CLASS: BABY BAR

LOCATION: REMOTE

05/11/2021

6:00 PM – 7:00 PM

R. Farrell

>> Good evening and welcome to tonight’s baby bar miniseries as you are aware tonight’s focus is on object the subject matter over criminal law and we will go over in regards how it is tested and you want them to point out that the sessions are reported and if you want to go back and listen to any you can go to Taft web site and log in the student section and log onto the baby bar miniseries. Everything there is posted and anything you need to do. Everything is there for your convenience as well.

Let's get started we have done torts and contracts and criminal law seems it is to be a simpler subject one thing I want to point out you know it is the lowest grade students get on the mull t pl choice questions and I think that is because the examiners trick you and you answer a question to tort law when the call to question asks you according to tort law and make shush you do that and answer the call to question that is important. One thing to remember we have a tendency to read the facts and pick an answer and you want to pick out things apart. You want t to look at facts and specifically multiple choice because we have a tendency not to and look and see do the facts support the crime. Was there specific intent. Was there a taking you want to make sure the facts support the underlying elements of the crime you are looking at. On a multiple choice question they might limit you and you want to look and say I see the crime of larceny and we have duress as a defense and you want to carry through the best answer choice depending on the call of the question might be there is no larceny due to duress and l also remember the call will dictate what is the defense best argument I am looking for a way to negate the elements of a larceny or the true defense a call always tells me which direction to go whether an essay or multiple choice questions I want you paying attention to that. Of course, the other key area you need to focus on and it comes down all of the time and students don't do well is in regards to liability being imputed onto a third party and the only way that can be done is through accomplice liability or conspiracy and this is tested all of the time and it is a concept going to be there. Conspiracy is a highly testable issue. You should have it mastered going in the door. And again, when you see somebody else being charged for the crime and they didn't do the action it has to be through an accomplice liability theory or Pinkerton.

These are things I want you to remember. Do the facts support the crime? Any applicable defenses and if liability are imputed to the other look at that and say I know I have an issue of conspiracy or accomplice liability first thing we will look at in the checklist great crimes. Solicitation and conspiracy and these are tested and you need to know the little nuances of the rule. Solicitation it is a specific intent crime and you need to always show you are enticing another and inducing to do an unlawful act key thing there when you solicit you can't withdrawal under common law remember on multiple choice answer is common law. Unless on the essay you can bring up the model penal code that could come up on the multiple questions you should be aware of it they are going to have to dictate moderately or under the penal code this will give a direction to follow there is a difference in regard to the rules one thing to remember in solicitation remember it merges in the underlying crime if I solicit to commit murder and the solicitation can merge in crime of murder and it can be charged accomplice or conspiracy through the murder and solicitation is a lesser intent and merge in the underlying crime. The reason I point that out. When do I discuss it some students when they see solicitation bring it up every time one thing, I want you to be aware look to the call of question? It is different on an essay you can say what cross‑claims can be charged solicitation and you can point out in regards to the right of merger. That is fine. If the call is on a multiple choice and call A says solicitation attempt and murder and B says attempt and murder you might have a tendency thinking merger and I might pick answer B. But it says what he can be charged with and didn't say convicted and you want to pay attention to the questions because it is the prosecutions job, they can choose a lesser defense if they want to. You want to list as many as applicable if it is that type of call you want to pay attention.

Attempt is a very testable issue as well. With attempt there is a couple of areas to be aware of first I want to go over what is attempt there is where you take a specific ‑‑ to do a lawful act and look to see if you have the apparentability perpetration verse preparation of the crime this will determine if the intent extinguishes and the it is the under lying time. Attempt of murder and went too far is it murder in of itself. One thing to look for. First of all, the apparent‑ability. What does that mean when you talk about an attempt on an essay you go through the elements of t rule of law. I want you to pay attention attempted rape, murder, burglary. The mens rea of what I gave you is specific intent they are going to tag an understood lying crime such as rape to mess with you in regards to rape that is intent unless strict liability but intent is specify intent pay attentions to that.

The apparent we don't go in deep discussion take a step back and say did the person do the underlying act we are charging with. Such as the attempt of murder or mail fraud. Do they have the ability to do that? If I am being charged with attempt for making a bomb. Well unless if Google it or something I don't have any idea of having to put components together to make a bomb. If that is if in the facts can you charge with attempt, I don't have apparent‑ability. You want to look to the understood lying element it can hurt on the multiple-choice questions. A lot of people pick attempt but if it didn't have apparent‑ability.

