CRIMINAL LAW AND PROCEDURE

RULE-STATEMENT CHECKLIST

V. CONSTITUTIONAL PROTECTION OF ACCUSED PERSONS

~40% tested

A. FOURTH AMENDMENT: SEARCHES AND SEIZURES

GENERAL RULE The Fourth Amendment protects against unreasonable searches and seizures by government agents; a search generally requires a warrant supported by probable cause unless an exception applies, and to challenge a search the defendant must have his own reasonable expectation of privacy in the place or thing searched.

- ☐ **Government action requirement.** The Fourth Amendment restrains only government conduct, including police and those acting at their direction, and does not apply to searches by private parties acting on their own initiative.
- ☐ **What is a search.** A search occurs when the government physically intrudes on a constitutionally protected area to obtain information, or when it violates a subjective expectation of privacy that society recognizes as reasonable.
- ☐ **Reasonable expectation of privacy.** A defendant has standing to object only if he had a reasonable expectation of privacy in the area searched; there is no such expectation in things knowingly exposed to the public, in items held out to third parties, or in open fields, though the curtilage of a home is protected.
- ☐ **Items exposed to the public and third parties.** No search occurs as to information voluntarily conveyed to third parties, such as bank records, dialed phone numbers captured by a pen register, garbage left at the curb, or handwriting and voice exemplars, though long-term cell-site location records require a warrant.
- ☐ **Seizure of a person.** A seizure of a person occurs when a reasonable person would not feel free to leave or to terminate the encounter and the person submits to the show of authority or is physically restrained; a mere police request or approach is not a seizure.
- ☐ **Probable cause.** Probable cause exists when the totality of the circumstances gives a reasonable person trustworthy grounds to believe that a crime has been or is being committed or that evidence or contraband will be found in the place to be searched.
- ☐ **Valid warrant requirements.** A valid warrant must be issued by a neutral and detached magistrate on a showing of probable cause supported by oath, and must particularly describe the place to be searched and the persons or things to be seized.
- ☐ **Arrest standards.** A police officer may arrest without a warrant in a public place upon probable cause to believe a felony was committed, and for a misdemeanor committed in the officer's presence; a nonemergency arrest inside a suspect's home requires an arrest warrant.
- ☐ **Search incident to lawful arrest.** Incident to a lawful custodial arrest, police may search the arrestee and the area within his immediate control without a warrant, but may not search the data on a seized cell phone without a warrant.
- ☐ **Automobile exception.** With probable cause to believe a readily mobile vehicle contains contraband or evidence, police may search without a warrant the entire vehicle and any container within it that could hold the object of the search.
- ☐ **Search incident to arrest of vehicle occupant.** After arresting an occupant of a vehicle, police may search the passenger compartment only if the arrestee is unsecured and within reaching distance of it, or if it is reasonable to believe evidence of the offense of arrest is inside.
- ☐ **Plain view.** Police may seize without a warrant an item whose incriminating character is immediately apparent when the officers are lawfully present at the vantage point and have a lawful right of access to the item.
- ☐ **Consent.** A warrantless search is valid if based on voluntary consent given by a person with actual or apparent authority over the premises; a physically present co-occupant's express refusal overrides another occupant's consent as to shared areas.
- ☐ **Stop and frisk.** An officer with reasonable suspicion based on articulable facts that criminal activity is afoot may briefly detain a person, and may conduct a limited patdown of outer clothing for weapons if there is reasonable suspicion the person is armed and dangerous.
- ☐ **Plain feel.** During a lawful frisk, an officer may seize an object felt through the clothing if its identity as contraband is immediately apparent without further manipulation.
- ☐ **Exigent circumstances.** Police may enter and search without a warrant in genuine emergencies, including hot pursuit of a fleeing felon, imminent destruction of evidence, or the need to render emergency aid or prevent harm.
- ☐ **Inventory search.** Police may conduct a warrantless inventory search of an arrestee's belongings or a lawfully impounded vehicle, provided the search follows standardized department procedures and is not a pretext for investigation.
- ☐ **Special needs and administrative searches.** Warrantless suspicionless searches are permitted where special needs beyond ordinary law enforcement exist, including border searches, certain checkpoints, searches of students by school officials on reasonable suspicion, and searches of parolees and probationers.
- ☐ **Checkpoints.** Suspicionless vehicle checkpoints are constitutional when they serve a special purpose such as sobriety or a border, use neutral stopping criteria, but are invalid when the primary purpose is general crime control such as interdicting narcotics.

