaning of the phrase, “economical with the truth”. He searched literary concordances, a dictionary, examples of use in a court transcript and two corpora. He then surveyed a sample of native speakers for their intuitions about “patterns in speakers” perceptions about contemporary usage” (Durant 1996, 198). His definition of the meaning of “economical with the truth” was: “... the phrase means overwhelmingly to be deliberately misleading, by representing (or omitting to represent) an actual and relevant state of affairs” (Durant 1996, 201). His data collection cannot be faulted, but his method of analysis also uses an unrestricted natural metalanguage which is complex and obscure.

There is controversy over whether or not linguists are competent to give evidence of the meaning of expressions in evidentiary texts. Shuy, Levantine and Durant all accept that linguists can do this. Others take a more cautious view. Goddard sees a limited role for linguists because “semantics is a confused, fragmented and underdeveloped field of linguistics”. Linguists would usurp the role of judges and their explications need to be understood by non-linguists (Goddard 1996, 269). Solan sees a role for linguists as “semantic tour guides” who can help with studies of word use, experiments, information gathering and explaining alternative interpretations (Solan 1998). My view is that offering semantic representations is crucial, and that NSM is a
suitable methodology for this, but that evidence in this form could be easily discredited by introducing evidence of the confusion and fragmentation which exists in the field of semantics.

These publications are representative of the small number of studies which have been made in forensic semantics. They all focus on a single expression or small number of expressions, sometimes from unrelated semantic fields. There has so far been no large scale and systematic attempt to describe the semantics of crime. It is this gap which this research aims to partly fill, by studying the meanings of expressions in this major part of the lexicon of legal language and in ordinary language.

**Criminal law and procedure**

A fundamental distinction exists in between criminal law and civil law. A person can generally take action against another person in either criminal proceedings or in civil proceedings and the subject matter of the law is divided into criminal law and civil law. Definitions of crime and civil wrong focus on contrasting one with the other. Here is a definition of criminal law:

> Broadly speaking a crime is an event that is prohibited by law, one which can be followed by a prosecution in criminal proceedings and thereafter, by punishment. Criminal law in turn is the variety of law that prohibits such crimes.

(Sullivan and Simester 2000, 1)
This definition of crime has four elements: event, prohibition by law, prosecution in criminal proceedings and punishment. Firstly, an event happens, or to put it more accurately, someone does something and because he or she does it, an event happens. Secondly, crimes are prohibited by law. Civil wrongs, on the other hand, are not prohibited by law, they simply give a right to claim money or some other order against the wrongdoer. Thirdly, crimes are prosecuted in criminal proceedings. This is a procedural distinction, but unhelpful because of its circularity. Punishment is a more distinguishing feature of crimes, because crimes are punished by the state with sentences such as death, imprisonment, fine, community service order and so on. Civil wrongs are not punished by the state. Instead one person sues another and is usually compensated by damages. Of course, both fines and damages are paid in money. The differences between crimes and civil wrongs are strongly rooted in the differing terminologies of each domain. So a prosecutor prosecutes a crime and a plaintiff sues in tort. A defendant is sentenced on conviction of a crime, and a defendant is ordered to pay damages in tort.

I gave an example of statutory definition of a crime, the crime of murder in New South Wales, when discussing the structure of legal language. The parts of the definition referring to the act of the accused and the death are called by the law Latin name, actus reus (wrongful act). The parts dealing with the mental state of the accused at the time of the accused’s act, referring to recklessness and intention, are called the mens rea (guilty mind). The part referring to acts done when attempting or committing a crime are also part of the mens rea, and when an accomplice does the act causing death, the
accomplice's state of mind is said to be transferred to the accused. It is a key principle of the criminal law that there should be no liability without a guilty mind. This principle is given greater respectability by its universal appearance in law Latin as *actus non facit reum, nisi mens sit rea*.

By way of contrast, the following is a definition of negligence, a civil wrong:

**B: NEGLIGENCE**

4. Elements of liability. The Plaintiff in an action for damage for negligence must plead and prove the three distinct elements of the tort:

(1) that the defendant owed him a duty of care;

(2) that the defendant was in breach of that duty; and

(3) that he has suffered damage as a result of that breach.

(Butterworths 1983, 8)

This definition is not from a statute but is written as a summary of the rulings of judges in twenty-one cases cited in the footnotes to the definition. Negligence is a civil wrong by judge-made law called the common law and not by statute. The typical case is a motor accident where, (1) the driver owes a duty of care to avoid acts or omissions which might be reasonably foreseen to hurt someone (Z), and (2) the driver did not look and hit Z's car, and (3) Z's car was damaged. Z can sue the driver by completing a court form called a *statement of claim*, which sets out the facts of the accident, the particulars of negligent conduct and the sum of money claimed in damages.
Criminal statutes usually codify judge made common law. The draftsperson takes definitions and other material from the leading cases on a particular area of law such as criminal law and writes them into a statute. The statute then replaces the common law in that area of the law and is called a code. In Australia, a number of states have criminal codes drafted by Sir Samuel Griffith, the first Chief Justice of Australia. Recently an Australian Model Criminal Code has been proposed and some texts from this code are analysed in Chapter 3 of this thesis.

Criminal procedure begins when a policeman or some other government official arrests someone or gives someone a notice to appear at court to face a charge. After the arrest, the person is taken to the police station and formally charged with an offence. The person is then taken to court where the magistrate or judge grants bail or remands the person in custody. At the same time the magistrate orders the person to appear again at court at a later time and place. The details of the court procedure from then on, vary according to the seriousness of the offence and the court in which the proceedings will take place. The procedure for a trial for serious crimes is for the magistrate to commit the accused for trial in the Supreme Court, after reviewing the evidence against the accused and finding it sufficient to commit the accused for trial. The court papers are sent to the Supreme Court. A prosecutor reads the file containing a charge sheet, witness statements, a record of conversation between the accused and police, an antecedent statement with personal details of the accused and prior convictions, photographs and details of any physical evidence such as knives or guns. The prosecutor then drafts an
indictment, which is the formal charge that the accused will face at trial.

I will describe the trial in words of legal language (in italics), most of which are from law French. I have italicised only the first occurrence of these words in the descriptions. At the trial, the defendant is brought from the cells into the dock which is in the court room, often at the back of the room. The lawyers sit at the bar table, prosecution counsel on the right and defence counsel on the left. The bar was a bar in Westminster hall that divided lawyers from the public. When called to give evidence, a witness stands in a witness box. Outside the box sits the interpreter, and where the accused does not speak English, an interpreter sits in the dock and interprets all of the proceedings. The judge sits on the bench. The prosecutor presents the indictment by handing it to the judge's associate who gives it to the judge. The interpreter swears an oath to well and faithfully interpret the proceedings, and then the accused is arraigned. This means that a court official reads the indictment to the accused who answers “guilty” or “not guilty”. Defence counsel then appears by standing up and saying “Your Honour I appear for the defence”. Prosecution counsel then delivers an opening address for the State with details of the facts of the case against the defendant. He or she then presents the case for the State by calling the prosecution witnesses who are questioned by both counsel in a set order. When finished, the prosecutor closes the case for the State by saying: “that is the case for the State”. If the defendant wants to call witnesses, defence counsel will give an opening address and call the witnesses. When the defence has finished, counsel give final addresses in which they argue the merits of their cases. The judge then delivers a verdict of guilty or not guilty. If guilty, the defendant is convicted, and
counsel for the State presents the antecedent report containing the defendant’s personal
details and previous convictions, if any. Counsel then give an address on sentence and
the judges passes sentence. Officers of the prison service then take the defendant to the
cells to begin his or her sentence of imprisonment. If the verdict is not guilty, the
defendant is released.

Methodology

The method that I have chosen to analyse the meanings of expressions referring to
crimes is Natural Semantic Metalanguage Semantics ("NSM"). In this section I will
give my reasons for choosing the method. Firstly, because I believe that it is
theoretically sound and secondly, because it has proven itself in semantic analysis of
many languages and many semantic fields, making it an ideal tool for clarifying the
meanings of expressions in ordinary language and for clarifying the obscure and
complex language of the law. I will then say what NSM is, and explain how I have
carried out the analyses in this research.

NSM theory and practice is based on the principles of natural language, reductive
paraphrase, and indefinability. The meaning of expressions in a language can be
represented in the words of natural language or in the formulae and diagrams of
artificial language. However the formulae and diagrams of artificial language must
ultimately be reduced to natural language in order to be understood (Lyons 1977, 12).
For example the letter x has to be assigned a meaning in natural language and the
symbol ^ has to be translated as up or this way or the lift is going up or move up. In
other languages ^ may have a different meaning or none at all. It follows that natural
language and only natural language should be used to represent meaning. The resources of a language are fully able to represent meaning in that language. This is the natural language principle.

Secondly, the sentences of the definition must themselves be easier to understand than the expression itself. If they are not, then the representation fails to make the meaning clear. The same is true of representations in many other fields. Compare phonetic analysis for example. The word *elephant* is a string of continuous sound. A phonetic representation which is itself a string of continuous sound sheds no light whatsoever on the phonetic structure of *elephant*. On the other hand, if the string is divided up into phones, the bits of the sound string that distinguish meaning are made clear and give a complete phonetic representation of *elephant*. In semantics too, definition must be through units which are simpler than the expression defined. This is the reductive paraphrase principle.

Thirdly, there must be an irreducible set of units that cannot be defined, because if there were not, then there would be an infinite regress, and definition would be impossible. This is the indefinability principle. In NSM the irreducible units are called *primitives* or *primes*. To summarise, semantic representation can only be done through reductive paraphrase in a natural language that is simpler than the expression defined. This metalanguage, a language for talking about a language, may consist of primes or expressions that are simpler than the expression defined which are themselves defined by primes.
This argument is only a hypothesis, but I find it rational, compelling and intuitively appealing. The natural language principle seems to me to be obvious and incontrovertible. The reductive paraphrase principle is based on the common experience that the simple is clear and the complex is obscure. It is a principle, supported by philosophical investigations since the time of the Greeks. Numerous writers have warned against violating it; yet it is constantly abused by the writers of definitions in dictionaries, statutes, law books and many other texts. Aristotle said:

...we make things known by taking not any random terms, but such as are prior and more intelligible ... a man who does not define through terms of this kind has not defined at all.

(Aristotle 1928, Topica: VI.4.141a25)

Leibniz, who began the search for semantic primitives, put this admirably:

If nothing could be comprehended in itself nothing at all could ever be comprehended. Because what can only be comprehended via something else can be comprehended only to the extent which that other thing can be comprehended, and so on; accordingly, we can say that we have understood something only when we have broken it down into parts which can be understood in themselves.

(Leibniz 1903, 430)
The indefinability principle is supported by empirical evidence. Over a thirty year period NSM researchers have attempted to define proposed primes such as I, YOU, THINK, WANT and FEEL, and their equivalents in many other languages. It is not possible to prove that they cannot be defined, but all attempts have failed. For example I and YOU (singular THOU) cannot be defined as “the speaker” and “addressee” because those words are not semantically simple and have to be defined through less complex words. They are also inaccurate, because “speaker” can mean “someone else speaking” and not I.

Since its modern renaissance in 1965, the search for primes has proceeded in tandem with applications of the proposed metalanguage in the description of many languages and semantic fields. Indeed, search and application have been symbiotic, so that the search has suggested primitives and the application has shown that they work or do not work. The search for lexical and grammatical primitives began with a number of European languages and has expanded to include many other typologically unrelated languages. For example a 1994 report of an investigation into lexical primes contained studies of Acehnese, Arrernte, Ewe, French, Japanese, Longgu, Kalam, Kayardild, Chinese, Mangap-Mbula, three Misumalpan languages, Samoan, Thai and Yankunytjatjara (Goddard and Wierzbicka 1994). A study of the grammatical primitives has reported on studies in a number of languages, including Ewe, Lao, Chinese, Malay, Mbula and Russian (Goddard and Wierzbicka 2002). The metalanguage has been applied in many semantic fields such as the semantics of grammar (Wierzbicka 1988),

In these many investigations, NSM has time and again proven itself in untangling confusion, muddled thinking, jargon, and complex language in linguistics, psychology and anthropology. Take grammatical categories for example. Many languages have evidentials, which are affixes or other devices that say how the speaker knows something. Traditionally linguists identify them and give them complex English labels such as “direct”, “personal”, “immediate”, “first hand”, “witnessed”, “indirect”, “non-immediate”, “second-hand”, “not-witnessed” or “inferred” (Wierzbicka 1996, 427). It is often impossible to tell what a label such as “second-hand” means in a particular language and how it is used. If the same label is used for a form in another language we cannot tell if the labels mean the same and are used the same in both languages. However if an evidential is expressed in NSM, the meaning is clear and can be compared with an evidential in another language. For example Oswalt labels a suffix in Kashaya, “Quotative” which can be expressed in NSM as follows:

\[(27)\text{mul} = \text{i} \quad \text{c\text{\`a}hno-w}\]

\[
\text{then= ASS-QUOT-NON-FINAL} \quad \text{dog sound-ABS}
\]

'Then, they say, the dog barked'

(Oswalt 1986 cited in Wierzbicka 1996, 431)
do (quotative)

I say this because someone else said this

I don't say: I know it

(Wierzbicka 1996, 431)

The utility of NSM in clarifying grammatical description, emotion terms in psychology and cultural scripts in anthropology can equally be transferred to the clarification of legal language. Legal language, as I have noted, is often complex and obscure. There is a long complaint tradition which has recently spawned a Plain English movement. This movement encourages simplicity in the language of official documents, by such means as using a simplified lexicon with a minimum of technical terms and avoiding of metaphors, strings of synonyms and archaisms, using a syntax free of the future tense, passive voice, subjunctive mood, negatives and complex embeddings and nominalisations (Asprey 1996, 103-145). Since 1973 governments and business have been implementing policies requiring the use of Plain English. In the United States, nine states require Plain English in documents such as consumer contracts, ballots, statutes and gas and electric bills. The United Kingdom government has a Plain English policy for its forms and in Australia, the parliamentary counsel for the Commonwealth and New South Wales have Plain English policies for statutory writing (Asprey 1996, 33-51). However Plain English, although it works with a restricted lexicon, remains complex. The English exponents of NSM on the other hand, with its tiny lexicon and simple syntax, is Plain English of an extreme kind. It offers the possibility of communicating the meaning of complex legal language to the ordinary speaker in a way
that is otherwise impossible.

The practical methodology for expressing meanings in NSM is to examine examples of use of an expression and then to write a definition, usually called an *explication*, of its meaning. Suppose the researcher wants to investigate the meaning of the word *act* in ordinary language. Firstly he or she examines a number of naturally occurring examples of use such as the following:

(1) Dumping waste out of sight and out of mind in remote areas is a reckless, irresponsible and potentially hazardous *act*,” Mr Pearson said in the letter.

(2) Exactly a year ago to show ecumenical solidarity with the concept, the Anglican and Roman Catholic Primates of Ireland together lit candle in a ceremony to launch Armagh Together. It was a simple *act* but one which had enormous significance for this community which has for so long been marked bitter sectarian divisions.

(3) Just the responsibilities surrounding the simple *act* of tossing the coin are mind boggling.

(*Cobuild Direct*)

The researcher then writes an explication which can be substituted for *act* in all of the examples of use:

someone did an *act*
(a) someone (X) did something

(b) X did it because X thought:

(c) I want to do it

The components are then justified empirically by showing how each component predicts the usages in the examples of use. For example, component (a) predicts someone doing one thing in example (1), lighting candles (2) and tossing coins (3). Components (b) and (c) predict the volition implied in the examples, so that the person must have a thought about wanting to do it beforehand.

In order to write an explication, the researcher must be familiar with the lexical primitives and the syntax of NSM. The lexicon of the metalanguage is:

Substantives: I, YOU, SOMEONE, PEOPLE/PERSON  
SOMETHING/THING, BODY  

Determiners: THIS, THE SAME, OTHER  

Quantifiers: ONE, TWO, SOME, ALL, MANY/MUCH  

Evaluator: GOOD, BAD  

Descriptors: BIG, SMALL  

Mental predicates: THINK, KNOW, WANT, FEEL, SEE, HEAR  

Speech: SAY, WORD, TRUE  

Actions, events and movement: DO, HAPPEN, MOVE
Existence & possession: THERE IS, HAVE
Life and death: LIVE, DIE
Time: WHEN/TIME, NOW BEFORE, AFTER, A LONG TIME, A SHORT TIME, FOR SOME TIME
Space: WHERE/PLACE, HERE, ABOVE, BELOW, FAR, NEAR, SIDE, INSIDE
“Logical” Concepts: NOT, MAYBE, BECAUSE, IF, CAN
Intensifier, Augmentor: VERY, MORE
Taxonomy, partonomy: KIND OF, PART OF
Similarity: LIKE

Table 1 Conceptual primitives and lexical universals

The basic unit of NSM syntax is like the clause, made up of combinations of substantive phrases and predicates together with other items appropriate to the predicate. For example the substantives I and YOU combine with the mental predicates THINK, KNOW, WANT, FEEL, SEE and HEAR to form simple clauses (I/you think/know/want/feel/see/hear (something)). The combinations that may appear in the clause vary according to the valency options of the predicate. So the predicate GOOD may appear with a single substantive (“This is good”) or with two substantives, a “subject” and a “complement” (“This is good for me/you/these people”). Similarly the action predicate DO opens an “agent” slot (“I /you/someone/people did (something)”) and a patient slot (“This person did something bad to me”). HAPPEN opens up a patient slot (“something bad happened to me”) and a place slot (“something bad
happened in this place"). A fundamental of the NSM theory is that the syntax consists of universals of combinality and not universals of form. A description of the syntax will not therefore be a statement of rules, but a list of those combinations of primes which are believed to occur in all languages.

The procedure followed for analyses of the ordinary meaning of expressions in this research is as follows:


(2) Search *CobuildDirect* corpus and obtain examples of use.

(3) Where appropriate, examine previous definitions in linguistics, philosophy or other fields.

(4) Propose an explication of the expression

(5) Justify the explication.

The *Collins Cobuild English Dictionary* is a work based on synchronic evidence from *The Bank of English* corpus of 415 million words. Its definitions are supported by examples and there is a lot of useful linguistic information included, such as the pronunciation in the International Phonetic Alphabet, frequency of occurrence on a five band scale and grammatical and pragmatic information. Since my examples of use are from *Cobuild Direct*, a reduced word version of *The Bank of English*, the dictionary is a useful starting point.
Wherever possible I have attempted to frame the definitions in the simple lexicon and syntax of NSM. However non-primitive words have to be included in some explications in order to make them intelligible. For example, the explications of the various meanings of *rape* include the words *man* and *woman* and body-part words such as *vagina* and *penis*. The meanings of these concepts are fairly complex, and still more so the meaning of artefacts such as *ship* in the meaning or *piracy*. If these explications are inserted within the explications of the meanings of *rape* and *piracy*, the resulting text is very difficult to understand. In fact, the use of intermediate level bits of semantic structure or ‘semantic molecules’, may reflect the way that speakers conceptualise the meaning of terms which include their meanings. I have explicated the meanings of these semantic molecules in my discussion of *rape*. Elsewhere I have not done so because this would mean a lengthy excursion into a semantic field which is outside the scope of this thesis.

The procedure followed for analyses of the legal meanings of expressions in this research is as follows:

(1) Examine the legal definition in the statute or textbook

(2) Propose an explication of the expression

(3) Justify the explication

There is a basic difference between representations of the meanings of expressions in ordinary language and in legal language. Ordinary language representations are
descriptions but legal language representations are prescriptions. In his work *Definition*, Richard Robinson said that both were a form of nominal definition, the first called a *lexical* definition and the second called a *stipulative* definition. Lexical definitions explain the way a word has been used by someone, but in stipulative definitions, an object is assigned to a name or a name to an object ("Whatsoever Adam called every living creature, that was the name thereof"). Legal definitions are stipulative definitions, the kind beloved of Humpty Dumpty:

Alice couldn't help smiling as she took out her memorandum-book, and worked the sum for him:

\[
\begin{array}{c}
365 \\
1 \\
264
\end{array}
\]

Humpty Dumpty took the book, and looked at it carefully. "That seems to be done right -" he began.

"You're holding it upside down! Alice interrupted.

"To be sure I was!" Humpty Dumpty said gaily, as she turned it round for him.

"I thought it looked a little queer. As I was saying, that seems to be done right - though I haven't time to look it over thoughtfully just now - and that shows that there are three hundred and sixty-four days when you might get un-birthday presents -"

"Certainly," said Alice.

"And only one for birthday presents, you know. There's glory for you"
“I don’t know what you mean by ‘glory,’” Alice said.

Humpty Dumpty smiled contemptuously. “Of course you don’t - till I tell you. I meant ‘there’s a nice knock-down argument for you!’”

“But ‘glory’ doesn’t mean ‘a nice knock-down argument,’” Alice objected.

“When I use a word,” Humpty Dumpty said, in rather a scornful tone, “it means just what I choose it to mean - neither more nor less.”

“The question is,” said Alice, “whether you can make words mean so many different things.”

“The question is,” said Humpty Dumpty, “which is to be master - that’s all.”

(Carroll 1960, 268-269)

Lexical definitions always require a speaker or writer, a definition writer who describes what the speaker or writer says, and a listener or reader of the definition. A stipulative definition requires only a definition writer, who says what the expression means and a listener or reader of the definition. In a lexical definition the meaning of an expression is what the speaker implies in actual examples of real speech or writing. This is an empirical method. In a stipulative definition, the meaning of an expression is what the definition writer says it means. This is an a priori method. In this thesis the ordinary language explications are lexical definitions. The legal definitions are stipulative definitions. As I explained previously, in legal texts, ordinary language expressions are often allowed to have their lexical definitions or are given stipulative definitions.
Data

Ordinary language

In using the expression *ordinary language*, I mean a general worldwide English used by
native speakers in many domains. It is chosen as the language of ordinary speakers and
writers, in contrast to the language of speakers and writers in legal domains. I do not
claim that it is a separate variety or dialect. Semantic variation does of course exist
between some dialects of English, but for the purposes of this research, I have assumed
that no variation exists for the expressions analysed. Indeed the meaning of expressions
referring to crimes, such as *murder* and *rape*, and the meaning of metalanguage
expressions used to define them, such as *intend* and *reckless*, are unlikely to vary
between dialects. To test this hypothesis would be a separate and major sociolinguistic
study in lexical semantic variation.

The examples of use of ordinary English in this thesis are taken from the *CobuildDirect*
corpus. Corpus based linguistic analysis has the following characteristics:

- it is empirical, analysing the actual patterns of use in natural texts;
- it utilises a large and principled collection of natural texts, known as a
  "corpus", as the basis for analysis;
- it makes extensive use of computers for analysis, using both automatic and
  interactive techniques;
- it depends on both quantitative and qualitative analytical techniques.
The use of real evidence of actual usage is empirical because it is evidence of what many speakers or writers have actually said or written. This is a scientific method of analysis and far superior to the imaginary examples often used by researchers, especially in studies of syntax. For example, one grammar of English, which is mostly based on unattributed examples, illustrates the progressive with "Mom is mowing the lawn", "Dad was washing the car" and "Ida will be arguing with Oscar" (Kaplan 1989, 185).

A corpus is especially valuable for investigating lexical and grammatical association patterns of language use. The researcher can find out how linguistic features are associated with words and with grammatical features. For example big and large can be distinguished by their collocates, so that big commonly precedes toe but large commonly precedes number (Biber, Conrad et al. 1998, 6). Lexical associations of this kind are particularly useful in semantics because they will suggest a component of meaning that is not obvious in words in isolation. In the example, an hypothesis might be that big is associated with things and persons and large is associated with abstract concepts such as numbers and texts. A large corpus will contain many examples of use of big and large so that the researcher can test the hypothesis thoroughly. Frequency counts can easily be made for common collocates, common uses and common contexts to give a quantitative measurement to support the analysis. A large corpus is necessary for lexical semantic analysis, because a given word normally occurs less often than a morphological or syntactic construction. A large corpus is especially necessary for
semantic analysis of English because of the large size of its vocabulary and wide variation in use.

*CobuildDirect* contains 56 million words. It is based in the Department of English at the University of Birmingham in the United Kingdom and is a department of Harper Collins. The firm publishes dictionaries based on evidence from the Bank of English. *CobuildDirect* has been selected from the Bank of English for use on the Internet. On payment of a subscription, subscribers can gain access to the corpus. The description of the corpus on its website is:

Ten million words of transcribed speech is now included, from recordings made across the range of real-life formal and informal speech situations. Radio broadcasts are also included. Books across a wide range of subject matters, fiction and non-fiction, American and British, were included to represent a broad spectrum of general English, but avoiding highly specialised or technical publications. Newspapers and popular magazines are included, along with a mass of more ephemeral material such as personal letters, advertisements, leaflets and brochures.

*(CobuildDirect 2001a)*

The corpus is contemporary and most of the material was written or spoken after 1990. It is divided into subcorpora, mostly 3-5 million words in length. For example “OZNEWS” has 5 million words in 61 texts of 82,000 words collected during 1994-
1995 from issues of the Courier Mail and Sunday Mail newspapers, Brisbane, Australia. A full description of each subcorpus is at Appendix A. The corpus has been automatically tagged for use in grammatical and other analyses. In semantic analysis, tagging enables a search of a lexeme in all of its inflected forms and a search for variants of a homonym distinguished by word class. For instance one can search for collocations of the verb deal implying “giving things to persons”, thereby excluding the noun deal implying “a kind of wood”. Details of the searches carried out for this research are in Appendix B. Searches were mostly carried out by subcorpus and representative examples of use chosen. Since this is a study of written language, searches were mostly confined to written examples of use. Where possible, examples were chosen containing a scenario that illustrated the meaning of the expression. For example in blackmail, examples were chosen containing the blackmailer’s secret knowledge. The whole corpus was not usually searched, because the range of use became apparent after searching three subcorpus. For example a search of damage quickly revealed that just about anything can be damaged. Larger searches were necessary where there were few examples in each subcorpus, or if a verb had several kinds of object or complement. For example a search of forge found that only certain things can be forged, namely documents, evidence, money, art and furniture. To find these, a search of the whole corpus was required.

**Legal language**

The data from legal texts in this research is from statutes of Australian states, the Commonwealth of Australia, the United Kingdom for the jurisdiction of England and Wales. Some of the expressions analysed refer to common law crimes not defined by
statute, and examples of use are from standard textbooks. I have chosen those jurisdictions because I am familiar with them from experience in legal practice there, or because the law there is similar to jurisdictions where I have practised. I have chosen to emphasise statutory language because it is definitive. Statutes contain the exact wording of the law on their subject, no more and no less. The common law, on the other hand, has to be abstracted from cases, which can give rise to a diversity of opinions on how the law should be expressed. Most of the expressions analysed refer to statutory crimes, but a few do refer to crimes at common law.

Conclusions

In this chapter I have shown that there very few studies have been made of the semantics of crime in ordinary or in legal language. The discussions of the history, structure and lexicon of legal language in this chapter have, I hope, shown that it is a distinct variety of English with a long history, and worthy of more detailed description. Very little indeed has been written about its semantics, and no large scale systematic survey of any part of its lexicon has been reported. In the next four chapters I will use the semantic method and the data collection method described in this chapter to analyse the ordinary and legal and ordinary meanings of expressions referring to crimes. Where there is an ordinary meaning, it will be described first, followed by the legal meaning or meanings. In the next chapter I will begin this study by explaining what it means to say that expressions such as murder and hijack report on the acts of people who have been doing certain acts whilst thinking certain thoughts. The chapter is a study of the words used to define expressions referring to crimes in legal language.
Chapter 3 Doing Bad Things

Introduction

In legal language, crimes such as *murder* and civil wrongs such as *trespass to the person* are defined through a set of key words made up of those words which say what the wrongdoer must do or fail to do and those which say what the wrongdoer must think or want or fail to think or want. They are ordinary English words such as *act* and *omission* which describe the wrongdoer's actions, and *intention* or *negligence*, which describe the wrongdoer's mental state. In the discourse of the criminal law, the first subset is traditionally called the *actus reus* (wrongful act) of the offence but nowadays may be given a name such as *the physical elements* of the offence. The second subset is known as the *mens rea* (guilty mind) or by some name such as *the fault elements* of the offence. The definition containing these words is copied into a *charge* on which a wrongdoer is tried. To establish guilt, the prosecution must prove that all of the words of the charge are true. In particular, the prosecution must prove that not only did the wrongdoer do something wrong, but he or she did it whilst knowing something or wanting to do it. In other words, the *actus reus* and the *mens rea* must both be proven. This is a fundamental of criminal responsibility in Anglo legal systems.

The aim of this chapter is to add to our knowledge of the semantics of crime by analysing the meaning of a number of these key words. They are the physical elements, *act, omission, voluntary, circumstance, result* and *conduct* and the fault elements, *intention, knowledge, recklessness* and *negligence*. Before beginning the analyses I will give an example of how these words appear in some definitions of expressions referring
to crimes. The example is from the Australian Model Criminal Code ("the Code"). The Code sections given in this chapter are contained in a report on Non-Fatal Offences Against the Person (Committee 1998, 173-194).

**Key words in definitions of expressions referring to crimes**

The conceptual structure of the Code is made up of criminal offences defined by *elements* which are either *physical elements* or *fault elements*. The following is an example of a definition of an expression referring to a crime:

**Intentionally causing serious harm**

24.1 A person who, by his or her conduct, intentionally causes serious harm to another person is guilty of an offence.

Maximum penalty: 15 years imprisonment.

This definition of *intentionally causing serious harm* is a sentence containing the elements "a person", "conduct", "intentionally", "causes serious harm", and "another person". Each of these elements has to be proven true. "A person" is a semantic primitive and quite straightforward. It refers to the wrongdoer who must be identified by the prosecution. This is the first proof. The second element "conduct" is a physical element of the offence. It is defined in the Code and I will give the definition shortly. "Intentionally" is a fault element and it is also defined in the Code through the nominalisation, *intention*. "Serious harm" is also defined in the Code, but since it is specific to this part of the Code and not a key word, I will not discuss it. "Another person" refers to the victim whose identity must be proven. That is the final proof. The definition might be copied into a charge thus:
On 1st January 2002 at Toorak Road, South Yarra in the State of Victoria in the Commonwealth of Australia you did intentionally cause serious harm to William Jones.

There are other offences of causing serious harm which introduce the fault elements recklessly and negligently:

**Recklessly causing serious harm**

24.2 A person who, by his or her conduct, *recklessly* causes serious harm to another person is guilty of an offence.

Maximum penalty: 10 years imprisonment.

**Intentionally or recklessly causing harm**

24.3 A person who, by his or her conduct, *intentionally or recklessly* causes harm to another person is guilty of an offence.

Maximum penalty: 7 years imprisonment.

**Negligently causing serious harm**

24.4 A person who, by his or her conduct, *negligently* causes serious harm to another person is guilty of an offence.

Maximum penalty: 3 years imprisonment.

Note that the penalties for these offences are graded by the degree of fault attributed to the wrongdoer's state of mind. So *intentional* conduct is very bad and punishable by a maximum sentence of 15 years. *Reckless* conduct is bad and attracts a maximum
sentence of 10 years. *Negligent* conduct is not so bad and has a maximum sentence of 5 years. Where someone simply causes harm, rather than serious harm, then intentional and reckless conduct rate equal maximum penalties (subsection 24.3). *Negligently* causing harm is not a crime.

**Physical Elements**

The Code defines *physical elements* as follows:

**Physical elements**

4.1 (1) A physical element of an offence may be:

(a) conduct; or

(b) a circumstance in which conduct occurs; or

(c) a result of conduct.

This apparently simple definition conceals what is, in fact, a very complex conceptual scheme. Firstly, note that *conduct* is to be understood alone, but *circumstance* and *result* are to be understood in relation to *conduct*. Secondly, note that *circumstance* and *result* are allowed to bear their ordinary language meanings, but *conduct* is not. *Conduct* is defined thus:

(2) in this Code:

"*conduct*" means an act, an omission to perform an act or a state of affairs.

It follows from this definition that whenever *conduct* appears in a definition of an expression referring to a crime, it is simply a "cover term" for *act, omission to perform an act or state of affairs*. So, for example, the offence of intentionally causing serious
harm can be rewritten to account for the polysemy of *conduct* as follows:

a) A person who, by his or her *conduct* act intentionally causes serious harm to another person is guilty of an offence.

b) A person who, by his or her *conduct* omission to perform an act intentionally causes serious harm to another person is guilty of an offence.

c) A person who, by his or her *conduct* state of affairs intentionally causes serious harm to another person is guilty of an offence.

The picture is further complicated by a requirement that *conduct* can only be a physical element if it is *voluntary*. *Voluntary* is defined thus:

**Voluntariness**

4.2 (1) Conduct can only be a physical element if it is voluntary.

(2) Conduct is only voluntary if it is a product of the will of the person who carries it out.

(3) The following are examples of conduct that is not voluntary.

(a) a spasm, convulsion or other unwilled bodily movement;
(b) an act performed during sleep or unconsciousness;
(c) an act performed during impaired consciousness depriving the person of the will to act.

(4) An omission to perform an act is only voluntary if the act omitted is one which the person is capable of performing.

(5) If the conduct constituting an offence consists only of a state of affairs,
the state of affairs is only voluntary if it is one over which the person is capable of exercising control.

(6) Evidence of self-induced intoxication cannot be considered in determining whether conduct is voluntary.

(7) Intoxication is self-induced unless it came about: involuntarily: or as result of fraud, sudden or extraordinary emergency, accident, reasonable mistake, duress or force.

Like conduct the word voluntary also has a special Code meaning, because voluntary conduct must be “a product of the will of the person whose conduct it is” (subsection 4.2 (2)). That is the simple meaning of voluntary when conduct signifies act, but it has other meanings where conduct signifies omission to perform an act (subsection 4.2.(4)) or state of affairs (subsection 4.2.(5)). Furthermore, the conduct of people who get themselves intoxicated is always voluntary, with certain exceptions ( subsections 4.2.(6 & 7)). Note that by introducing the mental concept voluntary into the definition of the physical elements, the Code writers have blurred the distinction between physical elements, where people do things, and fault elements, where people think, know or want things.

The effect of this requirement of voluntariness can be seen if the offence of intentionally causing serious harm is again rewritten:

a) A person who, by his or her conduct voluntary act intentionally causes serious
harm to another person is guilty of an offence.

b) A person who, by his or her conduct voluntarily omission to perform an act intentionally causes serious harm to another person is guilty of an offence.

c) A person who, by his or her conduct voluntary state of affairs intentionally causes serious harm to another person is guilty of an offence.

With the picture complete, we can go back to the beginning and rewrite the definition of physical element itself. The three physical elements all contain the word conduct, which can mean “an act, an omission to perform an act or a state of affairs” and conduct must be voluntary. So if conduct is deleted from subsection 4.1 (1) and the alternative meanings substituted, there will be three substitutions:

1. A physical element of an offence may be:
   a) conduct a voluntary act or
   b) a circumstance in which conduct a voluntary act occurs; or
   c) a result of conduct a voluntary act

2. A physical element of an offence may be:
   a) conduct a voluntary omission to perform an act or
   b) a circumstance in which conduct a voluntary omission to perform an act occurs; or
   c) a result of conduct a voluntary omission to perform an act

3. A physical element of an offence may be:
   a) conduct a voluntary state of affairs or
b) a circumstance in which conduct a voluntary state of affairs occurs; or

c) a result of conduct a voluntary state of affairs

As I said, the apparently simple definition of physical elements in subsection 4.1(1) conceals a very complex conceptual scheme. Physical elements itself has nine meanings in the above substitutions and conduct is a "cover term" with three meanings represented by the expressions act, omission and state of affairs. Act and omission have a special legal meaning and state of affairs is not given one. Each of these three expressions, is modified by voluntary which has a special legal meaning. The other physical elements, circumstance and result, bear their ordinary meanings, modified of course by voluntary.

This scheme is complex because of the relations that these expressions have to one another and because some of them are to be understood in their ordinary language sense and some through a special legal definition of their meaning. This is clearly a barrier to comprehension in a text intended to be intelligible to ordinary people. In the conclusions to this chapter I make some comments on this point.

In the remainder of this chapter section I will give explications of the ordinary meanings of act, omission, voluntary, circumstance, result, and conduct. I will not attempt an explication of state of affairs. For act, omission and voluntary and conduct, which have legal meanings in the Code, I will comment on the difficulty of making an explanatory semantic representation of their legal meanings.
Act

*Act in ordinary language*

The study of actions and events has a long tradition in philosophy in what is known as the philosophy of action. Philosophers of action take a rather different approach to this semantic field compared to the approaches of lexicographers and linguists.

Lexicographers and linguists begin with a study of language as it is revealed in examples of use. Philosophers typically begin with an imaginary scenario, such as the pilot of an aircraft shutting down its engines by pulling a lever (Hornsby 1998, 37). This focuses on what is happening in the world rather than in language. Thinkers then present different views of the scenario. Some say that depressing the lever and shutting down the engine are separate acts and separate actions. That is a “fine grained account” (Goldman 1938). Others say that depressing the lever and shutting down the engine make up a single action. That is a “coarse grained” account because the only action is the pilot moving his or her arm. The depressing of the lever and the engine shutting down were effects of the moving of the arm (Davidson 1971). An intermediate view says that moving the arm and depressing the lever are one action, and the shutting down of the engine shutting is an effect of the action (Ginet 1990). Of course a linguist would say that the sentence “The pilot of the aircraft shut down its engines by pulling a lever” reveals nothing about the meaning of *action* or *act* because neither word appears in the sentence.

Philosophers might take a different approach to action words, but their speculations can
nevertheless give useful insights into the meanings of those of words. Philosophers are concerned with the nature of actions and the role of the mind in actions and they especially distinguish actions from events, so that breathing is an event, but not an action. (Hornsby 1998, 37). Hornsby sets out the distinction as follows:

Action and event are often used interchangeably. But action is given a definite meaning when actions are taken to be species of events: it denotes particulars of a certain sort - concrete items in the spatiotemporal world. It is useful to give a different meaning to act: acts are things people do (which are sometimes called act types) (Hornsby 1998, 37)

Here the author distinguishes actions from events and gives act a different meaning. The definition of acts as "things people do" is clear, because it is made up of NSM primes and gives important insights into the meaning of act. Firstly, the definition is very simple and short, hinting that the semantic structure of act is simple. This is indeed a very simple concept whereas a concept such as conduct is not. Secondly an act is a single happening which can be marked with the plural. Conduct on the other hand functions as a mass noun because it cannot take the plural morpheme. Thirdly, the things are done by people, and not by things such as animals.

The Cobuild Dictionary gives five meanings for the noun act. Two of them define an act in a play or a performance, and one of them an act passed by the government. The other two meanings cover an act where someone simply does something and not
anything in particular. The claim is that act is polysemous, and rightly so, because play acts, statutes and simply doing things are different meanings. The simple meaning is the one relevant to the Code and it is a nominalisation of the verb to act. The following are the verbal and nominal definitions in the Cobuild Dictionary:

**Verb**

1 When you act, you do something for a particular purpose. The deaths occurred when police acted to stop widespread looting and vandalism ... I have no reason to doubt that the bank acted properly in the best interests of the depositors.

**Noun**

9 An act is a single thing that someone does; a formal use. Language interpretation is the whole point of the act of reading ... My insurance excludes acts of sabotage and damage done by weapons of war.

10 If you say someone’s behaviour is an act, you mean that it does not express their real feelings. There were moments when I wondered: did she do this on purpose was it all just a game, an act? ... His anger was real. It wasn’t an act.

(Cobuild Dictionary)

Definition 9 is the nominalisation of the verbal definition at 1, except that the verbal definition requires that “you do something for a particular purpose” whereas the nominal definition simply says that “An act is a single thing that someone does”. The verbal definition introduces purpose, which is a mental element where someone does something while thinking about what will happen because he or she does it. This claim is supported by the examples, but there are counter examples such as “the act of paying
£500,000” (CobuildDirect). Simply paying money is not in itself an act for a particular purpose. I think that the nominal definition is more accurate because it is more general and predicts everything which a person might do. However, what I think is essential, is a desiderative component, because automatic movements such as normal breathing or shivering are not acts.

**Examples of use**

(1) Dumping waste out of sight and out of mind in remote areas is a reckless, irresponsible and potentially hazardous act,” Mr Pearson said in the letter.

(2) If this is an act of mourning, it is above all a reaffirmation and celebration of life.

(3) Exactly a year ago to show ecumenical solidarity with the concept, the Anglican and Roman Catholic Primates of Ireland together lit a candle in a ceremony to launch Armagh Together. It was a simple act but one which had enormous significance for this community which has for so long been marked bitter sectarian divisions.

(4) Quirk’s late night abominations were so famous that his brother scribes immortalised his name in the James Quirk Memorial Award, which is presented each year by the Parliamentary Press Gallery to the perpetrator of the most unspeakable act.

(5) Just the responsibilities surrounding the simple act of tossing the coin are mind boggling.

(6) The Commonwealth measures do not discriminate against those in a company who had no part in an act of pollution or any influence over those who did.

(7) Given the poor experience with information technology previously, and given the
flat performance of the textiles industry in general, the decision to invest £750,000 in Project TIM was something of an act of faith for John Foster

(8) The best notes are made with the liquid leaving your taste buds. It’s amazing what thoughts come to the hand that holds the pen if you encourage them in the very act of sniffing and sipping.

(9) Talk loudly enough of love, and you conceal from yourself the terrible fact that you’ve forgotten the human act of loving.

(10) She’s grief stricken. It would be an act of kindness to leave her alone.

(11) Nothing presented itself to my touch, although I felt as if I were stirring the thick, foetid air like a spoon through spoiled batter. I performed the same act with my other arm, again touching nothing.

(12) Alan and Peter treated me as an equal from day one, a great act of faith.

(Cobuild Direct)

The striking point here in the examples of use is their singularity. There is the dumping of waste (1), something done when mourning (2), lighting a candle (3), late night abominations (4), tossing the coin (5), doing something when polluting (6), doing something in faith (7) (12), sniffing and supping (8), love as an act (9), leaving someone alone (10) and touching (11). A person does one thing and does not continue to do it. So we might call a kiss an act of love but a love affair could not be called an act of love. Similarly tossing a coin is an act but a gambling session of much coin tossing is not an act. Another point to note is that in all of these examples the actor has to want to do the thing. Furthermore, the person has to think before doing the thing. Automatic actions
are not acts. So we can’t say, “Bill did a strange act the other day. Bees came in the car, he lost control and ran off the road.”. The key features of the meaning of act appear then to be for someone to do something, and only one thing, for a short time, wanting to do it and thinking about it beforehand. The following explication captures these features in an explication of $act_{1OL}$ where $act_{2OL}$ is an act in a play and $act_{3OL}$ is a statute ("OL" = ordinary language).

Someone (person X) did an $act_{1OL} =$

(a) X did something

(b) X did it because X thought:

(c) I want to do it

Component (a) is a simple frame of someone doing something. It is limited to a person. One cannot talk of the acts of animals or things. The frame limits act to a singular event such as tossing a coin, dumping waste or lighting a candle. It might be suggested that the following components better represent this:

someone (X) did something for a short time

or

someone (X) did something at this moment

These components do not work because the acts in the examples of use are not all marked for duration. For example the dumping of waste could both be for some time or
even a long time. The lighting of a candle and the tossing of a coin do occur
instantaneously and could be captured by the primitive MOMENT, an allolex of NOW.
However this is not an essential. I have therefore excluded reference to duration in the
explication. I have not attempted a representation of the meaning of action, but it may
have a component “someone (X) did something for a short time” which distinguishes it
from the meaning of act.

Components (b) and (c) are the essential thinking and wanting elements in the meaning
which exclude automatic actions such as breathing. They show that an action is a
product of the will of a person who does something.

**Does act have a different meaning in legal language?**

The Code declares that a physical element may be an act, but it does not define act. The
Code Commentary (Attorneys-General 1993, 9-13) reviews the meaning of act at
common-law and in the existing Australian criminal codes. The committee which
drafted the Code saw two problems with the meaning of act. Firstly whether acts are
made up solely of physical elements or contain a “mental component of voluntariness”
(Attorneys-General 1993, 9). The second problem was how to deal with the often
crucial facts and circumstances surrounding conduct, which give that conduct colour
and meaning, but are not legal elements of the offence (1993, 9). The committee
decided not to define act in the Code, but to leave it open to the courts to apply a
definition in *Falconer* (1990) 171 CLR 30:
In our opinion the true meaning of ‘act’ in s. 23 is that which Kitto J. in *Vallance* attributed to ‘act’ in s.31(1) of the Tasmanian Code, namely, a bodily action which, either alone or in conjunction with some quality of the action, or consequence caused by it, or an accompanying state of mind, entail criminal responsibility ...

Adopting the meaning of ‘act’ expressed by Kitto J. in *Vallance*, the act with which we are concerned in this case is the discharge by Mrs Falconer of the loaded gun; it is neither restricted to the mere contraction of the trigger finger nor does it extend to the fatal wounding of Mr Falconer.

The definition in *Falconer* defines *act* through *action*. I have not attempted an explication of *action* but it may not have the same meaning as *act* in *Vallance*. In any case, as the above explication of *act* shows, its meaning is more than merely “doing something with the body”. The disjunctions which follow in the *Falconer* definition further confuse the picture, with the extraordinarily vague phrase “some quality of the action”, the expression “a consequence caused by it [the action]” which introduces the possibility of a result being part of the meaning of *act*, and the phrase “an accompanying state of mind”. Finally there is a requirement that these things “entail criminal responsibility”. This introduces circularity into the definition, since the purpose of defining *act* is to separate acts which entail criminal responsibility from those which do not.

I will not attempt to untangle the legal meaning or meanings of *act*. A simple “bodily action ... alone” might be explicated thus:
someone did an $act_{1LL} =$

(a) someone (X) moved part of X’s body

The definition “a bodily action .. in conjunction with ... some ... consequence caused by it” might be explicated as follows:

someone did an $act_{2LL} =$

(b) someone (X) moved part of X’s body

(c) because X did this, something else happened

However neither of these explications is accurate because each of them must include the concept “entail criminal responsibility”, which is vague and also circular, because $act$ is being used to define the criminal responsibility. The definition “a bodily action ... in conjunction with ... an accompanying state of mind” is also vague. I will therefore not attempt to represent the legal meaning or meanings of $act$ suggested in Vallance.

Omission

**Omission in ordinary language**

Omission, like $act$, has a very simple semantic structure. It differs from $act$, in that it implies not doing something. There is also an evaluative element in its meaning which is absent from the meaning of $act$. An $act$ can be good or bad or simply doing something which is neither good nor bad. For example a “hazardous act” is bad”, an “act of kindness” is good, and “an act of turning off an engine” is neither good nor bad. An
omission however, is something bad, and if it were not, then the speaker would not use
the word. I will discuss some dictionary definitions, give some examples of use and
present an explication of the meaning of omission.

Dictionary Definitions

Noun

1 An omission is something that has not been included or has not been done,
either deliberately or accidentally. The duke was surprised by his wife's omission
from the guest list.

2 Omission is the act of not including someone or something or of not doing
something. ...the prosecution's seemingly malicious omission of recorded
evidence.

Verb

1 If you omit something you do not include it in an activity or a piece of work,
deliberately or accidentally. Omit the salt in this recipe... Our apologies to
David Pannick for omitting his name from last week's article

2 If you omit to do something you do not do it; a formal use. His new girlfriend
had omitted to tell him she was married.

(Cobuild Dictionary)

The definitions of noun and verb are very similar. One meaning implies “not including
someone or something” and the other implies “not doing something”. Now since “not
including” is a specific instance of “not doing something”, then a single general
definition should predict both. If you leave something out of a set, such as a list of ingredients in a recipe or a guest in a guest list, you simply do not do something. If you fail to tell your boyfriend that you are married, again you simply don’t do something. I think that omission implies ‘not doing something’. However there is another component in the meaning. When a speaker says that someone “omitted to do something”, the speaker implies that the person had to do something but did not do it. In other words, the person had a duty to do something and did not do his or her duty. For example, a baker who makes bread has a duty to add yeast, because without yeast there can be no bread. If the baker forgets to add yeast and the bread does not rise, then that is an omission. Suppose however, a baker is able to bake scones, croissants and bread but makes only scones. Not baking croissants isn’t an omission, unless of course the baker was required to bake croissants. There must be a duty component implying that not doing something is bad.

**Examples of use**

(1) Passive euthanasia refers to the omission, even withdrawal of life-sustaining treatment with the aim of letting the patient die naturally which seems to be fairly common medical practice with the newborn as with the old.

(2) Leslie was a shock omission for the Hawthorn game, then overlooked once more when the team to play Adelaide was decided.

(3) I treat the wrongful failure to count them as another error or omission for which the Commission is responsible which makes it desirable that a new election be ordered.

(4) If you think the Curry Guide misses out the finest balti-house, tandoori
restaurant or curry cuisine in or around Brum, why not write in with details and make sure we make good the omission in next year’s Guide.

(5) Last week’s Gearing Up article on telephone calling cards had a rather inappropriate omission the numbers of the companies featured.

(CobuildDirect)

Someone (person X) omitted to do something

(a) X did not do something

(b) I think it is bad if someone does not do something like this

This explication can be explained through a comparative analysis of the meaning of act. The simple frame at (a) is the same as the explication of act, except for the negation. Components (b) and (c) of act were:

(b) X did it because X thought:

(c) I want to do it

Is it appropriate then for the meaning of omission to include the following components?

X did not do it because X thought:

I want not to do it

Examples of use (1) and (2) are predicted by these components. In (1) life sustaining
treatment is withdrawn because X, the doctor, wanted to let the patient die naturally. In (2), the selectors do not include Leslie in the team because they do not want that person to be in the team. However in (3) the failure to count votes could be deliberate or accidental and similarly in (4), the restaurant could have been left out of the *Curry Guide* because the writer wanted to leave it out or because the writer simply did not consider it. In (5) the speaker seems to be implying that the writer left out important information because the writer didn’t think about including it. The dictionary examples above are similarly equivocal, with deliberate omissions such as “omit the salt from this recipe” and accidental ones such as “Our apologies to David Pannick for omitting his name from last week’s article”. For these reasons I think that it is inappropriate to include a mental element “I want not to do it”, since that is not an invariant in the meaning of *act*.

