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**>> Good evening, everybody. We'll be starting in approximately two minutes. Thank you.**

**We'll be starting in approximately one minute.**

**Good evening everybody welcome to tonight's baby bar series I hope everybody's doing well this evening. If you would like to go back to Website sign on and go to the student section any of our lectures are up there for your convenience. Anything we handout such as challenge list those are posted there for your convenience as well. Tonight our primary focus will be on the subject matter on the baby bar examination which is criminal law. A couple key things I want you to remember and for some reason some students have a harder time with criminal law X. I think in the questions they don't pay attention to the law because criminal law as you know is not a hard subject matter but I think they trick with you. The first thing pay attention do the facts support the crime if there's not enough fact to support the burglary or whatever the issue then the crime was not submitted in and of itself. Lack of intent could be argued of self‑defense, defense of others whatever the facts trigger, and, of course, the biggy. Can liability be imputed to another. Highly testable and this deal with accomplice liability or a conspiracy through the Pinkerton rule. These are important concepts we need to know. The first focus we need solicitation, concept and conspiracy. These are highly testable they come down all the time. Conspiracy I would be shocked if it doesn't come down on the exam. It's an area you should know and have a good handle on. Even looking at the bar results came out last Friday for the February exam they had cross‑over on their exam and, of course, they tested murder, they tested the felony murder rule and red line rule but of course, conspiracy was there as well. It will be interesting to see if a lot of people picked it up. But it is highly testable so you need to go in there looking for the concept.**

 **The first thing we're going to look at is Inchoate crime social security solicitation but a sleeper when you have the specific intent to entice somebody to do something to commit the unlawful act. If I call you up and say do you want to rob the bank that would be a form of solicitation. Versus the fact pattern you and I go in the store and say, hey, this is a stick up. You need verbiage going on between the parties to show I'm enticing you to help me along the way. A solicitation with draws no defense. Next in regards to the model Penal Code, the model Penal Code can you with draw, and you can with draw. It's a complete voluntary abandonment of the crime. You must take steps to abandon and get out. Next in regards to solicitation I want you to remember it merges. What does that mean? An if a crime merges that means it goes into the other crime, right, so you can't charge me for both offenses you can't charge me solicitation to murder as well as murder itself if I committed the murder. This is a letters included offense. It will conspiracy. If you see this come up in regards to essay question, what do you do, bring it up and then show merger rule in and of itself. You wouldn't ignore if it merge. You do want to bring it up, go through it and let the exhibiters you see it at and I shall then go from there.**

**Northbound next in regards to Inchoate crimes we have the issue with attempt. Attempt there is a couple trick with attempt. First attempt is where you have the specific intent. You take a substantial step to commit that crime, you look to the apparentability to commit the crime and you look to the factual possibility T. key thing with attempt you got to focus on the elements of attempt. Attempted robbery, attempted murder. You focus on the intent r intent of ‑‑ where it's important to look to the underlying crime let's say attempting burglary, when it says you have the apparent ability. That's where it come to play could Melanie commit actual burglary based on the facts and if the answer is yes then I have the about ability to commit the crime. You don't prove up the burglary. You focus on your elements of attempt. What you're looking for multi‑states when you go through these elements make sure the party being charged with the attempt has the apparent ability to commit the actual crime.**

 **Now, another area students get confused is factual impossibility and legal impossibility. Factual impact possibility you look to the defendant. The defendant's mindset. In the defendant's mind, his belief, would the act he's committing be a crime and most likely the answer is yes. A prime example I try to steal your billfold out of the back of your pocket but it wasn't in the back of pocket. Factual I believe believed it to be in the back of your pocket. Unbeknown the fact to me the fold wasn't there, doesn't matter they're not going to allow me to use as defense they want to punish the culpable mind.**

