Taft Law School

First Year E‑Classroom

10/02/19 6:00 PM ‑ 7:00 PM

>> INSTRUCTOR: Good evening, everybody, and welcome to tonight's e‑class. We'll be starting in approximately one minute. For those of you who just joined, make sure you have the crim law multiple choice questions sent out to you, that'll be our primary focus of tonight's lecture. Again, starting in approximately one minute. Thank you.

Good evening, everybody, and welcome to tonight's e‑class. Our primary focus will be on the crim law multiple choice questions sent out to you previously. I do want to point out that these sessions are recorded so for your convenience you can go to Taft's Web site, sign into the Student Section, and go to the e‑classes and all the lectures are there for you ‑‑ whether we've had a multistate lecture or an essay, everything's there for you including the essay questions and model answers, same thing for the multiple choice.

It's a good tool for you to use in regards to your preparation, whether it's for your midterm exam, final exams, or if you're getting ready for the Baby Bar, Bar exam. There's a lot of tools there that are helpful and I would highly recommend that you look at the Web site and look what Taft puts up there for you to help you.

If you have any questions, feel free to ask. Place them in the chat and I'll be happy to help you in any way I can.

Before we jump into these particular questions, I'm talking to students recently the multiple choice questions really seem to be giving them a hard time. That's normal. What you have to do is master it. It takes time. The only way to master is based on practice. Everybody's kind of in the same boat. Again, we have to keep practicing in understanding questions. That's important.

With a multiple choice question you're going to get a multiple choice question if you're in crim law. When you take the Baby Bar or Bar you have to figure out which kind of question it is. The basic rules on how to take a multistate apply. You have to understand that you have on the multistate question you have the root which is the fact pattern, the stem which is the call of the question, and the answers choices which are the options. That's going to always exist in a multiple choice question. What I highly recommend is that you should always start off with the call of the question, i.e., the stem. Why? Even though I know I'm in crim law, the stem, i.e. the call of the question, can narrow you down to specific areas. So I want to focus on that and see if they're giving something away such as can I don't know be guilty of murder? Did John commit attempted robbery or attempted rape? That narrowed me down to what I'm looking for in the fact pattern so that's important.

Again, start with the stem i.e. the call of the question. This can narrow it down for you. Once you read the call of the question, we're ready to go read the fact pattern. One consistent thing I see with students, you don't mark it up. You want to mark up the fact pattern and break apart what's transpiring between the parties. In crim law, if you have an issue of attempt, what fact supports the specific intent? What facts support the substantial step? You have to dissect this and break this apart to support yes, there is an attempt and then go look at your actual answer choices. That's important. We have a tendency for multi states not apply our rules of law. We look at it as a whole, and you do need to take the time to break it apart, mark up the fact pattern, and read carefully. Do not assume facts; take them at their face value. A lot of times students will call me who would do that? You have to take the multistate on its face value. I agree some of them are quirky, but take them for what they are. Don't make the problems harder than they are; keep it simple. If there's multiple ways to interpret the facts, to with the simple interpretation.

Look for triggering facts when you read the exam. In crim law they will put a statute out there for you defining the underlining crime. What do students do? Ignore the statute. No. Go and look and dissect the statute and see what you need to find ‑‑ which there is one in the multi states we're gonna go over tonight ‑‑ and see if it's supported based on the facts. Sometimes, even though ‑‑ a lot of times ‑‑ the statute's, oh, it's the same law I know like in this one with battery, battery's a general intent crime but you'll see in this particular multistate we do tonight it said you need to show intent. So you had to have the actual intent to do the underlining act which is more like what we know from torts. It's kind of leaning itself more towards specific intent.

Look for key things in crim law question. If it asks which is the best defense? Based on the facts what you want to look for is what's gonna get that defendant off the hook? Make sure I understand. It is something that I want you to break it apart.

They say will the prosecution be successful in regards to the crimes being charged? Now I'm gonna look at the crimes that are being charged, and look to the facts and make sure each and every element of the particular crime we're looking at is supported based on the facts to see if it's true. Very, very important.

