

CRIMINAL LAW
Main Issue Spotting Checklist

- 1. Inchoate Crimes**
- 2. Third Party Liability**
- 3. Crimes Against Property**
- 4. Crimes Against A Person**
- 5. Defenses To Crimes**

CRIMINAL LAW
Inner Issue Spotting Checklist

1. Inchoate Crimes

Solicitation
Attempt
Conspiracy

2. Third Party Liability

Enterprise Liability
Vicarious Liability
Accomplice Liability

3. Crimes Against Property (MR. SPELL)

Malicious Mischief
Robbery

Receiving **S**tolen Property
False **P**retenses
Embezzlement
Larceny
Larceny By Trick

4. Crimes Against A Person

Murder: (**M**ary **A**lways **P**refers **F**inding **S**pecial **D**eals **M**inus **I**nterest)

Malice
Actual Cause
Proximate Cause
First Degree Murder
Second Degree Murder

Defenses: (Judge Irene Is Definitely Interesting)

Justification (COPS)

Crime Prevention

Defense Of **O**thers

Defense Of **P**roperty

Self-Defense

Insanity (MAIDD)

M'Naghten

ALI -Model Penal Code

Irresistible Impulse

Durham

Diminished Capacity

Intoxication:

Voluntary

Involuntary

Infancy

Diminished Capacity

Mitigation:

Voluntary Manslaughter

Involuntary Manslaughter

Non-Murder Crimes: (MARK F. BAB)

Mayhem

Arson

Rape

Kidnapping

False Imprisonment

Battery

Assault

Burglary

5. **Defenses To Crimes:**

Justification: (Military COPS DANCE)

Mistake

Crime Prevention

Defense Of Others

Defense Of Property

Self Defense

Duress

Authority

Necessity

Consent

Entrapment

Intoxication:

Voluntary

Involuntary

Insanity: (MAIDD)

McNaughten

ALI -Model Penal Code

Irresistible Impulse

Durham

Diminished Capacity

CRIMINAL LAW

Dissection Checklist

1. INCHOATE CRIMES

Solicitation: Specific intent
to induce another
to commit a crime

Defenses:

Withdrawal: (Withdrawal is not a valid defense but will avoid accomplice liability)

Majority Rule: Not valid if zone of perpetration is entered

MPC: Valid if withdrawal is complete and voluntary abandonment of the crimes

Merger Rule: Solicitation merges into an underlying offense

Attempt: Substantial step
specific intent
towards perpetration
unlawful act

Defenses:

Withdrawal:

Majority Rule: Not valid if zone of perpetration is entered

MPC: Valid if withdrawal is voluntarily and crime is successfully abandoned

Factual Impossibility: No defense – Defendant intends to commit a crime but a fact unknown makes the commission of the crime impossible

Legal Impossibility: Defense – Defendant believes act is illegal but legally it is not a crime

Legal Impossibility Under MPC: No defense unless intended conduct was not a crime

Merger Rule: Attempts merges into an underlying offense

Conspiracy: Agreement: Oral, conduct or implied
two or more
unlawful act

Defenses:

Withdrawal: (Still guilty for conspiracy but will cut off any further liability)

Majority Rule: Effectively communicated to all co-conspirators

MPC: Steps taken to thwart the crime

Pinkerton's Rule: Each member of conspiracy is chargeable with all crimes in furtherance of, or which are the natural and probable consequence of, the unlawful act

No Merger

2. THIRD PARTY LIABILITY

Enterprise Liability: Parties enter into a joint venture together

Vicarious Liability: One will be criminally liable based upon the relationship

Accomplice Liability: (Unlike a conspiracy, there is no agreement between the parties)

Accessory Before The Fact: One who aids in the planning of the crime

Accomplice: One who aids in the crime

Accessory After The Fact: One who aids or hinders the party's arrest

Foreseeability: Accomplice will be liable for all acts that were a probable consequence of the action and foreseeable

Defense: Withdrawal

3. CRIMES AGAINST PROPERTY: MR. SPELL

Malicious Mischief: Malicious injury or destruction to property

Robbery: The trespassory taking and carrying away of the personal property of another by force, fear or intimidation with the specific intent to permanently deprive

Receiving Stolen Property: A party receives stolen property knowing that it was stolen

False Pretenses: A false representation of a past or existing fact to obtain property from another

Embezzlement: One who is entrusted with the property and converts the property for his own use

Larceny: The trespassory taking and carrying away the personal property of another with the intent to permanently deprive

Larceny By Trick: A taking obtained by fraud to obtain possession of the personal property with the intent to permanently deprive