**Legal impossibility unless you show you relied on something. A prime example would be hunting laws you believe it's I against the law to go hunting but no such law so possibility is no defense. These are two areas that come up on the multiple choice questions. Withdrawal not valid if you enter the zone of perpetration under the model Penal Code which is nice it match solicitation they abandon the crime would it be a defense and merger works here as well. You can't ‑‑ attempt if you see I do attempted burg ‑‑ but I'm successful you're going to bring up in regards to the actual to the burglary. Sometimes on exam they want both. How do I know? When it's a gray area. An even son multi‑states where there's a robbery, and I go into rob the store, but I see the sales clerk is with my girlfriend so I get mad and lock him in the freezer and I take the money out of the cash register and leave. That was attempted robbery. Then you bring up robbery and show the force fear intimidation wasn't conducted the in front of parties and in this case bring both up but rare and that's the way you see it: when you see intent I can't say enough go through elements of attempt not the underlying crime. The biggy conspiracy was there an actual agreement. What do you need to see for an agreement? We can see agreement based on actual verge expressed, by conduct or if there's a uni lateral agreement. Uni lateral is new if to us students. Conduct wink wink let's go rob the bank. They go take the money out of the cash register. That would be agreement by conduct. Unilateral is where there's no agreement between the you will parties but you think there's agreement such as police grows murder with you. Two parties agree to do a killing and this is one on multi‑states with the counselor to camp and the two boys get mad at him. They go hide and going to go hide his asthma medicine and hoping it would kill him and another child overhears and he's mad at the council and goes and takes medicine and the other two conspired didn't know of the third party but that would be what we call a unilateral agreement. With conspiracy the majority rule the only way to withdrawal if you communicate to all conspirators and the model Penal Code says you throughout the crime. Once you find there's a conspiracy you're guilty of the conspiracy never goes away. The affect if you show there's a valid with it cuts off liability for any further crimes. Let me say that again. If you prove of an actual conspiracy you also will be guilty of the conspiracy. The affect of the withdrawal cuts off liability for the future conduct.**

**I want to make sure you understand that. Once you've conspired you're guilty. Withdrawal releases the crime and furtherance thereof. Pinker ton's rule very testable. What is pinker tons? If you have agreement you and I and I go do some other act, wasn't our agreement you were going to have a gun and kill a witness, right? I the law is trying to impute my conduct onto you and how do we do that and we do that through pinker ton's rule. Each member of the conspiracy is liable for any foreseeable natural probably results it have conspiracy that's what you're going to argue. A lot of times you see in the facts toy guns by I carried a real gun. Again, you look at as broad spectrum.**

**You're going to be culpable and/or you'll see in the fact pattern the last bar that just came down the person dropped the gun they were nervous and the gun obviously shot and hit a customer. Is it foreseeable. Didn't shoot anyone. Then a death could consult. Death could result when committing a robbery.**

 **Highly testable play with it, get to know it because it's going to be there. This is something I already know before I go into the door so I do extremely well because I can have canned up, memorized and go from there. More ton's rule. An a different beast. It's not very testable. You might see on multi‑state. More ton's rule is very specific it takes two to commit the crime being charged. Since it takes two you can't have conspiracy and that would be like adultery takes two rare in and of itself coming up. But again based on the law you need to show two wrongdoer to do the act. Let's say they pass a law saying it's illegal to box. Takes two to box. If you try to charge with conspiracy you argue the more ton rule and underlying crime the violation of boxing behavior the case may be.**

 **Remember with conspiracy merge of doctrine does not apply. The conspiracy never merges so what does that mean? You can be charged with conspiracy as well as underlying crime. Conspiracy and murder. Conspiracy and robbery. You can be charged not only with conspiracy but the other acts that go along with it because it doesn't merge. These are your Inchoate crimes and, again, highly testable. I want to make sure you have a good handle on these. Very important. Pinker ton's rule highly testable, very testable, make sure you understand it and make sure you know how to communicate it to the reader. If I have A and B agreed to something. We agree today go rob a store with squirt guns. B has a real gun. B sees a previous friend he doesn't like he's in the store and shoots him dead. Now, A is charged with that murder. How can that be? You bring up conspiracy between A and B and then now you're pointing out through pinker ton's can we impute B's act of killing that customer onto A and that's where you argue the natural probable foreseeable result. If you're committing the act of robbery, foreseeable a death could result. A would be guilty and go down. For that murder. Again, highly testable so you want to play with it and understand how it's tested.**

