

## Criminal Law Template

### I. General Concepts

A. Vagueness: Fair warning to average person

B. Merger: Solicitation into Completed Crime  
Attempted into Completed Crime

C. Tort Concepts

1. Transferred Intent

2. Strict Liability

3. Causation

D. Liability for Crimes of Another

1. Conspiracy

2. Aid & Abet

3. Accessory After the Fact

II. General Intent vs. Specific Intent: Not the place to focus.

Q: What mental state is required?

III. Mistake (Legal vs. Factual Impossibility: Not the place to focus.)

Q: 1. Did you do the act necessary to commit crime  
(assuming no mistake)?

2. Do facts show required mental state?

➔ Attempt to commit crime.

IV. Offenses

A. Inchoate Crimes (not necessarily completed)

1. Conspiracy (unilateral v. bilateral)

a. Agreement

b. Overt Act

2. Solicitation

3. Attempt—Substantial step towards, more than mere  
Preparation for.

## B. Person Crimes

### 1. Homicide

#### a. Murder (Malice shown by...)

- i. Intent to Kill (dangerous weapon rule)
- ii. Intent to do SBH
- iii. FM (independent felony)
- iv. Reckless Indifference

#### b. Manslaughter

- i. Gross Negligence
- ii. Heat of Passion (Mitigating Defense)

### 2. Assault (attempted Battery)

### 3. Burglary

### 4. Rape

### 5. Kidnap/False Imprison

## C. Property Crimes

### 1. False Pretenses—obtain title

### 2. Embezzlement—legally held property

### 3. Larceny—Taking, asportation, intent

### 4. Forgery—False writings

## V. Defenses

### A. Self Defense (Deadly vs. Non-Deadly Force)

--Duty to retreat

--Dwelling: no duty

### B. Insanity (M'Naghton)

1. Don't know that Act is Wrong;

2. If know, not know nature and quality of Act.

### C. Intoxication—as it goes to mental state

### D. Necessity (Nature pressure) & Duress (People pressure)

--Never killing.

## Criminal Procedure Template

### I. The Intro Issues:

- A. 4<sup>th</sup> (or 5<sup>th</sup>, or 6<sup>th</sup>, or whatever) applies to states through 14<sup>th</sup>.
- B. State Actor (does not reach private conduct; reaches dorm supervisor at U of M because works for state).
- C. Standing to object to government conduct (4<sup>th</sup> Amend).
  - Subjective Expectation, Society accepts as reasonable

### II. 4<sup>th</sup> Amendment. 2 provisions (The Words):

Reasonableness: Searches must be reasonable

Warrants: Must be PC, neutral magistrate, particular

#### A. Search, per Katz: Privacy Interest

1. Manifest Subjective Expectation of Privacy
2. Society accepts as reasonable

-Not bank records, open fields, utility records, pin records from phone

-Yes: heat emanating from house, curtilage

#### B. Warrant Required (“Reasonable”--SCOPE), Unless:

1. Search Incident (Cars: interior if reasonable, not trunk)
2. Cars: PC
3. Plain View (Immediately apparent)
4. Consent
5. Exigency--Hot Pursuit/Evanescent Evidence
6. Inventory (Policy important).
7. Protective Sweep
8. Terry Stop & Frisk: Reasonable Articulable Suspicion

a. Seizure: stop person, clarify (time limited)

b. Frisk: Weapons only

### C. Warrant Execution

1. Technical Requirements—PC, particular, oath, neutral magistrate
2. Unreasonable Delay
3. Knock & Announce, Nighttime—No suppress
4. Scope of Search

### III. Statements

- A. Voluntariness: Due Process. Not admissible at all.
- B. Miranda (5<sup>th</sup> Amendment Trial Rights, advice re: rights)
  1. Custodial
  2. Interrogation (functional equivalent)
  3. Waived
  4. Not Admissible in Case in Chief (but as Impeachment)
- C. 6<sup>th</sup> Amendment Right to Counsel
  1. Applies after adversary proceedings initiated  
Ex: Snitch placed in cell
  2. Not Admissible in Case in Chief (but impeachment)
  3. Post-charge Line-up

**Analyze Chronologically (Like K question), based on each intrusion/action by state actor**

IV. 5<sup>th</sup>: Cross Examination—Evidence Hearsay questions.

## Trusts Template

### 1. Trust Creation

#### A. Express

1. Intent
2. Valid Purpose
3. Trustee
4. Property
5. Beneficiaries

(Charitable—indefinite beneficiaries, perpetual)  
(Revocable, Irrevocable—When?)

#### B. Implied/Constructive Trust

Whenever someone has money they shouldn't have, create a "constructive trust" to take care of the money until a court decides what to do.

### 2. Changes

- A. Purpose no longer necessary: Cy Pres (intent)
- B. Transfer of Interest (Spendthrift Trusts)
- C. Discretionary Trusts

### 3. Duties of Trustee—Loyalty, commingling, terms.