Component (b) in the explication of *omission* is an evaluative component. The speaker thinks that it is bad if someone fails do something like this. Other people might think it is bad, indeed all people might think it is bad, but universal condemnation is not an invariant. For example in “The omission ultimately resulted in a tragedy” (*CobuildDirect*), all people might think that it was bad not to do something. On the other hand, in “Could be a surprise omission from the world cup” (*CobuildDirect*), some people might think this bad, and some not. In both examples however, the speaker thinks it that it is bad not to do something.

Perhaps one of the most interesting aspects of not doing something in ordinary language
is revealed when the *Cobuild Dictionary* defines *act* as, “the act of not including someone or something or of not doing something” (p. 1150). By defining *omission* through *act*, the lexicographer thinks that not doing something is an act. Since an *act* is doing something and an *omission* is not doing something, then to call an *omission* an *act* appears to be contradictory. Indeed in the philosophy of action, *actions* are distinguished from *omissions*. In legal discourse too, the words are treated as having exclusive meanings, so that the Code distinguishes an *act* from an *omission* to perform an *act*. The lexicographer has however made an important perception. In ordinary language people can say that “not doing something” is “doing something”. For example if a father failed to feed his child, we could say, “Did you hear what he did, he didn’t feed his child!”. There is even a transitive verb *starve*, which implies “not feeding a person or an animal”, so that we use a very active sentence, “the father starved his child”.

**Omission in legal language**

*Omission* normally has its ordinary language meaning unless that meaning is specifically excluded somewhere in the Code. Like *act* and *state of affairs*, it is required to be voluntary, but use of the adjective *voluntary* does not affect the ordinary language meaning of *omission*. There are also restrictions on where *conduct* can mean *omission* because *omission* can only be a *physical* element if the law of the offence actually says that it is a physical element:
Omissions

4.3 An omission to perform an act can only be a physical element if:

(a) the law creating the offence makes it so; or

(b) the law creating the office impliedly provides that the offence is committed by an omission to perform an act that by law there is a duty to perform.

In other words, where you see conduct (which by s 4.2(1) includes omissions), it doesn’t mean omission unless, for example, the law of murder says that it is a physical element. Fortunately this subsection does not alter the ordinary meaning of omission. It just says where it can appear. The ordinary meaning of omission will therefore apply unless excluded by a part of the Code dealing with specific crimes. There is just such an exclusion for non-fatal offences in Part 5.2. Non-fatal offences include the offences of causing harm discussed previously. The exclusion is in the form of a list of duties.

Omissions

23.2 An omission to perform an act can be a physical element of an offence against this Part if it is a person’s omission to perform any of the following duties:

a) The duty to provide the necessaries of life to another person if the person has assumed responsibility for the welfare of that other person and that other person is unable to provide himself or herself with those necessaries.

b) The duty to avoid or prevent danger to the life, safety or health of any child if the person has assumed responsibility for the welfare of the child (whether or not the child is related to the person).
c) The duty to avoid or prevent danger to the life, safety or health of another person if the danger arises from an act of the person, from anything in the person’s possession or control or from any undertaking of the person

(Subsection 23.2 Code)

The meaning of omission in non-fatal offences therefore appears to be its ordinary meaning modified by the list of duties in subsection 23.2. The subsection displaces the evaluative component (b) of the ordinary meaning, “I think it is bad if someone does not do something like this”. I will not attempt to explicate these duties and insert them in way of the displaced component. This would be a major undertaking in the semantics of the meaning of omission as it applies to a part of the Code only. Moreover the explication would most likely be so complex as to be unreadable. Certainly the text of subsection 23.2 is very complex. However the writers of the Code Commentary did not think so. They said that this “... formulation arrived at by the Committee is self-explanatory”. I doubt if the ordinary or the legal reader will find the meanings of these expressions clear on the face of the text. What for example are the necessaries of life. Are they just food, clothing and shelter, or is education included? What is the meaning of the extraordinary expression, any undertaking of the person?

Voluntary

Voluntary in ordinary language

Voluntary is another one of those words in this semantic field with a relatively simple semantic structure. The dictionary definition is:
**1 Voluntary** actions or activities are done because someone chooses to do them and not because they have been forced to do them. *Attention is drawn to a special voluntary course in Commercial French ... The scheme, due to begin next month, will be voluntary.*

*(Cobuild Dictionary)*

The key components in this definition are that someone chooses to do actions and that this person is not forced to do them. The dictionary defines *chooses* thus:

**2 If you choose** to do something, you do it because you want to or because you feel that it is right.

When someone chooses to do something because they want to, then they must think about what act to do before they do the act. Clearly, thinking is an essential component for *choose* and for *voluntary*. Wanting is also essential for *choose* and for *voluntary*:

*He chose the pink ice cream. He didn’t think about it, he just grabbed it.*

*His choice of the pink ice cream was voluntary. He didn’t think about it, he just grabbed it.*

*He chose the pink ice cream but he didn’t want it.*

*His choice of the pink ice cream was voluntary, but he didn’t want it.*

The *Cobuild Dictionary* definition of *forces* is:

**1 If someone forces** you to do something, they make you do it, even though you do
not want to, for example by threatening you.

This component appears to be essential as the following counter-example shows:

*His choice of the pink ice cream was voluntary. He wanted the green ice cream but his mother forced him to take the pink one.

Examples of use

(1) Passive euthanasia refers to the omission, even withdrawal of life-sustaining treatment with the aim of letting the patient die naturally which seems to be fairly common medical practice with the newborn as with the old. In either case it can be termed non-voluntary if the patient is so ill as to be unable to be consulted or to give consent.

(2) Volunteerism is not as popular as it once was, partly because so many women are too busy doing paid work and unpaid domestic labour. There aren't enough hours in the day to add voluntary work, as well.

(3) Living conditions are extremely basic. Voluntary workers who assist boarders with advice and other help seem frightened to make a fuss in case this is used as an excuse to close the buildings down.

(4) For over 160 years Britain’s lifeboatmen have been putting to sea to save lives. And since the service was founded in 1824 it has been run entirely on voluntary contributions.

(5) The banks and building societies have recently drawn up a Code of Practice for personal customers. This will come into effect on 16 March. The Code is voluntary, but it is expected that most banks and building societies will agree to observe it.
However, the UNHCR has always maintained that the cornerstone of any repatriation policy is that it has to be voluntary.

(\textit{CobuildDirect})

Someone’s (person X’s) act was \(\text{voluntary}_{\text{vol}} = \)

\begin{itemize}
  \item[(a)] X did something
  \item[(b)] X did it because X thought:
  \item[(c)] I want to do it
  \item[(d)] X did not do it because X thought:
  \item[(e)] I have to do it
\end{itemize}

This explication has what I think are the three elements in the meaning of \textit{voluntary}: act, desire and free will. Component (a) is similar to its equivalent in \textit{act}, but without a time restriction, and (b) and (c) are the same as in \textit{act}. “Wanting to do it” is essential and predicts all of the uses in the examples. In (1) euthanasia is \textit{non-voluntary}” if the patient is “unable to be consulted or to give consent” and by implication it is \textit{voluntary} if the patient is able to give consent. In (2), (3) and (4) people do work, which is something that they normally do not want to do, because they want to do it. In (5) banks enter into a Code of Practice because they want to and in (6) people are repatriated because they want to go home. The final element, free will, is represented in components (d) and (e) which show the actor’s mind unfettered by thoughts that something bad can happen to him or her. For example, a voluntary worker who is not worried about not being paid, but a wage worker follows instructions for fear of loss of wages. Note that the \textit{Cobuild}
Dictionary used the complex expressions "... chooses to do them and not because they have been forced to do them" and defined forced as "actions and threats by other people". This is too narrow for voluntary. A person can be forced by things as well as people. For example, "I was forced to take cover from the rain".

**Voluntary in legal language**

Subsection 4.2 of the Code deals with voluntariness:

**Voluntariness**

4.2 (1) Conduct can only be a physical element if it is voluntary.

(2) Conduct is only voluntary if it is a product of the will of the person who carries it out.

(3) The following are examples of conduct that is not voluntary.

(f) a spasm, convulsion or other unwilled bodily movement;

(g) an act performed during sleep or unconsciousness;

(h) an act performed during impaired consciousness depriving the person of the will to act.

(4) An omission to perform an act is only voluntary if the act omitted is one which the person is capable of performing.

(5) If the conduct constituting an offence consists only of a state of affairs, the state of affairs is only voluntary if it is one over which the person is capable of exercising control.

(6) Evidence of self-induced intoxication cannot be considered in determining whether conduct is voluntary.
(7) Intoxication is self-induced unless it came about: involuntarily:
or
as a result of fraud, sudden or extraordinary emergency, accident,
reasonable mistake, duress or force.

The expression product of the will of the person in subsection 4.2(2) is, I think, a
complex way of saying, “X did it because X thought: I want to do it”. It does not alter
the ordinary meaning of voluntary at all. Neither does the list of negative examples in
subsection 4.2.(3). These circumstances are excluded by the ordinary meaning, because
we cannot say about people who have spasms, convulsions, unwilled bodily movements
or who are asleep or unconscious, “X did it because X thought: I want to do it”. The act
which is omitted must be one which the person is capable of performing (subsection
4.2(4)). Now omission is used to comment on past acts and criminal charges are always
laid for past acts. It is superfluous to impose a requirement that X be able to do
something that X has already done. This requirement is not part of the ordinary meaning
of omission and does not alter its meaning in any way. The same argument applies to
subsection 4.2(5) which insists that X be able do an act which brings the state of affairs
into existence. Again this is captured in the explication of voluntary in the component
“X did something”, which brings the state of affairs into existence.

The intoxication exceptions in subsection 4.2(6)&(7) deem the conduct of drunks to be
voluntary. I think that this does alter the ordinary meaning of voluntary, because in
advanced cases of intoxication, we can’t say that the person thought about his or her
actions in the considered way implicit in the ordinary meaning. In the legal meaning, when X wants to get intoxicated and gets intoxicated, then X is deemed to have done a voluntary act, even though we don’t think that X thought about the act or wanted to do it. This exception does introduce polysemy into the legal meaning of voluntary in the Code. So where X is not drunk, the ordinary meaning will apply, but where X is drunk, a special legal meaning may apply. The only practicable way to represent this legal meaning would be through the complex expression self-induced intoxication, which could be defined separately through the primes. There would also have to be components representing the exceptions in subsection 4.2(7) which are very complex concepts. I will not attempt an explication here.

**Circumstance**

**Circumstances in ordinary language**

The Code uses the singular, a circumstance and of course this usage can occur in utterances such as “victim of circumstance”, “a survivor of circumstance” and “Larry Pettifer who...has also been sidelined by current circumstance into lecturing at a university not far from the vineyard” (CobuildDirect). However the ordinary and natural use is the plural, circumstances, which are events associated with another event. This is another expression with a simple semantic structure. Where act and omission were represented by DO, the key prime in circumstances is HAPPEN. The following dictionary definitions demonstrate this:

**Dictionary Definitions**

1. The circumstances of a particular situation are the conditions which affect what
happens. Recent opinion polls show that 60 percent favor abortion under certain circumstances... The strategy was too dangerous in the explosive circumstances of the times... I wish we could have met under happier circumstances.

2 The circumstances of an event are the way it happened or the causes of it. I'm making inquiries about the circumstances of Mary Dean's murder... Hundreds of people have died there in terrible circumstances.

3 Your circumstances are the conditions of your life, especially the amount of money that you have. ...help and support for the single mother, whatever her circumstances... I wouldn't have expected to find you in such comfortable circumstances.

Examples of use

(1) Theoretically they allow firms, through consultation with employees to design a wages hours and conditions structure which suits their circumstances.

(2) In the circumstances there is probably little more that can be done.

(3) Because of the circumstances of the game we just feel relieved.

(4) Suspicious circumstances surrounded the alleged discovery at a suburban tip of confidential documents related to public service compensation claims, the Australian Federal Police said yesterday.

(5) Apart from Rustic Lady, Connolly won last Saturday at Randwick in controversial circumstances with Zadok.

(6) This time around, the situation is just as complex, although in a different set of circumstances.

(7) Our records and experience have shown that often all that is needed is a simple
explanation from an independent viewpoint, of the events and circumstances, which lead to the bank’s position.

Something happened in these circumstances.

(a) something happened to someone at some time in some place
(b) when people think about it they can think about some other things like this:
(c) these other things happened in the same place at the same time

The examples show that the meaning seems to be made up of a main event and subsidiary events which are associated with it. So in (1) the main event is someone working and the subsidiary events are the things which affect their life at work. In (2) the main event is a game which has circumstances associated with it. In (3) the main event is a game. In (4) it is the discovery of documents. In (5) it is the winning of a horse race. In (6), it is a situation. In (7) “events” and “circumstances” are explicitly mentioned as leading to the bank’s position. I have therefore begun the explication of the meaning of circumstances with the main event, specified in the prime happen, which predicts both things that people do and things that happen to them. The main event is located at a particular time and place.

The next point to tackle is the association of the main event and the subsidiary events in the mind of people. In component (b) the subsidiary events are represented as people thinking about some other things. I have not said “because this happened other things happened”, since that would introduce an element of the meaning of cause which is not an invariant for circumstances. The subsidiary events are simply associated with the
main event, which does not necessarily cause them. Causation is central to result, which I will discuss next. It is also necessary to locate the subsidiary events in the same time and place as the main event. This provides the necessary link and is central to our intuitions of the meaning of circumstances. In (c) the associative link is made through people thinking that the subsidiary events happened at the same place and at the same time.

Result

The three physical elements in the Code are conduct, a circumstance in which conduct occurs, and a result of conduct. Result, like circumstance, is not defined in the Code, so its ordinary and legal meanings are the same. Result is intimately tied in with the notion of causation, so familiar to philosophers and scientists. The semantic structure of result is perhaps the simplest of all the metalanguage terms in the Code and is therefore very easy to understand. When paired with another simple term such as act in “the result of an act”, the Code metalanguage is as transparent as it can be without resorting to the primes. Looking at the dictionary definitions it is immediately clear that result implies two events, one after the other:

1 A result is something that happens or exists because of something else that has happened. Compensation is available for people who have developed asthma as a direct result of their work... A real pizza oven gives better results than an ordinary home oven.

4 A result is the situation that exists at the end of a contest. 'What was the result'? 'One nil to Leeds'... The final election results will be announced on
Friday... the football results.

5 A **result** is the number that you get when you do a calculation. *They found their computers producing different results from exactly the same calculation.*

6 Your **results** are the marks or grades that you get for examinations you have taken; usually used mainly in British English. The usual American term is **scores. Katie's exams results were excellent.**

(Cobuild Dictionary)

I think that the first dictionary definition, "A *result* is something that happens or exists because of something else that has happened", is the most accurate.

**Examples of Use**

(1) My secretary's leg injury was the **result** of a flying umbrella.

(2) He said that at Jimbour, north of Dalby, people had reported mice in their homes since October. They had also been attacking sorghum crops. He said a plague could destroy entire crops and **result** in more grain having to be imported into Queensland.

(3) Drawing on examples like the formal union of the Byzantine emperors Basil I and Michael III, John Boswell shows how the same tradition that looked askance at all sexuality could also encompass--and at times idealize--loving partnerships between two men or women. The **result** is one of those rare works of scholarship with the power to transform the way we live.

(4) Dr Tony Gardner, Reader in Mathematics at the University of Birmingham said the curriculum reflected an ethos which said that if some children found a subject hard,
it should be made easier for all. He said: “The result is that children don't do algebra or ratios or proofs anymore”.

(5) When the car is left for some time such as at airport car parks the alarm drains the battery. The result: something the RAC calls “dead engine syndrome” and a family whose tans suddenly fade with frustration somewhere in the long-term car park at Heathrow.

(CobuildDirect)

In the examples, the pairing of consecutive events and the causal connection between the two is obvious. So in (1) the first event is a flying umbrella and the second event is an injury to a leg caused by the umbrella. In (2) a mice plague is followed by crop destruction, in (3) a publication is followed by a conclusion that it is a rare work of scholarship, in (4) a curriculum is changed and children don’t do algebra anymore, and in (5), car alarms use power and engines will not start. An explication of the meaning of result need go no further than the dictionary definition “A result is something that happens or exists because of something else that has happened”.

Something (X) was a result of something else

(a) something happened

(b) because this happened something else happened (X)

The reason for labelling the second event X is to distinguish result from cause. The meaning of cause appears to be the same as result, except that the first event is labelled
the cause.

Something (X) was a cause of something else

(c) something happened (X)

(d) because this happened something else happened

Conduct

Conduct in ordinary language

Dictionary Definition

The conduct of a task or activity is the way in which it is organised and carried out.

Also up for discussion will be the conduct of free and fair elections... The Conservative Party did not in the main agree disagree with Bevan’s conduct of foreign policy.

Someone’s conduct is the way they behave in particular situations. For Europeans, the law is a statement of basic principles of civilised conduct ...He has trouble understanding that other people judge him by his conduct.

(Cobuild Dictionary)

Both definitions stress the “way” an activity is carried out or the “way” someone behaves, suggesting that conduct is something more than merely doing something. This view is supported by the common use of modifiers specifying the nature of the conduct. It seems that there is usually, but not always, a moral component commenting on how
something is done. Note that the noun cannot be given a plural marking. The *Cobuild Dictionary* labels the first definition as “singular” and the second as “uncount”. In the first definition, *conduct* can imply a single action. In the second definition an uncount noun is one which “... refers to things that are not normally counted or considered to be individual items. Uncount nouns do not have a plural form, and are used with a singular verb. They do not need determiners” (*Cobuild Dictionary*, xxvii). In other words *conduct*, in the second definition, acts as a mass noun implying more than one action.

**Examples of use**

*code of conduct*

(1) Every one of DCC’s 150 construction workers and the 400 employed by subcontractors is required to sign a code of *conduct* which outlaws wolf-whistling, suggestive remarks and working without a shirt on sites.

(2) Leading nightclub owners formed their own association, drawing up a strict code of *conduct* which includes measures to eliminate drinking train staff and keep alcohol from the under-aged or the intoxicated.

*the conduct of*

(3) Mr Ekeus presented a report to the council which said Baghdad had hidden information on its military programmes but described the *conduct* of the visiting Iraqi delegation as positive.

(4) The board agreed on Thursday to make further investigations into the *conduct* of a Brisbane psychologist accused by the father of planting the allegations of sexual abuse in his daughter’s mind.

(5) And with a general election on April 24 and 25 in Malaysia creating a tinder
box atmosphere for the **conduct** of relations with Malaysia the officials and ministers know that any adverse reaction from Canberra could spark an Australia-bashing campaign.

(6) The following charges may apply during the normal **conduct** of an account.

Modifiers+**conduct**

(7) NBA move to prevent rough play The US National Basketball Association yesterday reacted against players involved in violent on-court **conduct**.

(8) She is said to have slammed down the phone when Grant told her of his “lewd **conduct**” with the hooker shortly after being released from the Hollywood police station.

(9) Civility costs nothing, unlike the empty space at the top of your glass. And to CAMRA members, a word of exhortation - it behoves us all to promulgate the integrity of our organisation by being seen to acquire our rights by proper and polite means - rude and boorish **conduct** is the mark of the lager louts, and has no place in our aims and objectives.

(10) Patricia Watt, of Bayview Heights, Cairns, has also been awarded a commendation for brave **conduct** after saving her elderly husband from a wild pig attack on August 24, 1994.

(11) To be a member, you have to have served 22 years in the Army or Airforce and have a Good **Conduct** Medal, then you wait until there is a vacancy, i.e. for someone to die or to reach the age of 70, then you see if you can fit into one of the doublets (they dress like the Beefeaters in the Tower).
Possessive+conduct

(12) Justice Demack, in the Supreme Court, said the man had not shown the slightest remorse for his conduct, which could not be excused in any circumstances.

(13) The companies involved were at least gracious enough to issue public apologies for their conduct this week.

Other

(12) You must decide what conduct the community is prepared to accept, what is the minimum standard for people in charge of dangerous things.

(CobuildDirect)

In ordinary language conduct is both a verb and a noun, and word class is distinguished by pronunciation. In CobuildDirect, the noun conduct appears mostly in five kinds of frame. Code of conduct is very frequent, and as can be seen in examples (1) and (2), there is a strong moral element in the meaning of that expression. The frame, the conduct of + NP is also very frequent and the conduct of the person or persons named is good or bad (See (3) (4)). In (5) the conduct of relations (6) and conduct of an account are not in themselves good or bad, although they could be. Conduct often appears with modifiers such as violent (7), lewd (8), rude and boorish (9), brave (10) or Good (11). When a possessive appears before conduct (12) (13) it is invariably good or bad conduct that is commented on elsewhere in the discourse. Finally conduct sometimes appears in other frames, such as the noun phrase in (14), although this is uncommon.
Someone’s (person X’s) conduct

(a) X did some things for some time
(b) X did these things because X thought:
(c) I want to do these things
(d) people can say it is bad if someone does these things
(e) people can say it is good if someone does these things

The first component pictures X’s conduct as a course of conduct which last for some time. This duration element is, I think, an essential part of the meaning of conduct. Conduct is a series of acts over a period of time. It cannot be singular and of short duration, as the following counter-example demonstrates:

*Just the responsibilities surrounding the simple conduct of tossing the coin are mind boggling.

In the examples of use the series of acts which make up someone’s conduct are conduct on a building site (1) and in a nightclub (2), the conduct of a visiting delegation (3), a psychologist planting allegations of sexual abuse in a person’s mind (4), diplomatic relations (5), a bank account (6) and so on. All of the examples are series of acts of a certain duration.

Components (b) and (c) imply the essential desiderative element in the meaning which is necessary to exclude automatic actions. Components (d) and (e) attempt to capture the
evaluative element in the meaning of *conduct* which is absent from the meaning of *act* and present in the meaning of *omission*. *Conduct* is always thought of as a series of acts which can be evaluated as *good* or *bad*. Compare the following frames, taken from the examples of use, with a frame where the word *acts* has been substituted for *conduct*.

1. ....rude and boorish *conduct*  
   ....rude and boorish *acts*

2. The companies involved were at least gracious enough to issue public apologies for their *conduct* this week.  
   The companies involved were at least gracious enough to issue public apologies for their *acts* this week.

3. ...his “lewd *conduct*” with the hooker...  
   ...his “lewd *acts*” with the hooker...

4. Patricia Watt, of Bayview Heights, Cairns, has also been awarded a commendation for brave *conduct*...  
   Patricia Watt, of Bayview Heights, Cairns, has also been awarded a commendation for brave *acts*...

In each case *conduct* seems more appropriate because it adds illocutionary force to the modifiers *rude* and *boorish*, *lewd* and *brave*, and to the things done by companies which merit public apologies. Conversely, when the word *acts* is substituted for *conduct*, the force of the evaluation is lessened. This points to an element in the meaning which predisposes the listener to evaluate the things done.
**Conduct in legal language**

I suggested previously that *conduct* is a “cover term” for *act, omission* and *state of affairs*. The ordinary meanings of *act* and *omission* have been shown to differ considerably from the ordinary meaning of *conduct*. By defining *conduct* as no more than a “cover term” for *act, omission* and *state of affairs*, the Code openly declares that *conduct* does not mean *conduct* in the ordinary sense of the word.

The meaning of *voluntary act* in the expression “his or her voluntary act”, is not always the same as the ordinary meaning of *voluntary* which I defined above (see page 93). The reason for this is that the meaning of *voluntary* in the Code differs from its ordinary meaning when the drunkenness exceptions are applied (see page 94). However when *conduct* means the same as *voluntary act* in ordinary language, the meaning of the utterance is captured in the following two explications which I have given previously. Clearly the difference between these meanings and the meaning of *conduct* is considerable:

Someone’s act was voluntary \(_{OL}\) =

(a) X did something

(b) X did it because X thought:

(c) I want to do it

(d) X did not do it because X thought:

(e) I have to do it
Someone did an $act_{ol} =$

(a) someone (X) did something

(b) X did it because X thought:

(c) I want to do it

The utterance, *voluntary act* contains an element of duplication, since the first three components in the meanings of *voluntary* and *act* are the same. It seems impossible to specify the meaning of *voluntary* without referring to someone doing something, and necessarily including the meaning of *act* within the meaning of *voluntary*.

*Conduct* is also defined in the Code as *voluntary omission to perform an act*. This appears something of a paradox, because *voluntary* implies that some did something whilst thinking that he or she wanted to do it. The word *omission*, on the other hand, implies that someone did not do something. It does not require thinking about not doing something. On the contrary, *omissions* are often the result of not thinking about doing something. The paradox of an omission being “doing something” is resolved by language evidence that not doing something can be called “doing something”, as I explained previously (see page 87). The paradox of an *omission* necessarily implying volition is rather more serious. I see no way to represent the definition of *conduct* as *voluntary omission to perform an act*, since the definitions of *voluntary* and *omission* are contradictory:
Someone’s act was voluntary = 

(a) X did something 
(b) X did it because X thought: 
(c) I want to do it 
(d) X did not do it because X thought: 
(e) I have to do it 

Someone (person X) omitted to do something 

(a) X did not do something 
(b) I think it is bad if someone does not do something like this 

As to conduct defined as voluntary state of affairs, I have not explicited state of affairs, but merger of the meanings of these two expressions may also be impossible. 

That concludes the examination of expressions making up the “physical elements” in the Code. I will now deal with the “fault elements”.

**Fault Elements**

The conceptual structure of the Code is divided into physical elements and fault elements. The fault elements are intention, knowledge, recklessness and negligence. 

They combine with the physical elements conduct, circumstance and result to form the definition of an expression referring to a crime. For example, in the crimes of causing harm, the fault elements are graded by penalties according to their degree of
seriousness. So when the wrongdoer causes harm, the worse his or her thoughts, the worse the punishment. Causing serious harm intentionally is very bad, recklessly causing serious harm is bad, but negligently causing serious harm is not so bad. In this chapter section I will discuss the fault elements generally, then I will present explications of the ordinary meanings of intention, recklessness and negligence. Where appropriate, I will propose legal meanings for these words. Knowledge will not be defined because it is a nominalisation of the indefinable prime, KNOW.

The Code defines fault elements as follows:

**Fault elements**

5.1(1) A fault element for a particular physical element may be intention, knowledge, recklessness or negligence.

**Intention**

5.2(1) A person has intention with respect to conduct when he or she means to engage in that conduct.

(2) A person has intention with respect to a circumstance when he or she believes that it exists or that it will exist.

(3) A person has intention with respect to a result when he or she means to bring it about or is aware that it will occur in the ordinary course of events.

**Knowledge**

5.3 A person has knowledge of a circumstance or a result when he or she is aware that it exists or will exist in the ordinary course of events.
Recklessness

5.4(1) A person is reckless with respect to a circumstance if:

(a) when he or she is aware of a substantial risk that it exists or will exist;
and

(b) having regard to the circumstances known to him or her, it is
unjustifiable to take the risk.

(2) A person is reckless with respect to a result if:

(a) he or she is aware of a substantial risk that it will occur; and

(b) having regard to the circumstances known to him or her it is unjustifiable
to take the risk.

(3) The question whether the taking of a risk is unjustifiable is one of fact.

(4) If recklessness is a fault element for a physical element of an offence, proof
of intention, knowledge or recklessness will satisfy that element.

Negligence

5.5 A person is negligent with respect to a physical element if his or her conduct
involves:

(a) such a great falling short of the standard of care which a reasonable person
would have exercised in the circumstances; and

(b) such a high risk that the element exists or will exist that the conduct merits
criminal punishment for the offence in issue.

Like the definition of physical elements, the apparently simple definition of fault
elements in subsection 5.1(1) conceals a very complex conceptual scheme. The
complexity begins with the pairing of fault elements with physical elements. Thus the meanings of the fault elements are made dependent on the complex conceptual structure of the physical elements. They are not allowed to stand alone with independent meanings. It is as if the meaning of say, desire in ordinary language, varied as it co-occurred with persons or animals or plants. Next, the meanings of the fault elements are then given by pairing them with specific physical elements conduct, circumstance and result. In the course of this process of definition, intention is assigned three meanings depending on which physical element it appears with. Now as I have shown, the physical element conduct is itself given three meanings based on act, circumstance and result. The complexity of the conceptual scheme in the fault elements is therefore multiplied by the complexity of the scheme in the physical elements. Furthermore the physical elements act, circumstance and result must be voluntary, which like intention and recklessness is a primarily a mental concept. So when the substitutions for conduct are made, we have odd pairings of the volitional adverbs voluntary with intentionally in, “A person who, by his or her conduct voluntary act intentionally causes serious harm to another person is guilty of an offence”. I will comment further on this complexity when discussing the legal meanings of the individual fault elements, beginning with intention.

**Intention**

**Intention in ordinary language**

Intention is fundamental to understanding the Code, and indeed the criminal law and civil law of most jurisdictions. It is a key word of the law. It appears in definitions of
civil wrongs (torts), land law, and the law of wills. For example, it is an essential element of a contract that the parties have an intention to create legal relations and willmakers must intend their document to be a will.

The Code defines the noun intention but the verb intend appears in the definitions of expressions referring to crimes. This practice, which assumes that the verb and its nominalisation have the same meaning, is undesirable, because the two meanings might not be the same. Since the verb here is primary, I shall discuss it first, and then the noun, and argue that the meanings of verb and noun are the same.

**Intend**

The Cobuild Dictionary lists the word classes of the intend group as the verb, which inflects for tense and aspect (intend -s, -ed, -ing), adjectives (intended, intent, intently, intentional), adverbs (intently, intentionally) and nouns (intent, intention). It defines the verbs as follows:

**intend, intends, intending, intended**

1 If you intend to do something, you have decided or planned to do it. *She intends to do A levels and go to university... I didn't intend coming to Germany to work... We had always intended that the new series would be live.*

2 If something is intended for a particular purpose, it has been planned to fulfill that purpose. If something is intended for a particular person, it has been planned to be used by that person or to affect them in some way. *This money is intended for the development of the tourist industry... Columns are usually*
intended in architecture to add grandeur and status... Originally, Hatfield had been intended as a leisure complex.

3 If you intend a particular idea or feeling in something that you say or do, you want to express it or want it to be understood. He didn’t intend any sarcasm...

Burke’s response seemed a little patronising though he undoubtedly hadn’t intended it that way... This sounds like a barrage of accusation - I don’t intend it to be... I think he intended it as a put-down comment.

(Cobuild Dictionary)

Here the dictionary writer has claimed that intend has three meanings. However there is no reason why the first meaning, “If you intend to do something, you have decided or planned to do it”, should not predict the uses given for the second and third meanings. So the example in the second meaning. “Columns are usually intended in architecture to add grandeur and status...”, is predicted by the fact that architects have “planned to do something”. Similarly, the example given for the third meaning, “He didn’t intend any sarcasm...”, is predicted by the person who has “decided” not to be sarcastic. The confusion seems to have arisen because the dictionary writer has taken part of the meaning of the verb or noun in the complement which follows intend and incorporated that component in the meaning of intend. In the case of the first meaning, the speaker implies that someone will do something, but in the second and third meanings, something will happen because someone does something.

Examples of use

(1) Much as I would like to, I do not intend to make love to you, because one cannot
do that to a guest, certainly not without a very definite indication she would like me to.

(2) If you intend to keep your current car for only 2-3 years longer we recommend a scheme by which you pay £199 up front, and a further £61.10 Network service charge each year by direct debit.

(3) He quotes Professor Shatalin as saying that Gorbachev's desire to meet the G-7 leaders should be seen as proof that he intends to take the path of reform.

(4) Mr Kennedy said after the decision: “I intend to continue breeding budgies”.

(5) I intend to stay several weeks. Everything is in order here.

(6) In this chapter I intend to give a very brief summary of the main benefits before considering each of them in detail later in the book.

(7) “I asked Hitler between '32 and '33, “What are you really intending as far as the Jews go?” And he said, “They shall keep their shops, they shall keep their positions in the banks, in the commercial organisations and so on. I only do not want to have them in the Government.”

(8) With the Dulwich Picture Gallery loaning works once intended for Stanislau’s collection, the Poles may assess, 200 years later, the relevance of the cultural reform that he had intended to bring about.

(9) It is not clear whether the attack intended to free political prisoners in ...

(10) Diptychs are paintings in two hinged parts, which can be opened out like a book. They were often intended as portable altarpieces, and it is likely that this one belonged to Richard II.

(CobuildDirect)
If we look at the examples of use (1) to (13) and the dictionary entry, it seems that when you intend to do something, you must think about what you are going to do beforehand. This thinking may be planning or deciding or something else. The best approach is to retreat from such specifics and introduce a more general component which fully predicts all kinds of thinking. In (1)-(6) intend(s) is followed by a verbal complement, made up of an infinitive verb followed by a noun phrase. The examples are listed in the order of frequency of the complement verb as they appear in the corpus. Other frequent complement verbs in order of frequency are to give, to carry, to sell, to fight, to build and to bring. The nature of the action intended obviously depends entirely on the meaning of the complement.

**Intention**

The *Cobuild Dictionary* definition is:

1 An **intention** that you have is an idea or plan of what you are going to do.

*Beveridge announced his intention of standing for parliament ... It is my intention to remain in my position until a successor is elected ... Unfortunately, his good intentions never seemed to last long. (Cobuild Dictionary)*

This definition introduces “have ... an idea of doing something”, for which it gives ten meanings, involving concepts such as opinion, belief, know, aim, purpose and plan: “An idea is a plan, a suggestion, or a possible course of action”. Defining the noun intention by idea is unhelpful because the verb intend is not defined by idea, so that word introduces a difference in meaning which cannot be justified in the examples of use.
Examples of use

(1) This clearly shows that the real intention of the United States is to stifle our Republic.

(2) It is Halifax’s intention that the terms and conditions for Halifax share and deposit accounts will be amended before the Effective Date to take account of The Unfair Terms in Consumer Contracts Regulations 1994.

(3) I was to have been the “fall guy”, as you Americans would say. It was their intention to leave my body next to the assassin’s rifle. My fingerprints would have been on the weapon.

*(CobuildDirect)*

The use of the noun intention seems to mirror the verb, being followed by an infinitive or a noun-phrase.

I will now discuss some work on intention in linguistics, philosophy and the law. The linguist Jean Harkins, in her cross-linguistic study of desire in language, found that most languages have a set of desiderative terms, each with a different shade of meaning in different constructions. In English want, wish and desire are important desiderative verbs and there are many others such as yearn, long, covet, like, need, hope, intend, the modal auxiliaries will, shall, would, should and speech act verbs such as order and beg. Philosophers and linguists tend to use the nouns will, desire, volition and intention. In most languages, including English, basic desideratives are verbal in character but in 5% of the 84 languages Harkins surveyed they are nominal (e.g. Arrente) or adjectival (e.g.
Japanese) (Harkins 1995, 34). Desiderative expressions may be associated with future time and also with modal meanings such as irrealis, possibility or potential (Harkins 1995, 170). Some languages have lexical associations between desiderative expressions and thinking. *Desire* and *intend* for example are semantically more complex than *want* because they have components involving feel and think respectively. Harkins suggests the following explication of the meaning of *intends*:

\[
X \text{ intends to } V *
\]

- X thinks: I can do V
- X has thought about doing it for some time before now
- X thinks something good about doing it
- because of this X wants: I [will] do it after now
- because of this X thinks: I [will] do it after now

* Verb

(Harkins 1995, 71)

This explication predicts the examples of use that I have given, except for the component “X thinks something good about doing it”. This is a comment on the semantic structure of the following complement in the nature of an explanation or motive for X’s future actions. In a discussion of the philosophy of action, Alan White claimed that, “... to cite a motive is necessarily to offer an explanation whereas to mention an intention is not.” (White 1991, 14). I think that this is correct, and that
thinking good about doing something is not a semantic invariant of *intend*. In fact, X can *intend* to do something and yet feel bad about it. In *Steane* for example, the Gestapo asked Steane to speak on German radio and said that if he did not, his wife and children would be sent to a concentration camp. He did speak on the radio and was prosecuted for treason. We could say, following Harkins’ explication, that Steane intended to speak on the radio and he thought something bad about it. Of course he might think of saving his wife and children, which is good, but that is not intending to speak on the radio, that is intending to save his wife and children. Once again I think that semantic material from complements which may follow intend has been imported into the meaning of *intend*.

The philosopher Duff gave the following meaning of *intention*:

We now have an account of what it is to act with the intention of bringing about a specified result, and to succeed in doing so:

(A) The agent wants (or desires) that result.
(B) She believes that what she does might bring about that result.
(C) She acts as she does because of that want and that belief
(D) What she does causes that result

(Duff 1980, 66)

Glanville Williams gives this definition of *intention*:
Intention is a state of mind consisting of knowledge of any requisite
circumstance plus desire that any requested result shall follow from one’s
conduct, or else of foresight that any result will certainly occur.

(Williams 1965, 20)

Neither Duff nor Glanville Williams suggests a component evaluating the result as good
or bad. Duff’s explication is similar to Harkins’ explication since it has want (A) and
possibility (B) linked to the action (C). The use of result to define intend is misleading,
because although the agent can intend a result such as “to free political prisoners”, he or
she can intend “to make love” or “to stay several weeks”, which are not results. Note
that making love may result in conception, and staying several weeks may result in
boredom, but in themselves they are simply doing something. Once again a semantic
variant seems to have been introduced into the definitions from the meaning of certain
complements which may follow intend.

I suggest the following explication of the meaning of intend which is similar to Harkin’s
definition, but does not contain an evaluation of the future act and has a simpler syntax
and a simpler overall format:
Someone (person X) *intends* to do something (Z)

(a) X thinks like this about something:

(b) I want to do it
(c) I can do it
(d) I will do it after now

The frame “Person X intends to do something (Z)” clearly separates *intends* from *do something*, showing that *intends* is separate from but linked to a future action in the following complement. The expression *do something* is sufficiently vague and does not limit *intend* to any class of future acts involving simple actions, results, or motives. In component (a), Person X must think about doing Z because Z cannot be a sudden action:

*Q. “There’s another helping left. Who’ll eat it?” A. “I intend to eat it”.

Q. “There’s another helping left. Who’ll eat it?: A .“I’ll eat it”.

Nor is it possible to form an intention on the spur of the moment:

(1) The moment I saw it I wanted to buy it.
(2)*The moment I saw it I intended to buy it.

In component (b), *want* is essential because X cannot intend to do something when X doesn’t want to do something:
I intend to continue breeding budgies.

*I intend to continue breeding budgies but I don’t want to.

In (c), X must think that X can do Z, because X cannot intend to do something which X cannot do:

(3) I want to be a doctor but I don’t know if I can.

(4) *I intend to become a doctor but I don’t know if I can.

We can successfully test the explication by swapping it to negative polarity:

Person X doesn’t intend to do something (Z).

(a) Person X thinks:

(b) I don’t want to do Z

(c) I can do Z

(d) I will not do Z after now

Compared with other desideratives such as want, the meaning of intend is complex, but it is important to recognise that it is also as simple as the explication proposes. It must not include results, motives or any other components of meaning which may be present in the following complement. It is very easy to be misled in this way by complements with infinitives such as to bring about and to free. Intend is similar to the simple modal auxiliary verbs, will, shall, would, and should, which have a minimal semantic presence
in sentences dominated by a main verb. I think that much of the confusion which afflicts legal and philosophical analyses of *intention* has arisen because writers have assigned it a much greater semantic weight in the sentence than it actually has. This has caused them to introduce contextual variants into the meaning itself, so that it fails to predict all uses.

**Intention in legal language**

The Code definition of *intention* is:

5.2(1) A person has intention with respect to conduct if he or she means to engage in that conduct.

(2) A person has intention with respect to a circumstance if he or she believes that it exists or will exist.

(3) A person has intention with respect to a result if he or she means to bring it about or is aware that it will occur in the ordinary course of events.

This definition of *intend* uses the key words *conduct, means, circumstance, and result*. Except for *means*, I have explicated these words. The semantic problems with subsection 5.2 begin with the question: “Is this one definition or three?” It is not clear if subsection 5.2 is a single definition of *intention* or if the word is regarded as polysemous, so that paragraphs (1), (2) and (3) of that subsection are separate representations of separate but related meanings. The commentary to the Code, written by the people who drafted the Code, says that:
The first part of the definition is an affirmation that intention bears the same meaning in law as it does in ordinary language. To mean to do something is simply, to intend it. The second part clearly goes beyond ordinary language. (Attorneys-General 1998, 45).

The “first part” appears to be section 5.2.(1), but since there are three parts, it is not clear what the second part is. However, the statement does appear to claim polysemy, despite referring to parts of a single definition, because it claims more than one meaning. The word *means* in “means to engage” is not itself defined. The Code commentary claims that “To mean to do something is simply, to intend it.”. Of course that definition is not explanatory, because the Code defines *intention* by *means*. It is patently circular. The *Cobuild Dictionary* takes a similar view, claiming that “If you mean to do something, you intend to do something”. Quite apart from the circularity, *mean* simply does not have the same meaning as *intend*, as the Dictionary’s own examples show:

> Summer is the perfect time to catch up on the new books you meant to read...
> You know very well what I meant to say... I mean to look after my body...

*Intend* implies “I will do something after now” but *mean* implies “maybe I will do something after now”. When I *mean* to read new books, maybe I will read them after now or a long time after now or maybe not at all. However when I *intend* to read new books, I definitely assume that I will read them. The first definition has therefore
distorted the mental elements implicit in the ordinary language meaning of *intention* by introducing the complex and inappropriate defining term, *means*.

The second meaning stipulates that *intention* is belief in the existence of a *circumstance* (*circumstances* was explicated previously). Now a *circumstance* implies that something has happened to someone in a place but *intend* implies certain thoughts that someone has before doing something. Belief that something has happened to someone in a place is a radically different to thinking that you want to do something. The differences are in fact, irreconcilable. In this second legal meaning, the ordinary meaning of *intend* has been substituted by a wholly different one in legal language.

The third meaning limits *intention* to *intending results*, so that a person intends that something should happen, either by intending to do something so that it happens or being “... aware that it will happen in the ordinary course of events”. Quite apart from the problem of the disjunction, which leaves the reader guessing about what the alternatives have in common, the ordinary meaning of *intention* is considerably narrowed.

Given the complexity of the conceptual structure implicit in subsection 5.2 and the distortion of the ordinary meaning of *intention*, it would be a very difficult task to capture their meanings. One is faced with trying to capture the “essence” of the meanings or attempting to “translate” each definition, word by word into NSM paraphrases. The former would most likely be vague and inaccurate. The latter would be
a “semantic salad”, an incomprehensible mixture of explications. Both approaches would in themselves be major undertakings. I will not therefore attempt them, but will end by noting the complexity of the legal meaning of intention in the Code.

Knowledge

The Code definition of knowledge is:

5.3 A person has knowledge of a circumstance or a result when he or she is aware that it exists or will exist in the ordinary course of events.

The expression has knowledge is another way of saying knows, which is a semantic primitive. Knowledge is mistakenly defined through aware because knowledge cannot be defined. Moreover the meaning of aware is not the same as the meaning of know, as the following examples show:

*It helps to be aware of French and creole if you want to understand some of the lyrics. (Cobuild Dictionary p 923).

*It helps to be know French and creole if you want to understand some of the lyrics.

The Code writers have attempted to define the indefinable and in doing so have assigned an artificial meaning to a basic and universal mental predicate. I simply note this fact and will not attempt an explication of the Code definition of knowledge.
Recklessness

Recklessness falls between intention and negligence on the scale of culpability. It is a mental state intermediate between the two, between a desire to do something (intention) and a mere failure to think about one's actions (negligence). In commenting on an act, it implies that the wrongdoer has considered the nature of the act and its possible bad consequences. Despite this, the wrongdoer persists in doing the act. The following is its dictionary definition:

If you say that someone is reckless, you mean that they act in a way which shows that they do not care about danger or the effect their behaviour will have on other people. She loved to ride; on horseback she was reckless and utterly without fear... He is charged with causing death by reckless driving.
(Cobuild Dictionary)

Reckless is an adjective that typically modifies persons or actions. This can be seen in the Dictionary examples, she was reckless and utterly without fear and reckless driving. Unlike intend, which can comment on future actions, reckless can only comment on present or past actions. The speaker sees someone doing something and makes inferences from that person's actions about their state of mind. When uttering reckless, the speaker implies that the actor knows that something bad can happen because the actor does something, but nevertheless goes ahead and does it anyway. In the Dictionary definition this is captured in the description, "they do not care about danger or the effect their behaviour will have on other people". For someone not to care they must know
there is something to care about. This is quite different from being careless or negligent, where knowing something bad might happen is not an essential component. I will discuss this further in the following section on negligent.

Examples of Use

(1) Leading from the square is a labyrinth of souks, a world of small alleyways, set with shops on either side, thronged with Moroccans spluttering motorbikes and groaning donkeys negotiating awkward corners with reckless disregard for shoppers and souks for almost every commodity known to man.

(2) He was just reckless in the way he threw his body around, which is why he's never had a full season without an injury.

(3) Mr Borbidge said it would be 'reckless and irresponsible' for any government to proceed with the eastern tollway which would destroy parts of south-east Queensland's sensitive koala habitat.

(4) The realisation that reckless exploitation of the earth's resources can lead only to eventual global disaster is unlikely to be a passing enthusiasm;

(5) Last week David Creffield, editor of Overseas Jobs Express, claimed the organisation had been 'reckless in the extreme' for sending the four to Irian Jaya without proper preparation or supervision.

(CobuildDirect)

The legal philosopher Alan White defined recklessness thus:

... the main element in the notion of recklessness is indifference, that in fact
recklessness is specifically the lack of care which is expressed by “not caring” or “could not care less” about the risks or dangers inherent in one’s action...

(White 1991, 38)

White considers that awareness is essential for recklessness.

Cliff Goddard considers that awareness blurs over the distinction between thinking and knowing. He suggested the following meaning:

X did something reckless=

X did something because he/she wanted to do it
X knew that if he/she did it something bad might happen to someone
X didn’t want to think about this
people say it is bad if someone does something like this

(Goddard 1996, 266)

The second and third components simplify and make explicit White’s concept of awareness and the fourth component is a social evaluation. The danger is to someone, which includes both X and other persons. As Goddard points out, in legal contexts, the risk is usually to other persons. Save for one or two minor alterations, I think that Goddard’s explication is a good one. Here is my revision:
Someone (person X) did something *reckless*

(a) X did something because X wanted to do it

(b) X knew that if X did it something bad could happen because of this

(c) X didn’t want to think about this

(d) people say it is bad if someone does something like this

Component (a) predicts examples of use such as (1) where motorcyclists and donkey riders deliberately rush through a crowded market and (2) where a player deliberately throws his or her body about. In (b) the speaker implies that doing these things could result in something bad happening. Goddard limited the class of possible victims to persons. Here I have widened the class to predict injury to persons and things. For example in (1) the reckless motorcyclists disregard possible damage to persons ("shoppers") and things ("souks" = shops). Component (c) makes explicit the essential disregard of possible bad results of X’s actions, such as damage to shoppers and shops (1), damage to oneself (2), a koala habitat (3), the earth’s resources (4) and person’s lives (5). The difference between *reckless* and *risk*, which I explicate later, is that in *risk* the actor evaluates the proposed course of action, but in *reckless* the actor simply goes ahead without weighing up what might happen.

Before examining the Code definitions of *reckless*, I will discuss the law in England and Wales, because some important cases in that jurisdiction illustrate the difficulties that can arise in the use of this word.
**Reckless in legal language**

In England and Wales, *reckless* is defined by the common law decisions of judges and not by statute. In two cases, the judges have decided that there are two kinds of *recklessness*, called *Cunningham reckless*ness and *Caldwell reckless*ness, after the names of the cases which defined them.

In *Cunningham* [1957] 2 QB 396, [1957] 2 All ER 412, the defendant went to a vacant house and ripped a gas meter from the wall. Gas escaped and the neighbour breathed in the gas, causing danger to his life. The defendant was convicted of the statutory offence of maliciously administering a noxious thing so as to endanger life. The court defined *recklessness* in this way:

> ... in any statutory definition of a crime ‘malice’ must be taken not in the old vague sense of ‘wickedness’ in general, but as requiring either (i) an actual intention to do the particular kind of harm that in fact was done, or (ii) recklessness as to whether such harm should occur or not (i.e. the accused has foreseen that the particular kind of harm might be done, and yet has gone on to take the risk of it). It is neither limited to nor does it require, any ill-will towards the person injured.

This definition agrees with Goddard’s ordinary language explication because the defendant must know that something bad might happen to someone.
In *Caldwell* the defendant was working at a hotel. He had a grievance against the owner of the hotel. One night he got drunk and set fire to the hotel. Ten people were asleep there. His motive was revenge. The fire was put out and luckily nobody was hurt. At his trial for arson, a crime of damage by fire, he said that he was too drunk to think that people might be hurt when he lit the fire. Arson required intent to endanger the life of another or recklessness whether the life of another would be endangered. The court defined *recklessness* in this way:

In my opinion, a person charged with an offence under s1(1) of the 1971 Act is ‘reckless as to whether or not any property would be destroyed or damaged if (1) he does an act which in fact creates an obvious risk that property will be destroyed or damaged and (2) when he does the act he either has not given any thought to the possibility of there being any such risk or has recognised that there was some risk involved and has none the less gone on to do it.

[1981] 1 All ER 961

The controversial statement in this definition is, “he ... has not given any thought to the possibility of there being any such risk”. An essential component of the ordinary meaning of *reckless* is the actor’s awareness of the risk. The definition has not been adopted in Australia because it blurs the distinction between recklessness and negligence. The difficulties can be seen in the following example from the case of *Lamb* [1967] 2QB 981, [1967] 2 All E R1282.
Lamb had a pistol with a revolver that had five chambers. There were bullets in two chambers. Neither bullet was opposite the barrel. Lamb jokingly pointed the gun at a friend and pulled the trigger. It went off and killed his friend. The gun was made so that when the trigger was pulled, the revolver spun so that a bullet was opposite the barrel. Lamb didn’t know this and experts gave evidence that few people know about it. Lamb was convicted of manslaughter but his conviction was quashed on appeal. This is a classic case of negligence because Lamb’s conduct fell short of what a reasonable person would have done. But it is not recklessness in the Cunningham sense because Lamb didn’t think that his friend could die because he pulled the trigger. He thought his friend would not die. However in the Caldwell sense, he was reckless, because he did something which created an obvious risk without giving any thought to the possibility of such a risk.

