Taft Baby Bar mini series.

Tuesday, May 18th, 2021,

PROFESSOR: We will be starting in approximately 1 minute.

....

Good evening everybody welcome to tonight's Baby Bar mein series. These sessions are recorded. For your convenience, you can listen to previous recording. Go to Taft website. Student section and go to Baby Bar mini series. Handouts are posted. And if you have questions, place them in the chat and I will address them.

With criminal law, it's a little bit different beast. I find criminal law, it's not really conceptually difficult but it seems to be one of the lowest multiple choice scores for students. And we have to pay attention to the call of the questions and what they are asking for.

With students, we don't really focus on the call and what it's asking.

Students requested to go over Multistate to go over. We need to look to what is being asked of us as an examiner. That's important. What is the call dictating and what they are looking for and look to the language. What's your best defense, what's the best way to get me to the situation I'm trying to get to. Get off the crime, mitigate the situation, whatever it maybe. This is something we need to pay attention to.

In this exam, we will be looking at tonight, the first thing you will read the call of the question.

And in this examination, they give you the order of how you will answer. Angela will be first, Brian and charter. And the reason they do this, be aware and play with it to have a better handle on it. A lot of times they will have you address the defendant who didn't do anything. They agree and accomplice they didn't partake. So know to setup the exam and argue it.

It's important to down line the examination.

Most of you will do this online. They have the virtual scratch paper. Start writing your answer and outline there and go back and make it a complete full sentence answer. That will save time. If I run out of time, I have a couple of issues there versus having nothing there. These are things you should be thinking about in practicing and implementing, not only to get our time down but what's going to work best for you.

Based on if students I have communicated with, outlining in virtual outline paper, the window is too small. If it's bigger than the scratch paper itself. So you want to get practice and get that underneath your belt.

When it's time to download the software, there are practice exam. Get to practice the software so you know and understand what you will be doing and up against on exam day itself. That's important.

The more emulation you get, the better as to know what you will be seeing and what to write. That's important. The exam itself is stressful enough. I don't need anything that's upsetting a great deal. We don't want that. Looking at that. Practicing it, that's going to help you.

With this essay, the first thing is read the call of the question. A student brought up the other day, you say things but sometimes you just don't click.

With this call, what crimes if Angela, Brian, charter be charged and did haves they can assert?

The call, the crimes.

Angela, Brian, charter, reasonably charged.

There are strong element to the underlining crime.

What defenses, two or more. Defenses can be self‑defense, defense of others, crime prevention, defense of property. It can mean counter argument. That's important because you want to make sure that you answer the call.

What's important with this call is what I call a general call. What that means is that you will get point value in identifying the issue. So if I see burglary, I will get points.

But also I will get points in my analysis. I and A in analysis.

Both will get me points.

Call is specific. Angela in burglary, the point is to the actual analysis. You should be telling yourself there are element, elements or defense of issues. You got to find it. It's not straightforward. They give you a specific call. This calls is general.

Another thing I want to point out is based upon people taking Baby Bar review courses they point out that it's important for you to hear the call. What you need to understand, yes, you do need to. What that means is this call, you have multiple crimes. And you got to do Angela, then Brian, then charter. They give you plea defendants. That's a ‑‑ three defendants, that's a flag. Why two versus three? So go back and look. There is must be something different among the parties. Something has got to be different amongst the parties.

So something I know going in. I should be looking for, fact pattern, and not missing that. Pay attention to what you are reading.

The other thing is when you read the examination, I want you to break it apart. Look for period. And and or, to the language, these are going to figure issues.

If you read the exam, paragraph form, you will miss issues.

You are not breaking apart and articulating and thinking about what could be charged to these parties. You are the attorney for these parties. In going through it, what are the potential charges the prosecution come after the three of them. That's something as a lawyer you would anticipate in order to prepare your case.

Fact pattern.

Angela, Brian, and charter were at Angela's house drinking beer. I know the call ask me for defenses. I'm thinking voluntary intoxication. When you do see voluntary intoxication, what's the other defense I should be bringing up diminished capacity.

