

7 - Preliminary & Complicity Articles



Liability for Conduct of Another – Complicity **– RCW 9A.08.020**

1. Complicity imposes criminal responsibility on individuals for a crime committed by someone else, usually because these secondary actors have **intentionally** helped or encouraged the primary actor to commit the crime.

2. There are two ways of helping someone else commit a crime:

a. Physical Aid – The defendant can physically help another person commit a crime.

Example – He might obtain the gun used by the primary actor in the bank robbery. Or he may actually be present at the crime and help with its commission, perhaps by acting as a lookout or by driving the getaway car.

b. Psychological Aid – The defendant can encourage or reinforce the primary actor's decision to commit a crime.

Example – She may urge a fellow gang member to shoot a rival gang member who has shown her disrespect.

3. A person is an accomplice of another person in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime he **solicits, commands, encourages, or requests** such other person to commit it or **aids** or **agrees to aid** such other person in planning or committing it.

Example – A person who works inside an armored car center draws out the building layout and leaves the back door unlocked for his accomplice to enter and steal the money.

Example of a situation where a person would not be an accomplice – Someone is fooled or forced to commit a criminal act.

4. Two ways to terminate one's complicity:

a. Give timely warning to law enforcement officials;

-OR-

b. Make a good faith effort to stop the crime.

This is also called being an "accomplice" in a crime.

Note – a person is not an accomplice in a crime committed by another person if he is a victim of that crime.

Court order petitioners cannot be charged as an "accomplice" – even if they invite the respondent to violate the order.

8 - Anticipatory Offenses



Criminal Attempt - RCW 9A.28.020

1. With the intent to commit a specific crime, a person takes a substantial step toward the commission of that crime.
 - a. Mental planning alone does not constitute a substantial step.
 - b. Courts will determine substantial step on a case-by-case basis.
- ⊗ 2. It is not a defense if an attempt was made and it was factually or legally impossible to complete the crime.
3. An attempt to commit a crime is a step ladder system of punishment:

CRIME:	----->	ATTEMPT PUNISHED AS:
Murder 1 st Degree [A]	----->	Class A Felony
Murder 2 nd Degree [A]	----->	Class A Felony
Arson 1 st Degree [A]	----->	Class A Felony
Rape 1 st & 2 nd Degree [A]	----->	Class A Felony
Indecent Liberties w/ Forcible Compulsion [A]	-->	Class A Felony
Rape of a Child 1 st and 2 nd Degree [A]	----->	Class A Felony
Child Molestation 1 st Degree [A]	----->	Class A Felony
Class A Felony	----->	
Class B Felony	----->	Class B Felony
Class C Felony	----->	Class C Felony
	----->	
Gross Misdemeanor	----->	Gross Misdemeanor
Misdemeanor	----->	Misdemeanor
	----->	Misdemeanor

Anticipatory offenses are not used if the underlying crime has been committed.



Without this law, we'd have to wait until the suspect fully completed the crime before it was illegal.

You will never charge a person with the crime "Criminal Attempt." You will charge them with the crime they were attempting.

The step ladder system is nice to know about, but you don't need to memorize it. The only step you need to pay close attention to is where an attempted Class C Felony becomes a Gross Misdemeanor. Remember that different criminal procedures (rules) apply for felonies and non-felonies.

8 - Anticipatory Offenses

Criminal Solicitation - **RCW 9A.28.030**

1. With the intent to promote or facilitate the commission of a crime, a person offers or gives money or other thing of value to another to engage in specific conduct which would constitute such crime or which would establish complicity of the other person(s) in its commission or attempted commission.
2. Criminal solicitation shall be punished in the same manner as criminal attempt under RCW 9A.28.020 (the step-ladder system).

CRIME:	ATTEMPT PUNISHED AS:
Murder 1 st Degree [A]	Class A Felony
Murder 2 nd Degree [A]	Class A Felony
Arson 1 st Degree [A]	Class A Felony
Rape 1 st & 2 nd Degree [A]	Class A Felony
Indecent Liberties w/ Forcible Compulsion [A]	Class A Felony
Rape of a Child 1 st and 2 nd Degree [A]	Class A Felony
Child Molestation 1 st Degree [A]	Class A Felony
Class A Felony	
Class B Felony	Class B Felony
Class C Felony	Class C Felony
Gross Misdemeanor	Gross Misdemeanor
Misdemeanor	Misdemeanor
	Misdemeanor

Anticipatory offenses are not used if the underlying crime has been committed.

EXAMPLE:
Barbara Opel offered money and clothes to kill her boss.

8 - Anticipatory Offenses

★ **Criminal Conspiracy** - RCW 9A.28.040

1. With the intent to commit a crime, a person agrees with one or more other persons to engage in criminal conduct, and any one of the persons takes a substantial step toward the commission of the crime.
2. It is *not* a defense if the accused person's co-conspirator(s):
 - ⊗ a. Has not been prosecuted or convicted of the same crime or any other crime,
-OR-
 - ⊗ b. Is not amenable to justice,
-OR-
 - ⊗ c. Has been acquitted,
-OR-
 - ⊗ d. Lacked the capacity to commit an offense,
-OR-
 - ⊗ e. Is a law enforcement officer and the crime was never intended to be committed.

3. Conspiracy is also punished with a step-ladder system:

CRIME:	----->	ATTEMPT PUNISHED AS:
Murder 1 st Degree [A]	----->	Class A Felony
Class A Felony	----->	Class B Felony
Class B Felony	----->	Class C Felony
Class C Felony	----->	Gross Misdemeanor
Gross Misdemeanor	----->	Misdemeanor
Misdemeanor	----->	Misdemeanor

Anticipatory offenses are not used if the underlying crime has been committed.

★ A Criminal Plan + Substantial Step

The difference between solicitation and conspiracy is:

- Solicitation is having someone else do it ("hands-off") in exchange for something, like money.
- Conspiracy is taking part in the crime ("hands-on").

Once the crime is actually committed, these anticipatory offenses are no longer appropriate to use. Just use the actual crime.

HANDOUT:
Anticipatory vs Complicity