Now, a couple tips that will help you with multiple choice questions, first of all, the one I look at is the terminology "because" and "since". If you see a multistate question that has in the answer choices "because" or "since", these are what we call conclusions, and this can shortcut time, and this should be able to eliminate two answers with those type of conclusions right off the bat and then focus on the other two. Why? These are conclusions. What that means is everything after the because and since has to be true. So in essence if they tell you in regards to will he be guilty of assault and you know the answer's no, because the elements don't support and it says yes, because, yes because, no because, no sense, no because, since you went through the facts, dissected it, applied your rule the answer is no you can eliminate option A and B right off the bat. That's gonna save you time. Some students do read every answer choice. That's gonna hurt you time wise. So it is something I would eliminate the options right off the bat.

Another thing I find in regards to what students to, what happens? They second guess themselves because they are reading all four answer choices don't wanna do that. The since and because are conclusions everything after has to be true. The trickier ones is that you'll see is when they use the unless. So another type of modifier they can use is if or unless. What do I mean? When you see a question that's using if, everything after the if has to be true, which is the same thing as kind of what we've learned in regards to your since and because. However, when they use the unless modifier, they're flipping it on you. What I do with the unless is cross it off and write it as an if question. The prosecution's charging somebody with murder. You go through the facts and basically support he didn't have the specific intent for what they're trying to support the murder charge for to commit the underlining felony. Felony murder rule and they're using burglary and you can't find the specific intent to commit the felony therein at the time of entry. Can't use the felony murder rule. If they give you modifier says is he guilty of murder? You're looking at the facts and dissecting finding that the murder rule's not going to apply so the answer's no. He's not going to be found guilty. If you have yes unless, you'd cross that out and put no if. After the if it says if he had the specific intent to commit the burglary. That's the correct answer choice that's where our hole is in regards to the fact pattern we read. You have to be very careful. Again, if you see if and unless as the modifiers, the if everything after it has to be true. The unless, what they're going to do is change the facts on you. So you cross it off. If it's yes unless and put no if. No unless, cross it off and put yes if. Everything after that if has to be true to support your position of the facts. Those questions are highly testable. They know students don't do well with them. That gives you a general idea how your going to attack your multi states.

The other thing I want to make sure that you have a good handle on is certain subjects you've learned in crim law are highly testable. So you need to look for them. So you're inchoate crimes. In regards to solicitation, did you have specific intent? Solicitation can merge with the underlining crime so you need to know that. The other thing I want you to remember is you answer according to common law unless the call of the question dictates otherwise so you want to pay attention to that. If you have a solicitation, the issue is, is it supported based on the facts? And look to whether or not it merged based on whatever the underlining crime is, and you'll know.

Attempt is highly testable. Comes up all the time on multi states. I know it's going to be tested. Where do they test? That's another thing I strive for students is use your checklist and go back through and say okay I've seen attempt tested this way, this way, this way. Bring back examples of what you see. You've seen the multiple ways of how you've seen it in a fact pattern and how it's tested so I want you to look for that.

In regards to attempt, what are areas they actually do like to test? Did you go too far in regards to your preparation and you did the underlining act? The other thing they like to test with the attempt is tag it in with attempted rape, then they'll test you in regards to the mens rea and what's the mens rea of attempted rape? People focus on the rape and say general intent. No. Attempt is specific intent.

So again, I need to pay attention to the stuff and understand what they're going to test. The impossibility, factual impossibility they like that with attempt. Why? We don't understand it. They gave you a hypo. Decided I'm going to shoot my neighbor. Take a gun but low and behold I don't know it doesn't have any ammo. I pull the trigger and nothing comes out. Can I be charged with attempted murder? Argue factual impossibility. Factually it feels impossibility without bullets in the gun. Will that work as a defense? No. I factually believed there was bullets in that gun. This is areas they're going to test and you need to understand how it's tested and plug it back in the checklist and get it right.

