

## Chapter Six: Parties to Crime and Vicarious Liability

### Second Parties Liable for Crime (Introduction)

Multiple people can be liable for one crime.

Parties to a crime or complicity are those who assist the perpetrator of a crime and are held criminally responsible.

For certain offenses, individuals can be held to be vicariously liable for the actions of someone else.

### Parties to a Crime

Common law divided participants in a crime into principals and accessories, with four categories of parties.

- Principals in the first degree

- Principals in the second degree

- Accessory before the fact

- Accessory after the fact

Almost every jurisdiction has abandoned the common law approach to parties of crime.

States now typically have two parties of crime.

- Accomplices are involved before and during a crime.

- Accessories are involved in assisting the offender after the crime.

Accomplices are typically charged with the principle crime at hand.

Accessories (after the fact) are charged with separate, usually lesser offenses than the principle crime, which is known as derivative liability.

### **Actus Reus of Accomplice Liability**

Typically, the *actus reus* of accomplice liability can be a very minor act of material or psychological assistance.

According to the mere presence rule, simply being present and watching a criminal act does not satisfy the *actus reus* requirement of accomplice liability.

### **Mens Rea of Accomplice Liability**

While there is a great deal of disagreement among the states on this subject, typically a "dual intent" is required for accomplice liability in which the accomplice must:

- possess intent to assist the primary criminal party and

- possess intent that the primary party commit the offense charged.

The natural and probable consequences doctrine provides that a person encouraging or facilitating the commission of a crime will be held liable as an accomplice for the crime aided as well as for crimes that are the natural and probable outcome of the criminal conduct.

### **Accessory After the Fact**

There are three elements:

- commission of a felony

- knowledge

- an affirmative act

### **Vicarious Liability**

Similar to strict liability, this imposes criminal responsibility on an individual for a criminal act committed by another.

Used to hold vehicle owners responsible for tickets or employers responsible for the actions committed by their employees.

By means of corporate liability, corporations themselves can be held liable for criminal acts (as opposed to holding just the owners/CEOs accountable).

By means of *respondeat superior*, responsibility of a superior, a corporation may be held liable for the conduct of an employee who commits a crime within the scope of his or her employment who possess the intent to benefit the company.

Model Penal Code section 2.07 imposes corporate liability when such criminal conduct is authorized, requested, commanded, performed, or recklessly tolerated by the board of directors acting on behalf of the corporation within the scope office or employment.

### **Automobiles, Parents, and Vicarious Liability**

The owner of a vehicle is responsible for parking tickets even if the vehicle was loaned to a different driver.

Some states have parental responsibility laws to hold parents responsible for failing to take reasonable steps to prevent their children from engaging in serious or persistent criminal behavior.