**Criminal Law Outline**

**GENERAL**

A. Purpose of Criminal Law
   1. Punishment
   2. Deterrence (general – the message you send to society in general and specific – the message you are sending to the specific criminal.)
   3. Rehabilitation (out of compassion and of self-preservation ... i.e. they will be out of jail one day and we want them to be productive members of society.)
   4. Retribution comforts survivors and society and religious origins of cleansing soul.
      i. Rehabilitation and retribution can work against each other in society’s perception
   5. Incapacitation – isolate dangerous people from society.

Purpose of Tort Law
   1. Compensation
   2. Deterrence
   3. Fairness

B. *Stare Decisis*
   o Let the rule stand
   o It promotes efficiency and equality because the rules have already been decided, and it allows people to know how certain cases will or should be decided

C. Infamous Crimes
   1. Infamous crimes requires a grand jury indictment – the prosecution requests a certain official accusation
   2. *Presentment* – this occurs when the grand jury does not agreement with the prosecution’s request and feels another accusation is more appropriate. – this is not very common anymore.

D. Statutory Interpretation
   1. This is dangerous because it brings personal feelings and preferences to bear in deciding what unbiased law should be.
      o Courts don’t deviate from the common law definitions when applying statutes unless there is explicit language in the statute. Assume the legislature meant the common law term.
   2. **Qualified Plain Meaning Approach - golden rule** – follows the written letter of the law except for absurd results or internal contradictions in the statute.
3. **Literal, Plain meaning** – you stick directly to the letter of the law, no matter if it produces absurd outcomes.

4. **Social Purpose Approach** – considers 4 things: (also legislative purpose)
   - i. What was the common law before the act was created?
   - ii. Why did they decide to change it?
   - iii. What was the defect for what the common law or old statute did not apply?
   - iv. Make sure the construction of the law is consistent and advances that remedy.

E. *A fortiori*
   1. take a proposition (a statement of law) A and show that A is true. Then take Proposition B, whose arguments are even stronger than A. Therefore, B is true as well.

F. Demurrer
   1. The facts of the circumstances are true but don’t add up to the crime charged.

G. *Ab Surdum*
   1. If A then B …. But B is absurd so you should reject A.
   2. Ways to refute this reasoning:
      - i. B does not necessarily follow A
      - ii. B is not absurd.

H. Things Court can do if they don’t like the precedent
   1. common sense to the meaning and the purpose of the rule --- choose not to apply the rule
   2. overrule the rule
   3. limit the rule by not applying it in certain context
   4. follow it anyway and urge the legislature to change it
   5. they can hold the statute unconstitutional
   6. pretend the rule doesn’t exist

**** The court relies on common sense, precedent, policy, and legislative intent to decide issues.

I. Standards of Proof:
   - Grand Jury – Probable Cause
   - Criminal Jury – Beyond a Reasonable Doubt

**ACTUS REUS**

A. Many crimes require an overt act before someone can be charged.
   1. If you put yourself into a position where you know you are likely to do something, this creates a voluntary act. *People v. Decina*

B. Voluntary Acts
1. MPC §2.01 – (1) You are not guilty of a crime unless you perform a voluntary act or the omission of a legal duty of which he is physically capable.

2. (2) The following acts are not voluntary and do not form the necessary actus reas for a crime:
   iii. a reflex or convulsion
   iv. movement during sleep or unconsciousness
   v. conduct during hypnosis
   vi. movement that is not a product of the effort or determination of the actor – either conscious or habitual.

C. State v. Quick
   1. Even if there is intent to commit a crime, there has to be an overt act to put the intent into effect.
   2. Everyone has bad thoughts, you can’t hold them guilty unless they do something.

D. A private nuisance is not a criminal offense (tort/property action) but a public nuisance (affects the public at large) is a criminal offense. The Queen v. Stephens

MENS REA

A. Intent in a criminal statute means (a) desire or (b) knowledge to a substantial certainty. – mens rea means “guilty mind” or “mind at fault”

   1. General Criminal Intent
      i. No factors sufficient for exculpation (excuse, mitigation, justification)
      
      ii. There must be an intent to commit the actus reas or some recognized substitution

         1. Not liable for committing a crime that you had no intention to commit, like standing in front of a window naked. State v. Perry

         2. Your intent to correct the situation later does not free you from liability in committing the crime in the first place. State v. May

   4. MPC §2.02
      i. Culpability – A person is not guilty of a crime unless they acted purposefully, knowingly, recklessly, or negligently, as the law may require.

