



Class 12

Criminal Law

Accomplice Liability

► **Principal in the First Degree:**

- Person who actually commits the crime or tricks an innocent person into committing the crime
- Example: the person who draws a gun and holds up the bank cashier

► **Principal in the Second Degree:**

- Person who is present at the time of the commission of the crime and is involved in the commission of the crime
- Example: the lookout or the driver of the getaway car

► **Accessory Before the Fact:**

- Person who helps with the planning or encourages the crime but is not there at the time that the crime is committed
- Example: the person who provides the robbers with floor plans of the bank to be robbed

Accomplice Liability (cont.)

► **Accessory After the Fact:**

- Person who aids in securing or covering up a crime after it has been committed
- Example: hiding the criminals from law enforcement and/or disposing of the criminals' weaponry

► Other points:

- The first three accomplices previously described can usually be *convicted for the actual crime they aided*. The fourth accomplice described above is usually convicted of a lesser offense than actual crime abetted.
- Under common law, accessory could only be convicted if the principal was convicted. Not so any more.

Other Crimes Relevant in Accomplice Liability Equation

- **Conspiracy**: Planning to commit crime with person who actually commits crime
 - Penalty: Same or a little less than the person who committed the crime
- **Attempt**: Taking an action that tends to result in the crime being committed
 - Penalty: Usually less severe than crime itself; under MPC, penalty is the same as actual crime
- **Solicitation**: Hiring or asking someone to commit a crime
 - Penalty: Solicitor will be penalized as severely as person committing the crime as the solicitor is equivalent to Accessory Before the Fact

Other Crimes Relevant in Accomplice Liability Equation (cont.)

- **Facilitation**: Making it easier for a crime to be committed
 - Penalty: If direct enough, full accomplice liability
- **Incitement**: Verbally encouraging a person to commit a crime
 - Penalty: Can be a full accomplice if direct enough
 - Note: Incitement walks a fine line between protected speech (under the First Amendment to the Constitution) and criminal activity



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QUIZ TIME!

Accomplice Liability – Other Points

- ▶ Accomplice liability includes **all foreseeable crimes** that occur in the course of the crime being committed (e.g. the gun going off during a bank robbery).
 - ▶ MPC rule: Accomplice liability only extends to crimes contemplated by accomplice (not all foreseeable consequences)
- ▶ Withdrawal is a valid defense if it is proportional to the involvement.
 - ▶ If the crime was incitement, renunciation is enough
 - ▶ If the crime was advanced planning, actually preventing the crime might be necessary
 - ▶ If the crime was aiding, nullifying the aid will be necessary (e.g. the accomplice saying he's "outta here" and actually leaving the primary criminal actor)

Accomplice Liability – Other Points (cont.)

- ▶ A person who is the object of the protection of a **law** cannot be guilty of accomplice liability for being involved in the commission of that crime
 - ▶ e.g., A minor can't be guilty of being an accomplice to a statutory rape
- ▶ A crime that inherently involves 2 people, but only one role is criminalized; the other person can't be guilty of being an accomplice
 - ▶ e.g., If selling drugs is a crime, the drug buyer is not an accomplice to drug selling