B. EXCLUSIONARY RULE AND STANDING

GENERAL RULE Evidence obtained in violation of the Fourth, Fifth, or Sixth Amendments, and evidence derived from it as fruit of the poisonous tree, is generally inadmissible in the prosecution's case in chief, subject to several exceptions.

- ☐ **Fruit of the poisonous tree.** Evidence derived from an illegal search, seizure, or interrogation is inadmissible as the fruit of the poisonous tree, but the taint may be removed under the independent source, inevitable discovery, or attenuation doctrines.
- ☐ **Independent source.** Evidence is admissible if the government obtained it from a source independent of the unlawful police conduct.

- ☐ **Inevitable discovery.** Illegally obtained evidence is admissible if the prosecution shows it would inevitably have been discovered through lawful means.
- ☐ **Attenuation.** Evidence is admissible when the connection between the illegal conduct and the discovery of the evidence has become so attenuated by time, intervening events, or the defendant's free will that the taint is dissipated.
- ☐ **Good faith.** Evidence seized by officers reasonably relying in good faith on a facially valid warrant later found defective, or on a statute or database record later found invalid, is admissible; the exception does not apply where the warrant is so lacking in probable cause or particularity that reliance is unreasonable.
- ☐ **Standing.** Only a defendant whose own reasonable expectation of privacy was violated may invoke the exclusionary rule; a defendant cannot suppress evidence based on a violation of a third party's rights.
- ☐ **Impeachment and other limits.** Illegally obtained evidence and statements taken in violation of Miranda may still be used to impeach the defendant's trial testimony, and the exclusionary rule does not apply in grand jury proceedings, civil cases, or parole revocation hearings.
- ☐ **Knock and announce.** Violation of the knock-and-announce requirement does not trigger suppression of the evidence found during the ensuing search.

C. FIFTH AMENDMENT: CONFESSIONS, MIRANDA, AND DUE PROCESS

> **GENERAL RULE** A confession must be voluntary under the Due Process Clause, and statements from custodial interrogation are inadmissible in the prosecution's case in chief unless the suspect received Miranda warnings and validly waived his rights.

- ☐ **Voluntariness and due process.** A confession is inadmissible if it was involuntary, meaning obtained by coercive police conduct that overbears the suspect's will under the totality of the circumstances.
- ☐ **Miranda trigger.** Miranda warnings are required before any custodial interrogation; both custody and interrogation must be present for the warnings to attach.
- ☐ **Custody defined.** A suspect is in custody when, under the objective circumstances, a reasonable person would not feel free to leave and the restraint is comparable to a formal arrest; routine traffic stops and ordinary Terry stops are generally not custodial.
- ☐ **Interrogation defined.** Interrogation is express questioning or its functional equivalent, meaning words or conduct police should know are reasonably likely to elicit an incriminating response; spontaneous volunteered statements are not the product of interrogation.
- ☐ **Content of warnings.** The suspect must be warned that he has the right to remain silent, that anything he says can be used against him, that he has the right to counsel, and that counsel will be appointed if he cannot afford one.
- ☐ **Waiver.** A suspect may waive Miranda rights if the waiver is knowing, intelligent, and voluntary under the totality of the circumstances; silence alone is not a waiver, but answering questions after warnings can constitute an implied waiver.
- ☐ **Invoking the right to silence.** The right to remain silent must be invoked unambiguously; upon invocation police must scrupulously honor it and cease interrogation, though they may later reinitiate questioning on a different offense after a break and fresh warnings.
- ☐ **Invoking the right to counsel.** An unambiguous request for counsel requires all interrogation to cease until counsel is present or the suspect reinitiates contact; this protection continues for fourteen days after the suspect is released from custody.
- ☐ **Public safety exception.** Police may ask questions reasonably prompted by a concern for public safety without first giving Miranda warnings, and the answers are admissible.
- ☐ **Fifth Amendment privilege at trial.** The privilege against compelled self-incrimination bars the prosecution from commenting on the defendant's silence or failure to testify, and permits a witness to refuse to answer questions that may be self-incriminating.

D. SIXTH AMENDMENT: COUNSEL, IDENTIFICATIONS, AND TRIAL RIGHTS

> **GENERAL RULE** The Sixth Amendment right to counsel attaches at the initiation of adversary judicial proceedings and applies to all critical stages of a prosecution; it is offense specific, protecting only the charged offense.