Other thing is legal and factual impossibility. Legal impossibility is basically that it is the defense where the defendant in the case believes it is as legal conduct but it is not. Verses factual impossibility is factual impossible what you look at is defendant's mind set the defendant has the mind set of what he is doing and it would make it a criminal act even though it wouldn't be. Factual possibility knows the (Indistinct) example. Say I leave here and decide to steel uncle John's wall let and I reach in the back of the pocket and he doesn't have his wallet on him I can be charged with the attempted larceny. Wait he didn't have a wallet. That is not how it works where the fact said melody believed him to be, I thought he had his wallet the court is not going to allow me to use factual impossibility as a defense. Verses if I picked up this is common in torts verses criminal law if I pick up a bowl ball and think it is mine and I go home with it I committed larceny. I decided to take it. But the problem here is I believed it to be mine. So, I didn't have the specification intent to deprive the owner factually as the facts I believe them to be it wasn’t a criminal act I thought the ball was mine verses if you look to tort it doesn't work that way did does it mistake is no defense.

These are two strong issues the to look for on the multiple-choice questions also on attempt you can withdraw basically common law if you enter to perpetration and under the model penal code the issue in regard to withdraw is what you can of course model penal code is going to allow you to withdraw. Attempt Does merge with the under lying crime you can't charge or convict me of attempted murder and murder of the same person it is a small underlying offense.

Now again remember with attempt I want to you to focus on the elements you do not go through the elements say attempted robbery you don't have to prove the robbery it is attempt crime. You go through the elements as specific intent. Substantial step. Preparation verses perpetration apparentability. Those are the elements you focus on and go through and see if they are supported based on the facts make sense again very testable.

The biggest here conspiracy. It comes down ere time on the baby bar and I can't believe how many people mess this up. Ip t you to remember steps. Number one you are going to show the conspiracy which we will go through and step two is Pinkerton's applicable and I need to argue for foreseeable natural probable result of the conspiracy and we have a tendency to mess it up.

In regards to conspiracy it is an agreement two or more to commit an unlawful act. We can play with the agreement. You have tacid or agreement by conduct. In looking at it. An example a police officer comes up to you and says you want to rob the bank with me. Sure, why not. He is a police officer he never had the intent to commit the act with me. Again, what is the law saying. Agreement. Faint. Accomplice there.

In regards to by conduct or tasid look to the reaction of the parties one out there with the guy goes to jewelry store with his buddy and gets out and sits in the car with the motor running while the guy robs the jewelry store. That is the facts. Can you charge with conspiracy? Why is he sitting out with the motor running there is an argument based on the conduct there is an agreement between the actual parties.

Another one on the multiple choice with unilateral conspiracy is where two people conspire and there is one where these boys are in a cam m and get upset with the counselor and decide they are going to hide the as ma medicine another little boy who doesn't like the counselor and goes and gets the medicine and put ins a place where the other two boys can't find it in order to throw it away and of course the counselor can't get the medicine and dies because he has an as ma attack now we are going after the boy who moved the medication to where the other two boys can see it. He is be being charged. What did he do? He didn't take or throw it away. They are coming after him for the murder through the unilateral conspiracy. Even though he didn't agree with anybody he knew of the wrongful agreement of what they were doing even though he knew and help portray in regards to activity and that is called a unilateral agreement and charged in the conspiracy and bring up the Pinkertons rule to impute the ‑‑ based on the you can conduct. The over thing withdrawal comes up has to be under common law effectively communicated to all coconspirators. Just one not just two. If there is three you got to communicate to all. Effectively communicated to all under the model penal code takes steps to tort the crime.

Now what the effect of the withdrawal? The effect of the withdrawal only cuts off liability for anything in further there of once you commit the act of withdrawal sorry there is no way of going back to getting out of the conspiracy once the agreement is conducted you are guilty of t conspiracy and no way around it. Even if I went and told the police and effectively withdraw and authority the crime. Sor sorry the conspiracy is against you. But the effect of the withdrawal will cut off for further liability if I agree we are going to rob a bank and then it is an agreement we have the conspiracy and I change my mind and don't show up and of course you rob the bank and kill the security p guard and now they are trying the r charge me for the murder of the security guard I wasn’t there. That is a conspiracy ask and Pinkerton's issue. Since the withdrawal was not effective, I didn't show up under Pinkerton it is seen if you rob anything it could be forceable a death would result. It could be forceable people would take steps or actions to prevent the activity of the robbery. That would be imputed onto me and I wasn't there. Doesn't matter the conspiracy is in place and I didn't withdraw from it in order to cut off my liability.

