

# Accomplice Liability

- **Principal in the First Degree:**

- Person who actually commits the crime or tricks an innocent person into committing the crime  
For example, the person who draws a gun and holds up the bank cashier

- **Principal in the Second Degree:**

- Person who is present at the time of the commission of the crime and is involved in the commission of the crime  
For example, the lookout or the driver of the getaway car

- **Accessory Before the Fact:**

- Person who helps with the planning or encourages the crime but is not there at the time that the crime is committed  
For example, the person who provides the robbers with floor plans of the bank to be robbed

# Accomplice Liability (cont.)

- **Accessory After the Fact:**

- Person who aids in securing or covering up a crime after it has been committed

For example, hiding the criminals from law enforcement and/or disposing of the criminals' weaponry

- **Other Points:**

- First three accomplices previously described can usually be *convicted for the actual crime they aided*. The fourth accomplice described above is usually convicted of a lesser offense than actual crime abetted.

- Under common law, accessory could only be convicted if the principal was convicted. Not so any more.

# Other Crimes Relevant in Accomplice Liability Equation

- **Conspiracy**: Planning to commit crime with person who actually commits crime
  - Penalty: Same or a little less than the person who committed the crime
- **Attempt**: Taking an action that tends to result in the crime being committed
  - Penalty: Usually less severe than crime itself; under MPC, penalty is the same as actual crime
- **Solicitation**: Hiring or asking someone to commit a crime
  - Penalty: Solicitor will be penalized as severely as person committing the crime as the solicitor is equivalent to Accessory Before the Fact
- **Facilitation**: Making it easier for a crime to be committed
  - Penalty: If direct enough, full accomplice liability
- **Incitement**: Verbally encouraging a person to commit a crime
  - Penalty: Can be a full accomplice if direct enough
  - Note: Incitement walks a fine line between **protected speech** (under the First Amendment to the Constitution) and **criminal activity**

**QUIZ TIME**

# Accomplice Liability – Other Points

- Accomplice liability includes *all foreseeable crimes* that occur in the course of the crime being committed (e.g. the gun going off during a bank robbery).
  - MPC rule: Accomplice liability only extends to crimes *contemplated* by accomplice (not all foreseeable consequences)
- Withdrawal is a valid defense if it is proportional to the involvement
  - If the crime was incitement, renunciation is enough
  - If the crime was advanced planning, actually preventing the crime might be necessary
  - If the crime was aiding, nullifying the aid will be necessary (e.g. the accomplice saying he's "outta here" and actually leaving the primary criminal actor)
- A person who is the object of the protection of a *law* cannot be guilty of accomplice liability for being involved in the commission of that crime
  - e.g. A minor can't be guilty of being an accomplice to a statutory rape
- A crime that inherently involves 2 people, but only one role is criminalized; the other person can't be guilty of being an accomplice
  - e.g. If selling drugs is a crime, the drug buyer is not an accomplice to drug selling