White claims that reckless has the same meaning in the law as it has in legal language:

... the word reckless is admitted by the courts, including the court in Caldwell, to be used in the law in an everyday non-technical way. As Lord Widgery said in R.v.Cato [1976] 1WLR 110 at 119] “‘Reckless” is a perfectly simple English word. Its meaning is well know and it is in common use’ (White 1991, 32).

To be reckless is, as its etymology suggests, to ‘reck not’, is to care
not, to regard not, or, as the courts usually say, to be indifferent to or not caring about. Thus a long line of judicial decisions from at least Holroyd in 1841 to at least Goldman v. Thai Airways International in 1983 emphasizes this element of indifference in the notion of recklessness. (White 1991, 34-35)

The Code definitions of *reckless* are:

5.4(1) A person is reckless with respect to a circumstance if:

(a) when he or she is aware of a substantial risk that it exists or will exist; and

(b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

(2) A person is reckless with respect to a result if:

(a) he or she is aware of a substantial risk that it will occur; and

(b) having regard to the circumstances known to him or her it is unjustifiable to take the risk.

(3) The question whether the taking of a risk is unjustifiable is one of fact.

(4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness will satisfy that element.

There are two definitions here, “reckless with respect to a circumstance” and “reckless with respect to a result”. Note that there is no definition of “reckless with respect to
conduct”. The reason for this is that reckless will normally modify conduct in the definition of a word referring to a crime. For example:

24.2 A person who, by his or her conduct, recklessly causes serious harm to another person is guilty of an offence.

It seems to me that the definitions of reckless in the Code restate the ordinary meaning of reckless in a complex way. The sentence “he or she is aware of a substantial risk that the circumstances exists or will exist” is another way of saying “X knew that if he/she did it something bad could happen because of this”. Indeed this component is an essential part of the meaning of the ordinary meaning of risk which bears its ordinary meaning in subsection 5.4(1).

Someone (person X took) a risk

(a) X did something because X wanted to do it
(b) when X did it X thought like this:
(c) I know that if I do it something bad can happen
(d) I don’t want not to do it because of this
(e) maybe this bad thing will not happen

Component (c) is general enough to predict something bad happening to X, either to someone else or to a thing. In other words, injury to X or someone else and damage to property. In (d) X is aware of the risk, but nevertheless, persists in his or her action,
thinking that maybe something bad will not happen (e). The knowledge that something bad might happen can be knowledge of a *circumstance* or a *result*. For example in Cunningham’s case, where the defendant ripped a gas meter from the wall, the defendant can know that there is gas in the pipes (*a circumstance*) and he can also know that ripping the meter out will cause gas to escape which might kill someone (*a result*).

The second part of the Code definition is “having regard to the circumstances known to him or her, it is unjustifiable to take the risk”. This a complex way of saying “people say it is bad if someone does something like this”. What is or is not *justifiable* implies a social evaluation.

For these reasons I think that the meanings of *reckless* in ordinary language and in the Code are the same.

**Negligence**

Like *intention*, *negligence* is a key word in the law. It is met in many departments of jurisprudence. It is most prominent in the civil law, where it is a tort implying that a person breaches a duty owed to someone else causing injury or loss to that person. For example road users owe a duty to take care when driving. If you drive too fast in the rain and collide with another driver, you break a duty owed to the other driver to proceed at a reasonable speed. The other driver can claim money off you for injury and loss caused in the collision. In the criminal law, there is a reluctance to punish people for mere inadvertence, such as failing to keep a proper lookout when doing something. So the law will be reluctant to punish say, an inadvertent cyclist who runs into a bed of
flowers. On the other hand it will take a rather different view of an inadvertent sea
captain who collides with a reef in pristine coral waters.

The dictionary definition of negligent is:

1 If someone in a position of responsibility is negligent they do not do
something which they ought to do or they fail to provide the care for
someone or something they are responsible for. The jury determined
that the airline was negligent in training and supervising the
crew...The Council had acted in a negligent manner.

(Cobuild Dictionary)

Examples of Use

(1) In 1993 Mr Rice was branded grossly negligent after it came to light that he had
provided references for Frank Beck, a violent homosexual at present serving five life
sentences for abusing his charges at three children's homes in Leicestershire.

(2) Wednesday's raid had brought the nightmare of a Chechen terror campaign on
Russian soil home to Moscow. The Russian Parliament, outraged by what it views
as the negligent handling of the crisis, demanded yesterday President Boris Yeltsin
fly home immediately from the Group of Seven rich nations summit in Canada.

(3) The Australian Sports Medicine Federation's Queensland director, Mick Knowles,
said: “Penalties are not severe enough for people caught doing these offences. And
referees are also sometimes a little negligent in the manner in which they allow
those things to go on”.
(4) It was **negligent** of me not to confirm the date with Robert, but thanks to you it all turned out well, as these things often do.

(5) Since then we have noticed not a single yacht under way and motorsailing in Greek waters who have shown the black cone and during the evening we watch boats of all nationalities arriving, scarcely a one with the correct lights. What makes the contemporary yachtsman so **negligent**, uncaring or arrogant?

*(CobuildDirect)*

The meanings of **reckless** and **negligent** are very similar. They were called “blood brothers” by the judge Lord Edmund Davies. The crucial difference is that in a **negligent action**, the actor does not have to know that he/she is taking a risk, but in a **reckless action** the actor does have to know that.

Someone (person X) was **negligent**.

(a) X was doing something for some time

(b) X didn’t do something else at the same time

(c) X could know that if X doesn’t do this other thing at the same time,

   something bad could happen because of this

(d) X didn’t think about this

(e) people say it is bad if someone does something like this

Component (a) has X doing something for a period of some duration. In the examples of use, X was negligent in providing references (1), handling a crisis (2), refereeing
matches (3), failing to confirm a date (4) and failing to display the correct navigation signals (5). In these activities, X does something which X should not do at all (1), or fails to do something to a required standard (2) and (3), or does not do something which X should do (4) and (5). In all of the examples X is doing something for a period during which X must do certain things.

Component (b) is X’s omission to do something which X is required to do, such as handle a crisis properly or display the correct navigational signals on a yacht. *Omission* was explicated previously. Unlike the course of activity in (a), this can be a momentary act or a series of acts over a period of time. I have not therefore specified the duration of the omission. The only temporal requirement is that the act in (b) should coincide with the period in (a). I have not said here why the act in (b) is something which X should not do. This is implied in the final component (e). At this point we can see that *negligent* singles out an act or acts (b) within a larger series of acts. This sets the stage for the required mental elements.

Components (c) and (d) picture the actor as a person who could know that something bad could happen but just went ahead and did something without thinking about the possible consequences. For example in *Lamb*, the defendant didn’t know that when the trigger was pulled, the chambers spun so that a bullet was opposite the barrel. He was not *reckless*, but he was *negligent*, because he could know that pointing a gun at someone and pulling trigger is a potentially dangerous act [1967] 2QB 981, [1967] 2 All E R1282. He just didn’t think about it. Compare *reckless*, which implies that X knew of
the possible consequences at the time of the act but didn’t want to think about them. In example (1) the speaker implies that Yeltsin could know that the Chechen crisis should be handled so as to avoid terror campaigns, but he didn’t think about that. He went to a meeting in Canada. The speakers in the other examples of use imply similar unthinking attitudes in the minds of the actors.

The final component (e) is a social evaluation which says that it is bad if someone fails to do something which that person could know will result in bad consequences, without thinking about the consequences. I have based the evaluation on PEOPLE rather than the speaker’s view (the prime I) because I think that negligent implies a social norm rather than the speaker’s personal evaluation.

**Negligence in legal language**

The Code definition of negligent is:

5.5 A person is negligent with respect to a physical element if his or her conduct involves:

(a) such a great falling short of the standard of care which a reasonable person would have exercised in the circumstances; and

(b) such a high risk that the element exists or will exist that the conduct merits criminal punishment for the offence in issue.

This definition envisages a person being negligent with respect to conduct which is, as I have shown, a “cover term” for act, circumstance and result. By using conduct as a
term to define *negligent*, polysemy is introduced into the meaning of *negligent LL*. I will suggest an explication based on *act*. The tests in subsection 5.5(a) and (b) are framed so as to distinguish *criminal negligence* from *civil negligence*. The test in subsection 5.5(a) emphasises that negligence in the Code is much more than ordinary negligence. It implies a “a great falling short of the standard of care” and “a high risk”. The requirement that the conduct “merits criminal punishment for the offence” renders the definition circular because the purpose of the definition is to define a word for use in definitions of expressions referring to crimes. So for example, if negligently doing something is a crime meriting criminal punishment, and *negligently* means doing something meriting criminal punishment, the definition of the crime fails. Ignoring this for the moment, the meaning of *negligent LL LL* (*negligent act*) can be expressed by varying the meaning of *negligent OL*, so that the knowledge component (c) of *negligent OL* is reframed to capture “great falling short of the standard of care” and “high risk” as “X couldn’t not know”.

Someone (person X) was *negligent LL LL*

(a) X was doing something for some time

(b) X didn’t do something else at the same time

(c) X couldn’t not know that if X doesn’t do this other thing at the same time something bad could happen because of this

(d) X didn’t think about this

(e) people say it is bad if someone does something like this
Conclusions

The aim of this chapter was to add to our knowledge of legal language by analysing the legal and ordinary meanings of important terms used to define expressions referring to crimes. There are two main conclusions that I want to draw here. Firstly concerning the semantic structure of the terminology, and secondly, concerning problems in the semantic method used in the Code.

The semantic structure of the terminology is based on expressions which are either acts, based on the prime DO (act, omission and conduct), results of acts, based on the prime HAPPEN (result and circumstance), or comments on acts (intention, voluntary, reckless and negligent). Within each category the complexities of the meanings vary between expressions. Beginning with the ordinary meanings, act has a very simple meaning with a single desiderative component and no social evaluation of the action. Omission is more complicated because it implies that someone has a duty to do something and does not do it. Conduct is more complex again since it implies duration and the possibility that it can be a good act or a bad act. Result and circumstances have very simple meanings implying that something happened because something else happened. In the group of fault elements which comments on acts, intention is made up of very basic thoughts about a future action. So X thinks that X wants to do something, can do it and will do it after now. Reckless is somewhat more complex, implying the doing of an act, knowing that the result of the act might be bad for someone and consciously ignoring that knowledge. Negligent differs from reckless in that the act might be bad for someone but the actor does have to think about this possible result.
Of the ten key words examined, only *circumstances, result* and *recklessness* have the same meanings in ordinary language and in the Code. *Circumstance* and *result* are not defined in the Code and *recklessness* has a definition which is the same as its meaning in ordinary language. *Voluntary* sometimes has an ordinary meaning in legal language and sometimes not. All of the other expressions, *act, omission, conduct, intention, knowledge* and *negligence* have special legal meanings. By assigning special meanings to common words which form the basis of the conceptual scheme of the whole Code, the writers have made it an enormously complex document.

The problems in the semantic method of the Code are revealed when we judge it by the standards of linguistic semantics.

(1) The terms used to define expressions referring to crimes are part of an unrestricted metalanguage made up of simple and moderately complex expressions chosen because they are familiar terms in legal discourse. They are not chosen on independent grounds such as simplicity or clarity. The use of an unrestricted metalanguage is bound to introduce complex expressions and lead to obscurity in definition.

(2) The Code uses defined terms to define expressions referring to crimes. Generally defined "semantic molecules" should be avoided in definitions because they simply defer the task of semantic analysis to the reader.

(3) Some of the terms used to define expressions referring to crimes are themselves
defined. For example act, which defines conduct, has a special legal meaning. This results in three layers of definitions: (1) the definition of the expression referring to the crime itself, (2) the definition of the metalanguage term and (3) the definition of the term in the metalanguage definition. Table 2 (below) shows the complexity of this structure. This practice of defining expressions in metalanguage definitions introduces further obscurity into the meaning of the expression referring to a crime.

(4) The Code introduces polysemy into the meanings of words such as omission, voluntary, and negligent, which have only one meaning in ordinary language. This makes the definitions of expressions referring to crimes even harder to understand. Not only do readers have to ignore the ordinary meaning of a metalanguage word, and learn its legal meaning, they have to know which legal meaning applies.

(5) In some cases the Code assigns strange meanings to ordinary words. For example “conduct” means ... a state of affairs” (s 41(2)) I have not defined state of affairs, but to call it conduct is odd. For example sitting in a car may be an offence in certain circumstances. The act of sitting down in a car will result in the state of affairs of sitting in the car. To say that the state of affairs is itself conduct, is counter-intuitive.

(6) By defining knowledge, the Code attempts to define the indefinable, since KNOW is a prime. Any semantic method must acknowledge indefinables, because without them there would be an infinite regress and definition would be impossible. The special legal meaning assigned to knowledge confines it to awareness of circumstances and results, which is a very circumscribed meaning that is bound to be hard to understand.

(7) The Code defines by example. It is not possible to offer a clear and accurate
definition of the meaning of an expression by offering examples to illustrate its meaning. The Code attempts to do so by defining voluntary through negative examples thus: “The following are examples of conduct that is not voluntary ... a spasm, convulsion or other unwilled bodily movement ... an act performed during sleep or unconsciousness ... an act performed during impaired consciousness” (s 4.2 (3) of the Code).

(8) Mental verbs are placed in the third person or expressed adverbially, so that the reader does not know exactly what the doer thinks. For example, “A person who, by his or her conduct, intentionally causes serious harm to another person is guilty of an offence” (s 24.1 of the Code). If “intentionally” is expressed as “Person X thinks like this about something: I want to do it, I can do it, I will do it after now”, then what X thinks is clear and unequivocal. Some languages, such as Japanese, recognise this point, and do not allow mental verbs to be expressed in the third person.

(9) Nominalisations are used instead of the verb. For example intention instead of the verb intend. Like passivisation, nominalisation allows the deletion of subject and object, which makes any definition harder to understand.

(10) Sometimes the noun is defined but a verb or adverb appears in the definition of the expression referring to the crime. For example the Code defines intention, but the definition of intentionally causing serious harm uses the adverb intentionally. This is inconsistent, and assumes that verb, noun and adverb of the lexeme intend have the same meaning. This assumption that may not always be reliable.

(11) Another pitfall, that the Code writers appear be unaware of, is that a circular
definition is not a definition. So in the Code, "a person has intention with respect to conduct if he or she means to engage in that conduct", and in the commentary the writers say, "To mean to do something is simply, to intend it." An act "entails criminal responsibility" when the purpose of defining act is to define criminal conduct. Similarly, negligent, which is a term used to define expressions referring to crimes, is defined as conduct meriting criminal punishment.

(12) The conceptual structure of the Code makes a fundamental distinction between physical and fault elements. However this distinction is blurred when the mental concept voluntary is inserted in the meaning of the physical element conduct. A clear distinction should be maintained between the two categories or the distinction abandoned.

That concludes the analysis of the meanings of some key words used to define expressions referring to crimes. In the following chapters I will examine the meanings of expressions referring to crimes themselves.
A person who, by his or her conduct, intentionally causes serious harm to another person is guilty of an offence.

**Second layer**

Conduct can only be a physical element if it is voluntary 4.2(1)

“conduct” means an act, an omission to perform an act or a state of affairs. 4.1(2)

**Third layer**

4.2(2) ... a product of the will of the person whose conduct it is.

4.2(3) ... examples of conduct that is not voluntary [acts performed in spasms, sleeps, impaired consciousness etc]

4.2(6) Evidence of self-induced intoxication cannot be considered...

4.2(7) Intoxication is self-induced unless it came about involuntarily [etc]...

4.3 An omission to perform an act can only be a physical element if:

(a) the law creating the offence makes it so; or

(b) the law creating the office impliedly provides that the offence is committed by an omission to perform an act that by law there is a duty to perform.

**TABLE 2 Layering of definitions of conduct in intentionally causing serious harm in the Australian Model Criminal Code.**
Chapter 4 Doing bad things to a person

Introduction

In this chapter I move from analysis of some defining terms in the Code to analysis of expressions referring to crimes. The three remaining analytical chapters have been grouped loosely under three heads based on the primes PERSON, THING and PEOPLE. This chapter is based on the prime PERSON and covers a range of bad things done to another person, or in the case of genocide, done to many persons. In all of the offences, someone does something bad to the body of another person, so that the body dies or suffers injury or is moved from one place to another place.

The aim of this chapter is to add to our knowledge of the semantics of crime by analysing the meanings of those expressions where someone does something bad to a person. The first group of expressions imply that someone dies. Within this group the expressions differ amongst themselves by the degree of fault of the wrongdoer or by the kind of victim. For example the degree of fault in murder is greater than in manslaughter. In suicide, the killer is the victim and in genocide the victims are a large group of persons. Homicide is a cover term for most fatal offences. In the second group, kidnapping and false imprisonment, someone moves another person from one place to another place or keeps the person in a place. In the final group, assault and torture, the wrongdoer does something bad to a person’s body or mind. The jurisdictions from which the legal language terms have been chosen are New South Wales for murder, manslaughter and homicide and England and Wales for the remainder of the offences.
Murder

Previous analysis of murder, manslaughter and homicide

Maley (1985) analysed the meaning of murder, manslaughter and other expressions referring to crimes in New South Wales law, using a systemic functional approach. The diagram overleaf shows what is claimed to be a network of the components of those crimes in the State of New South Wales, Australia in 1982 (Maley 1985, 164).

The diagram represents the components by a metalanguage which draws on a remarkable pot pourri of approaches to semantics: agent from the philosophy of action and linguistics, victim, actus reus and circumstances from jurisprudence and non-human/human, born/unborn from so-called componential analysis in linguistics. The definitions of the crimes are written under the diagram in numbers, cross referenced to numbered components on the diagram. For example, murder is represented as:

“MURDER 5;17;21;22;24”. The definitions are inaccurate, since the action component or actus reus, lacks an invariant specifying that the defendant must do something. The metalanguage of the components is obscure, and full of complex expressions such as malice aforethought, g.b.h. and within Queen’s peace. The expression malice aforethought for example does not imply malice at all, a fact which the author acknowledges (Maley 1985, 165). Some of the componential analyses rely on binary components, so that a victim is either non-human or human, and some are multivalued, so that circumstances can be deaths within a year and a day (or not) and within the Queen’s Peace (or not). This approach, borrowed from phonology, has some utility in the description of limited semantic fields such as kinship systems, but it is not suitable for the representation of the meanings of complex expressions such as murder, with its
mix of actions, thoughts and feelings. Obviously semantic representations such as those in the diagram can hardly be regarded as explanations.

**Murder in ordinary language**

*Murder* appears in the general vocabulary, and I think that the word is known to everybody. I will look first at the ordinary language meaning of *murder* and then its meaning in legal language. Here are some examples of use and a suggested explication:

**Examples of Use**

1. The young Briton who provided the breakthrough in the backpacker *murder* hunt yesterday revealed his relief that charges had finally been brought.
2. Asian is given life for racial *murder* of white schoolboy.
3. A British businessman has been charged with *murder* in Thailand after his partner was stabbed to death at a beach resort.
4. John Spenkelink, a drifter, was sentenced to the electric chair for *murder*.
5. A National demonstration against Racist Murders and Attacks has been called by the ARA for June 12 in Croydon, site of the *murder* of Afghan refugee Ruhallah Armaesh.
6. Detectives in the county have been investigating the recent shooting of the former governor of Gibraltar, Sir Peter Terry, at his home near Stafford and the *murder* of a soldier at Lichfield railway station.
7. A man was charged yesterday with the rape and *murder* of a British solicitor in New Zealand. Margery Hopegood, 32, was stabbed to death in a public toilet on the banks of the Waikato River in Hamilton.
Michelle, 21, and her 18-year-old sister Lisa both deny the vicious murder of 21-year-old Alison. The bank clerk was ambushed as she returned home to their modest flat in Battersea, South-West London in June last year.

Peter Worobec said: “The murder of two elderly people in their home is a particularly horrific crime”.

(CobuildDirect)

Dictionary Definition

1 Murder is the deliberate and unlawful killing of a person. The three accused, aged between 19 and 20, are charged with attempted murder... The murder charge was dismissed in 1969... brutal murders.

2 To murder someone means to commit the crime of killing them deliberately...a thriller about two men who murder a third to see if they can get away with it. ...the body of a murdered religious and political leader.

(Cobuild Dictionary)

This is my suggested explication for the meaning of murder in ordinary language

Someone (person X) murdered, someone else (person Y)

(a) X did something to Y
(b) because X did this, something happened to Y’s body
(c) because this happened to Y’s body, after this, Y didn’t live any more
(d) X did this because X wanted Y not to live any more
(e) when X did this, X knew that Y could not live any more because of this
(f) when X did this, X could know that X was doing something bad
(g) people say that it is very bad if someone does something like this

(h) I think: X did something very bad

(i) when I think about it, I feel something bad

Component (a) specifies that a person is doing things to another person ("the victim"), such as slitting the throat, stabbing, poisoning or strangling the victim. It is based on a proposed universal "prototypical transitive scenario": "someone (X) did something to another person (Y)". In conventional linguistic analysis, the noun-phrase "person X" is regarded as having the semantic role of agent and "person Y", the semantic role of patient. In the syntax of murder sentences, neither agent nor patient can be a thing, both must be persons. For example, we can’t say:

* the bull murdered the matador

* the falling pine tree murdered the lumberjack

* The matador murdered the bull

* The doctor murdered the foetus

For ideological reasons, murder is sometimes shifted into slots which are inconsistent with the core meaning. This is often done to suit a message that the speaker wants to convey. For example vegetarians might say that meat is murder’ (Australian National Dictionary Centre 1998), and people opposed to abortion might say that abortion is murder. The invariant “person Y” in component (a) is dropped and substituted with "thing" so as to predict animals and foetuses. This practice, called “persuasive definition”, is discussed in more detail later (see rape below).
Component (b) describes what happens when a person has done something to the victim, such as such as slitting the throat, stabbing, poisoning or strangling. Because that person did that thing, something happens to the victim’s body. So when a person stabs the victim, blood flows out of the victim’s veins. When a person poisons the victim, chemical changes happen in the victim’s body. When the victim is strangled, the victim’s body runs short of oxygen. I think that we must say “something happened to Y’s body”. It is not enough to say “something happened to Y”, which could also predict something like Y losing a fortune, after which Y didn’t live any more.

Component (c) describes what happens when for example, blood has flown out of the victim’s body or because poison has caused chemical changes in the victim’s body, or because the victim’s body is short of oxygen, and after that, the victim doesn’t live any more. I have proposed “after this, Y didn’t live any more” rather than “after this, Y died”. In a discussion of the meaning of kill, Goddard (1998: 280) suggested that “after this Y was not living any more” is intuitively better in the case of kill than “after this Y died”. The speaker says that he/she is concerned with the killer bringing the victim’s life to an end, rather than with the victim’s dying. I think that the same intuition applies to the meaning of murder. Here, the result of doing something bad to another person is best expressed in terms of bringing about the end of life, rather than causing one victim to die. We might contrast a stabbing with a terminal illness. After the stabbing, the victim of the stabbing doesn’t live any more. After being sick with malaria, the victim dies. I do not claim that this distinction has necessarily a scientific basis, but rather, that it is in accordance with everyday conceptions reflected in ordinary language. In summary then, the action bundle of the explication implies: X does something to Y (gives poison, hits Y), because of this, something happens to Y at the same time
(chemical changes in the body, bleeding), and because of this, after this, Y doesn’t live any more.

In ordinary language, component (d), “wanting the victim not to live any more”, is an essential element. The following is unacceptable :

*Bill Smith murdered the bank teller, but he didn’t want him not to live any more

In legal uses of murder, which are discussed later, this component is not essential.

Component (e) is intended to exclude cases such as someone giving a substance to someone and not knowing that it was poisonous. Component (f) implies that X has a “guilty mind”. When the speaker says that “X murdered Y”, the speaker chooses to imply that X could know that X was doing something bad. This component excludes small children or the insane. I have used the expression “X could know” rather than “X knew”, to include cases where the accused thought that he/she was doing something good (for example the Unibomber in the United States, who killed technocrats, apparently thinking that it was good to oppose technology in this way).

The sentence in component (g) is a social evaluation that murder is viewed by society as bad. I have not included components for crime and punishment in this ordinary meaning because I do not think that this is a part of the ordinary meaning of the word murder. I think that the ordinary meanings of expressions referring to crimes simply imply that the wrongdoer did something which people think is bad, but the implication does not extend
to arrest, trial and sentencing. Here and in later ordinary language explications, I have reserved the notions of crime and punishment for legal language explications.

Sometimes I have thought it appropriate to include a component implying that the wrongdoer knew of the social disapproval. Generally however, this knowledge, and knowledge of crime and punishment is confined to legal language meanings.

Component (h) expresses the speaker’s thought that what X did is morally and legally wrong and component (i) notes the accompanying feeling. I think that these thoughts and feelings of the speaker account for the special horror that the word murder invokes in English, and explains why people use it somewhat metaphorically to refer to eating animals and to abortion.

This explication of murder in ordinary language has shown that its meaning is made up of three parts: an action part (components a, b and c), a mental part (components d, e, f) and a normative part (components g, h, i). Each part is a bundle of components saying what the wrongdoer did, what the wrongdoer wanted and knew, and what the speaker and people generally think and feel about what that person did and thought. Action and mental bundles have been long recognised in criminal law, where the action bundle is called the actus reus of the crime and the mental bundle, the mens rea of the crime. Not only does the criminal have to do something bad, he or she has to think something bad. I think that these basics of the criminal law are also part of the meaning of murder in ordinary language. The proposed explication clarifies the factual aspect of murder, by separating out the action bundle of components, the mental bundle and the normative bundle.
Murder in legal language

In New South Wales, Australia, the statutory definition of murder, the structure of which was examined in Chapter 2, is:

(18)(a) Murder shall be taken to have been committed where the act of the accused, or thing by him omitted to be done, causing the death charged, was done or omitted with reckless indifference to human life, or with intent to kill or inflict grievous bodily harm upon some person, or done in an attempt to commit, or during or immediately after the commission, by the accused, or some accomplice with him, of a crime punishable by penal servitude for life or for 25 years. (b) Every other punishable homicide shall be taken to be manslaughter.

(Section (18)(a) Crimes Act 1900 New South Wales)

The action part of this definition includes both acts and omissions and the mental part, includes the common law notions of “intent to kill” and “intent ... to inflict grievous bodily harm”, and it also includes “with reckless indifference to human life”. The final part of the definition, where someone is killed during or after the commission of a serious crime, is called felony murder or transferred malice (Leigh et al 1996: 96). In my own definition of murder in the legal sense of the word, that is murder\textsubscript{LL} (as opposed to, murder\textsubscript{OL}), I will argue that felony murder is an extension of (legal) murder rather than a kind of murder like a mock orange is an extension of orange rather than a kind of orange. All the other kinds of murder\textsubscript{LL}, however, can be covered by a single, unitary definition, as I will explain below.
In discussing the meaning of words in ordinary language and in legal language, White (1991: 1) says:

Regarding the question what decides the meaning of a word, a distinction must be made, first, between a technical word and a non-technical or everyday, 'ordinary language' word and, secondly between a technical use and a non-technical or everyday, "ordinary" use of a non-technical word.

White considers the ordinary extra-legal use and the legal use (England and Wales) of many key terms such as intention, careless and reckless to be the same (White 1991: 3), and that many legal expressions, such as grievous bodily harm, rape and dishonestly, are to be interpreted according to their ordinary meaning (White 1991: 3-4). The approach that I have taken here is to assume that murder is an ordinary word in ordinary usage (even if it has a technical use as well), and to see if its legal uses can be captured within the ordinary language definition. (My initial distinction between murder_{LL} and murder_{OL} could be given up if we found that the two could be covered by a single definition. I will show however that the two need to be distinguished).

The following are some illustrations of kinds of murder in legal language: (1) a poisoning (intent to kill), (2) a strangling (intent to cause grievous bodily harm), (3) driving into a bar (murder by recklessness) and (4) felony murder.

(1) In May 1971, in consequence of events referred to below, N's body was exhumed and upon analysis thallium was found in the remains, in the contents of the coffin and in the soil around, above and below the coffin in such large quantities as to
establish that N had ingested thallium well in excess of the minimum lethal dose. F was charged with the murder of N. *(R v Ciesielski [1972] 1 NSWLR 504)*

(2) In the morning her naked body was found in the room. On the medical evidence it was clear that she had died from asphyxiation. A blood stained pillow as over her face.....it was open to the jury to find that the applicant intended, by cutting off the victim’s air supply, if not to kill her, then at all events to cause her grievous bodily harm. *(R. v. Rhodes (1984) 14 A Crim R 124 at 124 & 128)*

(3) Later during the evening, after he had consumed a substantial amount of alcohol, he visited the Inland Motel and drank in a crowded bar. His behaviour in the bar caused nuisance and annoyance and he was physically ejected from the bar. In the early hours of the morning following this incident he returned to the motel at the controls of his prime mover, to which one trailer was now attached. He drove the vehicle through the wall and into the bar; as a result five persons died and many were injured. The respondent did nothing to assist the injured but left the motel. *(Crabbe (1985) CLR 464 (HC))*

(4) Ryan was convicted of murder, and Walker of manslaughter. The applicants were long-term prisoners serving their sentences at Her Majesty's Gaol at Pentridge. Hodson was a warder at the said gaol. The applicants had planned to attempt an escape if and when a favourable opportunity offered. On the day in question they climbed a wall of the division in which they were incarcerated, and then armed with a piece of iron piping managed to climb to a tower on top if one of the external walls of the gaol. ..... There was evidence that Ryan stopped, aimed the rifle in the direction of Hodson and a shot was heard and Hodson fell to the roadway mortally wounded on or near a set of tram rails in Sydney Road. *(R. v. Ryan and Walker [1966] V.R. 553 at 554).*
I propose that the meaning of 

\textit{murder} \textit{in legal language} (\textit{murder}_{LL}) be captured in the following explication:

\begin{enumerate}
\item Someone (person X) \textit{murdered}_{LL} someone else (person Y)
\item X did something
\item X did this because X wanted to do it
\item because X did this, something happened to the body of another person Y
\item because this happened to Y’s body, after this, Y didn’t live any more
\item when X did this X knew that something very bad could happen to someone else because of this
\item when X did this, X knew that someone else could not live any more because of this
\item when X did this, X could know that X was doing something bad
\item people say:
\item it is very bad if someone does something like this
\item if someone does something like this, after this other people have to do something to this person because of this
\item when X did this, X knew that people say this
\end{enumerate}

Component (a) differs from component (a) of \textit{murder} in ordinary language, (“X did something to Y”), because although in legal language, X may indeed do something to Y, such as poisoning or asphyxiating Y, this is not always necessary. Thus in murder by recklessness, X doesn’t have to do something to Y. It is sufficient that X does something and because X does something, another person Z does something to Y. Taking into
account this remoteness of causation, I have deleted the optional phrase “to another person Y”, leaving the semantic invariant “person X did something”. The question also arises as to whether the component “person X did something” can imply “a thing omitted to be done” in section 18 of the Crimes Act (New South Wales). I think that in ordinary language, doing something to another person includes failing to do something which one should do, if because of this failure person Y doesn’t not live any more. For example, not doing something in reckless indifference to human life is, I think, making a decision not to do something, and making a decision is doing something. We could say of such a person: “Did you hear what he did?” Thus since the explication itself has to be understood via ordinary language (even when what is being explicated is a legal concept) it is sufficient to phrase component (a) in terms of “doing something”.

Component (b) requires that person X wanted to do something such as giving poison, putting a pillow on the victim’s face or driving a truck into a bar. Person X has to want to do something because of which person Y wouldn’t live any more. This essential component is similar to the legal requirement “that the ‘act’ of the accused ... must be a ‘willed’, a voluntary act which has caused the death charged” (Ryan v. The Queen (1967) 121 CLR 205 per Barwick CJ). Components (c) and (d) are similar to their equivalents in the meaning of murder in ordinary language.

The mental components (e) and (f) are intended to predict all uses of murder in legal language which are predicted by the legal expressions “intent to kill”, “intent to inflict grievous bodily harm” and “reckless indifference to human life”. Person X must know that something very bad could happen to someone, such as grievous bodily harm and X must know that someone could die. Note that person X need not know that something
very bad could happen to Y. I do not postulate that these legal expressions are part of the semantic invariant, but that the mental components of my explication predict mental states which can be inferred from actions of person X in doing things such as giving poison, asphyxiating or discharging a loaded rifle.

Component (g) is the same as in ordinary language. Components (i) and (j) represent the notions of crime and punishment. The speaker implies that the state can and indeed should sentence X to be punished in some way, for example by imprisonment, (or that in any case “something should be done about it”). I have not included a speaker evaluation as in the ordinary meaning. The speaker in legal language is the person who signs the indictment or the juryman/woman who finds the defendant guilty. The personal thoughts and feelings of office holders are not relevant to their official duties.

There remains the problem of felony murder, where the victim is killed by someone during or after the commission of a serious crime. For example, if A, B and C hold up a bank and A kills the teller, A can be convicted of murder, not because A had the required mental element of murder (intent to kill, intent to cause grievous bodily harm or recklessness) but simply because A was involved in a robbery. Moreover, B and C, who did not kill the teller, can be convicted of felony murder for same reason. I think that here we must admit that murder is polysemous in legal language, in the sense that murder in the phrase felony murder doesn’t mean the same as murder (tout court, without felony). My explication cannot be altered to predict instances of someone else doing something to the victim. I will not attempt to describe the meaning of felony murder here. Nor will I attempt to explain the problem of secondary parties such as lookouts and drivers, who are deemed equally guilty with the principal (Crimes Act
NSW section 345). For example, in the robbery example, B and C can be guilty of
murder, not because of the felony murder rule, but because they were accomplices of A.

We can see now that except for felony murder there are considerable similarities
between the meaning of murder in lay and technical contexts and important differences.
The explications have similar action bundles except that murder$_{LL}$ has a mental
cOMPONENT (b):

Action bundle (murder$_{LL}$)

(a) X did something
(b) X did this because X wanted to do it
(c) because X did this, something happened to the body of another person Y
(d) because this happened to Y’s body, after this, Y didn’t live any more

The normative bundle in murder$_{LL}$ has (b) and (c), but murder$_{OL}$ has (b) only:

(a) people say:
(b) it is very bad if someone does something like this
(c) if someone does something like this, after this other people have to do
something to this person because of this

The mental components have the same requirement that “X could know that X was
doing something bad”, but differ as follows:

Murder$_{OL}$

(e) when X did this, X knew that Y could not live any more because of this
Murder_{LL}

(e) when X did this X knew that something very bad could happen to someone else because of this

(f) when X did this, X knew that someone else could not live any more because of this

Murder_{OL} has two additional components which are a speaker evaluation, but murder_{LL} does not:

(h) I think: X did something very bad

(i) when I think about it, I feel something bad

Manslaughter

Two kinds of manslaughter are distinguished in legal language, voluntary manslaughter and involuntary manslaughter. In this section I will show that it is possible to formulate a single invariant for manslaughter which covers both voluntary manslaughter and involuntary manslaughter. Voluntary manslaughter is where the accused is charged with murder but is found guilty of manslaughter because, at the time when the death was caused, the accused was suffering from diminished responsibility or was provoked by the deceased. Involuntary manslaughter is where the accused is charged with manslaughter and death is caused by an unlawful and dangerous act or is caused by criminal negligence (Watson, Blackmore & Hosking 1996: 1-890). Diminished responsibility applies where at the time of the killing the accused was suffering from “such abnormality of mind ... as substantially impaired his mental responsibility ...” (Section 23A Crimes Act 1900 NSW). Provocation is an act by the victim which causes in the accused “... a sudden and temporary loss of self-control, rendering the accused so
subject to passion as to make him or her for the moment not master of his mind.” (Duffy [1949] 1 All ER 932n per Devlin J.) For example, a husband finds his wife in bed with another man. An unlawful and dangerous act is doing something which is itself a crime, such as assaulting the victim. Criminal negligence is where a person has a duty to do something and breaches that duty by disregarding the life and safety of others.

The following are some illustrations of kinds of manslaughter in legal language:..

provocation (1), an unlawful and dangerous act (2) and criminal negligence (3).

(1) She was convicted of murder and sentenced to 12 years’ penal servitude ... She appeals ... The appellant raised an issue of provocation ... She went to the bathroom in the early hours of the morning, and he called her into the lounge room. When she got there, he had a knife in his hand, and he swung the knife at her, intending to stab her. He said he was he was going to kill her. She said that she ducked under the knife and pulled the deceased’s legs from under him, causing him to fall to the floor. He dropped the knife and she said that she “chopped him” a number of times. She said she did that because she was concerned for her life, and the lives of their children ... (Chhay (1994) 72 A Crim R 1)

(2) ... Barnes pleaded guilty to manslaughter ... It was under the influence of alcohol, that Barnes had a backyard fight with his nephew over the preparation of an evening meal. Wielding a kitchen knife, Barnes tried to stab the thigh of his nephew, who was armed with an aboriginal fighting stick. Deflected by the stick, the knife slashed the nephew across the chest, lacerating his coronary artery. He bled to death. (Ceresa 1997)
(3) ... the trial Judge left to the jury "murder by recklessness" and manslaughter by criminal negligence. Whilst Miss MacConachie was setting Miss Stradling's hair the applicant [a man] re-entered the shop. He was carrying a clear container with a screw-top and a yellow plastic bucket containing petrol. He put the container down. Miss MacConachie said that he then picked up the yellow bucket. Holding it with one hand and putting his other hand underneath it he threw the petrol in an upward motion over Miss Stradling from a distance of approximately two feet six inches to three feet, saying, "You will pay for this." As the petrol was being thrown Miss MacConachie stepped aside and turned her back. When she turned around again Miss Stradling was covered with liquid and liquid was on the bench and on the mirrors. Miss Stradling got up and was shaking liquid from her lap on to the floor. The applicant had a cigarette lighter in his hand. He lit it and leant forward towards Miss Stradling. His hand caught alight as he leant towards her. Miss MacConachie heard a lot of screaming, saw Miss Stradling engulfed in flames ... (Nydam v. The Queen [1977] VR 430 at 433)

I maintain that all uses of manslaughter (both so-called voluntary manslaughter and involuntary manslaughter) can be accounted for by the following explication:

Someone (person X) is guilty of the manslaughter of someone else (person Y)

(a) X did something

(b) X did this because X wanted to do it

(c) because X did this, something happened to the body of another person Y

(d) because this happened to Y’s body, after this Y didn’t live any more
(e) when X did this X knew that something very bad could happen to someone else because of this

(f) when X did this, X could know that X was doing something bad

(g) people say:

(h) it is very bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people say this

In the definition of murder, components (a)-(e) and (g)-(k) predict all instances of manslaughter (provocation, unlawful and dangerous act, criminal negligence and diminished responsibility). That is, these instances could be seen as murder but for the absence of one of the mental components for murder. In cases of diminished responsibility the killer's mental responsibility is impaired and in cases of provocation the killer is not master of his or her mind. In manslaughter by an unlawful and dangerous act, the killer has the mental state required for a crime such as assault or dangerous driving, but the killer doesn't have to know that someone could die because of what he or she does. Similarly, in manslaughter by criminal negligence the killer doesn't have to know that someone could die because of what he or she does, although other people may think that he or she shows disregard for the life and safety of others. It seems then that the crucial difference between murder and manslaughter is that the meaning of murder includes the component “when X did this, X knew that someone could die because of this” (f), but the meaning of manslaughter does not. The definition proposed for manslaughter differs from that of murder in that one component.
It is a strength of this analysis that it provides a unitary definition of *manslaughter*, despite the heterogeneous nature of the various circumstances compatible with the use of the term *manslaughter*. It is also a strength that the meanings of *murder* and of *manslaughter* have been shown to be very similar, differing in one component specifying the mental state of the person who commits these offences. Given this unitary analysis, the expressions *voluntary manslaughter* and *involuntary manslaughter* are simply labels for different circumstances in which *manslaughter* might apply. They do not point to any difference in meaning which would require us to say that *manslaughter* is polysemous.

**Homicide**

Homicide is “the killing of one human being by another” (Watson, Blackmore et al. 1996, 1-841-2) and a homicide in legal language can be justifiable, excusable, accidental or culpable. A justifiable homicide is, for example, an execution ordered by a judge. An excusable homicide is, for example, a killing in self-defence, and an accidental homicide is one which falls short of criminal negligence. Culpable homicides are crimes such as murder and manslaughter. The definition of homicide as “the killing of one human being by another” is a reasonably accurate and a reasonably clear one which can be further clarified by defining *kill*. Goddard (1998: 280-281) suggests that kill has two different but related meanings:
Kill

$X_{\text{person}} \textit{killed} Y \ (\text{e.g. John killed the cat}) =$

(a) $X$ did something to $Y$
(b) because of this, something happened to $Y$ at this time
(c) because of this, something else happened to $Y$
(d) because of this, after this $Y$ was not living any more

Kill$_2$

Event-$X$ killed $Y \ (\text{e.g. the explosion killed the cat}) =$

(a) something (event $X$) happened (in this place)
(b) because of this, something happened to $Y$ at this time
(c) because of this, something else happened to $Y$
(d) because of this, after this $Y$ was not living any more

The verb \textit{kill} can accept both persons and living things as agent or patient:

(a) A person killed a person
(b) A person killed a living thing
(c) A thing (an event) killed a person
(d) A thing (an event) killed a living thing

We can now take this definition and define \textit{homicide} by specifying agent and patient. The following explication restricts \textit{homicide} to a person killing a person and excludes things and events. Component (a) is the same as in \textit{murder}. The volitional component
(b) excludes accidental deaths. Components (c) and (d) are the results of X’s action in
(a) so that injury to Y’s body results in the end of Y’s life. Homicide includes nearly
every case of a person killing a person, but I think that it must exclude cases such as a
soldier killing an enemy in war. I don’t think that we can say: “the soldier shot an
enemy; it was a homicide”. I have therefore included a modifying component (e) which
restricts homicide to legal uses where an inquest will be required (suspicious deaths,
deaths in custody) or a warrant of execution must be returned to the court after a
hanging.

This is a homicide

(a) someone (person X) did something to another person (person Y)
(b) X did this because X wanted to do it
(c) because X did this, something happened to Y’s body
(d) because this happened, after this Y didn’t live any more
(e) some people say: people have to know why this happened

Suicide

Suicide is no longer a crime but helping someone to commit suicide is still a crime. The
meaning of suicide is therefore still relevant in modern criminal law. It is also
worthwhile to explore this concept for a fuller picture of the kill group of expressions.
Until 1961 suicide was a crime at common law in England and Wales. Although the
person who committed suicide could not be prosecuted because he or she was dead,
secondary parties who helped the person to commit suicide and survivors of suicide
pacts could be prosecuted for murder (Smith and Hogan 1988, 359). The Suicide Act
1961 declared that suicide was no longer a crime and helpers are no longer prosecuted
for murder. However they can still be convicted of an offence called *complicity in another’s suicide*. I will explicate *suicide* in ordinary language.

**Examples of use**

(1) A GOLD Coast man who abducted his former fiancée and planned to [kill] her and himself in a car was jailed for seven years yesterday. Brisbane’s Supreme Court was told Timothy Maurice Young, 40, had decided to kill Lynn Ann Woods, 30, and commit *suicide* after she broke their engagement.

(2) Another witness said Watts had panicked when television news reported police were digging up a Brisbane rubbish tip. Feeney’s ex-husband, John Feeney, yesterday told the court she had talked of *suicide* and disappeared mysteriously several times, turning up a few days later.

(3) Fred West was charged with 12 counts of murder when he committed *suicide* in jail on New Year’s Day.

(4) With an estimated 200m firearms in the United States, 70m of them handguns researchers estimate that more than 1.2m primary school children have access to guns at home. Apart from the danger of accidents, an American adolescent commits *suicide* with a family gun every six hours.

(5) Shortly afterwards, another friend suddenly, and spectacularly, committed *suicide*.

*(CobuildDirect)*
Dictionary Definition

1 People who commit suicide deliberately kill themselves because they do not want to continue living. She tried to commit suicide on several occasions. ...a case of attempted suicide. ...a growing number of suicides in the community.

(Cobuild Dictionary)

Suicide can be simply explicated by varying the explication of homicide to make the killer and the victim the same person, by adding a desire not to live and deleting the final component of homicide which refers to the need to investigate the killing.

Someone (person X) committed suicide

(a) person X did something
(b) X did this because X thought.
(c) I don’t want to live any more
(d) because X did this, something happened to the body of X
(e) because this happened, after this X didn’t live any more

Component (a) simply has X doing something. It could read “person X did something to person X”. This would capture acts such as X cutting X’s wrists or X shooting X. However I think that simply “doing something” better captures acts such as gassing oneself in a car in example (1) or jumping out a window of a high building or a bridge. These acts are prior to the actual injury to X’s body in (d). So connecting a hose from a car exhaust to the inside of the car is one act (a) and carbon monoxide poisoning of the body is the result (d). The end of life follows in component (e). I have not included a
component for a speaker evaluation or a social evaluation because I think that *suicide* is not universally regarded by individuals or the community as something bad.

**Genocide**

*Genocide* in ordinary language

The crimes of *genocide* and *suicide* differ from other expressions in the *kill* group because they specify the killer(s) and the victim(s). Anyone can commit *murder* or *manslaughter* and anyone can be a victim of those crimes. In *suicide* the killer and victim are the same and in *genocide* there must be more than one killer and many victims who belong to a particular kind of people. The desiderative element in *genocide* is unique, because the killers don't simply want to kill the victims, they want to make a particular kind of people extinct.

**Examples of Use**

(1) Up to 1500 more are being arrested every week, according to the International Committee of the Red Cross. The Justice Ministry says the first of the prisoners, most of them Hutus blamed for the *genocide* of up to a million Tutsis and moderate Hutus last year will enter the dock on Thursday at the start of judicial process expected to take years.

(2) Mr Dith Pran, who now works on the picture desk of The New York Times, said that he had lost his "co-messenger" and would now have to work on alone to tell the world of the Khmer Rouge's *genocide* in Cambodia.

(3) Adding irony to the scene were some Jewish children in party costumes they were dressed to celebrate the holiday of Purim, a Jewish festival marking the salvation of Jews from *genocide* in ancient Persia.
The attack on Tokyo's underground railway system by fanatics equipped with the nerve gas stockpiled by the Nazis to commit the **genocide** of the Final Solution could not have come at a better moment to make Van Crefeld's point.

While Bosnia bleeds to death we are preoccupied with the trivia of a state election. In the 1930s when the **genocide** of the Jews started in Germany, the world stood idly by and appeasement led to a world war. Now the Muslims are the bogey-men of Europe, and it appears as if a giant conspiracy is taking place to rid Europe of them.

Russian officials have condemned the bombing campaign as **genocide**, lawmakers have volunteered to act as “human shields”, and the public, usually apathetic about political issues, has come out against the air strikes. … Earlier this week, Moscow accused NATO of committing **genocide** against the Serbs.

Indonesian expansionism and colonialism in East Timor is well documented but the **genocidal** actions of Indonesia in Irian Jaya receive little publicity. The main agent of this **genocide** is the transmigration programme where large numbers of Indonesians from the densely populated rural areas are encouraged to migrate to relatively undeveloped areas in Borneo, East Timor and Irian Jaya.

Almost certainly because of Australia’s dreadful treatment of Aboriginal people, including the attempted **genocide** of the previous century, the children never knew until many years later that they were part-Aborigine and descended from Manalargenna, the leader of Trawlwoolway people of Cape Portland in north-east Tasmania.

*(CobuildDirect)*
Dictionary Definition

Genocide is the deliberate murder of a whole community or race; a formal word.

*They have alleged that acts of genocide and torture were carried out.*

(Cobuild Dictionary)

Some people (X) are guilty of genocide.

(a) people X did something to people of a kind Y
(b) they did this because they wanted people of this kind not to live any more
(c) because they did this, something happened to the bodies of many people of this kind
(d) because of this, after this, these people didn’t live any more
(e) people say: it is very bad if some people do something like this
(f) when people X did this, they knew that other people say this
(g) I think: people X did something very bad
(h) when I think about it, I feel something very bad

This explication is based on the ordinary meaning of murder which I have explicated previously. The victim has been changed from person to people of a kind Y. The substantive change has been to limit the categories of victims. In murder, the categories are unlimited, so that one can murder anyone. However one can commit genocide only against a particular kind of group. In ordinary language, killing is required for genocide. Other activities such as birth control and transferring children are sometimes called genocide. This can be seen in the following example where transferring children is called “cultural genocide” and not simply genocide.
(1) Interracial adoption was effectively banned in 1972, when the National Association of Black Social Workers (NABSW) described transracial adoption as cultural genocide". (CobuildDirect)

It might be argued that the meaning of *genocide* implies not just killing people, but doing things for the purpose of eliminating people of a certain kind. However I think that *killing* is the core meaning and other activities, such as the transfer of children, are an extension of the ordinary meaning. The more general meaning as extended could be captured by deleting component (c) thus:

(a) people X did something to people of a kind Y  
(b) they did this because they wanted people of this kind not to live any more  
(c) because of this, after this, these people didn’t live any more

*Genocide* is limited to *race or community or ethnic group* which I have attempted to capture in general terms of linking the victims to “people of a kind Y”. This is vague, but it is very difficult to define this kind of people. They might, for example, be defined by long term residence in one place:

(a) people of this kind have lived in one place for a very long time  
(b) not in other places  
(c) because of this, they are like one another  
(d) not like other people
This has a number of problems. Firstly the category is limited to residence in one place, without moving, which is not the case with nomads and groups such as gypsies and Jews who have wandered the world. Secondly they are like one another because they have lived there for a long time. In other words they have interbred. This eliminates people who may be like one another for cultural reasons or religious reason. Nevertheless, the victims of genocide are normally a kind of people that are called a race. In the examples of use, they are Tutsis, Cambodians, Jews, Serbs, Irian Jayans and Australian Aboriginals. The phrase “people of a kind Y” is not the best solution but it does avoid an overly specific solution which might limit the class of victims and make the explication inaccurate.

