Note: This outline was prepared for Criminal Law (DeWolf, Gonzaga Law School), Fall 2004. It attempts to provide a visual supplement to the text. It is not intended to be complete, or to substitute for the more careful discussion contained in the text.
**Purposes and Principles**

**Purposes of Punishment**
- Retribution: Kant / Stephen, "It just feels right."
- Deterrence: Bentham / Andenaes, General v. Special
- Reform: (Now out of favor)
- Incapacitation: Cohen, General & Selective

**Principles of Just Punishment**
- Legality
  - Fair Notice / Statute
  - No Retroactivity
  - No excessive vaguess
- Proportionality
  - Life Imprisonment for forgery?
- Constitutional Limits
  - No Cruel & Unusual Punishment
  - Death Penalty?
  - Due Process Limits
Mens Rea
Role of Mistake

Common Law Analysis of Mistake

Fact

General Intent
Specific Intent

Mistake Must Be Honest and Reasonable
Mistake Must Be Honest

Law

(Mistake Must Be Honest)

Reasonable Fact

Model Penal Code Analysis of Mistake

Fact & Non-Penal Law

(Ignorance or Misinterpretation of Penal Statutes)

MPC § 2.04(3)(a): Official Reliance
MPC § 2.02(9): Never Excuses No Matter How Reasonable [Unless [2.04(3)(a) Official Reliance]

MPC § 2.04: Negatives the Mens Rea
Inchoate Crimes

- Attempt
- Solicitation
- Conspiracy

Purpose of Accomplishing Criminal End

PLUS

MPC § 5.01
(a) "Impossibility"
(b) Last Proximate Act
--OR--
(c) Substantial Step
Strongly Corroborative of Criminal Purpose

Completed Conduct that Fizzled

MPC § 5.02
Encouraging Another to Commit Crime

MPC § 5.03
Agreement With Another plus Overt Act [§ 5.03(5)]

Aborted Conduct
Group Criminality

Complicity

Mens Rea

Conduct: Purpose to Aid

Circumstances ???

Results
§ 2.06(4): Culpability for the Underlying Offense is Sufficient

Actus Reus

§ 2.06(3)(a)(ii) Aids or agrees or Attempts to Aid

Conspiracy

Common Law (Feds)

Pinkerton Rule
(Liability Extends to Acts Inferrable from Scope of Conspiracy)

No Merger
Separate Punishment for Conspiracy and Substantive Crime

Model Penal Code

Liability Only for Crimes Actually Agreed To

§ 1.07
Conspiracy Count Merges With Substantive Count
Justification & Excuse

Justification

Protecting Life and Person
- §3.04 / 3.10: Genuine Belief Justifies, but Recklessness or Negligence Liability Still Available
- Person of Reasonable Firmness Couldn't Resist

Protecting Property / Law Enforcement
- Duress [MPC § 2.07]
  - Purpose or Knowledge: May Negative Mens Rea
  - Recklessness or Neg.: Intoxication No Defense
- (Voluntary) Intoxication [MPC § 2.08]

Residual (Necessity): §3.02, "Choice of Evils"–MPC doesn't require imminence; most states do

Excuse

Mental Disorder [MPC § 4.01]
- Cognitive Prong
  - Must Appreciate Wrongfulness
- Control Prong
  - Able to Conform Conduct to Law?
**Common Law**

- **Murder** (Malice Aforethought)

**MPC**

- **Murder** § 210.2
  - (a) Purposely or knowingly
  - (b) Recklessly w/ extreme indifference

- **Manslaughter** § 210.3
  - (a) Recklessly
  - (b) Murder except under extreme disturbance

- **Negligent Homicide** § 210.4

**HOMICIDE**

- **Particular Crimes**
Sexual Intercourse

with a female not his wife

PLUS one of the following:

- Force / Compulsion
  - Mens Rea=Reckless
- Unconscious
- Drugged
  - Mens Rea=Purpose
- < 10 yrs old
  - Mens Rea=SL

1st ° unless date or previous liberties

1st ° if serious bodily injury