Tuesday, September 11, 2018

Taft University, Santa Ana, CA

Baby Bar Mini Series Review, 6:00 to 7:00 p.m.

INSTRUCTOR: We will start in approximately five minutes. Thank you.

We will be starting in approximately two minutes.

We will be starting in approximately one minute.

Welcome to tonight's baby bar mini series. Our focus will be on the subject matter of criminal law. I do want to point out that the lectures are recorded. So you can go back to listen to a lecture; go to the Taft website and go to the baby bar mini series.

I want to give you an idea of how the crim law is tested. And I want to go through section by section to make sure you understand how the concept is tested and the key things they are looking for and you should prepare for. The one thing you should have by now is the checklist.

This will help you in multiple ways, help you in identifying issues, it will help you set up the examination itself. It's a good tool to use to help you identify the issues and not miss anything under the pressures of the exams. We have a tendency to make assumptions under the multiple-choice questions. I want you to look to the facts to see if the facts support the crime. I want you to make sure that each and every element is met based on the facts. A lot of times we will see Joe ran up and grab a purse from Mary, robbery; break it apart and see if it's truly supported. The examiners know we have a tendency to overlook that. And in crim law it's very rule oriented. And that's how the test specifically because they know we tend to make assumptions. So break it apart and see. Make sure and have a good understanding of how it's tested.

An example. Today, a student asked me about, where two people went out to lunch and it was the boss, and the boss dropped the watch and the employee picked it up. And the employee picked it up and put it in their pocket, and then gave it back to the boss.

So was there a larceny. They picked it up with the intention of keeping it. And he had the specific intent to keep it. So all the elements were met. Even though you changing your mind you committed the act of larceny. You want to understand how the concepts are tested and make sure the facts support the elements and then you will choose the correct answer choice.

Once you find there is a crime, is there any applicable defenses? For some reason we don't get down there in the checklist, is there self-defense is there duress? Is there diminished capacity? Run it through the checklist.

In the last baby bar, had the issue of duress. Then you look to see if we are or can liability be imputed on to another party. This is highly testable. In the checklist, it's in conspiracy and accomplice liability. So conspiracy and accomplice liability. With conspiracy, once we conspire we can impute the action on you. That is likely tested. And it was tested on the last baby bar.

If you are an accomplice to the crime, based on your actions even though you didn't pull the trigger, and you were an accomplice and you were there, and we will impute it on you as well. These are highly testable issues. And I want you to remember them. It takes a second to go through the process, so you will choose on a multistate, and on an essay, by breaking it apart you will see what elements of that particular crime they are placing on the issue. And if it's a gray area, you will have to argue both sides the facts.

If you have any questions, put it in the question and answer, and I'll be happy to help you.

Then we have inchoate crimes. You will see these on the essay, and the multiple-choice questions.

You basically will see based on the facts, when someone approach one and says, you want to go do this? It's not one they can hide from you, as long as you are using your checklist. What they can hide if you withdraw from solicitation. And under the Penal Code, which -- under the model Penal Code you can have an effective withdraw from the conspiracy. Remember, conspiracy, and what we call a lesser included offense, and what that means is the solicitation will merge. I think they said conspiracy but the solicitation will merge under the underlying crime. You can't charge me for both. Why this is important, is the call. The call of the question will dictate. So I will bring up the solicitation and I will talk about merger, and versus what can he be convicted of.

So you have to see what they want you to focus on. On the essay, it will just cost you time. In the multiple-choice question, that will hurt me.

Another inchoate crime is intent. An intent crime you have to have specific intent, you have to take a step toward the crime and be one who the apparently ability to do so. Attempt comes up on the multistates, and it shows up on the essay. What you need to understand, first, is if it's attempted rape, what is the mens rea. And the mens rea is specific intent. This is where they mess with you, is a lot of times had they live you these, you are focusing on the underlying crime. Rape, it's general intent; no attempt is specific intent. You have to remember that. A lot of time under the pressure of the exam, we fall for it thinking it's a general intent crime and it's not. Pay attention that.