B. Two Categories of Crime
1. Crimes that require an intent to do something (*mens rea*)
   o What does the statute say must have been intended?
   o Only Intent to do the deed that constitutes the *actus reas*? (general intent)
   o Intent to do something beyond the *actus reas* (specific intent)
2. Crimes that require a lesser *mens rea*

C. Conditional Intent
   1. Conditional intent satisfies a *mens rea* requirement as it was a conditional purpose to commit that crime. \[\text{MPC} = 202.6\]
      i. Intent to commit the actus reas and an intent to do something else
      ii. the intent to commit a crime but you did not commit it.
      iii. intent to commit the actus reas but nothing else.
   2. However, you are not guilty of the crime if you have the right to make the conditional demand on the other person. *People v. Conners*

D. Strict Liability
   1. *Mala prohibita* – these are not “true crimes – “*mala in se*” but are statutory offenses that do no carry a *mens rea* requirement.
      i. There are penalties associated with the offense, but no one considers the violator to be a criminal – like parking tickets.
      ii. These are often called “civil offenses” or “public torts” and are enforced through the statute’s strict liability.
      iii. Some *mala prohibita* offenses have a *mens rea* requirement written into them – the burden is on the prosecution to prove this intent.
      iv. If no intent is written into the statute, the court decides whether one belongs or not, regarding the contrast between statutory law and common law is done on purpose.
         1. look at the penalty imposed – if there is a prison sentence then it becomes an infamous crime and requires some level of *mens rea*
         2. the social stigma imposed on the crime
         3. how reprehensible was the action?
   2. Statutes can eliminate the *mens rea* requirements from “true crimes” as well, making them have strict liability.
      i. In the case of statute (like for vehicle recklessness), it is not necessary to show an intent to travel down a path that led to another’s death, but it is sufficient to show the person manifested a disregard for the consequences which may ensue from his act and impact the rights of others. *People v. Decina*
   3. Many crimes (like embezzlement) are not common law crimes, but are statutory crimes, which makes them *mala prohibita*.

E. Ignorance/Mistake of Law
   1. **CONSIDER BOTH POINTS OF VIEW**
      - Prima facie presumption – a rule of law which calls for a certain result unless the party adversely affected comes forward with evidence to overcome it.
• **Conclusive presumption** – a legal device in the form of a postulate used for the determination of a particular case whether it represents the actual facts or not.

2. Ignorance of a mistake of law is not usually a defense – if you commit all the elements necessary to constitute a crime, then you are guilty of that crime.
   i. Ignorance of the law is limited to only specific intent crimes and not general *mens rea* crimes
   ii. If your ignorance of the law prevents you from satisfying the *mens rea* requirement for a crime, the majority of courts still find you guilty.

3. If a reasonable person in the same situation would not have made the same mistake, then this is not a defense.
   i. Look to see if the mistake was made on a reasonable reliance of some government pronouncement.

4. IF you intended to do crime X, but you thought you were doing crime Y, then under the MPC you are sentenced under Crime Y.

5. **EXCEPTIONS:**
   i. If the *mala prohibita* crime is extremely obscure, ignorance is a defense *Lambert v. California*
   ii. When there is strong evidence that is generally accepted to be true, but it is in fact false, causing a person to violate *mala prohibita*. *People v. Vogel*
      1. honestly entertained
      2. reasonable
      3. of such a nature that the act would not have been wrongful if the facts were as presumed. – courts are split over whether “wrongful” means criminally or morally.
      4. At the very least the defendant is entitled to present such evidence. *People v. Hernandez* (statutory rape case)
   iii. Conspiracy requires a specific intent such that the criminals were aware of the law they planned to break.
   iv. Mistake/ignorance of law that defeats the intent requirement of a crime.