- ☐ **Attachment and critical stages.** The Sixth Amendment right to counsel attaches once formal charges are filed, at arraignment, indictment, preliminary hearing, or initial appearance, and guarantees counsel at all critical stages including post-charge lineups, arraignments, and trial.
- ☐ **Offense-specific nature.** The Sixth Amendment right to counsel is offense specific, so once it attaches to a charged offense police may not deliberately elicit statements about that offense without counsel, but may question the suspect about unrelated uncharged offenses.
- ☐ **Deliberate elicitation.** After the right attaches, the government may not deliberately elicit incriminating statements from the accused about the charged offense outside the presence of counsel, including through an informant acting as its agent.
- ☐ **Post-charge lineups and showups.** A defendant has a right to counsel at a post-charge corporeal identification such as a lineup or showup, but not at a photographic identification array or at the taking of physical evidence like fingerprints.
- ☐ **Due process and suggestive identifications.** An identification violates due process and is excluded if the procedure was unnecessarily suggestive and created a substantial likelihood of irreparable misidentification under the totality of the circumstances.
- ☐ **Right to effective counsel.** The right to counsel includes effective assistance; to prevail on an ineffectiveness claim the defendant must show that counsel's performance was deficient and that the deficiency prejudiced the outcome with a reasonable probability of a different result.
- ☐ **Confrontation.** The Confrontation Clause bars admission against the defendant of testimonial hearsay from a witness who does not testify unless the witness is unavailable and the defendant had a prior opportunity to cross-examine; statements made to meet an ongoing emergency are nontestimonial.

- ☐ **Speedy trial.** The right to a speedy trial attaches upon arrest or charge and is evaluated by balancing the length of and reason for the delay, the defendant's assertion of the right, and prejudice; the remedy for a violation is dismissal with prejudice.
- ☐ **Right to jury trial.** The right to a jury trial applies to serious offenses, meaning those authorizing more than six months of imprisonment; a criminal jury verdict must be unanimous.

E. DOUBLE JEOPARDY

GENERAL RULE The Double Jeopardy Clause protects against a second prosecution for the same offense after acquittal or conviction and against multiple punishments for the same offense.

- ☐ **Attachment.** Jeopardy attaches in a jury trial when the jury is sworn, and in a bench trial when the first witness is sworn; it generally does not attach in civil proceedings or before a grand jury.
- ☐ **Same-offense test.** Two crimes are the same offense unless each requires proof of an element that the other does not; if so, they are separate offenses and successive prosecutions are permitted.
- ☐ **Permissible retrial.** Retrial is permitted after a hung jury, after a mistrial declared for manifest necessity or with the defendant's consent, and after a successful defense appeal, but not after an acquittal or a reversal based on insufficient evidence.
- ☐ **Separate sovereigns.** The separate sovereigns doctrine permits both the federal government and a state, or two different states, to prosecute a defendant for the same conduct, but a state and its municipalities are a single sovereign.

IV. GENERAL PRINCIPLES ~15% tested

A. ELEMENTS OF A CRIME: ACTUS REUS, MENS REA, CONCURRENCE, AND CAUSATION

GENERAL RULE Criminal liability generally requires a voluntary act or a qualifying omission (actus reus) accompanied by a culpable mental state (mens rea), with the mental state concurring with the act, and the act being the actual and proximate cause of any required result.

- ☐ **Actus reus.** The actus reus is a voluntary physical act or an unlawful failure to act; reflexes, convulsions, and conduct while unconscious are not voluntary acts and cannot support liability.
- ☐ **Omission liability.** A failure to act is criminal only where a legal duty to act exists, arising from statute, contract, a special relationship, voluntary assumption of care, or creation of the peril, the defendant has knowledge of the facts, and it is reasonably possible to act.
- ☐ **Common-law mens rea.** Common law recognized general intent, meaning awareness of committing the act, and specific intent, meaning an intent to bring about a particular result, along with malice, which requires reckless disregard of a known risk.
- ☐ **MPC mental states.** The Model Penal Code recognizes four culpable mental states in descending order: purposely, meaning a conscious object to cause the result; knowingly, meaning awareness the result is practically certain; recklessly, meaning conscious disregard of a substantial and unjustifiable risk; and negligently, meaning a failure to perceive such a risk.
- ☐ **Strict liability.** Strict liability offenses require no mens rea as to at least one material element and are typically regulatory or public welfare offenses; defenses that negate intent are unavailable.
- ☐ **Concurrence.** The defendant must possess the required mental state at the moment he commits the criminal act, and that mental state must actuate the conduct that causes the criminal result.
- ☐ **Causation.** The defendant's conduct must be both the actual cause, meaning the result would not have occurred but for the conduct, and the proximate cause, meaning the result was a foreseeable consequence; an unforeseeable intervening cause breaks the chain of causation.
- ☐ **Vicarious and corporate liability.** Vicarious liability imposes criminal responsibility on one party for the acts of another without personal fault, typically in regulatory contexts, and corporations may be liable for crimes committed by agents acting within the scope of their authority.

