

Crimes of Negligence: Attempting and Succeeding

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Abstract In chapter 6 of *Attempts*, Gideon Yaffe defends the thesis that it is “possible to attempt crimes of negligence” (2010, p. 173). I am persuaded that he is right about this, provided that “attempt crimes of negligence” is read as (potentially misleading) shorthand for “attempt to bring it about that we commit crimes of negligence.” But I find certain parts of his defense unpersuasive. My discussion of those parts of his argument motivates the following thesis: Not only can one attempt to bring it about that one commits a crime of negligence, but the attempt can be successful as well.

Keywords Attempts · Intention · Intentional action · Negligence · Trying · Yaffe

Background

Yaffe’s defense of the claim that we can attempt crimes of negligence is both insightful and intricate. He uses an old example of mine to help motivate his thesis. Partly because that example puts me on familiar ground (familiar to me, that is), I start there:

Ann is promised \$10,000 for offending Bob unintentionally, and she knows that there is no reward for intentionally offending him. Wanting the money, Ann wants to offend Bob unintentionally. And wanting not to leave matters entirely to chance, she thinks hard about how she might bring it about that she does this. Ann knows that she tends to offend Bob unintentionally when she is extremely busy: when she is pre-occupied with her work, for example, she tends, without then realizing it, to speak more tersely than she ordinarily does to people who phone her at the office; and, when Bob calls, her terse speech tends to offend him. Knowing this, Ann decides to undertake an engrossing project (writing a paper on intentional action), believing that her involvement in it will render her telephone conversation at the office sufficiently terse that, on at least one occasion when Bob calls (as he frequently does), she will unintentionally offend him. Ann is confident that her plan will succeed. She intends

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