F. **Omission**
   1. If you have a legal duty to act, you are guilty if you fail to act. The omission establishes *mens rea* for the crime.
      i. **This must be a legal duty –imposed by law or contract**
      ii. If a death results, you are chargeable with manslaughter (The omission must be the immediate and direct cause of death). *Jones v. United States*
   iii. 4 Cases of Legal Duties
      1. statute imposes a duty
      2. one stands in a certain relationship with another (i.e. mother)
      3. assumed contracted duty
4. voluntary assumption of care and secluded the helpless person to prevent others from rendering care.
5. If you create the peril
6. You have a legal duty to control your child from harming others -- ???

2. If the statute says a crime requires a specific *mens rea*, but your *mens rea* develops after the act, then you cannot be held guilty.
3. MPC §2.01 – You are not guilty of a crime unless you perform a voluntary act or the omission of a legal duty of which he is physically capable.
   i. There is no liability when you tried to stop something but were unable to do so, creating an omission. No *mens rea* State v. Chicago Railway

G. Vicarious Criminal Liability
1. There is no vicarious criminal liability under common law for things like supervisor liability (*repsondant superior*)
2. There IS liability for statutory offense (civil offenses) because the social interest of the general populace outweighs the individual interests of a particular defendant.

HOMICIDE
A. Do the facts establish corpus delicti?
1. Killing of a person
   i. Circumstantial evidence can establish death if the court deems it equivalent to direct evidence
   ii. Can’t be against a fetus (unless stipulated by statute)
2. Criminal agency of another
3. The Def. committed the unlawful act (unspoken because this is true in any proceeding)
   i. Uncorroborated confession out of court is not enough to establish corpus delicti
      ▪ It is enough to establish proof beyond a reasonable doubt when combined with circumstantial evidence.

POLICY REASONS
▪ Crazy people confess to crimes all the time that they did not commit.
▪ Duress of coercion
▪ #1 exists to not overly encourage killers from getting rid of bodies.

Will the evidence be admitted?
If admitted will it satisfy *corpus delicti*?
Will it satisfy a jury?

CASES
▪ *Downy v. People*
B. Are they dead?
   1. Def. is the killer when wounds are sufficient to cause death through the
      chain of natural effects unchanged through human actions
   2. The fact other causes contributed to the death does not relieve the
      defendant of responsibility, provided those other causes are not the
      proximate cause of death.
      i. Uniform Brain Death Act = all brain functions including brain
         stem irreversibly ceases
      ii. Common law = stoppage of circulation of blood or breathing
          ▪ The old common law standard is that is they survive for 1
            year and a day, then you cannot be held liable.
          ▪ This is not true in the majority of jurisdictions, as it was
            changed statutory.

CASES
   ▪ Arizona v. Fierro

C. Is it Murder?
   1. At common law Murder = Homicide + Malice Aforethought
   2. Malice Aforethought (4 ways to prove it and requires just 1)
      i. Intent to kill – not justified or mitigated or excused
      ii. Intent to cause great bodily harm - not justified or mitigated or
          excused
      iii. Recklessness w/ extreme indifference to human life (MPC
          language) or depraved heart (common law language
          ▪ MPC -- This is established by the creation of substantial
            (not remote or trivial) risk of death by a gross deviation
            from a reasonable standard of care of a law abiding citizen
            and unjustifiable.
          ▪ Common Law -- Malice is a legal term which comprehends
            not only a particular ill will but every case where there is
            wickedness of disposition, hardness of heart, cruelty,
            recklessness if consequences, or a mind regardless of social
            duty.
            ▪ Commonwealth v. McLaughlin
            ▪ State v. Hokenson
      iv. Felony murder rule
          ▪ State v. Hokenson
          ▪ People v. Phillips