Again, this is very testable. Conspiracy will be there. Pinkerton's rule will be there and they are getting very clever in how they are testing and you need the o break it apart and look at it. In regards to wanton's rule if you look at the giggle. Prior baby bar questions students love to bring this up. The likelihood you see war ton is slim to none it doesn't come up it says you can't charge with conspiracy it takes two or more number of people to commit the act. It is like it takes two people the dual. It takes two people to dual. You can't charge with conspiracy. Or adultery it takes two and you can't charge with conspiracy that is all it is. If it takes two to perjury the act you can't charge with the under lying conspiracy.

Remember with conspiracy. Never merges. Once you do the act you are guilty of the conspiracy only effect of Pinkerton's imputes liability onto you and the effect of the withdrawal will stop in further rans for the liability cuts off at the effective date of withdrawal. If I do conspiracy to rob a bank then we steel stuff at the hardware store in order to rob the bank then I effectively withdrawal I am guilty of the conspiracy and guilty in regards I don't go to hardware store but you did. I am guilty under Pinkerton for the theft of the hardware store since I drove prior to the bank robbery I am off there but till charged with two other crimes.

Third party liability is vicarious liability as well as accomplice liability vicarious doesn't come up tach. Employer and employee what you want to look at is in regards to the course and scope of the employment and we will go over the last baby bar as I recall the guy was putting a septic tank and demand the independent contractor put under ground going in the neighbor’s yard and said you have to do this and that is vicarious liability issue. That is tort and it will work in criminal crimes if it is a criminal act that they are regarding this to do.

Accomplice liability. Remember accomplice liability the main difference I want you to keep between accomplice liability and conspiracy is no agreement. With accomplice you help the to facilitate and you aid and abet and of course uh‑uh are going to p be responsible for anything that is forceable of the unlawful act. So, it has got the same foreseeable test but we don't call it Pinkertons. Now the other thing people get confuse on accessory before the fact. Principle first or second degree. Accessory after the fact. You don’t have to use those terms unless you have to, I use accomplice liability. When do you use the terms I think if you saw it was on the multiple choice if there was one, I would test it would be accessory after the fact? Why?

Accessory after the fact the issue would be is their liability for anything happened prior to. There’s an exam out there we decided to drink and go to the liquor store and get more alcohol and three guys get out of the car and start to approach to go in the liquor store ask realize they done have money and go in any way and the other guy is in the car waiting for them return and based on the facts I don't see agreement. Based on the facts what am I seeing we have no agreement and two went in the store and they might have agreed before they looked at each other going in the store the one in the car has no idea. They picked up the bottle and waved it had revolver at the clerk and now we have a robbery and jump in the car and tell Doug step on it and drives off he is now accessory after the fact. He will not be charged if they find conspiracy of the first two or the robbery of the liquor store, he will not be charged or evading arrest and anything that happens after. They lose control run someone over and kill them. And now we are looking at murder. That is imputed through accessory after the fact based on your conduct that is the only time, I break those apart and there is a main difference between accomplice liability and conspiracy. Key thing to remember is the agreements. Okay?

And if there are any questions pop them there in the chat and I will help in any way I can. All right. Now what are we going to look at? Murder. Murder is very testable they like murder.

A couple of things to know about murder. First of all, you know murder has malice and malice aforethought. Three ways to show malice. Intent to kill. Intent to create great bodily harm. Wanton and reckless conduct and felony murder rule. If I go in and rob a bank the security guard points a gun at me and I shoot at him. Kill him. Well, that is intent to kill. That is intent to create great bodily harm. It would be wanton and reckless and of course perpetrating ago robbery. Felony murder rule all four based on the facts are there. You would do all four and you don't want to do 1 or 2 and leave do all four in this case.

The key thing I want you to remember is urn urd the felony murder rule. In order to find malice under the felony murder rule it needs to be an inherently dangerous felony. A bar is one pneumonic people use. Burglary arson rape kidnapping robbery. Mayhem. Any felony. Burglary and death result we can use the felony murder rule the o fand malice and impute that onto you for the murder of the party.

Again, if the debt results in inherently dangerous felony you will find malice. Now causation. Causation does exist doesn't it. P but for shooting me I wouldn't did die. Causation is a decision you are going to have to make under the pressure of the exam and what I mean.

