

QUICK STUDY. LAW

CRIMINAL LAW

REQUIREMENTS: ACT + INTENT + RESULT = CRIME - DEFENSES (AIRCD)

ACT ISSUES

OMISSION

• LEGAL DUTY TO ACT

1. Statute
2. Contract
3. Voluntary Assumption of Care & Seclusion
4. Special relationship
5. Wrongful creation of peril

VOLUNTARINESS OF ACTS

• DEFENSES

1. Infancy
2. Insanity
3. Involuntary
 - a. Reflexive
 - b. Unconscious
 - c. Involuntary Intoxication
 - d. Asleep (i.e. sleep-walking)
 - e. Convulsive (i.e. epilepsy)

INCHOATE CRIMES (INCOMPLETE) "CAPS"

• CONSPIRACY

1. Agreement to pursue unlawful objective - tacit agreement inferred from conduct
 - a. **Bilateral Theory** = at least 2 guilty persons required
 - b. **Unilateral Theory** = 1 guilty person + 1 faker (undercover cop or informant)

Wharton's Rule - need one more person than required to commit crime (e.g. adultery requires 3 people)
2. Each liable for foreseeable crimes in furtherance of objective(s) by co-conspirators
3. Modern Majority - Overt act in furtherance of conspiracy
 - a. Government need not prove commission of any overt acts in furtherance of conspiracy [US v. Shabani]
4. Impossibility and Abandonment are no defense
 - a. **Minority Rule** - Complete & voluntary renunciation to thwart conspiracy is a defense

• ATTEMPT

1. Overt act coupled with intent to commit crime
 - a. Model Penal Code: Substantial step beyond mere preparation
2. Defenses
 - a. Legal impossibility
 - b. Abandonment (some jurisdictions)
3. No defense
 - a. Factual impossibility

• POSSESSION

1. Exercise of dominion and control over the object with intent to possess, having had reasonable opportunity to dispossess (i.e. burglar tools, narcotics)

• SOLICITATION

1. Encouraging, aiding, abetting, or ordering another person to commit a crime with the intent that the other person commit the crime
2. Common Law: Must solicit a felony or a misdemeanor which would breach the peace or obstruct justice
3. Crime of Solicitation is over with the asking
4. Defense
 - a. Legal impossibility
 - b. Withdrawal or Renunciation in some jurisdictions
5. No Defense
 - a. Factual impossibility

ACCOMPLICE LIABILITY

• AIDING, ABETTING OR COUNSELING

DEFENSES:

1. Mistake of fact
2. Abandonment (repudiates all liability)

INTENT (MENS REA)

SPECIFIC INTENT

• REQUIREMENTS

1. Requires the doing of an act and doing it with specific intent
 - a. Must have the general intent to do the act **and**
 - b. Must have the specific intent to commit the crime
- i. The existence of the specific intent cannot be inferred from the doing of the act
- ii. Example: The intent necessary for First Degree Murder includes "specific intent to kill"

• DEFENSES

1. Certain defenses, such as **voluntary intoxication** and **mistake of fact**, only apply to specific intent crimes

• CLASSIFICATION

1. Premeditated Murder - 1st Degree
2. Attempt
3. Solicitation
4. Assault
5. Robbery and Larceny
 - a. Proof of "conditional" intent to harm satisfies statutory requirement [Holloway v. U.S.]
6. Forgery
7. False Pretenses
 - a. Statutory language must include "intent to defraud" [Bates v. U.S.]
8. Embezzlement

GENERAL INTENT

• REQUIREMENTS

1. All crimes require general intent
 - a. An awareness of all factors making up the crime
 - b. A jury can infer general intent from doing of the act

• DEFENSES

1. Mistake of fact must be a reasonable one or it is no defense
2. Involuntary intoxication is a defense, but voluntary intoxication is **not** a defense