We want to master conspiracy. Again, we have some questions like that tonight. Is there an actual agreement? How can an agreement be formed? Express? Sure. That's pretty obvious. Can we inform one by implied? How about a police officer that agrees? You're a police officer, how can you form an agreement to commit an unlawful act? That's called a feigned agreement but guess what? That's a unilateral conspiracy. These are areas you need to know.

Your discussion in regards to theft crimes all over the multi states. So in regards to your robbery, false pretenses, embezzlement, larceny, larceny by trick, they're going to test the little nuances to see if you understand what's the difference between larceny, embezzlement and larceny by trick or even false pretenses. You need to understand whether you obtain title or possession. And how can you obtain possession? These are important nuances that you want to plug back in.

Highly important. Murder comes up. Comes up a lot on the essay as well so look for your actual defenses. Again, you run it through your checklist. Most of you should have a murder approach. Okay. I got you in regards to discussion of murder in the first degree but is there a viable defense there? Yeah, sure, there's a self‑defense argument but it fails. Can I use that imperfect self‑defense to mitigate to voluntary manslaughter? That's going to help you in regards to analyzing the facts and carrying it all the way through.

Arson's testable. How can you miss arson? We all kind of giggle. Yeah, we do all the time. Why? They trick us. Again, was there an actual burning? And it has to be the dwelling house of another; can't be your own. If I burned down my home, can they charge me with arson? No. It's not the dwelling of another; it's my own home. They'll try to trick you with stuff like that. You want to pay attention. In regards to your rape, your burglary, assault and battery, all this is highly testable so you need to understand it.

One area I want to get you to pay attention to like with your assault and battery, even your false imprisonment, these are all tort terms as well, aren't they? Make sure you're applying your rule for crim law if it's a crim law question. When you get to the Baby Bar you don't know what type of question ‑‑ torts or contracts or crim law. But when you read the call, it'll give it away if it's a crim law question. Make sure you apply those elements. Even seen students knowing they're in crim law apply tort concepts. They get tripped up in reading the facts. They forget they're really in crim law so you have to pay attention to make sure you're applying the applicable rule of law that's important.

Again, multi states I do understand for students can be a little tricky. It is something that you need to master. That's true with all of us. How do you get there? By practicing and understanding the concepts. The other way to get there write it why did I pick A when it's B? Why did I see this as a robbery when the answer choice is larceny? What's going on here? Go back and look.

There's a prime example up there that people miss where a guy decides he's going to snatch a lady's purse out of the basket of her bicycle and his foot gets caught in the brakes as he's taking it and falls and gets up and runs away with her purse. A lot of people said it was larceny. He had it in his hand when he was snatching it. Look for the location of the basket. In the front or the back? In the back of the bike, we know that's not a robbery unless we see other action that he's done in order to be equivalent to the force, here, intimidation. So again, these nuances what do we do? Plug them back into your checklist. This is how I've seen robbery tested. After a while the lightbulb comes on. Not so bad.

That's your generic in regards to how I want you to approach multiple choice questions. All right. Let's look at Question One. Again, you should always look to the call of the question. (Reading from handout)?

We definitely can tell by the call we know this is crimes. Can he be prosecuted to what? I'm going to go read the facts to see what they're trying to narrow down specifically for me. (Reading from handout).

Seriously injured. Don't see murder; right? (reading from handout). What's common sense tell us right there? If you cause the accident, obviously common law you can't just leave. Obviously you caused the accident itself so in this case can the prosecution prosecute him for his conduct? Well, sure he can. So if you look at your answer choices it says yes being no (reading from handout) can't eliminate because they don't have the conclusions. I'll have to read these. A says (reading from handout). Although some of us have stronger morals than others is that really going to be the reason why he could be prosecuted? The answer is what? No.

Let's look at B. (reading from handout). We know that's true.

C, no. No general duty to assist others. Now, if you're contemplating between B and C looking good, what's wrong with C? It's tort language. If you can't tell, stick to the language itself and that'll help you eliminate.

D says no (reading from handout). Tort language again. So I know C and D are out so it has to be B even if I couldn't tell by process of elimination I would get there. Question One, B is your correct answer.