4. CRIMES AGAINST A PERSON:

Murder: **M**ary **A**lways **P**refers **F**inding **S**pecial **D**eals **M**inus **I**nterest

Malice: Intent to kill

Intent to cause great bodily harm

Wanton And Reckless Conduct/Depraved Heart

or

Felony Murder Rule: Death caused in commission or attempt of an inherently dangerous felony

Majority Rule: Must be a dangerous felony

Actual Cause

Proximate Cause

First Degree Murder: Killing done by premeditation and deliberation with specific intent, or poison, bomb, ambush, torture or felony murder rule

Redline View: Innocent party does the killing

Modern Law Rule: No liability if killing is not done by one of the felons

Second Degree Murder: Killing done with a depraved and malignant heart

Defenses: (Judge Irene Is Definitely Interesting)

Justification: (COPS)

Crime Prevention: One may use non-deadly force to prevent a crime

Defense Of Others: One may use reasonable force to protect a 3rd party
Majority Rule: Step in shoes

Defense Of Property: One may use non-deadly force to protect one's property

Self-Defense: One may use reasonable force to protect one's self which may raise to deadly force if reasonable belief life is being threatened

Insanity: MAID

M'Naghten: Due to the mental defect Defendant did not know what he was doing was wrong

ALI-Model Penal Code: Due to the mental defects Defendant lacked the substantial capacity to conform his acts to the law

Irresistible Impulse: Due to the mental defect Defendant did not have the ability to control the conduct

Durham: Due to the mental defect the act by Defendant was the product of his mental illness

Intoxication

Voluntary: Negates specific intent

Involuntary: Same as insanity – which will negate intent

Diminished Capacity: Defendant's acts were due to his capacity being diminished negating his specific intent

Infancy:
0-6 Conclusive presumption child cannot commit a crime
7-14 Rebuttable presumption children can commit a crime
14+ Has the ability to commit a crime

Mitigation: Voluntary Manslaughter: A killing done with adequate provocation losing one's mental equilibrium with an insufficient time to cool

Remember words alone are not sufficient

An imperfect defense may mitigate murder to voluntary manslaughter

Involuntary Manslaughter: An unintentional killing without malice
Criminal Negligence
Misdemeanor Manslaughter Rule

Non-Murder Crimes: **MARK F. BAB**

Mayhem: The malicious disfigurement of another

Arson: Malicious burning of a dwelling house of another – Charring does constitute a burning

Rape: Sexual intercourse with a woman without consent

Kidnapping: Unlawful transportation of another

False Imprisonment: The unlawful confinement of another

Burglary: Common Law: The nighttime breaking and entering into a dwelling house of another with the specific intent to commit a felony therein

Modern Law: The trespassory entry into the structure of another to commit an unlawful act

Assault: An act with the intent to create imminent apprehension or intent to accomplish another crime (i.e. rape)

Battery: The unlawful application of force to a person

5. DEFENSES TO CRIMES:

Justification: Military COPS DANCE

- Mistake: Law: General rule its no defense
Exception: Reasonable reliance on judicial decisions
- Fact: If facts were as you believed them to be making the act not a crime, then it is a valid defense
Only a defense if the fact negates the intent
- Crime Prevention: One may use non-deadly reasonable force to prevent a crime
- Defense Of Others: One may use reasonable force to protect a 3rd party
Majority rule: Step in shoes
- Defense Of Property: One may use non-deadly force to protect one's property
- Self-Defense: One may use reasonable force to protect one's self which may raise to deadly force if reasonable belief life is being threatened
- Duress: Threat of imminent harm to an individual or a close family member – No defense to murder
- Authority: Reasonable force my be used
- Necessity: One may use deadly force for the benefit of the public
- Consent: The voluntary willingness of the act
- Entrapment: 2 views that must be discussed:
Majority Rule – Predisposed: (Subjective Test) Look to see if Defendant was predisposed to commit unlawful act
Minority Rule - Police Activity: (Objective Test) Look to the activity of the police – would a reasonable person have succumbed to the doing of a wrongful act
- Intoxication: Voluntary: Negates specific intent

Involuntary: Same as insanity – which will negate intent

Insanity: MAIDD

M'Naghten: Due to the mental defect Defendant did not know what he was doing was wrong

ALI-

Model Penal Code: Due to the mental defect Defendant lacked the substantial capacity to conform his acts to the law

Irresistible Impulse: Due to the mental defect Defendant did not have the ability to control the conduct

Durham: Due to the mental defect the act by Defendant was the product of his mental illness

Diminished Capacity: Because of mental state, Defendant did not form the requisite mental state.

Will negate specific intent

Only recognized by a small minority