• CLASSIFICATION

1. Rape
 - a. Ignorance of age is no defense to statutory rape
2. Murder
3. Battery
 - a. Unlawful harmful or offensive touching of another person
4. Involuntary Manslaughter
5. TRANSFERRED INTENT
 - i. When Defendant intends a harmful result to Person A and in trying to carry out that intent, causes a harmful result to Person B
 - a. Does not apply to attempt

STRICT LIABILITY

• NO INTENT

1. Crime does not require awareness of all factors
 - a. State of mind abandoned regarding one or some of elements of the offense
2. Example: Statutory rape, speeding
3. Mistake of fact and voluntary and involuntary intoxication are **not** defenses

• PUBLIC WELFARE OFFENSES:

1. Regulatory
 - a. *National Firearms Act* requires Gov't to prove Defendant **knowingly** possessed unregistered automatic weapon and **knew** what kind of weapon it was [Staples v. U.S.]
 - b. *Mail Order Drug Paraphernalia Control Act* does not require Gov't to prove Defendant **knew** buyer would use item for illegal drugs [Posters 'N' Things v. U.S.]
2. Administrative

3. Withdrawal

- a. Complete and voluntary repudiation
- b. Attempt to neutralize - "thwart" crime
- c. Notify authorities

CRIMES

CRIMES RELATING TO PROPERTY

• ARSON

1. Malicious burning of the dwelling house of another
2. Modern Statutes - purposeful burning of a structure

• BURGLARY

1. Breaking and entering of the dwelling house of another at night time with the intent to commit a felony therein
2. Modern Statutes - expanded to include entering structure with intent to commit offense, unless premises are, at the time, open to the public (some jurisdictions include vehicles)

• LARCENY

1. Trespassory taking and carrying away of the personal property of another with intent to permanently deprive them of that property; includes finding lost property with knowledge or means of discovering ownership
2. Possession, Not Title (deprived of lien interest)

• LARCENY BY TRICK

1. Obtaining possession by fraud (cheating, gambling)

• EMBEZZLEMENT

1. Fraudulent conversion of property of another by one who is already in lawful possession of it

• FALSE PRETENSES

1. Obtaining title by fraud (sale or trade transaction)
2. Money obtained by fraud other than by gambling

• ROBBERY

1. Larceny from person or presence of another by force or fear (larceny plus assault)

CRIMES AGAINST THE PERSON

HOMICIDE

• COMMON LAW MURDERS

1. The unlawful killing of a human being with malice aforethought
2. Malice aforethought - acting with a depraved heart from these states of mind
 - a. Intent to kill
 - b. Intent to inflict great bodily harm
 - c. An awareness that human life is being unjustifiably risked [ex. shooting into a moving train]
 - d. Intent to commit a felony

• COMMON LAW VOLUNTARY MANSLAUGHTER

1. The unlawful killing of a person without malice, upon a sudden heat of passion due to reasonable provocation
2. Elements
 - a. Sudden and intense passion in the mind of an ordinary person causing him to lose self-control
 - b. Provocation [ex. threat of deadly force or finding spouse in bed with another]
 - c. No cooling-off period in time for a reasonable person
 - d. Defendant did not cool off
 - e. Words are insufficient provocation unless they convey information sufficient to provoke heat of passion

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DEFENSES AGAINST THE CRIME

CRIMES AGAINST THE PERSON

Continued from previous page

• COMMON LAW INVOLUNTARY MANSLAUGHTER

1. Death caused by criminal negligence or
2. Death caused by an unlawful act
 - a. **Misdemeanor Manslaughter Rule** - killing in the course of a misdemeanor

• STATUTORY 1ST DEGREE MURDER

1. Under statutory scheme all murders are Second Degree unless Deliberate and Premeditated killing
 - a. Premeditated when defendant actually reflected on the killing even if only briefly
2. **First Degree Felony Murder**
 - a. Committed during the course of a felony including inherently dangerous felonies [arson, kidnapping, robbery, burglary and rape]
 - b. Defendant must be guilty of the underlying felony
 - c. Death should be reasonably foreseeable
 - d. Place of temporary safety - once felon has reached this, subsequent deaths caused are not felony murders
 - e. **Redline Rule** - victim or police officer resists or shoots felon to prevent crime or escape - co-felon not liable for death of felon (but can be liable for death of 3rd party bystander)

