**Parties to an Offence**

Let's explore criminal offences a little more deeply by examining the parties of an offence. Parties of an offence are the people involved in committing the crime. The following hypothetical case will introduce you to Jake, Jane, Jeb, Jerry and John. Oh, and Jessie. As you read the story, pay attention to each person's role in the offence.

**The Six Js**



Jake and his sister, Jane, are tired of living in poverty, so they decide to rob a bank. They sit around Jane's kitchen table and discuss their plan. They aren't sure how to get around the security cameras, but they know someone who can help. They call their pal Jeb, who is freshly out of jail for robbery and ask for advice. He is only too glad to help out. He suggests they wear masks and carry black paint to spray on security camera lenses. By midnight, Jake and Jane have all the details worked out to their satisfaction and have agreed to go ahead with the robbery.

The next day, Jake and Jane talk to John, a 16-year-old who lives in the area and who has an intellectual disability. John has the cognitive function of a young child but is always eager to make friends. Jake and Jane exploit John's eagerness to please and convince him to come along on their adventure. They then persuade John to get two rifles from his father's storage locker. John immediately goes home, retrieves the rifles and brings them to Jake. Next, Jake and Jane visit their friend Jerry who, for 10% of the loot, agrees to get them an old car to use in the heist.

On Thursday, Jake and Jane pick up John in the beat up old car. The trio drive to the bank, but upon arrival, find the place crawling with police and security guards protecting the arrival of a large sum of money. The three realize that their timing is not very good and beat a hasty retreat.

Later in the morning, Jake, Jane and John drive to another bank in town. This time there are no police or guards, so Jane and John take the rifles from the back seat and head into the bank. Jake stays behind the wheel of the car with the engine running so they can make a quick getaway. In the bank, Jane yells for everyone to get down, and demands the tellers hand over all the money. They do and Jane flees the bank leaving the bewildered John standing there to be caught. Jake and Jane drive away at high speed as sirens wail in the distance.

Arriving at the bank, the police take John into custody. He soon tells them the whole story, so the police know exactly who to look for. Once they have questioned him, the police let John go without laying any charges, and immediately launch a city- and province-wide search for Jake and Jane. Meanwhile, the criminal siblings, speeding away in their car, realize that an awful lot of roadblocks are going up. They decide to lay low for a time, so they contact Jake's wife, Jessie, who agrees to hide the pair from the police.

**Roles of Various Parties to an Offence**



OK, so it's not really that easy to rob a bank. However unrealistic it may be, the story of the six Js introduces and helps us understand the parties to an offence. Jake and Jane are seriously discussing the commission of a crime. Because they are serious and in the end they agree to proceed, they have committed **conspiracy** to commit the robbery. The planning and the serious agreement are the **mens rea** and **actus reus** essential to this offence (for a conspiracy, the actus reus of planning the crime is the action). Jake and Jane are accused of committing a crime. Jake and Jane thus become the **accused**, or the person(s) charged with committing the offence. The accused may also be referred to as the **defendant**.

The **motive**, or the reason a person commits the crime, is also clear from the first paragraph. Jane and Jake want money. *Motive, however, is not necessary to prove guilt, despite what you may see on television*. It is useful for a prosecutor to show that the offenders had a reason for committing a crime, but there are such things as senseless crimes, which have no motives. Whether senseless or not, what has to be proven is not motive but mens rea. Mens rea means having a guilty mind. Generally it can be described as having intent or acting with recklessness or negligence. One doesn't need a rational motive to have intent or to be **reckless** or **negligent**.

Also in the first paragraph, we meet Jeb, a **party to the offence**. Jake and Jane call Jeb, who offers advice and encouragement. By doing so, Jeb becomes a **counsellor** to the offence and can be found as guilty as the other two.

Another example of a party to an offence appears in paragraph two. John is persuaded to get rifles for the robbery. In doing this, he becomes a **procurer**, a specialized type of helper who obtains whatever or whomever is needed to commit a crime. Jerry falls into the same category, as he agreed to get the old car for the crime. At this point, you may wonder if there is any significance to John having an intellectual disability. This will become apparent later.

