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#1. D's crimes

Burglary

For burglary to be charged, D must 1) break into 2) at nighttime 3) dwelling of another 4) with intent to inflict felonious crime therein.

Here, D broke the window to into the garage during the nighttime to take some of the wood and build a fire outside the garage to keep herself warm.

D may argue that "dwelling of another" element is not met because D broke into the garage and the garage is not the dwelling. However, if the garage is connected to the dwelling, then it is assumed as dwelling. The fact indicates that the run-down house is with an attached garage that had a door connecting it to the house. Since the garage is annexed to the house, it is part of dwelling.

D may also argue that "intent to inflict felonious crime therein" element is not met because D only tried to find shelter so that she can keep herself warm from extreme cold. However, the fact that she decided to go into the garage to take some of the wood and build fire shows that D has an intent to inflict **larceny** therein by taking wood and using it permanently. Thus, D has an intent.

Therefore, D is likely charged for Burglary.

Larceny

For larceny to be charged, D must carry away the property of another with intent to take permanently.

Here, D carried away the wood in the garage with intent to build a fire. When used the wood for building a fire, it's taking permanently.

D may argue she didn't carry away the wood because she gather wood scraps within the garage. However, even small steps of movement is sufficient for carrying away.

Thus, D is likely charged for Larceny.

Arson

it arises when there is malicious burning the dwelling of another. There is no specific intent required.

a small fire causing the burning the house.

D may argue that she didn't have specific intent to burn the house so she should not be

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charged for Arson. However, general intent is when D knows or is certain to occur seriously harm near future. Here, D set the fire in the garage and it is certain that the fire can be spread out the garage and the house. Thus, D's general intent is met and therefore D is charged for Arson.

#### Felony Murder

D is charged for felony murder when someone is killed while in course of independent felony.

Here, D committed arson as burning the house and killed Stuart as he was sleeping in his bed.

Although D may argue that she didn't intend to kill or seriously bodily harm to S, still she falls in the felony murder since she committed arson.

Therefore, D is likely charged for felony murder.

#### Trespass to land

D trespassed to land by entering the garage. Although D may argue she didn't have an intent to enter, intent to enter is irrelevant. All the matter is the fact that D entered.

Therefore, D is charged for Trespass to land.

#### #2. D's motion to suppress her statement

##### 5th Amendment - Miranda warning

To receive the Miranda warning, D must be in the custodial interrogation.

##### Custody - not free to leave

Here, when O saw D walking on the sidewalk and asked D what she was doing outside on such a cold night, D was not in custody and didn't feel not free to leave because she met O in the public which she can give a quick answer and leave freely. Thus, D is not in custody.

Interrogation - D must know the question is likely elicited for criminal prosecution.

Here, O did not ask a question which was not to elicit for later criminal prosecution. Rather, O just wanted to know what D was doing outside on such a cold night for concern and curiosity.

Therefore, there is no interrogation.

Since there is no custodial interrogation, D's statement "I started the fire." is voluntary, thus the court should deny D's motion to suppress her statement.

Question #1 Final Word Count = 675

**END OF EXAM**