With attempt, you want to make sure they have the apparent ability to commit the act. If I'm saying I'm going to bomb New York, and I'm here in California and I don't know how to make it crime, am I going to be charged with that? I don't have the apparent ability. So you want to take it the step further and make sure the ability is there. So with an attempt what? So, attempt basically would what? Merge under the underlying crime. You can't charge with attempted robbery and robbery, it's one or the other.

The other area they like it test is your legal and factual impossibility. Factual impossibility is no defense. This is where they intended to commit a criminal acts but facts unknown to the defendant make it impossible. Let's say, I plan to steal a wallet. Well, my victim doesn't have a wallet, I still will be charged with the attempted robbery, or larceny. Then I will argue factual impossibility, but it's no defense. Another question they like to test, is I want to kill my neighbor, and I go to his bedroom, where I think he is, but he is already dead. And I would argue factual impossibility, there is no defense. It's an area that comes up on the multiple-choice questions, you want to aware of. In essence, say deer hunting, you feel you need a license, in this jurisdiction, you don't need one, so you think you are violating the law but you are not. It's legal impossibility. Because there isn't a law on the books.

Another area is the withdraw. It's not a withdraw. If it's voluntary and a successful abandoned of the crime.

I want you to bring up the common allow versus the modern Penal Code because this will give you more points.

In the multiple choices, you are responsible for common law.

When you are discussing the amendment, you need to go through the element of the attempt, they give you the attempted robbery, I don't want to see a definition of robbery. You want to go through the elements of the attempt.

Conspiracy is huge, you should have a strong understanding of how it's tested. I don't know too many exams where it doesn't arise. You need to show an agreement. It can come up in multiple ways. You can have a multilateral agreement, a tacit agreement, an agreement by comment. They did test the unilateral agreement. It's something you want to be aware of. You can have an agreement by conduct. With a unilateral agreement you need to show that the defendant thinks there is an agreement.

So you have an agreement because it's unilateral, but you are a police officer. Where conspiracy can you withdraw? Once you actually conspire, it means you have an agreement. You are guilty of conspiracy. You may not ever withdraw from the liability of the conspiracy itself. If you try to withdraw, the effect is to cut off further liability. Make sure you understand that. Once you have actually committed the elements of conspiracy, you are guilty of conspiracy. The issue is if I do find in affect withdraw, it cuts off the liability to withdraw. It needs to be communicated to all coconspirators. That's a common law. If there are three of us, I need to tell the other two I'm not going to do it all. It has to be communicated to all.

You need to communicate your crime, you have steps, an authority is doing something to stop. Remember if you do find an effective withdraw. It only releases you from further crimes and not the conspiracy itself. It was tested on the last baby bar, and you will find when you go through the withdraw one will work and one will not. One will work and the other didn't, because you didn't take steps to thwart that you weren't going to show up.

Another thing that is highly testable, is the Pinkerton's rule. We are imputing somebody else's conduct on to you. How can we do this? This is the way the law punishes you for the criminal mind set. They are the natural probable consequences and foreseeable of the act. How would this come up? An example, Joe and Tom agreed they are going to rob a bank. Joe will wait in the getaway car; Frank goes to the bank. The guard starts to pull his revolver and Frank shoots him dead, and they drive off.

Now you are imputing the murder onto the other. That's where the Pinkerton's comes in. You were intending to rob the bank. Is this basically in furtherance of the conspiracy? Is it the natural probable result? If we agree to rob the bank, what can we foresee? What will be the probable result? So you are going to defend to try to get away. That would be what? In furtherance of the conspiracy and that's a natural probable result. The key thing to look at, when you look at the last baby bar, you have to break apart the crimes. You will see if I give you, say, we have a murder and a kidnapping, and a larceny and a robbery, and we have a burglary. That is a lot of crimes that you are trying to impute on the party. You have to think of it and break it apart. What did they conspire? I could see the burglary and the robbery and the larceny? Can I argue the murder? You will argue both sides. Versus the kidnapping? Is that a natural probable result of the conspiracy? There is a difference between the three I gave you, robbery, larceny, versus the murder and kidnapping. They want to see your analysis, and how you are going to argue the consequences of the conspiracy and the natural results. What we do as students is cite Pinkerton's rule and that's a weak analysis.