The killers I have called “some people” rather than “people of the kind X” because the killers can be people of the kind Y. In the case of the Khmer Rouge in Cambodia, one of the most famous instances of genocide, the killers were a political grouping of Cambodians who committed genocide against their fellow Cambodians. The defining characteristic seems to be not the wrongdoers, but the victims. Firstly they must be many people. It is not possible to commit genocide against a few people. That is mass murder. Secondly they must be a kind of people. As revealed in the language based evidence of the examples of use, it is not possible to commit genocide against a group of many people made up of many kinds of people. Of course someone might call that genocide, but that is an extension of the ordinary meaning.
Genocide in legal language

On 9\textsuperscript{th} December 1948 the United Nations approved the Convention on the Prevention and Punishment of the Crime of Genocide. In the United Kingdom, the Genocide Act 1969 made genocide, as defined by the Convention, a crime:

1. - (1) A person commits an offence of genocide if he commits any act falling within the definition of “genocide” in Article II of the Genocide Convention as set out in the Schedule to this Act.

SCHEDULE

Section 1

ARTICLE II OF GENOCIDE CONVENTION

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group.
This meaning is much wider than the ordinary language meaning. The group which the
defendant intended to destroy can be a national, ethnical or racial group which would be
linked to place in the ordinary language explication. A religious group however must
fall outside this meaning. The ordinary language meaning contemplates killing but the
legal meaning predicts a much wider range of acts which cannot be accommodated
within a single explication. The range of polysemy is:

Doing these things to a national, ethnical or racial group intending to destroy it:

(1) Killing
(2) Causing serious bodily or mental harm
(3) Deliberately inflicting on the group conditions of life calculated to bring
    about its physical destruction in whole or in part
(4) Imposing measures intended to prevent births
(5) Forcibly transferring children of the group to another group

Doing these things to a religious group intending to destroy it:

(6) Killing
(7) Causing serious bodily or mental harm
(8) Deliberately inflicting on the group conditions of life calculated to bring
    about its physical destruction in whole or in part
(9) Imposing measures intended to prevent births
(10) Forcibly transferring children of the group to another group

The following explication represents the killing members of a national, ethnical or racial
group with intent to destroy, in whole or part of the group. It is the same as for genocide
in ordinary language except that the speaker’s evaluation has been deleted, a
punishment component added (h), a guilty knowledge component has also been added
(h) and the wrongdoers have been reduced to one person because charges can only be
laid against individuals, not groups.

Someone (X) is guilty of genocide

(a) X did something to people of a kind Y
(b) X did this because X wanted people of this kind not to live any more
(c) because X did this, something happened to the bodies of many people of this
kind
(d) because of this, after this, these people didn’t live any more
(e) people say:
(f) it is very bad if someone does something like this
(g) if someone does something like this, after this other people have to do
something to this person because of this
(h) when X did this, X knew that people say this

Rape

Rape in ordinary language

Rape is an action and the verb is primary. I will confine myself to a definition of the
verb and ignore metaphorical uses, such as ‘The Rape of Nanking’, (Chang 1997), ‘The
Rape of Poland’ (Mikolajczyk 1972) or ‘The Rape of the Lock’ (Pope 1970). These are
extensions of the meaning, although their appearances in these contexts gives a clue that
rape must have a very strong emotional component. The dictionary definition is as follows:

**rape, rapes, raping, raped**

1 If someone is raped, they are forced to have sex, usually by violence or threats of violence. *A young woman was brutally raped in her own home... They'd held him down and raped him.*

2 Rape is the crime of forcing someone to have sex. *Her party opposes abortion, except in cases of rape or incest... Almost ninety per cent of all rapes and violent assaults went unreported.*

3 The rape of an area or country is the destruction or spoiling of it; a literary use. *As a result of the rape of the forests, parts of the country are now short of water.*

*(Cobuild Dictionary)*

This definition uses the word forces, defined as: ‘If someone forces you to do something, they make you do it even though you do not want to, for example by threatening you.’ *(Cobuild Dictionary).* This introduces the key element of lack of consent. Sex is defined as ‘the physical activity by which people can produce young’ *(Cobuild Dictionary).* Here is another key element of rape, sexual intercourse. Note that the dictionary writer hasn’t said what someone does, but what can happen when someone does something. The expression ‘physical activity’ is far too vague and doesn’t say who is doing what? The physical activity of producing young could be a technician fertilising an egg in a laboratory. There is nothing in the definition which says that someone does something to another person. It is true the definition implies that the other person must be a woman, because only a woman can produce young, but the word
woman should be used. The reader should not have to make inferences from implications.

It seems to me that a full explication of rape will require at least six parts saying: (1) that there are two people involved, (2) that one person is a man (a woman cannot rape a man or a woman), (3) that the other person can be a man or a woman, (4) what people do when they have sexual intercourse, (5) that the two people have sexual intercourse, (6) that the other person does not want to have sex, and (7) a normative part. Since man and woman have to be defined I will give them an explication. Sex requires that a penis, go inside a vagina or an anus. I will explicate penis and vagina. It would be possible to include the explication of those words in an explication of rape, but the explication would be long, complex and hard to read.

Man and woman

Anna Wierzbicka has offered an explication of man and woman:

The Genesis view of God’s plan for humankind

(a) there are two kinds of people because God wants this
(b) a person of one kind is a man, a person of the other kind is a woman
(c) a man can live with a woman
(d) if a man lives with a woman this is good
(e) God wants people to live like this

(Wierzbicka 1999)
In the *Cobuild Dictionary*, ‘A **man** is an adult male human being’ and ‘A **woman** is an adult female human being. ‘Someone who is **male** is a man or a boy and ‘Someone who is **female** is a woman or a girl. Staying on this lexicographic merry-go-round, the reader finds that ‘A **human being** is a man, woman or child’, ‘a **boy** is a child who will grow up to be a man’ and ‘a **girl** is a female child’. These definitions are not explanatory because they are circular. A **man** is a **male** and a **male** is a **man**. A **woman** is a **female** and a **female** is a **woman**. A **human being** is a **man** or a **woman**, and both **man** and **woman** are **human beings**. The front cover of the dictionary states its purpose as ‘Helping learners with real English’. A learner seeking to understand the meaning of **man** or **woman** will find no help in this dictionary.

**Man in ordinary language**

**Examples of use.**

(1) In the West Bank town of Hebron, where a Jewish settler opposed the peace deal massacred 30 Palestinians in February, Palestinians said a Jewish settler shot and wounded an Arab **man** after a crowd stoned his car in the town centre.

(2) A Gympie **man**, 90, had a heart attack after the car he was a passenger in was involved in an accident on the corner of the Bruce Highway and Monkland St. Gympie, about 1.20pm.

(3) But Lloyd Webber's Really Useful Group is an unusual case because it had no physical assets to speak of and was almost entirely dependent on the output of one **man** Lloyd Webber himself.

(4) He was a very, very sweet **man** and was always extremely charming, I shall dearly miss him with all my heart. As a young **man**, the 11th Duke led a vigorous
life following traditional country pursuits, such as shooting on the 100,000-acre estate around the imposing Alnwick Castle.

(5) It is legislation which the battered woman (or man), whether married or not, really needs.

(CobuildDirect)

**Woman in ordinary language**

**Examples of use.**

(1) Seles, 21, the world's top-ranked woman tennis player when attacked on April 30, 1993, has not played in competition since.

(2) “Now they are taking the front seat,” he said. “This has a lot to do with the education system and the attitude that is taught that women can do anything.” Mr Kelly says he has seen only one woman go bankrupt. When women come in they have a lot of knowledge about an area of business.

(3) “I see meat in the market, but we can never afford to eat it,” said a woman whose five-year-old granddaughter lies in a hospital bed opposite Sameulla.

(4) How things have changed since my own university days in the mid-1980s where the aspiring woman's CV consisted of being women's officer in the student union and chairing a committee on sexual harassment in the hope of securing a job at Virago.

(5) The man has a tattoo. The woman is a redhead. This reputation for reckless abandon may be attributable at least in part to the antics of such legendary redheads as Rita Hayworth, the sultana of sultry, and Lucille Ball, the diva of dottiness. (CobuildDirect)
Men and women

(a) there are two kinds of people
(b) people of one kind are called “women”
(c) people of the other kind are called “men”
(d) the body of a woman is not like the body of a man
(e) inside the body of a woman there can be another human being
(f) inside the body of a man there can’t be another human being

Man and woman are complementary concepts which are best explicated in a single explication that selects minimal distinguishing features. Anna Wierzbicka’s explication contrasts man and woman by what God wants and the social perspective that they can live together. My explication also proposes a social perspective of ‘kinds of people’. However I think that man and woman are best contrasted by referring to their bodies. I have chosen pregnancy in (e). Human being is a complex expression, but can be explicated as ‘of the kind people’. There are no components for differences in sexual organs, because they would have to include components referring to pregnancy and childbirth. Carrying a foetus is unique to women, and sufficient to distinguish the sexes. Childbirth might be included for a fuller description, but it is not essential. A foetus is not normally a human being, but I think that it is in the mind of the ordinary speaker. If it is not, foetus could be explicated as ‘a thing before it moves outside the body, a person after it moves outside the body’.
Vagina in ordinary language

Examples of use.

(1) A postmortem examination conducted by a government pathologist on December 20 showed the official cause of death as “septic abortion”. The autopsy discovered there was infection to her vagina caused by the dilator.

(2) His research found that when a woman reaches orgasm, the entrance of her cervix dips down into the area at the top of the vagina known as the seminal pool.

(3) Vaginal intercourse (when the penis enters the woman's vagina) is also risky.

(4) When two people make love, the male's erect penis releases millions of sperms into the vagina.

(5) The diaphragm is a rubber dome which fits inside the vagina as a barrier to stop sperm getting any further to fertilise an egg.

(CobuildDirect)

A vagina

(a) a place inside a woman’s body
(b) there is no place like this inside a man’s body
(c) a part of a man’s body [penis] can be in this place
(d) if for some time there is inside the woman’s body the body of another human being
(e) before this body is outside the woman’s body
(f) it can be for a short time inside this place, in the woman’s body
This body part is described by excluding it from men’s bodies, by locating the penis during sexual intercourse and by locating the *vagina* as a birth canal. Component (a) locates the body part in a place inside a woman’s body and (b) excludes it from men’s bodies. This excludes all body parts common to men and women, such as heart and lungs. Component (c) locates the penis in the vagina during sexual intercourse. The remaining components represent the foetus passing through the vagina during childbirth.

*Penis in ordinary language*

**Examples of use.**

(1) Colicky and spasmodic in nature, the pain radiates to the abdomen along the line followed by the ureter, the tube which drains the kidneys into the bladder. It is also often felt in the genitalia, in men at the end of the *penis*, and in the inner thigh.

(2) Must be put on (using a new one each time) before the *penis* touches any part of the woman’s vaginal area, and help in place when the *penis* is withdrawn.

(3) The testicles which are responsible for producing the male seed or sperm lie in a sack of skin called the scrotum directly under the base of the *penis*.

(4) The condom, which is a very thin sheath of rubber is rolled over the erect *penis* before intercourse. On ejaculation the sperms are caught in the sheath and not released into the vagina.

(5) In our culture, sex is penetration. So sex is just putting the *penis* inside the vagina.

(*CobuildDirect*)
A *penis*

(a) part of a man’s body

(b) there is no part like this in a woman’s body

(c) this part can move

(d) this part can be in a place inside a woman’s body [vagina]

(e) if this part is inside a woman’s body something can happen to the woman because of this

(f) because of this, some time after this, there can be inside the woman’s body the body of another human being

This body part is defined by contrasting the bodies of men and women, by location and function in sexual intercourse resulting in conception.

**Meaning**

**Examples of Use**

(1) Suaphoo, who was released from jail eight months ago after serving 30 months for rape, has told police he wanted money from Miss Masheder to buy amphetamines. He said she fought back as he tried to rape her and he pushed her down a steep ravine inside the cave. He then climbed down by rope, made sure she was dead, and moved her body to a position where it could not be seen by people peering down.

(2) Olympic diving champion Greg Louganis, who last week revealed he had AIDS, struggled so much with the pain of adoption and homosexuality that he accepted being raped. Answering questions yesterday about his newly autobiography
Breaking the Surface, Louganis, 35, spoke of anonymous male lover who raped him at knife point in a jealous rage.

(3) “Then there was a chilling armed attack on a defenceless woman in her bedroom.” In one of several explanations, Avent said he intended to rape the woman and the boy was an unexpected obstacle to his plans.

(4) Bashing, rape. A woman, 29, was taken to Caboolture Hospital at 9.30pm after reportedly being bashed and raped at Bribie Island.

(5) *Fields of Wheat, Hills of Blood* is an ethnographic study of villages in northern Greece by Anastasia Karakasidou, a Greek-born writer. It contradicts the official Greek line that there is no Slavo-Macedonian minority there. Dr Karakasidou received death and rape threats after publishing a similar study two years ago, claiming that a Slavonic language is spoken in the area and that people consider themselves Macedonian and not Greek.

(6) He committed his third rape four days later, smashing his way into the woman's home. He beat her over the head, pulled a knife from her kitchen drawer and said he would kill her if she screamed. She was raped three times.

(7) A woman under police protection has been raped in her home by a man who had stalked her for five months. The married mother in her thirties was so terrified by the two-hour attack two weeks ago that she was unable to give the police a full account of her ordeal for several days.

(8) Prisoner with razor raped visitor as warders watched. “... A number of prison officers were looking in through the windows wondering what to do,” Mr Smyth said. The woman was instructed to lie on the floor. She thought that she was going to be killed. As she lay on her side, he raped her, keeping the blade by her neck to enforce his demands. (CobuildDirect)
A man (X) *raped* someone else (person Y)

(a) X did something to Y

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in a place inside Y’s body

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say it is very bad if someone does something like this

(h) when X did this, X knew that people think this

(i) I think X did something very bad

(j) when I think about it, I feel something very bad

I said previously that there are seven parts to the meaning of *rape*. Component (a) states the first part, that there are two people involved. In the examples of use there is always one person doing something to another person. It is true that in legal language, more than one person can be charged with the same rape, either as an accessory such as a look-out or as a co-principal in a pack rape made up of several acts of intercourse by several defendants. In ordinary language however, each act of rape implies that only one person does something to another person.

The second part of the meaning is that the rapist must be a man as he must be in ordinary language. In legal language a woman can rape someone else. The third part of the meaning is that victims are not confined to women, but can include men in current usage, as can be seen in example (2). The fourth part of the meaning implies what
people do when they have sexual intercourse. This has been phrased in general terms in components (b) and (c) by contrasting a woman’s body with a man’s body and associating certain kinds of acts with the difference. The fifth part of the meaning is implied in (d) where the man can use only his penis and not any other part of his body or an object. The penis must be in a place inside Y’s body (d). This covers the possible body orifices, vagina, anus and mouth. The meaning of rape is I think, undergoing semantic change at present. Previously the act may have been confined to penile/vaginal intercourse and excluded anal sex which was called buggery.

The sixth part of the meaning is Y’s lack of consent and X’s knowledge of the lack of consent (e) and (f). Y does not want sex and communicates it in some way, by saying something or by doing something such as fighting back. Alternatively Y communicates nothing but X knows that Y doesn’t want sex. This occurs in the examples where the victim apparently remains silent and co-operates with the rapist when he threatens the victim with a knife (2) (6) (8). In the examples of use, the victim’s lack of consent and the rapist’s knowledge of it is implicit in the victim fighting back (1), rape at knife-point (2) (6) and (8) and bashing the victim (4) and (6). These things would not be happening if the victim consented. The seventh part of the meaning is evaluative. Component (g) is the social evaluation and (h) is the rapist’s knowledge of the social evaluation.

Components (i) and (j) are a speaker evaluation which reflects the special horror that this crime shares with other crimes such as murder.

**Rape in legal language**

In recent years the law of rape has undergone great change. Its old legal meaning of non-consensual penile-vaginal penetration has been extended so that the rapist can be a
man or a woman, the victim can be of either sex, rapist and victim can be married to each other and the penetration can be by anything in any body hole. In this section I will discuss rape as it was at common-law and as it is now in the legal language of England and Wales, and Australia.

Rape at common-law occurred when a man had sexual intercourse with a woman who did not consent to it. It was the law in England and Wales until 1956 (Sexual Offences Act 1956) and was incorporated into many American statutes (Brundage 1987, 262). Here is the definition of Sir Edward Coke:

Rape is felony by the Common Law, declared by Parliament for the unlawful carnall [sic] knowledge and abuse of any woman above the age of ten years against her will, or of a woman child under the age of ten years with her will, or against her will, and the offender shall not have the benefit of Clergy.

(Coke 1979, 60)

The key concepts are unlawful, carnal knowledge and against her will. Unlawful means sex outside marriage, because lawful sexual intercourse without the woman’s consent is not rape. This so-called marital rape exemption was enunciated by Sir Mathew Hale:

But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given up herself in this kind unto her husband, which she cannot retract.

(Hale 1971)
Coke does not comment on abuse, but he does say that penetration is required, because that is what carnal knowledge means (Coke 1979, 60). Rape of a woman child under ten years is known as statutory rape, because it has been a statutory offence since 1275 (Statute of Westminster I, 1275, 3 Edward 1, Chap. 13). Girls under ten could consent to intercourse but the law did not recognise the consent. A felony is a crime which belongs to a class of serious crimes, the other less serious class being misdemeanours. Benefit of clergy was a clergyman’s right to be exempt from hanging.

A man (X) raped_{CL} a woman (Y) \( (_{CL} = \text{common law}) \)

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in a place inside Y’s vagina

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say:

(h) it is very bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people think this

This explication varies the meaning of rape_{OL} to confine the victim to women (a) and the act to penile-vaginal intercourse. A penal component is introduced at (i) and the
speaker evaluation of $\text{rape}_{\text{ol}}$ is deleted because it is not appropriate to attribute this evaluation to legislators who pass statutes or prosecutors who draft charges.

The current law in England and Wales is section 1 of the Sexual Offences Act 1956:

Rape of woman or man

1 (1) It is an offence for a man to rape a woman or another man.

(2) A man commits rape if-

(a) he has sexual intercourse with a person (whether vaginal or anal) who at the time of the intercourse does not consent to it; and

(b) at the time he knows that the person does not consent to the intercourse or is reckless as to whether that person consents or not

A man $\text{raped}_{E&W}$ someone else ($E&W = \text{England and Wales}$)

(a) a man (X) did something to someone else (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in one of these two places inside Y’s body:

(c) inside Y’s vagina

(f) inside Y’s anus

(g) Y did not want X to do this to Y

(h) X knew that Y did not want X to do this
(i) people say:

(j) it is very bad if someone does something like this

(k) if someone does something like this, after this other people have to do
something to this person because of this

(l) when X did this, X knew that people think this

This explication widens the common-law explication to include male and female
victims and non-consensual buggery (f). The explication predicts X’s knowledge that Y
does not consent (g), but not X being reckless as to whether the other person consents or
not. The two alternative states of mind cannot be included in the explication without a
disjunction. Rape_{E&W} is polysemous. The second meaning can be represented by
including components from the meaning of *reckless* at (i) in the following explication.

A man raped_{E&W}, someone else (_{E&W} = England and Wales)

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a
woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in one of these two places
inside Y’s body some time:

(e) inside Y’s vagina

(f) inside Y’s anus

(g) Y did not want X to do this to Y

(h) X knew that Y could not want X to do this
(i) X didn’t want to think about it
(j) people say:
(k) it is very bad if someone does something like this
(l) if someone does something like this, after this other people have to do something to this person because of this
(m) when X did this, X knew that people think this

**Persuasive definitions of rape**

The term *persuasive definition* was coined by Charles Stevenson. He said that a persuasive definition is one which gives a new conceptual meaning to a familiar word without substantially changing its emotive meaning.” (Stevenson 1938, 331). He illustrated this with a fictitious example of a persuasive definition of *cultured*. Suppose that *cultured* meant “widely read and acquainted with the arts”, and was used in compliments such as “a man of culture”. Someone who had no respect for reading and no acquaintance with the arts, claimed that “The real meaning of ‘culture’, the true meaning of culture, is imaginative sensitivity” (Stevenson 1938, 332). This person wanted to keep the emotive meaning of *culture* but to change its conceptual meaning for the purpose of redirecting people’s interests. Stevenson said that there are hundreds of words like this, with strong emotive meanings and vague conceptual meanings, which are constantly being redefined (Stevenson 1938, 333). A hallmark of a persuasive definition is a qualifier before the term defined, such as *real* or *true* (“the true meaning of sportsmanship”, “true genius”, “true beauty”, “charity in the true sense of the word.”) (Stevenson 1938, 334). *Rape* too is qualified like this: “A female definition of rape” (Brownmiller 1975, 18) and “Real Rape” (Estrich 1987). Stevenson said that in philosophy, persuasive definitions are often used and not recognised for what they are.
They are often thought to be definitions which abbreviate or analyse common concepts (Stevenson 1938, 331). In other words, a prescriptive definition is mistaken for a descriptive one.

In the explications in this thesis I have called Stevenson’s “emotive meaning”, the “speaker evaluation”. For example the explications of murder end with the components:

I think X did something bad
when I think about it, I feel something bad

When a persuasive definition is proposed, the speaker evaluation is retained, but another part of the explication is varied so that the term is given what Stevenson calls “a new conceptual meaning”. For example vegetarians might say that “Meat is murder”, implying that killing animals is murder. The component in the meaning of murder implying that “person X did something to another person” is changed to “person X did something to a thing”. So the invariant “person” is deleted and substituted with “thing”. It is for this reason that persuasive definition is called “dropping an invariant” in NSM Semantics. In the case of rape, components representing the kinds of actors and the kinds of acts in its meaning are changed. The following examples of this practice are taken from texts of feminist writing.

During the 1960’s a new feminist movement began to develop. One of its many strands of thought was a new approach to sexual violence. Influential writings such as Susan Brownmiller’s Against our will: men woman and rape (Brownmiller 1975), and Susan
Griffin's *Rape: the All-American Crime* (Griffin 1977), argued that rape was used by men to control women. Where rapes had been seen as isolated acts of individuals, they were now seen as a means of social control. And it wasn’t just rape that was used to control women, but a whole continuum of violence, from harassment through indecent exposure to genital penetration without consent (O'Malley 1996).

As I have explained, today's ordinary meaning of rape is confined to non-consensual penetration, and the same was no doubt true in the 1960's and 1970's. The legal meaning has in many jurisdictions, been even more restricted, requiring that a man put his penis into a woman's vagina. This was the case in common-law rape which remained in force in England until 1976. That law was adopted by the American colonies, so that some modern United States statutes use the exact words of an eighteenth century common law definition by Blackstone (Burgess-Jackson 1996).

Feminists saw the ordinary and legal meanings of *rape* as too narrow, and they argued for it to be widened. I will discuss the definitions of three writers, Susan Brownmiller, Martha Burt and Marilyn Friedman, beginning with Brownmiller’s definition.

A female definition of rape can be contained in a single sentence. If a woman chooses not to have intercourse with a specific man and the man chooses to proceed against her will, that is a criminal act of rape. Through no fault of woman, it is not and never has been the legal definition. (Brownmiller 1975, 18).

Note the use of a modifier is a hallmark of a persuasive definition: the adjective *female* modifies *definition*. Brownmiller does not say what *intercourse* means, but taking it to
mean penile/vaginal penetration, the following explication is the same as *rape$_{OL}$*, except that victims are confined to women (a) and the place of penetration is confined to the vagina (d). This meaning is not the ordinary meaning of *rape* and it is not the legal meaning of *rape*. For the purpose of redirecting people’s interests, Brownmiller has sought to persuade people to accept a new meaning of *rape*.

Someone *raped$_{Brownmiller 1975}$* someone else

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time inside Y’s vagina

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say it is very bad if someone does something like this

(h) when X did this, X knew that people think this

(i) I think X did something very bad

(j) when I think about it, I feel something very bad

Here is another definition. This one focuses on the kind of penetration:

As used in this book, rape is defined as: penetration, however slight, of any bodily orifice, obtained against the victim’s will by using force, or threat of force, of any part of the assailant’s body or any object used by the assailant in the course of the assault. (Burt 1991, 26).
Although Burt's paper is about men raping women, the definition does stipulate penetration and does not specify the sex of assailant or victim, implying that men and women can rape and be raped. Indeed she does not even specify man or woman, so that assailant and victim could both be animals, or one a human and the other an animal. Such are the pitfalls of defining with complex expressions. It is a broader definition than Susan Brownmiller's definition, and penetration is not limited to penile/vaginal intercourse. Perhaps the worst inaccuracy is the lack of reference to sexual activity. The definition covers any type of assault where the body is penetrated, and could for example refer to someone shooting and wounding another person. Assuming that both participants are persons, and not animals, this is how it could be explicated:

Someone raped_{Burt, 1991} someone else

(a) someone (X) did something to someone else (Y)
(b) when X did this something was inside Y's body
(c) Y did not want X to do this to Y
(d) X knew that Y did not want X to do this
(e) people say it is very bad if someone does something like this
(f) when X did this, X knew that other people think this
(g) I think X did something very bad
(h) when I think about it, I feel something very bad

An even broader definition of rape was offered by Friedman. It uses the concept of 'very intimate sexual contact':
Some might insist on a technical definition of rape ... intercourse, that is, genital penetration, against the will of the person penetrated ... However I use the term “rape” in a wider sense, in which it refers to any very intimate sexual contact which is initiated forcibly or against the will of the recipient. (Friedman 1990, 58)

The following explication is the same as $\textit{rape}_{OL}$ so that rapist and victim can be of either sex, but component (d) is broadened to allow any body contact.

Someone $\textit{raped}_{\text{Friedman 1990}}$ someone else

(a) someone (X) did something to someone else (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, part of X’s body was on part of Y’s body

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say it is very bad if someone does something like this

(h) when X did this, X knew that people think this

(i) I think X did something very bad

(j) when I think about it, I feel something very bad
Kidnapping

Kidnapping is a fascinating concept with a rather complex meaning made up of several parts. The victim is at a particular place (1), the kidnapper moves that person from the place to another place (2), the victim doesn’t want to be there (3), the kidnapper moves the victim for the purpose of inducing a third person to do something (4), this person does not know the whereabouts of the victim (5), this person wants to know this (6) and a social evaluation (7).

Kidnap in ordinary language

Dictionary Definition

1 To kidnap someone is to take them away illegally, and by force, usually to hold them prisoner in order to demand something from their family, employer or government. Police in Brazil uncovered a plot to kidnap him... The aim of the terrorists is to kidnap rather than kill... The kidnapped man was said to have been seized by five people.

(Cobuild Dictionary)

Examples of Use

(1) David Wilson, 29, of Melbourne, English backpacker Mark Slater, 20, of Corby in Northamptonshire, and Frenchman Jean Michel Braquet, 27, were kidnapped by the Khmer Rouge after their passenger train was ambushed in Cambodia on July 26 last year. The bodies of the three men were found in shallow graves in the Kampot mountains on November 2.
White Clouds is about a young Englishman living in Verona who **kidnaps** a girl and demands a ransom but ends up killing her, despite falling in love with her. It is based on the novel Cara Massimina, by Tim Parks.

But little told, because misplaced shame kept it under wraps for so long, is the ordeal of the hundreds of thousands of women **kidnapped** and brutalised for the sexual gratification of the Japanese legions.

"I don't want to spend 10 years in a Spanish jail and I don't intend to." A few months ago he **kidnapped** a baby from its mother in Spain. She had **kidnapped** the child from France where the courts had given custody to its wealthy father. The child is now with the father. "I run an organisation called the Abducted Child Taskforce, and that often involves international work,"

Later Morris bravely took the place of two employees who had been **kidnapped** by Somalis over a dispute about payments for food supplied to the company.

A British charity working in Sudan is buying back Christian slaves **kidnapped** by Arab militias and forced to become Muslims.

Shergar, the Aga Khan's Derby winner, was **kidnapped** from a stable in Co Kildare and a £2 million ransom was demanded, 1983.

Jailed in 1982 after being caught ferrying two beer-keg bombs to Belfast, Murray was, on his release, "credited" with developing the human bomb strategy whereby civilian workers at security bases were **kidnapped**, strapped into car bombs and forced to drive them into checkpoints.

Fastidious historians might look further into Balliol's history. The college was founded by John of Balliol only after he had **kidnapped** the Bishop of Durham, Walter de Kirkham, who made him seek penance by paying for 16 scholars at
Oxford. The idea was not Balliol's and the payment was endowed by his widow, Dervorguilla.

(10) Paris: Seven French Trappist monks were kidnapped from their Algerian monastery yesterday by suspected Islamic terrorists, prompting the French Government to repeat calls for all French people resident in Algeria to return home immediately.

(CobuildDirect)

Someone (person X) kidnapped someone else (person Y)

(a) someone (Y) was in a place
(b) another person (X) did something to Y because X wanted someone else (Z) to do something (W)
(c) because X did this to Y, after this, Y was in another place
(d) Y was in this other place because X wanted Y to be there, not because Y wanted to be there
(e) X didn’t want other people to know where Y was
(f) X didn’t want Z to know where Y was
(g) Z didn’t know where Y was
(h) Z wanted to know it
(i) X thought that maybe Z would do W
(j) people say it is very bad if someone does something like this

The meaning of kidnapping is centred on moving the victim from one place to another. I have limited the victim to persons, because I think that kidnapping animals such as a horse, in example (7), is an extension of the meaning. Component (a) begins by locating
Y in a place. It is tempting here to say here that Y is in this place by choice, with the component “person Y was in a place because Y wanted to be in this place”. This can then be contrasted with the other place to which X takes Y by “Y didn’t want to be in this place”. This predicts a classic kidnapping, where the adult child of a rich parent is taken and the kidnapper demands a ransom from the parent. However, babies can be kidnapped, and perhaps the most celebrated example is the child of the aviator, Charles Lindbergh. In the case of a baby, the question of volition is irrelevant. Furthermore, Y could be kidnapped from a place where he or she did not want to be, such as Y’s workplace or even a prison. The problem of removal to an undesirable place is best captured in a negative way by “(d) Y was in this other place because X wanted Y to be there, not because Y wanted to be there”.

In components (b) and (c) is the removal together with the reason for the removal which is to induce another person Z to do something which I have called W. An example of this might be where X removes a child Y from the child’s wealthy father Z, and X demands that Z pay a million dollars (W) to Z in return for X disclosing the child’s whereabouts. The dictionary associates kidnapping with demands made on the victim’s family, employer or government. Indeed there is a word, ransom which pairs with kidnap to refer to the thing demanded by the kidnapper. The victim is called a hostage. It is however possible in ordinary language to kidnap someone without demanding a ransom. I have not therefore included the meaning of demand in the explication of kidnap.

Components (e) (f) and (g) represent the crucial element of placing the victim in hiding. This is captured in a declarative statement in (e) which implies that only X knows where
Y is. Component (f) is X’s desire to hide Y from Z and in fact Z does not know where Y is (g). This contrasts with hostage taking where X might put a gun to Y’s head and make demands in full view of the police. The intention there is not to conceal, but to reveal. In *kidnap* the lack of knowledge means that Z wants to know where Y is (h) and that Z maybe Z would do W (i). For example, a child is kidnapped and its father doesn’t know where it is, and is willing to pay money to find out. Note that I have not said that X will do something in return for Z doing W. Z may promise to reveal the whereabouts of the victim, but that is not an invariant. X may simply demand money, leaving X’s part of the bargain implied. It might also be suggested that *kidnap* implies a threat to the victim’s safety so that Z knows that something bad might happen to the victim, such as injury or death. That may be explicit or implied in most cases, but it is not an invariant. The invariant is the concept of hiding and Z’s desire to know where the victim is.

**Kidnap in legal language**

In England and Wales *kidnapping* is an offence at common law with four ingredients (*R. v. D* [1984] A.C. 778):

(a) the taking or carrying away of one person by another;

(b) by force or fraud;

(c) without the consent of the person so taken or carried away; and

(d) without lawful excuse

(Richardson 2000, 1718)
I think that this definition is predicted by the ordinary language explication of *kidnap* that I have suggested above, except that a punishment component should be added. The *taking or carrying away* is the removal in components (b)-(d). *Force or fraud* are predicted by component (b) and (d). It is difficult to think of any way in which Y might be removed other than by *force or fraud*. Therefore the general expression “(X) did something to Y” must predict both force and fraud. If there are other ways to effect the removal, then the legal meaning will be polysemous, with one meaning for removal by force and another meaning for removal by fraud. These meanings could be expressed by inserting the verbs *used force* and *defrauded* as semantic molecules in component (b) of the ordinary language explication of *kidnap* as follows:

another person (X) *used force* on Y because X wanted someone else (Z) to do something (W)

another person (X) *defrauded* Y because X wanted someone else (Z) to do something (W)

**Abduction**

Abduction is not a crime, but I have included an analysis of its meaning here to contrast it with the meaning of *kidnap*. In fact this is quite a rich area and worthy of exploration in another project. Some other related expressions are *snatch, capture, carry away, run off with and elope*. In a later chapter I discuss the meaning of *hijacking* which has some affinities with the meanings of expressions in the *abduct* group (see page 316). *Abduct* implies a moving of a person against that person’s will, but it has a less complex meaning than *kidnap* because the abductor does not necessarily take the person for the purpose of inducing a third party to do something.
Dictionary Definition

1 If someone is abducted by another person, he or she is taken away illegally, usually by using force. *He was on his way to the airport when his car was held up and he was abducted by four gunmen ... She was sent for trial yesterday charged with abducting a six-month-old child.*

*(Cobuild Dictionary)*

Examples of Use

(1) Abduction fear led to scuffle, court told State MP Peter Pyke told a jury yesterday he believed his wife's former husband was an extremely violent man who intended to *abduct* his daughter from a suburban park.

(2) Mrs Chan's daughter Karmein was *abducted* by a masked man later dubbed “Mr Cruel”, from the family's then home in the neighbouring suburb of Templestowe, in April 1991.

(3) “I run an organisation called the *Abducted* Child Taskforce, and that often involves international work,” Burton, author of three books on bounty hunting and the world of spies, explained.

(4) Two weeks after that order, on October 25, Ms Smith claimed a car jacker had *abducted* three-year-old Michael and 14-month-old Alex. But on November 3, she admitted she left the boys in her car and sent it rolling to the bottom of a lake.

(5) A sect leader is believed to have confessed that an old man *abducted* by cultists was disposed of in the microwave plant.
(6) A few days ago, an armed mob of urban rascals burst into a Port Moresby restaurant and abducted and gang-raped a woman who was dining with personal staff of the Prime Minister, Sir Julius Chan.

(7) A woman was abducted at knife point from Brisbane's city centre, robbed and then dumped in the northern Brisbane suburb of Chermside yesterday.

(8) The monks, aged between 50 and 80, were abducted from the Trappist Tibehirine monastery in the town of Medea, 50 miles south of Algiers. No ransom demand has been received, ...

(9) We followed Homer's heroes to Pilos, home of wise old Nestor, where a well-preserved Mycenaean palace overlooks to the Bay of Navarino, and then to Sparta, whence Helen was abducted.

(10) Last week Serbs abducted 16 Bosnian civilians as they entered the Serb-held suburb of Ilidza on roads recently opened by Ifor.

(CobuildDirect)

Someone (person X) abducted someone else (person Y)

(a) someone (Y) was in a place

(b) another person (X) did something to Y because X wanted Y to be in another place

(c) something bad could happen to Y because X did this to Y

(d) because X did this to Y, after this, Y was in another place

(e) Y was in that other place because X wanted Y to be there, not because Y wanted to be there

(f) other people didn't know where Y was
(g) people say it is very bad if someone does something like this

Component (a) replicates the meaning of *kidnap* by locating the victim, Y in a place. The victim is typically a child as in examples (1), (3) and (4). It is often the non-custodial parent who abducts the child in what lawyers sometimes call a “snatch”. However people of any age can be abducted as examples (5)-(9) show. Component (b) from *kidnap* is varied to delete the requirement in *kidnap* that X want someone else to do something, such as pay a ransom. X simply wants Y to be in another place. X may have a reason for moving Y, but that can be any reason. The reason can be to remove the child from the care of the other parent (1), to kill the victim (5), to rape her (6) to rob her (7) or to marry her (9). The abduction of Helen of Troy and her removal to Greece in (9) clearly contrasts *abduct* with *kidnap*, because the Greeks did not want her for ransom, but for a royal bride. In (8) the writer deliberately avoids using *kidnap* because no ransom was demanded.

Component (c) implies that when a person is *abducted* something bad can happen to them. This is present in all of the examples. Harm is a possibility in the removal of children (1)-(4), monks (8) and civilians (10), and an actuality in the examples of abducting and killing (5), raping (6), robbing (7) and Helen of Troy (9). Compare *kidnap* where something bad can happen to the victim, but that is not essential. The kidnapper usually wants to keep the victim unharmed so that the demand will be met.

Component (d) imitates *kidnap* by declaring that the result of X doing something to Y was that Y was in another place. Component (e) is the essential lack of consent which is present in *kidnap*. I have included a concealment component at (f) because I think that secrecy is part of the meaning of *abduct*. Compare this with *carry away* which could be
done in full view of a custodial parent. The following counter example demonstrates the need for this component:

*She was walking hand-in-hand with her daughter Alice, when Mick, her former husband, grabbed Alice and abducted her.

Component (g) is the social evaluation. Although abduction is not a crime, people view it as something bad.

**False imprisonment**

In England and Wales *false imprisonment* is an offence at common law defined as follows:

False imprisonment consists in the unlawful and intentional or reckless restraint of a victim’s freedom of movement from a particular place - it is unlawful detention which stops the victim moving away as he or she would wish to move.

(Richardson 2000, 1717)

In a *kidnapping* the defendant takes the victim from one place to another place but in *false imprisonment* the defendant stops the victim from moving from a place. It is not an expression which occurs in ordinary language. This offence has alternative mental elements, either *intention* or *recklessness*. I will suggest an explication of intentionally restraining a victim’s freedom of movement from a particular place.
Someone (person X) falsely imprisoned, someone else (person Y)

(a) person Y was in a place for some time not because Y wanted to be there
(b) Y was there because someone else (X) did something (W)
(c) X did W because X wanted Y to be there
(d) because X did W, Y couldn’t be in another place if Y wanted it
(e) people say:
(f) it is very bad if someone does something like this
(g) if someone does something like this, after this other people have to do something to this person because of this
(h) when X did this, X knew that people think this

Component (a) locates the victim in a place because he or she doesn’t want to be in this place. This is essential, because unless the victim wanted to move somewhere else, there would be no offence. Suppose that a person lived in a house and its grounds and never went out of it and never wanted to. If the defendant put a fence round the grounds to stop the person moving out, there would be no false imprisonment. In component (b), Y is in the place because X did something (W). W could be locking someone in a room, preventing someone from getting out of a car or handcuffing someone to a railing. It might be suggested that this component should read, “Y was there because X did something to Y”. That will predict the handcuffing, but not locking the door of a room occupied by Y. In that case, W is the locking of the door. It might then be suggested that W is locking Y in the room, but that is a higher level of generality. The door is locked (W) and because it is locked Y couldn’t be in another place if Y wanted to. Component (c) is a desiderative component which captures the essence of the meaning of intention which I suggested in Chapter 3. I have expressed the restraint in (d) as “couldn’t be in
another place” rather than “couldn’t move”, which is inaccurate because a prisoner can move, but not to another place. I have not said “couldn’t move to another place” because that frame does not occur in universal grammar. Components (f)-(h) are the evaluative, punitive and guilty knowledge elements which make false imprisonment a crime, and by implication, exclude lawful imprisonments such as arrests and sentences of imprisonment.

Assault

Assault is quite a common word in ordinary English. In the Cobuild Dictionary it is given a frequency of three on a five point scale, in company with ordinary words such demonstrate and provision. It has two related meanings. The first refers to a military attack which is sudden and strong. That’s a very common meaning in the uses in CobuildDirect. The following examples are typical.

(1) His remarks addressed criticism from the Congress and others that the administration continued to back Mr Yeltsin even though Russian troops were waging a brutal assault on the separatist Caucasus republic of Chechnya.

(2) Earlier, Ecuador’s President Sixto Duran Ballen said his government troops repelled an assault by Peruvian troops yesterday in the upper Ceneppa River.

(CobuildDirect)

The military meaning is extended into other domains, as the following examples show. The domains are sport (1) and (2), business (3) and mountaineering (4):
(1) Corser’s **assault** on the Superbike World Championship has been confirmed with Ducati, while Coulthard has deservingly got the alongside Damon Hill in the Williams grand prix team.

(2) Coming in at No 8 batsman, Benjamin launched an **assault** at all the Auckland bowlers. He hit six sixes and four fours with some clean, straight shots.

(3) The Campaign Palace was selected as the most suited agency to carry out the marketshare **assault** against Fuji’s main competitor and market leader, Kodak.

(4) We should have been suspicious when our guides met us at the airport with enough kit for an **assault** on Everest, but we were too busy looking out of the window on the four-hour drive past orange groves, camels, kasbahs and whole families perched on motorbikes.

*(CobuildDirect)*

The second meaning, and the one that we are concerned with here, implies that a person or a group of persons attack another person. An essential element of this ordinary meaning is that the attacker makes contact with the victim’s body. A similar meaning exists in legal language, but there is another legal meaning which does not require bodily contact. The wrongdoer need only do something which makes the victim fear an imminent attack on the victim’s body. This meaning is not known to ordinary speakers and comes as a surprise to students of criminal law. In this chapter section I will explicate the ordinary meaning of **assault** and its second unusual legal meaning

**Assault in ordinary language**

*Assault* has a six part meaning: the wrongdoer does something bad to the victim’s body (1), the bad thing could cause something bad to happen to the victim’s body (2), the bad
thing does cause the victim to feel bad (3), the wrongdoer wants to do this (4), the victim does not consent to what the wrongdoer does (5) and a social evaluation (6). I will explain why shortly. The following Cobuild Dictionary definition rightly confines the meaning of the verb *assault* to someone doing something to another person, but it loses all the fine grained detail of its six part meaning in the complex expressions *physically* and *attack*.

3 To **assault** someone means to physically attack them. *The gang assaulted him with iron bars... She may have been sexually assaulted by her killer* (*Cobuild Dictionary*)

**Examples of Use**

(1) Assault by pair alleged A camping trip disagreement led to a man allegedly being **assaulted** with a brush cutter and a lump of wood, a Cairns court was told yesterday.

(2) Nelson rumoured to have recently broken up with Hollywood femme fatale Shannen Doherty, is notorious for his wild ways, culminating in a recent court appearance for an alleged **assault** on a woman in 1993 while out on the town with Doherty.

(3) Soccer ace on charge London: British police yesterday charged French soccer star Eric Cantona with **assault** for a two-footed attack on a supporter at a premier league match last month.

(4) Row brewing over a teacher who grabbed the shoulder of a student to stop him chucking things around the classroom. Supporters say teacher did the right thing
to prevent possible injury to other students, but the opposite view is that a technical **assault** was committed.

(5) The community policeman who was facing dismissal for pulling a teenage boy’s ear had the threat lifted yesterday. There was a public outcry last month when PC Nicholas Godber was convicted of common **assault** on the 15-year-old boy as he attempted to stop his rowdy behaviour in a shopping arcade.

(6) Patti told the court she screamed and struggled when William attacked her on the lawn, pulling her to the ground and forcing her to have sex. Mr Black also called meteorologist Herbert Spiegel who said there was a full moon and little wind on the night of the alleged **assault**.

(7) “In my view, he committed an **assault** by restraining Miss Cooper against her will,” computer services manager Sandra Lord told a London industrial tribunal yesterday.

(8) Albert Jenkins died after being kicked and beaten up twice as he left a Salvation Army soup kitchen in west London. A post mortem examination found he died of a heart attack brought on by the **assault**, said police.

(9) Disgraced soccer star Eric Cantona was yesterday charged with common **assault** over his televised Kung-fu attack on a rival supporter.

(10) A friend of Prince Charles was jailed yesterday for his part in a vicious **assault** on a group of hunt saboteurs. Anthony Kirkham sobbed as he was sentenced for the attack in which one woman was pinned to a fence, punched, then kicked on the ground.

*(CobuildDirect)*
Someone (person X) *assaulted* someone else (person Y)

(a) X did something bad to Y

(b) when X did it, X did something to Y’s body

(c) something bad could happen to Y’s body because of this

(d) Y felt something bad because of this

(e) X did it because X wanted to do it

(f) Y didn’t want X to do it

(g) people say if is bad if someone does something like this

Components (a) and (b) capture the first part of the meaning of *assault*, where the wrongdoer does something bad to Y by doing something to the victim’s body. In the examples, this is hitting the victim with a brushcutter and a lump of wood (1), hitting with two feet (3), grabbing the shoulder (4), pulling an ear (5), pulling to the ground and forcing sex (6), kicking and beating (7), pinning to a fence, punching and kicking (10).

It is not enough to simply say that X did something bad to Y and because of this something bad could happen to Y’s body. This could be a poisoning or psychological abuse inducing a bodily reaction. It is essential to do something bad directly to the victim’s body.

Component (c) implies that something bad such as injury or death can result from X doing something to Y’s body. The examples where authority figures grab a shoulder (4) or pull a boy’s ear (5) are newsworthy because they are not what people normally call an assault. Firstly because injury is unlikely, and secondly because many believe that students or boys should be chastised in this way. Indeed one of them is called a “technical assault” (4). As I mentioned previously, qualifying a noun like this is a
classic semantic alarm bell, warning that the use has strayed outside its normal range by
the dropping of an invariant. In the other examples such as hitting someone with a lump
of wood (1), punching (10) and kicking ((8) (10), serious injury or death can result as it
does in example (8). It is, of course, not essential that something bad actually happen to
the victim’s body. There are other words for this, such as maimed, wounded and killed.

Component (d) is the third part of the meaning. People whose bodies are touched or
struck without their consent feel bad because this is not normal behaviour and because
they think that injury or death could result. This is not immediately apparent in the
examples but it is implicit in them. Component (e) negatives accidental incidents of
unwanted body contact such as brushing against someone in the street. Component (f)
implies lack of consent. This excludes most touchings in body contact sports such as
football and boxing, and medical treatment such as surgery. Component (g) is the social
evaluation which excludes socially approved cases of non-consensual body contact such
as a parent chastising a child.

**Assault in legal language**

In England and Wales assault is an offence at common law and it has two meanings.
Assault\_\_\_\_

is similar to the ordinary language meaning where X makes contact with Y’s
body. This is sometimes called a battery, although technically assault and battery are
different offences. Assault\_\_\_\_ implies doing something to make the victim fear bodily
harm and a battery implies body to body contact. The following are two definitions of
assault at common law in England and Wales:
An assault is any act - and not a mere omission to act - by which a person intentionally - or recklessly - causes another to apprehend immediate unlawful personal violence. (Richardson 2000, 1667-1668)

When the term “assault” is used to include a battery, it may be defined as an act by which a person intentionally or recklessly causes the complainant to apprehend immediate unlawful personal violence or to sustain unlawful personal violence. (Richardson 2000, 1668)

The kinds of acts which are typical of assault\textsubscript{1,2}, where there is no contact, are waving a stick or a fist towards another and missing, pulling out a knife, throwing a bottle or using threatening words (Richardson 2000, 1669).

The meaning of assault\textsubscript{1,1} can be expressed by simply varying the ordinary language meaning to include a component to capture recklessness and intention and by adding components for punishment and guilty knowledge.

Someone (person X) assaulted\textsubscript{1,1} someone else (person Y)

(a) X did something bad to Y
(b) when X did it, X did something to Y’s body
(c) something bad could happen to Y’s body because of this
(d) X knew this
(e) Y felt something bad because of this
(f) X did it because X wanted to do it
(g) Y didn’t want X to do it

(h) people say:

(i) it is bad if someone does something like this

(j) if someone does something like this, after this other people have to do something to this person because of this

(k) when X did this, X knew that people think this

Component (d) predicts recklessness because X knew that something bad could happen to Y’s body but nevertheless X went ahead and did the act. This also predicts intention because it covers cases where X wants to do the act, knowing of possible bad consequences. Component (j) is a punitive element and (k) specifies guilty knowledge.

With the meaning of assaultLL1 complete, it is a simple matter to define assaultLL2 by deleting the requirement for bodily contact: “When X did it, X did something to Y’s body”. Already present is the requirement that X cause Y to “... apprehend immediate unlawful personal violence.” (Richardson 2000, 1667-1668). It appears in components (b) and (d) of the following explication of assaultLL2:

Someone (person X) assaultedLL2 someone else (person Y)

(a) X did something bad to Y

(b) something bad could happen to Y’s body because of this

(c) X knew this

(d) Y felt something bad because of this

(e) X did it because X wanted to do it
(f) Y didn’t want X to do it

(g) people say:

(h) it is bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people think this

These explications of the legal meanings of assault show how unnecessary it is to use complex expressions such as apprehend and personal violence. Apprehend can be fully and clearly substituted in this context by “X knew this”. Personal violence can be replaced with “something bad could happen to Y’s body because of this”. The gain in transparency is considerable. I venture to say that anyone with a moderate command of English reading the explications could understand them straight away. Writers of legal definitions seem to have a compulsion to use complex formal words. Interestingly, some of the most famous of legal writers wrote in the simplest terms. The celebrated judge, Sir Edward Coke, wrote his criminal law texts in a very simple style in the seventeenth century. In the twentieth century, Lord Denning, one of the most brilliant minds ever to grace the English bench, wrote his judgments in simple language.

Torture

Torture in ordinary language

Time is a central feature of the meaning of torture. It is a kind of assault which can be mental or physical and which is directed at inflicting pain. However it must last for some time. A single blow does not suffice.
Dictionary Definition

1 If someone is **tortured** another person deliberately causes them great pain over a period of time, in order to punish them or make the reveal information...