If they put at an issue you better have it in there. If it is straightforward my car ran you over as I am evading arrest that is straightforward. If I am running out of time, I am not going to talk to about it. How you will know if it is an issue. How I am evading arrest the police officer shoots my tire and causes me to lose control and I run over a pedestrian now causation is an issue and I will find it but it is an issue. Verse if it is a direct impact shall I say based on the conduct causation is not that big of an issue. If it is a time issue, I will get in and out.

Again in regards to the question here clarifying conspiracy verses accessory. Remember conspiracy you need that agreement. Right? It has to be an expressed agreement or agreement by conduct. A tasid agreement. You have to have the agreement. Accessory you have no agreement nothing I can grab onto show agreement between the parties.

If you and I walk in a store and this is a stick up standing next to each other I have nothing to grab onto the agreement. Verses if we walk in and the cash register is opened and had we wink wink you will know based on the facts. The agreement is what you look for. Okay?

Now going back to murder ones, I go through malice I look and see if I have the to talk about causation and then I go to murder in the first degree. To give you a hint first degree remember can be shown how. First degree murder can be shown by specific intent to kill with premeditation or deliberation or felony murder rule. Ly grab on the to the one at issue based on the facts and say none of them are. I would say no specific intent to kill there’s no first degree and go to the second degree I do not want to write o it the full rule I don't want to analyze it kills my time.

The other thing you have to be aware of is urn b bd the first-degree murder you have the felony murder rule. Remember if I show malice above based on the felony murder rule. You are guilty of first-degree murder, aren't you? But there is another issue that is test b l that comes up every once in a while, and you wanted to be prepared for under the felony murder rule you can have a sub issue called the red line rule or special felony murder rule. What is that?

That is when you have a third party. An innocent party that causes the killing can you impute that on the o the felon. Again, you go in to the rob a bank and the security guard shoots and misses and hit it is customer and the customer is dead. Can I impute the security guards onto the felon? Common law absolutely you are guilty. Moderately it has to be by the own hands red line no. It has to be I the felon’s own hands and you do both views and go on from there.

How is this trigger? You have an innocent party doing the killing that is how it is going to be triggered. There is another way. I can't trick you but you want t to look for and you want to have an understanding of where I put it and how I talk about it. After I go through the murder approach, I get to first degree. Headnote red line murder or special felony rule and analyze and show it and say he is guilty of first-degree common law, right? Moderately since it wasn't the killing done by his own hand, he not guilty of the first-degree murder.

Now if you find first degree you don't have to go through second degree. If first degree is what we call arguable. It could go either way I do go to second degree. What else?

Well, again once I find first or second dry, I have to look to what? Defenses. Look at your defenses. Necessary sense self‑the defense. Defense of others. Crime prevention. You want to go through and see if there are applicable defenses, they are important. Self‑defense when they use a reasonable force to protect oneself‑. Remember it has to be deadly force. If someone is coming up to you with a little towel and trying to smack you with it and you pull out a gun and shoot them, I think we have a problem. That is excessive use. Right? That is in deadly force.

So, you got to be in the imminent see of the threat of deadly force and they test a lot on the multi‑states m. You want to be careful. Necessary sense someone breaks in my home I think defensive properties and someone comes up and confront things could change and that could be self‑defense. Things could change based on the facts remember common law in the penal code you don't have the majority to treat the way you normally do.

There is one where the guy breaks in the house and the wife says let's go down the back stairs and go down and call the police and he says no. He goes down stairs and sees the guy at the refrigerator and the guy turns around and he shoots him. And he had a zucchini in his hands and can we charge the homeowner with murder? We can. When we get to the issue of self‑defense we are going to claim self‑defense. Again, you have grounds to leave you created it yourself no defense for you. You could argue defense of property but you created the situation. Remember the law puts human life up on a pedestal. We would rather save a human life verses Lexus or Rolex. They don't care and we are going to put human life first and make sure to remember that.

Again, if you create the situation there is no defense for you. Defense of others you can use reasonable force to defend a third party. Now actually to step in the shoes is not a good defense. Meaning if you have the right for someone to defend you, I can use the defense even if I was wrong as long as you have the right and that is a problem and that is why people don't want the o get involved. Moderately though they allow if for grounds of reasonable mistake. If a reasonable person came on the scene and think same thing you did. This man is beating him up and didn't know it was an undercover police officer and does the party have a right to protect yourself and you can use the defense of others as a true defense.