Remember, if you have any questions, pop it up there. I'll be happy to help you in any way I can.

Let's look at Question Two. (reading from handout). Okay. So some harm occurred and we're looking at Matthew as the defendant. (reading from handout).

Here, he has knowledge; right? However, he was scared of starting another... (reading from handout). You see answers A and B say yes, because. We know those are conclusions. C and D says no. C says no because and D says no and has a statement of fact. I can't eliminate which one. Do you feel he can be prosecuted? Say yes. Eliminate option C. We have to read A, B, and D. A says (reading from handout). Do we see any problem with that? Well, he is the father. He did fail to act. He had knowledge and he knows his ex‑wife that she does do this. So as a parent don't you have that responsibility to check your child? A looks good to me.

B says, (reading from handout). We know that's not true. He chose to become involved once he became a father.

We're not reading C because of the cob collusion.

D says Matthew's (reading from handout). Impute what she's doing onto you? Can I? Yes. Why? Because the facts told you you knew. You noticed this and you knew so you ask your daughter about it she tells you what happened. You know your ex‑wife has been violate with them before so now we have a problem. So A has to be the best answer choice so you will be accountable even though you didn't do the actual conduct. That is based on the relationship and you had actual knowledge.

If I change the facts on you and you had no knowledge and this came out later, unless there's something to show me he had that knowledge he's not responsible because he didn't know.

Look at Question Three. (reading from handout). So you see death. What are you thinking of? Murder. So I'm thinking okay. Murder you need to show malice. Malice intent to kill, intent to cause great bodily harm, wanton reckless conduct, felony murder rule. That's what I'm going to look at and determine if these are supported based on the facts.

Now, it says (reading from handout). What's it sound like at this point? She lost control so it sounds more like a negligence standard. Why would she be accountable? (reading from handout). What are they testing here? She didn't have knowledge of her condition. And so there's no facts to support intent to kill or cause great bodily harm. Could it be argued as wanton and reckless? If she had knowledge of her condition, yes. She doesn't know. Is she going to be held accountable? The answer's no because she didn't know. It would change if she knew. Look at answer choice A and B say no because. Answer choices C and D say yes because. Can you eliminate two? I'm finding she's not responsible to I'm eliminating C and D right off the bat.

A says, (reading from handout). That's true, but I'm not 100 percent sold on that answer. B says, (reading from handout). That's not true. If she had knowledge, we don't care you're only offering assistance. If you knew this could happen you're accountable. A has to be the best answer choice here because she had no knowledge. If she knew, she's going down for ‑‑ she will be convicted and most likely of what? Murder II or involuntary manslaughter.

All right. Let's look at Question Four. (Reading from handout). What are we looking for? A defense to see if I can get you off.

(Reading from handout).

What do we know about ‑‑ we have to take a step back. What do we know about what she's being charged? She's being charged with drunk, being drunk in regards to over the limit. What is the mens rea? Actus reus is getting her blood alcohol above the legal limit. The mens rea is a mental state. Do you need specific intent, general intent, or is it a strict liability crime? We all know it's a strict liability crime. What's the problem with that? Good luck find ago defense. So read our answer choices.

A says (reading from handout). It's not a specific intent crime.

B, (reading from handout). That sounds like it negates general intent.

C, (reading from handout). That sounds lake a tort language for duty.

D says none of the above. Go with none of the above. Even though she didn't have that knowledge, too bad. Same with traffic violations. You're not paying attention and you get pulled over, guess what? You get a ticket for going over the speed limit. I didn't know. Again, you don't have to have the specific or general intent. It's just a strict liability crime.

Same thing for statutory rape. Strict liability crime. Always look for the actus versus mens rea that's going to help you.

Look at Question Five. Okay. Will he be found guilty? Pretty generic. Break it apart and go through it.

(Reading from handout). The woman sounds like she's just been battered. (Reading from handout). Now they're giving you a statute. (Reading from handout). Look at your answer choices. We've got yes or we have got no. And we have conclusions after them. Because.

