**Elements Required for the Commission of a Crime**

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HIGH-STAKES TAX DEFENSE & COMPLEX CRIMINAL DEFENSE

* 1. Actus Reus (physical act)
		1. To meet the actus reus requirement, that act must be a conscious or a volitional act. Acts which are reflexive or otherwise involuntary are insufficient as are mere bad thoughts unaccompanied by action
			1. One is n/ guilty of murder if he killed the victim while asleep or in the clouded state between sleeping and walking: Andy was a chronic sleepwalker. Andy got into a violent argument w/ his neighbor, Sam. The next night, while he was asleep, Andy left his home and walked to Sam’s house. He entered the front door and walked up the stairs to Sam’s bedroom. While still sleepwalking, Andy went inside and strangled Sam to death
		2. Omission to act
			1. Criminal liability can be imposed on a D for an omission to act where there is a legal duty to act.
			2. Such a legal duty to act may arise in the following ways:
				1. By statute,
				2. By contract (e.g. failure of a lifeguard to rescue),
				3. Based upon relationship (e.g. husbands to aid their wives, parents to aid their small children)

A roommate is under no duty to act to aid the other who becomes helpless. However, if the roommates have established a familial relationship or have lived together for an extended and indefinite period, then a legal duty may be imposed. For example, there is a legal duty to aid a roommate if the roommates are involved in a personal relationship (they are boyfriend and girlfriend).

* + - * 1. Where D either intentionally or negligently creates the victim’s peril

By attempting to overtake Adam’s car in a non-passing zone on a steep, winding highway, Paul acted negligently which created the peril. Since Paul created the peril, he had a legal duty to render assistance. His failure to act establishes liability based on criminal negligence and he will be guilty of manslaughter for Adam’s death.

* 1. Mens Rea (guilty mind)
		1. Intentionally: One acts intentionally when he desires that his acts cause certain consequences or knows that his acts are substantially certain to produce those consequences
		2. Knowingly: Traditionally, intent has been defined to include knowledge
		3. Purposely
		4. Willfully
		5. Negating an element of a crime (e.g. mens rea) is better than raising a defense. For example, if D did not act knowingly, that would negate the mental state – (e.g. mens rea element) – for the commission of the crime
		6. Constructive knowledge (Willful blindness)
			1. Choosing to ignore or to be deliberately ignorant of certain facts is willful blindness. Where D is deliberately ignorant of certain facts, then he can be held criminally liable.
			2. Example: Sam, a reputed drug dealer, approached Paul, an acquaintance, and offered to pay Paul $500 to drive a van from NJ to New Mexico. Paul agreed. Sam placed the package in the glove compartment. Paul never asked nor was he told what the contents of the package were. The package contained a kilo of cocaine. During the two-day drive, Paul deliberately refrained from looking into the glove compartment and inspecting the package. Upon delivery, the police arrived and arrested Paul. Paul’s willful blindness was sufficiently culpable b/c P deliberately refrained from looking into the glove compartment and inspecting the package. It can almost be said that he actually knew that drugs were present.
	2. Concurrence in time between the act and the requisite mental state
		1. In burglary, the intent to commit a felony or larceny therein must exist at the moment of the breaking and entering
		2. Example: Yogi entered a convenience store, walked to the back, and picked up two packs of baseball cards and placed them in his pocket. Yogi then picked up a package of Twinkies. Yogi took the Twinkies to the front counter and paid the cashier the purchase price. Yogi started to walk out of the store when the cashier said, “Hey, kid, I’m n/ charging you for the baseball cards b/c you paid for the Twinkies.” Yogi has committed larceny. Don’t be duped by the fact that the clerk gave Yogi permission to take the cards without paying. The crime was completed at the moment that Yogi took the cards with the requisite criminal intent
	3. Causation between D’s act and the harm suffered, and
		1. D’s conduct must be both the actual and the proximate cause of the specified criminal result
	4. Harm to the victim resulting from D’s criminal conduct