Crime prevention remember general on daily force. When can we use deadly for force when your life is being threatened when you are threatened with severe bodily harm? Bodily injury. And defense of property again you have to have the imminency of defense ‑‑ so you can protect yourself. Those are your defenses and we have some others that we call defenses but I call them excuses such as intoxication. Infancy and insanity.

With intoxication remember you have voluntary and involuntary and a lot of us think of alcohol. It could be rue fee. A date rape drug. And then you are involuntary intoxicated. Key thing to remember in regards to voluntary only gait specific intent crimes. If you get so intoxicated and you walk in someone else's home and they are charging to charge for forcible entry or burglary specific intent. Verses involuntary works for both.

Infancy remembers your age 0 to 6 conclusive and you cannot conform intent to create an act and 7 to 14 rebuttable presumption and 14 or more you have the ability to commit the unlawful act.

Insanity. There are four insanities and you need to know these. Why they are on the multiple choice. If they come up on an essay question you must do all four this is jurisdiction. Again, if you see insanity being tested you must do all four because you will not know the jurisdiction and how they play on the multiple-choice questions is a different beast. What do I mean?

They are going to ask which one is applicable and they will l take the model penal code and not merge together and they will combine two rules and you think that is good and you will pick the answer choice. No, you have to know the language. There is an area I tell people the to know your rule.

The key thing to remember what all four of these have in common. They have in common must be based on the mental defect. You’re the disease. Okay? The irresistible impulse you don't have the ability to control. Even though I might know it is wrong or think it is wrong you overcome the free will verse it is Durham you do the conduct because of mental illness verse model penal code you lack the substantial capacity to conform and look at McGnautan I don’t know what I was doing was wrong. Irresistible impulses I know what I am doing is wrong and I can't control my impulse it would work in the jurisdiction because I cannot. Verses M'Naghten sorry you know it is wrong. There is a difference in the rule and they have one thing in common again is that mental disease. Play with that and make sure you are understanding those and they will be tested and you might as well get those right.

Next you have on the list justification which is voluntary manslaughter. It can come up two ways remember you have to have adequate provocation. Insufficient time the o cools off and loss of mental equilibrium.

If a guy comes home and sees his neighbor is there with his wife having sex would that be adequate provocation I think so. Would a reasonable person lose his equilibrium probably and of course did he have sufficient tame to cool and if he runs out t to a bar for ten hours and then comes home, he had sufficient time to cool?

Other way they like to test with this. Is words and words being never enough and I know people sometimes say thinks that make you angry but words are not enough to lose your cool. Or lose your mental equilibrium. You need words and some type of action there is a suit out there a guy in the bar and saying these things about how his wife is cheating on him. And it isn't true and guy wanted to have an April's fool day. Not a funny joke. No facts he did any actions all verbiage and no defense. No voluntary manslaughter.

Another way it comes up is imperfect defense. Defense we went through. Self‑defense. Defense of others. Crime prevention. Defense of property. If any of those fail, I can mitigate the murder to voluntary manslaughter. What do I mean? Well let's say you feel you have a right to defend and someone try steal your car and you kill the person and that is a no. Defense of property you cannot use deadly force. You can use the imperfect defense and I believe I had a right to protect my property and mitigate the murder two to voluntary manslaughter. Remember you thought you had the right.

Example I rob a bank and I do and I flee and the police give me chase and they start to shoot at me and I turn around and shoot the police officer and kill him. I can't argue self‑defense he shot first. But I am the one that put the act ins motion and I am the wrongdoer here. No defense you didn't have a right in the good faith the argue self‑did defense to mitigate to vol the tear manslaughter.

Next involuntary manslaughter. Criminal negligence or mystery manslaughter rule. How do I know when I have to talk about it? I will give you a hint. Look to malice.

If based upon the facts you have enough to show intent to kill. Cause great bodily harm and wanton reckless conduct you will never get to involuntary manslaughter. Verses if you have an argument for wanton reckless conduct you will always get to involuntary manslaughter. Why?

Wanton and reckless conduct is what I call a jury call based on the facts is a jury request going to find wanton reckless or criminal negligence? I am lying. Let me give you an example.

Say his name is Bart driving down the street in a school zone late night going a hundred miles per hour and child steps out t and kills him. Is that murder two or involuntary manslaughter if you are going hundred miles per hour in a school zone you would think it is murder two but it is nighttime that is criminal negligence if I give the aim facts and say during lunch hour and you are more likely having children getting out and being present in the school zone and that is murder two. It is factual.

