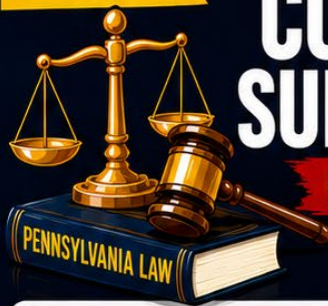




CONTROLLED SUBSTANCE ACT

FOUNDATION CONCEPTS

The Commonwealth must prove every element
BEYOND A REASONABLE DOUBT.



PURPOSE OF THE ACT

To **regulate** controlled substances and certain related devices, and to **prohibit** their abuse and unlawful trafficking.

WHAT IS A CONTROLLED SUBSTANCE?

Any drug, substance, or immediate precursor included in **Schedules I through V** of the Controlled Substance Act.

EXAMPLES:



Marijuana



Cocaine



Oxycodone



Methamphetamine



Fentanyl

The schedules are based on the drug's potential for abuse, currently accepted medical use, and safety under medical supervision.

CRIMINAL CONDUCT (ACTUS REUS)

The prohibited act. Common examples include:



Possession



Delivery



Manufacture



Possession With Intent to Deliver (PWID)



Fraud



Misbranding



Inspection Refusal



Paraphernalia

Each offense in the Act defines the prohibited act (the conduct the Commonwealth must prove).

BASIC CRIMINAL LIABILITY RULE



A person is criminally liable for a prohibited act involving a controlled substance when he acts **purposely, knowingly, or recklessly**, unless the law provides otherwise.

THREE LEVELS OF CRIMINAL INTENT (MENS REA)



PURPOSELY

Conscious object to engage in conduct or cause a result.



KNOWINGLY

Aware that his conduct is of a certain nature or that certain circumstances exist.



RECKLESSLY

Consciously disregards a substantial and unjustifiable risk that the circumstance exists or the result will occur.

POSSESSION OVERVIEW

Possession is one of the most common offenses under the Controlled Substance Act.



ACTUAL POSSESSION

Having direct physical control over the substance.



CONSTRUCTIVE POSSESSION

Having the power and intent to control the substance, even if not in your physical possession.



JOINT POSSESSION

Two or more people share control over the same substance.

KEY TAKEAWAYS



The Act regulates certain substances and prohibits their abuse and trafficking.



The Commonwealth must prove every element **beyond a reasonable doubt.**



A crime requires both criminal intent (*mens rea*) and criminal conduct (*actus reus*).



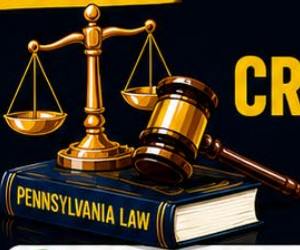
Possession can be actual, constructive, or joint—what matters is knowledge and control.

★ **KNOWLEDGE + CONTROL + INTENT = CRIMINAL LIABILITY** ★

POSSESSION & CRIMINAL RESPONSIBILITY

WHO CAN BE LIABLE?

A person is criminally responsible if he personally commits the offense or if he is legally accountable for the conduct of another.



1 ACTUAL POSSESSION

A person has direct physical control over a controlled substance.

EXAMPLES

- ✓ Drugs found in your hand
- ✓ Drugs in your pocket
- ✓ Drugs inside your purse, bag, or container that you are holding



Key Point: Actual possession is proven by evidence of direct physical control.



2 CONSTRUCTIVE POSSESSION

A person does not have physical possession, but has both the power and the intent to exercise control over the controlled substance.

REQUIRES TWO ELEMENTS



POWER TO CONTROL

The ability or authority to exercise control over the substance.



INTENT TO CONTROL

The purpose or conscious objective to exercise control over the substance.



Key Point: Constructive possession can be proven by circumstantial evidence.

3 JOINT POSSESSION

Two or more persons knowingly share control over the same controlled substance.



KEY FACTS

- ✓ Each person must have knowledge of the substance.
- ✓ Each must have the ability and intent to exercise control.
- ✓ Exclusive possession by one person is not required.

EXAMPLE:

Two people in a room with drugs on the table between them. Both know about the drugs and both have access and the right to control them.



4 ACCOMPLICE LIABILITY

A person is legally accountable for the crime of another if he:



SOLICITS

Encourages or requests another to commit the offense.



AIDS OR AGREES

Helps, facilitates, or agrees with another in the commission of the offense.