*** MPC says: (A) committed purposely or knowingly or (B) reckless
circumstances that manifest an extreme indifference to human life that demonstrate a
gross deviation from law abiding behavior. – consciously disregard a substantial risk.
3. Felony Murder Rule
   i. MPC -- DEF = when there is a killing in the commission of following felonies it is automatically murder: robbery. Burglary, rape. Deviate sexual intercourse by force or threat, arson, kidnapping, or felonious escape.
   ii. Common Law == looks to felonies that are “inherently dangerous to human life”
       ▪ Considers force v. deadly force / inherent v. usually
   iii. MPC assumes that the killer acted recklessly with an extreme indifference to human life
       ▪ This assumption provides an opportunity to prove otherwise.
   iv. California Test (“continuous transaction test”)
       ▪ Person is still liable even when he is no longer present – look to the natural progression of events (i.e. proximate cause) uninterrupted by another person’s actions.
   v. Pennsylvania Test (“Direct Connection Test”)
       ▪ Cause of death furthers the actual felony is liable for murder.
   vi. Independent Felony (Merger Doctrine) – felony is not independent if the goal was to kill or cause great bodily harm. – this would defeat the purpose of the rule
       ▪ Purpose = deter thieves from taking dangerous risks with victim’s life. If this is applicable, then the felony murder rule applies …. if it does not make sense then it doesn’t apply.

D. Degree of Murder
   1. 1st Degree
      i. intent to kill (i.e. poison, lying in wait)
      ii. additional thought about the killing (fully formed designed idea of the killing
      iii. consideration of the consequences (premeditation)
          ▪ to constitute a “deliberate and premeditated killing” the slayer must weigh and consider the question of killing and reasons for and against such a choice and, having in mind the consequences, must decide to and commit the unlawful act. People v. Cornett
          ▪ 3 points in time – the idea to kill; decision to kill; the act of killing.(These can happen instantaneously) Drum comes short.
      iv. First degree felony murder rule
          ▪ Look to listed qualifying felonies in the statute – if it is not present then not 1st degree under MPC.
          ▪ Under Common Law, felonies inherently dangerous to human life are 2nd Degree.
          ▪ People v. Wilson
E. Was there Justification, Mitigation, or Excused?
1. Provocation
   i. DEF = if a defendant was sufficiently provoked by conduct which aroused anger, fear, sudden resentment, terror, or another extreme emotion and the provocation was such that a person of ordinary disposition and not yet cooled commits a homicide, then the killing mitigated to manslaughter.
   ii. Who was the initial aggressor?
   iii. Insufficient assault = an assault short of what is necessary to establish provocation to reduce murder to manslaughter – a substantial physical threat is necessary. *** doesn’t have to be asserted by the victim.
      ▪ Objective – would a reasonable person be provoked?
      ▪ Subjective – would this person be provoked?
   iv. Depending on the court – in certain situations words can amount to provocation at law if the jury finds it.
      ▪ Insulting words are not enough
      ▪ Words that reveal information
      ▪ *State v. Farris*
      ▪ *State v. Grugin*
      ▪ *Borchers*
2. Honest but unreasonable belief that force was required to save life
   i. *People v. Watkins*
   ii. Where evidence exists, no matter how improbable or unreasonable that the defendant relied on it then the defendant is entitled to the instruction
   iii. No privilege to use force to defend oneself against a privileged attack (home defense, etc.)
3. Mental Disorder?

F. Is it Manslaughter?
1. At common law - manslaughter = homicide without malice aforethought
2. 5 ways to get to manslaughter
   i. killing without malice aforethought
   ii. mitigation from murder charges
      ▪ *People v. Borchers*
   iii. Criminal negligence (not a crime – it’s a state of mind to reach negligent homicide)
      ▪ *People v. Rodriguez*
      ▪ Does not require conscious awareness of the risk (the guy should have known)
      ▪ Requires a gross deviation from a reasonable standard of care that creates a high risk of death.
      ▪ Some jurisdictions only require civil negligence to suffice as criminal negligence (minority jurisdictions)
a. If criminal neg. then *a fortiori* it is ordinary negligence.
   - *State v. Bier*

iv. Misdemeanor Manslaughter Rule
   - Not adopted in all states
   - Does not require a misdemeanor – any *offense malum* suffices
   - Think of it like “Felony Murder Rule”

v. Honest but unreasonable belief force required.