For the essay purposes you see wanton and reckless you will get to involuntary manslaughter and multiple-choice purposes look to the facts and see basically if that is something that is wanton reckless or an unintentional killing and we argue criminal negligence based on the facts.

Theft crimes are testable and will be on the mull t state and they are going to try and trick you and I use a pneumonic called PITT. When I look at t at theft crimes, I say did they get possession, interest, title and the time it was acquired. Do you realize the attempt ‑‑ it works here too and you have to be careful? Necessary sense if I borrow something and later decide to steal it could be equivalent to larceny.

Wait a minute ‑‑ but yes. Or if I borrow something under a false pretext such as I am going to take your car to take husband to the doctor knowing I am going to Vegas with the car that changes to False pretext.

With larceny key thing they like to test did you have the intent to perp permanently deprive. Larceny by trick is where you don't get title but you obtain the possession of the object by some type of fraud deceit. False pretenses you make a false representation but you get titled. Remember it has to be a past or existing fact. It can't be something in the future. Embezzlement is based upon custody. I give you the custody of the object and then of course robbery comes in there which is larceny with worse fear or intimidation and be aware of the transfer and intent doctrine that will be tested.

Another thing to be sure. An example I leave here tonight and I haven't had dinner tonight and I am hungry and look in the wallet and only have five bucks and I am not has been p I and I go in the grocery store and I would like lobster tail and I see it is 1999 and I don't have that and I see hamburger for four a 50 and I take the sticker off of the ham be burger and put on the lobster tail and pay for it and off I go. What crime have I committed? I committed false pretenses that is because titled when I tendered money and clerk had no idea what I did. Title did transfer. That is an example of false pretenses, right?

Verses if you look to larceny by trick. Again, I am taking your property obtained by fraud and say I go to get gas and I give them my debit card knowing it is no good anymore and they say go ahead and fill up the tank and I will charge your card. Knowing it is no good and I get the gas and drive off that is larceny by trick title wouldn't transfer until they tried to swipe that card and charge that credit and debit card. That would be an example of larceny by trick.

Those are the they have t crimes and this is something that comes up and you want t to make sure you understand them. Receiving stolen property that is a sleeper and receiving stolen property comes up here and there and we miss it because we don't think about it. If it is there you want to pick it up how do I know it is there. Well again you received property knowing it is stolen. I received something and told you stole it that is a no. Receiving stolen property but have you to have knowledge. That is what people don't understand you have to have knowledge.

If you go let's say the ally and someone is sitting there selling something in the back of the alley would that be equivalent of receiving stolen property. Well did I know? That is the key thing. You have to have knowledge that that is what people don't understand. If I have knowledge that was stolen. Is that objective or subjective and that is subjective that is very rare by the way but you are my inset. That is objective is a reasonable proven standard. Subjected is in my mind set. When you are dealing with receiving stolen property it is a subjective view what is in your mind set because of the element of knowledge. Have to have knowledge and have to know about it. Can't trick me.

Another big one you need the to know is burglary. First on the examination to talk about it you go to common law first. If it succeeds, I am done if it fails bring up on the essay. Common law where do they trick me. Nighttime ‑‑ where are they going to hit many, he?

You must have the specific intent to commit that felony at the rate of the time of entry. Again, if they tell you based ton facts there is a severe snowstorm and of course your car stops running and you are fearful and you are going to freeze to death and see a cabin and break in and see a watch on the table and say this is nice and you leave have you committed a burglary. The answer is no. Because at the time of entry it was to get warm. No specific act ‑‑ you committed a larceny. Committed larceny of the wood as well as the pocket watch. Right? You will know based on the facts that is the element they like to test.

Verses modern law it is attest to any structure to commit any crime. Remember store is open to the public that could be equivalent to a modern law burglary. Car. Wall safe. It is structure. The key thing is when it is a store. Like it is not trusttory but the law says yes, it is if you enter at the time with the intent to create an unlawful act. So that would be a modern law burglary.

Arson you need to know it. Remember arson common law malicious burning dwelling house of another. If you burn down your own house there is no arson. You want to be careful there. Also, you need a burning and not a blackening of the walls and it needs to be a charring of the structure itself. I should say dwelling house. Modernly it is the structure. Again, something they do test and you want to pay attention. Will be on b the MBE.

