

CJ 335 Study Guide 3

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NOTE: Study guides (and exams) are drawn from BOTH lectures and the textbook chapters assigned. These terms and issues are sometimes drawn exclusively from the lecture, on rare occasions from just the textbook, but usually are referred to in both formats

Crimes against Persons (Non-homicide)

Rape vs criminal sexual conduct; utmost resistance standard, statutory rape; rape shield laws, marital rape exception, corroboration standard, mistake of age defense; sodomy
assault, battery, intent—specific, general, imputed, negligence, recklessness
felonious/felony/aggravated assault
kidnapping/false imprisonment—asportation, secreting away, restraint

Other issues: Know the definitions and significance of simple and aggravated battery (Mayhem, malicious wounding). What are the two types or forms of assault? Why is assault a separate crime from battery? Discuss both common law and modern interpretations of rape statutes. What is criminal sexual conduct? Differentiate between kidnapping and false imprisonment. Differentiate between robbery and extortion.

Parties to Crime and Vicarious Liability

principals, 1st degree, 2nd degree, 3rd degree; accessory before the fact; accessory after the fact
modern approach to accomplice liability—accomplices or accessories
prima facie responsibility

Other Issues: Understand the common law definitions for parties to a crime--principals, aiders/abettors, accessories before and after the fact--common law significance and modern trend of accomplice liability.

Inchoate (Incomplete) Crimes

solicitation, conspiracy, attempt
last proximate act, substantial steps doctrine, physical proximity doctrine, probable desistance

legal vs. factual impossibility, abandonment

Other Issues: What are the features of inchoate or incomplete crimes: Attempt, Solicitation, and Conspiracy? What is vicarious liability?

Justifications

Justification, excuse; affirmative defense; perfect vs. imperfect defense
self defense; defense of others, defense of the home—restrictions on deadly
force vs. “make my day” statutes”; consent. Entrapment—
subjective/objective standards; necessity (choice of evils)

Other Issues: Why is necessity the theoretical basis for all justification oriented defenses? What are the major requirements for a person to claim self defense? What is the “clean hands” doctrine? What about the retreat rule? What right does an individual have to defend his or her property? What is the alter ego rule in defending other people? What is the reasonable perception rule in defending others? What are some activities to which a person may not consent? How is consent evaluated as to whether it is legitimate?

Excuses

duress, intoxication, mistake, insanity
M’naughten rule, Durham (product) rule; irresistible impulse test;
substantial capacity test (MPC); federal insanity standard

Other issues: What makes duress different from necessity? Define voluntary vs. involuntary intoxication. What is a “perfect” defense as opposed to an “imperfect” defense? How is the doctrine of mistake used to establish a defense? How is age taken into consideration when evaluating a defendant’s culpability? What is a syndrome based defense? Give an example.

Insanity: How is a defendant originally evaluated as to competency to stand trial? What happens to a defendant if he or she is judged incompetent? What is the theoretical effect of proving a defendant to be legally insane? Why is insanity a legal term and not a psychological one? What is the MPC definition of insanity (the majority rule in the US)? Define the M’Naghten rule. Why is it considered a cognitive test? What’s positive and negative about M’Naghten? What is the irresistible impulse test? What is “guilty but mentally ill?” What is diminished capacity and its legal effect as a mitigating factor but not a “complete” defense?