# Roles of Various Parties to an Offence (continued)

On Thursday morning, the criminal conspiracy entered a new phase. The conspiracy became an **attempt** as Jake, Jane and John headed out to the bank with every intention of committing the robbery (see article 24 of the [**Criminal Code**](https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html) for attempt). The only reason they did not actually rob the first bank was the presence of the police and security. Having taken the first step to accomplish their criminal goal, in this case getting in the car with the guns to drive to the bank, they were technically guilty of attempted robbery. If they had been caught at this stage, it would have been pretty hard to prove attempted robbery in a court of law, but the law says this is the beginning of the attempt.

The incident at the second bank is when the offenders actually get to the point in which they commit the complete crime of armed robbery. By entering the bank with the guns, Jane and John make themselves the **principal offenders** in this crime. Jake, by staying in the car, becomes an **abettor**, or helper. Both John and Jane are also known as the **co-perpetrators.**

There is also an example of **transferred malice** in this story. The offenders meant to rob the first bank, but when that proved too difficult, they robbed the second bank. The law does not care that they intended to rob one and not the other. The law is only concerned that they intended to rob. The fact that they were unlucky or planned poorly is hardly the court's concern. Their ill will, or malice, was transferred from one bank to another and the mens rea of the crime went with it.

In the final paragraph, John's intellectual capacity comes into play. Why did the police let him go? Because he was deemed mentally incompetent and can't be held responsible for his criminal action. A person must appreciate the nature and consequences of their actions before being held accountable. In Canada, anyone under twelve years old is automatically considered incapable of this. John is considered **doli incapax**, or unable to be held accountable.

The final point to be made is about Jessie. Knowing they are fleeing from the police, she still agrees to hide Jane and Jake. In so doing, she makes herself an **accessory after the fact**. This is another case of a person who is doli incapax. Anyone else but Jessie would be guilty of being an accessory after the fact, but she is Jake's wife. In this situation and a limited number of others, spouses cannot be held criminally responsible for assisting their husbands or wives. Why should this be? Over the years, the law has defined a balance between the sanctity of marriage, which in the past made the couple legally one person and thus incapable of being held separately responsible for some offences, and the requirements of law. **Limited spousal immunity** is part of the result.

Parties to an offence are covered in the [**Criminal Code**](https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html), sections 21 to 23. Attempts are covered in section 24. You can also do searches for other parties to an offence in the Criminal Code.

Using the Criminal Code, the glossary for this course, and additional course links as needed, make sure you understand the meaning of all the terms introduced in **bold** on this screen and on the previous screen. When you're ready, go to the next screen to check your understanding.

**Check Your Understanding: Roles of Various Parties**

**Self Assessment**

**Check Your Understanding: roles of Various Parties**

**Question #1:**

“We are the people who commit the crime.”

1. Co-perpetrators
2. Procurers
3. Abettors

**Question #2:**

“I am someone who advises, recommends, or persuades another person to commit a crime.”

1. Counsellor
2. Abettor
3. Co-perpetrator

**Question #3:**

“I am the person who obtains whatever or whoever is needed to commit a crime.”

1. Principal offender
2. Procurer
3. Abettor

**Question #4**

“I am the main person involved in committing the crime.”

1. Abettor
2. Prosecutor
3. Principal offender

**Question #5**

“I am the person charged with committing an offence. I am also referred to as the defendant.”

1. Accused
2. Procurer
3. Counsellor

**Question #6:**

Match the following parties of an offence:

|  |  |
| --- | --- |
| \_\_\_\_\_a specialized type of helper who obtains whatever or whomever is needed to commit a crime  \_\_\_\_\_person who helps or assists indirectly, for instance by staying in the car waiting to drive the thieves away  \_\_\_\_\_the person who helps following the crime  \_\_\_\_\_the main person involved in committing the crime  \_\_\_\_\_the person charged with committing the offence; another word for the accused  \_\_\_\_\_offers advice and encouragement, advises, recommends or persuades another person to commit a crime | 1. Defendant 2. Counsellor 3. Procuror 4. Accessory after the fact 5. Principal offender 6. Abettor |

*ly Childhood Development. All Rights Reserved.*