



## **Helping someone to commit crime: developing a principled approach to criminal liability**

The law treats as criminal the activities of those who order, help or encourage others to commit crimes. Such people, such as gang members or crime bosses, are often as culpable as, or even more culpable than, the perpetrators themselves. Accordingly, to give a simple case, if X intentionally provides some help to Y to commit murder, both X and Y are guilty of murder. This is so, even if it was Y alone who actually killed the victim. This is the right approach in law.

However, the principles determining when someone can be found liable for a crime, on the basis of help or encouragement provided, have unfortunately become less and less clear in recent years. This is a particular concern because most of the cases giving rise to difficulty have been homicide cases, where there is a special need for clarity and certainty. Some defendants are now being treated too leniently, some too harshly.

Moreover, it has never been clear whether there are defences, such as a crime prevention motive, for taking some part in a criminal enterprise.

Professor Jeremy Horder, the Commissioner leading on this project, said:

“We cannot continue with a situation in which some people who unlawfully participate in criminal activity may escape liability for the consequences altogether, whilst others – such as those who lawfully sell items subsequently used in crimes – may in theory be convicted of the crimes in which those items were used.”

Our recommendations are underpinned by the following principles:

1. Where someone has helped or encouraged a crime, but was not part of a joint plan to commit that crime, that person should be liable to conviction only if they intended the crime to be committed.
2. Where someone was part of a joint plan to commit a crime, they may be liable for criminal consequences they realised might occur when putting that plan into effect.
3. There should be a defence available for someone who has participated in a joint plan to commit a crime, if their participation was reasonably undertaken for the purpose of preventing crime.

### **Notes for Editors**

1. The Law Commission is a non-political independent body, set up by Parliament in 1965 to keep all the law of England and Wales under review, and to recommend reform where it is needed.
2. The present report builds on our previous report on assisting and encouraging crime (LC 300), which now forms the basis for Part 2 of the Serious Crime Bill.
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