**Third the party liability vicarious comes up. Vicarious you know in torts doesn't come up too much in crimes. Employer relationship employer can be responsible for employees conduct. You tell a bouncer to keep people out and make sure they don't come back in of course, you can be vicarious liable based on the force being used police liability the difference between police liability and conspiracy is the agreement. If you see base does on the facts you have a strong argument for agreement I would never talk about accomplice liability one that aids and abet. Impute another person's act onto third party someone educational.**

 **Now, common law we used to break apart in four categories accessary before the fact, principle in the first degree, principle in the second degree and accessary after the fact I rarely bring that up unless the facts dictate. If I help you plan a heist in the bank and map out the bank and I don't participate then they're telling me you need to classify accessary before the fact versus the facts tell you after the robbery you ran to friends's house police after me hide me oh the facts are telling me to talk about accessary after the fact so you're going to know based on the facts again this deal with imputing somebody's willful conduct onto another party and that can only be through conspiracy or accomplice liability.**

 **Now the other big one they like to test is murder in the third degree. Murder is huge. Murder comes up all the time so it's an area I want to know. With murder start off with a murder approach please. Murder is killing of human being with Mallory. Some courses teach you go there proximate cause, homicide. I start off with murder and then I bring up my actual malicious, four way to show malicious intent to kill intent to cause great bathroom, wanton conduct and the felony murder rule. I will argue all four if I can.**

**The facts will dictate. The facts tell you I went to rob a bank, and the guard pulled his trigger but I shot him first, I'm going to argue intent to kill. I will argue the felony rule, all of them are there based on that sentence of facts. So, again, the facts will dictate versus if I accidentally am going 100 miles an hour and accidental hit Mary. That sounds like wanton and reckless. I argue wanton and reckless and go from there. With felony murder rule if the death results in the perpetration of what we call inherently dangerous felony we can use this for the felony rule and you want to burglary, arson, rape, may ham, those are inherently dangerous felonies. If they meet in this category I got my first‑degree murder. Next what I do in my approach I go to causation. If I'm running out of time and causation is straight forward I might skip the step depending on time. Same thing in torts, actual cause but for shooting him he wouldn't have died proximate cause shoot somebody they would die. Done. You will know when there's a causation issue to deal with in criminal law. They re tell you the police was giving heavily chase they shot your tire you lost control and hit Mary now we have a proximate cause problem. I'm going to argue intervening act however based on you evading trying to be stop and had not get arrested is it foreseeable the police would take measures to keep you from pleaing, yes. They're pleaing with you, you understand we got a causation issue here, which we do.**

**Then you type it into your degrees. Now, if it's first and I point out which is at issue based on the facts remember first degree can be shown specific intent to kill with premeditation deliberation or poison bottom torture or felony murder rule so I'm going to go to the one that applies because I don't want to talk to all three if I don't have to especially if they're not there it's a waste of time.**

 **Again the facts will dictate. If the facts tell me a death results from committing a robbery first‑degree murder can be shown under the felony murder rule and based on the robbery and go from there and break apart the actual elements if I have to unless it's in the call and go through the underlying robbery. Again, the facts are going to dictate you're going to knee and the call of the question which I'll go over in a minute. In regards to first degree you got the killing with premeditation deliberation or torture felony rule. Did the call state to you, I base on robbery, I will point out the first‑degree murder can be shown by the felony murder rule and I have to prove up the underlying felony because it's not in call two or three they gave me just the murder call. Versus if the call says murder and the call two says robbery I will basically ANFRA tell them they will be discussed ‑‑ in call two. I have to follow my call to the question. You'll see examiners do this to you to see if we follow the law.**

 **You've got burglary, arson, rape, robbery, etcetera, has to fall into one of those, or here's a trick. An attempted inherently dangerous felony will work as well attempted robbery, attempted burglary, don't forget that because that does come up. Now, the other area that come into play is red line which they tested in the last baby bar. The red line view, how this comes up there's no way you can miss it if you really pay attention as to who did what? The red line view can only come up if you have a third party who does the killing an innocent party does the killing you go rob a bank and the guard shoots somebody dead.**

 **The whole premise behind is to see the we impute that killing on to the defendant because but for you robbing the bank it would not occur so with common law you're guilty, you're hung. It wasn't done by the felons hand so in regard to red line view under modern law jurisdiction you would not found to be guilty.**