B. MISTAKE AND INTOXICATION

- ☐ **Mistake of fact.** A mistake of fact is a defense if it negates the required mental state; any honest mistake is a defense to a specific intent crime, only a reasonable mistake is a defense to a general intent or malice crime, and mistake is no defense to a strict liability crime.
- ☐ **Mistake of law.** Mistake or ignorance of the law is generally no defense, except where the mistake negates a specific intent element, or where the defendant reasonably relied on an official statement of the law later determined to be erroneous.
- ☐ **Voluntary intoxication.** Voluntary intoxication is a defense only to specific intent crimes, and only if it prevents the defendant from forming the required intent; it is not a defense to general intent, malice, or strict liability crimes.
- ☐ **Involuntary intoxication.** Involuntary intoxication, resulting from coercion, trickery, or an unexpected reaction to prescribed medication, is treated like insanity and is a defense to any crime if it negates the required mental state or meets the applicable insanity test.

C. RESPONSIBILITY DEFENSES: INSANITY

- ☐ **M'Naghten test.** Under the M'Naghten rule, a defendant is not guilty by reason of insanity if, because of a mental disease or defect, he did not know the nature and quality of his act or did not know that his act was wrong.
- ☐ **Irresistible impulse test.** Under the irresistible impulse test, a defendant is legally insane if a mental disease or defect prevented him from controlling his conduct or conforming it to the law, even if he knew the act was wrong.
- ☐ **MPC and Durham tests.** Under the Model Penal Code test, a defendant is not responsible if, due to mental disease or defect, he lacked substantial capacity either to appreciate the criminality of his conduct or to conform it to the law; under the Durham test, the crime must be the product of mental disease or defect.

- ☐ **Competency to stand trial.** Competency to stand trial is distinct from insanity and asks whether the defendant presently understands the nature of the proceedings and can assist his attorney; an incompetent defendant may not be tried.

D. JUSTIFICATION AND EXCUSE DEFENSES

- ☐ **Self-defense.** A person may use nondeadly force when he reasonably believes it necessary to defend against an imminent unlawful use of force; deadly force may be used only against a reasonable threat of death or serious bodily harm, and many jurisdictions impose no duty to retreat.
- ☐ **Duty to retreat and aggressors.** In retreat jurisdictions a defendant must retreat before using deadly force if he can do so safely, except in his own home; an initial aggressor may regain the right of self-defense only by withdrawing and communicating that withdrawal, or if the victim escalates to deadly force.
- ☐ **Defense of others and property.** One may use reasonable force to defend another whom he reasonably believes is entitled to use self-defense, and may use reasonable nondeadly force to defend property, but never deadly force solely to protect property.
- ☐ **Duress.** Duress is a defense where the defendant committed a crime other than intentional homicide because of a reasonable belief that another person would imminently kill or seriously injure him or a family member if he did not comply.
- ☐ **Necessity.** Necessity justifies otherwise criminal conduct when the defendant reasonably believed it was necessary to avoid a greater harm caused by natural forces; the defense fails if the defendant created the situation and is generally unavailable for intentional homicide.
- ☐ **Entrapment.** Under the majority subjective test, entrapment exists when the criminal design originated with the government and the defendant was not predisposed to commit the crime; merely providing the opportunity to commit a crime is not entrapment.
- ☐ **Consent.** Consent is a defense only in limited circumstances, generally where it negates an element of the offense, and is not a defense to serious bodily harm; the consent must be voluntary and given by a competent person.

