

First Assignment  
Criminal Law  
Fall, 2019  
Professor Carroll

Welcome to Criminal Law. For your first assignment please review the fact pattern below and answer the five questions that follow on page 2. We will discuss your answers in class on Monday, August 19 and will continue to work on the exercise on Wednesday, August 21 -- so please be sure you are familiar with the fact pattern and have taken time to answer the questions posed prior to coming to class. You will not have time in class to construct answers. Also, we are working with a "limited universe" fact pattern. This means you should not do any outside research and you should not assume the existence of any fact not discussed in the fact pattern. If I didn't give it to you as a fact, it is an unknown for this class exercise. I realize some of you may have questions about facts or the questions, but I would like you to try to answer the questions as best you can. I do not plan on answering questions prior to class. If something seems ambiguous or you wish you had some additional information, you should feel free to note that in your answer to question 5. Finally, I have "bolded" the names of the characters in the fact pattern (including the name of the dog, **Bob**). I have done this so it is easier for you to keep track of the various characters.

**Fact Pattern:**

On Friday, August 16, 2019, **Sam** entered the house of **Mary** through an unlocked kitchen door. **Sam** knew **Mary** from church and knew that she never locked the door to her house. **Mary** had not given **Sam** permission to enter her home. Before he entered **Mary's** house, **Sam** rang the front doorbell. When no one answered the front door, **Sam** opened an unlocked side gate on **Mary's** property and went into **Mary's** backyard. Seeing no one in the backyard, **Sam** went to **Mary's** kitchen door, which was at the back of her house. He knocked twice on the kitchen door and then opened it. As he entered **Mary's** house, he called out **Mary's** name repeatedly. **Mary's** elderly cocker spaniel, **Bob**, greeted **Sam** as he entered and he petted the dog and fed it a treat from the treat jar **Mary** kept on her kitchen counter.

Once he had determined that **Mary** was not home, **Sam** made himself three peanut butter and jelly sandwiches from supplies he found in **Mary's** kitchen. He also opened the refrigerator and grabbed a can of Heineken beer. The can felt oddly light to **Sam** when he picked it up, but he didn't think anything of it. Taking the sandwiches and the can of beer, he left **Mary's** house, patting **Bob** on the head and making sure both the kitchen door and the gate to the backyard were closed. **Sam** did not take anything else from **Mary's** property.

Almost as soon as he left **Mary's** house, **Sam** caught a bus to another part of town. On the bus he ate the peanut butter and jelly sandwiches he had made at **Mary's** house. When he got off the bus, **Sam** attempted to open the Heineken he had taken from **Mary's** refrigerator, but he could not get the can to open in the way he was accustomed. As he struggled with the can, the entire top eventually came off and **Sam** realized the can of Heineken was actually a

“safe.” Inside were a pair of earrings, a necklace and a bracelet. Later **Sam** learned all three pieces of jewelry were quite valuable. **Sam** never returned the jewelry to **Mary**.

When asked about what he had done, **Sam** said “I was literally starving when I went into **Mary’s** house. Those sandwiches kept me alive. As for the jewelry, I really only thought I was taking a can of beer. I would never hurt **Mary**. I knew her from church. She was a kind woman. I knew she wouldn’t mind helping me out.”

### **Questions:**

Assuming **Sam** was arrested and there is evidence to support the facts described above, without doing any outside research and based entirely on the facts above:

1. Are there criminal charges that you believe should be brought against **Sam**? If so, what charges? Do not worry if you do not know the legal term for the “crime” you are trying to identify. Just tell me what you believe **Sam** has done or failed to do that constitutes a crime.
2. If you believe there are criminal charges that should be brought against **Sam**, what are the “elements” of those charges and which facts described above do you believe support each element? Elements are the component parts of criminal statutes. Elements must be proven by the state in order to convict someone of a crime. For example, a person cannot be charged with murder if a person did not actually die. The death is an “element” of murder.
3. Regardless of whether or not you believe **Sam** engaged in criminal behavior, are there reasons you might decide not to bring a criminal charge against him?
4. Are there aspects to the fact pattern above that make you believe that **Sam** has behaved “morally” wrong but nonetheless should not be criminally charged?
5. Is there additional information you might like that would influence your answers to the questions above?