So there is nothing there to say versus the other issues such as the murder and kidnapping. That is something I want you in your mindset. I can't stress enough in regards to conspiracy, the withdraw and the Pinkerton's know those, it's highly tested.

The other thing with conspiracy that people like to jump onto is the Wharton's rule. And all that's saying is where the person agrees to commit an unlawful act but it takes to two perform the act. It takes two. It's something like bigamy. I haven't seen that tested a lot. But it's not an issue, it needs to take two. In regards to murder, it could be one. Larceny, it could be one. There are very few crimes that mandates two or more to commit the act.

Couple other things I want you to remember, with conspiracy I can charge you with the underlying conspiracy as well as the crimes you committed. It doesn't merge like solicitation and intent. Understand that, this is something again they like it test because they know for some reason we are weak in those areas of the law. It's highly testable, I would be surprised it didn't show up.

Another way we can impose liability. You can find that in crim law, an outlier is you hire a bouncer for the bar. So you tell the bouncer to kick somebody out if they are doing a particular thing. So we can impute that conduct on the employer.

An accomplice, you should be familiar with the terms accessory in the first-degree and second-degree, and how would I know when I need to break apart? The only time I know I need to do this on an essay, if I see somebody aiding prior to, that would be an accessory before the fact versus after you rob the bank I try to hinder your arrest. You are going to know. If you see, accessory before or after the fact, you are going to know they want you to break it apart. It's, though -- it's where the test is accessory after the fact. You rob a bank, and you go to your friend's house to help you hide. Your friend is the accessory after the fact. She cannot be charged with the bank robbery. She was not a participant, there was nothing to that fact. An accessory after the fact is going to be liable for anything after the act.

Anything with an accomplice, they are libel for the acts of the other party. If something is reasonably foreseeable -- based on those facts, they can impute the murder on me as well. All I am is an accessory after the fact, but I can be held accountable.

The main difference with conspiracy, is you have an agreement. That see a stronger answer choice, I can charge you with the conspiracy in the underlying crime. You are an accomplice to the burglary, if I can find conspiracy, that's stronger because I can charge you with conspiracy as well as the underlying crime or crimes.

Now these areas, your inchoate crimes, your party liability, is highly testable. They come up on the essays, as well as the multiple-choice questions.

Murder was tested on the last baby bar. And it came up with the felony rule. It does come up.

You should have a setup. You need to show an unlawful killing with malice aforethought. There are four ways, to show that, intents to kill, intent to cause great bodily harm, and wanton and reckless conduct and felony rule.

If you can argue all four, you want to bring it up and argue all four. Look to the actual facts. If somebody is breaking into my home and I get my gun and they walk in the door, and I start shooting, I can argue that I had the intent to kill. And the only one not there is the felony murder rule. Right. So if I can argue as many ways to show malice as you want to argue. Based on the facts, it's going to dictate how far you go. With felony murder, what is that? That's where death results in an inherently dangerous felony. If a death results while you are committing an inherently dangerous felony?

What is that? Burglary, arson, rape, kidnapping, robbery, right. So if I show you are in commission of any of these and a death results, then I have you. Another one thing I want you to understand as well is if I have an attempt which results in a death, I can use a felony murder rule.

I want to make sure you understand that. Now if you do see in regards to the murder rule, I discuss it under malice. Sometimes says can the defendant be guilty of murder? And that's the only call I have. Well, I go through my malice and see how many I can argue. Maybe in the commission of a robbery, shot the guard. I would argue, all those things, wouldn't I? And under the felony murder rule, what you need to understand, since the call just asked about the murder, I'm going to have to prove up the underlying felony then and there. So say it's burglary or robbery, I will have to go through the elements, and see if it has the facts. And I will have to give a rule of law and I will conclude that since there was a robbery, he will be charged with the felony murder rule. The law dictates, it's in the call two -- I infra and wait until I get to call two before I talk about the robbery.