**Then of course, fits not first degree you would go onto second degree murder which is the killing done with depraved heart. Now, take a step back, let's go back one: you see four way to malicious I want you to pay attention to those. Based on the facts if I tell you I was angry at the guard because he pulled out gun so I shot him.**

**My malicious is very strong. Versus if I tell you I was walking down the street with a pistol in my pocket and it dropped and killed somebody there's no intent to kill you can argue wanton reckless only way I can show malicious that means I have murder two or in voluntary manslaughter. If my other ways I showed you intent to kill intent to kill greater bathroom there's no way you can ever have a discussion based on the conduct for in voluntary manslaughter. We have self‑defense, we have defense of owe others, defense of property, in regards to crime prevention, intoxication, your insanities. You want to break them apart and see if any apply based on the fact. In regards to service defense, it rises to the level of deadly force if you're in imminent threat of life itself. Remember the imminency is very important. Look to the verbiage. Someone comes up to me and says I'll kill you tomorrow. In regards to common law and Penal Code if you're regressor you have duty to retreat. If you get yourself over your head too bad you have a duty to retreat and then go back. Minority is contra opposite but the regressor cannot use deadly force and regain that right.**

 **Defense of others you can use and you look to the surrounding circumstances to see what is going on would a reasonable person believe what you saw coming on the scene. Now, the law is evolving because they want people to step up and they're going to allow grounds for reasonable stake now. You have crime prevention and, again, you can only use nondeadly force. Is there imminent bodily harm or threat. Defensive property nondeadly force. The only way you can use if somehow it changed and your life is being threatened itself. They don't care about property. The law basically says human rights, they like human life versus your assets if someone's trying to steal your car you can't shoot them dead and you'll be guilty defense of property will not relieve you of liabilities. Now, what we call imperfect defense so may mitigate to voluntary manslaughter but again you're going to be charged and you will not get off with the defensive property. Altogether one is your excuses. You have intoxication, so voluntary and involuntary. That would be like robbery and larceny. If you are charged with rape and try and argue intoxication sorry. Intent is specific intent and that's again what they'll do to you they'll put intent in front of it. Attempted rape oh rape is general intent but you focus on the attempt and voluntary intoxication can negate the specific intent.**

 **About (unintelligible) comes up on multi‑states. Remember the burden of presumption the burden of production is on the prosecution. 7 to fourteen is rebuttable the burden is on prosecution and rebut and show you had the capability to commit that crime as a (unintelligible) now with insanity I tell students what you need to do is you need to know the rules. I guarantee you have a multi state or two on this. What they're going to do is change the language a little bit. Basically they'll tell you in regards to due to mental defects the defendant lacked substantial capacity. I lumped together the modern Penal Code if I don't know my rules they're going to get me. A lot of times they're going to give you a scenario and it's your job to determine as to which insanities will allow the defendant off the hook. Irresistible impulse. Every one of these have in common your mind. Tough in ability to control your conduct.**

**The fact teller might tell you Mary hears voices and telling her to go burn the bank down. Knack would get her off of liability meaning she would go to the nuthouse because she has in ability to control conduct. Due to her mental health that will get her off. Model Penal Code they lack substantial capacity to conform the acts. So that's questionable and not due to the mental defect defendant did not know what he was doing. No, you understand the nature and quality of your acts it is no defense. That's why it's important to know the rules. Then you'll break it apart and play with it and, again, some of the defenses will work and some won't. You want to make sure which will work and, again, it's based upon the facts. Again, if you know I don't want to hurt anybody until the bank is closed and you still burn the security guard you're still going to go down. You did know what was wrong Ed evidence by the fact you waited until nighttime.**

 **Now, with voluntary manslaughter students have a hard time and I'm not sure. Why. Voluntary manslaughter comes up two ways you have adequate provocation with insufficient time to cool off and a loss of mental equilibrium. The other way it comes up is imperfect defense, self‑defense, that means you thought you had a right to defend yourself because you used deadly force for defensive property. That would be imperfect defense and allow today mitigate to voluntary manslaughter. Now, I have seen tested to trick you they'll have one fact pattern where a guy comes home and wife having affair with neighbor. After the three year period he gets gun and ammunition shows up at neighbor's house of course, they had heated argument and shoots him dead. Let's back up. When he came home and saw wife with neighbor of course, adequate provocation held use mental equilibrium given but head sufficient time to cool off because it was three days but then you could argue, wait a minute went back and they had a heated argument. Words are not enough you need some action besides words and charged in the case either first or second degree murder.**