Those two have a relationship. Whenever I see involuntary intoxication. I also address diminished capacity.

On the first sentence, I'm excited, because I see two defenses. I know I'm paying attention to the call.

It says they want to order pizza and have it delivered.

Okay. But they did not have enough money to pay for it. So they are aware that they have no money.

Charter suggested, that's a good word, they order the pizza and grab it from the pizza delivery person without paying.

He is soliciting. Solicitation. So I see charter on his own have a separate crime of solicitation.

Brian told Angela to call the pizza parlor. She did so and order the pizza knowing she could not pay for it. Brian tells Angela to make the phone call. Based on her conduct, she disagree, didn't she. So there's the conspiracy.

Brian and charter waited outside the house.

When the delivery person arrived with the pizza, charter pulled a gun out of the jacket pocket.

So now I'm thinking he is using force. Brian had no idea charter is carrying a gun. Counter argument, I didn't know he has a gun.

As a conspirator, you are responsible for the natural probable result based on conspiracy.

Foreseeable that someone could get hurt? Yes.

Charter fire into the delivery person's vehicle but did not hit anybody. This is an odd fact. Attempted murder. Why are you firing to the vehicle? Are you trying to scare them? Hurt them? Why would you shoot it into the delivery person's vehicle?

Charter told Brian to grab the pizza and run.

Brian was shocked by charter's actions. So he is shocked.

And did not move.

Charter turned the gun on Brian and told him again, to grab the pizza and run.

Brian then grabbed the pizza and charter and Brian fled the scene it have so someone told you to grab the pizza, has a gun on you. Defense? Eminent threat.

And they all returned to the backdoor and ate the pizza.

The problem here, Angela knew they didn't have money to pay for the pizza. And Angela eating the pizza, that's receiving stolen property.

Later police arrested the three.

You will read it one time through.

And go back.

Outline.

And write the examination.

First, Angela. I see the conspiracy.

So even though really solicitation occurred, that's against charter.

So based on the call, I have to address Angela first.

Remember, with the conspiracy is an agreement between two or more to commit an unlawful act.

When you do see they put something at issue, like conspiracy, I want you to take a step back and see what element are they tested here.

We have two or more, unlawful act, that's larceny.

They suggested that they order pizza and not pay for it, grab it.

Brian looked at Angela and requested her to call to order the pizza. And she did.

She didn't say yes, based on her conduct, when Brian basically told her to call, she picked up the phone and did. There is an agreement between the parties based on the action. That's a particular element that could be argued.

Therefore we have conspiracy.

Now, after each crime, you prove it up, it's an absolute, which is conspiracy, if it's a gray area, I want you to go to defenses.

Do not wait and do the defenses at the very end of the exam. Why? Because now the reader doesn't know if you understand if these defenses were for all the crimes or not.

And sometimes, like duress, it doesn't work for murder. If you put at the end, you put a question mark that if you understand it doesn't work on the other crimes.

Each time there is a crime, look for it and apply for the applicable defenses.

Based upon the first sentence, we say there is an issue of what? Intoxication.

So remember, with involuntary intoxication, negate the specific intent.

However, are you going to rebut it. She was aware that they didn't have money to pay for it. She ordered the pizza with that knowledge. So she is aware of what she is doing. She is not so intoxicated that she is not aware of her action. Intoxication is no defense. And diminished capacity. Since they have been drinking, is it so diminished that they are not aware. But she is able to order the pizza and give the address.

So her capacity is not that diminished that she can't form the intent for the conspiracy.

Now, am I done with Angela? No.

At this point, what you are going to do is to look what else occurred. Attempted murder. There is a potential robbery with the gun. If not fall back on larceny.

She didn't do these actions. What that means is you will do Pinkerton's Rule. That's why it's important to outline. You know the outcome whether or not you will impute this onto her.

