

# Lesson Plan

**Course Title:** Criminal Justice

**Session Title:** Defenses to Criminal Prosecution

**Lesson Duration:**

1-2 days depending on class period length

[Lesson length is subjective and will vary from instructor to instructor]

**Performance Objective:**

Upon completion of this assignment, the student will be able to comprehend and apply the various aspects of defenses to prosecution as they apply to adult and juvenile prosecution.

**Specific Objectives:**

Upon completion of this lesson the learner will be able to:

- Discuss the various types of prosecution
- List various defenses to prosecution
- Describe the criminal mind and who can use these defenses
- Demonstrate the ability and knowledge of applying the information to the actual applications of the law

**TEKS Correlations:**

This lesson, as published, correlates to the following TEKS. Any changes/alterations to the activities may result in the elimination of any or all of the TEKS listed.

- **125.115(c)(3)(A)**  
demonstrate knowledge of purpose and need for laws, including statutory and procedural criminal law;
- **125.115(c)(3)(B)**  
demonstrate knowledge of the functional workings and interrelationship of the major components and sub-components of the criminal justice system;
- **125.115(c)(3)(C)**  
demonstrate knowledge of the types, elements, and sources of the laws that define certain acts as crimes in the United States;
- **125.115(c)(3)(D)**  
demonstrate knowledge of the structure of the American court system; and,
- **125.115(c)(3)(I)**  
demonstrate knowledge of the basic legal and concepts used in criminal justice.

**Interdisciplinary Correlations:**

## **English**

### **110.xx(6) - Reading/vocabulary development**

- **110.xx(6)(A)**  
Expand vocabulary through wide reading, listening, and discussing...
- **110.xx(6)(B)**  
Rely on context to determine meanings of words and phrases such as figurative language, idioms, multiple meaning of words, and technical vocabulary...

### **Accommodations for Learning Differences:**

- [Lesson Plan/Curriculum Modifications Checklist](#)
- [Guidelines and Procedures for Adapting Instructional Materials](#)
- [Instructor Format for Curriculum Customization for Learning Differences](#)
- [Sample Curriculum Customization for Learning Differences](#)

## **Instructor/Trainer**

### **References:**

- <http://www.detnews.com/2005/oakland/0506/27/B04-225089.htm>
- [http://www.reviewjournal.com/lvrj\\_home/2005/Jun-21-Tue-2005/news/26754753.html](http://www.reviewjournal.com/lvrj_home/2005/Jun-21-Tue-2005/news/26754753.html)
- [http://www.kentucky.com/mld/mercurynews/sports/colleges/11897357.htm?source=rss&channel=mercurynews\\_colleges](http://www.kentucky.com/mld/mercurynews/sports/colleges/11897357.htm?source=rss&channel=mercurynews_colleges)
- [http://www.2theadvocate.com/stories/062205/new\\_insane001.shtml](http://www.2theadvocate.com/stories/062205/new_insane001.shtml)
- <http://www.thewbalchannel.com/news/2708584/detail.html>
- <http://home.hamptonroads.com/stories/story.cfm?story=63650&ran=86369>
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- [http://www.tenant.net/Other\\_Laws/Pubofc/pubofc.html](http://www.tenant.net/Other_Laws/Pubofc/pubofc.html)
- <http://www.capitol.state.tx.us/statutes/docs/GV/content/htm/gv.004.00.000411.00.htm>
- <http://www.crimopinion.com/entrapment/>
- [http://www.tncrimlaw.com/TPI\\_Crim/40\\_04.htm](http://www.tncrimlaw.com/TPI_Crim/40_04.htm)
- <http://www.law.fsu.edu/journals/lawreview/issues/253/lord.html>
- <http://www.law.fsu.edu/journals/lawreview/frames/253/lordtxt.html>
- <http://www.are.uscourts.gov/Jury/criminal/9-02.htm>
- <http://laomedia.net/content/view/243/42>
- <http://www.ojp.usdoj.gov/ocom/94Guides/Trials/Valid/>
- [http://www.essays.cc/free\\_essays/d5/arn49.shtml](http://www.essays.cc/free_essays/d5/arn49.shtml)
- <http://echo.forensicpanel.com/2000/6/1/ptsdas.html>
- <http://echo.forensicpanel.com/2001/7/2/startledvietnam.html>

