

Rule of Law (or Principle of Legality) - if there is not a law prohibiting an action, that action can not be punished by the criminal justice system

Void for Vagueness- a law must be clear in its meaning, if it is open to considerable debate or a person can not reasonably ascertain its meaning – the law can not be enforced

Prohibition against ex post facto laws- a person can not be punished for violations of law if they committed a prohibited action before the law was enacted

Bills of attainder – A law can not be passed that specifically punishes one person

Unequal protection – if a law specifically targets one class of persons it must have a “rational basis”; race = strict scrutiny, gender = heightened scrutiny

Exceptions to Freedom of Speech – obscenity (sexual conduct or references), profanity (foul language), slander (knowingly speaking falsities with malicious intent), libel (knowingly writing falsities with malicious intent), clear and present danger – engaging in conduct or speech that is likely to incite persons to violence or riot

Actus reus – a criminal act

Mens rea – a criminal mind

Concurrence – when an actus reus & mens rea converge a crime has generally occurred

Requirement of a voluntary act – exceptions – automatism, somnambulism

Acts that negate mens rea – unconsciousness, hypnotism, epilepsy (except in cases where they knew of their condition and put others in danger)

Status offenses – persons can not be punished based upon status; voluntary statuses – drug addiction, alcoholism; involuntary statuses – age, race, gender, etc...

Failure to Act – can not be punished unless a “special relationship” exists – examples – parent-child, employer-employee, contractual relationships

Possession – Legal fiction (treated as an action); types – actual – person has something on their person; knowing – person knows exactly what it is they possess; mere – person has actual possession but is unaware of what it is; constructive – a person has control of something but it is not on their person; joint persons – more than one person has access to and knowledge of something

Four types of mens rea – general (person has the intent to commit a crime, but it is not specific; example burglary), specific intent (person intends to commit a specific crime; example murder), transferred intent (person intends to commit a crime, but causes another – for liability to exist the crimes must be similar), constructive intent (person commits a crime but causes greater harm than they intended)

Four types of intent- purpose – person intends to commit a specific act; knowledge – a person knew of danger and committed the act in spite of it; recklessness – a person engaged in conduct in which there was a high probability of someone being harmed; negligence – a person was engaging in some action in which they had a duty to others and failed in that duty

Willful blindness- a person can not purposefully disavow themselves of realizing that something is dangerous or that someone else has committed a crime

Strict liability- so long as a person commits a crime they are responsible for it (no mens rea requirement)

Intervening causes – when some outside force occurs that creates a greater harm than a person intended; coincidental – an occurrence happened that a person could not have reasonably foreseen, examples – natural disasters, “acts of god”; responsive – an

occurrence happened that a person did not intend but could have foreseen, example – chasing somebody onto a busy road

Four parties to crime- principle in the 1st degree, principle in the 2nd degree, accessory before the fact, accessory after the fact; some crimes only have a principle in the 1st degree (if so it is redundant to tell me so)

Principle in the 1st degree – the person that actually committed a crime or played a direct role in carrying it out

Principle in the 2nd degree – a person that helped commit a crime or was engaging in a common crime with another principle who then in turned committed another separate crime; examples – getaway drivers (who agreed beforehand), person committing a burglary with another person who in turn murders someone, luring a person to be killed, serving as a lookout

Accessory before the fact – knowingly provide materials or aid to a person that you have knowledge is going to commit a crime, example – selling a gun to a person

Accessory after the fact – knowingly and without duress giving aid to a person that you know has committed a crime, example – helping a person escape from law enforcement

Mere presence rule – just because you are with another person that commits a crime does not necessarily mean that you are a party to it

Vicarious liability – being held responsible for the actions of another