Based on Pinkerton's Rule, you are liable for the foreseeable ‑‑ based on the agreement about getting the pizza. For the attempted murder. She will argue, she didn't know there was a gun.

But you grabbed the pizza. So additional force is foreseeable. Any force use is furtherance. I will argue that if attempt is found against charter. We will impute it onto her through Pinkerton's Rule.

I will not address it at this point, the attempt, because that belongs under charter.

So you can infra, to be discussed. But I did analysis the elements of the conspiracy under Pinkerton's Rule to show how we can impute it.

Same thing with the robbery. She is a co conspirator. They agreed to take the pizza without paying for it. So under Pinkerton's Rule, it's a probable result of the agreement, she will be liable for the robbery to be discussed.

And larceny, which again, as a co conspirator, did agree to grab the pizza without paying for it. That's a natural probable result and under Pinkerton's Rule she would be liable.

The other crime we impute to her under stolen property. Remember, receiving stolen property it's subjective.

Subjective intent. So you have to have knowledge at the time of the getting that property it's stolen. Well, she agreed to steal the pizza. She knows when they ran back with it without money, it was stolen. She would be guilty of receiving stolen property. Angela, the conspiracy, and go through Pinkerton's Rule. And key thing again, I want you to remember with the Pinkerton's Rule is you got to break apart the elements and look to the in furtherance thereof. Natural probable result of the agreement. Is it foreseeable. You got to look at that. And the foreseeable is generic. It's not foreseeable, that I don't want to be narrow in your thinking, that force could be used. It's more genetic. In this case to get the pizza. Some type of force, it's relative foreseeable and natural probable result of what we agreed to based on the facts.

Questions on Angela?

I can't stress enough. Conspiracy is at issue. It's tested all the time.

Go in the examination and ace it. It's in our working so you do well. It's a good issue and it's not that difficult.

Let's look to state vs. Brian. So under conspiracy. I can discuss supra. And in regards to the defenses intoxication and diminished capacity.

And also up above, I can argue to the same thing argue attempted murder as well as robbery. What's the difference between Brian and Angela? Remember, when he shot the delivery car, he was shocked. And charter pointed the gun on him, it raises duress. Imminent threat to myself or lovely close one, I can use as defense. He will argue that charter shot the gun to the delivery man, he was shocked, charter turned and aimed the gun at him. So he was in disbelieve that he was going to shoot. If he was that fearful, will he go back to the house and sit down and eat the pizza. So again. Diminished capacity, supra. Fine and discuss supra. And larceny. And bring up duress.

In going through the conspiracy and Pinkerton's Rule so I will borrow it for Brian.

Charter. Charter solicited. That was in the first paragraph when charter suggested to order the pizza. Bring up solicitation. Is he inducing. Knowing they don't have enough money, of course, he is.

He establishes the intent to commit larceny, so he will be charged with solicitation.

What we do know about solicitation?

Solicitation merges.

In the call, charged? Solicitation. Underlying crime, attempted murder and larceny, it will merge into that crime. So you do want to point that out to the examiners.

Next, attempted murder. You need to show specific intent, substantial step. Apparentability. He point the gun and fire into the car show specific intent. Was it to harm or commit robbery.

Firing it, he has apparentability. He had the gun. That's a substantial step. And again, why is he firing a gun. Counter argument, whether the intent was to do force, to obtain the pizza itself or was he trying to murder that delivery person. That is the elements that is being tested there.

Next in regards to robbery, again, robbery, charter, Brian fled with the pizza after charter fired into the delivery person's van. There is taking away, carry away the property of the pizza. Of another.

The issue is was it by force, fear, and intimidation?

He grabbed it from the delivery person. That's fear. Since you took a gun out and shot to the person's vehicle. So I'm at fear that's based on your conduct.

And intent to deprive. Yes, they ate it.

And supra back here defenses.

And if they find there's no force, fear, intimidation. I will fall back on larceny.

So again, as discussed, they did take the pizza without paying for it. It's taking ran off and ate it, taking away. And ate it, show specific intent to permanently deprive. Supra backup your defenses.