Other crime such as kidnapping and false imprisonment. Assault. Battery. Rape. Statutory rape. These are all just know your elements and they come up every once in a while, and what I call in and out. You see kidnapping and false pretense false imprisonment assault and battery if get in and out. One thing to pay attention you notice in tort false imprisonment. Assault. Battery. They will use these on the multi‑states they want to trick you. Pay attention. Remember battery and tort is a different definition. All right? But in criminal law. Watch your call.

Is unlawful application of force. Verses the intent of a harmful offensive touching of another. Big difference and I want to pay attention to that.

Other area is statutory rape. Remember that is by statute that is a strict liability crime. You are stuck. You are in no way getting around it. You did it and I don’t care if you had a mistake. Statutory. Sorry. So, you want to pay attention to the mistake and it is definitely no offense. Consent is no defense. Statutory. So, you are on your own.

Again, come back to the over defenses. Mistake of fact. Mistake of law. Mistake of fact and the law are similar to legal impossible t factual impossibility. The examiner near will allow you to change if you can't remember one go for the other. Remember mistake of fact. The fact that you mistake to be is not a crime. Whatever I believe in my mind set. Necessary sense if I believe in regards to this is my wallet and pic up and leave with it. That is a mistake of fact it is not an actual crime, right?

Verses mistake of law. General notable defense if you can show alliance on an attorney advice or something it could be a defense. Duress comes up every once in a while, and it has to be imminent threat to you or a close family member haven’t they had one on the baby bar imminent threat to your cat and it was an essay. Knowing people are cat or dog lovers. Moderately the court might include the pet and they might in the future I would go through it but the rule says yourself or a close family member haven’t duress been no attempt to murder that is a trick pay attention.

Where a guy threatened another guy because he couldn't get in the nightclub and he through a move to cocktail and through it in and it killed people. And I am going to argue duress for the arson I am finding you guilty of the murder through what? The felony murder rule. Right?

So, through the felony murder rule I can argue through arson. Wait if I can show the duress that means it is arson has a true defense and now, I can't use the felony murder rule for the murder. Make sense? So, this is a trick and this is something I need to look at to make sure I go through and that is why again I tell you the steps are so important to go through and make sure you pick it up and I don't want to miss things and dissect enough so I get a full understanding. Consent is straightforward and willingness and of course entrapment and I haven't seen it on the baby bar for years if you see it you have views. Predispose and subjective manner. Predispose you could have done the act. A lot of times and I pay attention to the facts if I am a convicted burglar and someone has hired me to do a murder. Am I really predisposed and I think I am going to have an argument there? Verses rob a bank and burglary probably. Verses subjective you are looking at the police activity. Are you so overcome by the police activity you would succumb to do act and then actually dealing with pornography in regards to the Mr. Lis kept trying the to sell this guy pornography and one day he said he was going to buy it? They kept coming to his door and he argued to entrapment and he got off because the police kept coming over and over where he got fed up and bought it so they would go away and not come back nil anymore and they found the argue for entrapment to work based on the police activity.

The other issue too. Diminished capacity. You lack the mens rea. If you see a call to question that says what defense is. Remember what defense is means two or more. A lot of times I tell students if you see intoxication as defense the other defense is diminished capacity, they have a tendency the o goes together. If you see insanity diminished capacity is the other defense. Defense you go through. Insanity. Jurisdiction that didn't answer the call of defenses. And I need to talk about another one which is the diminished capacity.

Another area that I want you to pay attention to is the statute. Statutes people don't understand students have a tendency to ignore the statute. We don't like it because you are telling me the law. You need to break apart the statute and determine the active ray I can't say and ‑‑ what is the actus ‑‑ it is the act possess drugs and the mens rea. What is that ‑‑ knowingly is a specific intent. I need to show you had the specific intent. As well as the actus ‑‑ of the possession of the drugs and you want to break apart the statute and make sure what the actus and mens rea is to determine if there is going to be liability. Verse if I tell you it is illegal to have drugs in the car. What is the actus? Drugs in the car. What is the mens rea. They didn't give to me. Could be strict liability you have drugs in your car if I rent a car and get pulled over and say can I look in the trunk and you say what do I care and there are drugs in the car and statute of strict liability I am in serious trouble haven't they didn't give the term knowingly or should be aware. Or should have known. Nothing to grab onto. So that is interpreted as strict liability.