### **Instructional Aids:**

- Texas State Penal Code
- Texas Code of Criminal Procedure
- Defenses to Criminal Prosecution PowerPoint
- Defenses to Criminal Prosecution Slides
- Defenses to Criminal Prosecution Notes

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| <ul style="list-style-type: none"> <li>• Defenses to Criminal Prosecution Handouts</li> <li>• Defenses to Criminal Prosecution Outline</li> </ul>  |   |
| <b>Materials Needed:</b> <ul style="list-style-type: none"> <li>• Expo Markers</li> <li>• White marker boards</li> <li>• Presentation charts</li> </ul>  |   |
| <b>Equipment Needed:</b> <ul style="list-style-type: none"> <li>• Computer with multi-media capabilities</li> <li>• Multi-media projector</li> </ul>   |   |
| <b>Learner</b>   |   |
| <p>There are no learner preparation requirements</p>   |   |
| <b>Introduction (LSI Quadrant I):</b> <p>For just about every crime you can imagine that can be committed there are an equal amount of defenses available to help the criminal either avoid prosecution or at the very least enter a plea that will facilitate the introduction of a plea of nole contendre or plea to a crime less of a penalty.</p> <p>In many cases such defenses to prosecution are justifiable, such as the “battered woman syndrome”. How other rules should apply as well. Did the woman use just enough force to stop the assault or probable assault against her? Did she have knowledge before hand that would lead a normal prudent person to leave the entire situation?</p> <p>In other cases, such as PTSD, the question concerning whether a normal, prudent person are difficult to apply since a combat veteran is not a normal, prudent person. That is not to say that a veteran is not a normal person. It is simply that a combat veteran has experienced events and horrors that normal people will never see in an entire lifetime. In addition the veteran is trained to react in a certain physical manner towards certain situations which a normal person would simply dial 911 for resolution.</p> <p>There are many such situations in life that involve all walks of life. Such situations, such people should be given special considerations of defense to prosecution as long as the strict parameters of the defenses are met by the person’s actions.</p> |   |
| <b>Outline (LSI Quadrant II):</b> <ul style="list-style-type: none"> <li>➤ <b>Personal Defenses for Women</b> <ol style="list-style-type: none"> <li>1. Battered woman syndrome</li> </ol> </li> </ul>   | <p>Discuss previous cases where the “Battered woman</p> |