In writing it, I would never write the call of the question. I do that for your benefit. I do state vs. Angela. State and rules.

And then the analysis.

The key thing I want you to look to see what is being tested and agreement is my point guide. Based upon the facts, based on his suggesting and looking at her and telling her to call, she did, based on the conduct, I want the reader to know I see this. Three sentences there. I want them to know these are big issues, that's important to me. Outlining the exam and rewriting it, that's going to help you reflect on the elements and see what is being tested here. That's important. Keep in mind.

And then do your defenses.

Again, whenever you find it true crime, this one is pretty solid or gray area, and if there's facts that apply applicable defense, I do want you to bring it up there and then steal it going forward to discuss supra. Don't wait until the end.

So intoxication, you have involuntary intoxication. Negates specific intent. What crimes are we looking at. Conspiracy is specific intent. Robbery, larceny, those are specific intent. Attempted murder. That's specific intent.

So intoxication get her off? Based on the actor knowing that she didn't have enough money, knowing how to order the pizza and ‑‑ she is not that intoxicated. I would argue. Same thing with the same type of argument with diminished capacity.

Again, intoxication, diminished capacity. You have a tenancy to go together. So they will be looking at that.

Attempted murder. I let the reader know, the charge will be coming down later. I imputed onto her through Pinkerton's Rule. She is the co conspirator. She is responsible for natural probable result and foreseeable. Angela did agree to grab the pizza.

But she said we didn't contemplate any weapons. You shoot a gun into the car, and you agree not pay for it. So force will need to be used. So it doesn't have to be the actual conduct that did occur, it's general.

Who would pull out a gun and shoot at the delivery person's vehicle ‑‑ delivery person's vehicle. Generalize. Pushing you down. Yes. That's within the scope of conspiracy, so Pinkerton's Rule would apply here.

The only other argument here is if he is charged with attempted murder and not guilty. Not impute it onto her. The specific intent element, commit murder, that's the problem. That's the weak link.

Robbery again, co conspirator based upon using the gun and instilling fear into the person. Can she be responsible under Pinkerton's Rule as co conspirator? Yes. We fall back on larceny, if they find there's no force fear intimidation, it's larceny.

As a co conspirator. You can be only charged with underlying crime that the other conspirator was charged with. If they don't find liability against Brian or charter, we can't find liability for Angela for these crimes either. So remember that.

The other thing would be receiving stolen property, it's subjective intent. Were they aware? Yes they were.

State vs. Brian, look to the conspiracy. Define and discussed supra. If you did good job prove it between Angela and Brian, and then supra back up my defenses. Pinkerton's Rule. Supra backup.

What's the main difference here between Brian and Angela? Duress. That's my big item. That's the difference.

If you have three parties, something got to be different amongst them. It can't be all the time. There is a problem here. So keep that in mind.

Remember, duress, basically, were you overcome another based on your threat?

Threat has to be imminent, to you or close individual such as your husband or children. One Baby Bar did to the cat. I argued it was an essay people love their animal. When they put it at issue, traditional the cat would not bring issue, and bring up policy to bring up your feelings with.

Charter was the one took the gun, and shot to the vehicle, he was stunned and he turns the gun on him. So based on the fact I have no other choice.

He told me to grab the pizza and fled but you ran home and sat there and ate pizza. If you were that fearful, you wouldn't sit together to eat pizza. So no defense.

So supra back there, intoxication, diminished capacity, defense.

State vs. Charter, what's difference? Solicitation.

Back at the house, drinking beer. Get pizza, no money, suggest that shows the conspiracy, argue the attempt.

Again, I want you to always go what is really being tested here?

We can pump through the element but the specific intent is big one here. Is it attempted murder or use it to scare?

My intent here is to instill fear. So that way I can grab the pizza and make your argument.

Of course, go to your discussion of robbery. Was it fear, force, intimidation, you did pull out a gun, versus larceny.