I. HOMICIDE — ~15% tested

A. MURDER

> **GENERAL RULE** Murder is the unlawful killing of another human being with malice aforethought, which is established by intent to kill, intent to inflict serious bodily harm, reckless indifference to an unjustifiably high risk to human life (depraved heart), or intent to commit a dangerous felony.

- ☐ **Common-law murder.** Common-law murder is the unlawful killing of a human being with malice aforethought, present when the defendant acts with intent to kill, intent to cause serious bodily injury, depraved-heart recklessness, or during the commission of a felony.
- ☐ **Intent to kill and inferred malice.** Intent to kill may be inferred from the use of a deadly weapon in a manner likely to cause death, and this deadly weapon doctrine supplies the malice required for murder.
- ☐ **Depraved heart murder.** Depraved-heart murder is a killing that results from reckless indifference to an unjustifiably high risk to human life, where the defendant is aware of and consciously disregards that risk.
- ☐ **First-degree murder.** First-degree murder is a killing committed with premeditation and deliberation, meaning the defendant actually reflected on the decision to kill, or a killing committed during an enumerated felony or by a specified means such as lying in wait or poison.
- ☐ **Second-degree murder.** Second-degree murder is any murder that is not first degree, including intentional killings without premeditation, killings with intent to inflict serious bodily harm, and depraved-heart killings.

B. FELONY MURDER

- ☐ **Felony murder rule.** Felony murder is a killing, even accidental, committed during the commission or attempted commission of an inherently dangerous felony such as burglary, arson, rape, robbery, or kidnapping; the underlying felony's intent supplies the malice.
- ☐ **Scope and limitations.** Liability for felony murder requires that the defendant be guilty of the underlying felony, that the felony be independent of the killing, and that the death be a foreseeable result occurring during the felony or immediate flight before reaching a place of temporary safety.
- ☐ **Agency and redline limits.** Under the majority agency theory, there is no felony murder liability for the death of a co-felon caused by a victim or police, and many courts bar liability when the person killed is a co-felon shot by a resisting victim.

C. MANSLAUGHTER

- ☐ **Voluntary manslaughter.** Voluntary manslaughter is an intentional killing committed in the heat of passion arising from adequate provocation that would cause a reasonable person to lose self-control, before a reasonable time to cool off, with no actual cooling off.
- ☐ **Imperfect self-defense.** In many jurisdictions a killing that would otherwise be murder is reduced to voluntary manslaughter where the defendant honestly but unreasonably believed deadly force was necessary in self-defense or was the initial aggressor.
- ☐ **Involuntary manslaughter.** Involuntary manslaughter is an unintentional killing resulting from criminal negligence or recklessness, or from the commission of an unlawful act that is a misdemeanor or a non-dangerous felony under the misdemeanor-manslaughter rule.

II. OTHER CRIMES — ~15% tested

A. THEFT AND PROPERTY CRIMES

> **GENERAL RULE** Common-law theft crimes are distinguished chiefly by how the defendant acquires the property: larceny by a trespassory taking, embezzlement by conversion of property already lawfully possessed, and false pretenses by obtaining title through fraud.

- ☐ **Larceny.** Larceny is the trespassory taking and carrying away of the personal property of another with the intent to permanently deprive the owner of it, the intent existing at the time of the taking.

- ☐ **Embezzlement.** Embezzlement is the fraudulent conversion of the property of another by a person who is already in lawful possession of it, such as a trustee or employee entrusted with the property.
- ☐ **False pretenses.** False pretenses is obtaining title to the property of another by a knowing or reckless false representation of a material past or present fact made with the intent to defraud, on which the victim relies.
- ☐ **Larceny by trick.** Larceny by trick is obtaining possession, but not title, of another's property through fraud or deceit; if the defendant obtains title, the crime is false pretenses instead.
- ☐ **Robbery.** Robbery is a larceny from the person or presence of the victim accomplished by force or by threat of imminent physical harm; the taking and the intimidation must occur together.
- ☐ **Extortion.** Extortion, or blackmail, is the taking of property by means of a threat of future harm, and unlike robbery does not require that the property be taken from the victim's person or presence.
- ☐ **Burglary.** Common-law burglary is the breaking and entering of the dwelling of another at nighttime with the intent to commit a felony inside; the intent to commit the felony must exist at the time of entry.
- ☐ **Arson.** Common-law arson is the malicious burning of the dwelling of another, requiring some charring of the structure; mere scorching or smoke damage is insufficient, and modern statutes extend arson to other structures and one's own property.
- ☐ **Receiving stolen property.** Receiving stolen property is receiving control of property known to be stolen with the intent to permanently deprive the owner of it.
- ☐ **Forgery.** Forgery is the making or altering of a false writing with apparent legal significance with the intent to defraud.

