



TU 122 Law in Everyday Life

Criminal Law I

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Outline

1. Definition of criminal law
2. Sources of criminal law
3. Identification of criminal law
4. Elements of crime
5. Attempt
6. Solicitation
7. Conspiracy
8. Complicity



1. Definition of Criminal Law

Division of law which treats of crimes and their punishments (Black Law's Dictionary)

2. Sources of criminal law

- (1) Penal Code
- (2) Statutes



3. Identification of Criminal Law

The violation of criminal law results in punishment.

Forms of Punishment
(s 18 of the Thai Penal Code)

- (1) Death penalty
- (2) Imprisonment
- (3) Confinement
- (4) Fine
- (5) Forfeiture of property

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4. Elements of Crime

- (1) Criminal act
- (2) Criminal state of Mind (*mens rea*)
- (3) Causation

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4. Elements of Crime

- (1) Criminal act
 - Affirmative physical act
 - Failure to act/omission

General rule: A crime is defined in terms of act.
Intent alone poses an insufficient danger to society to justify criminal liability.

Example 1: A posted on his Facebook that he was considering to kill B. Did A commit a crime?

Example 2: A, a life guard, did not rescue B, who was drowning in a pool while A was on duty, because he wanted to kill him.

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4. Elements of Crime

(2) Criminal state of mind – *Mens Rea*

Modern classifications of state of mind

(a) Intent

- Purpose
- Knowledge

(b) Recklessness / negligence

(3) Strict liability

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4. Elements of Crime

(3) Causation

Causation is a relation between the cause and the result: the conduct was the cause of the result.

Example 1: A set fire on B who was badly injured. B died two weeks later because of infection.

Example 2: C intentionally broke D's nose. While D was being treated at a hospital he fell off his bed. He died shortly after the accident.

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5. Attempt

Thai Penal Code

Section 80 A person who commences to commit an offence

- does not carry it through; OR
- carry it through but does not achieve its end is said to attempt to commit an offence.

Dika 4938/2554 A unlawfully entered the building and was searching for valuable things. A was arrested before he touched anything.

Dika 5725/2554 B wanted to steal a motorcycle. He tried to unlock every vehicle he passed by. He was arrested before could successfully unlock a motorcycle.

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5. Attempt

Attempt to murder

Dikas: A pointed a gun at B and was preparing to pull the trigger. He was arrested before he could kill B.

Attempt to rape

Dika 11065/2554: A punched B's face and abdomen and torn off her skirt. B shouted for help. A was arrested before he could rape A.

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6. Instigation (Solicitation)

Section 84 "Whoever cause another person to commit an offense, whether by employment, compulsion, threat, hire, asking as favour or instigation is said to be an instigator.

If the employed person commit a crime, an instigator shall receive the punishment as principal. If the offence is not committed, an instigator shall receive one third of the punishment provided for such offence."

Example: A hired B to kill C.

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6. Instigation (Solicitation)

Punishment

- Solicitation punishable to the same degree as is authorized for the offenses solicited.
- If offenses is not committed, solicitor is liable for the crime of solicitation.

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7. Conspiracy

A conspiracy is an agreement by two or more persons to commit a criminal act or series of criminal acts, or to accomplish an act by unlawful means.

Section 83 “Two persons participating in the commission of the offence are principals.”

Punishment

Same punishment imposed to crime committed by all other members that were reasonably foreseeable result of the conspiracy.

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8. Complicity

An accomplice in the commission of an offense is a person who intentionally assists another to engage in the conduct that constitutes the crime. Accomplice activity may include aiding, abetting, encouraging, soliciting, advising, and procuring the commission of the offense.

Section 86 – act to assist or facilitate the commission of the offense regardless of the offender’s knowledge of such assistance.

Punishment

One third of the punishment prescribed for such offense

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