• CAUSATION

1. **Year and a Day Rule**
 - a. If the person dies within a year and a day of the injury by Defendant, Defendant is responsible for the death
2. The Defendant's conduct must be the **factual cause** of death
 - a. But for the Defendant's conduct, the result would not have occurred
3. **Superseding Factor**
 - a. Breaks the chain of proximate causation between the Defendant's act and victim's death
 - b. Defendant remains responsible for all natural and probable consequences of his actions

BATTERY

• UNLAWFUL TOUCHING OF ANOTHER PERSON RESULTING IN AN OFFENSIVE TOUCHING OR BODILY INJURY

1. In some jurisdictions, criminal negligence is enough and a battery does not need to be intentional
2. Touching need not be direct
 - a. Ex.: Unlawfully applying force to object resulting in offensive touching or bodily injury to person
3. **Aggravated Battery**
 - a. In most jurisdictions, batteries are aggravated and punished as felonies based on:
 - i. The means used to perpetuate the offense [Ex.: A deadly weapon is used]
 - ii. Resultant harm [Ex.: Serious bodily injury]
 - iii. Special status of the victim [Ex.: Battery of a police officer in the performance of his duty]

ASSAULT

• ATTEMPTED BATTERY

1. A serious attempt to commit a battery which fails
2. Some jurisdictions require the attempt to be coupled with a present ability to succeed
 - a. Ex.: An unloaded gun cannot succeed

• INTENTIONAL CREATION OF IMMINENT APPREHENSION OF BATTERY

1. Here, if A threatens B with an unloaded gun for the purpose of frightening B, even if A knows the gun is unloaded, A is guilty of this type battery

• JURISDICTIONAL DIFFERENCES

1. Some jurisdictions only punish attempted battery type assault; others punish both
2. Some jurisdictions use assault to describe either assault or battery

• AGGRAVATED ASSAULT

1. In most jurisdictions, certain type assaults are aggravated based on
 - a. **Intent to create a more serious crime**
 - i. Assault with intent to commit murder or rape is punished more severely than simple assault (Defendant must actually intend to commit a more serious crime)
 - ii. Assault merges with completed crime

JUSTIFICATION

• DEFINITION

1. When the commission of the proscribed act is justified and, therefore, not appropriate for criminal sanctions

• CRIMES AGAINST THE PERSON

1. **Self Defense, Defense of Property and Prevention of Crime**
 - a. **Nondeadly force**
 - i. A person may use such force as reasonably appears necessary to prevent the imminent use of unlawful force on them, short of deadly force
 - ii. There is no duty to retreat before using nondeadly force
3. **Deadly force**
 - a. May only be used in **self defense** when it reasonably appears necessary to **prevent immediate death or serious injury** or prevent the commission of a **serious felony involving risk to human life**
 - b. May only be used against an attacker using unlawful force who has initiated the aggression
- c. **Retreat Rule**
 - i. At common law must retreat rather than use deadly force unless at your home or business
 - ii. Majority of States have adopted the rule that there is no duty to retreat unless it can be made in complete safety
4. **Right of Aggressor to use Self Defense**
 - a. Generally, the one who begins a fight has no right to use self defense as a defense, but aggressor can regain the right to use self defense
 - b. **Withdrawal** - if aggressor removes himself from the fight
 - c. **Sudden Escalation** - if victim of minor aggression begins to use deadly force and aggressor reasonably fears for life
 - i. Future threats do not work

• DEFENSE OF OTHERS

1. Only if the Defendant believed the victim had legal right to use force in his own defense
2. No special relationship is needed

3. **Retreat Rule**

- a. Defendant need not retreat unless he knows he can secure complete safety of victim