B. CRIMES AGAINST THE PERSON

- ☐ **Battery.** Battery is the unlawful application of force to another person resulting in bodily harm or an offensive touching; it is a general intent crime that may be committed intentionally, recklessly, or with criminal negligence.
- ☐ **Assault.** Assault is either an attempted battery or the intentional creation, other than by mere words, of a reasonable apprehension of imminent bodily harm in the mind of the victim.
- ☐ **Aggravated assault and battery.** Assault or battery is aggravated when committed with a deadly weapon, with intent to cause serious bodily harm, or with intent to commit rape or another serious felony.
- ☐ **Kidnapping.** Kidnapping is the unlawful confinement of a person against that person's will coupled with either movement of the victim or concealment in a secret place.
- ☐ **False imprisonment.** False imprisonment is the unlawful confinement of a person without valid consent; the confinement need not involve movement or concealment.
- ☐ **Rape and sexual assault.** Rape at common law is the unlawful sexual intercourse with a person without that person's effective consent, accomplished by force, threat of force, or when the victim is incapable of consenting; modern statutes are gender neutral and define the offense as sexual assault.
- ☐ **Statutory rape.** Statutory rape is sexual intercourse with a person under the age of consent; it is a strict liability offense in most jurisdictions, so consent and a reasonable mistake as to age are no defense.

III. INCHOATE CRIMES AND PARTIES ~15% tested

A. INCHOATE OFFENSES

GENERAL RULE Inchoate crimes punish conduct short of a completed offense; attempt, conspiracy, and solicitation are all specific intent crimes requiring the intent to bring about the target offense.

- ☐ **Attempt.** Attempt is a specific intent to commit a crime coupled with a substantial step, or under the common law an overt act, beyond mere preparation toward its commission; the intent required is the intent to complete the target crime.
- ☐ **Impossibility and abandonment.** Legal impossibility, where the intended act is not a crime, is a defense to attempt, but factual impossibility is not; at common law abandonment is generally no defense once the attempt is complete, though the Model Penal Code allows a voluntary and complete renunciation defense.
- ☐ **Merger of attempt.** Attempt merges into the completed offense, so a defendant may not be convicted of both the attempt and the completed crime, but conspiracy does not merge with the completed crime.
- ☐ **Solicitation.** Solicitation is enticing, encouraging, or commanding another person to commit a crime with the intent that the person commit it; the offense is complete upon the solicitation regardless of whether the other person agrees or acts.
- ☐ **Conspiracy.** Conspiracy is an agreement between two or more persons to commit an unlawful act, made with the intent to agree and the intent to achieve the unlawful objective; most jurisdictions and the Model Penal Code also require an overt act in furtherance.
- ☐ **Scope of conspiracy liability.** A conspirator is liable for the crimes of co-conspirators that are committed in furtherance of the conspiracy and are a foreseeable result of it; the plurality requirement demands at least two genuinely culpable parties under the traditional bilateral approach.
- ☐ **Withdrawal from conspiracy.** Withdrawal from a conspiracy is generally not a defense to the conspiracy charge itself because the crime is complete upon agreement, but effective withdrawal, communicated in time for the others to abandon, may cut off liability for subsequent crimes of co-conspirators.

B. PARTIES TO CRIME

- ☐ **Accomplice liability.** An accomplice is one who, with the intent that the crime be committed, aids, counsels, or encourages the principal before or during the crime; an accomplice is liable for the crime itself and for other foreseeable crimes committed in its course.
- ☐ **Principal and accessory categories.** Modern law abolishes most common-law distinctions, treating principals in the first and second degree and accessories before the fact as equally liable, while an accessory after the fact is one who assists a known felon to escape apprehension and is liable only for a separate, lesser offense.
- ☐ **Scope of accomplice liability.** Mere presence at the scene or knowledge that a crime will be committed is insufficient for accomplice liability; the accomplice must actually intend to assist or encourage the commission of the crime.
- ☐ **Withdrawal by accomplice.** An accomplice may avoid liability by withdrawing before the crime is committed, which requires repudiating prior encouragement, neutralizing any assistance rendered, or notifying authorities in time to prevent the crime.