 **Again voluntary manslaughter can come up multiple ways and makes you understand how they're triggered based on the facts. Lastly in voluntary manslaughter without malicious is criminal negligence it's not negligence it's higher than negligence. And you have misdemeanor manslaughter that's creating misdemeanor and with in voluntary manslaughter remember look to malicious if you have wanton wreck less conduct most likely I would talk about second degree as well as manslaughter. What about a multiple choice question? If I show malicious is wanton and reckless do I pick second degree murder or in voluntary manslaughter and this is one I struggled with and if I tell you basically it's new years eve and we're having a party in the dessert and I go out and shoot a gun up in the air happy New Year's Eve and the bullet hits someone in the head. Is that murder two or in voluntary manslaughter I make the inference nobody's around. In New York City the city is populated so that would be murder two. It's based upon the facts. Another example you're driving 100 miles an hour in a school zone. Let's look to the facts was it during school time or at night? Because that will tick date. If it's during school hours chance you're going down for murder two if it's at midnight no children not likely to be there so that would be in voluntary manslaughter that's factual issue you need to look at. Another highly testable. Theft crimes. You need to know you see I have numeric‑P‑I‑T‑T possession title time. I always look to this if I have a straight larceny any did he get possession interest meaning he gave deed to something whatever the case might be did he get title and what time did he possess it? Because guess what the transferred intent doctrine works in crimes. Obviously you need carrying away of personal property of another ‑‑ (reading from material). If I borrow and a day later forget I'm going to keep it. You can use the transfer intent doctrine and find guilty. Larceny by trick you obtain the property by fraud you get possession of it by fraud. False pretenses remember you make it false representation of a past or existing fact not future can't be future. But you get title. So I give you title. Prime example let's say after tonight I'm done with the lecture and I go to grocery store and I get lobster. I peel off the stick ere off the hamburger meat that says it's 4 98 and pay and leave have I committed crime? Of course, I made a false representation with the sticker the price tag and once I tendered payment title is transferred so that would be false pretenses. With embezzlement you have to be given the rightfully intrusted with that property.**

**You know, the owner of the business gives you the clock to take to the repair shop. They have to entrust you with it rightfully. It's not a hard concept. One we shouldn't really be missing. Grocery checker taking money. That would be if I take the money and embezzlement. They're going to tell you basically the customer gave her $100, she put it in her pocket. And then gave him the change out of the cash register. There's two crimes there.**

 **So in regards to the money the cash register she was entrusted with five hundred never made it so we have embezzlement issues as well as a larceny. These nuances we have to play with and understand. Remember the doctrine and transfer doctrine works so we can transfer back in time. Robbery remember same as larceny by force fear and intimidation. The trick there tough watch out for presence of the party. You take the money by force fear intimidation.**

 **Receiving stolen appropriate does come up once in a while is a sleeper I see more on the multiple choice questions. Again, tough knowledge. This is subjective. Not objective. If you go back in an alley and buy TV out of the van and you know it's stolen and you say the jury say and goods out of van as a business.**

**Burglary and larson highly testable you see on essays and multiple choice questions remember with burglary you start out with common law first on multi‑states unless dictated otherwise you answer common law. Don't forget that. Common law unless they tell you differently in regards to the question. It's nighttime breaking to dwelling house of another with the spent felony and key thing to remember you have about specific intent to commit the crime at the time of entry. If you later why break into house to shelter that wouldn't be burglary and I pick up pocket watch and leave that wouldn't be burglary.**

**I developed once I got inside so the only crime would be most likely larceny. Then of course, if you are common law burglary fails, then you're going to go to modern law and remember transfer structure to commit a crime. In regards to modern law what do I have to look at with modern law? What's trust story? Tresipatory. You didn't have permission what if open to public if you enter the intent to steal , you'll be guilty of modern law burglary. Could you tell me key things with burglary the intent is one thing to watch out for you have to have it at the time of entry and dwelling house of another you can't commit burglary in your own home. Breaking remember there's different ways to break such as instrumentality. If you don't let me in I'm going to kill you so of course, the lady let him in. You can argue there was a breaking and it was constructed through his tactics of threatening. Arson does come up on multi‑states malicious burning of another. You have to be responsible for common law unless they tell you otherwise. If you have burning blackening of wall social security not a burning so you have to have some damage to the structure furniture burnt to a crisp sorry it's not the structure. The dwelling house of another. You can't commit arson against your own home maybe insurance fraud but not arson itself versus modernly it can be your own structure itself.**