• DEFENSE OF PROPERTY

1. Only **nondeadly force** may be used to defend one's property in their possession from unlawful interference
2. The use of force must reasonably appear imminent
3. **Deadly force** only with another allowed use of force (**self defense of home invasion with gun**)

• CRIME PREVENTION

1. **Deadly force** - may only be used to prevent a crime if the crime is a serious felony involving risk to human life
2. **Nondeadly force** - if reasonably necessary to prevent a felony or serious breach of the peace

• NECESSITY

1. Otherwise criminal conduct is justifiable if as a result of pressure from **natural forces**, the Defendant reasonably believed that his conduct was necessary to avoid harm to self or society
2. Ex. - Trespasser on private property to call fire department to report rapidly spreading fire on only available phone
3. Defendant must reasonably believe the **conduct was necessary to avoid harm to society which is greater than the harm caused by his conduct**
4. **Test is objective - a good faith belief is enough**
5. Death never justifiable to protect property
6. Defendant must be without fault

b. **Means used to perpetrate the offense**

- i. Ex.: Assault with dangerous weapon
- c. **Special status of victim**
 - i. Ex.: Assault of police officer in performance of duty

DURESS - EXCUSABLE NOT JUSTIFIABLE

• DEFENDANT CONTENTS THAT BECAUSE OF HUMAN THREAT, HE IS THE VICTIM

1. Ex. - Bank robber draws gun and asks for money or life
 - a. If Defendant turns over money, he is not guilty of larceny

• CASES SELDOM PROSECUTED

1. Threat must be of death or serious bodily harm to him or family member
2. Threat must be immediate - cannot have time to do something about it
3. Defendant must be free from guilt

• GENERALLY NOT RECONIZABLE AS A DEFENSE TO MURDER

1. If duress to commit the felony, it may be a defense to felony-murder

OTHER DEFENSES

• MISTAKE OF FACT

1. **General Intent crimes** - must be a **reasonable mistake**
2. **Specific Intent crimes** - any **mistake**, reasonable or unreasonable, is a defense
 - a. Ex. - Taking someone's book thinking it is yours - lacks state of mind to commit larceny, no intent to deprive
3. **Strict liability crimes** - **mistake is no defense**

• MISTAKE OF LAW

1. No defense unless crime requires knowledge of some aspect of law other than the existence of the statute making it a crime
 - a. When ignorance negates a specific state of mind
 - i. Ex. Mistake of law as to claim of right negates required intent for larceny
 - b. Defense if statute not reasonably available
 - c. Defense if Defendant reasonably relied on an official interpretation of the law which was later declared invalid
 - d. Defense if erroneous advice obtained from one charged with administering the law
 - e. Erroneous advice from attorney is not a defense

• ENTRAPMENT

1. **2-prong test**
 - a. The criminal design must have originated with law enforcement **and**
 - b. The Defendant was not predisposed to commit the crime
2. **2 tests for predisposition**
 - a. **Subjective standard** - **Majority Rule**
 - i. Was Defendant predisposed to commit the crime?
 - b. **Objective standard** - **Minority Rule**
 - i. Look at government's inducement - Would an innocent person be induced to commit the crime by officer's acts?

• CONSENT

1. **Generally, victim's consent is not a defense unless it negates an element of the offense**
 - a. Ex. - A defense to forcible rape is that victim consented to intercourse
 - b. No defense that victim consented to Statutory Rape
2. **Unavailable as defense for following reasons:**
 - a. If by youth, mental disease or defect, or intoxication victim is unable to make reasonable judgment
 - b. If induced by force or duress
 - c. If prevented by law defining offense
 - d. If legally incompetent
3. **Assent by deception**
 - a. **Fraud in the factum** - unavailable as defense
 - i. Results in misunderstanding as to fact of Defendant's conduct
 - b. **Fraud in the inducement** - available as a defense
 - i. Deception as to a collateral matter
 - ii. Ex.: Therapist convinces patient to submit to intercourse under guise of effective treatment