Can we eliminate two? He battered her so get rid of the noes and focus on option A and B. In regards to A says yes, because (reading from handout). That looks plausible.

Then B says yes, (reading from handout). No because the statute says it is necessary. Right? So we need to show intentional act and again based upon his anger based on the insults tried to punch him ‑‑ his act was intentional ‑‑ and he did injure, he broke her nose so we do have the act of battery. Remember, with crim law, too, transfer and intent doctrine works. We have a tendency to overlook that. We kind of just play with it in torts but it works in crim law so you can transfer the intent from the patron to the woman because it goes from either the intended victim to the actual victim or from the intended crime in this case to the actual underlining crime. So transfer and intent would support here. A for Question Five is your best answer choice.

Let's look at Question Six.

Now, here it says, (reading from handout)? What is our focus here? Our focus is the attempt. So remember, with the attempt, what do you need? Specific intent, substantial step, apparent ability, and perpetration ‑‑ preparation versus perpetration. And you could always look at your defenses of legal and factual impossibility.

Now let's go through the actual facts. (Reading from handout). They want to convict her because of the attempt. Did she try to hurt her husband? I want you to dissect what? I use the mnemonic SLAP. Did she have specific intent, and based upon the facts, she's upset, she ran a red light she's so upset. Didn't know the other car had her husband in it. She didn't have specific intent. Did she take a substantial step? Again, she's upset; she's not aware of what she's doing. Did she have the apparent ability? I guess you could say she does. She has the car, I guess. Did she actually prepare? No. The elements fail. So will she be guilty? The answer is no.

I see in regards to my answer choices I have no for A and B and yes for C and D so I can get rid of those and just focus on answer choice A and B. A says, (reading from handout). That's not true. You could run a light that could be so reckless that you could be charged with involuntary manslaughter. I wouldn't pick that. Remember, she's charged with an attempt. We need to focus on the elements of attempt. Versus A leads me down the path of involuntary manslaughter so that portion of the statement's incorrect as to the attempt portion or the attempt that's true.

B says, (reading from handout). I agree. She lacks the mens rea because the mens rea for attempt is specific intent. So B for Question Six has to be your best answer choice. So do you see by the process of elimination breaking it apart and dissecting it you'll get there. Do you see how I'm applying the principles too? Going through my elements to see if they're supported with the facts. I've got to break it apart otherwise they're going to trick me. I don't want to be tricked; I want to get the question correct.

Let's look at Question Seven. (reading from handout)? What's the issue? The issue's attempt; right? What's the attempt element? Specific intent, substantial step, apparent ability, preparation versus perpetration so I need to satisfy all those elements and then I can look to the defense of factual impossibility so you do want to break that apart. Let's look at the facts.

(Reading from handout). We need to go through it. Did she have the specific intent? Sure. She break in with a gun in her hand intending to shoot him so I think we have specific intent. Did she take a substantial step? Sure. She broke into when he was sleeping. Did she have apparent ability? She had the gun. Did she prepare or go beyond preparation? She didn't shoot it. We do have all the elements of the attempt satisfied.

Now what do we look at? She'll say wait a minute, I couldn't have killed him because the gun wasn't loaded. What's that issue? That issue is factual impossibility and this is something, again, they like to test. So I do want you to look for it and break it apart.

With factual impossibility, it's a very easy concept that people have a tendency to mess it up. This is all we're looking for so keep it simple, factual impossibility. (reading from handout) make her action not a crime she's free to go. It is a valid defense. She believed the gun was loaded so if based on her belief and she pulled that trigger, would it have been a crime? Absolutely. No defense for her. Versus the facts told you she knew the gun or believed the gun to be unloaded and shut the gun, she could argue factual impossibility. As the facts she believed them to be, she didn't believe she was doing a crime. Do you see how factual impossibility works? Again, the rule of thumb is what? In this case, Julia or the defendant as they believed the facts to be is there actions or activity a crime? If the answer's yes, guess what? Factual impossibility's no defense. Okay.