Sometimes you will have to go to another issue that the call didn't dictate. But you want the felony murder rule, you will to show the underlying felony. They have done this a couple times, they have done this in crim law and torts. They did that in the last baby bar with malpractice. You want to be aware, that you will have to go to another issue, even though the call didn't say, if you argue the felony murder rule, and the call just said murder, you will have to prove up that underlying felony. Once you show malice and look to the actual and proximate cause. These are pretty straightforward. You will know if they are putting it in issue look at all facts to dictate. After you find causation, first-degree, so specific intent to kill, or what felony murder rule? Since they talked about that already, I would say, as discussed, he would be convicted of first-degree.

Now we have another rule. This was just tested which no one saw, when you have an innocent party doing the killing, what that triggers is what is called the red line view or some review courses call it the special felony murder rule.

This arises with the victim's death was not caused by the defendant. It was caused by an innocent party. The forward was trying to shoot you but hit an innocent bystander. You are trying to hold the innocent party on the felony. Common law you are guilty. Under modern law, only if it was done by your own hand. It's the security guard was the one had a shot, you are not guilty for the murder. Again what you need to understand is how is it triggered? You have a party, an innocent party that does the killing. It's not it felon or co-felon. In this case that you will see, with a police officer that shot a hostage and he thought he was the suspect and he was wrong. That would trigger because you have an innocent party doing the killing, the red line view. The issue is, can we impute that murder on to the felon or felons? And common law, yes, you are guilty, modern law, no because it wasn't done in the commission of your hand.

If it's not murder in the first-degree, then it's murder in the second-degree. Now and this is why your checklist will help you because once you actually find murder in the first or second-degree you want to look for defenses. And look to the facts. Can I argue self-defense? Remember you can use reasonable force to protect yourself and it can raise to the level of deadly force if your life is being imminently threatened. There is a difference too between common law and the modern law.

You have a duty to retreat. I broke into someone's house, and they come after me, and I want to defend myself, under common law, I have the duty to retreat before I can defend myself. And the key thing here is the imminent; you step in the shoes, do they feel the imminent threat.

They do have the defense of others, the majority rule makes the step in the shoes, that means did that party have the right to be defend. In the answer is no, then we allow for a reasonable mistake, that's an objective standard. A person can come on the scene and think you are attacking that person, and yet a person is really trying to arrest the person. You have a viable defense. You have crime prevention. Modernly you can use reasonable force, the only way it can arise to deadly force if it's an imminent threat of bodily harm. If you are protecting your belongings, you can't use deadly force. In essence you can't use deadly force.

Again when you see defense at issue, please look for two or more. So if I see self-defense I'll go dig deep can I argue crime prevention or defense of the property. We have a tendency to see one and run away. Go back and look. If we don't and don't dissect it, we will have missed issue.

If you find there is no defense look for excuses, you will know if excuses are at issue. What are these? Intoxication, infancy, and insanity. With intoxication, remember, voluntary intoxication negates only specific intent. If have an accidental death that resulted in defense of property, if you had the right to defend the property, if the defense of property fail, meaning you weren't reasonable under the circumstances, it will mitigate to involuntary manslaughter. So if you find that it succeeds, I'm off the hook. If not, it will be involuntary manslaughter. With intoxication voluntary negates specific intent, that's why it's important that you know your mens rea. Larceny, it's specific intent. It's developed in the rules.