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| <p>2. PMS defense</p> <ul style="list-style-type: none"> <li>➤ <b>Juvenile Criminals</b> <ol style="list-style-type: none"> <li>1. How are juveniles treated different than adults?</li> <li>2. What happens when a juvenile is picked up by law enforcement?</li> </ol> </li> <li>➤ <b>Defenses for Veterans</b> <ol style="list-style-type: none"> <li>1. PTSD defense</li> <li>2. Why is this a defense?</li> <li>3. May all Veterans rely on this defense?</li> </ol> </li> <li>➤ <b>Duress</b> <ol style="list-style-type: none"> <li>1. Coerced to commit a crime</li> <li>2. You normally would not commit crime</li> <li>3. In fear of bodily injury</li> </ol> </li> <li>➤ <b>Entrapment</b> <ol style="list-style-type: none"> <li>1. Law enforcement sets an enticement that anyone could fall prey to.</li> <li>2. The offender does not have a record of committing similar offenses</li> </ol> </li> <li>➤ <b>Irresistible Impulse</b> <ol style="list-style-type: none"> <li>1. Lack of self control</li> <li>2. Other action triggers your impulse</li> </ol> </li> <li>➤ <b>Public Duty Defense</b> <ol style="list-style-type: none"> <li>1. Action in the line of duty</li> <li>2. Action in the legal defense of another</li> </ol> </li> <li>➤ <b>Necessity Defense</b> <ol style="list-style-type: none"> <li>1. Committed crime to avoid greater evil</li> <li>2. There were no other more reasonable alternatives</li> </ol> </li> <li>➤ <b>Accidental Defense</b> <ol style="list-style-type: none"> <li>1. Not a premeditated action</li> <li>2. You had no desire to harm anyone</li> </ol> </li> <li>➤ <b>Self-Defense</b> <ol style="list-style-type: none"> <li>1. Justifiable force against unjustifiable force</li> <li>2. Only necessary force was used</li> <li>3. Your force stopped when the assailant stopped his assault</li> </ol> </li> <li>➤ <b>The Durham Rule</b> <ol style="list-style-type: none"> <li>1. Temporary insanity</li> <li>2. A normal prudent person may have responded in the same way</li> </ol> </li> </ul> | <p>syndrome” was used as a defense.</p> <p>Specific Juvenile law requirements that provide defenses for the juvenile.</p> <p>Discuss your own experiences and how you may respond in certain situations. Have the students compare their own reactions.</p> <p>Have the students discuss and “act out” duress scenarios.</p> <p>Discuss various situations that may show entrapment by local police.</p> <p>Discuss the difference in irresistible impulse and PTSD or temporary insanity.</p> <p>Discuss the parameters controlling the duty of peace officers, on or off duty.</p> <p>Create scenarios for the students in which they are forced to decide on the lesser of two evils.</p> <p>Discuss how you cannot be convicted of a crime if it is proven accidental. Also discuss civil implications.</p> <p>Discuss self-defense and defense of others at length.</p> <p>Discuss student’s own definition of “Temporary Insanity”.</p> |
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| <p>➤ <b>The M’Naughten Rule</b></p> <ol style="list-style-type: none"> <li>1. Incapable of discerning right from wrong<br/>Mental capability or the lack of is proven in court</li> </ol>   | <p>Discuss how and when a person actually can tell the difference between right and wrong.</p> |
|   |  |
| <p><b>Guided Practice (LSI Quadrant III):</b></p> <p>The instructor will, utilizing PowerPoint presentation materials, point out various aspects of each section and apply it to the real world in a manner students can comprehend.</p>  |  |
| <p><b>Independent Practice (LSI Quadrant III):</b></p> <p>Students will set up a “scenarios” portraying their comprehension of the various defenses of prosecution established in this lesson. During the scenarios the students will demonstrate their knowledge and comprehension of the definitions and terms learned in this exercise.</p>  |  |
|   |  |
| <p><b>Review (LSI Quadrants I and IV):</b></p> <ul style="list-style-type: none"> <li>• Is it possible for a woman to get away with murder by claiming “battered woman syndrome”?</li> <li>• In what way can a woman rely on the insanity defense?</li> <li>• How often has the PMS defense been used in the State of Texas?</li> <li>• What is PTSD?</li> <li>• Do all veterans have PTSD?</li> <li>• Is PTSD strictly something from which veterans suffer?</li> <li>• What is the age range of a juvenile?</li> <li>• Can a law enforcement officer arrest a juvenile?</li> <li>• Once a juvenile suspect is in custody how soon should the law enforcement officer deliver the juvenile to the juvenile processing office?</li> <li>• Why are juvenile offenders treated differently than adult offenders of the same offense or crime?</li> <li>• What is the process a child must go through once they are taken into custody by law enforcement?</li> <li>• How can you commit a crime of necessity and not suffer a penalty or imprisonment?</li> <li>• If you do not kill or injure someone intentionally what defense can you claim?</li> <li>• Self-Defense is a strict defense. What must you be able to prove in order to claim this defense?</li> <li>• Explain the term “Duress” and how it applies to the law.</li> <li>• Entrapment is a defense against prosecution if you are enticed to commit what?</li> <li>• When could you possibly have an irresistible impulse that would be a defense to prosecution?</li> </ul> |  |

- Law enforcement officers have what defense available for crimes they may be required to commit in the line of duty?
- The Durham Rule applies to what particular defense?
- The M’Naughten Rule applies to what particular line of defense?

