

Chapter 5

5.1 Self Check

1. What is the difference between a principal in the first degree and a principal in the second degree?

A principal in the first degree is usually the primary actor or perpetrator of the crime. A principal in the second degree is one who intentionally assists in the commission of a crime in his or her presence; in other words, he or she is an accomplice.

2. What is constructive presence? How is someone who is constructively present at a crime scene charged?

Constructive presence occurs when an individual is within the vicinity of a crime and is able to assist the primary actor if necessary. For example, one who waits in the getaway car, or who acts as a lookout, is constructively present at the scene of the crime.

5.2 Self Check

Under the MPC, what are the three factors that, individually or together, determine if a person is an accomplice?

The MPC provides that a person is an accomplice if he or she:

- solicits another to commit a crime.
- “aids or agrees or attempts to aid such other person in planning or committing” a crime.

Criminal Law for the Criminal Justice Professional
SELF CHECK ANSWER KEY

- has a legal duty to prevent the commission of a crime, but “fails to make proper effort to do so.”

5.3 Self Check

1. What is the difference between purpose and knowledge?

Purpose, which is the mental state of intent, makes one liable as an accomplice. Mere *knowledge* that one’s act may facilitate a crime, on the other hand, does not necessarily prove accomplice liability if the defendant lacks the required mental state of purpose to advance the commission of the criminal offense.

2. Define an agent provocateur, and explain how an agent provocateur differs from one who commits entrapment.

An agent provocateur, or feigning accomplice, wishes to set up the principal and intends for the principal to fail in his or her illegal venture. The difference between the agent provocateur and the entrapper is that an agent provocateur will get involved with the criminal actions of a suspect who would have carried on his or her criminal activity anyway, but an entrapper will induce a person to commit a crime that this person would not have or could not have committed without the officer’s aid or involvement.

5.4 Self Check

1. For what does the natural and probable consequences doctrine hold an accomplice liable?

This doctrine holds an accomplice liable for the offense he or she intended to facilitate or encourage, and also for any reasonably foreseeable offense committed by the person he or she aids and abets.

2. What is a natural and foreseeable consequence?

Although this is a vague term, in general, any additional criminal act that is necessary to accomplish the criminal goal will be considered a natural and foreseeable consequence.

5.5 Self Check

1. What is a feigning primary party?

The feigning primary party is a principal who pretends to have the required intent to be culpable of a crime, but does not actually possess this intent. In the case of undercover police work, a feigning primary party can set up willing accomplices for arrest by pretending to commit any type of crime.

2. Why have the laws changed for convicting accomplices in cases where, for whatever reason, the principal is acquitted?

Modern laws enable the prosecution of individuals for aiding and abetting another in the commission of a crime as long as the prosecutor could prove that a crime was actually committed. This is to prevent accomplices that are clearly guilty from escaping punishment due to different individual circumstances that led to the principal's acquittal.

5.6 Self Check

1. What must a person do to legally abandon an agreement to commit a crime and end his or her liability as an accomplice?

The accomplice must clearly inform the principal of his or her intent to withdraw support, communicate the lack of a shared common intent for the crime to be committed, and must attempt to make ineffectual any aid given to the principal that facilitates the commission of the offense.

2. What is agency theory, and how does it relate to the *Pinkerton* doctrine?

Agency theory holds that all conspirators act as the agent of (or represent) the other conspirators involved in the criminal scheme and are liable for all criminal acts committed by other co-conspirators. The *Pinkerton* doctrine holds a person associated with a conspiracy culpable for any criminal act committed by a co-conspirator if the act is within the scope of the conspiracy and is a foreseeable result of the criminal scheme.