DEFENSES

CRIMINAL CAPACITY DEFENSES

INFANCY

• COMMON LAW

1. Under 7 - Child conclusively presumed incapable of knowing wrongfulness of crimes
2. 7-14 - Rebuttable presumption of incapacity
 - a. Rebutted by clear proof Defendant appreciated quality and nature of act (excluding rape)
3. Over 14 - Treated as adults

• CURRENTLY COMMON LAW RULES APPLY IN MOST STATES SUBJECT TO STATUTORY AGE CHANGES IN SOME STATES

1. Not as important today because most juveniles are treated differently under juvenile delinquency statutes which are set up for rehabilitation
2. Juvenile Court has exclusive jurisdiction over children under 18
3. Juvenile Court can waive jurisdiction and authorize trial of child as an adult in Criminal Court

INTOXICATION

• VOLUNTARY INTOXICATION

1. Not a defense to a General Intent crime
 - a. Common law rejection of voluntary intoxication as neither "excuse" nor "justification" for crime of homicide upheld [MT v. Egelhoff]
2. Not a defense to crimes involving negligence, recklessness or strict liability
3. A defense to Specific Intent crimes, provided the intoxication prevents Defendant from formulating the requisite intent (can bump 1st Degree Murder down to 2nd Degree)

• VOLUNTARY INTOXICATION

1. Taking an intoxicating substance without knowing it's nature or under duress or medical advice
2. Defense to both Specific and General Intent crimes
3. Most jurisdictions treat this same as insanity if, because of intoxication, Defendant meets whatever test the jurisdiction adopted for insanity

INSANITY

• M'NAGHTEN RULE

1. Requires that at the time of committing the act, Defendant was operating under
 - a. A mental illness
 - b. That caused a defect of reason
 - c. So as not to know the nature and quality of his act or not know what he was doing was wrong (cognitive impairment)
2. Loss of control is no defense
3. Defendant with delusions must be determined whether, if the facts were as he believed, his actions would have been criminal

• IRRESISTIBLE IMPULSE TEST

1. As a result of mental disease or defect, Defendant lacked capacity to control actions or conform conduct to law (volitional impairment)

• DURHAM RULE

1. An accused is not criminally responsible if his crime was the product of mental disease or defect and would not have been committed but for the condition (But for test)
2. Followed until 1972 - replaced with ALI test

• ALI (AMERICAN LAW INSTITUTE) OR MPC TEST

1. The prevailing trend
2. Defendant may not be tried or sentenced if he cannot appreciate the wrongfulness of his conduct or conform his conduct to the requirements of law
3. Combines M'Naghten and Irresistible Impulse tests, allowing for either cognitive or volitional impairment

• PROCEDURAL ISSUES

1. Presumption of sanity
 - a. Burden is on Defendant to come forward with at least a scintilla of evidence or by evidence sufficient to raise a reasonable doubt as to sanity
 - b. State may keep sexual offenders confined after serv-

QuickStudy

CONSTITUTIONAL DEFENSES

• VOID FOR VAGUENESS

1. Reasonable people must necessarily guess as to meaning of the law
2. Fair Warning
 - a. Does it fail to give notice of prohibited conduct?
3. Arbitrary and Discriminatory Enforcement
 - a. Does the statute encourage unfettered police enforcement?

• OVERBROAD

1. Gives State too much power by possibly prohibiting conduct which is protected by First Amendment
 - a. Ex. - It is overbroad to prohibit all public assembly which annoys people because we have a Constitutional right to free speech, assembly and association.
2. Defendant can ask for declaratory relief
 - a. Asking what the law is and what your rights are

• VIOLATION OF FUNDAMENTAL RIGHTS

1. Right of privacy, travel, free speech, 1st Amendment rights, right to vote, and right to marry

• EX POST FACTO LAW

1. Prevents retroactive legislative crime creation or punishment
 - a. Sex crime evidence based on state law enacted after crime committed violated ex post facto clause [Carmell v. TX]
2. State does not unlawfully add to a convicted criminal's punishment after the fact when it increases the time between parole hearings (CA Dept. of Corrections v. Morales)
 - a. Analysis must reveal whether amended rule creates significant risk of increased punishment [Garner v. Jones]
3. Later ruling announcing a "new rule" cannot be applied to overturn death sentence [Lambrix v. Singletary]