SHARES INTENT

Acts with the purpose of promoting or facilitating the offense.



No requirement that the accomplice be present when the crime is committed.

LEGAL BASIS – 18 PA.C.S. § 306 (A) & (B)

(A) LIABILITY OF ACTORS

A person is an actor and is criminally liable for an offense if:

- He commits the offense personally; or
- He is legally accountable for the conduct of another under the provisions of subsection (B).



(B) LIABILITY FOR CONDUCT OF ANOTHER

A person is legally accountable for the conduct of another when, acting with the kind of culpability required for the commission of the offense, he:

- Solicits or commands the other to commit the offense; or
- Aids or agrees or attempts to aid the other in planning or committing the offense.



IMPORTANT REMINDER

Mere presence at the scene of a crime, or mere knowledge that a crime is being committed, is **NOT** enough for criminal liability.



KEY TAKEAWAYS



Possession can be actual, constructive, or joint.



Knowledge and intent are critical in every case.



You can be liable for the actions of another.



The Commonwealth must prove every element beyond a reasonable doubt.



Your role matters—even if you never touch the drugs.

★ **CONTROL + KNOWLEDGE + INTENT = POSSESSION** ★



KNOWLEDGE + CONTROL = POSSESSION

THE CORE PRINCIPLE

To prove possession of a controlled substance, the Commonwealth must prove **BEYOND A REASONABLE DOUBT** that the defendant had **KNOWLEDGE** of the substance and the **ABILITY & INTENT TO CONTROL** it.



WHAT POSSESSION MEANS

Possession exists when a person knowingly has the **power and intent** to exercise control over a controlled substance.



KNOWLEDGE

Aware of the presence and character of the substance.



POWER

The ability or authority to control the substance.



INTENT

The purpose or plan to exercise control over the substance.



All three elements may be proven by direct evidence or circumstantial evidence.

WHAT IS NOT POSSESSION

Mere presence or proximity to a controlled substance is **NOT** enough.



PRESENCE

Being in the same place as the substance.



AWARENESS

Knowing others have drugs is not enough.



ACCESS

Having access without control is not enough.



ASSOCIATION

Association with a person who has drugs is not enough.



There must be evidence of knowing control—not just presence, knowledge, or access.



FACTORS COURTS CONSIDER IN DETERMINING POSSESSION

No single factor is conclusive. Courts look at the **totality of the circumstances**.



Proximity of the defendant to the substance



Whether the defendant had a clear view of the substance



Whether the defendant fled or made furtive movements



Presence of the defendant's fingerprints or DNA on the container



Incriminating statements or admissions by the defendant



Possession of large amounts of cash or drug paraphernalia



Other circumstances indicating control and intent



Circumstantial evidence and **reasonable inferences** drawn from the facts can establish possession.

CIRCUMSTANTIAL EVIDENCE EXAMPLES



Drugs found in a vehicle you were driving



Drugs found in your home or in a place you control



Drugs found on your person or in your clothing



Text messages or communications about drugs



Items used to weigh, package, or sell drugs



Courts will consider all the evidence together—no one factor determines possession.

KEY POINTS TO REMEMBER

- ✓ Possession = Knowledge + Power (Ability) + Intent to Control.
- ✓ The Commonwealth must prove all elements **beyond a reasonable doubt**.
- ✓ Mere presence, knowledge, or access is not possession.
- ✓ Circumstantial evidence can be as strong as direct evidence.
- ✓ Every case turns on its own facts and circumstances.



The question is not "Did the defendant touch the drugs?"
The question is: "Did the defendant have the power and intent to control the substance?"



Knowledge of the presence and character of the substance is required.



The ability and intent to control the substance are also required.



All three elements must be proven **beyond a reasonable doubt**.



Courts look at the **totality of the circumstances**—not just one factor.



You are innocent unless the Commonwealth proves possession **beyond a reasonable doubt**.

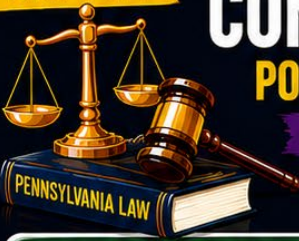
★ **KNOWLEDGE + POWER + INTENT = POSSESSION** ★

CONSTRUCTIVE POSSESSION

POSSESSION WITHOUT PHYSICAL CONTROL

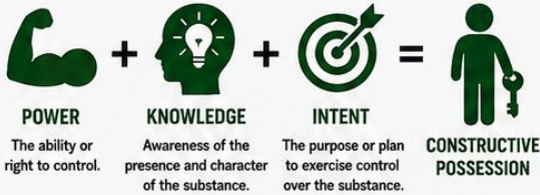
YOU DON'T HAVE TO HOLD IT TO OWN IT IN THE EYES OF THE LAW.