Look at our answer choices. Is she gonna be found guilty? I feel yes. Can you eliminate two right off the bat? The factual impossibility is not going to get her off. I can eliminate options C and D.

A says, (reading from handout). Well, that's true because we know factual impossibility's not a defense.

B says yes, (reading from handout). Say what? That doesn't even make sense. We know A is the best answer. Yes, the fact the gun was unloaded doesn't preclude attempted intent. Factual impossibility's not going to work here. It's not a defense for her because she believed the gun was loaded so therefore she will be guilty of attempt. Do you see how that works? That's why they like to test it. It's a little confusing for students. You have a prime example here with Julia to plug it into intent on your checklist to see how it works and you won't miss it.

Let's look at Question Eight. (Reading from handout)? What are they testing here? Factual impossibility. You're going to look to as the facts as you believe them to be, would her act be a crime? Well, she broke in to kill the neighbor thinking the neighbor was there. No defense to her so she is going to be convicted of attempt. Can I eliminate answers? A says, (reading from handout). That's not true. You need the other elements.

Yes, (reading from handout). Yes, because it shows what? She had the intent to commit the crime when she entered as the facts as she believed him to be he was there. No defense for her.

C says (reading from handout). Again, maybe so, but factual impossibility's no defense for her so factual or mistake of fact argue either one, not going to work. D says (reading from handout). What? It was burglary and you can charge her for attempted murder because factual impossibility's not a defense. That raises a good question. When she broke in to commit the killing, could we charge her on burglary as well as the attempt? The answer is yes, we can. Remember, burglary as long as the element are satisfied: The nighttime, the breaking and entering, the dwelling of another, with the specific intent to commit a felony therein. She was going to commit murder. We have you for the burg itself. With the burglary, now that I'm on it, I want to make sure you focus on the element they love to test, you must have the intent to commit a felony therein at the time of entry. If you don't, then there is no burglary and they like to test that element. A lot of students don't know it. They might have it in their rule, but they don't apply it because they pick burglary when they formed the intent after they got inside. Of course if that's the case, then we do not have a burglary. Okay.

Also, remember, you always go through common law on the multi states unless they dictate otherwise. Just apply common law here.

Look at Question Nine. Now, it says (reading from handout)? We're looking at conspiracy. At this point when you're reading you should look for an agreement, we need two or more unlawful acts.

(Reading from handout). What do you think they're trying get you to argue of the conspiracy here? Was there an agreement? Nothing was communicated. But we briefly exchanged eye contact you giggled I'm looking around nervously. Based on your conduct, it looks like we have an agreement. So this is a way you can form conspiracy an implied agreement based on your conduct. We have the implied agreement, we have two or more, unlawful act they're robbing the store in terms of committing larceny. We have all the elements of conspiracy. They're testing the actual agreement itself. Looking for an answer, even though I know we're testing conspiracy, I can hone in they're testing the sub issue of the agreement. Will they be convicted? I'm saying yes. I can get rid of C and D they're no becauses. That means I will read options A and B.

A says, (reading from handout). Was there an explicit agreement? I don't recall seeing that.

B says, (reading from handout). That looks like the better answer choice. It was implied and you don't have to be express statement that we're going to do this; we can see it by conduct. For Question Nine, B would be your best answer choice.

All right. Lest look at Question Ten.

(Reading from handout)? What are we looking at? The conspiracy. You need an agreement, two or more, unlawful act.

(reading from handout). We have to break it apart. We need an agreement. Look back at the facts and hey, we have to get that guy, the fact that they're kicking him and stuff like that, are they intending to kill him? We got the two or more, the unlawful act. Trying to get you to focus on the agreement. Did they actually have the specific intent, remember, for conspiracy, to kill him? I don't see that. I see they agreed to get that guy, which may be break his leg, break his arm, not necessarily commit murder.

Let's look at our answer choices. A says, (reading from handout). So again, remember we're looking at the conspiracy. What are they trying to test with the conspiracy? Did they have the intent to commit murder? And I don't see that.