• BILL OF ATTAINDER

1. Prevents punishment without a trial

PUNISHMENT

PURPOSES OF PUNISHMENT

• REFORMATION/REHABILITATION

1. Reforming criminal by way of developing skills in prison to transform them into productive citizens
2. Serious difference of opinion as to relative importance

• RESTRAINT/INCAPACITATION

1. Imprisonment to protect society from harm
2. Contra-argument suggesting restraint without reformation will not restrain but postpone criminal conduct

• DETERRENCE

1. Individual Deterrence
 - a. Punishment to deter the individual Defendant from committing future crimes
2. General Deterrence
 - a. Punishment to deter others from engaging in similar crimes due to fear of receiving similar punishment

• RETRIBUTION

1. Punishment for revenge ("make the punishment fit the crime")

- ing sentence even if not mentally ill [KS v. Hendricks]
2. State may not proceed with criminal trial after Defendant has shown he is "more likely than not" incompetent [Cooper v. OK]

• DIMINISHED CAPACITY

1. Some States recognize as a defense
2. Where as a result of a mental defect Defendant did not have the state of mind required for a specific crime
3. Differs from insanity because it recognizes different degrees and can be used to mitigate culpability and reduce the charge (ex. - murder to manslaughter)

• INCOMPETENCY

1. Test for competency - Is Defendant mentally aware of nature of charges against him and can he assist his attorney in his defense?
 - a. If not, he cannot be tried, convicted or punished
 - b. Notice and a hearing are required
 - c. Incompetence finding delays criminal proceedings until such time as Defendant regains competence
2. Insanity Defense Reform Act
 - a. Defendant committed to mental hospital if found not guilty by reason of insanity
 - i. Not required in jury instruction [Shannon v. US]

CLASSIFICATION OF CRIMES

FELONIES / MISDEMEANORS

• FELONY

1. All crimes punishable by imprisonment over 1 year or death

2. Common Law Felonies

- | | | |
|-----------------|-------------|------------|
| a. Manslaughter | d. Sodomy | g. Arson |
| b. Murder | e. Robbery | h. Larceny |
| c. Rape | f. Burglary | i. Mayhem |

• MISDEMEANORS

1. All crimes punishable by imprisonment of 1 year or less or by fine only

MALUM IN SE/MALUM PROHIBITUM

• MALUM IN SE (WRONG IN ITSELF)

1. Crime that is inherently evil
2. Battery and Larceny are malum in se
3. Crimes of moral turpitude are often malum in se

• MALUM PROHIBITUM

1. Crime that is wrong because the legislature says it is
2. Traffic regulation and failure to comply with Federal Drug Labeling Act are examples of malum prohibitum crimes

MERGER

• COMMON LAW RULE

1. Merger of Misdemeanor into Felony if conduct constitutes both a felony and a misdemeanor

• CURRENT RULE

1. No merger except:
 - a. Lesser included offense merges into greater offense unless each requires proof of something the other does not
 - i. Under Nebraska law, 2nd degree murder and manslaughter are not lesser included offenses of felony murder [Hopkins v. Reeves]
 - b. Solicitation or Attempt merges into completed crime
 - c. Conspiracy - no merger
 - i. Conviction for conspiracy and underlying crime

• DOUBLE JEOPARDY PROHIBITED

1. Conviction for one offense bars prosecution for other included offense
 - a. Two punishments may not be imposed where two statutory provisions proscribe "same offense" [Rutledge v. US]
2. Double jeopardy protection is not violated where Defendant is charged with criminal offense if that same conduct previously was used to stiffen sentence for another crime [Witte v. U.S.]
3. Clause protects against multiple "criminal" punishment, not from imposition of both criminal and civil punishment [Hudson v. U.S.]
 - a. Clause is applicable in capital sentencing but does not extend to noncapital sentencing [Monge v. CA]