**Informal Assessment (LSI Quadrant III):**

- As a group exercise, ask the students to create their own “crime” scenario and act out the defense that would be available to them.

**Formal Assessment (LSI Quadrant III, IV):**

Assessment will be in the form of a quiz consisting of “True/False” and Multiple Choice questions.

**Extension/Enrichment (LSI Quadrant IV):**

Students will utilize this knowledge in future lessons involving the criminal mind and the various attempts of society and criminal justice to deal with the realities of terrorism.

Students needing remediation will be given an opportunity for a review during a tutoring session either before or after school throughout the lesson, as well as, in an effort to obtain a passing grade subsequent to the initial quiz.

# ***CRIMINAL PROSECUTION***

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## ***DEFENSES TO PROSECUTION***



# PERSONAL DEFENSES TO PROSECUTION FOR WOMEN (1)



## Battered Woman Syndrome Defense

- It is now a defense to prosecution when a woman can show, in her defense, that based on history of abuse from the actor that the victim was in fear of bodily injury, serious bodily injury or death from probable assault from the actor and that the victim acted strictly based on the assault history of the actor against the victim
- In other words her old man comes home drunk or doped up every night and beats her with whatever weapon that is available. He comes home one night. The victim hears the actor opening the door of their home and she waits for him just inside the door. As soon as the spouse opens the door she hits him over the head with an iron skillet. The man dies from the blow to the head. The wife is able to file the “battered woman syndrome defense” against prosecution.

# PERSONAL DEFENSES TO PROSECUTION FOR WOMEN (2)



## Insanity Defense

- The insanity defense is based upon the defenses ability to prove that, at the moment of time in which the actor committed the crime, the actor was not in complete control of his senses. In other words the actor was not acting in the normal manner that he or any other prudent person would have acted or reacted in similar situations.
- An example would be if a father comes home an finds a man has his daughter pinned down on the living room floor and is in the process of attempting to rape his daughter. The father reacts violently in defense of his daughter and beats the attacker over the head with a brass candlestick he took from the fireplace mantle. His defense is temporary insanity due to his mental state when he saw his daughter being attacked.

## PMS Defense

- PMS is a defense in England and other European countries. It is not a defense, to this date, in the United States. It is similar to the insanity plea.

# **DEFENSE FOR VETERANS (1)**

- **PTSD...WHAT IS IT?**
  - **Post Traumatic Stress Disorder is a defense available to veterans of combat based on the hardships and experiences they had to endure during combat and the relation of those experiences to their present actions.**



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Windows Screen Background

# **DEFENSE FOR VETERANS (2)**



**An example of PTSD would be a combat veteran who witnesses death and torture of women and children at the hands of the enemy during the war. The veteran is walking down the street and sees a boy lying on the ground curled up in a defensive position on the ground. A grown man is beating the boy with a steel rod. A pool of blood surrounds the boy's body. The veteran reacts instantaneously to the boy's outcry in pain and kills the boy's assailant. The veteran reacted just as he would have in combat. Therefore he can fall upon the PTSD defense.**

## **Do all Veterans have PTSD?**

- **Although the law specifically states Viet Nam Veterans, any veteran can claim the PTSD defense if he can show such traumatic experiences triggered his reaction.**

# ***JUVENILE CRIMINALS*** (1)

## **Who is a Juvenile?**

- **In the State of Texas a juvenile is defined as any child not older than 16 years of age and not younger than 10 years of age**



# ***JUVENILE CRIMINALS*** (2)



## ***Why are juvenile laws different?***

- **Juvenile laws are specifically set aside from adult laws due to the fact that juveniles, according to the law, are perceived as juvenile delinquents who have broken a penal code law or children with conduct in need of supervision. Juveniles are not considered “criminals” in the same aspect as adults. Children cases are treated as “Civil Offenses” and their records are sealed once the child turns 17 years of age (unless the child has a continued record of criminal activity up to and after the age of 17). These sealed records cannot be opened without a court order.**