Involuntary negates both. You have infancy, you don't see that tested a lot. Then you have insanity, that looks ripe for testing now. I would know them. I guarantee you will see them on the multiple choice. I tell students, memorize your rules. They will mess with you. For instance, irresistible impulse, all these have one thing in common, due to the mental defect. The defendant didn't know or have the ability to control his conduct. So the mental defect overcomes his free will. Versus Durham, your actions are the product of your mental illness. Of you lack the exasperate to perform. And McNaughton. They will say in the McNaughton jurisdiction and you will have to pull out the language, and you will say, it overcame the free will because you didn't control your actions. That's not the right test for McNaughton. They like the McNaughton. If you see insanity on the essay, you must do all four. You will not know the jurisdiction and they won't tell you. On the multistate you will plug it into one. On the essay, you will not know, so you will have to do all four insanities. They will all have one thing in common, it's based on the mental defect. It's you go through the problem, it's usually not a value defense. Say the lack of capacity to perform, yet I don't want to burn down the bank, that the voices are telling me to, but am I really fully aware of what I'm doing? It's not really the mental defect causing my actions. A lot of times in the essay, they find it doesn't work. They fail.

Again when you see insanity on the essay, be prepared, make sure you go through all four.

Now we talk about your defenses, about excuses, now we are going to go back to defenses. Self-defense, defense of others, crime prevention. If you find based on the fact that it's raised and you had a reasonable grounds use that defense, but, it fails, then I can take that murder and mitigate to voluntary manslaughter. What? I have a brand new Mercedes and I put a device that will shock you and you die. So you go through murder and the guy touches the ca,r I'm going to argue defense of property. But I can't use deadly force, which is what I did. Did I have had grounds to do that? Yes, I did. That will mitigate that to voluntary manslaughter.

Another example, I go rob a warehouse, and the police are called, the police officer shoots at me, and I shoot back at him, and kill the officer, in this they can go to charge me with murder. And now I want to use the defense of self-defense because the police officer is the one that shot at me and my life was being threatened, wasn't it? But what is the problem? I'm the wrongdoer, I don't have a reasonable grounds to use that defense. So you will not allow me to use that defense to mitigate the manslaughter. I'm the wrongdoer, I don't have a reasonable right or justified right to argue that defense. See the difference?

With your voluntary manslaughter, it's loss of mental equilibrium. You have adequate provocation. And time to cool. They give you a time delay, they give you, a guy comes home and there is another guy raping his wife. And the guy ran off, and you are looking for him. You have time to cool off. A month goes by and you find him and you confront him, and he says, I didn't do it, and you get angry and kill him. Is that adequate provocation? Well, remember, words alone are not enough. You need words and action. And the action happened a month ago. He will not be charging with voluntary manslaughter, he will be charged with murder in the first-degree. You can show voluntary manslaughter based on the provocation as well as the imperfect defense. Remember how we talked about the defenses, all those defenses, if you have a good-faith belief, you can argue it and you are wrong, you can mitigate as an imperfect defense to voluntary manslaughter. A lot of times people have to think, it's imperfect, all of them work. I want you to make sure you understand that.

The last issue here is the involuntary manslaughter. It's a criminal negligence standard. How do I know that's at issue? What I want you to look at is when you go through murder and malice, if it's based on wanton and reckless conduct. Then you have to talk about involuntary manslaughter as well. If I tell you basically I decide to go outside and it's the 4th of July, and I'm excited and I shoot a gun in the desert, and the bullet killed someone. Is that involuntary or manslaughter? Versus if I do that in the city, and I do I same thing, is it an involuntary manslaughter or murder in the second-degree? It's in the city and you should know better. Versus if it's not, it's involuntary manslaughter. It's factual.

So if I leave work tonight and I go down the road and hit a child, is that involuntary manslaughter or murder? It's involuntary manslaughter because it's nighttime. If it's daytime, then kids would be likely present, it would be murder in the second-degree.

Those are factual. Is that a question to the final? It's basically factual and it comes up on the multistate. It's in most books, it's something they test to the exams.