3. Voluntary or Involuntary?
   i. Majority view
      - Voluntary = manslaughter from mitigation otherwise involuntary
   ii. Minority
      - Voluntary = manslaughter with intent to kill otherwise involuntary

**ASSAULT & BATTERY**

A. Definition of Battery
   - Common Law: the unlawful application of force to the person of another. This typically requires nothing more than criminal negligence and not specific intent. (some states say recklessness)
      - The criminal negligence requires a gross deviation from a reasonable standard of care, but not necessarily intent.
      - Recklessness is choosing to ignore a known risk.
   - Every battery does not necessarily include an assault because you can have battery through criminal negligence without intent. To attempt a crime you must have intent to commit that crime.
      - You are guilty of an assault when there is an attempted battery.
   - The MPC requires recklessness and not merely criminal negligence for battery.

B. Assault
   - Definition of Assault
      - It is an attempt to commit battery or an act that puts another in reasonable apprehension of bodily harm. – requires intent
      - When a federal statute does not define a term used at common law, the common law definition is utilized.
   - Under Tort Law: for assault for you have to intentionally place another place in a reasonable, imminent apprehension of a harmful or offensive contact.
   - Another Definition:
      - Assault is the intent to commit a battery and the capability to do it, but you don’t complete the crime. (an attempted battery + present ability) … like you shoot an unloaded gun at someone.
C. Assault Under Common Law
   • 3 Views:
     - Minority View – an attempted battery only
     - Minority View – an attempted battery with present ability
     - Majority View – for criminal assault you need an attempted battery OR the tort definition of assault.
       - Is the victim aware of what is going on and possess actual apprehension of reasonable fear? – if not then not assault under Tort law, unless you are aware or should have been aware that your actions constituted harmful or offensive conduct.

D. Simple Assault under MPC §211.1
   • attempts to cause or purposely, knowingly, or recklessly causes bodily injury
     - This is closest to common law view #1
     - Not enough to attempt to apply force to someone – you must cause injury.
   • Negligently causes bodily injury to another with a deadly weapon
   • Attempts by physical menace to put another into fear of imminent serious injury.
     - You don’t necessarily have to put someone into fear, but just attempt to.
   • simple assault is a misdemeanor unless committed in a fight or scuffle that was mutually entered into – then it is a petty misdemeanor.

E. Aggravated Assault under MPC §211.2
   • Attempts to causes serious bodily injury to another or causes such injury purposely, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life.
   • Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon.
   • Aggravated assault under (a) is a 2nd degree felony and under (b) is a 3rd degree felony.

CASES
 US v. Bell

CONSPIRACY
A. conspiracy is an inchoate crime (incomplete) – derive their meaning from some other substantive crime the person has committed or attempted to commit
   1. conspiracy requires that the person tried to commit another crime – the “target crime”
B. Common Law Def: the agreement to commit a crime. (pure common law says no overt act needed).
1. most states require that at least one of the conspirators commit at least one overt act towards the commission of the crime.
2. courts look to the minimum # of people needed to commit a crime, and if there are more involved, then they have conspired to commit that crime.

C. MPC § 5.03 – Criminal Conspiracy pg. 539
   a. A person is guilty of conspiracy with another if he:
      i. Agrees with another person that one or more of them will commit a crime or solicit to commit a crime.
      ii. Agrees to aid another person or persons in the planning or commission of a crime or to attempt to solicit such a crime.
      iii. **REQUIRES AN OVERT ACT**
   b. If a person A conspires with person B to commit a crime, and person A knows that person B conspired with person C to commit the same crime, then A and C are guilty of conspiring together.
   c. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy as long as the multiple crimes are part of the continuous conspiracy.
   d. Joinder and Venue of Conspiracy
      i. Two or more persons charged with conspiracy can be prosecuted jointly if
         1. They are charge with conspiring with another OR
         2. They are involved in related conspiracies dealing with organized crime.
      ii. Are not guilty of conspiracy unless it is proved that you or someone you conspired with committed an overt act in pursuance of the conspiracy.