# ***JUVENILE CRIMINALS (3)***



- ***What if a “Child” commits a crime?***
  - ***When a child commits a crime that child is “Taken into Custody” by law enforcement***
  - ***The child is transported, without delay, to a Juvenile Processing Office***
  - ***The child is taken before a Magistrate and given a magistrate’s warning in which the child is advised of his/her rights and the charges against him/her are explained***
  - ***The child is then given an opportunity to give a written or oral statement to law enforcement (If the child chooses to)***
  - ***The juvenile offender is then fingerprinted and photographed (Both fingerprints and photos are destroyed within one year of the date of the offense unless further criminal activity occurs)***
  - ***The juvenile is then released to parents/guardians or turned over to Juvenile Probation for further processing***

# ***DO OTHER DEFENSES EXIST?***

- **Duress**
- **Entrapment**
- **Irresistible Impulse**
- **Public Duty Defense**
- **Necessity**
- **Accident**
- **Self-Defense**
- **Durham Rule**
- **M’Naughten Rule**



# ***DURESS !!!***

- You are coerced or forced, by another person, to commit a crime
- You, under normal conditions, would not have committed the crime
- You do not have a history of committing crimes
- You were in fear of bodily injury, exposure, or in fear of injury to another, or death

# ***ENTRAPMENT***



- You are “enticed” to commit a crime when you normally would not commit that crime
- You do not have a criminal history showing that you typically would commit that crime
- You have never been seen committing such a crime by other citizens
- An example would be leaving a bag of groceries setting on the hood of a car in a “poor” neighborhood where people are starving and then arresting anyone who chose to “lift” the abandoned food.

# ***IRRESISTIBLE IMPULSE!***



- Impossible to control your conduct
- Your emotions are not normal
- Outside factors impact your action
- The action of another triggers your impulse to act
- An example would be of someone who had not eaten anything for weeks. They are walking down the street and see a display of apples in a cart on the outside of a grocery store. The starving person walks by the store and grabs two apples, immediately beginning to eat one of them. A cop sees the offense and places the person under arrest for theft. The offender's defense is "Irresistible Impulse".

# ***PUBLIC DUTY DEFENSE***



- **Police are justified in their use of force**
- **Their action defends another against serious bodily injury or death**
- **Their action prevents serious harm to themselves...or death**
- **Police fear that it is their duty to use deadly force**

# NECESSITY



- You committed the act to avoid a greater evil...or crime
- You sincerely felt you had no other choice
- You were in fear of the consequences if you did not commit the crime
- Any other normal, prudent person would have made the same decision
- An example is that you find a person drowning in flood waters. Their arm is wedged under a fallen tree. Blood is pouring out of the person's arm and the flood waters are rising. In fear that the person will drown or bleed to death before other help could arrive you cut the person's arm off in order to free them. The greater evil would have been to let the person drown or slowly die from blood loss.

# ACCIDENTAL

- Result of Happenstance
- You did not plan the harm
- You did not want to harm anyone
- There were no factors influencing your actions
- You are working on re-building a brick ledge. You have a scaffold set up on the sidewalk with a warning sign to passerby's. As you turn to add another cleaned brick to the pile you sneeze and accidentally knock an existing brick from the pile. A person passing underneath the scaffolding at that moment in time is struck by the brick and suffers serious bodily injury of a skull fracture from the impact of the brick. Your defense is “accidental”.

# **SELF-DEFENSE**



- **Your action was strictly to defend yourself against unlawful assault**
- **Your action was strictly to stop the unlawful assault**
- **You harbored no pre-meditated harm or ill-feelings against the actor**
- **A normal, prudent person would have reacted in the same manner**
- **The key to this defense is that you reacted strictly with justified force and only the force that was needed to stop the assault. In other words if someone walks up and hits you without provocation or justification you may be able to stop the assault by telling them to simply “Stop”. If they stop that is all of the force you are allowed to use. If they attempt to hit you again you can use whatever force is necessary to protect yourself from further bodily injury, serious bodily injury or death. Basically, you are allowed to use one level of force greater than the force being used against you to stop the force.**
- **Once again, once the force against you has stopped you must stop your own use of force against the actor**