*French police are convinced that she was tortured and killed... Three members of the group had been tortured to death... They never again tortured a prisoner in his presence.*

(*Cobuild Dictionary*)

Examples of Use

(1) Cult accused of bizarre **torture**. Tokyo: A Japanese doomsday cult reportedly subjected its followers to extreme hunger or heat, injected them with mysterious drugs and secretly cremated the remains of those who died.

(2) Amnesty claimed that **torture** was widespread in China with prisoners subjected to electric shocks, sleep deprivation and beatings.

(3) Burglars torture man, 80; Leonard Perkes a frail pensioner was tied up and **tortured** in his bed by masked raiders. Leonard Perkes, 80, was beaten, jabbed with a screwdriver and had his toes cut with a knife.

(4) A victim of police **torture** who was forced to sign a fabricated confession has won £50,000 compensation. Derek Treadaway spent nine years in jail but yesterday the High Court backed his claim that five officers had put plastic bags over his head until he lost consciousness. He was handcuffed and taken to an interview room where he was **tortured** and told to stamp his feet when he had had enough.
(5) Mr Sibalija, eventually freed as part of a prisoner exchange, said that common Muslim criminals were encouraged by the guards to **torture** the Serbs with whom they shared cells.

(6) Ian Howarth, director-general of the Cult Information Centre in London, said that di Mambro wanted to re-enact the suppression and death by **torture** and burning at the stake of 54 leaders of the Knights Templar in the 14th century.

(7) The chronicle begins with prisons as they were before the time of formal custody, and ranges through types of incarceration in early modern Europe. **Torture** was an accepted fact-finding method, branding and mutilation were commonplace.

(8) Children, throughout the world, live in daily fear of their lives: ...; Some face reprisals because of the activities of relatives and friends, very often bearing the brunt of shocking mental and physical **torture** thereby forcing adults to confess.

(9) The killer operates in the lively gay pub area of a northern city. The victims are young men, all of them savagely knifed, mutilated and showing signs of atrocious, lengthy **torture**

(10) The forbidding landscape of Ljubija called to mind last week the details of immense human suffering: the throbbing engines of buses delivering victims to the mines; the grinding noise of mining machinery crushing bones; the screams of the **tortured**. Little wonder survivors shiver at the memories. (*CobuildDirect*)

Someone (person X) **tortured** someone else (person Y)

(a) for some time X was doing something very bad to Y

(b) something very bad could happen to Y because of this

(c) X knew this
(d) Y felt something very bad for some time because X did this
(e) X did it because X wanted Y to feel like this
(f) Y didn’t want X to do it
(g) people say if is very bad if someone does something like this

Component (a) has X doing something very bad to Y for some time. Firstly it has to be something very bad. Minor everyday assaults are ruled out. So, for example, tickling someone for some time would not normally be torture. Some instances of very bad acts in the examples of use are: subjecting the victim to extremes of heat and hunger and injecting with mysterious drugs (1), electric shocks, sleep deprivation and beatings (2), beating, jabbing with a screwdriver and cutting (3) and putting plastic bags over the head until the victim is unconscious (4). Secondly, I have not said that X did something very bad “to the body of Y” because mental torture is possible (8). Thirdly the activities must last for some time. I don’t think that it can be a short time because that would simply be an assault. The following counter-example shows this:

*At one moment X tortured Y

The activity can be for a long time or for a very long time, but not necessarily so. It need only be an activity which is sustained.

Component (b) is the possible result that follows from what X does. It can be injury, unconsciousness (4) or death (1) (9). This is required to induce a feeling of terror in the victim. Component (c) fixes X’s knowledge that something bad could happen to Y. I think that X must know this in order to cause a feeling of terror in the victim. This
feeling is represented in component (d) where Y must feel something very bad for some time.

Component (e) is the desiderative component. I have not included a desiderative saying that X wants to do what he or she does and does it for a reason such as to punish Y or to extract information from Y. There is of course usually a motive, especially in official contexts, such as torture by police or soldiers. The usual result sought is a confession to a crime or information about the whereabouts or plans of enemy forces. However I do not think that this is an essential element of the meaning of torture. It is possible simply to torture someone for a thrill or for no reason. In this respect the Cobuild Dictionary is wrong in claiming an invariant that someone is tortured “in order to punish them or make them reveal information”. Component (f) excludes lack of consent. Consent might be present where someone wants to be tortured for sexual gratification or some other reason. In the following example, “pain junkies” agree to be tortured:

(11) In the name of entertainment, the Japanese pain junkies have been divided into two teams of eight and are flown around the world to be tortured in exotic locations.

(CobuildDirect)

Component (g) is a social evaluation which emphasizes that torture is “very bad”.

**Torture in legal language**

The statutory definition of *torture* In England and Wales is:
134. - (1) A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the United Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission.

Criminal Justice Act 1988 UK s134(1)

This meaning of this offence is the same as the ordinary language meaning, except that the categories of wrongdoers are limited to public officials or persons who are acting in an official capacity. Under the rules of statutory interpretation, the clause “persons who are acting in an official capacity”, limits the meaning of “public officials” to those who are acting in an official capacity. They must be performing official duties, so that an off-duty policeman who tortures his wife would not be guilty of this offence. We are faced here with a choice between (1) inserting these complex expressions in the explication as semantic molecules, or (2) trying to capture the “essence” of the legal meaning or (3) explicating them separately and mixing their explications with the meaning of torture. The semantic molecules could be inserted after component (a) of the ordinary language explication of torture so as to limit the categories of wrongdoers thus:

(b) X was an official acting in an official capacity

The sentence, ‘an official acting in an official capacity’, must then be explicated separately. This would require a lengthy excursion into the semantic field of officialdom and official conduct which would be a substantial enterprise in its own right and beyond
the scope of this thesis. I will therefore not attempt to do so. The second alternative, “capturing the essence” of the meaning of the sentence, is impossible, because “public official” and “acting in an official capacity” have very specific meanings which cannot be reduced to any sort of general ‘essence’. The third alternative, inserting a full explication of the sentence in the explication of \textit{tortured}, would most likely result in a very complex explication which would be hard to read and understand.

\textbf{Conclusions}

The aim of this chapter was to add to our knowledge of the semantics of crime by analysing the legal and ordinary meanings of expressions where someone does something bad to a person. The conclusions I wish to draw from the analyses concern the success of the analyses, the common structure of the explications, the contrasts between legal and ordinary meanings and the contrasts of meanings within and between groups of expressions.

The analyses show that meanings of complex English specific words, referring to fatal and non-fatal offences against the person, can be stated clearly and simply in natural semantic metalanguage. Just a few explications are not written entirely in NSM. For example, the explications of \textit{rape} included the “semantic molecules”, \textit{man}, \textit{woman}, \textit{penis} and \textit{vagina}. In many cases, highly complex and obscure legal definitions could be replaced by simple explications which are clear, accurate and non-circular.

The meanings of the expressions analysed in this chapter all have three bundles of components: an action bundle with the predicates \textit{DO} and \textit{HAPPEN}, a mental bundle with the predicates \textit{THINK}, \textit{KNOW} and \textit{WANT} and an evaluative bundle containing
the evaluator BAD, the predicate SAY and the substantives I and PEOPLE. When
uttering an expression, the speaker typically implies a comment on a past action where
X did something, because X did this something happens to another person Y, when X
did this X wanted to do this and finally people say it is bad if someone does something
like this.

The sequence of components is important. The DO components come before the
HAPPEN components, because something cannot happen until someone does
something. For example in manslaughter the DO component is at (a) and the HAPPEN
component follows at (c):

(a) X did something
(b) X did this because X wanted to do it
(c) because X did this, something happened to the body of another person Y
(d) because this happened to Y’s body, after this Y didn’t live any more
(e) when X did this X knew that something very bad could happen to someone else
   because of this
(f) when X did this, X could know that X was doing something bad
(g) people think:
(h) it is very bad if someone does something like this
(i) if someone does something like this, after this other people have to do
   something to this person because of this
(j) when X did this, X knew that other people think this
The THINK/KNOW/WANT/ components always follow at least one DO component, but they are not always in discrete bundles. So in *manslaughter*, there is a WANT component at (b), between a DO component and a HAPPEN component. Later, at (e) (f) and (j) there are KNOW components. The BAD components generally follow the DO/HAPPEN and KNOW/WANT/FEEL components. This must be so, because the evaluative comment on actions and thoughts cannot be made until those actions and thoughts are spelled out. In *manslaughter*, the evaluative components are at (h) and (i).

The BAD components always include a social evaluation. Sometimes they are thoughts/wants/feelings of the doer, sometimes of the speaker and always of people generally. In *manslaughter* the thoughts of the doer are at (e) (f) and (j). In *murder*, *genocide* and *rape*, the thoughts and feelings of the speaker about the action and mental bundles are implied:

(h) I think: X did something very bad

(i) when I think about it, I feel something bad

The complexity of the meanings varies widely. *Suicide, kidnap* and *assault* have relatively simple meanings with a few components. *Murder* is moderately complex with many more components, but others, such as *genocide*, are very complex, or include semantic molecules, such as *man* and *penis* in the explication of *rape*. There are important differences as well as similarities between the ordinary language meanings of expressions referring to crimes and their legal meanings. For example in *murder* the DO component (a) is limited to X doing something to the victim Y and the WANT component is X wanting Y not to live any more. In *murder* on the other hand, the DO
component is simply X doing something knowing that something very bad could happen to someone because of this. In other words, \textit{murder}_\text{OL} requires that X select a victim and intend to kill the victim, but \textit{murder}_\text{LL} requires only that X do something reckless. \textit{Murder}_\text{OL} implies the speakers thoughts and feelings about X’s actions, but \textit{murder}_\text{LL} does not. The common components are the causing of death and X’s knowledge that what he or she did was wrong. In most cases where an expression occurs in both ordinary and in legal language, it was possible to generate the legal meaning out of the ordinary meaning. The conclusion that follows from this is that the criminal law is strongly rooted in the discourse of ordinary speakers.

There are contrasts of meanings within and between groups of expressions in this chapter. The two groupings are the fatal offences and the non-fatal offences. The common components in the fatal offences are that X does something, something happens to another person’s body or to X’s body (suicide) and that because X did this the other person did not live any more. These are the main components if the meaning of \textit{homicide} and it is possible to write explications of them all by beginning with the explication of \textit{homicide}. The common component of the non-fatal offences is generally that X does something to the body of another person, but just what X does varies between meanings. In \textit{rape} X inserts a penis or something else in Y’s body. In \textit{kidnap} X moves Y’s body. In \textit{false imprisonment} X prevents Y’s body from moving. In \textit{assault} X contacts Y’s body. \textit{Torture} is something of an exception because mental and physical torture must be predicted. So in its meaning X simply does something bad to Y for some time.
Contrastive analysis of this kind is explanatory. The reader can clearly see the differences in meaning between the expressions. Within the group of fatal offences, there is a range of severity based on X’s thoughts (murder and manslaughter) or a range of kinds of victim (suicide and genocide), or a range of numbers of victims (genocide requires many victims and other offences require only one victim). Within the non-fatal offences, it is the kind of thing done which distinguishes them: inserting (rape), moving (kidnap), preventing movement (false imprisonment) and contact (assault), except for torture, where it is the duration of the thing done which is the distinguisher. These contrasts, which are not immediately apparent in the dictionary definitions or in legal definitions, can be illustrated simply by comparing common and distinguishing components in the explications.
Chapter 5 Doing bad things to things

Introduction

The previous chapter covered offences against the person where the wrongdoer did something bad to the body of the victim. The actions could result in death or injury to the victim or in movement of the victim or the prevention of movement. In this chapter, which covers property offences, the focus shifts from the victim’s body to things that belong to the victim. The wrongdoer does something bad to things belonging to the victim resulting in movement, damage or destruction.

The aim of this chapter is to add to our knowledge of the semantics of crime by analysing the ordinary and legal meanings of expressions which imply that something bad happens to things that belong to another person. It begins with offences that typically imply a taking, and the simplest of them is stealing. A more complex form of stealing is robbery, where the wrongdoer steals and at the same time, threatens or assaults the victim. Burglary too is a complex form of stealing where the wrongdoer enters a building and steals something. Criminal damage covers both destroying and damaging things and arson is destroying or damaging things by fire. Fraud, blackmail and forgery imply that the wrongdoer does something, and because he or she does it, the victim thinks or feels something. In fraud and forgery the other person thinks that something is true when it is not true and in blackmail the other person feels bad.
Stealing

Steal is a verb without a nominal form. Its gerund, stealing, is used instead. There is no name for the wrongdoer in this lexeme, so we can’t say “a stealer”. Another name for the same concept is theft, which has a verbal form to thieve and a name for the wrongdoer who is called a thief. The two concepts stealing and theft appear to have very similar meanings. It would be interesting to compare their meanings but I will not do so here. In the following analysis of the ordinary meaning of steal, I have suggested that it has six elements representing, (1) the victim’s possession of something, (2) the wrongdoer’s desire to take possession of it, (3) the taking, (4) the absence of victim’s consent, (5) a social evaluation, and (6) the wrongdoer’s knowledge of the social evaluation.

Steal in ordinary language

Examples of Use

(1) Later she returns to Lancaster and Duryea catches them together. Lancaster extricates himself by offering Duryea a chance to steal a bankroll from an armoured car.

(2) If you want to steal cars you can steal them easily enough from a garage, even three or four cars at a time if there are enough of you.

(3) Sobhraj was arrested in 1976 after poisoning a group of French tourists at a New Delhi hotel in an attempt to steal their money and passports.

(4) A man hijacked a 63-tonne army tank yesterday and went on a car-crushing drive through residential neighbourhoods before he was shot dead by police.
Authorities were unsure how Shawn Nelson managed to steal the M-60 tank from the National Guard armory where 10 tanks were stored.

(5) Make life difficult for thieves. Carry your wallet in an inside pocket not your back pocket. If someone bumps into you in a crowd, make sure you still have your wallet or purse. Thieves like to steal cash.

(6) Last year she was cleared of helping to steal millions from the debt-laden country.

(7) A gang used a bulldozer to steal a hole-in-the-wall cash dispenser yesterday.

(8) Sometimes they would steal human babies and leave one of their own offspring in the cot.

(9) If you've come to steal something you've not come to murder somebody.

(10) Father-of-two Barry was attacked after he caught two youngsters trying to steal the badge from his silver grey BMW.

(CobuildDirect)

Dictionary Definition

1. If you steal something from someone, you take it away from them without their permission and without intending to return it. He was accused of stealing a small boy's bicycle... Bridge stole the money from client's accounts... She has since been jailed for six months for stealing from the tills

(Cobuild Dictionary)
Someone (person X) stole something from someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) because of this, X did something
(d) because X did it, afterwards Y didn't have these things any more
(e) X had these things
(f) Y didn’t want X to have these things
(g) people say that it is bad if someone does something like this
(h) when X did this, X knew that people say this

Component (a) implies that X, a person, possesses some things. In the examples of use they are money (1), (5), (6), cars (2), (10), a tank (3), a cash dispenser (7), a badge (10) and a baby (8). I think that (8) is an extension of the meaning of steal, because a person cannot be stolen. A difficulty arises where something is stolen from a place such as a car (1), a garage (2) or an armoury (4). However I think that the speaker is referring to the location of the taking and not the identity of the victim. The things taken from these places always belong to someone else. In (6) the millions are taken from a country, which is a place, but here it refers to a nation state made up of people. This is consistent with component (a), although there are collective victims.

Component (b) introduces the thief. The desire to have the things is essential to exclude involuntary actions. The first point about the identity of the thief is that only a person can steal things. We can say that an animal or a bird has stolen something but these are extensions of the meaning to make a point. For example, “an emu stole it” or “my dog stole it”. Here the speaker says stole rather than took, so as to imply the pejorative
invariant in *steal*. “people say that it is bad if someone does something like this”. At the same time the speaker drops the invariant in (h) because an emu can’t know that it is wrong to take things. In the case of a dog that has been trained to know right from wrong, the invariant in (h) remains. The second point is that X must have some things, and not some places, because one cannot steal land. In previous research I found that the two kinds of property recognised by the law, realty and personality, equate with the primes PLACE and THING.” (Langford 1997, 95). People and things such as soil and rock can be on land and can be part of the land, but land is not a thing, it is a geographical location. The same seems to be true in ordinary language, as can be seen in counter examples which are only possible in a metaphorical sense:

* He stole my farm
* He stole my paddock

One can say, “He stole my claim” (mining claim) but I think that this is an extension of the meaning in a specific domain, and does not compromise the accuracy of the meaning that I have suggested. I have inserted the quantifier *some* before *things*, because the following anaphor, *these*, requires that its antecedent be specified. Note that it is also essential for the thing to belong to someone other than the taker. A person cannot *steal* something that he or she owns.

Components (c), (d) and (e) are straight forward and capture the transfer of possession of the things from Y to X. Component (f) excludes lending or other transfers with the consent of the owner. Component (g) is the social evaluation and (h) is the thief’s guilty knowledge. He or she knows that society thinks that it is bad to do something like this
but nevertheless persists in doing it. I have avoided a prototypical scenario such as "X thought something like this" because the range of possible thoughts might be too wide to predict all uses. Some speakers consider that X must take the things by stealth, represented thus:

(h) "I don’t want anyone to know that I am doing this
(i) Y doesn’t know that I am doing it"

or

(h) "I don’t want anyone to know that I am doing this
(i) nobody knows that I am doing it"

The problem here is that Y can see X take something, such as a suitcase on a train platform, but the speaker can still say "X stole Y’s suitcase". Another view is that if Y did not object when X took something in full view, that was not stealing (Andrews 2001). This implies consent, but in my view it is stealing, because component (f) specifies that Y doesn’t want X to have the suitcase.

**Steal in legal language**

The meaning of *steal* in legal language is very similar to its ordinary language meaning. In the law of England and Wales, *stealing* means the same as *theft*, which is defined thus:

A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and thief and steal shall be construed accordingly.

(Theft Act 1968 (England and Wales) s1(1))
The elements of this offence in the definition are (1) dishonestly, (2) appropriate, (3) property, (4) belonging to another and (5) with the intention of permanently depriving the other of it. The explication which follows below captures these elements in a form which is very similar to the explication of steal in ordinary language.

*Dishonestly* is undefined and has the same meaning as in ordinary language. It is implied in the guilty knowledge component (k). *Appropriate* is defined in the widest possible terms, meaning “Any assumption by a person of the rights of an owner” (s. 3 Theft Act 1968). There is a great deal of complicated law on this element, but typically an appropriation will be a taking and carrying away. However a taking is not necessary. Simply altering a label on clothing can be theft (Smith and Hogan 1996, 519). Components (d)-(f) from the ordinary language meaning, are sufficiently general in meaning to capture all appropriations.

*Property* is defined in the Act and includes all property except land, things growing wild on land and wild creatures (s. 4 Theft Act 1968). Wild plants and creatures cannot be owned or possessed by anyone. It they are reduced into the possession of someone, say by cultivation of plants or taming of animals, they cease to be wild plants or animals. Wild plants and creatures are excluded by component (a) which implies that someone owns or possesses a thing. *Land* is excluded in component (a) by things, because land is a place and not a thing. *Belonging to another* is defined in the Act and includes possession and control and most rights and interests in property, including jointly owned property (s. 5 (1) Theft Act 1968). This element is captured in the explication by saying that Y has some things.
The element, *with the intention of permanently depriving the other of it*, is defined as the "intention to treat the thing to dispose of regardless of the other's rights" (s. 6 (1) Theft Act 1968). The reason for this is to exclude short term takings such as "borrowing" someone else's umbrella or taking a car for a short joy-ride and abandoning it. There are other offences which cover this kind of activity. I have introduced a new component (c) for this element to capture the permanence of the transfer of possession or ownership.

Someone (person X) *stole* something from someone else (person Y)

(a) Y had some things

(b) X wanted to have these things

(c) X wanted Y not to have these things any more

(d) because of this, X did something

(e) because X did it, afterwards Y didn't have these things any more

(f) X had these things

(g) Y didn't want X to have these things

(h) people say:

(i) it is bad if someone does something like this

(j) if someone does something like this, after this other people have to do something to this person because of this

(k) when X did this, X knew that people say this
Robbery

Rob in ordinary language

Rob is an elaboration on the concept of stealing. Rob and steal occur in different frames, because someone steals money or property but someone robs someone else, or robs a place. Rob has two meanings in ordinary language. The first meaning implies the use of threats or force on the victim. The second meaning is similar to steal. In the first meaning here are two acts, the hold-up of the victim and the taking of the victim’s money or property. Consequently, any definition of this meaning will be rather complex. I will call this meaning rob_{oli}.

Dictionary Definition

1 If someone is robbed, they have their money or property stolen from them.

*Mrs Yacoub was robbed of her £3,000 designer watch at her West London home... Police said Stefanovski had robbed a man just hours earlier.*

*(Cobuild Dictionary)*

Examples of use

(1) Former Wimbledon champion Pat Cash, 27, and his wife Emily robbed at knifepoint in Jamaica in August. Forced to hand over all the money they had with them. Also lost wedding rings, gold bracelet, tennis training bag, T-shirts and running shoes to muggers.

(2) A British woman was beaten and robbed by armed bandits as she drove through France. Linda Ryall was ambushed by the gang of three, who rammed
her car off the road and grabbed her handbag. They savagely beat the petite 51-year-old when she fought back, only fleeing when another motorist stopped ...

(3) Some housing estates could become no-go areas for fast-food deliveries after a restaurant worker was **robbed** at gunpoint. The 18-year-old was attacked early yesterday as he was making a delivery to a home in Barton, near Oxford's Blackbird Leys Estate, from the city's Dominoes Pizza Restaurant. The gunman ordered the teenager to put the bag containing the pizza on the road. He then picked it up and ran off, ...

(4) Men **rob** liquor store. Two men escaped with an undisclosed sum of money after holding up a liquor store in the Ipswich suburb of Yamanto last night. Police said a man entered the store armed with a revolver and ordered the attendant to lie on the floor while he stole ...

(5) **Brazen bandits rob** UK tourist. Surfers Paradise police have asked for help in catching three robbers who stole a British tourist's travellers cheques and passport at knife point about 6pm on Monday.

(6) A dying cancer patient was **robbed** of his life savings by a health worker appointed to care for him, it was revealed yesterday. Remo Gaida, 79, found his accounts had been plundered of £46,000 in a series of forged withdrawals.

(7) **Foreigners rob** NHS of millions. By Nicki Pope. A top-level inquiry has been launched into allegations that foreigners are cheating millions of pounds of free treatment from the NHS.

(8) A Walter Mitty character who bragged of working for the CIA and fighting as a mercenary was jailed yesterday for 13 years after **robbing** two banks.

(9) Newsagent Peter Black was blinded by ammonia when thieves **robbed** his shop of thousands of pounds in lottery cash.
Engineer Paul Onions identified Ivan Milat as the man who **robbed** him at gunpoint as he hitched around Australia in 1990.

*(CobuildDirect)*

The core meaning of *rob* is when someone steals from someone else by holding a knife (1), assaulting the victim (2), (5) holding a gun (3) (4) (10) or blinding the victim with ammonia (9). There are even two fixed phrases which can follow *rob* in this context: *at knifepoint* and *at gunpoint*. Note that the expression *holdup* is confined to robberies where a person is threatened with a weapon. This meaning of *rob* extends to examples where a place is robbed when a person is present. For example, when a bank is robbed, by implication, bank tellers or other staff are threatened or injured (8).

The dictionary definition suggests that *rob* is another word for *steal*. I think that this is indeed a meaning, although it is not supported by the examples of use in the dictionary entry. They imply that a robber has taken things from a person, presumably by using threats of force or actual force. *Steal* does not imply threats or force. An example of *rob* standing in for *steal* is in (6) and (7), where fraud is used to obtain money or free medical treatment. I will call this *rob*[0.12]. I think that this meaning also covers instances of robbery where there is no one present, such as *robbing* a mining claim by taking gold from it. This is simply stealing gold from the claim owner. A difficulty occurs with *grave robbing*. Is that robbing someone else? I think that it is possible to rob corpses in graves because for ordinary persons, corpses are persons. We can see this evidenced in language by the noun phrases, “a dead person” or a “dead body”.

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**Notes:**

1. Holding a knife
2. Assaulting the victim
3. Holding a gun
4. Blinding the victim
5. Fixed phrases 'at knifepoint' and 'at gunpoint'
6. Fraud to obtain money
7. Fraud to obtain free medical treatment
8. Bradley's account
9. Ammonia blinding
10. More fixed phrases
I will explicate the core meaning implying the use of force or threats of force.

Someone (person X) \( \text{robbed}_{\text{ol},1} \) someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) because of this X did something to Y
(d) because X did this to Y, X could do something else
(e) X did it
(f) Y didn’t want X to do it
(g) Y couldn’t do anything because of this
(h) because X did this, afterwards Y didn’t have these things
(i) X had these things
(j) Y didn’t want X to have these things
(k) people say that it is bad if someone does something like this

The beginning of this explication is the same as the explication of \textit{steal}. Someone possesses some things and someone else wants to have them. In (c) X does something to Y, such as pointing a knife at Y (5). This component is sufficiently broad to predict threats or force to compel submission, and also disabling the victim by acts such as tying up or knocking the victim unconscious. In (d) and (e), X does something such as taking money or property. Component (f) implies that Y didn’t want this to happen and (g) that it happened nevertheless because Y couldn’t do anything about it. A classic example is a robbery at gun point. The victim cannot do anything for fear of being killed or wounded. Components (h) and (i) were justified in the meaning of \textit{steal}. They imply
the transfer of possession of the money or property from Y to X. Component (k) is a social evaluation.

**Rob in legal language**

The definition of *robbery* in the law of England and Wales is:

A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or seeks to put any person in fear of being then and there subjected to force.

(Subsection 8(1)Theft Act 1968 (England and Wales))

Robbery is regarded by the law as a more serious form of theft and it therefore has higher maximum penalty of life imprisonment than theft, which has a maximum penalty of seven years (s. 8(2) Theft Act 1968 and s 26 Criminal Justice Act 1991). The legal definition of *rob* incorporates the meaning of *steal* and therefore requires that X have an intention of permanently depriving the other person of the thing taken. This appears at (c) in the following explication. In (d) “someone” substitutes for “Y” because the loser need not be the person who is subject to force. The remainder of the explication is the same as for *rob* with the addition of a punitive component at (n). *Force* has the same meaning as in ordinary usage which I have left at (d) as “because of this X did something to someone”.

Someone (person X) *robbed* someone else (person Y)

(a) Y had some things

(b) X wanted to have these things
(c) X wanted Y not to have these things any more
(d) because of this X did something to someone
(e) because X did this to Y, X could do something else
(f) X did it
(g) Y didn’t want X to do it
(h) Y couldn’t do anything because of this
(i) because X did this, afterwards Y didn’t have these things
(j) X had these things
(k) Y didn’t want X to have these things
(l) people say:
(m) it is bad if someone does something like this
(n) if someone does something like this, after this other people have to do
something to this person because of this
(o) when X did this, X knew that people say this

**Burglary**

The criminal lexicon in English has some interesting elaborations which are not found in many other languages. We have seen how *rob* was a more complex form of stealing, which limited stealing to those cases where the robber overcame the victim’s will to resist the taking of the victim’s property. *Burglary* is also more complex form of stealing, but it limits stealing to a place. More specifically, it is confined to takings where the burglar enters a building and takes some things from inside the building. These elaborations reflect the need in English to grade offences according to their severity. So *robbery* and *burglary* are more serious than simply stealing something. Of course, when courts come to punish offenders, they take into account aggravating
factors when sentencing offenders. There could simply be one offence of stealing, with higher penalties for aggravating factors such as the use of force to overcome the person’s will or entry into a building and committing a crime. However the lexicon is arranged so that there are separate crimes of **robbery** and **burglary** to reflect these aggravating factors.

The meaning of **burglary** is rather complex. The actors are the burglar and the victims and the scene is a building in a place with things inside it. The burglar enters the building and takes the things belonging to the victim. The victim does not consent to the taking. This conduct is socially unacceptable and the burglary knows that it is socially unacceptable. I will explicate the meaning of **burglary** in ordinary language and one of its legal meanings.

**Burglary in ordinary language**

**Examples of Use**

(1) Earlier this year in Sheffield, Ben Lyon, aged 73, who opened fire with his shotgun on a man he believed was about to **burglare** his allotment shed, was convicted of wounding with intent and given a suspended sentence.

(2) Davis recalls: “There was one block of eight flats where seven were **burgled** on the same evening, but the eighth had a radio playing so the thieves left it alone”.

(3) His Hampshire home was **burgled** again yesterday, and he lost £15,000 of chattels.

(4) Four times in the past four years, Florida Attorney-General Bob Butterworth’s home in Tallahassee has been **burgled** most recently this week. “Each time, I
have less and less left," Mr Butterworth said after the latest break-in, in which he lost clothes, a VCR, compact player and part of his wine cellar.

(5) "Fagin" duo used boy to rob elderly; Francis McDonagh and Anthony McDonagh Two "Fagins" men used a 12-year-old tearaway to burgle the homes of old people and then divided the spoils.

(6) More than six out of 10 shops are burgled at least once a year, with grocers bearing the brunt - 95 per cent can expect to be targeted at least once a year.

(7) Ex-boxing champ Henry Cooper, whose London home has been raided twice, failed to find his wife's engagement ring at an exhibition of burgled loot recovered in Operation Bumblebee.

(8) The day she was last seen alive, her bungalow was burgled.

(9) A former top Premier League referee appeared in court yesterday accused of burgling hotel rooms.

(10) A mother, who returned home to find she had been burgled, collapsed and died minutes after the discovery.

(CobuildDirect)

Dictionary Definition

If a building is burgled, a thief enters it by force and steals things. The usual American word is burglarize. I found that my flat had been burgled... I thought we had been burgled... Two teenagers burgled the home of Mr Jones's mother.

(Cobuild Dictionary)
Someone (person X) *burgled* a place

(a) X did something in a place
(b) there was something big (A) in this place
(c) this thing (A) was like a part of this place
(d) people could live inside A
(e) there were some things inside A
(f) someone else (Y) had these things
(g) because X wanted to have these things, X did something to A
(h) because X did this to A, X could be inside A
(i) when X was inside A, X did something else
(j) because X did this, afterwards Y didn’t have any of these things any more
(k) X had these things
(l) Y didn’t want X to have these things
(m) people say it is bad if someone does something like this

Component (a) locates the action in a place. Components (b)-(d) imply the kind of thing that can be burgled. The most common thing is a home (3) (4) (5) (7) and (8). Other things in the examples are a shop (6) and a hotel room (9). In example (10) a person is burgled. However I think that this is a special use confined to the passive voice. In the active voice, we can’t say, “John Smith burgled Mrs Jones”. It has to be “John Smith burgled “Mrs Jones’s house”. The key feature of these things is that someone can live in them. I have not used the word *building* because the kinds of buildings that can be burgled are limited to places where people can live (d). Churches, offices and other places where people do not live, cannot be burgled. The allotment shed in the examples
can be thought of as an extension of a dwelling. I considered simply locating the stolen things in a place:

there were some things in a place
people can live in a place of this kind

The difficulty with *place* is that it is too broad to be accurate. It predicts campgrounds, suburbs and even cities, all of which are places where people can live. Houses in suburbs and caravans on campgrounds can be burgled, but suburbs and campgrounds cannot be burgled. The invariant seems to be something inside which people can live, and take things in and out. Another alternative is to insert *dwelling* as a semantic molecule and explicate it separately. Note that it is not possible simply to amend component (d) to read "(b) people can live be inside things of this kind". This predicts cars, boxes and anything that people can be inside of.

Component (e) introduces the things to be stolen and locates them inside the thing on the place. Component (f) attributes possession of the things to someone else.

Components (g) and (h) represent the break-in. The burglar smashes a window or breaks the lock of a building or a room enabling the burglar to enter the building or room.

Components (i)-(k) are the taking of the things which transfers possession to X.

Component (l) excludes takings by consent such as loans. Component (m) is the social evaluation. In common with the other ordinary language explications, I have not inserted components representing punishment or guilty knowledge. These are reserved for the legal meanings which must specify them.
Burgle in legal language

The definition of *burglary* in the law of England and Wales is:

(1) a person is guilty of burglary if -

(a) he enters any part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) below; or

(b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) above are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any person therein, and of doing unlawful damage to the building or anything therein.

Subsection 9(1)Theft Act 1968 (England and Wales)

This definition covers a much wider range of activities inside the building than entering and stealing in *burgled*. The activities done after entry are all separate and complex crimes, some of which I have explicated in this thesis. There is no possibility of including two or more in a single explication so we must admit polysemy for *burgled* with seven meanings:

s 1 (b)

(1) X enters and steals

(2) X enters and attempts to steal
(3) X enters and attempts to inflict grievous bodily harm

(4) X enters and inflicts grievous bodily harm

s 1 (a) and (c)

(5) X enters with intent to commit grievous bodily harm

(6) X enters with intent to rape

(7) X enters with intent to do unlawful damage

The first meaning is the same as *burglary*, except that a punishment component is required. The other meanings are complex and will not be explicated here.

**Criminal Damage**

*Criminal damage* is a legal language concept which involves the destruction or damage of property belonging to another person. The statutory definition of *destroying or damaging property of another* in the law of England and Wales is:

(1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged is guilty of an offence.

Section 1 (1) Criminal Damage Act 1971 (England and Wales)

This definition contains two disjunctions, (1) *destroys or damages* and (2) *intending or being reckless*. There are no definitions of *destroy or damage* in the Act so therefore they bear their ordinary language meaning. One author thinks that *destroy* is “mere
surplusage" (Smith and Hogan 1993, 643). Indeed it is, because in order to *destroy* something one has to *damage* it. For *damage* there has to be some “physical harm, impairment or deterioration which can be perceived by the senses” (Smith and Hogan 1988, 678).

*Property* is defined as:

In this Act ‘property’ means property of a tangible nature, whether real or personal, including money and -

a) including wild creatures which have been tamed or are ordinarily kept in captivity, and any other wild creatures or their carcasses if, but only if, they have been reduced into possession which has not been lost or abandoned or are in the course of being reduced into possession; but

b) not including mushrooms growing wild on any land or flowers, fruit or foliage of a plant growing wild on any land.

For the purposes of this subsection ‘mushroom’ includes any fungus ‘plant’ includes any shrub or tree.

Section 10 (1) Criminal Damage Act 1971

*Property* can be land or personal property, and this is different to *stealing* where *property* can only be personal property. I have argued that, expressed in semantic primitives, *land* refers to PLACE and *personal property* refers to THING (Langford 1997, 72-73). This introduces another disjunction in the definition of criminal damage which would require an explication for damaging land expressed as PLACE and an explication for damaging personal property expressed as THING. I will give
explications only for damaging things, since in every case, THING can be substituted by PLACE to give the other meaning.

I will explicate the ordinary language meaning of *damage* and use that meaning to construct an explication of the meaning of *criminal damage*.

**Damage in ordinary language**

**Examples of use**

(1) A vacant warehouse being renovated was **damaged** extensively by fire in Townsville's western suburbs last night.

(2) Rowell's car was badly **damaged**, but he was unhurt and he is almost certain to be a starter in next Wednesday's round of the Quit World Series championship.

(3) Early this morning more than 50 State Emergency Service volunteers were making emergency repairs to homes and clearing debris while SEQEB workers were fixing power lines. Debris from the Rialto Theatre **damaged** at least half a dozen houses.

(4) The storm tore the roof off the 70-year-old building in Hardgrave St, sending it across three streets. The storm with wind gusts to 100km/h also **damaged** house roofs, tore down power lines and knocked down trees in western, central and eastern suburbs.

(5) United remain four points behind Newcastle, who have played two games less, and their problems yesterday began even before a ball was kicked when Peter Schmeichel, their goalkeeper, **damaged** a calf muscle warming up.
(6) One victim is believed to have suffered brain **damage** after being kicked in the head during the violence in the Alpine ski resort of Sauze d'Oulx.

(7) Thieves first snatched his wife's £10,000 black RS Turbo last year, when they dumped it with £1,000 of **damage** to the bodywork.

(8) In people with a weak stomach and bad drinking habits - such as excessive coffee drinking - that **damage** the stomach lining, anxiety and introversion can be the final push that leads to ulcer formation.

(9) He finally gave up this thankless task in February. But by then the **damage** to his marriage was done and Donna, 20, split with him.

(10) Use marinades in glass or earthenware dishes as constant use will **damage** the surface of metal containers and flavour the food.

*(CobuildDirect)*

**Dictionary definition**

1 To **damage** an object means to break it, spoil it physically, or stop it from working properly. *He maliciously damaged a car with a baseball bat...* *Lemon juice has the potential to damage hair, rendering it dry and brittle.*

2 To **damage** something means to cause it to become less good, pleasant, or successful.

*Jackson doesn't want to damage his reputation as a political personality...* *He warned that the action was damaging the economy.*

3 **Damage** is physical harm that is caused to an object. *The blast had serious effects with quite extensive damage to the house.* *Many professional boxers end their career with eye and brain damage.*

*(Cobuild Dictionary)*
Someone damaged_{OL} something

(a) someone did something to something (Z)
(b) because this person did that, something bad happened to Z
(c) after this happened, Z was not the same

Component (a) is a classic transitive sentence where the agent does something to the patient. The kinds of things which can be damaged are many. In the examples we see a warehouse (1), cars (2) (7), houses (3) (4), the human body (5) (6) (8), marriage (9) and containers (10). Component (b) implies the result. “Something bad” is essential because without it, the explication would simply mean that a thing had changed in some way. A change can be good or bad. Damage is a bad change to a thing. Component (c) is the permanent change made to the thing which remains until the damage is repaired. This component is taken from Anna Wierzbicka’s explication of fire where substances are burnt (Wierzbicka 1996, 224). It could also be “Z was not like before”.

Criminal damage

The following is my suggested explication of the meaning of criminal damage:

Someone (person X) damaged property belonging to another intending to damage it

(a) Y had something (Z)
(b) someone else (person X) did something to Z
(c) because X did this, something bad happened to Z
(d) X wanted it to happen
(e) because it happened, after this Z was not the same
(f) people say:

(g) it is bad if someone does something like this

(h) if someone does something like this, after this other people have to do something to this person because of this

(i) when $X$ did this, $X$ knew that people say this

Component (a) identifies property belonging to another person, the victim $Y$.

Components (b) and (c) replicate the components of the ordinary language meaning of *damage*. Component (d) inserts an express intention to cause damage to the property which is required by the legal definition. Component (e) is the result from the meaning of *damage*. The remaining components are the mental and normative elements of an expression referring to a crime. I have not included components dealing with interference to a person’s use of a thing because I do not think that they are essential. A person will have something so that he or she can do things with it, and if it is damaged he or she can no longer do something with it. For example a car might be damaged by cutting a brake cable so that the owner can’t drive it and a defaced picture can no longer be enjoyed by the owner. However putting something out of use is not an invariant, because one can *damage* things which can’t be owned or used such as wild flowers or rocks in a wilderness. The interference to use is captured in a general way through component (e).

This explication is quite simple, especially when compared with the meanings of other property offences such as *robbery* and *burglary*. It is simply doing something which causes a change in the state of an object. In this meaning the wrongdoer intends the change to happen. In the other meaning of *criminal damage*, the wrongdoer is reckless
as to whether the property is damaged. This meaning can be expressed by deleting component (d) “X wanted it to happen” and substituting components from the meaning of *reckless* which I explicated in Chapter 3. The substituted components appear at (d) and (e) of the following explication:

Someone (person X) *damaged property belonging to another being reckless as to whether it would be damaged*

(a) Y had something (Z)
(b) someone else (person X) did something to Z
(c) because X did this, something bad happened to Z
(d) when X did this, X knew that something bad might happen to Z
(e) X didn’t want to think about it
(f) because it happened, after this Z was not the same
(g) people say:
(h) it is bad if someone does something like this
(i) if someone does something like this, after this other people have to do something to this person because of this
(j) when X did this, X knew that people say this

**Arson**

The definition of the offence of *arson* is the same as for the offences of *destroying or damaging property of another* except that the damage or destruction can only be by fire:

(2) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.
Section 1 (3) Criminal Damage Act 1971 (England and Wales)

This is a more serious offence than the other offences in the section and has a maximum sentence of life imprisonment. To explicate arson, the component (c) in the explications of the other offences of criminal damage can be deleted and substituted by a component implying damage by fire:

Delete: (c) “because X did this, something bad happened to Z”
Substitute (c) “because X did this, fire happened to Z”

It is necessary to use the semantic molecule fire because the meaning of fire is far too complex to insert in the meaning of criminal damage. I have avoided saying “because X did this, Z was burnt”, because burn has to be defined through fire. An explication of fire has been proposed by Anna Wierzbicka:

(a) There is a fire in that place =
(b) something is happening in that place
(c) people can see it
(d) if at a time [at night] people couldn’t see anything else in this place, they could see this
(e) if someone is near that place, this person can feel something [warm, hot] because this is happening
(f) something is happening to some things in that place [e.g. wood, coals] because this is happening
(g) after this, these things will not be the same [they will turn to ashes, etc.]
(h) people can think about it like this:
(i) this is something
(j) if someone touches this something, this person will feel something very bad

Component (a) indicates that fire is an event, or a process, (b) and (c) that it is highly visible, (d) that it generates warmth, (e) and (f) that in the process some substances are “burnt”. Component (g) indicates that people think of this event or process in a special way, namely, (h) that it is a “thing”, a tangible thing (i) which, however, should not be touched (because one would burn oneself).

(Wierzbicka 1996, 224)

Fraud

A fraud is a kind of deception which causes the victim to transfer property to the wrongdoer. A deception occurs when someone does something which induces another person to think that something is true, when it is not true. Deception has a very similar meaning to lie, the main difference being that a person can be deceived by any speech, writing or any conduct, but a lie must be spoken or written. I will review some work on lie and then propose an explication of deception. From this explication I will then derive the meaning of fraud in ordinary language and in legal language.

Lie in ordinary language

Lie and deceive are related concepts, lie having a simpler meaning. Coleman and Kay offered this prototypical definition of a “good” lie:
... the speaker (S) asserts some proposition (P) to an addressee (A)

(1) a. P is false
    b. S believes P to be false
    c. In uttering P S intends to deceive A

(Coleman and Kay 1981, 28)

They don't claim that this definition is adequate. It is a "a prelinguistic, cognitive schema or image; and that speakers are equipped with ability to judge the degree to which an object (or, if you prefer, the internal representation thereof) matches this prototype schema or image" (Coleman and Kay 1981, 27). The definition was arrived at by introspection and tested on seventy-one native speakers using a questionnaire with eight stories, one satisfying all components of the definition, and the others satisfying some of the components or none of them. The speakers rated the stories on a scale from one (very sure non-lying) to seven (very sure lie). Nearly all of the speakers rated the story which satisfied all of the components to be a very sure lie and the story satisfying none of the components to be a very sure non-lying. The other stories lay on a continuum between the two poles. The researchers concluded that the definition was not a list of necessary conditions which are true or false, but a list of conditions which are evaluated by degree (Coleman and Kay 1981, 43).

The value of this experiment turns on the definition and the experimental design. On the face of it, the definition is inadequate, because it does not have a normative component saying that people think that lying is bad. If there is a prototypical definition of lie, then a normative component is surely part of the prototype. It is certainly part of the meaning of deceive, which Coleman and Kay use to define lie. The definition is also unclear,
using complex words from logic (proposition and false), from linguistics (speaker, addressee and uttering) and from ordinary language (intends and deceive). Because the stories were written from the definition, then if the definition is inadequate, the stories will not properly represent uses of the word lie. The ratings too were made against the definition, and if the definition is inadequate and unclear, the ratings must be questionable. Moreover the very approach of rating stories on a scale, invites people to evaluate by degree rather than give a true/false answer. This leads to the conclusion that prototypes work and that lists of necessary and sufficient conditions do not work. In other words, the methodology is biased towards proving the hypothesis.

Swetser took a more radical approach than Coleman and Kay, saying, “A lie, then, is a false statement made in a simplified informational-exchange setting” (Sweetser 1987, 52). Unlike Coleman and Kay, she says that the definition is not the prototype, but the “context” (Sweetser 1987, 52). The rest of the meaning is in cultural models underlying the vocabulary (Sweetser 1987, 63). Anna Wierzbicka has pointed out that this explanation fails when there are two words in a language meaning “false statement”, but one underlying cultural model. In Russian, vrat and lgat both mean to lie, leaving learners to puzzle over the cultural model underlying their meaning (Wierzbicka 1990, 352). I think that we need go no further than English, where lies, fibs, perjury, slander and libel are all false statements, with presumably the same underlying cultural model. These words can only be distinguished by careful work in contrastive semantics.

These two different approaches in “prototype semantics” show how vague is the word “prototype” itself (Wierzbicka 1985, 340). A prototype can be a definition or part of a definition, but not a substitute for a definition. If people extend the range of use of a
word outside its meaning, the meaning is still determinate. (Wierzbicka 1985, 341).

Wierzbicka’s suggested explication for lie is:

\[
X \text{ lied to } Y = \\
X \text{ said something to } Y \\
X \text{ knew it was not true} \\
X \text{ said it because } X \text{ wanted } Y \text{ to think it was true} \\
[\text{people would say: if someone does this, it is bad}]
\]

**Deceive in ordinary language**

**Examples of Use**

(1) But Wright's goal was worth the wait as he found Polak inside South box and received the return to sidefoot past a stranded Dean Anastasiadis. Polak's sharp turn deceived two defenders and his pass handed the goal to Wright on a plate from 10m out.

(2) Do you ever feel you are deceiving the branch staff by pretending to be something you're not?

(3) The nationality criterion would apply to any one of the inhabitants of those numerous countries which are little better than slums run by thugs. Let us not deceive ourselves; these 100 million are all deserving cases.

(4) Yet a basic problem is that increased brain size in humans correlates not only with group size, but also with other variables, such as an improved diet, especially meat-eating, and also with an ability to deceive, known as the Machiavellian
intelligence hypothesis. Successful deception requires a theory of mind, an ability to imagine the viewpoint of others.

(5) Defence: Denies that guidelines were secretly doctored; says he approved export licences because Paul Henderson, of Matrix Churchill, “gave me the plainest assurances that they were going for innocent purposes”. Verdict: Trefgarne honestly believed the machine tools were for civilian use and was deceived by Henderson.

(6) Plainly, a public inquiry should be held because, no matter how skillful Rose and Fred West were at deceiving people, they should not have been able to dupe all the social workers who visited that house.

(7) Closely-cropped wavy hair led down to a grey moustache and a short, neat beard. His skin, a light brown, was paler than many of his countrymen. Described as the mouse with the jaws of a lion, his gentle, kindly appearance did not deceive me. I knew I was standing before one of the most supreme Christian warrior kings the world had ever known.

(8) He said the decoys made of moulded fibreglass mounted on a metal frame and designed for on-site assembly are realistic enough to deceive attacking pilots. They possess metal to reinforce positive identification and are furnished with a crude heat source to confuse infrared sensors. The deception possibilities are endless, from simple camouflage to misinformation, to elaborate electronic cat and mouse games.

(9) The Sudeten Germans do not deny they jubilantly greeted Hitler as their saviour, but they say they did not expect him to invade the rest of the country. Many claim they were also deceived by Hitler, and they say the mass expulsion of all Germans after the war was disproportionate revenge by their former Czech neighbours.
A multi-national corporation was accused of heartlessly **deceiving** AIDS sufferers and their families and loved ones with false claims on behalf of the discredited remedial drug AZT.

**Dictionary Definition**

If you **deceive** someone, you make them believe something that is not true, usually in order to get some advantage for yourself. *He has deceived and disillusioned us all ... If you can make the last 10 seconds exciting, you can deceive your audience into thinking it's been like that all along.*

*(CobuildDictionary)*

Someone (X) **deceived** someone else (Y)

(a) someone (X) did something

(b) X did this because X wanted another person Y, to think something (Z)

(c) X knew that this something (Z) was not true

(d) X wanted Y to think that it was true

(e) because X did this, Y thought that it was true

(f) people say that it is bad if someone does something like this

This dictionary definition is correct in not limiting **deceive** to speech and writing. *Lie* does require speech or writing, but someone can be **deceived** by conduct as well as by speech or writing. In the examples of use, (1) is a classic example of deception by conduct where a soccer player does a sharp turn, causing two defenders to think that the player was going to do something else. This results in an easy goal being scored.

Example (2) is another deception by conduct, but this time without any result following
from the deception. Examples (5) and (10) are deceptions by words, (7) a deception by appearance and (8) a deception by use of a decoy to confuse military pilots. I think that decoys are a very good example of deception. Duck shooters, for example, float imitation ducks on lakes, to attract real ducks by making them think that the decoys are real ducks. Component (a) of the explication must therefore have X do something. This contrasts with the meaning of lie, which has as its first component, “X said something to Y”. In deceive the thing that X does can be X saying something, but it does not have to be X saying something.

Component (b) is X’s desire to influence the mind of the victim. Components (c) and (d) are taken from the meaning of lie and say that X wants the victim to think that something is true when X knows that it is not true.

An interesting question concerning the meaning of deceive, is the effects of the false statement on the victim and on later events. Firstly, does the victim have to think that the false representation is true? Secondly does the victim have to act on the false belief and do something. In example (1) the two defenders believe something false to be true and they act on that false belief, so that something bad happens to them when a goal is scored. Are the false belief and the acting the false belief invariants? In the case of lie, it is not necessary for the listener to believe that the false words are true. So we can say, “I know that he is lying”. The syntactic frame for lie is “someone lied to someone else”. There is no implication that something happened to the listener. But can we say, “I know that he is deceiving me”? I don’t think that this is possible. The syntactic frame for deceive is “someone deceived someone else”. It is a transitive frame which implies that something happens to the patient. It implies that that the patient must think that the
false representation is true. Since the patient thinks that it is true, it is not possible for the patient to deny the false belief by saying “I know that he is deceiving me”. For these reasons, I have added component (e).

