I. Elements of a Crime

Basic Justifications

A. General Deterrence: Deter others from committing the same or similar defenses.
   i. People v. Suite (carrying an unlicensed gun, prohibited by NY state law)
   ii. C-Lorton Central Prison
   iii. C-Braithwaite – Restorative Justice e.g. healing circle
   iv. C-White – punishment derives meaning from community

B. Specific Deterrence: Deter individual D from committing the same crime in the future

C. Rehabilitation: Reform through vocational training, counseling, and drug counseling

D. Incapacitation/Isolation: Incarceration to keep D away from society

E. Retribution: Giving the D what he deserves

III. Notes

A. Burden of Proof – Beyond a Reasonable Doubt
   i. Burden of Production – responsibility to produce evidence in support of claim
   ii. Burden of Persuasion – responsibility of proving elements are present.

B. Defense Strategies –
   i. Case in Chief – punch holes in the prima facie case.
   ii. Affirmative Defense – Acquittal because it was 1) justified or 2) excuse

C. Interpreting Statutes
   i. Plain meaning ➔ Statutory Scheme
      1. Meaning of doubtful words may be determined by reference to associated words.
      2. Where general words follow a specific enumeration of things, general words
         should be limited to things specifically enumerated.
   ii. Cannons of Construction
   iii. Legislative History
   iv. Rule of Lenity

D. Constitutional Limitations
   i. 14th Amendment –
      1. Due Process, Void for Vagueness Doctrine,
         a. Papachristou v. City of Jacksonville (vagrancy ordinance)
         b. Colender v. Lawson (loitering statute was too vague)
         c. C – Walking While Black
         d. Chicago v. Morales (gang law was too vague)
      2. Equal Protection Doctrine
         a. McClesky v. Kemp (Baldus study)
         b. C-Justice isn’t blind (Race and sentencing)
         c. State v. Russell (crack prohibition statute)
         d. C-State, Criminal Law, and Racial Discrimination (race neutral laws benefit the community.)
         e. C-Drugs, it’s a Question of Connections (Drug enforcement reinforces stereotypes.)
   ii. 8th Amendment – Cruel & Unusual Punishment, Principle of Proportionality
      2. Ewing v. California (3 strikes law, golf club)
      3. Ramirez v. Castro (3 strikes law, shoplifting)

E. Role of Jury
   i. People v. Suite (jury nullification cannot be express – statutory rape).
   ii. C – Race Based Nullification (Jury nullification by Blacks)
   iii. C – Butler Rebuttal (race should not be determining factor).

IV. Mens Rea

A. Intent
   i. Regina v. Cunningham (stealing gas, accidentally asphyxiates mom-in-law)
   ii. US v. Yermian (false statements to US agency)
   iii. Holloway v. US (carjacking – intent of death? Or conditional?)
   iv. Virginia v. Black (cross-burning case, question of prima facie)

B. Specific/General
   i. Atkins (arson as a general intent crime, does intoxication ecuse)

C. Wilful Blindness
   i. US v. Jewell (young man transported drugs across border)

D. Strict Liability
   i. Morissette v. US (stealing military property)

V. Mistake and Ignorance

A. Mistakes of Fact
   i. People v. Navarro (man stealing abandoned woods or abandoned?)
   ii. Bell v. State (man pimped out two women under age, mistake of age)

B. Mistakes of Law
   i. People v. Marrero (corrections officer carrying gun in nightclub, statutory authority?)
ii. *US v. Clegg* (weapons to Afghan rebels)
iii. *State v. Fridley* (driving with revoked license on word of DMV)
iv. *Cheek v. US* (believed tax unconstitutional and didn't pay)
v. *Bryan v. US* (corner firearms dealer unaware of specific statute)
vi. *Lambert v. US* (felon unaware of registration requirement)
vii. *State v. Bryant* (Sex offender failed to register)

VI. **Actus Reus:**
1) Voluntary Act
2) Causes
3) Social Harm

A. **Thought Crimes**
i. *C-Jail on the Precipice* (diary of obscene thoughts)
ii. *Wisconsin v. Mitchell* (enhancement for hate crimes)

B. **Acting Under State Compulsion**
i. *Martin v. State* (Officers take drunk man out of house on highway)

C. **Unconsciousness Defense**
i. *State v. Desina* (epileptic drives car and kills school kids)
ii. *C-Kelman Time Framing*
iii. *C-Epileptic Convicted of Assault Cleared* (epileptic man grabs woman’s arm)