B says, (reading from handout). Well, again, we might be able to convict him of murder don't get me wrong. Conspiracy is specific intent and I don't find they conspired to kill. More conspired to harm.

C says, (reading from handout). Well, no. They agreed to a plan. But what was it limited to?

D says, (reading from handout). That's when I would pick, D. There's no facts here. He wants to be paid back and they said based on the language you need to pay him back. They're not trying to kill him. If they do, they're not going to get the money back. By reasonable inference of these facts we know they didn't really want to see him dead. For Question Ten, D has to be the best answer choice.

How do we get there? By breaking apart the elements. Just dissect the underlining elements and see if they're supported with the facts.

Look at question 11. (reading from handout)? What do you need for false pretenses? You need a representation of a material fact, that's a present ‑‑ can't be future. Past or present fact. Which one does what? For false pretenses you need to transfer title, don't you? Let's go through the facts.

(Reading from handout). Remember, you have to show representation made what? You have to have knowledge. You knowingly do this and of course when you go back and look at the facts was she fully aware? Did she have that knowledge? Again, in regards to questions, what I want ‑‑ what do I want you to do? I want you to always break apart what? The elements and dissect it and see if it's something that's supported pursuant to the facts. If it's not, I'm barking up the wrong tree. We're looking at theft crimes. What do you need to see for false pretenses? You need a false representation which she truly is making a false representation of a past or existing fact to obtain property of another. So it seems to me except for what? She thinks what she's saying is true so it's not really false to her. She didn't obtain that property based on the representation of the falsity. Versus who did? The other guy, Gary that's running the business. Charge him, not her.

Now let's look at her answer choices. A says, (reading from handout). She might be liable in tort but not for crimes.

B says, (reading from handout). She didn't know, so.

C says, (reading from handout). That negates the false representation so that looks good to negate the false pretenses charge.

D says no, (reading from handout) that looks good except for a future fact. What'd she tell them that's not a future fact? He already purchased the land and preliminary roads are put in. It's past fact. That's not gonna work, so therefore C for question 11 has to be your correct answer the best answer choice. Okay.

All right. Let's look at question 12. You guys are awful quiet. Okay. Now in order to be convicted, (reading from handout)? Remember, what do we need at common law? The baby has to be able to breathe separate from the mother at common law. Modernly I think they use the term secession of the heartbeat, meaning as long as the heart's beating, whatever, that's long enough for the term, then obviously they could be charged statutory for the murder.

(Reading from handout). I skipped a space. (Reading from handout). The answer is yes or no. We have answer choices A, B, and C of no and D with yes. Let's go ahead and read them.

A says, (reading from handout). If it's not stomach, what do we need to know? It has to breathe on its own.

B says, (reading from handout). Again, you've got to breathe on your own that's not going to work.

C, no (reading from handout).

D, yes, (reading from handout). That's common law so yes. That make sense? Again, the baby has to be able to take its first breath outside the mother's room common law‑wise. Question 12, B is the best answer choice.

Go through question 13. (Reading from handout). For murder we need to show [inaudible]. These are the ways to show malice; right?

(Reading from handout). We've got a relationship, don't we? (Reading from handout). Did he have the intent to kill? Doubt it. Did he have the intent to commit great bodily harm?

A says (reading from handout).

B says (reading from handout). Remember, an omission that results in a death you're gonna be responsible so we know that's not a true statement, sit?

C says, (reading from handout). That looks good because he was based on the relationship he was hired.

And yes, because (reading from handout). Which it is, but that doesn't mean I'll be responsible unless there is a relationship for her death.

For question 13, C is gonna be your best answer choice.

Last question. Question 14.

It says is the man guilty of murder? With murder we want to break it apart. Do you have intent to kill, intent to cause great bodily harm, wanton and reckless, or felony murder rule.