And those are your main difference in regards to the three defendants.

Common mistake that people take. One, they don't take the call in order. You have to. Angela is first.

Another issue that I see that people argue accessory. If you have a conspiracy, you have that agreement, don't argue accessory. Conspiracy is a better argument, why? If I have agreement, I can charge you with conspiracy and underlying crime.

As accessory, there's no other crime. Charge you with accessory and underlying crime. No.

People have tendency to talk about all the crimes. And then they come back and address the defenses. And that confuses the reader because we don't understand what works for what and what applicable for all. We don't want to do that.

Duress is seen by most people but not argue the facts. Make sure you use the facts to support your position. That's important.

If you don't, then you won't get the full credit. Seeing the issue is not that difficult.

The more simplistic the issue, that means they are plague with me. Look for the issue tested. Very important.

Any questions in regards to the essay?

Okay. Let's go through multiple choice questions. I wish I have them up here to post.

First one, someone asked about is 16.

16 dealing with the property.

Let's go through this. On the birthday his friend bought a television. Following day when he opened the box and began using the television, there's no warranty document with it. He asked for the warranty document.

The television was stolen.

He kept the television and continued using it.

So stolen property. Is he guilty of receiving stolen property? The answer is no. Why? Remember, it's subjective. You have to have knowledge at the time at the receipt of the television. Not a day after. So the fact when he got it at that point, he had no notice. It came a day later. So therefore he is not guilty of receiving stolen property. It's not nice that he doesn't give it back. But D would be the best answer. You have to have knowledge at the time in the receipt of the property. Make sense?

Next question was 19. So let's look at it. John is charged with murder. What are we looking for here?

You have Tom, John, and Sam, teenager at the camp. Sam disliked over heard the conversations that they hope their plan will be successful and. As Tom and John walked toward the room. John decided not to go through with the plan.

I had a plan, so there's a conspiracy.

I'm responsible as a co conspirator. How do I get out of it.

Never out of the conspiracy. You will be charge with the conspiracy. The issue with withdraw does that give me get furtherance of criminal act, yes. If you powerfully withdraw.

He decided to not go through with it. He said nothing to Tom. Under the common law, you need effectively communicate your withdraw to all coconspiracy. So he is still on the hook.

Is John charged with the murder. The court will find what? He is guilty under Pinkerton's Rule.

Because he didn't withdraw effectively.

So when you go through the facts, A and B. A is guilty, because ‑‑ (*reading*). That looks good.

B, guilty, he aided and abetted. No.

So A has to be the best answer choice.

This is what's important. If you miss this, two reasons, maybe you did not apply Pinkerton's Rule. Or withdrawing, did not go through the rule properly.

So majority rule or common law effectively communicated.

Under the model rule, on the crime.

On multiple choice, you are responsible for common law unless dictated otherwise.

Question 19, we know A is the best answer choice.

Again, these are good to use, because they test the nuances and they try to trick me. They are very good at doing that. If I break it apart and focus on it, are they going to trick you anymore? No. So that's important. The more you look at it and break it apart, you will do well.

Let's look at question number 21. Look at the call. He is charged with the murder. The argument in defense is that. So he is being charged with the murder. You are looking for his effective argument.

He's been released from prison. In need of money, he called his friend and asked if he would be willing to join a con.

Only if there's no violence. Does that matter?

If I agree there's no violence, does that matter? No. It doesn't.

So in essence, even though we agree no weapon and weapons are used, it doesn't work that way.

One insisted toy guns, and order to get the money and gem in the safe.

The call is murder. And you participated in robbery. Robbery is inherently dangerous felony. So I'm thinking felony murder rule.

Then one fled with the pistol. And one jumped to the car. Speeding away from the scene. One struck Norah a pedestrian.

What's the defense? What occurred here? Well, again, pistol who fled from the store. He is aiming the pistol at him. And jumped in the car, and struck Norah.

So he is charged with the murder of con. When he shot the pistol, who died?