D. Substantive Offenses
   1. If one person in the conspiracy commits an overt act that furthers the goal of the conspiracy, then everyone involved with the conspiracy is guilty of that offense as long as it was foreseeable in the commission of the conspiracy.
      i. Most states have rejected this notion and the MPC has not ruled on it
      ii. They reach the same results through “complicity”
      iii. Conspirators and accomplices are not the same thing under law, but are often guilty of the same offenses.
   2. “Continuous Conspiracy”
      i. Once you have joined a conspiracy, you are a party to it until you take steps to remove yourself from it, and you continue to conspiracy until the offense has been terminated or accomplished.
      – This holds true even if only one of the conspirators furthers the crime. *Pinkerton v. United States*

E. Requirements
1. You need at least two people (depending on the crime) to form a conspiracy
   a. EXCEPTION – unilateral conspiracy
      i. When you are setup in a sting operation, and you had the intent to enter into a conspiracy with another person, believing they wanted the same result.
   b. EXCEPTION – When your cooperation is subsumed under the substantive law, you cannot be guilty of conspiracy. You would have to do more to assist the crime to establish conspiracy. *Gebardi v. United States*
   c. It is not enough to establish conspiracy when a seller knows someone might use his product to commit a crime
      i. To commit conspiracy you must, promote the crime, make it his own, or have a stake in the outcome. *Falcone v. United States* – majority view
         1. Minority view says you are guilty
2. Must have specific *mens rea* to violate the illegal element involved in the target crime. – cannot be unaware of the illegal element and be guilty. *Commonwealth v. Benesch*
3. **Conspiracy = Knowledge of the Law + Intent to Break That Law**
4. Requires *concuris necessaries* – there must be a plurality of parties and there must be concerted action between them.
   i. Wharton’s Rule:
      a. An agreement between two people to commit a crime cannot be conspiracy if the crime logically requires two people – it merges with the substantive offenses and cannot be separately prosecuted.
      b. 3 Exceptions to Wharton’s Rule
         1. When the offense could have been committed by 1 man
         2. when concerted action was not necessary even though the crime could not logically be completed without cooperation (?).
         3. Third Person Rule – the nature of the third party’s cooperation determines the result, and makes them all guilty. (matchmaker case)

**ATTEMPTED CRIMES**

A. MPC § 5.01 – Criminal Attempt
   a. A person is guilty of an attempt to commit a crime if he acts with the culpability otherwise required for the commission of the crime, he:
      i. Purposely engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be
      ii. Does anything towards the commission of the crime,
      iii. A substantial step towards committing the crime.

B. Common Law & Accomplishment
1. The intent to commit a crime has (2) elements *Thacker v. Commonwealth*
   i. The intent to commit the crime
   ii. An ineffectual step towards the commission of that crime.
      - This intent can be shown through direct or circumstantial evidence
      - I.e. there can be murder without intent, but there cannot be an attempted murder without an intent to commit murder.
      - Knowledge does not have to be 100% or we would never convict anyone of anything – it is enough the person is aware of circumstances that a reasonable person would come to the correct conclusion. *State v. Beale*
      - Preparation to take the necessary step suffices for guilt, depending on the degree of proximity of the preparation to the actual overt act. This includes the apprehension which the particular crime is calculated to excite. *People v. Paluch*
         o This proximity must come near enough to the commission of the crime such that it is reasonable the crime would have been committed without some interference. *People v. Rizzo*

2. If the defendant completed everything he intended to do, would he be guilty of a crime?
   i. If YES, then he is guilty of an attempt to commit that crime
   ii. If NO, then he is not guilty of an attempt

3. Lying in wait for a victim is always considered an attempt
   i. Even if the victim doesn’t show up, you are still guilty
   ii. The courts really frown upon lying in wait.

3. Courts are reluctant to convict anyone of an attempt to do something, unless it is clear they would have carried out the crime except for some intervention.
   i. MPC § 5.02 lists conduct that is not viewed as a substantial step towards a crime.
   ii. HOWEVER, if you have such conduct, and it is corroborated by other conduct towards a criminal purpose, it is sufficient to show an attempt to commit a substantive offense.

4. SOLICITATION -- Asking someone to commit a crime makes you guilty of any crimes they commit
   i. If they take enough steps towards it commission to constitute an attempt and then withdraw, you are guilty of attempt.
   ii. Even if the crime has never been committed, you have taken a step towards its completion by soliciting another. *State v. Blechman*
   iii. MPC p.491 – you are guilty of solicitation, with the purpose of promoting or facilitating its commission, you command, encourage, or request another person to commit or commit a crime.