• EXCEPTION

1. Different Victims
 - a. Intent to kill person concurrent with act that kills

OTHER ISSUES

• STATUTES

1. More Specific controls
2. More recently enacted controls
 - a. Language of statute determines whether it can be applied retroactively [Lindh v. Murphy]
3. Retention statutes retain common law crimes

• BURDEN OF PROOF

ELEMENTS OF CRIME MUST BE PROVEN BEYOND A REASONABLE DOUBT

1. Jury instructions may include "moral certainty" by way of definition [Victor v. NE]
2. Prosecutors must prove all elements of statutory crimes [Neder v. U.S., see, also, Jones v. U.S. and Richardson v. U.S.]

• FEDERAL JURISDICTION

1. Federal territory
 - a. D.C.
 - b. Federal grounds
 - i. Federal courthouses
 - ii. Natl. Parks
 - iii. Naval yards
2. Jurisdiction over conduct of U.S. citizens abroad
3. Maritime Jurisdiction
 - a. All persons on American ships or aircraft, including foreign waters and ports

MODERN STATUTORY LAW (SOURCE) MODEL PENAL CODE

REQUIREMENTS OF CULPABILITY

●PURPOSELY

1. Conscious object to engage in conduct or cause result
 - a. "Willfully" requires proof that Defendant knew conduct was unlawful, not that Defendant also knew of Federal statute requirement [**Bryan v. U.S.**]
2. Awareness of attendant circumstances or belief they exist

●KNOWINGLY

1. Aware of nature of conduct or existence of circumstances
2. Aware conduct will be practically certain to cause result

●RECKLESSLY

1. Conscious disregard of substantial and unjustifiable risk
2. Gross deviation from law-abiding standard of conduct

●NEGLIGENTLY

1. Should be aware of substantial and unjustifiable risk
2. Gross deviation from reasonable person standard of care

ACCOMPLICE LIABILITY

●ACTING WITH CULPABILITY SUFFICIENT FOR COMMISSION OF OFFENSE

●ACTING WITH PURPOSE OF PROMOTING COMMISSION OF OFFENSE

1. Solicits another
2. Aids another in planning
3. Fails in legal duty to prevent

●DEFENSES

1. Victim
2. Terminates complicity prior to commission

CAUSAL RELATIONSHIP BETWEEN CONDUCT AND RESULT

●BUT FOR CONDUCT RESULT WOULD NOT HAVE OCCURRED

●RESULT MUST DIFFER WITH RESPECT TO DIFFERENT PERSON OR PROPERTY

●RESULT IS NOT TOO REMOTE OR ACCIDENTAL

OFFENSES

●INCHOATE CRIMES

1. **Affirmative defenses**
 - a. Renunciation of criminal purpose
 - b. Abandoned or prevented commission
2. **Criminal attempt**
 - a. Purposely engages in criminal conduct
 - b. Act constituting a substantial step toward commission of crime
 - i. Lying in wait
 - ii. Enticing victim
 - iii. Reconnoitering site of crime
 - iv. Possession of unlawful materials
 - v. Soliciting innocent agent
3. **Criminal solicitation**
 - a. Purposely encourages another verbally or by conduct to commit crime with intent that another commit crime
4. **Criminal conspiracy**
 - a. Purposely agrees to aid or engage in crime with another
 - b. Scope
 - i. Joint liability with co-conspirators whether known or unknown
 - ii. Guilty of only one conspiracy with multiple crimes as one agreement or continuous relationship
 - c. Requirement of overt act
 - d. Defense
 - i. Not guilty of crime under law defining offense

●CRIMINAL HOMICIDE

1. **Purposely, knowingly, recklessly or negligently causes death of another**
2. **Murder**
 - a. Purposely or knowingly
 - b. Recklessly by manifesting extreme indifference to human life
 - c. Felony of 1st degree
 - d. Aggravating circumstances
 - i. During attempt or commission of felony
3. **Manslaughter**
 - a. Recklessly
 - b. Committed under extreme mental disturbance with reasonable explanation
 - c. Felony of 2nd degree
4. **Negligent Homicide**
 - a. Committed negligently
 - b. Felony of 3rd degree