The next area we are going to look at are larceny, and larceny by trick, false presences and robbery. The key thing I tell students here is I use PITT, P-I-T-T, as a memory device. What did the defendant get? Possession? Interest meaning cuff or control? Title of the object and is time? So transfer it intent works with the debt crimes? Did you get title? No, to get title that's false pretenses. Versus if I had custody, it's embezzlement. You want to break it apart based on the elements.

Example, say I go home and I want lobster for dinner, and it's 15.99 for a lobster tail, and I have five bucks. And I see hamburger and I peel the sticker off and I go to the cashier? Have I committed a crime? Yes. Did I attain the property of another? Yes; by false representation? Yes. That's false pretenses. A lot of people see that as larceny, and that's incorrect. You have to break apart the elements. The examiners know this and know we are going to fall for things. That's why I keep telling you break apart your elements, make sure the facts support your elements.

In regards to the theft crimes, you will see quite the few come up on the multiple-choice questions, the difference between larceny and larceny by tricks, you have to see some fraud. Versus false pretenses you have title. And embezzlement. In making a representation to get your car to borrow to take my mom to the doctor, knowing I'm taking it to Vegas and I'm not coming back.

It's a hard issue. And it does come up in the multiple-choice questions. Another theft crime they consider is receiving stolen property. That comes up very far and few. Most people miss it. You have to have knowledge it's stolen and it's subtle in the fact pattern.

Burglary and arson, very popular. Remember for burglary you are going to do common law first, go through the common law first and then if it fails, go to the modern law. What you need to understand if it's going to work in common law, will it work in modern is this, of course, it is. What I want you to do is look to the elements they are trying to test you. Do we have nighttime, breaking and entering, nighttime, dwelling place of another? Where do they test us? Sometimes they test the constructive breaking.

The other element they like to test, you have to have the intent at the time of entry. So let's say, I'm living in Utah and a snowstorm comes up and I worry I'm going to freeze to death and I go to a cabin, and I force my way in, and I see a fifty dollars on the desk and I take it? Is that burglary? No. Because I didn't have the intent to commit a felony.

In regards to modern law burglary, remember it's any structure and any crime. It's a lot broader. They like to test the dwelling house. Pay attention to the elements and you will be fine. If a store is open to the public and I go in to steal a purse, can I be charged with burglary? The answer is yes. They say if you enter with the intent to steal you officiate the owner's intent. So it's burglary.

Are you breaking apart the elements enough to see where is my shortcomings are? Or do I understand the difference between larceny and false pretenses? You have to break apart to see why you are making mistakes.

Another area they like it test is arson. They will test you on the elements. It's a malicious burning of a dwelling house of another. You can't burn your own house. They like to test you on that. You want to pay attention to that, if it's a shed, it's not your house. It's where the neighbor is stalking a woman and he started a fire out in her yard, and she saw an opportunity because she was having payment problems and she got the fire going in the house itself. It has to be burning of the structure, blackening of the walls is not enough. You have to pay attention to the facts. They like that on the multistates because the student don't pay attention to the elements. You know this, but you didn't break it apart enough. You have to break it apart pursuant to the elements.

The other what I call junk category, you have other crimes. Kidnapping, false imprisonment. You have assault and battery, rape and statutory rape. And you want to have an understanding. They are one -- in regards to the kidnapping or false imprisonment these are one or two sentences, get in and get out. They are not big hitters. You will see kidnapping was on the last, unlawful transportation the another. False imprisonment. That usually goes to kidnapping. But it depends on the time. The confinement of another you have all the time. And the intent to accomplish another crime. And you have battery for crimes is general intent. And you have rape, that comes up a lot on multiple-choice questions. And they like to test you on statutory rape. What is the mens rea of the statutory rape? Strict liability. I didn't know she was under 21. Doesn't matter. Attempted rape, specific intent. They like to mess with you. What are they charging you with? I thought she was an adult? Are they charging you with rape or attempted rape or what?