(Reading from handout). What is that? Took an unattended backpack what's the crime? Isn't that larceny? Trespatory taking, carrying away of the personal property of another? Specific intent to primarily deprive. I'm saying that's larceny. (Reading from handout). What are they testing here? They're testing the felony murder rule. Remember, any death that results in the commission of inherently dangerous felony you're going down for murder and if you have to type it, it will be first‑degree. Based on these facts, can we convict him under the felony murder rule? Is the larceny an inherently dangerous felony? No. Will he be found guilty in regards to the murder? Focused on the felony murder rule so no. Plus, we know his conduct wasn't wanton and reckless. Why? He's slowly driving out of the parking lot. I can't. Let's read our answer choices.

A (reading from handout). That kind of supports intent to kill, intent to cause great bodily harm, and we know he didn't. No facts to support he had the intent. We're relying upon or looking to the underlining issue of the felony murder rule. That's why it's important when you take multiple choice questions to hone in as to what they're testing. Yeah, it's murder. What within the murder are they ting? Here, you can see we're testing the felony murder rule based on the facts.

B cays (reading from handout). I like that answer choice so put a plus there.

C says (reading from handout). Well, did he haven't (speaking too quickly) no. I have no way to show malice other than trying to argue the felony murder rule, which larceny's not an inherently dangerous felony so we know C is out.

D, (reading from handout). Well, what'd they tell me in the facts? He was driving slowly. He accidentally. These are all good facts to show he's not criminally negligent based on driving and what he's doing. We know D is not the correct answer either.

Can you tell based on this question that they are ting the felony murder rule because they told you in regards to taking the backpack. This is an area they do like to test so it's one you want to get to know. They test this rather oddly sometimes, but be aware. They like to test sometimes in regards to the felony murder rule, is it an inherently dangerous felony, or are you still within the res gestae? Her boyfriend told her go deliver drugs and didn't wanna do it. He said, well, I'm going to kill you cat, Fluffy. She was very attached to Fluffy. She got in the car and slowly drove down the block to go drop off the drugs. A child darted out she ran him over. Obviously they're testing you she's in the commission of a crime but is that inherently dangerous felony at common law? Sit at modernly? Make your ‑‑ when does that start? They want your argument.

On a multistate we're going to narrow you down and not make it that difficult. On an essay we're going to see how you think and argue.

It does come up on the multi states and I might as well know it.

Anybody have any questions for me? You guys are pretty quiet tonight. With multi states, kind of apply the tools that I gave you to break apart and go through. That will help you because I want to get the best. As I told you, it comes by practice. So to threaten or shoot the intruder, if someone breaks into your home and you shoot them because your life's threatened that wouldn't be murder. If they're outside the home, that's the problem. That's why they always tease and say you should drag 'em back into your home. If they're outside your home, you're safe. You've reached a place of safety so you can't shoot them. General rule is with defense of property, you may use reasonable fierce ‑‑ not deadly. Protecting your home, your car, jewelry, stuff like that. Versus if your life is being threatened. Your home's your castle. It escalates because you're triggering what we call self‑defense. Does that make sense? What's your crim law multi states. Next month we'll be doing our tort essay and December doing the multiple choice questions in torts as well. Do you have any questions for me as you have me right now?

Now, in regards to practice questions, e‑class is absolutely you've got your Finn's book. Great book to go over questions too. Highly recommend it and go over it. Again, please, start breaking it apart by your checklist and make sure you have examples how they test. That's the way you'll breed your success because now I've clicked into oh, I didn't get it. This is how they test. Myself, I always missed involuntary manslaughter and murder two. Fourth of July, you go shoot a gun in the air, bullet falls down, comes in someone's head and kills them. Thinking murder two. They told you you were in the desert. Oops. Now it's more of an isolated area so it'd be involuntary manslaughter so it's a factual issue. The more you start seeing how they test, that'll help you.

If you have any questions in practice, whether it's crim law or any other subject, please feel free to shoot me an email. My email is jolly@taftu.edu. I'll be happy to help you in any way I can. Those that are struggling with multi states we are doing on Tuesday another multistate lecture for the Baby Bar. Covers torts contracts and crim law. We've done one previously that's up on Taft's Web site that you can go and listen to as far as rules and how to attack the multi states question. You guys have been great and I hope to see you next month at least. Have a good evening good night.

6:56 PM