●FELONIES

1. **Assault**
 - a. Attempts to or causes bodily injury to another
2. **Kidnapping**
3. **Rape**
 - a. Male who has sexual intercourse by force or impairment of power with a female not his wife
 - b. Deviate sexual intercourse by force or imposition
 - i. Engages or causes another to engage in deviate sex
 - c. Defenses
 - i. Mistake as to age
 - (a) Unavailable under 10
 - (b) Over 10 - proof by preponderance of evidence
 - ii. Spouse
 - (a) Unavailable if living apart under judicial decree
 - (b) Woman may be convicted as accomplice
 - iii. Sexually promiscuous complainants
 - (a) Proof by preponderance of evidence
 - iv. Prompt Complaint
 - (a) Within 3 months

●ARSON

1. Purposely start fire or explosion to destroy structure of another or own structure to collect insurance
2. Recklessly places another or structure in danger
3. Failure to control or report dangerous fire
 - a. Misdemeanor

●BURGLARY

1. Purposely enters structure to commit crime, unless premises open to public or privileged to enter

●ROBBERY

1. In course of committing theft inflicts or threatens immediate serious bodily injury

●THEFT

1. Unlawfully takes or exercises control with purpose to deprive another of property
2. Deception or extortion
3. Theft of lost property
 - a. Failure to take responsible measure to restore to rightful owner
4. Purposely receiving stolen property

DEFENSES

●IGNORANCE OR MISTAKE OF FACT OR LAW

1. Must negate state of mind required
2. Not available if guilty of another offense
 - a. Reduces grade and degree of offense or complete defense if specific intent crime
3. Not available in negligent or reckless use of force
4. Available if belief that conduct does not legally constitute offense
 - a. Statute not known
 - b. Acts in reasonable reliance on official statement
5. **Standard of Proof**
 - a. Preponderance of Evidence

●MENTAL DISEASE OR DEFECT

1. Lack of substantial capacity either to appreciate criminality of conduct or conform conduct to requirements of law
2. **Excluding responsibility**
 - a. Affirmative defense requiring notice within 10 days of entering not guilty plea

●INTOXICATION

1. Only if not self-induced or pathological and at time of conduct lacked substantial capacity to appreciate wrongfulness or conform conduct to requirements of law
2. Available for specific intent crimes

●DURESS

1. Unavailable if recklessly or negligently placed self in situation

●CONSENT

1. Unavailable if by youth, mental disease or defect, or intoxication unable to make reasonable judgment
2. Unavailable if induced by force, duress or deception
3. Unavailable if prevented by law defining offense
4. Unavailable if legally incompetent

●AGE

1. Under 16

●ENTRAPMENT

1. Available if proves by preponderance of evidence that acted in response to entrapment
2. Unavailable when bodily injury element of offense

●JUSTIFICATION

1. Self-defense

- a. Limitations
 - i. Resisting arrest
 - ii. Resisting force used by another to protect property
- b. Deadly force
 - i. Must believe it is necessary to protect against death, serious bodily harm, kidnapping or sexual intercourse
 - ii. Unavailable if self-provoked or can retreat
 - (a) Not obliged to retreat from dwelling or place of work

2. Recklessly or Negligently

- a. Unavailable

3. Purposely or Knowingly

- a. Harm to be avoided greater than harm to be prevented by law defining offense

4. Defense of another

- a. Apply rules of self-defense

5. Protection of Property

- a. Prevent or terminate unlawful entry or carrying away of property
- b. Effect entry to retake property lawfully entitled to
- c. Force used immediately
- d. Use of protective device
 - i. Unavailable if known to cause substantial risk of death or serious bodily harm
- e. Limitations
 - i. Request to desist
 - ii. Resistance of lawful re-entry

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