Then you have defense of crimes as well. We have mistake of fact and mistake of law. These are brothers and sisters, if you mistake of fact, if the facts were as you believe them to be would this be a crime? In regards to the example I gave you was the wallet, so mistake of facts is no defense. Mistake of fact is no defense. You have duress; you have a threat of imminent harm or a family member. Another area they test this with is your family pet; family pet? Great. Make an argument on your essay. See if you can extend the argument that far.

You have your consent, rare, and you have entrapment. Entrapment, you have two views. You must do both. You are not going to know what the jurisdiction. They are not going to tell you. So you have a predisposition, which is your mindset? And then you have your objective which you are looking to the police activity. So subjective, where you are predisposed, so say I got out of jail for burglary and they are to arrest me and charge me with robbery, so you are going to look to the facts. Versus objective, did the police do enough to make me as succumb to the commit the act?

Then you have diminished capacity, so you lack the mens rea. Look for defenses. Don't just dismiss them. The fact will dictate.

Let's say on the examination, this is crim law, I give you a statute. What? They have done that where you give you a statute. And you need to use a statute. And you need to determine in the statute what is the actus reus and the mens rea. And you have to break it apart and see what needs support to find liability. If I pass a law saying it's illegal to have drugs in your car, what is the actus rea? Having drugs in the car, what's the mens rea? Specific intent, general intent, or strict liability? Based on the facts I gave you, it sounds like strict liability.

If it's strict liability crime, you don't have to have the mens rea. If they give you a statute, make sure you look to mens rea, and the actus rea. Look to the call of the question.

When it says any letter or included offense, what the examiners are telling you is for you to look for voluntary or involuntary manslaughter. That's not asking for battery or assault, those are lesser included offenses to murder. Don't waste your time. The call is saying, look to, see if you can mitigate to manslaughter or involuntary manslaughter. That's a general call. Versus a specific call, can you be convicted of burglary or robbery? You will have to break apart both of them and articulate it to the examiner. So go through the common law first, and then if it doesn't work go to the modern law and then proceed to the issue of robbery. The call will dictate. I want, I want you to pay attention to that. It's very important.

So that's kind of your crim law in a nutshell. We have hit tort, contracts and crim law. Now you need to start your rotation. What does that mean? What that means is now you need to start doing tort and contract, multistates and then crim law and then you will have mixed. You are not going to know on the multiple-choice. In regards to two people being charged, that's a good thing to look for, if I see two defendants and the same conduct, probably okay. If I see three defendants, it's probably conspiracy. And one didn't do something. If you pay attention to the issue spotting, you will pick this stuff up. You will understand how they test.

So at this point you should be reviewing your torts and your contracts. I guarantee you will flash, and you want to up the ante, and add crim law. Break it apart, and dissect, and understand how you get through. I highly recommend you go through and understand how everything on the checklist comes up on a fact pattern. If you understand how it's tested, I can't trick you.

Now you are going to guess an essay question on crim law as well as some multiple-choice questions, I would like you to write it. The more you write the exams t,hat will help you get your timing down, Number 1. Also what? Are you seeing the concepts? Are you getting a good understanding how to break apart the facts and get them in the exam? If you are not writing it, just issue spot and get the answer, then probably not. We are all the same way. So I want you to break it apart ask work on that.

Any questions for me? Remember if anything does come up, please -- issues can be specific grade points. So basically, in regards to how they actually grade, my opinion is they start with seventy and work up and work down. Will they give specific points? They do multiple ways; let's say it's two calls, it might be 50/50, for call one and call two, it might be 30/70. It changes. It's why they get together after you take it, and make sure they see if it's fair, burglary is worth five points, it could be worth ten. How you know your point value, the more arguable the issue is that's points. If you bee-bop through larceny, it's not worth much, but if you see elements in it, that's worth more points.

 If you have questions, email me and I'll be happy to help you. The best advice I can give you a spend time issue spotting. You have to start doing the work. And I will be honest with you, it's a hard exam. It's very tough. If I start working on my essay writing and getting my timing down and understanding how they test multistates.

Email me if you have any questions. And I'll be happy to help you. Have a good night.

(End -- 6:58 p.m.)