The second question is whether or not the victim has to act on the false belief and do something which benefits someone else. The dictionary definition says that you usually deceive in order to gain a benefit for yourself. Is this an invariant in the meaning of deceive? Clearly it can be implied in some uses, such as example (1), where a soccer player deceives two defenders and gains the advantage of a goal. However advantage is not a necessary implication in the other examples. All that happens is that the deceiver makes some one else think something which is not true. In example (8), decoys are made so that pilots will attack them, believing them to be real. The makers of the decoys will achieve an advantage from making decoys, but that is independent of the deception, which is the process of causing the attacking pilots to think that the decoys are real. However, acting on a false belief to someone else’s benefit is a part of the meaning of fraud. As I will now show, the meaning of deceive can be further elaborated so as to define fraud.

Fraud in ordinary language

A fraud is a special kind of deception where the victim is deceived into transferring property to the wrongdoer. As a property offence, it has elements of meaning in common with steal, but there is no taking without the consent of the owner. Instead the victim freely transfers the property, believing something to be true, which is in fact false. I will suggest an explication of the meaning of the verb, defraud.
Examples of use

(1) Just 24 hours earlier Rostenkowski pledged to fight allegations that he defrauded taxpayers of hundreds of thousands of dollars.

(2) Some fans turned on him, frustrated by his style of play and angered at suggestions he had defrauded the club.

(3) A complaint said Allen had defrauded the board by continuing to receive compensation after returning to work as proprietor of a restored guest house in Moliagul Victoria, between March 1 and August 9 last year.

(4) The mortgagee company which was swindled to the tune of $112,000 in the Denise Maw case fears it may have been defrauded again. It has passed on a second file to police which it suspects could contain more forged signatures and false documents.

(5) She stated that it was our word against theirs that they had defrauded the owners of unit 9.

(6) John Fortune, 35, unemployed, is under arrest for dressing up in a dog-collar and cassock and impersonating a Catholic priest to hear confessions and defraud a widow of $12,000.

(7) Phillips dealt first with the charge against Kevin and his late father Robert, that they conspired to defraud the pension funds by misusing £100m worth of shares in an Israeli company, Scitex, to raise loans for the private Maxwell empire’s holding company, the Robert Maxwell Group.

(8) Le Monde says BCCI was linked with the drugs business in Lagos. In addition it also was reported last week to have defrauded the government of Nigeria of hundreds of million dollars in a racket which involved booking phoney cargoes which were then paid for by government agencies.
Those detained are the Treasurer and the Financial Director (Mr Wolfgang Pohl and Mr Wolfgang Langnitschke) of what is now called the Party of Democratic Socialism (PDS) They are reported to have admitted secretly transferring money abroad to prevent confiscation by the Bonn government -- but denied trying to defraud the party.

But in the meantime, Milli Vanilli's fans are distraught. They are ringing up radio stations in their hundreds, refusing to believe that their idols can't sing, and wanting their record money back. One Californian woman is suing the group and their record company, claiming that her son was defrauded.

(Dictionary Direct)

Dictionary Definition

fraud, frauds,

1 Fraud is the crime of gaining money or financial benefits by deceit or trickery. *He was jailed for two years for fraud and deception... Tax frauds are dealt with by the Inland Revenue.*

defraud, defrauds, defrauding, defrauded

If someone defrauds you, they take something away from you or stop you from getting something that belongs to you by means of tricks and lies. *He pleaded guilty to charges of conspiracy to defraud the government... They conspired to defraud the federal government of millions of dollars in income taxes.*

(Dictionary Direct)
Someone (person X) defrauded someone else (person Y)

(a) Y had some things

(b) X wanted to have these things

(c) because of this, X did something

(d) X did this because X wanted Y to think something (Z)

(e) X knew that this something (Z) was not true

(f) X wanted Y to think that it was true

(g) because X did this, Y thought that it was true

(h) because Y thought that it was true, Y did something

(i) because Y did this, after this, Y didn’t have these things any more, X had these things

(j) people say that it is bad if someone does something like this

This explication begins the same as the explication of steal by vesting property in Y (component (a)), which X wants to acquire (component (b)). Because X wants the property, X does something, X deceives Y. Components (c)-(g) are the same as the components in the explication of deceive. Some examples of deception are receiving compensation when working (3), impersonating a Catholic priest (6) and booking phoney cargoes (8). Finally, the meaning of deceive is extended to imply that Y acted on the false belief and transferred the property to X (components (h) and (i)). In the examples, the property transferred is money (1), (3), (4), (6), (7) and (8). The final component is a negative social evaluation.
Fraud in Legal Language

In England and Wales, the crime of fraud is called obtaining property by deception. The definition of this crime is:

A person who by any deception dishonestly obtains property belonging to another with the intention of permanently depriving the other of it, shall on conviction on indictment be liable to imprisonment for a term not exceeding ten years.

Subsection 15(1) Theft Act 1968

The deception must come before the obtaining and the deception must cause the victim to hand over the property. Deception is defined thus:

For the purposes of this section “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person. Theft Act 1968 s15 (4)

The defendant must make a false statement. A true statement cannot be a deception, even if the defendant thinks that it is false. The deception must be deliberate or reckless. Simply being negligent is not enough. Smith and Hogan define deliberate and reckless in this context thus:

A deception is deliberate if D knows his statement is false and will or may be accepted as true by P. A deception is reckless if he is aware that it may be false
and will or may be accepted as true by P; or if he is aware that it is ambiguous and may be understood by P in the false sense. (Smith and Hogan 1996, 571).

The false statement can be by words, which is clear enough, but it can also be by conduct. Conduct can be wearing a uniform which induces a shopkeeper to give credit (Barnard (1837) 7 C&P 784) or wearing a badge representing that the defendant was a bookmaker on a racecourse (Robinson (1884) 10 VLR 131). The statement can be a fact, such as that the defendant is authorised to collect money from the victim, or it can be law. For example the defendant can say that a legal document has a particular effect, when it does not (Smith and Hogan 1996, 575). The other elements of the offence, dishonestly and with the intention of permanently depriving the other of it, have the same meanings here as they do for stealing.

I think that the core meaning of obtaining property by deception is indistinguishable from the meaning of fraud in ordinary language. The legal meaning will have the following explication which repeats the explication of fraud, except that punitive and guilty knowledge components are added at (l) and (m).

Someone (person X) defrauded someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) because of this, X did something
(d) X did this because X wanted Y to think something (Z)
(e) X knew that this something (Z) was not true
(f) X wanted Y to think that it was true

(g) because X did this, Y thought that it was true

(h) because Y thought that it was true, Y did something

(i) because Y did this, after this, Y didn’t have these things any more, X had these things

(j) people say that it is bad if someone does something like this

**Blackmail**

The word *blackmail* came into legal language from the counties bordering Scotland. It was money paid by landowners to Scottish chieftains to stop them raiding the landowners’ farms. Today we would call that *protection money*, which refers to money paid to criminals in return for a promise not to injure someone and not to damage property. The modern meaning of *blackmail* is the action of demanding something by using a threat to expose some secret knowledge which the victim wants to keep secret. It is a speech act verb belonging to the same semantic field as *warn*, *threaten* and *menace*.

**Blackmail in ordinary language**

In *English Speech Act Verbs*, Anna Wierzbicka (Wierzbicka 1987, 177-180) included *blackmail* in “The Warn Group” of semantically related verbs, together with *warn* and *threaten*. Her explication of the illocutionary force of *blackmail* was:

I want you to do X

I assume you understand that it will be good for me if you do it

I know that you don’t want to do it

I think that I can say something that will cause you to do it
I say: I know something bad about you that other people don’t know
I say: I will cause other people to know it if you don’t do X
I assume that it would be more than bad for you if other people come to know it
I know that people would say that it is a bad thing to say this
I say this because I want to cause you to do X

(Wierzbicka 1987, 180)

The key features of this explication were secret knowledge ("I know something bad about you that other people don’t know"), self-interest ("it will be good for me if you do it"), premeditation ("I think that I can say something that will cause you to do it") and a pejorative component ("I know that people would say that it is a bad thing to say this"). Wierzbicka considered blackmailing to be closely related in meaning to threatening but more specific, so that threatening does not have a pejorative component, nor a request to the addressee to do something (Wierzbicka 1987, 180). Indeed threaten was given a more general meaning:

I say: I will do something that will be bad for you if you don’t do something
I assume that you wouldn’t want me to do that
I say this because I want to cause you to do something that you don’t want to do

(Wierzbicka 1987, 178)

Examples of Use

(1) Michael and Kimberly find out that Peter is taking kickbacks from drug companies so they set out to blackmail him.
(2) Doctors have condemned the Federal Government's decision to allow tobacco sponsorship for some major sporting events as contempt of smoking-related death. They said failure to tighten control on tobacco would allow tobacco companies to abuse laws and **blackmail** the Government into granting further exemptions.

(3) One hopes her writing for television soaps is not rubbing off on her style. The dark side of the story, including the sexual **blackmail** of Clover by Godfrey's brother Vic, is underdeveloped.

(4) An ex-junkie plotted to **blackmail** an aide to Deputy Premier John Prescott after he left secret documents on a train. John Boddington, 48, demanded £100 for returning the papers to Derek Plews, who forgot them after nodding off after an office leaving party.

(5) ... bomb alert yesterday after a device was delivered to Dublin's tourism headquarters. Dissident Loyalist paramilitaries have been blamed for the attempted attack. Government leaders slammed the renegade terrorist bid - and vowed it won't wreck the peace process. We are not going to put up with this type of **blackmail**," ...

(6) Justin Fashanu claimed in a suicide note that he was being **blackmailed** by a lover of 17. The shamed soccer star also hotly denied accusations that he raped the youth in America. The letter, on white Filofax paper, was discovered by police near Fashanu's body after he hanged himself.

(7) The PLO Chairman, Mr Yasser Arafat, has accused the United States of yielding to Israeli **blackmail** in its attempts to convene a Middle East peace conference.

(8) Judge Sol Wachtler is accused of extortion and threatening his former lover's 14-year-old daughter. FBI officials say the judge was upset at the break-up of a long affair. Wachtler allegedly made threatening phone calls, demanding $20,000 in
blackmail and mailed sexually offensive letters to the woman's daughter, whom he also allegedly threatened to kidnap.

(9) Siegel: Did anyone ever explain and say plainly what the point of keeping files on so many people was? Was it useful for--for blackmailing purposes or for leads in future crimes as yet uncommitted?

(10) Government sources say Eta deliberately held Senor Aldaya longer than it needed as a warning to other Basque businessmen who refuse to pay Eta's "revolutionary tax", a blackmail system used to finance their operations. It is estimated that since 1970 Eta has obtained more than £20 million from kidnapings.

Dictionary Definition

blackmail blackmails, blackmailing, blackmailed

1 Blackmail is the action of threatening to do something unpleasant to someone, such as to reveal a secret about them or to harm them, unless they do something you tell them to do, such as giving you a large sum of money. It looks like the pictures were being used for blackmail. Opponents accused him of blackmail and extortion.

2 If you describe an action as emotional or moral blackmail you disapprove of it because someone is using a person's emotions or moral values to persuade them to do something against their will. The tactics employed can range from overt bullying to subtle emotional blackmail.

3 If one person blackmails another person, they use blackmail against them. He told her their affair would have to stop, because Jack Smith was blackmailing him. The government insisted that it would not be blackmailed by violence. I thought he was trying to blackmail me into saying whatever he wanted.
blackmailer, blackmailers  The nasty thing about a blackmailer is that his
starting point is usually the truth.

(Cobuild Dictionary)

The examples of use support Anna Wierzbicka’s explication. Examples of secret
knowledge are the taking of kickbacks (1), sexual knowledge (3) (6), and leaving secret
documents on a train (4). The blackmailers act out of self-interest and think what they
are going to do beforehand. Wierzbicka’s explications used a metalanguage made up of
about 175 words (Wierzbicka 1987, 383-387), including complex expressions such as
cause and assume. However I think that, in essence, her explication of blackmail is a
good one. Here is a revised explication using the current inventory of primes:

Person X blackmailed_{oc} person Y

(a) person X said something like this to person Y:
(b) I want you to do something good for me (A)
(c) I know that you don’t want to do it
(d) I know something bad about you
(e) I know that other people don’t know it
(f) I know that you don’t want other people to know it
(g) I say: if you don’t do A, I will say this to other people
(h) X said this because X wanted Y to think: “I have to do A”
(i) people say that it is bad if someone says something like this
Component (a) introduces the prototypical scenario for this speech act verb. Component (b) is X’s motive of self-interest where the benefit will accrue to X and not to any one else. In component (c) is X’s knowledge that his or her benefit will be to Y’s detriment. For example, Y will pay money to X. I can threaten out of self-interest, but can I threaten for the benefit of someone else, even the addressee? For example, I can threaten to smack a child if the child doesn’t take medicine. However I can’t blackmail an addressee into doing something good for the addressee. As Wierzbicka said: “the idea of a stern but disinterested blackmailer seems rather self-contradictory” (Wierzbicka 1987, 180). Components (d), (e) and (f) are the secret knowledge and components (g) and (h) the victim’s fear of the secret being revealed. The *Cobuild Dictionary* definition claims that a threat of harm is enough: “to reveal a secret about them or to harm them”. I think that threatening harm is simply a threat and not blackmail. The threat in *blackmail* must be to reveal a secret, typified by a threat to tell the world that someone is a homosexual or to tell someone’s wife that her husband is having an affair: “He told her their affair would have to stop, because Jack Smith was blackmailing him” (*Cobuild Dictionary* 1040). Component (g) is the utterance itself and (h) the reason for X making the utterance. Component (i) a normative component where social disapproval is made explicit.

**Blackmail in legal language**

The statutory definition of *blackmail* in the law of England and Wales is:

1. A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with
menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief -
(a) that he has reasonable grounds for making the demand; and
(b) that the use of the menaces is a proper means of reinforcing the demand.
(2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces do or do not relate to action to be taken by the person making the demand.

Section 21 Theft Act 1968

The four elements of this crime in legal discourse are: (a) the demand, (b) menaces, (c) unwarranted demand, and (d) view to gain or intent to cause loss. I will not attempt to explicate each of these metalanguage expressions and slot those explications into a single explication of *blackmail*. The result would be a lengthy and incomprehensible explication. Nor will I explicate them and insert them as “semantic molecules” in an explication of *blackmail*. That would be equally incomprehensible, since the reader would have to memorise each explication of the expressions, and somehow carry that knowledge over into the explication of *blackmail*.

A *demand* can be in any form (Smith and Hogan 1996, 619) and it can be any kind of demand, not just a demand for money or property. For example, the defendant might demand employment or a signature on a valuable security document. *Menace* has been held to be an ordinary word which the jury will understand (*Lawrence and Pomroy* (1971) 57 Cr App Rep 64, L CA). The third element of *blackmail* is an *unwarranted demand*. Demands accompanied by threats can of course be lawful. For example, lawyers routinely demand money from debtors and threaten to take them to court if the
money is not paid. Smith and Hogan see demands along a subjective continuum, with the lawyer’s demand at one end and at the other end, X asking Y for Y’s property, and if not handed over, X will kill Y (Smith and Hogan 1996, 621). Smith and Hogan say that X’s threat is “an obvious instance of blackmail”. It is not however *blackmail* in ordinary language, because there is no threat to reveal a secret. There is a subjective test for *unwarranted*, so that the jury has to consider if the person making the demand actually believed that he/she was entitled to ask for something and actually believed that the demand was the correct way to get the thing (Smith and Hogan 1996, 621). The fourth element of *blackmail* is “with a view to gain for himself or another or with intent to cause loss to another”. The gain or loss must be money or property:

... ‘gain’ and ‘loss’ are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and -

(i) ‘gain’ includes a gain by keeping what one has, as well as a gain by getting what one has not; and

(ii) ‘loss’ includes a loss by not getting what one might get, as well as a loss by parting with what one has.

Subsection 34(2) Theft Act 1968

Note that the neither the blackmailer nor the victim need gain or lose. For example the blackmailer can demand that a third person destroy the victim’s property, so that the victim loses but the blackmailer does not gain. If the demand is to destroy someone else’s property, then the blackmailer doesn’t gain and the victim doesn’t lose (Smith and Hogan 1996, 623).
Person X blackmailed person Y

(a) person X said something like this to person Y:
(b) I want you to do something (A) for someone
(c) I know if you do A it can be one of these two things:
(d) it can be good for someone
(e) it can be bad for someone
(f) I know that you don’t want to do it
(g) I say: “if you don’t do it, I will do something bad to you”
(h) X said this because X wanted Y to think: “I have to do A”.
(i) people say :
(j) it is bad if someone says something like this
(k) if someone says something like this, after this other people have to do something to this person because of this
(l) when X did this, X knew that people say this

This explication differs considerably from blackmail in ordinary language. Components (b)-(e) describe the gain or loss which can accrue to any person, and not necessarily to X or Y. Note that X can also want to do something bad for someone and that person can be Y or some other person. Self-interest must cause X to ask Y to do something good for someone else. He or she must have a reason to say it, unless of course he or she is mentally ill. The secret knowledge components of the ordinary language meaning are absent. As I mentioned previously, a threat to reveal secret knowledge is not part of the legal meaning of blackmail. The threat can be a threat to kill the listener (Smith and
Hogan 1996). Since *blackmail* lacks a threat to reveal secret knowledge, it is really just a complex *threat*.

**Forgery**

The verb *forge* is polysemous and seems to have an element of *make* in its meaning, which links such disparate uses as:

(1) They agreed to forge closer economic ties,
(2) The project will help inmates forge new careers.
(3) He admitted seven charges including forging passports.
(4) To forge a blade takes great skill.

*(Cobuild Dictionary)*

The *Cobuild Dictionary* gives separate meanings which it claims predict these uses. The blacksmith heating horseshoes in a forge (4) and forging them with hammer and anvil, is a salient meaning and probably the original meaning. There is no element of falsity in that meaning. The *forging* of relationships between people (1) and the *forging* of some difficult task (2) are similar to the forging of metals. It may be possible to propose a single meaning which predicts the uses in (1), (2) and (4). The meaning of *forge* in example (3), which includes the forging of documents, banknotes and paintings, is the meaning which I am concerned with here. In this meaning, someone does something to something, wanting someone else to think that it is something which it is not. So for example, when someone forges an Australian passport, the forgery is not an Australian passport, but the forger wants immigration officials to think that it is genuine. By doing
this, someone can benefit, for example by gaining entry to Australia, and someone else can lose. It is a form of deception which has parallels with the meaning of fraud.

**Forgery in ordinary language**

**Examples of Use**

**Forgery of documents**

(1) The kids' bedroom is a compost heap and they stay in bed all Saturday. Keep quiet. They rot their brains watching endless videos. Say nothing. They nick your TippEx to *forge* ID cards so they can get into clubs. Keep your mouth shut. Remembering what you were like as a child helps.

(2) False passports are easily available in this part of the world especially in Beirut. What is not clear yet is whether any or some or all of them on the flight in question were *forged*. If they were all fakes they were either remarkable examples of the art of *forgery* or someone somewhere was either very careless or in the know.

(3) A conman murdered a pensioner, tried to kill another and *forged* their wills to inherit thousands of pounds, a court heard yesterday.

(4) Most taxpayers, however, are mainly concerned with Form 1040. The average time required to complete and file this form is about 11 hours. You will probably need more like a month, not counting the time required to *forge* receipts.

(5) Next Sunday, enjoy the visually enchanting Autumn Moon at 5.30pm and stay on for Schtonk! a savagely funny film from Germany based around the *forged* Hitler diaries.
In the Maw case, the mother-of-four owned a $200,000 mortgage-free home at The Gap, but found out in April someone had forged her name at least nine times, and that of a lawyer, to put a $112,000 mortgage on the property.

Ms White said Iguchi sold without authority United government bonds belonging to Daiwa Bank or its customers. The sales were used to cover trading losses. She said that to conceal the losses Iguchi forged Bankers Trust York Corp account statements and placed them in Daiwa's files.

Ways in which e-mail messages can be forged and how to stop your mail messages from being misused are covered, as are the dos and don'ts of buying new or second-hand goods over the Internet.

 Forgery of evidence

... detective who found the bloody glove central to the prosecution's case against O.J. Simpson, tells a screenwriter how he regularly beat suspects and manufactured evidence at the same time voicing a deep hatred of "niggers". Two other detectives have since been suspended in an unrelated matter for forging evidence in a murder trial.

 Forgery of money

To the horror of the French mint, the German argument was given a boost by a recent report in the French newspaper Liberation, which highlighted how easy it is to forge 10-franc coins. Apparently as many as 20 of 10-franc coins in circulation have been churned out by counterfeiters, mostly in southern France or just over the border in Italy. Given the same technology, forging euros would be a doddle.

He found an easy way to score tens of thousands of dollars by forging Australia Post money orders. An investigator said yesterday: "Counterfeiters who slave for
endless hours trying to forge the perfect banknote must be shaking their heads. All this bloke needed was an ink eraser and a pen.”

(12) One of my best friends, who was exceptionally generous spent the lot and ended up forging cheques to keep his friends.

Forgery of art and furniture

(13) Expect to pay as little as £55 for an unattributed 18th-century image, and as much as £1,200 for one that is attributed to an artist. Due to the perishable nature of the medium, many have not survived and, unfortunately for collectors, they are relatively easy to forge. Miniatures dealer Edwina Brett from Moreton-in-Marsh, Gloucestershire cautions all would-be collectors to ensure they know exactly what they are buying, as differing artistic techniques can make the subject confusing for newcomers.

(14) We have been asked not to reveal which of the many beautiful pieces of mainly 16th and 17th-century Roman furniture and other objects have been personally restored - and in some cases even forged - by Raniero Gnoli himself.

(15) It looks pretty well made. “I pulled a drawer and inverted it to check the wear and patination of age. Some wicked modern fakers add these small convincing details. It's terrible to buy a piece like this, only to find once you've got it home that it's phoney. We have a saying in this rottenest game, that you can never make anything good from a bad fake. But this was some skilled Victorian carpenter's forged Sheraton”.

(CobuildDirect)
Dictionary Definition

forge forges, forging, forged

If someone forges something such as a banknote, a document, or a painting, they copy it or make it so that it looks genuine, in order to deceive people. He admitted seven charges including forging passports... She alleged that Taylor had forged her signature on the form... They used forged documents to leave the country.

(Cobuild Dictionary)

I searched the entire Cobuild Corpus for the uses implying the making of false things. The making of false documents was by far the most common. The documents could be a will, an identity card, certificates, passports, receipts, diaries and even electronic documents such as email messages. There was one instance of evidence being forged, which could mean only a document or thing, because spoken evidence could not be forged. Forgery of banknotes, coins, cheques, postal notes and bonds are special kinds of documents which represent money. This too was a common use. Examples of forged art and forged furniture are rare. I found only three: (13) (14) (15).

Searching for an invariant here is not easy. All of the general documents, the money documents and coins have words written on them which say what they are. The images in (13) however need not be signed or have any writing on them. They can be attributed to an artist, presumably on the basis of inferences from the style of that artist. If someone makes a new painting in that style and a buyer is persuaded that it is from a particular artist, then that can be a forgery. The forged furniture might be signed, but it
too might simply copy all the features of 16th and 17th-century Roman furniture (14) or of the furniture maker, Sheraton (15). It seems therefore that writing is not an invariant. Things such as bicycles or houses can’t be forged, presumably because their purpose is not to communicate. If a bicycle maker copies a “Giant” brand bicycle and advertises it as a “Giant Bicycle”, the maker does not forge a bicycle, he/she commits a civil wrong such as passing off. If an architect has a house built which is a copy of a house by the architect Frank Lloyd Wright, and sells it as a “Frank Lloyd Wright House” that is copying and false representation, but it is not forgery. But if the architect designs his own house and sells the plans as Frank Lloyd Wright, the plans are a forgery. It is very difficult to see an invariant here. It might be suggested that the thing forged is a communication from one person to another. This will capture uses where documents and coins are forged, but it will not capture all uses of forged evidence nor the forgery of art and furniture.

This definition in the Cobuild Dictionary turns on copy and genuine. Copy is a reasonably accurate word to describe uses such as forged signatures. However not all forging is copying. For example I can forge my father’s will by creating a will which looks like it is father’s will, although father has never made a will. In that case, there is nothing to copy. I think that the constant is that the thing is made so as to appear to be something which it is not. More seriously, there is no component in the Cobuild Dictionary limiting the kinds of things that can be forged. The entry simply defines by example (“such as a banknote, a document, or a painting,”), but of course examples cannot constitute a definition.
Person X forged something

(a) X did something to something

(b) when X did it X thought:

(c) I want to do something to this thing

(d) like someone else (Y) does things to things of this kind

(e) if I do it like this, when people see this thing they will think that someone says here:

(f) "I am person Y,

(g) I did this to this thing"

(h) because of this, people will think that person Y did this to this thing

(i) I want them to think this

(j) if they think this they will do something because of this

(k) I want them to do this

(l) if they do this, something good can happen to me because of this

(m) I know that something bad can happen to someone else because of this

(n) I don’t want not to do it because of this

(o) people say: it is bad if someone does something like this

Component (a) represents X doing things such as writing on a document or making bank notes, coins, paintings or furniture. I have made no attempt to capture an invariant which distinguishes the kinds of things that can be forged. The reason for this is that I can see no way of distinguishing things which can be forged, such as paintings and furniture, from things which cannot be forged, such as bicycles and houses.

Unfortunately therefore, the explication is not fully predictive.
The following bundle of mental components centre on the forger imitating the real maker of the thing, so that people think that the thing is genuine. Suppose X takes a piece of silver and, makes it thin and round. On one side X makes a bust of a woman and the writing “Elizabeth II” and “Australia 2001”. On the other side is a lyrebird and the figures “10”. It is a 10 cent coin. A desiderative component has been inserted at (c) to exclude involuntary actions. At component (d), X imitates the actions of the genuine maker of the thing. So X has done these things to the piece of silver like the Australian government does to pieces of silver. This deceives people who see the coin into thinking that it is a real 10 cent coin made by the Australian Government (e)-(g). Component (i) is X’s desire to cause people to think like this. Because people think that the thing is genuine they will do something. So if someone thinks that the 10 cent coin is genuine that person might hand over goods in exchange for the coin (i). Another desiderative component is inserted here to specify X’s desire for other people to act on their false belief in the authenticity of the thing forged (k). Because people act like this, person X can benefit (l) and someone else can lose (m). For example if someone sells an ice cream to X, who pays in forged coins, X gains an ice cream but the seller receives a worthless coin which cannot be banked. If an immigration officer thinks that a forged passport is a genuine passport and admits a person into the country, this is bad for the government and people of the country. Component (n) represents X’s persistence in going ahead and making the false thing, knowing that someone else can suffer loss. Component (o) is the social evaluation.

**Forgery in legal language**

The statutory definition of *forgery* in the law of England and Wales is:
A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting to do or not to do some act to his own or another's prejudice.

 Forgery Act 1913 (England and Wales) s1

An *instrument* is any document, a postage stamp, an Inland Revenue stamp and any disc, tape, sound track or other device for storing information. A currency note is not an instrument (subsection 8(1) Forgery Act 1913). This definition takes the possible subject matter of $\text{forge}_\text{LL}$ away from the possible subject matter of $\text{forge}_\text{OL}$. In their discussion of forgery, Smith and Hogan recognise this:

> “Document” cannot include all articles which are commonly called forgeries. In common parlance a replica of a Stradivarius may be said to be a forgery but a violin cannot be regarded as a document. Nor is a painting as such a document.

(Smith and Hogan 1996, 621)

The kind of thing which can be a forgery in legal language is limited by the message which it must give. A document must not only tell a lie, it must tell a lie about itself. For example, if on an application for admission to a course at University, a student makes a false statement, that is not forgery. If, however, the student draws up an academic transcript purporting to be from Sydney University and writes in it, “BA Hons 1”, that is forgery. The record tells a lie, “BA Hons 1”, and a lie about itself, “this is an academic transcript from Sydney University”.
The mental elements of this crime are two. Firstly, when the wrongdoer makes the false instrument, the wrongdoer must intend that someone will be led to think that it is a genuine instrument. It is not enough to simply copy something. I don’t forge a postage stamp, an academic transcript or someone else’s signature simply by copying them. The important thing is that I must want someone to think that they are genuine. This is similar to plagiarism. If I copy someone else’s writing without acknowledgment, and I intend the reader to think that it is my work, that is plagiarism. If I acknowledge it, I merely copy it. I don’t intend the reader to think that it is my work. The second mental element, is that the defendant intends to induce someone to do an act to his own or another’s prejudice, or to induce someone not to do an act to his own or another’s prejudice. Prejudice is extensively defined by s.10 of the Act, but in brief, it is confined to economic loss and to someone acting against his/her duty (Smith and Hogan 1996, 680). If I make a false Australian residence permit in my British passport, intending to present it to an Australian immigration officer, so that the officer grants an entry permit, then I intend to cause the officer to act against the officer’s duty. The officer’s duty is to deny entry to people who don’t have genuine residence permits. Some real cases include, forged documents to get a prisoner released from jail (Harris (1833) 1 Mood CC 393), forging a testimonial when applying to enter the police (Moah (1858) Dears & B 550 CCR), and a sailor forging a certificate of good conduct so as to take an examination (Toshack (1849) 1 Den 492).

I think that the meanings of forge_{OL} and forge_{LL} are the same, except that forge_{LL} must be limited to doing things to documents and it must have a punishment component. In the following explication component (a) limits the things to documents. This excludes
banknotes, which are not normally called documents. I see no alternative to using the complex semantic molecule “banknotes”. It could be explicated separately through the primes. It belongs to the semantic field of artefacts and animals, which require explications explaining their appearance, how they are made and their function.

Components (q) and (r) are punitive and guilty knowledge components.

Person $X$ forged something

(a) $X$ did something to a thing (a document)
(b) when $X$ did it $X$ thought:
(c) I want to do something to this thing
(d) like someone else ($Y$) does things to things of this kind
(e) if I do it like this, when people see this thing they will think that someone says here:
(f) "I am person $Y$,
(g) I did this to this thing"
(h) because of this, people will think that person $Y$ did this to this thing
(i) I want them to think this
(j) if they think this they will do something because of this
(k) I want them to do this
(l) if they do this, something good can happen to me because of this
(m) I know that something bad can happen to someone else because of this
(n) I don't want not to do it because of this
(o) people say:
(p) it is bad if someone does something like this
(q) if someone does something like this, after this other people have to do something to this person because of this

(r) when X did this, X knew that people say this

Conclusions

The aim of this chapter was to add to our knowledge of legal language by analysing the legal and ordinary meanings of expressions which imply that something bad happens to things that belong to another person. Some of the conclusions from this analysis mirror the conclusions of the previous chapter. Namely, the success of the explications and their general structure. The other conclusions that I will draw about the meanings of the expressions in this chapter, are comparisons of their ordinary meanings, comparisons of their legal and ordinary meanings and comparisons of their legal meanings. Finally I will compare lexical elaboration in this chapter with the previous chapter.

The analyses successfully demonstrate that meanings of complex English specific words, referring to property offences, can normally be stated clearly and simply in natural semantic metalanguage. Highly complex and obscure legal definitions can be replaced by simple explications which are clear, accurate and non-circular. The only inaccuracy which could not be overcome was to state the meaning of *forge* so as to predict all the kinds of things that can be forged. The general structure of the meanings are the same as in the previous chapter. There are generally three kinds of component, action components with the predicates DO and HAPPEN, mental components with the predicates THINK, KNOW and WANT and evaluative components containing the evaluator BAD, the predicate SAY and the substantive, PEOPLE.
There were six analyses of ordinary language meanings of expressions referring to crimes \text{steal}_{ol}, \text{rob}_{ol2}, \text{burgl}_{ol}, \text{fraud}_{ol}, \text{blackmail}_{ol}, \text{and forge}_{ol}. The greatest similarities are between \text{steal}_{ol}, \text{rob}_{ol2}, \text{burgl}_{ol}, \text{fraud}_{ol} ("the steal group") all of which imply the transfer of property. \text{Blackmail}_{ol} \text{and forge}_{ol} \text{are quite different, although there are parallels between fraud and forge, since both are kinds of deceit. In the steal group, the explication of steal is the paradigm, with components representing possession, coveting, taking, transfer, lack of consent, social evaluation and guilty knowledge. Here is the explication of steal in ordinary language with the components labelled for type:}

\textbf{Steal}_{ol}

\begin{itemize}
  \item Possession \hspace{1cm} \textit{(a) Y had some things}
  \item Coveting \hspace{1cm} \textit{(b) X wanted to have these things}
  \item Taking \hspace{1cm} \textit{(c) because of this, X did something}
  \item Transfer \hspace{1cm} \textit{(d) because X did it, afterwards Y didn't have these things any more}
  \item \hspace{1cm} \textit{(e) X had these things}
  \item Lack of consent \hspace{1cm} \textit{(f) Y didn't want X to have these things}
  \item Social evaluation \hspace{1cm} \textit{(g) people say that it is bad if someone does something like this}
  \item Guilty Knowledge \hspace{1cm} \textit{(h) when X did this, X knew that other people say this}
\end{itemize}
Rob\textsubscript{OL2}, burgle\textsubscript{OL} and fraud\textsubscript{OL} have similar components but in fraud\textsubscript{OL} there is no taking because the victim effects the transfer of the thing. The differences between the members of the steal group are that rob\textsubscript{OL} elaborates on steal by adding components for violence or threats and for overcoming of the victim’s will. Burgle\textsubscript{OL} specifies the place of the taking, and fraud\textsubscript{OL} incorporates a deceit which causes the transfer of the thing.

Blackmail\textsubscript{OL}, forge\textsubscript{OL} and fraud\textsubscript{OL} all have in common an implication that someone acts on the mind of someone else to secure an advantage to someone. Polysemy is generally absent from the ordinary meanings of expressions referring to crimes. However rob\textsubscript{OL} is polysemous in ordinary language, rob\textsubscript{OL2} having the same meaning as steal\textsubscript{OL} and rob\textsubscript{OL1} having a different meaning. Forge is also polysemous and the meaning that I explicated was to make a false thing.

It was possible to derive the legal meanings of the expressions from their ordinary meanings. In every case I added components to represent punishment and guilty knowledge. Otherwise, some of the expressions had the same meaning in ordinary and in legal language. Other legal meanings required additional components. Steal\textsubscript{LL} required a component to represent an intention to permanently deprive the owner of the thing stolen. Rob\textsubscript{LL} added a component to allow the victim of the hold-up to differ from the loser of the property taken. Forge\textsubscript{LL} specifies the kind of thing which can forged, namely a document. As I concluded in the previous chapter, the fact that it is possible to derive the legal meanings of the expressions from their ordinary meanings, is evidence that the criminal law is strongly rooted in the discourse of ordinary speakers.
The differences between the legal meanings of the *steal* group parallel the differences between their ordinary meanings. *Steal* is the paradigm for *rob*, *burglary*, and *obtaining by deception*. *Rob* differs from *steal* because force or threats are used to effect the stealing. *Burglary* differs from *steal* because the stealing must take place inside a building. *Obtaining by deception* differs from *steal* because instead of taking something, X acts on the mind of Y who then effects the transfer of the thing to X. *Criminal damage* and *forgery* are all differ substantially from *steal*, *rob*, *burglary*, and *obtaining by deception*. *Forgery* has an affinity with *obtaining by deception* because in both meanings, X acts on the mind of another person.

Just as in the homicides in the previous chapter, the other person’s body didn’t live any more, in the property offences of this chapter, the other person’s things can cease to exist. This is called *destroying property of another*. Just as the other person’s body can be harmed in *rape* and *assault*, the other person’s things can be damaged. This is called *damaging property of another*. Just as in *kidnapping*, the other person’s body could be taken away, the other person’s things can be taken away. “Taking away” the usual fate of things, is demonstrated in this chapter by elaboration in the lexicon, with three kinds of direct taking (*stealing, robbery and burglary*), and three kinds of indirect taking by deception or threats (*fraud, blackmail and forgery*). Contrast this with the lexical elaboration in the previous chapter. In the homicides there were six kinds of “destruction”, in *rape, assault* and *torture* there were three kinds of “damage”, but there were only two “takings”, *kidnapping* and *false imprisonment*. 
Chapter 6 Doing bad things to many people

Introduction

The two previous chapters were analyses of wrongdoing to persons and to things. This chapter shifts the focus to another conceptual primitive, PEOPLE. In the offences described here, a person does something bad and because of this something bad can happen to many people. In complex language we can say that the defendant does an act which can cause harm to society.

The aim of this chapter is to add to our knowledge of the semantics of crime by analysing the legal and ordinary meanings of expressions referring to crimes affecting society as a whole. I begin with counterfeit, which is the crime of making false coins or bank-notes. Riot is an offence committed by a large group of persons who behave in a violent manner. Piracy is robbery of a ship at sea and hijacking is taking control of an aircraft against the will of the crew. A libel is a text in permanent written or spoken form that can damage a person’s reputation.

Counterfeiting

Counterfeit in ordinary language

When discussing the meaning of rob, I showed that one of its ordinary language meanings appeared to be the same as the meaning of steal. Of course in legal language, the meaning of these two words is different. However ordinary speakers seem to have adopted rob as a substitute for steal, unaware of the legal meaning of rob. The same thing appears to have happened with counterfeit. Its meaning has been extended so that
just about anything can be counterfeited. As the following examples of ordinary
language use reveal, a wide range of things can be *counterfeited*: cash (1), money (2)
(7), coins (10), passports, credit cards and airline tickets (3), shoes (4), champagne (5),
coffee (6), compact discs (8), goods (9). The meaning of *counterfeit* is similar to the
meaning of *forge*, but the range of things which can be counterfeited is unlimited. The
things which can be *forged* are money, documents, art works and furniture. The
explication which I gave for *forge* in ordinary language did not limit the kinds of things
which could be forged because I could not capture an invariant for them. This unlimited
definition therefore has the same meaning as *counterfeit*. I will not therefore propose a
separate definition of *counterfeit*.

**Examples of Use**

(1) A joint anti-narcotics operation by Central American nations and Mexico has
seized 6.23 tonnes of cocaine in a week as well as weapons, *counterfeit* cash and
vehicles Panamanian officials said yesterday.

(2) Scotland Yard has known for some time that the IRA has links with gangs because
of their common interest in drugs and *counterfeit* money.

(3) This technology is being picked up internationally for use on bank notes,
passports credit cards, airline tickets and other items prone to *counterfeiting*.

(4) Shoe-maker Reebok International said it teamed up with Chinese authorities to
seize more than 120,000 pairs of fake Reebok shoes and almost 30,000
*counterfeit* parts in 1994 in China.

(5) Hundreds of bottles of *counterfeit* Celtic FC champagne flood the market on
Wednesday, manufactured, no doubt, by cowboys.
(6) Bogus tea bags and counterfeit coffee are thought to have been manufactured by gangs operating in disused factories.

(7) Underneath the jolly bunnies and jangling cash registers lie a grotto of counterfeit money, and Murphy's job is to run around in a blue elephant costume and find it.

(8) "We have seized hundreds of these counterfeit CDs across the region and believe they are being produced with the help of the para-military organisation," he said.

(9) Crocodile-skin goods and stuffed cobras will be confiscated, as will endangered plants, live animals, obscene videos and literature, firearms, explosives, meat products and counterfeit goods.

(10) Britain is awash with fake £1 coins. A staggering 25m to 50m of the crafty counterfeit are now in circulation and the figure is rising.

(CobuildDirect)

Dictionary Definition

1 Counterfeit money, goods, or documents are not genuine, but have been made to look exactly like genuine ones in order to deceive people. He admitted possessing and delivering counterfeit currency. Also a noun. Levi Strauss says counterfeits of the company's jeans are flooding Europe.

(Cobuild Dictionary)

Counterfeit in legal language

In England and Wales the statutory definition counterfeiting is:
14. - (1) It is an offence for a person to make a counterfeit of a currency note or of a protected coin, intending that he or another shall pass or tender it as genuine.

(2) It is an offence for a person to make a counterfeit of a currency note or of a protected coin without lawful authority or excuse.

Forgery and Counterfeiting Act 1981, s 14

A currency note is one that has been lawfully issued in the United Kingdom, that is customarily used as money and payable on demand (Forgery and Counterfeiting Act 1981, s 27). A protected coin is one that is customarily used as money and a Sovereign, Half Sovereign, Krugerrand, any coin which is a fraction of a Krugerrand and a Maria-Theresia Thaler of 1780. (Forgery and Counterfeiting Act 1981, s 27; Forgery and Protected Coins Order 1981). A counterfeit is defined as:

28.- (1) For the purposes of this Part of this Act a thing is a counterfeit of a currency note or of a protected coin-

(a) if it is not a currency note or a protected coin but resembles a currency note or protected coin (whether on one side only or on both) to such an extent that it is reasonably capable of passing for a currency note or a protected coin of that description; or

(b) if it is a currency note or protected coin which has been so altered that it is reasonably capable of passing for a currency note or protected coin of some other description.

(2) For the purposes of this Part of this Act-
(a) a thing consisting of one side only of a currency note, with or without the addition of other material, is a counterfeit of such a note;

(b) a thing consisting -

(i) of parts of two or more currency notes; or

(ii) of parts of a currency note, or of parts of two or more currency notes, with the addition of other material,

is capable of being a counterfeit of a currency note.

Forgery and Counterfeiting Act 1981, s 28

Counterfeiting in legal language is confined to counterfeiting money in the form of coins or notes.

Someone (person X) *made a counterfeit of something*

(a) X did something to something

(b) when X did it, X thought something like this:

(c) I want to do something to this thing

(d) like someone else (Y) does things to things of this kind

(e) if I do it like this, when people see this thing they will think that someone says here:

(f) "this is money"

(g) if they think this, they will do something because of this

(h) if they do this, after this, someone else will have this thing because of this

(i) I want them to do this

(j) if they do this, something good can happen to me because of this
(k) if they do this, something bad can happen to someone else because of this

(l) people say:

(m) it is bad if someone does something like this

(n) if someone does something like this, after this other people have to do something to this person because of this

(o) when X did this, X knew that people say this

This meaning of made a counterfeit is very similar to the meaning of forge which I discussed in Chapter 5. In the scenario at (f) I have inserted the complex expression money to stand for currency note or protected coin. The result is a loss of accuracy in the legal meaning but a gain in transparency for the lay reader or listener. For a more accurate legal meaning, the expressions currency note and protected coin could be inserted as semantic molecules within separate explications of made a counterfeit, so as to avoid a disjunction. With separate explications of currency note and protected coin the analysis would be complete and accurate. I have not analysed the meaning of money because that would be a complex exercise outside the scope of this thesis.

Riot

Riot has a surprisingly simple meaning. The elements of the meaning are (1) many people are gathered together in one place, (2) they had a grievance of some kind (3) they protested against the grievance by (4) doing things which caused bad things to happen and (5) a social evaluation. The rioters do not have to actually cause injury or damage, because they can fight and throw stones and so on without hurting anyone or damaging anything. Riot is a commonly occurring word in the examples of use, often occurring at
football matches, in theatres and in the streets. It is included in this chapter because it is a threat to public order.

*Riot in ordinary language*

**Examples of Use**

(1) The riot revived memories of the ugly years through the 1980s when England's hooligan supporters left a trail of destruction behind them all over Europe.

(2) In Darwin, police were yesterday investigating a riot at a remote Top End community in which an angry mob of about 400 people destroyed a clubhouse, wrecked a police vehicle and freed three prisoners from police cells.

(3) The board of PAOK Salonika, one of the country's top four teams, resigned en masse last week after a riot in which 30 people were injured.

(4) A memorial service at Mosul gave rise to a riot in which the British Consulate was attacked and set on fire and the British Consul, Mr. Monck-Mason, was murdered by the mob.

(5) Fans had been mixing happily - until United supporters taunted Palace rivals about their hero Cantona's kung-fu attack on cursing Londoner Matthew Simmons when the teams last met in January. A riot exploded as they sang: "He's red, he's white, he kicks a Cockney shite." Bricks and bottles were hurled as Palace supporters boarded their coach to head for the semi-final clash at Villa Park, Birmingham. The Londoners poured off the coach to retaliate.

(6) Right up until the frosts hit them, dahlias bring a riot of colour to the garden throughout the late summer into the autumn. There is a magnificent beauty about them.
(7) Shouting “Germany for the Germans”, the youths hurled chunks of concrete, bottles and firebombs at riot police, who used water cannon and tear gas to defend the already badly damaged building.

(8) Riot at fox hunt ball. Guests arriving at a hunt ball were pelted with flour and spat on by more than 50 protesters, a court heard yesterday.

(9) The audience rioted on the grounds of the play’s impropriety - waving the Tricolour flag in a pub, the admission that prostitutes existed in the country when it was first unveiled, in Dublin 69 years ago.

(10) As he spoke, one black resident shouted through a megaphone in the midst of the rioting: “We should burn down their neighbourhoods, not ours. We're going to take it to Hollywood and Beverly Hills”.

(Dictionary Definition)

1 When there is a riot a crowd of people behave violently in a public place, for example they fight, throw stones, or damage buildings and vehicles. Twelve inmates have been killed during a riot at the prison.

(Dictionary Definition)

The following is my suggested definition of the meaning of riot in ordinary language.

A riot

(a) there were many people in one place at one time

(b) these people thought that something bad was happening in that place

(c) they felt something bad because of this
(d) they didn't want it to be happening

(e) they did many things because of this

(f) some bad things happened in that place at that time because of this

(g) these things happened not because these people thought like this:

(h) it will be good if these things happen

(i) people say it is bad if something like this happens

The first element of meaning is that many people are gathered in one place at one time

(a). This can be seen in the examples of use in the word mob (2) (4), football supporters (1) (3) (5) and more than 50 protesters (8). There is no set minimum number for a riot in ordinary language, but clearly two or three people cannot riot. In legal language the minimum number is twelve. The second element is the protest. People do not gather together and riot without reason. The reason for the protest might be a football team losing a game (1), an inflammatory remark (5), to keep Germany for the Germans (7), objections to fox hunting (8), impropriety in a play (9) or white domination (10). In (b) I have attempted to capture the reason for the protest, in (c) the feeling which the reason evokes, and in (d) the objection. Components (b)-(d) are in fact a kind of scenario which gives the background and cause for the following actions and events in (e) and (f). In (e) the rioters do many things such as hurling bricks and bottles (5), hurling chunks of concrete (7) and pelting guests with flour and spitting on them. These actions cause bad things to happen at the scene of the riot, such as a trail of destruction (1), destruction of a clubhouse, wrecking a police vehicle, freeing prisoners (2), personal injury (3) and arson and murder (4). There is complete disorder in a riot and many bad things can happen. The element of disorder can be seen when riot is extended metaphorically to refer to flowers in "a riot of colour" (6). The implication is that there are flowers of
many bright colours arranged in complete disorder. Another metaphorical extension is the use of the fixed phrase “run riot” in sentences such as, “She dressed strictly for comfort and economy, but let her imagination run riot with costume jewelry... We have no proof and where there is no proof, rumour runs riot.” (Cobuild Dictionary). The lady dressing is an excellent example of the contrast between order and disorder, where her sensible clothes contrast with her wild jewelry. Components (g) and (h) are inserted to exclude thoughts in the minds of the rioters that the results of their acts are good. The final component (i) is the social evaluation.

**Riot in legal language**

The statutory definition of *riot* in England and Wales is:

1.- (1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.

(2) It is immaterial whether or not the 12 or more use or threaten unlawful violence simultaneously.

(3) The common purpose may be inferred from conduct.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Riot may be committed in private as well as public place.

Public Order Act 1986, s.1
This definition departs considerably from the ordinary language meaning of *riot*. Firstly a minimum number of persons must be present at the scene. Secondly, there need not be any result of the rioters’ actions, such as property damage, personal injury or death. It is enough simply to “threaten unlawful violence”. Thirdly, there is a “fear test” whereby a person of reasonable firmness would be frightened for his personal safety. In the following explication I have reworked the ordinary language explication of *riot* to include the minimum number requirement at component (a). Components (g)-(j) capture the fear of a reasonable person present at the scene for his or her safety.

Someone (person X) is guilty of *riot*$_{LL}$

(a) there were some people in one place at one time (more than eleven)

(b) X was one of these people

(c) these people thought that something bad was happening in that place

(d) they felt something bad because of this

(e) they didn’t want it to be happening

(f) they did many things because of this

(g) when they did these things, someone else could think:

(h) these people are doing bad things

(i) some bad things could happen in that place because they are doing these things

(j) because of this, something bad can happen to my body

(k) people say :

(l) it is bad if someone does something like this

(m) if someone does something like this, after this other people have to do something to this person because of this
(n) when X did this, X knew that people say this

Piracy

Piracy is described by the Cobuild Dictionary as “robbery carried out by pirates”.

Despite the circularity in the use of pirates to define piracy, the equation of piracy with robbery is a reasonably accurate perception. I have commented before how steal is elaborated in rob, so that it is confined to hold-ups of persons, and steal is elaborated in burgle, so that it is confined to takings from inside buildings. Here in piracy, the concept of robbery is confined to robbery of things from a ship at sea. The people who do this are called pirates. These words are very important in English, the language of a seafaring nation, especially in fiction, where pirates have a romantic place in people’s imagination, secured by such figures as Long John Silver in Robert Louis Stevenon’s novel, Treasure Island.

Piracy in ordinary language

Examples of use of piracy and pirate

(1) “The arrest of the Green Peace just outside the zone has no obvious legal justification, and we will be seeking an explanation for it," he said. His comments appear to provide backing for the accusation of piracy levelled against French authorities by Green peace and the New Zealand Opposition.

(2) Piracy on the high seas. We report on the violent and lucrative crime that seems to be as popular in the 1990s as ever.

(3) Neither Lafitte nor Karnes was a pirate--they were privateers, men who plundered ships of their country’s enemies. Karnes waylaid the British vessels and ferried their much-needed supplies to the colonists during the Revolution. Lafitte
was a smuggler who **pirated** only Spanish ships and teamed up with Andrew Jackson to beat the British in the War of 1812.

(4) Ere we were two days old at sea, a **pirate** of very warlike appointment gave us chase. Finding ourselves too slow of sail, we put on a compelled valor, and in the grapple I boarded them. On the instant they got clear of our ship, so I alone became their prisoner.

(5) Renny Harlin, the action-movie maestro, takes a giant stride back with Cutthroat Island, an expensive and reckless movie that, inch for inch probably contains more **pirate** clichés and gunpowder explosions than any other.

