

## Criminal Law Rules Final Review

Crime: A crime is an act or omission prohibited by law for the protection of the public.

Learn to bring up as many crimes as possible based upon the actual facts.

Inchoate Crimes

Murder

Defenses

Theft Crimes

Burglary/Arson

Other Crimes

### **Inchoate Crimes:**

Solicitation

Conspiracy

Attempt

### **Murder:**

Malice

### **Defenses:**

Insanity

Self-Defense

Defense of Others

Crime Prevention

Mitigation to Voluntary Manslaughter

Involuntary Manslaughter

### **Theft Crimes:** (highly testable multiple choice questions)

Larceny

Larceny By Trick

False Pre-tenses

Embezzlement

Receiving Stolen Property

Robbery

**Burglary/Arson:**

**Other Crimes:**

Forgery

Extortion

Malicious

Mischief

Assault

Battery

False Imprisonment

Kidnapping

Rape

xxx

**Inchoate Crimes:**

Solicitation: Solicitation is where one entices or induces another to commit an unlawful act.

Conspiracy: Conspiracy is an agreement between two or more persons to commit an unlawful act (highly testable)

Attempt: Attempt is acting with the specific intent (a specific intent crime), and taking a substantial step towards the perpetration of a crime.

Accomplice: Accomplice is one who aids and abets with a criminal act.

Accessory before the fact

Principle in first degree

Principle in the second degree

Accessory after the fact

**Defenses: (always look for two or more)**

Infancy:

At Common Law: children are considered unable to form the intent

0-7: There is a conclusive presumption (rebutted by the prosecution) that the child is unable for form of the intent.

7-14: A rebuttable presumption

14+: Children are treated as an adult

### **Insanity:**

M'nighten: Defendant did not know the nature of his acts, did not know what he was doing was wrong, and the act was because of the mental defect.

Irresistible Impulse: Defendant acted with an irresistible, uncontrollable impulse, based upon his mental state.

Durham: Criminal act was a product of the mental illness.

Model Penal Code: combines M'nighten: Defendant did not know the nature of his acts, did not know what he was doing was wrong, and the act was because of the mental defect. With Irresistible Impulse: Defendant acted with an irresistible, uncontrollable impulse, based upon his mental state.

### **Intoxication:**

Voluntary Intoxication: Voluntary Intoxication acts as a valid defense to negate a specific intent crime.

Involuntary Intoxication: Involuntary Intoxication acts as a valid defense to negate a specific intent and general crime.

### **Mistake:**

Mistake of Law: G/R no defense

Mistake of Fact: G/R No defense; however, if the facts were as the defendant believed, act was not crime

Self Defense: Self Defense allows one may use reasonable force to defend; not permitted if aggressor. Withdrawal regain the right to defend.

Defense of Others: One may use reasonable force to protect another; step in shoes:

Modernly- reasonable mistake ( if one believed other had reasonable defense)

**Crime Prevention:** If a person reasonably believes that a felony has been committed non-deadly force may be used.

Modernly: Deadly force if substantial risk of bodily harm or death

**Defense of Habitation/Defense of Property:** You may not use deadly force to protect your personal property.

Deadly force may be used within your dwelling in order to protect yourself. No duty to retreat.

Modernly: must have a threat of substantial bodily harm.

**Entrapment:**

Traditional view (subjective view): Entrapment is a valid defense if the Defendant was not predisposed to commit the act.

Modernly (objective): Entrapment is a valid defense if a reasonable person would have succumbed to the police officers' activity.

Duress: overcoming your free will (not a defense to murder)

Consent: voluntariness of the act to occur (not a defense to murder)

**Murder:** Murder is an unlawful killing of a human being with malice aforethought.

Malice: based upon the facts are one of the following ways to prove up malice (or all four) at issue:

Intent to Kill:

Intent to cause great bodily harm:

Wanton Reckless Conduct:

Felony Murder Rule:

Causation: Actual and Proximate Cause.

Type the Murder:

First Degree:

Second Degree:

**Defenses:**

Self-Defense

Crime Prevention

Defense of Others

Defense of Property

Consent

Duress (never a defense to murder)

Insanity (four types based upon jurisdiction):

Mitigation to Voluntary Manslaughter

Involuntary Manslaughter

**LESSON Number 8:**

**Theft Crimes (acquisition crimes):** (highly testable multiple choice questions)

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

Larceny By Trick: Larceny by Trick is the trespassory taking and carrying away the personal property of another, obtained by deception, with the specific intent to permanently deprive.

False Pre-tenses: False Pre-tenses is obtaining title to property of another by a false representation or a past or existing fact.

Embezzlement: Embezzlement is property converted by one who had lawful possession of the property.

Receiving Stolen Property: Receiving Stolen Property is the receipt of stolen property with the knowledge that the property was stolen (subjective test: did he know it was stolen).

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

**Burglary:**

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

**Modern Law: Modern Law Burglary is a trespassory entry into any structure to commit any crime.**

**Arson (good multiple choice issue): Arson is a malicious burning of a dwelling of another.**

**Other Crimes: (multiple choice questions)**

Forgery: Forgery

Extortion: Extortion

Malicious Mischief: Malicious Mischief

**Assault:** Assault

1: Assault (an attempted battery): Assault

2 Assault (intentional creation of imminent apprehension of harm: MPC needs to be serious bodily harm): Assault

Battery: Battery is the unlawful application of force to the person of another (no injury required).

Mayhem: Mayhem is the malicious disfiguring or disablement of another.

False Imprisonment: False Imprisonment is the intentional confinement or restraint of another.

Kidnapping: Kidnapping

Rape: Rape is the unlawful sexual intercourse with a female without her consent.

Statutory Rape: Statutory Rape is sexual intercourse with a female under the age of consent (strict liability crime)