D. **Omissions**
i. *People v. Beardsley* (drug and drinking binge, man does nothing, woman dies)
ii. *Commonwealth v. Howard* (BF child abuse kills child, mom does nothing)
iii. *Commonwealth v. Pesticikas* (Caretakers criminally neglect 92 year old man)

E. **No Duty to Rescue**
i. *C-Right to be Apathetic* (College student watches other man abuse and kill child)
ii. *C-Two Forms of Justice* (Argument for good Samaritan law)

F. **Status Crimes**
i. *Robinson v. California* (person punished for being a narcotics addict.)
ii. *Powell v. Texas* (chronic alcoholic being punished for being alcoholic).
iii. *C-Article advocating for decriminalization of drugs*
iv. *C-Drug laws target minorities and leads to racial profiling.*
v. *C-Policing Enforcement* (possession new tool of prosecutors)

VII. **Causation and Concurrence**

A. **Causation**
i. *Commonwealth v. Rementer* (Victim crushed by bystander car, trying to escape bf)
ii. *State v. Govan* (D shoots victim, paralyzed, later dies of pneumonia.)
iii. *Henderson v. Kibbe* (man left naked on road during winter storm, killed by car)

B. **Concurrence**
i. *Thabo Meli* (man bludgeoned and rolled over cliff)
ii. *State v. Rose* (dirty white station wagon).

**Completed Offenses**

I. **Homicide**

A. **Capital Murder**
i. C- Why the Death Penalty (Pros and Cons)
ii. C-What Federal Prosecutors Really Think (Guilt)
iii. C-ABA Standards (Prosecutorial discretion and defense discretion)

B. **First Degree Murder** - premeditation and deliberation
i. *Gilbert v. State* (Husband Euthanasia)

C. **Second Degree Murder** – Purpose of causing serious physical injury or knowingly causes
i. *State v. Brown* (Man abused child and child died of hemorrhage)
ii. *State v. Bingham* (rape and murder of mentally retarded woman, strangulation)

D. **Felony Murder** – kills during commission or attempted commission of a felony. [First degree for rape, robbery, arson, burglary, or kidnaping]
i. *People v. Stamp* (robbery leads to man dying of a heart attack)
ii. *People v. Patterson* (cocoa puffs and later drug overdose)
iii. *Hines v. State* (convicted felon accidentally kills neighbor during turkey hunt)
iv. *People v. Bodeley* (supermarket robbery and driving away hits man and kills him)
v. *King v. Commonwealth* (Beachcraft Bonanza Drug Plane Crashes into Mountain)

E. **Depraved Heart Murder** – Implied malice to kill
i. *Commonwealth v. Malone* (Russian roulette)
ii. *State v. Davidson* (rottweilers kills child)

F. **Voluntary Manslaughter** - causes death under influence of sudden passion
i. *People v. Ambro* (Wife in adultery)
ii. *People v. Berry* (Young wife killed by husband)
iii. C-Heath of Passion and Wife Killing
iv. C-Heath of Passion Manslaughter and Imperfect Self-Defense (generally for husbands)
v. C-Homophobia in Manslaughter (homosexual advance as insufficient provocation)
vi. C-When Heterosexual Men Kill Homosexual Man (sexual advance)

vii. *Commonwealth v. Carr* (man shoots at lesbian women, says provocation)

viii. MPC – Extreme Emotional Disturbance Test
ix. *State v. Dumlaoo* (transferred intent of murder in-law)
G. **Involuntary Manslaughter** – criminal negligence or simple recklessness  
   i. *Commonwealth v. Welansky* (Coconut Grove Nightclub fire)  
   ii. *State v. William* (native American case)

II. **Sexual Offenses**
A. **Forcible Rape** – lack of consent and force of threat or force.  
   i. *Rusk v. State* (woman gives D ride home, and follows him in house)  
   ii. *State v. Alston* (consensual relationship but rape?)  
   iii. *Commonwealth v. Berkowitz* (college dorm case)  
   iv. *In Re John Z* (Woman ends up in situation with two men, and says "wants to leave")  
   v. *C-The Social Construction of Rape* (Mike Tyson article)  
   vi. *C-Patriarchal stories* (Tyson as the oversexed beast)

B. **Statutory Rape** – Sex with a Minor  
   i. *Garnett v. State* (D is retarded with low ID, victim lied of age, consensual)  
   ii. *State v. Yanez* (18 yr old has sex with 13 yr old)  
   iii. *C-Yes, the risk of Psychological Harm is too Great*  
   iv. *C-No, Selective Enforcement Targets Unpopular Men*  
   v. *C-Gender, Violence, Race, and Criminal Justice* (men are more violent)

