**Defenses**

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HIGH-STAKES TAX DEFENSE & COMPLEX CRIMINAL DEFENSE

* 1. Responsibility
		1. Insanity
			1. M’Naghten Test
				1. A D is entitled to acquittal if at the time of committing the act, the party accused was laboring under such a defect of reason, from disease of the mind, as n/ to know the nature and quality of the act that he was doing, or if he did know it, he did n/ know that what he was doing was wrong
				2. Test: If D suffers from delusions (or false beliefs), it is necessary to determine whether – if the facts had been as he believed them to be – his actions would have been criminal. If D’s actions were criminal, then he cannot rely upon the M’N defense
				3. Example of where D’s actions were criminal even where the facts had been as the defendant believed them to be: D is paranoid and thinks that V’s shadow is following him everywhere. D shoots at the “shadow” killing V. D was n/ legally justified to fire a gun at the shadow. Since his actions were, in fact criminal, he cannot rely upon the M’N defense
				4. “Disease of the mind” includes those mental abnormalities where a person is under the influence of an insane delusion. Example: If under the influence of schizophrenia, D believes that another person is attempting to kill him, and he kills that man supposedly in self-defense, he would be exempt from punishment
				5. “Disease of the mind” does n/ include an inability to control one’s actions on account of mental illness. Example: D’s mental illness renders him unable to control his sexual impulses. He was arrested after strolling naked in a public park
		2. Intoxication
			1. Voluntary or involuntary intoxication – whether brought about by alcohol or by drugs – is a defense to a specific intent crime when it negates the existence of an element of the crime
			2. Example: After drinking heavily, Adam breaks into Brian’s house. Burglary is a specific intent crime. Because voluntary intoxication is a defense to specific intent crimes, Adam can raise the defense of self-induced intoxication at his trial
			3. Specific v. General intent crimes: Intoxication is a valid defense for specific intent crimes if it negates the mens rea, but it is n/ a valid defense for general intent crimes, b/c general intent crimes do n/ require a specific mens rea
			4. Voluntary intoxication: Not a defense to crimes involving malice, recklessness, or negligence
		3. Infancy
		4. Competency
	2. Justification
		1. Self-defense: If a person has a reasonable belief that he is in imminent danger of unlawful bodily harm, he may use that amount of force which is reasonably necessary to prevent such harm, unless he is the aggressor
			1. Deadly force is justified when an individual is threatened w/ serious bodily injury or death
				1. A person is privileged to use deadly force in self-defense if:

He reasonably believes that he is in immediate danger of death or serious bodily harm, and

No reasonable belief of imminent danger: Granted, Gabby had a reasonable belief of future harm but it was n/ imminent. In fact, her abusive husband was asleep when she arranged to have Harry kill him

Reasonable belief that life was in danger: Sam was asleep when he heard noises in the living room. He picked up his loaded gun and descended the stairs. He saw two burglars running out the front door. Sam ran outside to catch them. Simultaneously, Victor, an off-duty plainclothes officer was driving his car past Sam’s home when he saw two suspicious men. Victor stopped his car in front of Sam’s house and pulled out his gun. Victor got out of the car and started walking toward Sam. Sam saw Victor w/ his gun drawn. N/ knowing that Victor was an off-duty officer, Sam shot him w/ his pistol

The use of such force is necessary to avoid this danger

* + - 1. Non-deadly force
				1. The non-aggressor is justified in using a reasonable amount of force against his adversary when he reasonably believes:

That he is in immediate danger of unlawful bodily harm from his adversary, and

The use of such force is necessary to avoid this danger

* + - 1. Aggressor: One who strikes the first blow or commits a crime against the victim
			2. There is no duty to retreat
		1. Defense of others: D is justified in defending another w/ reasonable force if he reasonably believes the victim had a right to use such force
		2. Defense of property – Reasonable non-deadly force may be used in defending one’s property but n/ deadly force unless unlawful interference w/ property is accompanied by a threat of deadly force
		3. Duress: Duress is a defense to all crimes except homicide. When someone points a gun at you and says, “If you don’t rob that store, I’m going to kill you,” duress cannot be used as a defense
		4. Law enforcement defenses
			1. Police
			2. Private citizens
		5. Resisting unlawful arrest: D may use reasonable non-deadly force to resist an unlawful arrest
		6. Necessity
		7. Entrapment
		8. Consent: Consent of the victim is no defense to a crime
		9. Mistake of fact
			1. Mistake of fact: Mistake of fact can be a defense.

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| **Mental state of crime charged** | **Application of defense** |
| Specific intent | Any mistake – reasonable or unreasonable |
| Malice and general intent | Reasonable mistakes only |
| Strict liability  | Never |