Constructive possession exists when a person has **POWER** and **KNOWLEDGE** and **INTENT** to control the substance.



WHAT IS CONSTRUCTIVE POSSESSION?

A person does not have physical possession, but exercises, or has the power and intent to exercise, control over the controlled substance.



✓ All three elements must be proven beyond a reasonable doubt.

CIRCUMSTANTIAL EVIDENCE

Because there is no physical possession, the Commonwealth must rely on circumstantial evidence.

COURTS MAY CONSIDER:



⚠ No single factor is conclusive. Courts look at the totality of the circumstances.

THE THREE PILLARS: POWER + KNOWLEDGE + INTENT

1 POWER TO CONTROL

The defendant had the ability or right to exercise control over the place where the drugs were found.

Examples:

- Ownership or lease of premises
- Driver of the vehicle
- Access to the area where drugs were located



2 KNOWLEDGE

The defendant knew of the presence and character of the controlled substance.

Examples:

- Saw the drugs
- Admitted awareness
- Incriminating statements
- Location in plain view



3 INTENT TO CONTROL

The defendant intended to exercise control over the substance.

Examples:

- Drug scales, baggies, or packaging nearby
- Large cash amounts
- Efforts to conceal or discard the drugs



CONSTRUCTIVE POSSESSION



All three elements must be proven beyond a reasonable doubt.

COMMON AREAS WHERE CONSTRUCTIVE POSSESSION IS FOUND

VEHICLES

- In the glove compartment
- Under the seat
- In the trunk
- In containers within the vehicle



RESIDENCES / PREMISES

- In shared spaces or common areas
- In the defendant's bedroom
- In a locked area the defendant has access to
- Where the defendant pays rent or utility bills



⚠ IMPORTANT WARNING

Mere proximity to drugs or to the place where they are found is **NOT** enough. There must be evidence of **POWER**, **KNOWLEDGE**, and **INTENT**.



Constructive possession is proven through facts and inferences, not assumptions.



The Commonwealth must prove the defendant's power, knowledge, and intent to control.



All three pillars must be present—missing one means no possession.



Circumstantial evidence can be as strong as direct evidence.



Courts consider the totality of the circumstances in each case.

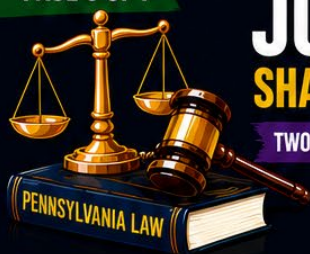
★ **POWER + KNOWLEDGE + INTENT = CONSTRUCTIVE POSSESSION** ★
BEYOND A REASONABLE DOUBT – NO MORE, NO LESS.

JOINT POSSESSION

SHARED CONTROL, SHARED LIABILITY

TWO OR MORE PEOPLE CAN JOINTLY POSSESS A CONTROLLED SUBSTANCE.

No one person needs to have exclusive control.
What matters is that each person has knowledge of the substance
and the ability and intent to exercise control over it.



WHAT IS JOINT POSSESSION?

Joint possession exists when two or more people knowingly share control over the same controlled substance.



KEY ELEMENTS

- ✓ Knowledge of the substance
- ✓ Ability to exercise control
- ✓ Intent to control the substance

- ✓ Each person must have all three elements. Mere presence is not enough.

SHARED CONTROL EXAMPLES

SHARED ACCESS



Two people know about the drugs and both have access and the ability to control them.

SHARED BENEFIT



Both people intend to use or distribute the drugs or benefit from their presence.

MUTUAL PURPOSE



Both people have a common plan or understanding about the drugs.



It is not required that both people touch the drugs or that they control them at the same time.

COMMON JOINT POSSESSION SCENARIOS

1. VEHICLE – DRIVER & PASSENGER



- Passenger knows about the drugs in the car.
- Passenger has the ability to exercise control.
- Passenger intends to control the drugs.

- ✓ Both the driver and the passenger can be liable for possession.

2. SHARED RESIDENCE



- Drugs are found in a common area.
- Both residents know about the drugs.
- Both have the ability and intent to control the drugs.