 **Other crimes you have which are more multiple choice oriented, kidnapping false imprisonment, assault, battery, rape and, statutory rape. What's the problem with these crimes? All the battery look familiar, these are torts but the rules are different so you need to pay attention to that because that's going to dictate. In regards to false imprisonment is the intentional unlawful confinement of another. The assault intent to accomplish crime and battery which is general intent is the unlawful application of force totally different than in torts. That's why tough pay attention to the call because you have to apply the proper rule.**

 **If it's criminal law and you are applying tort law you're going to get the wrong answer choice and I feel like the multiple choice questions on the baby bar people aren't paying attention to the call of the question. Remember criminal law for most was what we call an are summer school subject you had it for a semester that was it. You had torts and contracts but not crimes. One semester and you're done. Kidnapping the unlawful transportation of another so it could be from room to room.**

**They are two crimes I look for to see if they co exist intentional unlawful confinement if I lock you in your room I have kidnapping and false imprisonment. Assault rape, rape multi‑state oriented without consent, what about mistake? She consented? It's an objective standard. I was too drunk didn't know. Well, if I'm being charged with rape, that's a general intent crime so it could get me off but if I'm charged with attempted rape so if you have voluntary intoxification that negates specific intent. If I'm charged with attempted rape and I assert the defense of intoxication I might walk because it can negate the specific intent for the attempt. If I'm pleading intoxication voluntary intoxication for rape too bad it's a general intent crime you're going down and strict liability you're going down set by statute doesn't matter.**

 **So you can see that is why they test these on the multiple test questions because they know we do not know the nuances.**

**And the only way to get better is by what? Practice, the more I can get you to practice and understand that that is going to help you in and of itself that's important. Now, we have what we call defense to the overall crimes and these are similar to what we had on murder but you have more.**

**Could these apply? I think you can have duress and consent remember duress is not defense to murder but you can bring them up under murder as well. In regards to defense you have mistake of fact and mistake of law. Those sound familiar. They're similar, they're like twins a factual possibility and legal about possibility. If you don't know which ones the this bar examiners will take either. Prime example, and you should be seeing on multi‑states we go off to bowling alley. I bring my ball. And I am done and get ready to pick up another person's ball thinking it's mine and go home. Can you charge my larceny? Well, it's tresipatory, if I argue mistake of fact can I get off? Of course, I can because the facts I believe them to be I thought it was my ball so that will negate the crime. Since the facts negate the intent, no larceny.**

 **If I change the call on you to torts, did I commit a conversion? The answer is yes. Because mistake of fact is not a defense in tort nor can you argue intent for tort because mistake doesn't exist so based on a tort call I could find civil liability but for criminal no liability. Mistake of law same thing generally no defense unless you show some reliance seisms the attorney general gave you legal advice and you abled it to be true. Let's say I told you if you burn your own home you can't be convicted for larceny. Well, that is not true. If you relied on my advice you can try and make an argument based on what you have been told. Duress remember it wasn't to be imminent. It's a threat to you or a close family member so based upon duress remember it's defense except to murder. Now, here's a trick and this is why we need to pay attention.**

 **Let's say someone comes up and says, look if you don't go burn down the house I'm going to kill the family. I go and burn down the house and a guard is in it and they're charging me with the murder. Am I going to be guilty? Sorry duress is no to murder. If you apply murder approach you're convicting me based upon arson duress is a defense to arson. You can't convict me of the murder because you're using the felony murder rule. That is on the multi‑states. Again, by applying your tools and set ups you would gets there series oh arson in regards to murder defense is no duress but you got there. Back up and go through it. Consent, I don't see consent too much but I guess you can consent to murder give me medication to kill myself.**