(6) He had a brace of old pistols in his purple belt, and a dagger in his boot. Lieutenant William Evans, second in command of the Santa Rosa, mutinied against de Bouchard, murdered Pedro Conde, and sailed back to Pirates Cove. Here he set up a **pirate** base, renamed his ship the Black Vulture, and terrorized the coast for many years. Always he wore purple, from plume to boots, and thus earned the infamous name of the Purple Pirate. He plundered far and wide, on land and sea, and defeated every military force set against him.

(7) **Pirates** do not do their work in an economic vacuum, however; their thefts are useless unless they have a market for their spoils.

(8) The mainland fishermen whom the Chinese Red Cross delegates are now planning to visit, were seized by Taiwan's navy late last month, for allegedly boarding and robbing a Taiwan fishing vessel. Seven of the fishermen have been formally charged with **piracy** by Taiwan but the New China News Agency implied that Peking disagreed with the charges and called on Taiwan to release all eighteen fishermen and their two boats.
(9) Viking traders were early visitors, followed, in the fourteenth century, by the Hanseatic League, formed to protect the valuable Baltic shipping routes from piracy.

(10) It was a noisy, lively seaport through which most of England's European textile trade passed (England's southern ports were unusable at the time because of piracy).

Dictionary Definition

1 **Piracy** is robbery carried at sea carried out by pirates. *Seven of the fishermen have been formally charged with piracy.*

1 **Pirates** are sailors who attack other ships and steal property from them. *In the nineteenth century pirates roamed the seas.*

*(Cobuild Dictionary)*

Someone (person X) committed piracy

(a) X did something to a ship

(b) there were some things somewhere inside the ship

(c) X wanted to have these things

(d) X knew that there were some people (Y) in that place (inside the ship)

(e) X knew that Y had these things

(f) X knew that Y didn’t want X to have these things

(g) because of this, X did something to Y

(h) because X did this to Y, Y couldn’t do anything

(i) because Y couldn’t do anything, X could do something to these things

(j) X did it
(k) Y didn't want X to do it

(l) because X did this, afterwards Y didn't have these things any more

(m) X had these things

(n) people say it is bad if someone does something like this

Component (a) has X doing something to a ship. I have not limited the location of the ship to the open sea as suggested in the definition of piracy in the Cobuild Dictionary. There are no examples of other locations in the examples of use, but I think that piracy could take place in a harbour, bay or in a river. Of course the Purple Pirate "...plundered far and wide, on land and sea,..." (6), but presumably his plundering on land was robbery or stealing and not piracy. Ship, like most artefacts and animals, has a complex meaning, and if that meaning is integrated within the explication of piracy, the explication would be impossibly unwieldy. I will not suggest an explication for ship because it is outside the semantic field studied in this research. Component (b) locates some things inside the ship, such as cargo in a hold or treasure in a sea chest in a cabin. Component (c) represents the desire of the pirate to take possession of the things. The pirate knows that there are people in the ship who own the things (d) and (e) and who don’t want the pirate to have them (f). This completes the scenario before the boarding of the ship and the robbery of the goods. The scenario is an action component (a), a location component (b) and mental components (c)-(f) based on WANT and KNOW.

The action begins again in (g) so that the taking of the goods is effected by robbery. The components (g)-(n) are similar to the explication of rob which was described previously. I do not think that to steal from another ship is enough for piracy. Pirates typically board the other ship and take things from it by force of arms, putting fear into the ship's
crew, who either resist and are overcome or who submit out of fear for what might happen to them. Sneaking aboard a ship, say in the dead of night, and taking something, would be simple stealing. It would not be *piracy*.

**Piracy in legal language**

In England and Wales the definition of *piracy* is:

Piracy consists of any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed-

(i) on the high seas, against another ship or aircraft, or against person or property on board such ship or aircraft;

(ii) against a ship, aircraft, person or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or intentionally facilitating an act describe in subparagraph (a) or (b).

Merchant Shipping and Maritime Security Act 1997, Sched. 5

This definition expands *piracy* to encompass acts against aircraft as well as ships. The kinds of acts which constitute *piracy* in legal language go beyond robbery to "... any illegal acts of violence or detention, or any act of depredation...". A motive is stipulated which was lacking in the ordinary meaning, "...for private ends...". The kinds of
persons who can be *pirates* are limited to “…the crew or passengers of a private ship or a private aircraft…”. They can do bad things to the ship or aircraft on which they are voyaging and the persons and property on that ship or aircraft ((a) (i)), provided it is “…on the high seas…”. They can also do bad things to another ship or aircraft and the persons and property on that ship or aircraft ((a)(i)). However in this case, the other ship or aircraft need not be on the high seas, but must be “…in a place outside the jurisdiction of any State…”. Clauses (b) and (c) extend the definition to secondary parties who aid, incite or facilitate acts of piracy.

The definition in clause (a) is extraordinarily complex. On the one hand it admits a wide range of acts against property and persons defined in very general terms. On the other hand it descends to the utmost particularity by limiting the persons who can be pirates, by requiring a special motive and by specifying two different locations for the acts of piracy. It also allows both acts on a single ship and ship to ship acts. It distorts the ordinary meaning of *piracy* by extending its meaning to acts against aircraft and allowing acts on a single vessel or aircraft. There are eight disjunctions in clause (a). It would be a major undertaking to untangle the polysemies in this legal meaning of *piracy* and to represent their meanings in convincing explications. I will not attempt to do so.

**Hijacking**

The meaning of *hijack* is complex and fascinating. It begins with a group of elements which set the scene for the takeover of control by specifying a “vehicle”, naming the key actors and locating them inside the vehicle and establishing control and destination. So (1) the thing hijacked must belong to a class of “vehicle” nouns for which there is no single word in English. I call it a “thing of the kind Z”, (2) there are at least two
people inside this thing, the controller (the pilot, driver etc) and the hijacker, (3) the thing is directed by the controller and (4) it is moving to a destination which (5) is decided upon by the controller. In the next group of elements (6) the hijacker takes over control, from the original controller and (7) redirects the thing to another destination which is decided upon by the hijacker. Finally, the third group is a single component which is a social evaluation (8).

*Hijack in ordinary language*

**Examples of Use**

(1) Worldwide anger over France's actions at Mururoa Atoll sparked high drama last night, when a man hijacked a plane carrying 289 passengers in protest against the nuclear tests, due to start any day. As the Inter Airbus flew from Madrid to Paris, the hijacker forced it to divert to Geneva airport.

(2) The man held in the hijacking of a jumbo airliner told investigators that he wanted to meet jailed cult leader Shoko and to create a stir, newspapers reported yesterday.

(3) Two men hijacked a bus yesterday in the Russian Caucasus republic of Daghestan, took 18 people hostage and demanded $US1.5 million dollar; A$2 million and a helicopter by noon today.

(4) During the Eighties, Israel's tourism industry slipped or stagnated, hit by the war with Lebanon in 1982, the hijacking of the Achille Lauro ocean liner in 1986, the Palestinian uprising in the occupied West Bank in 1987 and the Gulf War in 1990-91.
(5) Goss, once a member of the elite Commacchio company in the Marines, on permanent alert for oil rig hijacks speaks of it as “not a series of battles, but a war”.

(6) A convicted armed robber is believed responsible for a hijack attempt on the Sunlander in which the passenger train was peppered with shotgun blasts. The robber, John Richard Stevenson, 50, is being hunted by police, who suspect he planned to trade the lives of passengers for a pardon from his 1984 conviction.

(7) A man hijacked a 63-tonne army tank yesterday and went on a car-crushing drive through residential neighbourhoods before he was shot dead by police.

(8) A TV crew recorded the shoot-out between officers and three men trying to hijack an armoured truck packed with cash.

(9) In Northern Ireland they have often hijacked cars and ordered terrified drivers to deliver their bombs to its target.

(10) A lorry driver was hijacked at gunpoint by a gang who stole his load of computer games yesterday. The driver was forced to the floor of his cab at traffic lights in Dagenham, Essex.

(CobuildDirect)

**Dictionary Definition**

1 If someone hijacks a plane or other vehicle, they illegally take control of it by force while it is traveling from one place to another. *The two men tried to hijack a plane on a flight from Riga to Murmansk... Almost 250 trucks were hijacked before they reached central Bosnia... The hijacked plane exploded in a ball of fire.*

(Cobuild Dictionary)
Hijacking typically requires that someone take control of something. That is, they use their threats to force the crew to go somewhere other than the planned destination of the thing. It is quite different from piracy where control is unnecessary and the pirates can simply go aboard, scare the crew and steal things. In the examples of use, the kinds of things which can be hijacked are a plane, a bus, a ship, an oil rig, a train, an army tank, a car, an armoured car and a lorry. Planes, buses, ships and trains are all things which can have many people inside and move long distances. They usually transport things and people from one place to another and follow a schedule. An oil rig is a kind of ship which can move, but is normally stationary and allows people to drill for oil on the seabed. I think that this use is a semantic extension. Similarly, in the example of the army tank, the word hijacked is used rather than stole to add colour to the journalism. I have suggested that these kinds of “vehicle” be described as “a thing of the kind Z”.

The explication of this expression appears below. At component (b) I have said that the thing has many people inside it. I think that this is essential. There is an example of use of car hijacking in (9). I think that this is an extension of use. The evidence for this is the existence of a separate expression with a qualifier, carjacking. So one can speak of a carjacking but not a planejacking. A qualifier is not needed for hijacking planes because the core vehicle for a hijack is a plane. Does the vehicle have to travel to a schedule so that “other people know that at some time Z would be in another place”? Again I don’t think that it does. A person could hijack a plane on a private charter. Does it have to travel a long distance? I think that it does because planes, buses, ships and trains can all travel long distances. Does it have to be able to travel fast? I think it does.
**Things of the kind Z**

(a) a thing of the kind Z can move when someone does something to it

(b) many people can be inside a thing of this kind

(c) when a thing of this kind moves it can be at one moment far from where it was at the moment before

(d) people want to be inside things of this kind for some time when they think:

(e) "I want to be in a place far from here"

This explication of "things of the kind Z" introduces a thing which can move under someone's control (a). Component (b) requires that many people can be inside it, which excludes cars and includes planes, buses, ships and other large "vehicles". The ability to move fast over a long distance is captured at (c) and the purpose of the thing is at (d) and (e).

Someone (person X) *hijacked* something

(a) person Y was inside something of the kind Z

(b) Y was doing something to Z for some time

(c) people say it is good if persons of this kind do things to things of the kind Z

(d) because Y was doing this to Z, Z was moving

(e) Y wanted it to move like this

(f) Y knew that if Z moved liked this for some time, at some time Z would be in place D

(g) Y wanted Z to be there

(h) at the same time, person X was inside Z
(i) at one moment, X did something to Y

(j) because X did this to Y, Y couldn’t do things to Z like before

(k) after this, Z was moving not like before

(l) X knew that if Z moved liked this for some time at some time Z would be in place P, not in place D

(m) X wanted Z to be there

(n) people say it is bad if someone does something like this

In this explication of hijack, component (a) locates person Y inside a thing of the kind Z. Component (b) captures a journey of reasonably long duration. Component (c) represents Y as a person who is authorised to control Z, such as a pilot or a driver. The authority is expressed in terms of social approval, such as a licence. This contrasts with the lack of the authority of the hijacker. Components (d)-(f) are meant to capture Y operating Z and navigating it towards a destination P. It might be suggested that diversion to another destination is not essential. That the hijacker could assume control of the plane, vehicle etc and still direct it to the original destination. I think that makes no sense, because the hijacker can go to the original destination simply by doing nothing. There would be no reason for a takeover of control if the hijacker wanted to go to the same destination. The hijacker could simply remain seated on the thing and would arrive at the destination. Component (g) is Y’s desire that the thing go to its destination and contrasts with X’s desire in (l) that it go elsewhere. The group of components from (a)-(g) paint the scene of a thing going from one place to another place under the control of a pilot or driver.
The next bloc of components introduces the hijacker, X, who is also located inside the thing of the kind Z (h). X does something to Y which is expressed in very general terms that could capture uses such as threats, pointing a gun or a knife or holding a bomb (i). This is the usual form of *hijack* where the hijacker takes control by directing the actions of the pilot or driver. However the hijacker can also take control personally, typically by displacing the driver of a land vehicle and driving in place of the driver. It rare for a hijacker to take over the controls of an aircraft because hijackers do not normally have the skills to fly aircraft. However this did happen on September 11, 2001, when gangs with licences to fly aircraft hijacked four passenger aircraft in the United States and redirected their courses. Three were flown into buildings and one crashed in a field. The thing that X does to Y causes the thing to move in a different way (k), so that it would eventually moving to different place from its planned destination (l). Component (m) represents X’s desire that the thing move towards the new destination and component (n) is the social evaluation.

**Hijacking in legal language**

In statutory definition of *hijacking* in England and Wales is:

1.- (1) A person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it commits the offence of *hijacking* ... [provisions as to jurisdiction]

Aviation Security Act UK s1
This meaning differs from the ordinary meaning by restricting the things capable of being hijacked to _aircraft in flight_. The use of _force_ or _threats_ is predicted by component (i) of the ordinary language explication, “at one moment, X did something to Y”. I think that the legal meaning can be stated by simply inserting the expression, _aircraft in flight_ in the ordinary language meaning and adding punitive and guilty knowledge components. The expression _aircraft in flight_ is of course complex and would have to be separately explicated. I will not attempt to do so here. Here then is the legal meaning of _hijack_.

Someone (person X) hijacked, LL, 1 something

(a) person Y was inside an aircraft in flight
(b) Y was doing something to Z for some time
(c) people say it is good if persons of this kind do things to things of the kind Z
(d) because Y was doing this to Z, Z was moving
(e) Y wanted it to move like this
(f) Y knew that if Z moved liked this for some time at some time Z would be in place D
(g) Y wanted Z to be there
(h) at the same time, person X was inside Z
(i) at one moment, X did something to Y
(j) because X did this to Y, Y couldn’t do things to Z like before
(k) after this, Z was moving not like before
(l) X knew that if Z moved liked this for some time at some time Z would be in place P, not in place D.
(m) X wanted Z to be there

(n) people say:

(o) it is bad if someone does something like this

(p) if someone does something like this, after this other people have to do something to this person because of this

(q) when X did this, X knew that other people say this

Libel

Defamation is a both a crime and a civil wrong. A defamatory statement is one which damages a person’s reputation. The test is: “would the words tend to lower the plaintiff in the estimation of right thinking members of society generally?” (Sim v Stretch (1936) 52 TLR 669 at 671, per Atkin LJ). There are many kinds of statements which are defamatory, but some examples are saying that someone is not good at their job, or has committed a crime or if a woman, that she is unchaste. The elements of the civil wrong are (1) the statement must be defamatory, (2) it must refer to the plaintiff and (3) it must be published. For technical and historical reasons, defamatory statements are either libel or slander. A libel is a defamatory statement in writing and it has been extended to radio or television broadcasts including pictures, visual images and gestures (Broadcasting Act 1990 s. 166 UK) and to spoken words in plays (Theatres Act 1968 UK). Slander is spoken words. The essential difference between the two is the permanence of the message. The distinction can be seen in the following judgment form Monson v Tussauds Ltd. In that case, a wax model of the plaintiff was exhibited in a room together with several murderers. The plaintiff had been tried for murder but not convicted. The defamatory implication in displaying the wax model was that the plaintiff had committed the serious crime of murder. The court ruling was:
Libels are generally in writing or printing, but this is not necessary; the
defamatory matter may be conveyed in some other permanent form. For
instance, a statue, a caricature, an effigy, chalk-marks on a wall, signs or pictures
may constitute libel.

*(Monson v Tussauds Ltd* [1894] 1 QB 671 at 692, per Lopes LJ).

In *libel* it is not necessary to prove that the plaintiff’s reputation has been harmed, but in
*slander* it is necessary, except where the statement implies criminal conduct, contagious
disease, unchastity or unfitness for business (Lunney and Oliphant 2000, 587).

The criminal meaning of *libel* in England and Wales, called *defamatory libel*, is defined
as follows:

A defamatory libel is the expression or conveying of a defamatory statement by
written or printed words or in some other permanent form. A defamatory
statement is a statement which if published of and concerning a person is
calculated to expose him to public hatred, contempt or ridicule, or to damage
him in his trade, business, profession, calling or office. (Richardson 2000, 2405)

Someone *libelled*\textsubscript{CRIM} someone else (“\textsubscript{CRIM}” = criminal law)

(a) someone (X) did something

(b) because X did this, people could think for some time that someone (X) says
something (A) about a person Z
(c) because X did this, people could think that (A) was true

(d) A was not true

(e) because people could think that A was true, people could think bad things about (Z)

(f) this could be bad for Z

(g) people say:

(h) it is bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people say this

Component (a) is expressed generally to represent someone doing something. This predicts a wide range of acts, including writing, radio and television broadcasts, pictures, visual images signs and gestures. Component (b) is a communicative result, expressed by focusing on the interlocutor who infers a communication from the act of X in (a). Component (b) attempts to distinguish libel from slander by representing permanence as “people could think for some time”. Thus ordinary speech is distinguished from say radio and television speech because ordinary speech is transient, but radio and television speech lasts for some time. At least it is longer lasting when it is recorded. However live broadcasts which are not recorded are just as transitory as the speech of ordinary conversation. The component is not therefore fully predictive and I see no way to make it so without recourse to complex language. At (b) the communication is limited to declarative statements about a third person Z.
Component (c) uses a conditional to imply that the communication is false and in (d) the explication says that the communication is indeed false. Component (e) represents publication of the communication to other people who can think that bad things about the victim Z. Component (f) is the damage to Y’s reputation, which could be things such as loss of job opportunity or social opprobrium. Components (g)-(j) represent the mental, normative and punitive elements of an expression referring to a crime.

**Conclusions**

The aim of this chapter was to add to our knowledge of the semantics of legal language by analysing the legal and ordinary meanings of expressions referring to crimes affecting society as a whole. Some of the conclusions from this analysis are the same as the conclusions of previous chapters, namely the success of the explications and their three part structure. The other conclusions that I will draw are comparisons of ordinary meanings, comparisons of legal and ordinary meanings and comparisons of legal meanings.

The ordinary language expressions referring to crimes that were described were \( \text{riot}_{OL} \), \( \text{piracy}_{OL} \) and \( \text{hijack}_{OL} \). There are few common threads in the action components of these offences. \( \text{Piracy}_{OL} \) and \( \text{hijack}_{OL} \) both occur on forms of transport and require that the wrongdoer overcome the will of the crew by force or threats of force. In this sense, they are similar to \( \text{rob}_{OL} \). However, their purposes are different. The purpose of \( \text{piracy}_{OL} \) is to steal but the purpose of \( \text{hijack}_{OL} \) is to change the aircraft’s destination. This aside, the offences are a miscellany. The variation in complexity of the meanings was not apparent before this research began. The complexity is revealed in the number of components: \( \text{counterfeit} \): 16, \( \text{riot}_{OL} \): 9, \( \text{piracy}_{OL} \): 14, \( \text{hijack}_{OL} \): 14 and \( \text{libel}_{CRM} \): 10.
The themes that contrast the ordinary and legal meanings are greater complexity and specificity in legal meanings and the introduction of polysemy into the legal meanings. \textit{Counterfeit}\textsubscript{ol} has elements in common with \textit{fraud}\textsubscript{ol}. \textit{Counterfeit}\textsubscript{ll} is more specific than \textit{counterfeit}\textsubscript{ol} because it is restricted to the making of money. \textit{Riot}\textsubscript{ll} more complex than \textit{riot}\textsubscript{ol} because it requires more than eleven people, a common purpose and a fictional bystander fearing for his or her safety. I did not attempt to unravel the polysemy and complexity of piracy in legal language. \textit{Hijack}\textsubscript{ol} and \textit{hijack}\textsubscript{ll} have identical meanings save for a restriction in the kind of thing that can be hijacked in legal language and the addition of punitive and guilty knowledge components. \textit{Libel} does not have an ordinary language meaning.
Chapter 7 Discussion

Introduction

So far in this thesis I have given a background to the research, explained methodology and data collection and analysed a wide range of expressions in the criminal lexicon of legal language. The remainder of the work is a discussion of the results of the research and the drawing of conclusions about how the aims of the research have been met. The aim of this chapter is to discuss the results of the analyses, that is, to set out what I now know and what I didn’t know before I began the research.

The chapter is in three parts. The first part is the core of the results, a discussion of the nature of the semantic field which I have researched. Topics covered in this part are the way meaning is structured, including matters such as the grouping of components around primes, the sequencing of components, how core meanings generate other meanings, variation between meanings by complexity and by language variety, common themes and the absence of common themes, and lexical elaboration within the field.

The second part of the chapter is a discussion of problems in legal definitions. This is a critique of legal semantic method, especially as illustrated in the conceptual structure of the Australian Model Criminal Code and the representation of meaning in the Code. Although the aim of this thesis was to describe the meanings of expressions referring to crimes and was not an investigation of the comprehensibility of legal language, during the course of examining the ordinary and legal meanings of expressions and suggesting explications for them, the contrast between the clarity of the NSM explications and the
Obscurity of many legal definitions became glaringly obvious. The contrast is between a linguistic method based on theoretically sound principles which aim at clarity and accuracy, and a legal method based on unsound principles which lead to obscurity. Matters dealt with in this part are the nature of definition, the complexity of legal definitions in their lexicon and grammar, disjunctions and polysemy, defining by example, circularity, the layering of definitions and the blurring of conceptual distinctions.

The third part of the chapter is a demonstration of how the principles of linguistic semantics, exemplified in NSM semantics, can be applied in legal domains. The examples are legal interpreting, police cautions of suspects on the right of silence, lawyers preparing for trial, and judges’ instructing juries on the law.

**The semantics of crime**

The meanings of all of the expressions in this semantic field contain three bundles of components, an action bundle made up of an act and a result, a mental bundle and an evaluative bundle. Each part has a sentence structure based on NSM substantives, predicates or an evaluator. For example *murder* has the following bundles:

<table>
<thead>
<tr>
<th>Action bundle (act)</th>
<th>Substantive</th>
<th>Predicate</th>
<th>Evaluator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action bundle (result)</td>
<td>SOMETHING</td>
<td>DO</td>
<td>HAPPEN</td>
</tr>
<tr>
<td>Mental bundle (doer)</td>
<td>PERSON</td>
<td>THINK, KNOW, WANT</td>
<td>BAD</td>
</tr>
<tr>
<td>Mental bundle (speaker)</td>
<td>I</td>
<td>THINK, FEEL</td>
<td>BAD</td>
</tr>
<tr>
<td>Evaluative bundle</td>
<td>PEOPLE</td>
<td>THINK</td>
<td>BAD</td>
</tr>
</tbody>
</table>
I use the word "bundle" loosely here, because the bundles sometimes overlap. Sometimes a mental component will occur within an action bundle. For example in \textit{steal}_{OL}, a mental component (b) occurs within the opening action bundle.

(a) someone had some things
(b) someone else wanted to have these things
(c) because of this, X did something

The sequencing of components and bundles of components within the explications is important. The semantic structure of expressions in this field is temporal. The speaker comments on a past action, with comments on how the action happens, who does what, what the person thought, what the speaker thinks of it and what other people think of what the person did. In other words, each meaning is a story. Someone does something and because he or she does it, something else happens.

The sequencing is seen in the homicides, where someone does something to another person and because he or she does it, something bad happens to the body of that person and because this happens, the person doesn't live any more. In the \textit{steal} offences, someone has something, someone else does something, and because he or she does it, the other person does not have the thing any more.

The action bundles adhere pretty closely to the sequencing pattern. The mental bundles normally imply that the doer wanted the thing to happen, but otherwise they vary considerably throughout the field. For example the closely related words \textit{murder}_{OL} and \textit{manslaughter} differ widely in their mental bundles. In \textit{murder}_{OL} the doer must want the
person not to live any more and must know that the person could not live anymore, but in *manslaughter* these do not apply and the doer must only know that something very bad could happen to someone else. After these initial mental components there is a final mental set of components implicating guilty knowledge. Then towards the end of each explication there is an evaluative bundle following. This is a social evaluation and sometimes a speaker evaluation. The components implicating guilty knowledge and the evaluative bundle are similar across the explications.

Some representations require semantic molecules because the meanings can’t be explicated solely in primes, without loss of intelligibility. For example, explications of *rape* have the semantic molecules, *man, woman, penis* and *vagina*. *Piracy* has the molecule *ship* and *hijack* has the molecule *aircraft*.

The expressions tend to group around a central prime which is the patient in the explication. In Chapter 4 ("Doing bad things to a person") the patients were all PERSONS whose BODIES were injured causing death, or they were simply injured or contacted, moved or prevented from moving. In Chapter 5 ("Doing bad things to things") many of the patients were THINGS which were moved or damaged. Of course other persons, the owners of the things, were also victims. In Chapter 6 ("Doing bad things to many people") many of the crimes were victimless, but the ultimate victim is society, which I represented as MANY PEOPLE. A conceptual typology like this, although it is not a rigid one, is a useful way of understanding how expressions referring to crimes are located within their semantic field.
The complexity of the meanings varies between expressions. For example $\text{rape}_{OL}$ is much more complex than $\text{kidnap}_{OL}$. This is surprising and could not be predicted before the analyses were made. It is not immediately clear from a reading of dictionary definitions of ordinary meanings, nor from a reading of legal definitions of legal meanings, that one meaning is more complex than another meaning. Variation in complexity is however, immediately clear from a reading of an NSM explication. The reader need only compare the number of components. For example $\text{forge}_{OL}$ has fifteen components but $\text{riot}_{OL}$ has nine components. Recognition that there is variation in complexity of the meanings of expressions referring to crimes has major implications for making those meanings known to consumers of legal language. For example, knowing that it is much harder to explain the meaning of $\text{forge}$ to a jury, than the meaning of $\text{riot}$, the judge can say how complex or simple the meaning is, and take more or less trouble explaining it.

As I explained in Chapter 2, there are three kinds of lexical items in legal language: ordinary words with ordinary meanings, ordinary words with legal meanings and legal words with legal meanings. Some examples from the expressions analysed are $\text{circumstances}$ which is an ordinary word with an ordinary meaning, $\text{murder}$ which is an ordinary word with a legal meaning and $\text{manslaughter}$ which is a legal word with a legal meaning. Where an expression has an ordinary and a legal meaning, and most of the expressions in this study are like this, it is usually possible to generate an explication of the legal meaning out of the ordinary meaning. For example $\text{murder}_{LL}$ was explicated using the meaning of $\text{murder}_{OL}$, by altering the mental bundle and adding a punitive component. Given the ease of doing this and the large number of expressions occurring
in both varieties, it follows that the criminal law is strongly rooted in the discourse of ordinary speakers.

The next important point to make is that the ordinary and legal meanings of expressions referring to crimes normally differ. The differences can be slight. For example the ordinary and legal meanings of *steal*, *rob* and *fraud* are the same or very similar.

*Burgle*$_{OL}$ and *burgle*$_{LL}$ differ only in that *burgle*$_{OL}$ implies entering inside a thing which is like part of a place which people could live inside. However *burgle*$_{LL}$ is confined to entering a building. Sometimes the differences can be great. For example, *riot*$_{OL}$ has only nine components but *riot*$_{LL}$ has sixteen components. However they are usually very similar indeed. The conclusion that follows from this is that it should be fairly easy to explain the legal meanings of crimes to lay persons. You can begin with the ordinary meaning, which the listener should already know, and explain the differences between the ordinary and legal meanings. Another conclusion is that in writing a criminal code, the conceptual structure can take the ordinary meanings as a starting point and as it were, “gloss” the extra legal components of meaning on to the ordinary meaning. Such a drafting practice avoids a complex conceptual structure and metalanguage, such as that in the Code. For example *murder* could be defined thus:

Murder has the same meaning as in ordinary language, except that the killer doesn’t have to want the victim not to live any more. The killer only has to want to do something very bad to the victim’s body.

A contrast between ordinary and legal meanings was in the polysemy of legal meanings. Ordinary language expressions referring to crimes are not usually polysemous. Legal
Language expressions referring to crimes are more likely to be polysemous, and sometimes have numerous meanings. For example the definition of *piracy* has numerous disjunctions and a complete description of its meanings would require many explications. Within the metalanguage of the Code, there was polysemy in the legal meaning of monosemous ordinary words, so that *voluntary* has two meanings. Again this has implications for the explanation of the meanings of these expressions to consumers of legal language. They need to be alerted to the polysemy so that they can understand the differences between the ordinary and legal meanings.

An interesting and slightly peripheral point emerged in the examination of the ordinary meanings. Some of the expressions, *murder* and *rape* in particular, were found being used in sentences to make a point. For example, “meat is murder” and the “rape of Poland”. Similarly, in current Australian political discourse, we hear the expression “the stolen generation”, referring to the forced transfer of aboriginal children from their mothers to the care of others. Now killing cattle for meat is not *murder*, invading and pillaging a country is not *rape*, and taking children legally is not *stealing*. These uses illustrate how someone can take an ordinary word with an emotive component in its meaning, and declare the word to have another meaning. It is a practice of dropping invariants. In the above examples, the emotive component, is the component in *murder* and *rape* “when I think about it, I feel something bad”. This component is retained, but the sub-component *person* is dropped, allowing the meaning to apply to animals or countries. In the case of *steal*, the social evaluation component is kept and the sub-component *thing* is dropped, so that *steal* can refer to *person*. 
In comparing the meanings, some common themes emerge. In chapter 4, all of the offences imply someone doing something to someone else’s body. It can be contact or physical injury (homicides, assault, torture), inserting something inside the body (rape), moving the body (kidnap) or preventing movement of the body (false imprisonment). The meaning of simpler expressions can be building blocks for representing the meaning of more complex expressions. So kill is a building block for homicide and homicide is a building block for the other killings:

\[
\text{kill} > \text{homicide} > \text{murder} \\
\text{kill} > \text{homicide} > \text{manslaughter} \\
\text{kill} > \text{homicide} > \text{infanticide} \\
\text{kill} > \text{homicide} > \text{suicide} \\
\text{kill} > \text{homicide} > \text{genocide}
\]

Steal is a building block for other offences. The “building block” components of its meaning are: possession of the thing, coveting it, taking it, transferring it to the taker, and the victim’s lack of consent. They are used to represent the meaning of more complex expressions:

\[
\text{steal} + \text{threats or force} = \text{rob} \\
\text{steal} + \text{entering a thing which people can live inside} = \text{burgle}
\]

There are a number of less systematic parallels. Deceive is a building block for forge and counterfeit. In chapter 5, damage parallels the offences against the person in
Chapter 4 because someone does something bad to a person/thing, then something bad happens to the person/thing. Force and threats appear in rob, piracy and hijack.

The parallels between the meanings of expressions indicate lexical elaboration within the semantic field of expressions referring to crime. This elaboration varies within the field. In Chapter 4, “Doing bad things to a person”, there is much elaboration in lexical items implying killing and little elaboration in items implying moving. In Chapter 5, “Doing bad to things to things”, there is much elaboration in lexical items implying taking and little elaboration in items implying destruction. There is elaboration on homicide and steal. So homicide is elaborated in murder and manslaughter, which restrict homicides to killings where the killer has a certain state of mind. Homicide is also elaborated in infanticide and suicide, which restrict killings to certain kinds of victim. Steal is elaborated in rob, which restricts stealings to the use of force or threats, and steal is elaborate in burgle which restricts stealings to taking from inside dwellings.

Lexical elaboration is culturally significant. For example English has lexical elaboration in tag questions and hedging devices, which is evidence of the value of personal autonomy. While the topic requires cross-linguistic investigation, the lexical elaboration in expressions referring to killing persons and taking things may be evidence of the importance to English speakers of human life and property.

Although there are many common themes in the meanings of expressions in this semantic field, it is important to recognise the absence of common themes. For example the meanings of, blackmail and libel have few components shared with meanings of other expressions. Semantics is often “messy”. It is not possible to uniformly order all the lexical items in semantic field by common themes in their meanings.
Problems with legal definitions

In the conclusions to Chapter 3, I set out some problems with the semantic method in the Code. They were, (1) use of an unrestricted metalanguage which introduces complex expressions and leads to obscurity in definitions, (2) use of a defined metalanguage that makes definitions harder to understand, (3) defining expressions in definitions of metalanguage expressions, introducing layering of definitions and further complexity, (4) introducing polysemy into the legal meanings of ordinary language expressions, so that the reader has to learn the legal meanings and decide which one applies, (5) assigning strange meanings to ordinary words, for example, "‘conduct’ means ... a state of affairs" (s.4.1(2)), (6) attempting to define the indefinable by defining knowledge, (7) expressing mental verbs in the third person or adverbially, so that the reader does not know exactly what the doer thinks, (8) the use of nominalisations such as intention instead of the verb intend, allowing the deletion of subject and object, making the definition harder to process, (9) defining the metalanguage noun and using a verb or adverb in the definition of the expression referring to the crime, (10) defining by example, (11) circularity, and (12) the blurring of distinctions in the conceptual structure of the Code.

In Chapters 4, 5 and 6 we can see many of these problems and others. For example, a structural analysis of the definition of murder in New South Wales revealed that it was in the passive voice:

(18)(a) Murder shall be taken to have been committed where the act of the accused, or thing by him omitted to be done, causing the death charged, was
done or omitted with reckless indifference to human life, or with intent to kill or
inflict grievous bodily harm upon some person, or done in an attempt to commit,
or during or immediately after the commission, by the accused, or some
accomplice with him, of a crime punishable by penal servitude for life or for 25
years. (b) Every other punishable homicide shall be taken to be manslaughter.
(Section (18)(a) Crimes Act 1900 New South Wales)

Although agentless passives are common in plain English writing, and can aid
comprehension, passivisation, like nominalization, allows deletion of semantic roles. In
the definition of a crime the agent should be transparent. If this section was rewritten in
active sentences it would be easier to understand. There are of course many complex
expressions in the section, such as taken to have been committed and indifference to
human life, there are disjunctions causing polysemy, nominalisations, and a very long
sentence of 84 words.

When describing the history of legal language in Chapter 2, I noted complaints about
the complexity of the language of laws in the writings of Sir Thomas More, Swift and
Coode. In 1518 More said:

The chief fault they find with other nations is that even their infinite volumes of
laws and interpretations are not adequate. They think it completely unjust to bind
people by a set of laws that are too many to be read or too obscure for anyone to
understand. ...If laws are not clear, they are useless...” (More [1518] 1995, 195-
197).
In 1726 Jonathan Swift said of lawyers

... that this Society hath a peculiar Cant and Jargon of their own, that no other Mortal can understand, and wherein all their Laws are written.” (Swift [1726] 1940, 146).

In 1843, George Coode said of legislative language:

...it is a matter of astonishment that expressions so intricate as those in which the law is now ordinarily expressed can ever be brought to a grammatical close. (Coode 1843, 533).

These complaints span nearly five hundred years. Despite all the complaints and proposals for reform, statutory language remains highly complex and hard to understand. The problems that I have found in the definitions examined in this study are substantial evidence of this complexity and obscurity.

**Practical Applications of NSM in Legal Contexts**

Given that legal language remains complex and obscure, I think that NSM semantics offers a route to transparency. The method and the analyses in this thesis can be used in important practical applications in legal domains. For example, the principles of linguistic semantics could be applied to the writing of statutes. If the statute writer is aware that a complex and a defined metalanguage is a major obstacle to the clear representation of meaning, that would be a major advance. I do not intend to suggest a
programme for the reform of the language of the criminal law or of statutory law generally, since this would be a major project and well outside the scope of this research. However I do want to give four examples of practical applications of linguistic semantics in legal interpreting, police cautions, trial preparation and jury instructions.

**Legal Interpreting**

There is a great demand today for the services of good legal interpreters in today’s multicultural and multiethnic societies. The accuracy of interpretation is fundamental to due process and a fair trial. Accurate interpretation requires that the interpreter communicate complex legal concepts to a speakers of other languages whose lexicons are unlikely to have the same concept. The explications of complex legal concepts proposed in this thesis, which can mostly be translated directly into the primes of other languages, offer an ideal way for the interpreter to convey their meaning clearly and accurately to speakers of other languages.

In this chapter section I want to demonstrate a socially useful application of forensic semantics by showing how legal interpreting can be improved by translating complex legal expressions into explications written in the primes of other languages. I will begin with some definitions of interpretation, translation, and modes of interpretation, then explain how they are used in the legal process and why legal interpreting is so important today. I will then discuss some problems in legal interpreting and show how forensic semantics can help overcome these problems.

*Interpreting* is where one person, the primary speaker, says something in one language, the source language, someone else processes this, and then says it to a third person in
another language, the target language. *Translating* is where someone reads a text written in the source language, processes it and writes it in the target language. *Sight translation* is a hybrid of interpretation and translation, where someone reads a text written in the source language, processes it and speaks it in the target language (de Jongh 1992, 35).

There are four modes of interpretation: sight translation, consecutive interpretation, simultaneous interpretation, and summary interpretation. *Sight translation* is used by legal interpreters when asked to interpret documents in court or in interview. In *consecutive interpretation* the interpreter waits for the primary speaker to finish an utterance and then the interpreter speaks. This is the mode used to interpret the evidence of witnesses in court and it is used in interviews with witnesses and clients. *Simultaneous interpretation* is where the interpreter speaks almost contemporaneously with the primary speaker. This is used when a defendant does not understand the language of the legal proceedings. The interpreter sits close to the defendant and interprets what others say. *Summary interpretation* is seldom used in legal interpreting.

The need for good interpreting during court proceedings has never been more important than it is today. Australia, Britain and the United States are now multicultural societies with large numbers of people from non-English speaking backgrounds. In the United States, Susan Berk-Seligson says that:

> Since the late 1960’s, with America’s awakening sensitivity to the social needs and rights of linguistic minorities, there has been a veritable explosion in the use of foreign language interpreting in American courtrooms.
Berk-Seligson looked at interpreter’s logs and found them working in the traditional immigrant languages, Spanish, Italian, German and Polish, as well as Asian, African, Middle Eastern and Amerindian languages (Berk-Seligson 1990, 3). They interpreted for first hearings, bail applications, interlocutory proceedings, hearings for sentencing, trials and probation recommendations. Some court interpreters are required to interpret during attorney/client conferences (Berk-Seligson 1990, 6-7). America is a modern multilingual society. In traditional multilingual societies, such as Papua New Guinea, the court interpreter is in constant demand, translating in and out of the 850 vernacular languages, two lingua francas and English. The official language of the superior courts is English, but few people are able to speak and understand it. Consequently, most evidence is given in a lingua franca, normally Tok Pisin, and interpreted into English.

Interpretation is a very complex task, where the two functions of comprehension and speech, which are normally kept separate, occur at the same time (de Jongh 1992). An interpreter must know the original language, know the subject being discussed and know what has been said and why it is being said (de Jongh 1992, 26). The following exchange demonstrates the crucial importance of this extra-linguistic knowledge.

During the trial of Queen Caroline for adultery, an Italian speaking witness was asked about events in the garden of the Villa d’Este:

**Question:** As nearly as you can recollect, what hour was it you passed through the garden of the Villa d’Este with Domenico Brusa?
Witness (through interpreter): About one or half-past one.

Interpreter: The Italian and the English time is reckoned by a different manner.

Question: Do you reckon by the Italian or the French hour.

Witness: The Italian hour.

Interpreter: We reckon by hour, not from twelve to twelve, but from one to twenty-four; the Sun, according to the Italian mode of calculation, always sets at half an hour past the three and twenty, the remaining half hour is generally allowed for twilight, and that completes the twenty-four hours.

Mr Solicitor to the interpreter: Will you translate into English time the time?

Interpreter: Then I must know the time of year: taking it at Bartholomew’s day, it would be about half-past nine at night, according to the English mode of calculating.

Question: When you say it was about one or half-past one that you saw Pergami and the princess sitting in the manner you have describe, according to the best of your recollection, how long was it after sunset?

Witness: The sun had been setting for an hour and a half.

Mr Cohen (second interpreter): My lords, I was born in Lombardy myself, and I know this is the mode of reckoning.

(Bill of Pains and Penalties against her Majesty, Queen Caroline: Parliamentary Debates, New Series, Vol 3, House of Lords, August-September, 1820. (Cited in Colin and Morris 1996, 181))

The legal interpreter must have general extra-linguistic knowledge, such as the modes of reckoning time in Italian or English, and also a knowledge of the law and procedure of the jurisdiction in which he or she is working. A knowledge of the law will include
knowledge of the meaning of complex and culturally specific concepts such as murder or stealing in English and the ability to explain their meaning, just as the interpreters in Queen Caroline’s case were able to explain that “one or half-past one” really meant “about half-past nine at night”. For example languages such as Korean, Japanese and Mandarin do not distinguish between stealing, robbery and burglary. The interpreter needs to know the meanings of these English term. Holly Mikkelson describes these demands upon the legal interpreter in this way:

The principle that language is a reflection of culture, and that translators and interpreters therefore provide a cultural bridge as well as a linguistic one, is a theme that runs through virtually all writings on translation and interpretation. Nowhere is this principle clearer than in the field of law, where translators and interpreters must transfer linguistic messages generated by actors in legal systems that are based on fundamentally different principles. Thus, a Spanish court interpreter in the United States must convey ideas expressed in English by participants in a system derived from the English common-law tradition, to Spanish speakers from countries where legal concepts were inherited from the civil-law tradition originated by the Romans.

(Mikkelson 1995, 202)

In her paper Mikkelson (Mikkelson 1995, 207) argues that it is difficult to translate murder, manslaughter and homicide into Spanish. For example, the closest equivalent to murder in the penal codes of Spanish-speaking countries, is the offence asesinato, which contains elements absent from English murder. Typically, asesinato requires alevosia, a word with no direct English equivalent, but whose meaning includes the
concepts of *traición* (treachery or betrayal) and *perfidia* (perfidy). None of these concepts is part of the meaning of *murder*. The concept of *malice aforethought*, the traditional mental requirement for *murder*, also has no direct equivalent in Spanish (Mikkelson 1995, 207).

The meanings of *murder*, *manslaughter* and *homicide* and other terms can be made clear to any Spanish or English speaker when definitions are written in each language using simple words which stand for concepts shared by all, or nearly all natural languages. For example simple English and Spanish words such as I/YO, DO/HACER, SOMETHING/ALGO, and BAD/MALO can be combined into semantically equivalent sentences such as “I did something bad”/“(yo) he hecho algo malo”. Sentences like this can be components of definitions which are directly translatable.

Complex English or Spanish expressions are not directly translatable. For example, this English text is not directly translatable into Spanish:

"... malice aforethought is satisfied by either: (a) an intention to kill; or (b) an intention to cause grievous bodily harm.” (Leigh, Giles et al. 1996, 96).

Similarly, this Spanish text is not directly translatable into English:

"alevosía .. cautela para asegurar la comisión de un delito contra las personas, sin riesgo del delincuente. (treachery ... caution (or wariness or carefulness) in order to ensure the carrying out of a crime against people, without risk/danger to the criminal) (Ossario 1989,49 cited in Mikkelson 1995: 207)."
The thesis covers a large part of the lexicon of the criminal law in England and Wales. The whole set of explications could be translated into foreign languages which are most commonly interpreted in English and Welsh courts and printed in glossaries. Interpreters keep their own bilingual personal term banks, glossaries and dictionaries with them for reference (Colin and Morris 1996, 97).

Armed with a glossary of legal terms in NSM, an interpreter could use the explications to further his or her understanding of the law and could read the explication in the foreign language directly to the foreign language speaker. If, for example, the explication requires “X wanted something bad to happen to the body of Y”, a defendant could immediately say, “Yes I wanted that” or “No I didn’t want that”. Without the explication, the defendant’s required state of mind might be obscured by a translation of intention or some other complex expression.

The same of course is true for other key legal texts such as cautions and jury instructions. These are set texts for which complete or partial NSM paraphrases would be invaluable. In her article “‘Let me put it simply …’: the case for a standard translation of the police caution and its explanation”, Sonia Russell says of police preliminary interviews, “In my data, the entire sequence is characterized by disfluency, inaccuracy and uncertainty on the part of interpreters which reaches a peak during the explanation of the caution”. She says that there is a strong case for a standard explanation of the caution and standard translations of both caution and explanation and that it should be obligatory to adhere to them. (Russell 2000, 45)
Police Cautions

When a police officer in the United Kingdom detains a person who is suspected of having committed a crime, the officer must person say to the person:

You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.

(Cotterill 2000, 5)

This is called a caution in the United Kingdom and a warning in the United States of America. Studies of the comprehensibility of the caution have found that it is complex and that understanding is a problem for both police officers and detained persons (Brown 1997). Indeed, to understand it, the detained person must have a general knowledge of the criminal justice system, including an understanding of the meaning of defence, court and evidence. If the detained person does not understand the caution, the police officer must paraphrase it, a task which many officers are ill equipped to carry out. The problem is compounded where the detained person does not speak English, and the caution and paraphrase are translated into another language.

In this chapter section I will demonstrate a socially useful application of forensic semantics by showing how the UK police caution can be made easier to understand when paraphrased in NSM. Firstly I will explain the legal status of the caution and how it is used. Secondly I will discuss some linguistic studies of cautions and warnings. Finally, I will suggest a paraphrase of the UK caution.
In the UK police officers are issued with a caution card with the caution written on it. When a person suspected of committing a crime is detained, the officer cautions the suspect by saying the words of the caution, usually from memory. This is done at the time of arrest, before questioning and before the suspect is charged with an offence. Suspects have to be cautioned because the right of silence is a fundamental right of the citizen. After the police officers have spoken the caution, they question the suspect about the offence and the questioning is recorded. During the questioning, the police officers will try to get the suspect to confess to having committed the crime. If the suspect does confess, the police officers can go into the witness box at the trial of the suspect, and say what the suspect said to them. Normally a witness can’t say what another person said because that is against a rule of evidence called the hearsay rule. Confessions, however, are an exception to the rule (Police and Criminal Evidence Act 1984 UK s76).

Dennis Kurzon has pointed out some problems with the lexicon and syntax of the caution. The modal verbs *may* and *have to* are ambiguous (Kurzon 1996, 9). *May* can imply either possibility or permission:

The woman may come in, so put that book away.
Let the woman outside know that she may come in.
*Have to* can imply either compulsion or desirability:

I order you to go there

Your presence is needed there because of the situation

The negative, *You do not have to go there* also implies permission:

You need not go there

You may NOT go there

The syntax has marked features which are harder to grasp than unmarked features. The passive is a marked feature which is not normally a problem, except that some listeners tend to interpret any sequence of Noun Phrase-Verb-Noun Phrase as Agent-Verb-Patient (Kurzon 1996, 9). The verb *mention* is followed by an adjunct, *when questioned*, instead of its complement, the unmarked structure being Verb-Complement-Adjunct. Further, the adjunct *when questioned* has no subject and no auxiliary verb. In the final sentence, the anaphor *it* has a following antecedent, the clause, *something which you later rely on in court*. Again this is a marked structure since an antecedent will normally precede its anaphor.

Prior to the introduction of the above caution in 1995, a proposed 1994 version was examined by Gisli Gudjonsson and Isabel Clare. It was:

You do not have to say anything. But if you do not mention now something which you later use in your defence, the court may decide that your failure to
mention it now strengthens the case against you. A record will be made of anything you say and it may be given in evidence if you are brought to trial. (Gudjonsson and Clare 1994, 110)

This 1994 version is less concise than the 1995 version, and in Kurzon’s view, it “seems superior to the later version because it makes clearer what the rights of the suspect amount to” (Kurzon 1996, 16). Gudjonsson and Clare tested the 1994 version on three groups, one of university entrance students, one with learning disabilities and one of mental health detainees. Asked to recall and explain the caution, 7% of the students succeeded, and none in the other groups. When given a copy of the caution and asked to explain the meaning of each sentence, 58% of the students and 18% of the other groups fully comprehended all three sentences (Gudjonsson and Clare 1994, 111). If Kurzon’s view is correct, then a similar survey on the 1995 caution would no doubt produce lower scores.

A study by Janet Cotterill examined lexical items in the 1995 caution and analysed comprehension difficulties of both police and detainees (Cotterill 2000, 21). For example the verb harm in it may harm your defence usually implies harm to a person or an animal, not to a thing such as a defence. Consequently 62% of police officers paraphrased the caution to detainees in terms of personal damage to the detainees (Cotterill 2000, 16). The verb mention had problems because it implies a brief statement leading to uncertainty about the length of answers to questions. The phrasal verb rely on led to uncertainty amongst police and detainee respondents in defining what subject matter could be relied on (Cotterill 2000, 20). One of Cotterill’s conclusions is that there should be a Standard English paraphrase of the caution (Cotterill 2000, 21). Sonia
Russell has called for a standard explanation of the caution and standard translations of the caution and the explanation which must be obligatorily adhered to (Russell 2000, 45).

Similar problems have been reported in studies of the United States Miranda warning. An examination of linguistic and comprehension issues in police warnings was carried out by Shuy (1997). He found that some expressions in the warning such as understand, to have a lawyer present, to remain silent and do you wish to talk with us (Shuy 1997, 182-191), were not clear. He invites linguists to come up with better measures of understanding to make the language of police warnings clearer (Shuy 1997, 185-187). In Australia, a judge, Dean Mildren has said, “I doubt if there is anything more difficult than trying to explain the caution in simple English” (Mildren 1997, 11). Working with linguist Michael Cooke, he has suggested a paraphrase of the Northern Territory caution in Aboriginal English (Mildren 1997, 12-13).

The following is the UK caution and my suggested standard NSM paraphrase it:

**Original caution**

You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.

(Cotterill 2000, 5)
Paraphrase

I want you to know that you don’t have to say anything to me now.

At the same time, I want you to know that if you say some things to me now this can be good for you.

If you say these things to me now, later (after now) I can say these things in a place called “the court”.

If I say these things in court this can be good for you.

I you don’t say these things to me now I can’t say these things in court later.

If I don’t say these things in court, this can be bad for you.

When you are in court, someone there called “the magistrate”, will say to you about something:

“maybe you did a bad thing”

Maybe you will say to this person:

“I didn’t do it”

When you say this, it will be good for you if this person thinks that it is true.

If you don’t say some things to me now, this person can think that it is not true.