Another thing to be aware is call to question. Call of question should they be convicted of murder or anything lesser offense. What does that mean. Lu talks about murder and any lesser included offense means look for voluntary or involuntary manslaughter. Doesn't mean the go to battery. Battery is a lesser included defense and merges and we don't discuss and it is a waste of time. Okay?

Again in regards to convicted of murder or any lesser included defense that is a way of looking for voluntary and involuntary manslaughter. You have a specific call can you be charged with burglary and robbery. That tells me are at issue and I have the o go through both. Break apart burglary and see are where they are testing and the robbery. And specific call what does that tell me? And the element. And or defense is an issue. The more they give you have the issue. It is all about analysis I have go on in the inside and see what is being tested. Everybody saw the burglary and everybody saw the robbery and obviously that is not where my point bias is going to come are from and I need the o pay attentions to that it is very important.

With crimes it comes down to relevance. You have to break part the elements and use the tools you have approach for murder and make sure the elements of the crime are there and break apart and if there are applicable defenses and then again if you are imputing today a third party and how and break apart in and of itself. This is something I want you to play with why? Sometimes students have a hard time writing it and sometimes they set you up and it is going to be a hard time. What do I mean? First (Indistinct) guilty of robbery. Burglary and the murder and look at the fact pattern did death didn't do anything really other than meet in the park one night and say no problem you did none of t acts and how do I talk about conspiracy ask and the Pinkerton's and try the o impute to him and I talk about that for call number two and the party that did the act and that makes it difficult. Say he is the one being charged what you are going to do is bring up the conspiracy and show the agreement and bring up Pinkerton and then it is a sub issue of as long as I can show defendant two did in regards to the burglary and then I have to prove up the under lying crime the burglary. Don't forget this A. sometimes again, call 1 and 2. Call one will be conspiracy and the person didn't do anything and call two there will have the party that did it all. Verses gee I could have a call where I am the only one being charged the other one died the other coconspirator did. Onto me for conspiracy. How do I get better and get a better understanding of this? Practice. That is why you have to practice and get ahold of as many exams as you can. And start reading the calls and see you would set up the exam and what issues you see and can I the tick late back in an answer. If I can't that is a problem. I don't want to second guess myself on the day of the exam and say I don't know how the to write this. Not good timing.

Anybody have questions in the criminal law on what we went through? So, you have a good idea in regards to what the tested. Murder test b l. Theft crimes testable. As you can see with criminal law it is a r short checklist but there is a lot of meat there they can test and you want to know it. Criminal law is like a subject in weeks and people can get in and out and a lot there they can test o b an exam verses tort you see ‑‑ there is so much more in depth there that they can't give you a (Indistinct) liability. Negligence as well as defamation and invasion of privacy for the same fact pattern that is impossible. They can give products and negligence and you have seen that because I know it. It is one with the baby sitter and she wasn't watching the kids and one girl got burnt and wasn't watching one of the kids where this he kicked a ball in the street and almost got ran over r. They couldn't have everything on the checklist in one exam it is impossible and I couldn't take you from defamation to liability that is hard the to do. And how we get better is practice the more exams I expose myself to and get a good luck and understand how the concept is the tested is going to help you. And to plug in the checklist and the more I can relate to how I see to this day triggers my memory and I remember what I missed and I plugged back in the checklist to how the concept is tested and how it come ups. Next week is criminal law essay you and sent 33 multiple choice questions and be aware of that and look for the e‑mail to come out and if you have questions during the preparation feel free the to shoot me an e‑mail and I will be more than happy to help in any way I can. Again, do contracts and torts and we up the ante with criminal law and now do your rotation of itself.

Again, you got to get your neat wet and do this. This is not an easy examine with proper preparation and doing the multistate and getting average of 75, 80 I am passing the multistate I see the issues and do can go well there is no reason I can't pass I have to put the owe nus in no way around that. If anything comes up let me know otherwise, I wish you guys good night.

Shoot me an e‑mail at jolly Taft U dot E D U and I will send you what I have so I don't forget and I will shoot you off the multiple-choice questions and we have a simulator on Taft's web site. There’s as old. I think 1980 baby bar 100 simulated questions on the web site and you might want to do that as well and a couple of the questions have popped up on the baby bar and go in rotation and 20 percent are repeats and when the p baby bar comes down 20 percent is on the last baby ask bar and they do a rotation and might be worth looking at. Any questions?

All right I wish you guys a good night and hopefully you have more strength in you and maybe to spot another exam or two and look for the e‑mail and I will talk to you guys next week. Bye have a good evening good night.