 **Entrapment you have to do both views because it's a difference of jurisdiction and, of course, examiners are never going to tell you where you're at which jurisdiction. You have the objective which is predisposed and what you look at were you predisposed to commit the crime? Now, they're trying to argue entrapment for murder is he predisposed?**

 **I think on essay I can argue both ways versus objective you look to the police activity. What does that mean? You look to would a reasonable person succumb to what the police activity is. This came down in regards to I was dealing with, I believe, it was child pornography. And they kept going up to the guy's door and trying to sell it to him. And after the 50th time he finally said yes. Of course, he brought up the entrapment and if you look at the police activity if someone keeps badgering you. That was the argument basically so it did work as a defense for him.**

 **And that would be entrapment. Again, with entrapment you argue what? If you do see it being tested I want you to look at both views. Can't just bring up one. You bring up both. The last defense is diminished capacity this is when you have mental impairment showing lack of menace ray. And a lot of times I look to see if insanity is an issue. You have to show me that I'm nuts somehow such as I have delusions I am a schizophrenia I believe all women are from mars something they can't hide that defense in and of itself. A lot of times when I see the call of the question as defenses and I see intoxication I will bring up diminished capacity because I have to answer the call. If I see one night after heavily drinking Joe went and robbed a bank. What defenses does he have? I would bring up intoxication and diminished capacity. Doesn't marine you're going to let him off you're going to argue the defense whatever works evidence see if supported or not. But I will again bring it up. You can see with criminal law it's not too bad you break apart and dissect it.**

 **Couple areas I want you to be aware of. Number 1 how do you write criminal law examination if there's a statute. If they gave you on the exam the facts get better you rent a car and in the trunk there's a firearm you didn't know and you get pulled over and you're arrested what you're going to do because statute didn't tell you go to act ray and when you use the terms they're breaking apart the term because they didn't tell you. The mens ray is a mental state. Specific intent general intent or strict liability they didn't tell me is and you go through all three and depending on the statute interpreted and if it's strict liability you're going down general season intent you have 50/50 percent chance and specific intent you're off the hook when you see a statute make sure you use the elements of statute because you have to follow it but that's the time you look to actus and menace ray and Number 2 I want you to focus on the call of the question.**

 **(Reading from material) what that means is you're going to look to murder or voluntary or in voluntary manslaughter lesser included offense means you're going to look at voluntary, or involuntary manslaughter doesn't mean you're going to look to battery. Battery remember is lesser included offense. If you have time on essay you can write but it's not worth anything. I want you to may attention to the call. If you see a specific call, can Joe be convicted of burglary. That tells me you need to take a step back and look. What does that mean? Look at the actual elements, right?**

 **Again what am I seeing here? Do I see with the burglary is there nighttime? Is there a breaking? Is there an entering or dwelling house if it's specific I tell myself Melanie look at the elements and/or defenses and see what's tested. If I don't see anything tested I know I made a mistake.**

 **The other thing they gave specific call can Jimmy be charged with burglary or tough address both and come up with one based on facts he will be charged.**

 **Does anybody have any questions. Just pop them there in the chat?**

**In regards to the assault battery and rape you have to look to the elements. In regards to the specific intent like let's look at larceny you had to have the specific intent to permanently deprive burglary specific intent to commit the felony it's always in your rule auto. Again, assault, battery, rape those are all general intent look to your rule and that's how you can tell. Intoxication you can only confuse in voluntary DUI not responsible for accidental larson not responsible for so the fact wills dictate. There's a lot of multi‑states that will tell you he accidental fell Aleve with the cigarette burnt down the house well, it's not a larson so the fact wills dicta the at a time for you.**

 **Any other questions. All right. At this point we just done criminal law so we have had torts contracts and criminal law now everything is fair game you need to start practicing multi‑states and spot issues in all three subject you got to work on this and get it down now time to focus on fine tuning very important and the other thing I want to point out this coming Wednesday you'll be sent out essay multiple choice questions early. And the other thing I want to make sure you start again working on your spotting and getting these techniques down that's very important. If you have any questions please feel free to shoot me an e‑mail. Be more than happy to help you in any way I can you got to keep this up, you got to keep the stamina and the faith that you can do. We just need to build our tools and go in there and make this happen. I wish everybody a good night.**

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