

First things to check!

- If the call wants you to discuss broadly: "What crimes, if any, have D, E and F committed?"
 - 1) Organize answer by each defendant's crimes and defenses, e.g., D's Crimes
 - Someone dies after D's action → check for homicide
 - D hurts, touches or scares someone → check for other personal crimes
 - D takes something away from someone else or intends to → check for property crimes
 - D takes steps to do the above but doesn't complete → check for solicitation, attempt
 - D and at least E interact at any time → check for conspiracy, accomplice liability
 - 2) Discuss affirmative defenses (excuses, justifications) for each defendant
- Otherwise, answer the call; don't stray from the issue and defendant it focuses on
- **Check for available EXCEPTIONS and DEFENSES for EACH issue! There are plenty in criminal law**

Inchoate crime: Did a crime stop at an early stage before completion?

Asking?	More than mere prep?	Agreeing with another?	Helping another?
<u>Solicitation</u>	<u>Attempt</u>	<u>Conspiracy</u> <u>Pinkerton? Wharton?</u>	<u>Accomplice liability</u> <u>Principal or accessory?</u>

- D can be convicted of the inchoate crime **or** the completed ("merged") crime, except conspiracy (separate)

Homicide: Did someone die? Analyze each (likely "right" answer first); include key words in answer

- Was D involved in a felony, regardless of whether he killed? Felony murder (1° if BARRK, 2° otherwise)
 - Was there more than one person committing the felony? Co-felon liability
- Express malice (premeditation and deliberation) or defined by statute (if in the facts)? Murder, 1°
 - Alcohol involved? Could mitigate to 2° murder (but not manslaughter)
 - DEFENSES (mitigate to voluntary manslaughter): imperfect self-defense, reasonable mistake of fact
- Implied malice (where there is at least one of the four types of intent)? Murder, 2° (common law)
- Heat of passion or adequate provocation? Voluntary manslaughter (mitigated intentional killing)
- Reckless or gross negligence? Involuntary manslaughter
- Did D fail to act under a legal duty? Murder or manslaughter may arise under misfeasance

Personal crime: Was there otherwise a person-to-person offense?

- Physical contact involved (direct or indirectly)? Battery or aggravated battery
- Assault: 2 types (check to see if either rises to aggravated assault)
 - D intended to commit battery? "Attempted battery" assault (majority)
 - D put another in apprehension? "Fear of battery" assault (minority)
- Transferred intent between potential victims?
- Moving / preventing movement of a person against will? Kidnapping / false imprisonment

Property crime: Did someone try to take something or be somewhere they weren't entitled to?

- Taking possession (physical control)? Larceny or larceny by trick
 - Knew or should have known the property was stolen? Receipt of stolen property
- Taking title (actual ownership)? Embezzlement (already in possession) or false pretenses
- Violence or intimidation involved? Robbery ("larceny+")
- Trying to or actually getting into a structure to take something or commit another felony? Burglary, robbery

DEFENSES: Don't forget to discuss for EACH crime discussed!

- Check available defenses particular to each crime before below general defenses
- Know whether the crime is classified as general intent (to act) and specific intent (to act and get a result)
 - GI? Possible defenses: involuntary intoxication, reasonable mistake of fact
 - SI? involuntary and voluntary intoxication, reasonable and unreasonable mistake of fact
- Some evidence of insanity at time of offense? Check the four rules for insanity
- D needed to act to avoid harm? Duress (from human forces), necessity (if non-human source of harm)
- D needed to use force to avoid harm? Self-defense, defense of others, defense of property