B. Renunciation Of a Crime
1. Common Law: once you have achieved all the elements sufficient to attempt to commit a crime, you cannot go back and erase them. You are guilty of an attempt.
   i. EXCEPTION: if you are involved with someone else to commit a crime, and you effectively communicate your withdrawal from the crime, then you are not guilty if they go ahead and commit the crime.

2. MPC and minority of states accept Voluntary Renunciation Defense
   i. It is a defense when you gave up the crime “voluntarily and completely” before its complete commission – the circumstances have to be unchanged.
   ii. By abandoning the crime, prevents its completion. It is not enough if someone abandons a crime and it is completed anyway.
   iii. MPC = “voluntary and complete renunciation” + thwart the commission

3. Substantive vs. Appellate Crimes
   i. MPC you must actually thwart the commission of the appellate crimes, but not for the substantive crimes.
   ii. Appellate Crimes: you can go far enough to have committed the crime, but then renounce it and thwart it and have an affirmative defense.
   iii. Substantive Crimes: once you have gone far enough you are held to it, but you can renounce it before it goes far enough and not be guilty, even if you don’t thwart it.
      o SOLICITATION MPC § 5.02(3) on p. 491
      o ATTEMPT MPC § 5.01(4) on p. 490-491
      o CONSPIRACY MPC § 5.03(6) on p. 539
      o SUBSTANTIVE OFFENSE MPC § 2.06(6)(c) on p. 568

MULTIPLE CRIMES
A. Common Law
   1. Everything merges with everything else – except conspiracy does not merge with attempt or the substantive offense.

B. MPC
   1. § 5.03(3) on page 540.
   2. You cannot be convicted of more than one non-substantive offense listed under Article 5 committed under the same main crime.

PARTIES TO CRIMES
A. When two people are involved with a crime, it is necessary to determine who is guilty of what crimes.

B. Common Law (Old):
   1. Whether the other party is a principal to the crime or an accessory depends on if the underlying crime was a felony or a misdemeanor.
C. Law Today:
   1. You are guilty of a crime if you:
      i. Commit the crime yourself
      ii. Help in the commission of a crime
      iii. Encourage someone to commit a crime
   2. You are either an “aider and abettor”, an accomplice, or an accessory before the fact, depending on the state.

D. “Aider and Abettor” vs. “Accessory after the Fact”
   1. “Aider and Abettor:
      i. You are guilty of the substantive crime
         1. it doesn’t matter if the crime is a felony or a misdemeanor or if the assistance came before or during the commission of the crime.
   2. “Accessory After the Fact”
      i. this is a much less serious crime
      ii. some states say you can only be an accessory after the fact to a felony and not a misdemeanor
      iii. you can only be an accessory after the fact to crimes you know have been committed or are reasonably foreseeable that the principal defender had committed.

E. Accessory to a Felony
   1. There are 3 essential elements to convict someone of being an accessory to a felony. State v. Williams
      i. The principal felony actually committed the felony
      ii. The accused knew the felony had been committed by the principal felon
      iii. The accused received, relieved, comforted, or assisted the principal felon in some way to help him escape or hinder his arrest or trial or punishment.
   2. You cannot be an accessory after the fact unless the crime has been completed.
   3. MPC § 242.3 – Hindering Apprehension or Prosecution.
      i. A person commits an offense if with purpose to hinder the apprehension, prosecution, conviction, or punishment of another crime if he:
         1. Harbors or conceals the primary felon
         2. Provides or aids in providing a weapon, transportation, disguise, or other means of avoiding apprehension
         3. Conceals or destroys evidence of the crime or tampers with a witness, informant, or document or other source of information – regardless of its admissibility
         4. Warns the primary felon of impending discovery or apprehension – this does not apply to a warning given in connection with an effort to bring in another into compliance with the law.
         5. Volunteers false information to a police officer
4. MPC § 242.4 – Aiding Consummation of Crime
   i. A person commits an offense if he purposely aids another to accomplish an unlawful object of crime by safeguarding the proceeds of that crime or converting the proceeds into negotiable funds. This offense is a 3rd degree felony if the principal felony was a 1st or 2nd degree. Otherwise it is a misdemeanor.