- ✓ Ownership or lease is NOT required. Control can be shared.

3. SHARED STORAGE



- Drugs are stored in a place accessible to both people.
- Both know about the drugs.
- Both have the ability and intent to control them.

- ✓ Shared access = potential joint possession.

FACTORS COURTS CONSIDER IN JOINT POSSESSION CASES



Knowledge of the presence and nature of the substance



Access to the area where the drugs are located



Relationship and conduct between the people involved



Statements or admissions about the drugs



Ownership of the place or vehicle (if shared)



Fingerprints or DNA on the drugs or packaging



Courts consider the totality of the circumstances—no single factor is determinative.

IMPORTANT DISTINCTION



JOINT POSSESSION

Each person knows about the drugs and has the ability and intent to control them.



Liability attaches.



MERE PRESENCE

Person is present but does not know about the drugs or does not have control.



No liability.



Mere presence in a place where drugs are found, without more, is not enough for possession.



Two or more people can jointly possess the same drugs.



Each person must have knowledge, ability, and intent to control.



Vehicles and homes are common places for joint possession cases.



Shared control leads to shared liability.



Courts look at the totality of the circumstances.

JOINT POSSESSION = **KNOWLEDGE** + **ABILITY TO CONTROL** + **INTENT TO CONTROL**



ALL THREE MUST BE PROVEN BEYOND A REASONABLE DOUBT.



DEFENSES & EXCEPTIONS IN POSSESSION CASES

LEGAL JUSTIFICATIONS. LIMITED EXCEPTIONS. HEAVY BURDEN ON THE COMMONWEALTH.

Possession is a serious offense, but the law recognizes certain defenses and lawful possession situations.

The Commonwealth must still prove every element **beyond a reasonable doubt**.



DEFENSES OVERVIEW

A defense does not mean the defendant committed no act. It means the law excuses or justifies the act, or that the Commonwealth failed to meet its burden.



JUSTIFICATION
The act was lawful under the circumstances.



EXCUSE
The act was not wrong due to special circumstances.



LACK OF PROOF
The Commonwealth did not prove every element beyond a reasonable doubt.



The defendant has no burden to prove a defense. The Commonwealth must disprove it beyond a reasonable doubt once it is properly raised by the evidence.

THE COMMONWEALTH'S BURDEN

In every possession case, the Commonwealth must prove:



KNOWLEDGE
The defendant knew of the substance.



CONTROL
The defendant had the ability and intent to control it.



INTENT
The defendant intended to exercise control over it.



GUILTY
If they fail to prove any one of these elements, the defendant must be acquitted.



Mere presence, association, or proximity is not enough. Proof must show knowledge, control, and intent.

SITUATIONS WHERE POSSESSION MAY BE LAWFUL (NOT CRIMINAL)

PRESCRIPTION MEDICATION



- Lawfully prescribed by a licensed practitioner.
- Possessed by the person for whom it was prescribed.
- In the original container or properly labeled.

MEDICAL MARIJUANA (WITH AUTHORIZATION)



- Valid certification issued by the Department of Health.
- Possession within the program limits.
- Identification card must be carried.

LAW ENFORCEMENT OR AUTHORIZED AGENTS



- Officers and agents acting within the scope of their official duties.
- Includes handling, seizing, or transporting controlled substances.

RESEARCH OR EDUCATIONAL USE



- Authorized by federal or state law.
- Conducted under strict regulations and licenses.

OTHER LIMITED LEGAL EXCEPTIONS



- Industrial hemp within legal limits.
- Possession under a court order.
- Other specific statutory authorizations.



If the evidence shows the defendant possessed the substance under one of these lawful situations, it may be a defense. The Commonwealth must prove the absence of such justification beyond a reasonable doubt.

RAISING A DEFENSE

A defense must be supported by some evidence. It can come from:



THE DEFENDANT'S TESTIMONY



WITNESSES



DOCUMENTS
(e.g., prescriptions, medical cards)



OTHER PHYSICAL EVIDENCE



Even if the defendant does not testify, the defense can be raised through cross-examination or other evidence.

KEY REMINDERS

- 1 Possession is not a strict liability offense—knowledge and intent are required.
- 2 The Commonwealth must prove every element **beyond a reasonable doubt**.
- 3 Defenses do not require the defendant to prove innocence.
- 4 Lawful possession exists in limited, specific situations.
- 5 Evidence matters—documentation and witnesses can make the difference.