III. **Theft Offenses**
A. **Theft**  
   i. **Larceny** – asportation, from possession, with intent to permanent deprive.  
      1. *State v. Robertson* (Walmart – wheeling items out with receipt)  
      2. *Carrier’s Case* (breaking bulk doctrine)  
   ii. **Larceny by Trick** – obtaining custody through deceit  
      1. *Rex. V. Pear* (riding horse to a different city than represented)  
   iii. **Embezzlement** – intentional conversion of property by someone in lawful possession  
      1. *King v. Bazeley* (bank teller and 100 pound note)  
      2. *Gwaltney v. Commonwealth* (bank teller steals open money from open drawer)  
   iv. **False Pretenses** – false statement of fact  
      1. DC Staffer example

B. **Aggravated Theft**  
   i. **Burglary** – breaking and entering of structure with intent to commit a crime therein  
      1. *US v. Eichman* (armed forces station in Times Square)  
      2. *State v. Thibeault* (D had license to enter apt, and then stole)  
   ii. **Robbery** - felonious intent of taking away by use of force or fear within presence  
      1. *Crocker v. State* (take money from wallet of overalls)  
      2. *Miller v. Superior Court* (toilet paper guy steals Velcro wallet)

**Inchoate Offenses**
I. **Attempt** - more than mere preparation, tended to affect commission, specific commission  
   A. **Actus Reus:**  
      1. *People v. Rizzo* (bungled robbers, substantial step)  
      2. *People v. Staples* (mathematician wannabe bank robber)  
   B. **Mens Rea:**  
      1. *People v. Harris* (Mrs. Baker escapes, gunshot rear window)  
      2. *State v. Hinkhouse* (HIV contamination as attempted murder)  
   C. **Defenses:** Impossibility or Abandonment  
      1. *US v. Thomas* (sailors attempt to rape dead woman, unknowingly)

II. **Accomplice Liability – Complicity**  
   1. *Pace v. State* (Notre Dame stealing wallet in car)  
   2. *State v. Parker* (Minnesota law student)

III. **Conspiracy** – an agreement  
   A. *State v. Pacheco* (Deputy Sheriff and Undercover Police)  
   B. *US v. Mothersill* (drug operation with pipe bomb killed police officer) – Pinkerton Rule (scope, reasonably foreseen)  
   C. *Kotteakos v. US* (spokes of a wheel)  
   D. *US v. Bruno* (Links in a chain)  
   E. *US v. Read* (withdrawal from a conspiracy), Hyde’s Rule  
   F. *US v. Recio* (truck with drugs)  
   G. *C-Conspiracy Theory* (conspiracies are dangerous to society)

**Defenses**
I. **Justification**  
   A. **Self Defense**  
      i. *Culverson v. State* (Give me all your money)  
      ii. *People v. Goetz* (shooter on subway)  
      iii. *State v. Simon* (D kills man at condo because he is Asian)  
      v. *State v. Stewart* (battered woman kills sleeping husband)  
      vi. *C – Battered Woman and Self-Defense*  
      vii. *C-Juries and Expert Evidence* (Social framework theories)
viii. *State v. Wanrow* (molested daughter, full house, murder)

B. **Imperfect Self Defense**

C. **Defense of Others**
   i. *People v. Young* (mistaken assault on civilian police officer)

D. **Defense of Habitation**
   i. *People v. Brown* (bricklayer and assault)

E. **Defense of Property**
   i. *People v. Ceballow* (loaded gun on garage door)
   ii. C- Killer Wins Wide Support
   iii. *People v. Quesada* (stereo burglar shot and killed)

F. **Necessity**
   i. *In Re Eichorn* (sleeping as necessity)
   iii. *Commonwealth v. Hutchins* (medical marijuana D)

II. **Excuse**

A. **Duress** (acted in response to imminent threat of death or serious bodily injury, well-grounded fear, no reasonable opportunity to escape threatened harm).
   1. *US v. Contento Pachon* (drug mule from Colombia)
   2. *State v. Hunter* (Kansas Grain Elevator)

B. **Insanity**
   1. *US v. Freeman* (drug addict tries to sell drugs to undercover agent)
   2. *State v. Crenshaw* (Moscovite murder)

C. **Diminished Capacity**

D. **Cultural Defense**
   1. C-Black Rage
   2. *People v. Aphaylath* (Laotian husband kills wife)
   3. C-Cultural Evidence and Male Violence
   4. C-Misidentifying Culture: Asian Women and the Culture Defense
   5. C-Individualizing Justice through Multiculturalism (Culture v. Feminism)