and illegal dumping of hazardous waste. The primary purposes of criminal laws are to punish offenders and to deter them and others from committing similar acts, usually through imprisonment or fines. The prosecutor, the party who initiates a criminal case, is the government, usually represented by a federal district attorney or a state prosecutor. The prosecutor is said to be representing society and the victim against the defendant, who will be an individual or a corporation.

For purposes of both criminal and civil litigation, a corporation can sue and be sued, just as a person can. Corporations, in the context of litigation, are sometimes referred to as artificial or juristic persons. Of course, a corporation cannot be jailed; if a corporation is found to be guilty, a fine is imposed in lieu of a jail term.

Crimes are generally divided into felonies and misdemeanors, based on the severity of the harm the actions may cause. In most states, the more harmful felonies (e.g., rape, arson, and criminal fraud) are commonly punishable by incarceration in a state penitentiary and/or by fines. The less harmful misdemeanors (e.g., shoplifting) are crimes usually punishable by shorter periods of imprisonment in a county or city jail, as well as by smaller fines.

Civil law is usually defined as the body of laws regulating relations between individuals or between individuals and corporations. In a civil matter, the party initiating the case is the plaintiff. The plaintiff is usually seeking either compensation or equitable relief (an order for specific performance or an injunction). There is no division in civil law comparable to that between felonies and misdemeanors in the criminal system. In the civil system, laws are divided by subject matter, with the most common civil matters being tort and contract cases. Other substantive areas of civil law include domestic relations (family law), bankruptcy, agency law, property, business organizations, sales, secured transactions, and commercial paper.

Most people consider being convicted of a crime much more serious than being found guilty of violating a civil law. There is much greater "societal scorn" heaped on the criminal. Also, only criminal law threatens the defendant with the loss of liberty. For those reasons, the defendant in a criminal case is given much greater procedural protection. First, although almost anyone can file a civil action against another person, before a criminal defendant can be tried for a serious federal crime, an indictment must be handed down against him or her. Most states also require an indictment by a grand jury when a defendant is charged with a felony. To get an indictment, the prosecutor must convince the grand jury—generally composed of 15–23 citizens—that the prosecution has enough evidence to justify bringing the potential criminal defendant to trial.

When a defendant is charged with a misdemeanor, a local judge or magistrate will fulfill a role comparable to that of a grand jury. This initial step provides a safeguard against political prosecution. It is necessary because even when one is ultimately found not guilty, the act of being tried for a crime still tarnishes the defendant's reputation, so it is desirable to make the trial of an innocent party as rare as possible.

Another difference between criminal law and civil law lies in the burden of proof placed on the party bringing the action. In both cases, the party filing the action must prove his or her case. However, a person filing a civil case must prove that the defendant violated the law by a preponderance of evidence—proving that it is more likely than not that the defendant committed the act. If the defendant is charged with a crime, however, the prosecution must prove the defendant's guilt beyond a reasonable doubt—a much more stringent standard. Some people think of the difference as being the need to prove a civil case by 51 percent and a criminal case by 99.9 percent.

ENVIRONMENTAL CRIMINAL PROSECUTIONS Our primary concern with criminal law lies in the fact that violations of many environmental statutes constitute criminal offenses. As we examine specific environmental statutes, note that the same act often gives rise to both criminal and civil penalties. Criminal penalties are often imposed when an act is considered a willful or knowing violation. The most publicized trend in criminal actions today is the increasing use of imprisonment of corporate violators, including those who violate criminal provisions of environmental laws. Ever since federal sentencing guidelines took effect in 1987, incarceration has increased, and plea bargains involving probation and community service have decreased. The EPA now makes incarceration an important part of the criminal enforcement program. The stigma associated with incarceration serves as a greater deterrent than a fine that can be passed along as the cost of doing business. The prison sentence must be served by the violator. Also, when a company criminally violates an environmental law, an additional punishment may be the suspension of all of its government contracts.

The first major increase in the use of criminal sanctions to enforce environmental laws occurred in 1982, when the Department of Justice (DOJ) created a separate Environmental Crimes Unit in its Land and Natural Resources Division, and the EPA established an office for Criminal Investigations. Since then, there has been a steady increase in the use of criminal sanctions. In 1990, the EPA referred a record 56 cases to the DOJ for criminal prosecution, surpassing the previous year's high of 50. A record 100 defendants were charged with crimes in 1990, and 55 were convicted and sentenced to 75.3 years.

In 1994, the EPA took another major step toward increasing its ability to compel observance of the law by reorganizing its enforcement and compliance programs and creating the Office of Enforcement and Compliance Assurance, with an emphasis on targeting serious violations.

The large increases in the criminal program were at least partly due to the Pollution Prosecution Act of 1990, which increased the number of criminal investigators. In its FY 2005 Annual Report, the Office of Enforcement and Compliance Assurance made changes to previously reported data, and also slightly modified the information they provided in their annual report, making it difficult to really make comparisons between enforcement before and after the year 2000. According to the most recent report prepared by the Office of Enforcement and Compliance Assurance, 320 defendants were charged with environmental crimes and sentenced to 186 years during 2005. Fines and restitution totaled $100,000.[11] See Figures 1-3, 1-4, and 1-5 for an overview of more recent criminal enforcement results.

In one of the toughest criminal sentences handed down in an environmental case, a Pennsylvania waste-pit owner, William Fiore, was sentenced to serve 6–12 years in a state prison for deliberately piping 1.2 million gallons of toxic leachate into the Youghiogheny River near Pittsburgh. The largest criminal penalty ever assessed an individual for violating an environmental law was given in 1990 to a trader on Wall Street. He was fined $2 million for filling wetlands without a permit.[12] The biggest criminal fine ever imposed on a corporation was the $150 million Exxon Valdez fine, of which the court ultimately forgave the company $125 million in recognition of its cooperation in cleaning up the spill and paying