WHEN THE COMMONWEALTH DOES NOT PROVE EVERY ELEMENT—THE DEFENDANT WINS.



Defenses can justify the act or create reasonable doubt.



The burden is always on the Commonwealth—never on the defendant.



Lawful reasons to possess exist, but must be supported by evidence.



No single factor is decisive—courts look at the totality of the facts.



If the Commonwealth fails to prove knowledge, control, or intent—you are not guilty.

★ **KNOWLEDGE + CONTROL + INTENT = POSSESSION** ★
THE COMMONWEALTH MUST PROVE ALL THREE **BEYOND A REASONABLE DOUBT**.

INCHOATE CRIMES

LIABILITY FOR CRIMES NOT FULLY COMPLETED

The Controlled Substance Act punishes certain inchoate offenses that fall short of completing the underlying crime.



OVERVIEW: WHAT ARE INCHOATE CRIMES?

Inchoate crimes are preliminary offenses that demonstrate a defendant's criminal intent and steps toward committing a crime, even though the crime was not completed.



PUNISH INTENT

Punish dangerous intent and planning before harm occurs.



PREVENT CRIME

Deter and stop crimes before they are completed.



SAME LIABILITY

Generally carry the same grading range as the completed crime.



COMMON LAW TRADITION

Based on long-standing common law principles recognized in PA.

TYPES OF INCHOATE CRIMES COVERED

- ✓ Criminal Attempt
- ✓ Criminal Solicitation
- ✓ Criminal Conspiracy
- ✓ Overt Act Requirement
- ✓ Multiple Objectives
- ✓ Renunciation (Withdrawal)
- ✓ Scope of Conspiracy Liability



1 CRIMINAL ATTEMPT

A person is guilty of an attempt if, with the intent to commit a crime, he does any act which constitutes a substantial step toward the commission of that crime.



- ✓ The act must go beyond mere preparation and clearly indicate the crime will occur unless interrupted.

2 CRIMINAL SOLICITATION

A person is guilty of solicitation if, with the intent that another person commit a crime, he commands, requests, or otherwise encourages that person to engage in conduct that would constitute the crime or an attempt to commit it.



- ✓ The solicited person does not need to agree or actually commit the crime.

3 CRIMINAL CONSPIRACY

A person is guilty of conspiracy if, with the intent that a crime be committed, he agrees with one or more persons that they or one or more of them will engage in conduct that would constitute the crime or an attempt to commit it.



- ✓ The agreement itself is the crime. No further act is required—except an overt act (see below).

4 OVERT ACT REQUIREMENT

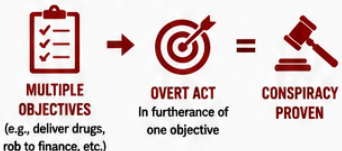
In Pennsylvania, a conspiracy cannot be proven without evidence that at least one co-conspirator committed an overt act in furtherance of the agreement.



- ✓ The overt act does not need to be illegal and does not need to be committed by the defendant.

5 MULTIPLE OBJECTIVES

A conspiracy may have multiple criminal objectives. It is enough if the Commonwealth proves the agreement and an overt act in furtherance of any one of the objectives.



- ✓ The Commonwealth need not prove overt acts for each objective—only for one.

6 RENUNCIATION (WITHDRAWAL)

A conspirator may avoid liability if he voluntarily and completely renounces the criminal agreement and either prevents the crime or makes a good faith effort to do so.



- ✓ The burden of proving renunciation is on the defendant.

7 SCOPE OF CONSPIRACY LIABILITY

A conspirator is liable for the foreseeable acts of co-conspirators committed in furtherance of the conspiracy.

- Liability extends to crimes committed by others that are the natural and probable consequences of the agreement.
- The defendant need not be present when the crime occurs.



KEY TAKEAWAYS

- ✓ Inchoate crimes punish dangerous intent and planning.
- ✓ Each offense requires specific elements.
- ✓ Conspiracy requires agreement + overt act.
- ✓ Liability may extend to others' acts within the scope of the conspiratorial plan.
- ✓ Renunciation is the only true escape from liability.



Intent is the heart of inchoate crimes.



The law intervenes before the crime is completed.



Same punishment range as the completed offense.



Facts and circumstances determine liability in each case.



Plan together, act together, answer together.

★ **PLAN + AGREEMENT + ACTION = LIABILITY** ★
THE LAW DOES NOT WAIT FOR CRIME TO HAPPEN—IT STOPS IT EARLY.