How can he be charged for the murder of con?

Making the inference here, his co conspirator, is dead.

He had a right to self‑defense or defense of property. Because if you find that Perry is guilty. Impute on delver. If he is justified and underlying shooting which would be B, that would get me off.

Perry can claim self‑defense. The murder is justified. You can't impute it onto me as a conspirator of what's going on unless there is a wrong doing on them. Make sense?

The last one is 29.

You won't see these type questions on the Baby Bar exam. You are being charged with voluntary manslaughter. Which one will lead to acquittal. With voluntary slaughter. First ‑‑ the other way is imperfect defense. At the time of the shooting, he believe that one was going to stab her. But the reasonable person would not have held that belief. That's an imperfect defense. If a reasonable person wouldn't believe that, you can't use that defense. To use self‑defense, a reasonable person believe under the circumstances.

If a reason person wouldn't have that belief, you can't use it.

At the time of the shooting reasonable person would have believed will be stabbed. But Dolly did not hold that belief.

But since you did not believe it, you have no claim of self‑defense.

So you have to have the beliefs and reasonable prudent person to find me not guilty. Obviously the voluntary manslaughter. In this case, they are testing imperfect self‑defense. But can you use it or testing self‑defense. Can you use it to get me off to the voluntary manslaughter. You can use it to mitigate to it. But it's not going to get you acquitted from the charge because it's imperfect. Not a valid true defense. That's when imperfect defense comes up.

Question number 32. Basically they gave you a defamation of the larcenyist conversion as intentionally carry property belong to another. If you get a question like this, focus on the statute. And look for the element met. Based on the fact pattern, you use Pinkerton's Rule. And it did take place based upon charged with being an accessory for the conversion, they will find him guilty. It's foreseeable. It's foreseeable event based on the capture that you took action to prevent yourself from being caught. So therefore you would be guilty.

With statute, you got to be careful of what? You got to look to the elements.

I don't know why that is. We have a tendency to ignore it. You need to break up the elements to see if they have been met.

The other thing in regards to criminal law. Again is pay attention to the call of the question. Break apart the elements and make sure the facts support it and you are answering the call of the question.

Any questions at this point?

Next week is going to be a loaded week.

Next week we will go over the most current Baby Bar that just came down. Four essays. We will have a lot of meet to go ‑‑ meat to go through.

Examination, 1 was a beast. You will find that they tested more on the negative. And I don't like that. We will go over that so you have a good handle if that comes your way on the next examination. I don't like they ask a question that never will work.

If you know the answer is no, you have to prove up the offer of acceptance and show evidence and move on. The call be dictate. Those are negative exam and contract one, negative exam which students did not do well. But we will go over that next week.

Look for those questions. They will be sent out to you on Friday. And the answers on Monday. And go over those on Tuesday.

At this point, we covereded torts. Contracts and criminal law. And here comes your rotation. Rotating your subjects.

That means you got to do your full checklist for torts, contracts and criminal law. And put that in rotation. Let's say you are studying torts. You got to review contracts even if it's the checklist will help. And you got to be doing in torts, contract, criminal law. You can't be stuck in one subject. Time will get away from you and you have to start mixing it up.

Look to the why.

If you don't do that, you will make the same mistake.

So that's important. Any questions?

You guys are quiet tonight.

If anything does come up, shoot me an e‑mail, and I will be more than happy to help you. There's lots of practice exams on Taft student section. And then if you want prior Baby Bar questions, you can look to those as well.

And look to the most current and work backwards. That's something you want to be aware of.

If you don't have questions, I will say good night. Any questions for me before we go?

Okay. I hope I answered your question in regards to multiple choice. If not, I will be more than happy to go back again with you. Keep practicing. I want to see in regards to writing the essay questions and practicing the Multistate. That's the only way you will pass this thing. Repetition. And the more you understand and use your tool and checklist, and break it apart, and under the call, practice on that. Wish you all a good night.

(Event adjourned at 6:46 p.m.)

\* \* \*