5. MPC § 242.5 – Compounding
   i. A person commits a misdemeanor if he accepts or agrees to accept any benefit to refrain from reporting a crime to law enforcement. It is an affirmative defense under this section that the benefit not exceed an amount which the actor believed to be due as restitution for harm caused by the offense.

F. Accomplice to a Crime – Legal Responsibility for Another
   • MPC § 2.06
     (1) A person is guilty of an offense if he committed the act or someone he is legally responsible for committed the act.
     (2) A person is legally accountable for the conduct of another person when:
         ▪ He causes an innocent or irresponsible person to engage in conduct that is culpably sufficient for the crime.
         ▪ Accountable for the conduct of the other person by the Code of by the law defining the offense.
         ▪ He is the accomplice of the person committing the offense.
     (3) A person is an accomplice to a crime if
         ▪ With the purpose of promoting or facilitating the commission of a crime he
           o Solicits other people to commit it
           o Aids or agrees to attempts to aid the person planning to commit the crime.
           o Having a legal duty to prevent the commission of the offense and fails to do so.
         ▪ His conduct is expressly declared by law to establish his complicity
     (4) When causing a particular result is an element of the crime, a person is an accomplice to that crime when he acts with respect to a result that is sufficient for the commission of the offense
     (5) A person who is legally incapable of committing an offense may be guilty if another person commits it and he is legally accountable for them, unless such liability is inconsistent with the purpose of establishing his incapacity.
     (6) A person is not an accomplice if he:
         ▪ Is a victim of the crime
         ▪ The crime is so defined that his conduct is inevitably incident to its commission
         ▪ He terminates his complicity prior to the offense.
INTERNATIONAL CRIMES

A. Definitions:

- **domestic law/municipal law/national law** – the law of a particular nation.
- **Transnational crimes** -- an everyday crime under national law but involve international transactions – like drug smuggling.
- **International Crimes** – crimes that are established by the international legal system. – binding on all people living in the world.
  - International Law used to be thought of the rules that govern relations between states and associations of nation states.
  - Recently expanded to included individuals and their rights and responsibilities in the international system. It now recognizes the rights and obligations of nation states and individuals.
- **War of Aggression** – initiating a war of aggression is the ultimate international crime, because all other crimes are subsumed beneath it
- **Total War** – a military tactic that disregards any regulation of custom of war that would limit the application of military force
- **Universal Jurisdiction** – as a matter of international law, every country has the power to try any individual in the world for an international crime.

B. International Tribunals

- **Nuremberg**
- **Yugoslavia**
  - 1st Tribunal established since WWII – mostly because of the Cold War.
- **Rwanda**
- **International Criminal Court**
  - Only countries who have signed the treaty can utilize this court (it only takes one country)
  - The United States is not a signatory, but this doesn’t insulate US citizens from its jurisdiction
  - It is not a defense to breach a treaty to say the treaty does not comply with some domestic factor.

C. Sources of International Law

1 - treaties

- An agreement between states or associations of states, that the parties intend to be governed by international law. ---
- a treaty that amends another treaty is called a Protocol
- in US law not every international agreement is a treaty – the president must sign it and the Senate must ratify by 2/3 majority before it becomes a treaty.

2- customary international law

- 2 requirements: (1) show a general and consistant practice of states (2) show that this practice arises out of a sense of legal obligation.
- *Jus cogens* – norms of international law that rise to prominence – like prohibition on genocide and slavery. This beats even a treaty.

3 – general principles

D. International Criminal Court

- Has Jurisdiction over 4 crimes:
  1. Genocide
  2. Crimes Against Humanity
  3. War Crimes
  4. Aggressive War
     i. Jurisdiction is only attached when the United Nations passes a resolution stating that a particular nation was the aggressor in a war.
- ICC has jurisdiction over any individual who is a national of a member nation state or who commits a crime within the territory of a member nation state.
- The ICC and the Geneva Accord is tougher on nations during times of international conflict than non-international conflict

For Geneva Accord to be prosecuted under US War Crimes Act you need:

1. Victim or criminal must be a US National
2. grave breach of Geneva Accord

**THIS IS ON PAGE 70-75 for genocide.**

52-59 for war crimes

**GRAVE BREACHES on pg. 58**