If this person thinks that you did this bad thing, something bad will happen to you because of this.

In this paraphrase, the court procedure is set out. In more complex language the procedure is that the suspect may go to court, plead not guilty and defend the charge, and can be found not guilty or guilty and sentenced. This knowledge, which is essential for an understanding of why the questioning is taking place and why silence may harm the suspect’s defence, is assumed in the original caution. The paraphrase does not
assume that the suspect knows of such a thing as a law or a legal system or criminal procedure, nor of the right to know the nature of the charge against him or her, the right to be heard, nor that the verdict may be guilty or not guilty and that punishment will follow a guilty verdict. This is needed to inform suspects of low intelligence, or suspects unfamiliar with the legal system of England and Wales and the Western tradition of law. When translated into a standard paraphrase in other languages, these basic assumptions should be transparent to speakers of other languages. They should also be understandable to indigenous peoples who know only tribal custom and who do not know what laws and courts are.

It is clear from the paraphrase that the caution is far too brief and assumes too much. It assumes a knowledge of the criminal justice system, including the stages of criminal procedure, the place of police questioning in the procedure and how questions and answers can be given in evidence at the trial of the person questioned. It is little wonder that studies have found that cautions are hard to understand.

**Trial Preparation**

In trial preparation, the evidence, made up of words that people say and things such as knives and money, must be analysed. The aim of this analysis is to see if these words and things can satisfy components in the definition of the crime with which the defendant is charged. The process of matching evidence sentences to components of definitions is called “fact management”, which is a kind of evidence analysis. Fact management involves may sub-skills such as organising data, separating relevant facts from irrelevant facts and deciding whether or not facts can support inferences. It is an important generic skill used in other skills
such as conducting conferences, negotiation, opinion writing, drafting, advocacy and legal research (Keane 1996, 900). As I have shown, the current statutory and common law definitions of expressions referring to crimes are more often than not, complex and obscure. The trial lawyer begins with these expressions and applies their various elements to the facts to see whether or not there is a good case. Complexity and obscurity does not make a good starting point for the analysis of evidence. NSM explications on the other hand, with their elementary lexicon and syntax make an good transparent starting point.

In this chapter section I will give an example of a practical application of the method of analysis in this thesis by showing how evidence analysis in trial preparation can be improved. I will demonstrate the utility of the explications through an examination of the Wigmore method of fact management, which uses an evidence list to set out the components of the definitions of legal concepts, the facts and evidence and an evidence chart to picture the relationship between components, facts and evidence. The lists and charts examined are by Wigmore (Wigmore 1988) and Anderson and Twining (Anderson and Twining 1989). These conventional lists and charts are compared to a list and chart based on an NSM explication of murder.

A method for the analysis of evidence was developed in the early twentieth century by John Henry Wigmore. He drew attention to the fact that the study of evidence is divided into two parts, proof and admissibility, and that the study of proof had been neglected in favour of the study of admissibility:
The study of the principles of Evidence, for a lawyer, falls into two distinct parts. One is proof in the general sense - the other concerned with the ratiocinative process of contentious persuasion - mind to mind, counsel to juror, each partisan seeking to move the mind of the tribunal. The other part is Admissibility, - the procedural rules devised by the law, and based on litigious experience and tradition, to guard the tribunal (particularly the jury) against erroneous persuasion. Hitherto, the latter has loomed large in our formal studies - has, in fact, monopolised them; while the former, virtually ignored, has been left to the chances of later acquisition, casual and empiric, in the course of practice.

(Wigmore 1988, 1)

Wigmore set about establishing a science of proof (Wigmore 1988) in which he advocated a chart method for evidence analysis. The analyst takes two sheets of paper, one for the evidence chart and one for the evidence list, and on the list writes phrases or sentences which are numbered on the list and on the chart. The chart, which contains only symbols, has lines on it to represent inferences from one sentence to another. For example, suppose that Arthur is charged that on 5 August 1998 he murdered June. Suppose a witness says “Arthur pointed a gun at June and shot her” and suppose too that the applicable law is New South Wales (Australia) where murder is defined thus: “The accused ... did an act; ... which caused the death charged (of a human being); and such act was done ... (b) with intent to kill” (Bartley 1996, 1). From the witness statement “I saw Arthur shoot her” the analyst writes on the key list a sentence or phrase in the third person: “Arthur shot June” and gives it a number on the list and on the chart (this sentence or phrase is called a “fact”: (see Anderson and Twining 1991, 445)). From this fact sentence the analyst infers another sentence “the accused did an
act”, which is also written and numbered on the list, and numbered on the chart. This sentence, which is taken from the law defining murder, is usually called an “element” or an “ingredient” of the offence of murder. Here is an example of an evidence chart and evidence list for this example:

**R. v. Arthur**

**Evidence Chart**

![Evidence Chart Diagram]

**Evidence List**

1. Arthur did an act which caused the death charged with intent to kill
2. The accused did an act
3. Which caused the death charged
4. With intent to kill
5. Arthur shot June
6. Statement of witness X
7. Arthur pointed a gun at June
8. Statement of witness X
Wigmore called the sentence on the top row (number 1), the *ultimate probandum*, and the phrases and sentences on the second row (numbers 2-4) he called the *penultimate probanda*. The third row (numbers 5 & 7) represents facts and the boxes on the fourth row (numbers 6 & 8) represent the evidence from which the facts are derived. Armed with this chart, the lawyer engaged in preparation for activities such as conferences, negotiations, opinion writing and trial preparation can see how well the facts support a particular element, since more facts usually suggest a higher probability of proof, and fewer facts usually suggest a lower probability of proof. The strength of individual facts can also be compared with other facts supporting the same or different *probanda*. Most importantly the chart clearly shows gaps in the evidence, so that in the case of number 3, which has no facts or evidence supporting it, the lawyer can see that he/she must obtain medical and other evidence to prove the cause of death.

We can see that the success or failure of this technique is entirely dependent on the proper formulation of the *penultimate probanda* or elements of the charge. I will give an example of elements in an example proposed by Wigmore (Wigmore 1988) and revised by Anderson and Twining (Anderson and Twining 1991, 140). I will then suggest my own revised analysis in NSM.

Wigmore analysed a 1901 Massachusetts murder case, *Commonwealth v. Umilian* (Wigmore 1988, 756). Umilian and Jedrusik worked together on a farm in Granby. Umilian went to a Polish priest to marry a woman but the priest refused to marry Umilian because the priest had received a letter from Jedrusik, falsely stating that Umilian was already married. Six weeks later Jedrusik disappeared and four months later his body was found in a well on the farm. Umilian was convicted of murder in the
first degree. Wigmore’s analysis unfortunately focused on only one of the *penultimate probanda*: did Umilian do the things that caused the death of Judrusik? Anderson and Twining’s revision (Anderson and Twining 1991, 140) attempted to enlarge the analysis by presenting a complete set of *penultimate probanda* based on the definition of murder in the first degree in Massachusetts in 1901:

Murder committed with deliberately premeditated malice aforethought, or ... with extreme atrocity or cruelty, is murder in the first degree.

(Mass. Gen. L. Ch. 160, § 1 (1855))

This definition was set out on the following evidence chart and evidence list for the *ultimate* and *penultimate probanda* of Commonwealth v. Umilian:

**Evidence Chart**

```
    O 1
   /   
O 2   O 3   O 4
   |     |     |     
   O 5  O 6  O 7
   |     |     |
  O 8   O 9
```

**Evidence List**

1 (A) Jedrusik ("J.") was dead, and (B) J.’s death resulted from the unlawful act of another, and (C) it was Umilian ("U.") who committed the unlawful act that caused J.’s death, and (D) U. committed that act either (E) with
deliberately premeditated malice aforethought or (F) with extreme
atrocious or cruelty.

2. J. was dead;
3. J.'s death resulted from the unlawful act of another;
4. It was U. who committed the unlawful act that resulted in J.'s death;
5. U. acted with deliberately premeditated malice aforethought or with extreme
atrocious or cruelty in committing the act that caused J.'s death;
6. U. acted with deliberately premeditated malice aforethought;
7. U. acted with extreme atrocious or cruelty;
8. U. acted with extreme atrocious;
9. U. acted with extreme cruelty;

(Anderson and Twining 1991, 140, 137)

There are three problems with this analysis. Firstly, a number of the elements are simply
restatements of other elements: number 1 is a restatement of the numbers 2-5, number 5
is a restatement of 6-9 and 7 is a restatement of 8-9. It seems odd to infer a general
proposition made up of the same words as the propositions from which it is inferred.
Wigmore's *ultimate probandum* was "ISSUE: DID U. KILL J.?" (Wigmore 1988, 756),
which was more appropriate. Perhaps the best approach would be to restate the words of
the charge as they appear in the indictment and to delete numbers 5 and 7. The second
problem is that *murder* is polysemous and requires a separate chart and list for each
meaning of the word appearing in 5-9. The third and major problem is that the
propositions are obscure, containing expressions such as *unlawful act* and *premeditated
malice aforethought*. What is required is a definition of the separate meaning or
meanings of *murder* in simple words which cannot themselves be defined, and which
can be directly inferred from the facts, without the need for further definition of those words. I will now suggest a way to do this by giving a revised evidence list and evidence chart for Commonwealth v. Umilian based on an NSM explication of murder. The meaning is "acted with deliberately premeditated malice aforethought" in 5 on the above evidence list.

Someone (person X) murdered person Y

(a) X did something to Y
(b) X did this because X wanted to do it
(c) because X did this, something happened to the body of Y
(d) because this happened to Y’s body, after this, Y didn’t live any more
(e) when X did this X wanted something very bad to happen to someone because of this
(f) when X did this, X knew that someone could die because of this
(g) before X did this, X thought about it for some time
(h) people think:
(i) it is very bad if someone does something like this
(j) if someone does something like this, after this other people have to do something to this person because of this
(k) when X did this, X knew that other people think this

The revised evidence chart and list is as follows:
Commonwealth v. Umilian

Evidence Chart

Evidence List

1 U. murdered J.
2 U. did something
3 U. did this because U. wanted to do it
4 Because U. did this, something happened to the body of J.
5 Because this happened to J’s body, after this, J didn’t live any more
6 When U. did this U. wanted something very bad to happen to J. because of this
7 When U. did this, U. knew that J. could die because of this
8 Before U. did this, U. thought about it for some time

The components of the definition (h)-(k) have been omitted from this analysis since they will not normally have to be proved. I will not attempt a full chart and list, but a full list would include under components 2-8, all the relevant facts with the evidence supporting each fact. For example:
Evidence List

(1) U. murdered J.
(2) U. did something
(3) U. did this because U wanted to do it
(4) Because U. did this, something happened to the body of J.
(5) Because this happened to J’s body, after this, J. didn’t live any more
(6) When U. did this U. wanted something very bad to happen to J. because of this
(7) When U. did this, U. knew that J. could die because of this
(8) Before U. did this, U. thought about it for some time
(9) U. uttered threats and other hostile expressions between Nov. 18 and Dec. 31
(10) Anon. witnesses to this.
(11) U. charged J. to K. with stealing K.’s goods
(12) Anon. witness to this
Here we can see that the complex expression *deliberately premeditated* is replaced by a simple expression, “Before U. did this U. thought about it for some time” (8), which is much clearer and easier to understand. Inferences can be easily made between this simple sentence and facts such as threats, hostile expressions (9) and the stealing charge (11). Similarly the sentence “U. did this because U. wanted to do it” (3) can be inferred from (9) and (11) in a way which is easier than inferences between the facts and complex expressions such as *intention to kill* and *intention to cause grievous bodily harm*.

Once a definition has been written, the components become “facts” which replace the “elements” of the complex legal definition. It is then a simple matter to go one step further and translate these components into the facts of the case. Let us take *Commonwealth v. Umilian* for example. Suppose that there was evidence that Jedrusik was knifed by Umilian, that Umilian wanted Jedrusik not to live any more, and that Jedrusik bled to death. We might carry out the translation from complex to simple definition and relate this to the facts in this way:

**Complex definition**

Murder committed with deliberately premeditated malice aforethought, or ... with extreme atrocity or cruelty, is murder in the first degree.

(Mass. Gen. L. Ch. 160, § 1 (1855))
I think that evidence analysis is a good example of a practical application of NSM semantics. Evidence analysis assisted by NSM should enable any trial lawyer or advocacy student to grasp the principles of the case and to understand the key facts.
They can be written out on an evidence list together with statements by witnesses and descriptions of material evidence such as documents, guns and blood. This evidence can then be charted in support of the facts and inferences can be made to assess the probability of proof and to find gaps in the evidence.

Once this analysis has been carried out, the lawyer is in a position to use it in writing opinions on liability, writing advice on evidence, writing trial books, and preparing for pre-trial settlement negotiations. For example in writing an opinion on liability, the lawyer can examine the number of witnesses whose evidence supports particular facts, and give an opinion of the probability of those facts being proven should the matter come to trial. In writing an advice on evidence, the lawyer can point to gaps on the chart showing missing evidence and to insufficiencies in the evidence. In preparing for negotiations, the lawyer can construct a plan based on a good understanding of the case, so that decisions can be made about what arguments to put to the opposing party and what concessions may have to be made.

**Jury Instructions**

In the superior courts of the common-law system, the jury is the tribunal of fact. It decides what witnesses it should believe and whether or not the evidence of the witnesses falls within the meaning of the crime charged. The judge is the tribunal of law. It is the judge’s job to decide legal matters such as the admissibility of evidence and to instruct the jury on legal points such as the standard and burden of proof and the meaning of the crime charged. Studies of jury instructions have found that they can fail to communicate important legal points (Levi 1993, 23) and attempts at reform to improve understanding have been made in some jurisdictions. The method of NSM
semantics demonstrated in this thesis offers a way to assist in reform of jury instructions to help make clear the meanings of parts of jury instructions dealing with the definitions of crimes and the meaning of the standard of proof, “beyond reasonable doubt”.

In this chapter section I will give an example of a practical application of the method of analysis in this thesis by showing how jury instructions can be made simpler and easier to understand. I will describe the nature of jury instructions, discuss some previous work on the comprehensibility of jury instructions, give an example if an instruction on the meaning of recklessness, say what is wrong with it and show how an NSM explication can make instruction simpler and easier to understand.

“Jury instructions” is the American English term for the judge’s address to the jury (Tiersma 1999, 193). The British English expression is the “the summing up” or “directions to the jury” (Richardson 2000, 441). In the United States there are “standard” or “pattern” directions in most jurisdictions and in England and Wales guidelines are laid down in specimen directions drawn up by the Judicial Studies Board (Richardson 2000, 441). In the United States the instructions are fixed for each case, and judges will usually not attempt to vary or explain them for fear of the verdict being overturned on appeal. They are read to the jury from these texts which are often composed of very formal language containing unusual words, nominalisations, passives and other features of written legal language which I discussed in a Chapter 2 (Tiersma 1999, 193). In England and Wales judges are more free to adapt specimen directions and they should be “... custom-built to make the jury understand their task in relation to a particular case.” (per Lord Hailsham LC., in R. V. Lawrence [1982] A.C. 510 at 519, HL).
There have been a number of studies which have found that jury instructions are hard to understand. In an experiment by Robert and Veda Charrow, only half of their subjects were able to paraphrase pattern instructions correctly. The researchers found that unintelligibility was mostly caused by the unique features of legal language. When the instructions were rewritten in simpler language, understanding was improved (Charrow and Charrow 1979, 1306 cited in Tiersma 1999, 231). In a study of the language of Illinois capital sentencing instructions, Levi found major linguistic problems for the jury in the comprehension of legal concepts in jury instructions (1993: 20, 26). The problems in the semantics of the instructions were illustrated in this sentence: “some mitigating factor....sufficient to preclude the death penalty”. Levi surveyed 51 college students and found that only 6% knew the word preclude. She thought the word sufficient to be well known but “inherently and unavoidably VAGUE [sic]” (1993: 29). The expressions aggravating circumstances and mitigating circumstances, on which juries decide whether a convict will or will not die, are an excellent example of legal language which jurors may not understand. They are formal words drawn from sentencing textbooks with special legal meanings. Jurors may not understand the special meaning or they may be misled because aggravate is an homonym meaning annoying in ordinary language and worsening in legal language (Tiersma 1999, 234). Other studies have also documented the semantic and syntactic hurdles that US juries face when hearing pattern instructions (see Dumas 2000, 49).

A full examination of the application of NSM explications in jury instructions is beyond the scope of this thesis because it would require comparison of the legal and NSM definitions of the elements of various offences and testing of listeners comprehension. Instead I will give an example, an instruction on the meaning of the word recklessness.
It is a direction to the jury by the trial judge in *R. v. Morrison (L.A.)* 89 Cr. App. R. 17. During a police raid on a house, a policewoman attempted to arrest a man who jumped through a window, dragging her with him, causing her to cut her face on the window glass. The judge directed the jury on how to decide whether the man had been *reckless* or not.

Recklessness presupposes something in the circumstances that would draw the attention of an ordinary, prudent and sober person to the possibility that the act he is committing is capable of causing harm to her (in other words, the woman), and that the risk he was going to take was more than just a possibility: it was a risk which he either took deliberately, or he closed his mind to the possibility of causing her injury. That is basically what we mean by reckless. *R v. Morrison (L.A) 89 Cr. App. R. 17, CA.*

This is not a very complicated direction, nevertheless it has formal and complex words usually found only in writing: *presupposes, circumstances, prudent, committing,* and *closed his mind to the possibility.* The structure is a complex first sentence of 86 words with a series of relativisations of the noun-phrases *something in the circumstances* and *the possibility,* coordination with *and* disjunction with *or.* The topic is *the circumstances* but the judge does not say what circumstances he is referring to. This may be obvious to some listeners but not to others. The text is far too concise, and reads like a carefully worked out statement in the philosophy of action.

Guides on how to make jury instructions easier to understand have been written (Tiersma 1999, 232) and suggestions made for their improvement. For example Bethany
Dumas's paraphrase of a pattern instruction for *beyond reasonable doubt* (Dumas 2000, 60). I think that instructions can be simplified and made easier to understand through paraphrases in NSM. For example, the above direction on the meaning of *reckless* in *R. v. Morrison*, can be explained along the lines that I gave in Chapter 3:

Morrison did something *reckless* means that:

(a) he did something because he wanted to do it.

(b) he knew that if he did it, something bad might happen to someone

(c) he didn’t want to think about this

As I explained previously, there are two kinds of *recklessness* in England and Wales, *Cunningham* recklessness which has a "subjective test" and *Caldwell* recklessness which has an objective test. In *R. v. Morrison* the judge wrongly gave a *Cunningham* direction when he should have given a *Caldwell* direction. The two can be easily distinguished. My suggested *Caldwell* direction in NSM is:

Morrison did something *reckless* means that:

(a) he did something because he wanted to do it.

(b) something bad could happen to someone because he did it

(c) he didn’t think about this

A comparison of these directions with their originals shows that they are in short active sentences composed of primes and entirely free of the formal and complex words of legal language. The topic, *Morrison did something reckless*, is clearly set out and the
syntax is free of relative clauses, coordination and disjunction. Each text is concise, precise and clear.

In this chapter section I have demonstrated another practical application of the method of analysis in this thesis by showing how jury instructions can be made simpler and easier to understand. This application could be expanded by writing a set of NSM paraphrases for a particular jurisdiction. These should be paraphrases of the most commonly charged crimes and key terms in jury directions such as beyond reasonable doubt. After experimentally testing for comprehension on lay subjects, judges could be asked to use the directions in actual cases.

**Conclusions**

In this chapter I have discussed the results of the analyses and suggested some practical applications. In the following chapter I will conclude the discussion with an assessment of how far the analysis has met the overall aim of the research.
Chapter 8 Conclusions

In the opening discussion I said how little was known of the semantics of crime in ordinary and in legal language. There had been many explorations of other semantic fields in English, such as emotions, colours, speech act verbs and aspects of the semantics of grammar. However no study had made a large scale systematic exploration of the criminal lexicon in English.

The research project aimed at extending knowledge of the semantics of crime in English by analysing the meanings of expressions referring to crimes in ordinary and legal language. The aim has been achieved in four major respects. Firstly the nature of semantic structures in this field is now better understood. Secondly, in legal language, the definitions of crimes have been exposed as deficient when compared with definitions in linguistic semantics. Thirdly the research has revealed some important practical applications of the analyses and methodology in legal domains. Fourthly the study has resulted in a large scale and a systematic description of the semantics of crime in ordinary and in legal language.

The nature of semantic structures in the semantic field of expressions referring to crimes is now better understood. This finding was discussed in detail in the previous chapter (see page 327). In summary the study has revealed how meaning is structured sequentially in the form of a story beginning with someone doing something whilst thinking something. After this, something else happens because the person does something. Finally there is some evaluative comment on the on the story by society or the speaker. This structure is made up in bits, that is three “bundles” of components, an
action bundle, a mental bundle and an evaluative bundle, sequenced in that order. However the “bundles” are not uniformly separate and sequenced across the lexicon, so that for example, mental elements can occur between action components or after an evaluative component.

Other findings concerning the nature of the semantic field were the grouping of expressions referring to crimes round a central prime such as PERSON (murder, rape etc), THING (steal, rob etc) and PEOPLE (riot, hijack etc), the variation in complexity of meanings between expressions, the similarity between the ordinary and legal meanings of most expressions and the way that some meanings form “building blocks” for the meanings of more complex expressions.

The study revealed serious problems with the way the legal definitions of crimes are written. (See page 144). Twelve problems were found in the Code alone, and other statutes revealed more problems, such as the use of the passive in the definition of murder in New South Wales. It was to be expected that current legal definitions had problems, but to find that the texts of laws remain, in many ways as complex and obscure as those of previous centuries, was not expected.

Some examples of socially useful practical applications for the explications and methodology were explored in Chapter 7. Four examples were given, legal interpreting, cautions, trial preparation and jury instructions. In legal interpreting, in cautions and in jury instructions, ordinary people come into contact with legal texts. The methodology of reductive paraphrase offers a route to simplification of these texts so that ordinary people can better understand them. This was demonstrated through paraphrases of the
UK caution and a jury instruction and through explanation of the utility of the method in legal interpreting. The explications in this thesis are of direct utility in the many contexts, bilingual and monolingual, where legal terms have to be explained to lay persons. For the lawyer in trial preparation, complex legal concepts can be broken down into simple language which can be related to the facts of individual cases.

Finally and perhaps most importantly, the research project has added to knowledge of the semantics of crime in legal language and in ordinary English because it was a large scale and systematic investigation which resulted in the description of a substantial part of the lexicon of crime in English (some fifty-nine items). These items systematically cover the fundamental physical and mental concepts appearing in definitions of crimes and the crimes themselves, arranged under crimes against the person, crimes against property and public crimes.
Table of Statutes

Administration and Probate Act (Victoria) s16(1) ... 29
Aviation Security Act 1982 (UK) s1 ... 319
Broadcasting Act 1990 (UK) s166 ... 321
Crimes Act 1900 (New South Wales) s18A ... 336, s23A ... 165, s345 ... 163
Criminal Damage Act 1971 (England and Wales) s1(1) ... 252, s1(3) ... 259, s10 ... 253
Criminal Justice Act 1988 (England and Wales) s134(1) ... 227
 Forgery Act (England and Wales) s 1 ... 301
 Forgery and Counterfeiting Act 1981 (UK) s14 ... 300, s27 ... 300, s28 ... 301
Genocide Act 1969 (England and Wales) s1(1) ... 179
Housing Act, 1980, (England and Wales) s 24(5) ... 31
Mass. Gen. L. Ch. 160, § 1 (1855) ... 356
Merchant Shipping and Maritime Security Act 1997 (UK) Schedule 5 ... 312
Police and Criminal Evidence Act 1984 (UK) s76 ... 346
Sexual Offences Act 1956 (England and Wales) ... 195
Statute of Pleadings 1356 (England and Wales) ... 10
Theatres Act 1968 (UK) ... 321
 Theft Act 1968 (England and Wales) s1(1) ... 238, s3 ... 239, s4 ... 239, s5(1) ... 111, s6(1...) ... 240, s8(1) ... 245, s9(1) ... 251, s15(1) ... 271, s15(4) ... 271, s21 ... 279, s34(2) ... 280.
Wills Act (Singapore) s14 ... 28
Table of Statutory Instruments

Forgery and Protected Coins Order 1981 (UK)...300
<table>
<thead>
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<td>932</td>
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<td>82 Eng Rep</td>
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<td>R. v. Lawrence [1982]</td>
<td>AC</td>
<td>510</td>
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<tr>
<td>R. v. Morrison (L.A.)</td>
<td>89 Cr App R</td>
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<td>R. v. Ryan and Walker [1966]</td>
<td>VR</td>
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<td>Robinson (1884)</td>
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<td>Roger Smith v Leon Dupuy Dozer Hire Pty Ltd. Supreme Court of Victoria. 25 May 2000</td>
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</table>
Toschak (1849) 1 Den 492 291

White and Keblewhite 82 Eng Rep 695 29
Appendices

Appendix A CobuildDirect corpus contents

COBUILDDirect

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56 million word Corpus: July 1998
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Daily transcripts from broadcasts of the BBC World Service, London, including news, current affairs and general interest programmes.

| NPR       | 3 million words | 103 texts     | 30,000 words         | 1990-1993   |

Daily transcripts from broadcasts of National Public Radio, Washington, USA, including news, current affairs and general interest programmes.
OZNEWS  5 million words  61 texts  82,000 words  1994-1995

Issues of the Courier Mail and Sunday Mail, published by Queensland Newspapers Pty Ltd, Brisbane, Australia.

TIMES  5 million words  39 texts  128,000 words  1995-1996


TODAY  5 million words  158 texts  32,000 words  1991-1995


SUNNOW  6 million words  92 texts  63,000 words  1998

Issues of The Sun daily newspaper (the most popular newspaper in Britain) and its Sunday version The News of The World, published by Times International Newspapers, London.
Books published in Britain; 45 non-fiction, 26 fiction; 46 male authors, 25 female.

Junk mail, brochures, leaflets, newsletters, etc, produced in Britain by schools, hospitals, charities, banks, local political groups, commercial companies, consumer groups, tourist organizations, local government authorities, etc; also some personal letters.

Issues of periodicals published in Britain: 88 magazines and 38 newspapers; general male and female interests for teenagers and upwards, specialist interests (music, cycling, football, photography, etc), and ethnic minority and gay publications.

Informal conversations, telephone calls, service encounters, discussions,
consultations, lectures, radio phone-ins, research interviews, television
discussion programmes, etc; mostly spontaneous, a few scripted; a wide range
of topics (family, environment, crime, tourism, music, finance, etc); roughly
equal numbers of male and female participants, from all parts of Britain.

USBOOKS  5 million words  52 texts  96,000 words  45 post-1990
          7 pre-1990

Books published in the USA; 38 non-fiction, 14 fiction; 31 male authors,
12 female, 9 not known.

USEPHEM  1 million words  922 texts  1,100 words  900 post-1995
         22 pre-1995

Junk mail, advertisements, guides, instructional and promotional leaflets,
catalogues, newsletters, etc; produced in the USA by educational
organizations, banks, commercial companies, health and consumer groups, local
services, tourist organizations, state authorities, etc; also some personal
letters.

(CobuildDirect 2001b)
Appendix B CobiuldDirect searches

See Appendix A for descriptions of sub-corpora

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Appendix C Explications

Doing bad things

Act

Someone (person X) did an \( act_{i,OL} = \)

(a) \( X \) did something

(b) \( X \) did it because \( X \) thought:

(c) \( I \) want to do it

Omit

Someone (person X) \emph{omitted} to do something \( _{OL} \)

(a) \( X \) did not do something

(b) \( I \) think it is bad if someone does not do something like this

Voluntary

Someone’s (person X’s) act was \emph{voluntary} \( _{OL} = \)

(a) \( X \) did something

(b) \( X \) did it because \( X \) thought:

(c) \( I \) want to do it

(d) \( X \) did not do it because \( X \) thought:

(e) \( I \) have to do it
Circumstances

Something happened in these $circumstances_{OL}$

(a) something happened to someone at some time in some place
(b) when people think about it they can think about some other things like this:
(c) these other things happened in the same place at the same time

Result

Something (X) was a $result_{OL}$ of something else

(a) something happened
(b) because this happened something else happened (X)

Cause

Something (X) was a $cause_{OL}$ of something else

(a) something happened (X)
(b) because this happened something else happened

Conduct

Someone’s (person X’s) $conduct_{OL}$

(a) X did some things for some time
(b) X did these things because X thought:
(c) I want to do these things
(d) people can say it is bad if someone does these things
(e) people can say it is good if someone does these things
Intends

Someone (person X) intends to do something (Z)

(a) X thinks like this about something:
(b) I want to do it
(c) I can do it
(d) I will do it after now

Reckless

Someone (person X) did something reckless

(a) X did something because X wanted to do it
(b) X knew that if X did it something bad could happen because of this
(c) X didn’t want to think about this
(d) people say it is bad if someone does something like this

Risk

Someone (person X took) a risk

(a) X did something because X wanted to do it
(b) when X did it X thought like this:
(c) I know that if I do it something bad can happen
(d) I don’t want not to do it because of this
(e) maybe this bad thing will not happen
**Negligent**

Someone (person X) was $\textit{negligent}_{OL}$

(a) X was doing something for some time

(b) X didn’t do something else at the same time

(c) X could know that if X doesn’t do this other thing at the same time, something bad could happen because of this

(d) X didn’t think about this

(e) people say it is bad if someone does something like this

Someone (person X) was $\textit{negligent}_{LL}$

(a) X was doing something for some time

(b) X didn’t do something else at the same time

(c) X couldn’t not know that if X doesn’t do this other thing at the same time something bad could happen because of this

(d) X didn’t think about this

(e) people say it is bad if someone does something like this
Doing bad things to a person

Murder

Someone (person X) murdered_{ol} someone else (person Y)

(a) X did something to Y
(b) because X did this, something happened to Y’s body
(c) because this happened to Y’s body, after this, Y didn’t live any more
(d) X did this because X wanted Y not to live any more
(e) when X did this, X knew that Y could not live any more because of this
(f) when X did this, X could know that X was doing something bad
(g) people say that it is very bad if someone does something like this
(h) I think that X did something very bad
(i) when I think about it, I feel something bad

Someone (person X) murdered_{ll} someone else (person Y)

(a) X did something
(b) X did this because X wanted to do it
(c) because X did this, something happened to the body of another person Y
(d) because this happened to Y’s body, after this, Y didn’t live any more
(e) when X did this X knew that something very bad could happen to someone else because of this
(f) when X did this, X knew that someone else could not live any more because of this
(g) when X did this, X could know that X was doing something bad
people say:

(i) it is very bad if someone does something like this

(j) if someone does something like this, after this other people have to do something to this person because of this

(k) when X did this, X knew that people say this

Manslaughter

Someone (person X) is guilty of the manslaughter of someone else (person Y)

(a) X did something

(b) X did this because X wanted to do it

(c) because X did this, something happened to the body of another person Y

(d) because this happened to Y's body, after this Y didn’t live any more

(e) when X did this X knew that something very bad could happen to someone else because of this

(f) when X did this, X could know that X was doing something bad

(g) people say:

(h) it is very bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people say this
**Homicide**

This is a *homicide*

(a) someone (person X) did something to another person (person Y)

(b) X did this because X wanted to do it

(c) because X did this, something happened to Y’s body

(d) because this happened, after this Y didn’t live any more

(e) some people say: people have to know why this happened

**Suicide**

Someone (person X) committed *suicide*

(a) person X did something

(b) X did this because X thought:

(c) I don’t want to live any more

(d) because X did this, something happened to the body of X

(e) because this happened, after this X didn’t live any more

**Genocide**

Some people (X) are guilty of *genocide*.

(a) people X did something to people of a kind Y

(b) they did this because they wanted people of this kind not to live any more

(c) because they did this, something happened to the bodies of many people of this kind

(d) because of this, after this, these people didn’t live any more

(e) people say: it is very bad if some people do something like this

(f) when people X did this, they knew that other people say this
(g) I think: people X did something very bad

(h) when I think about it, I feel something very bad

Someone (X) is guilty of genocide

(a) X did something to people of a kind Y

(b) X did this because X wanted people of this kind not to live any more

(c) because X did this, something happened to the bodies of many people of this kind

(d) because of this, after this, these people didn’t live any more

(e) people say:

(f) it is very bad if someone does something like this

(g) if someone does something like this, after this other people have to do something to this person because of this

(h) when X did this, X knew that other people say this

Rape

Men and women

(a) there are two kinds of people

(b) people of one kind are called “women”

(c) people of the other kind are called “men”

(d) the body of a woman is not like the body of a man

(e) inside the body of a woman there can be another human being

(f) inside the body of a man there can’t be another human being
A vagina

(a) a place inside a woman’s body
(b) there is no place like this inside a man’s body
(c) a part of a man’s body [penis] can be inside this place inside a woman’s body
(d) it for some time there is inside the woman’s body the body of another human being
(e) before this body is outside the woman’s body
(f) if can be for a short time inside this place, in the woman’s body

A penis

(a) part of a man’s body
(b) there is no part like this in a woman’s body
(c) this part can move
(d) this part can be in a place inside a woman’s body [vagina]
(e) if this part is inside a woman’s body something can happen to the woman because of this
(f) because of this, some time after this, there can inside the woman’s body the body of another human being
A man (X) raped someone else (person Y)

(a) X did something to Y

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in a place inside Y’s body

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say it is very bad if someone does something like this

(h) when X did this, X knew that people think this

(i) I think X did something very bad

(j) when I think about it, I feel something very bad

A man (X) raped a woman (Y) (cl = common law)

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in a place inside Y’s vagina

(e) Y did not want X to do this to Y

(f) X knew that Y did not want X to do this

(g) people say:
(h) it is very bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people think this

A man raped_E&W_ someone else (_E&W_ = England and Wales)

(a) a man (X) did something to someone else (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in one of these two places inside Y’s body:

(e) inside Y’s vagina

(f) inside Y’s anus

(g) Y did not want X to do this to Y

(h) X knew that Y did not want X to do this

(i) people say:

(j) it is very bad if someone does something like this

(k) if someone does something like this, after this other people have to do something to this person because of this

(l) when X did this, X knew that people think this
A man *raped* someone else (*E&W* = England and Wales)

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time in one of these two places inside Y’s body some time:

(e) inside Y’s vagina

(f) inside Y’s anus

(g) Y did not want X to do this to Y

(h) X knew that Y could not want X to do this

(i) X didn’t want to think about it

(j) people say:

(k) it is very bad if someone does something like this

(l) if someone does something like this, after this other people have to do something to this person because of this

(m) when X did this, X knew that people think this

Someone *raped* Brownmiller 1975 someone else

(a) a man (X) did something to a woman (Y)

(b) a man can do some things to a woman because a man’s body is not like a woman’s body

(c) X did something like this to Y

(d) when X did this to Y, X’s penis was for some time inside Y’s vagina
(e) Y did not want X to do this to Y
(f) X knew that Y did not want X to do this
(g) people say it is very bad if someone does something like this
(h) when X did this, X knew that people think this
(i) I think X did something very bad
(j) when I think about it, I feel something very bad

Someone \textit{raped}_{Friedman 1990} someone else

(a) someone (X) did something to someone else (Y)
(b) when X did this something was inside Y’s body
(c) Y did not want X to do this to Y
(d) X knew that Y did not want X to do this
(e) people say it is very bad if someone does something like this
(f) when X did this, X knew that people think this
(g) I think X did something very bad
(h) when I think about it, I feel something very bad

Someone \textit{raped}_{Friedman 1991} someone else

(a) someone (X) did something to someone else (Y)
(b) a man can do some things to a woman because a man’s body is not like a woman’s body
(c) X did something like this to Y
(d) when X did this to Y, part of X’s body was on part of Y’s body
(e) Y did not want X to do this to Y
(f) X knew that Y did not want X to do this

(g) people say it is very bad if someone does something like this

(h) when X did this, X knew that people think this

(i) I think X did something very bad

(j) when I think about it, I feel something very bad

**Kidnap**

Someone (person X) *kidnapped* someone else (person Y)

(a) someone (Y) was in a place

(b) another person (X) did something to Y because X wanted someone else (Z) to do something (W)

(c) because X did this to Y, after this, Y was in another place

(d) Y was in this other place because X wanted Y to be there, not because Y wanted to be there

(e) X didn’t want other people to know where Y was

(f) X didn’t want Z to know where Y was

(g) Z didn’t know where Y was

(h) Z wanted to know it

(i) X thought that maybe Z would do W

(j) people say it is very bad if someone does something like this
Abduct

Someone (person X) abducted someone else (person Y)

(a) someone (Y) was in a place

(b) another person (X) did something to Y because X wanted Y to be in another place

(c) something bad could happen to Y because X did this to Y

(d) because X did this to Y, after this, Y was in another place

(e) Y was in that place because X wanted Y to be there, not because Y wanted to be there

(f) other people didn’t know where Y was

(g) people say it is very bad if someone does something like this

Falco imprisonment

Someone (person X) falsely imprisoned, someone else (person Y)

(a) person Y was in a place for some time not because Y wanted to be there

(b) Y was there because someone else (X) did something (W)

(c) X did W because X wanted Y to be there

(d) because X did W, Y couldn’t be in another place if Y wanted it

(e) people say:

(f) it is very bad if someone does something like this

(g) if someone does something like this, after this other people have to do something to this person because of this

(h) when X did this, X knew that people think this
Assault

Someone (person X) \textit{assaulted}, someone else (person Y)

(a) X did something bad to Y
(b) when X did it, X did something to Y's body
(c) something bad could happen to Y's body because of this
(d) Y felt something bad because of this
(e) X did it because X wanted to do it
(f) Y didn’t want X to do it
(g) people say if is bad if someone does something like this

Someone (person X) \textit{assaulted}, someone else (person Y)

(a) X did something bad to Y
(b) when X did it, X did something to Y’s body
(c) something bad could happen to Y’s body because of this
(d) X knew this
(e) Y felt something bad because of this
(f) X did it because X wanted to do it
(g) Y didn’t want X to do it
(h) people say:
(i) it is very bad if someone does something like this
(j) if someone does something like this, after this other people have to do something to this person because of this
(k) when X did this, X knew that people think this
Someone (person X) assaulted, someone else (person Y)

(a) X did something bad to Y
(b) something bad could happen to Y’s body because of this
(c) X knew this
(d) Y felt something bad because of this
(e) X did it because X wanted to do it
(f) Y didn’t want X to do it
(g) people say:
(h) it is very bad if someone does something like this
(i) if someone does something like this, after this other people have to do something to this person because of this
(j) when X did this, X knew that people think this

Torture

Someone (person X) tortured, someone else (person Y)

(a) for some time X was doing something very bad to Y
(b) something very bad could happen to Y because of this
(c) X knew this
(d) Y felt something very bad for some time because X did this
(e) X did it because X wanted Y to feel like this
(f) Y didn’t want X to do it
(g) people say if is bad if someone does something like this
Doing bad things to things

Steal

Someone (person X) stole something from someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) because of this, X did something
(d) because X did it, afterwards Y didn't have these things any more
(e) X had these things
(f) Y didn't want X to have these things
(g) people say that it is bad if someone does something like this
(h) when X did this, X knew that people say this

Someone (person X) stole something from someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) X wanted Y not to have these things any more
(d) because of this, X did something
(e) because X did it, afterwards Y didn't have these things any more
(f) X had these things
(g) Y didn't want X to have these things
(h) people say:
(i) it is bad if someone does something like this
(j) if someone does something like this, after this other people have to do
something to this person because of this

(k) when X did this, X knew that other people say this

Rob

Someone (person X) \text{robbed}_{OLI} someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) because of this X did something to Y
(d) because X did this to Y, X could do something else
(e) X did it
(f) Y didn’t want X to do it
(g) Y couldn’t do anything because of this
(h) because X did this, afterwards Y didn’t have these things
(i) X had these things
(j) Y didn’t want X to have these things
(k) people say that it is bad if someone does something like this

Someone (person X) \text{robbed}_{LL} someone else (person Y)

(a) Y had some things
(b) X wanted to have these things
(c) X wanted Y not to have these things any more
(d) because of this X did something to someone
(e) because X did this to Y, X could do something else
(f) X did it
(g) Y didn’t want X to do it
(h) Y couldn’t do anything because of this
(i) because X did this, afterwards Y didn’t have these things
(j) X had these things
(k) Y didn’t want X to have these things
(l) people say:
(m) it is bad if someone does something like this
(n) if someone does something like this, after this other people have to do something to this person because of this
(o) when X did this, X knew that people say this

Burgle

Someone (person X) burgled at a place

(a) X did something in a place
(b) there was something big (A) in this place
(c) this thing (A) was like a part of this place
(d) people could live inside A
(e) there were some things inside A
(f) someone else (Y) had these things
(g) because X wanted to have these things, X did something to A
(h) because X did this to A, X could be inside A
(i) when X was inside A, X did something else
(j) because X did this, afterwards Y didn’t have any of these things any more
(k) X had these things
(l) Y didn’t want X to have these things
(m) people say it is bad if someone does something like this
Criminal Damage

Someone damaged something

(a) someone did something to something (Z)
(b) because this person did that, something bad happened to Z
(c) after this happened, Z was not the same

Someone (person X) damaged property belonging to another intending to damage it

(a) Y had something (Z)
(b) someone else (person X) did something to Z
(c) because X did this, something bad happened to Z
(d) X wanted it to happen
(e) because it happened, after this Z was not the same
(f) people say:
   (g) it is bad if someone does something like this
   (h) if someone does something like this, after this other people have to do something to this person because of this
   (i) when X did this, X knew that people say this

Someone (person X) damaged property belonging to another being reckless as to whether it would be damaged

(a) Y had something (Z)
(b) someone else (person X) did something to Z
(c) because X did this, something bad happened to Z
(d) when X did this, X knew that something bad might happen to Z
(e) X didn’t want to think about it

(f) because it happened, after this Z was not the same

(g) people say:

(h) it is very bad if someone does something like this

(i) if someone does something like this, after this other people have to do something to this person because of this

(j) when X did this, X knew that people say this

**Fraud**

Someone (X) *deceived* someone else (Y)

(a) someone (X) did something

(b) X did this because X wanted another person Y, to think something (Z)

(c) X knew that this something (Z) was not true

(d) X wanted Y to think that it was true

(e) because X did this, Y thought that it was true

(f) people say that it is bad if someone does something like this

Someone (person X) *defrauded* someone else (person Y)

(a) Y had some things

(b) X wanted to have these things

(c) because of this, X did something

(d) X did this because X wanted Y to think something (Z)

(e) X knew that this something (Z) was not true

(f) X wanted Y to think that it was true

(g) because X did this, Y thought that it was true
(h) because Y thought that it was true, Y did something

(i) because Y did this, after this, Y didn’t have these things any more, X had these things

(j) people say that it is bad if someone does something like this

Someone (person X) defrauded someone else (person Y)

(a) Y had some things

(b) X wanted to have these things

(c) because of this, X did something

(d) X did this because X wanted Y to think something (Z)

(e) X knew that this something (Z) was not true

(f) X wanted Y to think that it was true

(g) because X did this, Y thought that it was true

(h) because Y thought that it was true, Y did something

(i) because Y did this, after this, Y didn’t have these things any more, X had these things

(j) people say:

(k) it is very bad if someone does something like this

(l) if someone does something like this, after this other people have to do something to this person because of this

(m) when X did this, X knew that people say this
Blackmail

Person X blackmailed person Y

(a) person X said something like this to person Y:

(b) I want you to do something good for me (A)

(c) I know that you don’t want to do it

(d) I know something bad about you

(e) I know that other people don’t know it

(f) I know that you don’t want other people to know it

(g) I say: if you don’t do A, I will say this to other people

(h) X said this because X wanted Y to think: “I have to do A”

(i) people say that it is bad if someone says something like this

Person X blackmailed person Y

(a) person X said something like this to person Y:

(b) I want you to do something (A) for someone

(c) I know if you do A it can be one of these two things:

(d) it can be good for someone

(e) it can be bad for someone

(f) I know that you don’t want to do it

(g) I say: “if you don’t do it, I will do something bad to you”

(h) X said this because X wanted Y to think: “I have to do A”.

(i) people say:

(j) it is bad if someone says something like this

(k) if someone says something like this, after this other people have to do
something to this person because of this

(l) when X did this, X knew that people say this

Forgery

Person X forged something

(a) X did something to something

(b) when X did it X thought:

(c) I want to do something to this thing

(d) like someone else (Y) does things to things of this kind

(e) if I do it like this, when people see this thing they will think that someone says here:

(f) "I am person Y,

(g) I did this to this thing"

(h) because of this, people will think that person Y did this to this thing

(i) I want them to think this

(j) if they think this they will do something because of this

(k) I want them to do this

(l) if they do this, something good can happen to me because of this

(m) I know that something bad can happen to someone else because of this

(n) I don't want not to do it because of this

(o) people say: it is bad if someone does something like this
Person X forged something

(a) X did something to a thing (a document)

(b) when X did it X thought:

(c) "I want to do something to this thing

(d) like someone else (Y) does things to things of this kind

(e) if I do it like this, when people see this thing they will think that someone

(says here):

(f) "I am person Y,

(g) I did this to this thing"

(h) because of this, people will think that person Y did this to this thing

(i) I want them to think this

(j) if they think this they will do something because of this

(k) I want them to do this

(l) if they do this, something good can happen to me because of this

(m) I know that something bad can happen to someone else because of this

(n) I don't want not to do it because of this

(o) people say:

(p) it is bad if someone does something like this

(q) if someone does something like this, after this other people have to do

something to this person because of this

(r) when X did this, X knew that people say this
Doing bad things to many people

Counterfeit

Someone (person X) made a counterfeit of something

(a) X did something to something
(b) when X did it, X thought something like this:
(c) I want to do something to this thing
(d) like someone else (Y) does things to things of this kind
(e) if I do it like this, when people see this thing they will think that someone says here:

(a) “This is money”
(b) if they think this they will do something because of this
(c) if they do this, after this, someone else will have this thing because of this
(d) I want them to do this
(e) if they do this, something good can happen to me because of this
(f) if they do this, something bad can happen to someone else because of this
(g) people say:

(h) it is very bad if someone does something like this
(i) if someone does something like this, after this other people have to do something to this person because of this
(j) when X did this, X knew that people say this
Riot

A \textit{riot}_{OL}

(a) there were many people in one place at one time
(b) these people thought that something bad was happening in that place
(c) they felt something bad because of this
(d) they didn’t want it to be happening
(e) they did many things because of this
(f) some bad things happened in that place at that time because of this
(g) these things happened not because before these people thought like this:

"it will be good if these things happen"

(i) people say it is bad if something like this happens

Someone (person X) is guilty of \textit{riot}_{IL}

(a) there were some people in one place at one time (more than eleven)
(b) X was one of these people
(c) these people thought that something bad was happening in that place
(d) they felt something bad because of this
(e) they didn’t want it to be happening
(f) they did many things because of this
(g) when they did these things, someone else could think:
(h) some bad things could happen in that place because they are doing these things
(i) these people are doing bad things
(j) because of this, something bad can happen to my body
(k) people say:

(l) it is bad if someone does something like this

(m) if someone does something like this, after this other people have to do something to this person because of this

(n) when X did this, X knew that people say this

Piracy

Someone (person X) committed piracy

(a) X did something to a ship

(b) there were some things somewhere inside the ship

(c) X wanted to have these things

(d) X knew that there were some people (Y) in that place (inside the ship)

(e) X knew that Y had these things

(f) X knew that Y didn’t want X to have these things

(g) because of this, X did something to Y

(h) because X did this to Y, Y couldn’t do anything

(i) because Y couldn’t do anything, X could do something to these things

(j) X did it

(k) Y didn’t want X to do it

(l) because X did this, afterwards Y didn’t have these things any more

(m) X had these things

(n) people say if is bad if someone does something like this
**Hijack**

Someone (person X) *hijacked* something

(a) person Y was inside something of the kind Z

(b) Y was doing something to Z for some time

(c) people say it is good if persons of this kind do things to things of the kind Z

(d) because Y was doing this to Z, Z was moving

(e) Y wanted it to move like this

(f) Y knew that if Z moved liked this for some time at some time Z would be in place D

(g) Y wanted Z to be there

(h) at the same time person X was inside Z

(i) at one moment, X did something to Y

(j) because X did this to Y, Y couldn’t do things to Z like before

(k) because of this, after this, Z was moving not like before

(l) X knew that if Z moved liked this for some time at some time Z would be in place P, not in place D

(m) X wanted Z to be there

(n) people say it is bad if someone does something like this
Things of the kind Z

(a) a thing of the kind Z can move when someone does something to it
(b) many people can be inside a thing of this kind
(c) when a thing of this kind moves it can be at one moment far from where it was at the moment before
(d) people want to be inside things of this kind for some time when they think:
   “I want to be in a place far from here”

Someone (person X) hijacked something

(a) person Y was inside an aircraft in flight Z
(b) Y was doing something to Z for some time
(c) people say it is good if persons of this kind do things to things of the kind Z
(d) because Y was doing this to Z, Z was moving
(e) Y wanted it to move like this
(f) Y knew that if Z moved liked this for some time at some time Z would be in place D
(g) Y wanted Z to be there
(h) person X was inside Z
(i) at one moment, X did something to Y
(j) because X did this to Y, Y couldn’t do things to Z like before
(k) because of this, after this, Z was moving not like before
(l) X knew that if Z moved liked this for some time at some time Z would be in place P, not in place D
(m) X wanted Z to be there
(n) people say:
(o) it is very bad if someone does something like this
(p) if someone does something like this, after this other people have to do something to this person because of this
(q) when X did this, X knew that people say this

Libel

Someone libelled$_{\text{CRIM}}$ someone else ("$_{\text{CRIM}}$" = criminal law)

(a) someone (X) did something
(b) because X did this, people could think for some time that someone (X) says something (A) about a person Z
(c) because X did this, people could think that (A) was true
(d) A was not true
(e) because people could think that A was true, people could think bad things about (Z)
(f) this could be bad for Z
(g) people say:
(h) it is bad if someone does something like this
(i) if someone does something like this, after this other people have to do something to this person because of this
(k) when X did this, X knew that people say this
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