# ***THE DURHAM RULE***

## ***Temporarily Insane***



- **You feel like you were not in control of your senses at the time of the crime**
- **You were emotionally driven due to outside factors**
- **Your actions were totally contrary to your normal personality**
- **The jury decides whether or not they accept your plea of insanity**

# ***THE M'NAUGHTEN RULE***



- **You are genuinely incapable of determining right from wrong**
- **You're mental health is provable in court**
- **A jury of your peers agrees that, based on professional witness, you are incapable of determining right from wrong**
- **Your mental awareness is determined by a “Right or Wrong” insanity/mental health test**

# ***DEFENSES IN REVIEW (1)***



- **Is it possible for a woman to get away with murder by claiming “battered woman syndrome”?**
- **In what way can a woman rely on the insanity defense?**
- **How often has the PMS defense been used in the State of Texas**
- **What is PTSD?**
- **Do all veteran’s have PTSD?**
- **Is PTSD strictly something that veterans suffer from?**
- **What is the age range of a juvenile?**
- **Can a law enforcement officer arrest a juvenile?**
- **Once a juvenile suspect is in custody how soon should the law enforcement officer deliver the juvenile to the juvenile processing office?**
- **Why are juvenile offenders treated differently than adult offenders of the same offense or crime?**
- **What is the process a child must go through once they are taken into custody by law enforcement?**

# ***DEFENSES IN REVIEW (2)***



- **What is the process a child must go through once they are taken into custody by law enforcement?**
- **How can you commit a crime of necessity and not suffer a penalty or imprisonment?**
- **If you do not kill or injure someone intentionally what defense can you claim?**
- **Self-Defense is a strict defense. What must you be able to prove in order to claim this defense?**
- **Explain the term “Duress” and how it applies to the law.**
- **Entrapment is a defense against prosecution if you are enticed to commit what?**
- **When could you possibly have an irresistible impulse that would be a defense to prosecution?**
- **Law enforcement officers have what defense available for crimes they may be required to commit in the line of duty?**
- **The Durham Rule applies to what particular defense?**
- **The M’Naughten Rule applies to what particular line of defense?**

# ***THE DEFENSES ARE...GONE***

**“THAT’ ALL FOLKS”  
YOU LEAVE NOW!!...OK?**




Slide 1

**CRIMINAL  
PROSECUTION**

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**DEFENSES TO PROSECUTION**




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Slide 2

**PERSONAL DEFENSES TO PROSECUTION  
FOR  
WOMEN (1)**

**Battered Woman Syndrome Defense**

- It is now a defense to prosecution when a woman can show, in her defense, that based on history of abuse from the actor that the victim was in fear of bodily injury, serious bodily injury or death from probable assault from the actor and that the victim acted strictly based on the assault history of the actor against the victim
- In other words her old man comes home drunk or doped up every night and beats her with whatever weapon that is available. He comes home one night. The victim hears the actor opening the door of their home and she waits for him just inside the door. As soon as the spouse opens the door she hits him over the head with an iron skillet. The man dies from the blow to the head. The wife is able to file the "battered woman syndrome defense" against prosecution.

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Slide 3

**PERSONAL DEFENSES TO PROSECUTION  
FOR  
WOMEN (2)**

**Insanity Defense**

- The insanity defense is based upon the defenses ability to prove that, at the moment of time in which the actor committed the crime, the actor was not in complete control of his senses. In other words the actor was not acting in the normal manner that he or any other prudent person would have acted or reacted in similar situations.
- An example would be if a father comes home and finds a man has his daughter pinned down on the living room floor and is in the process of attempting to rape his daughter. The father reacts violently in defense of his daughter and beats the attacker over the head with a brass candlestick he took from the fireplace mantle. His defense is temporary insanity due to his mental state when he saw his daughter being attacked.

**PMS Defense**

- PMS is a defense in England and other European countries. It is not a defense, to this date, in the United States. It is similar to the insanity plea.

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Slide 4

**DEFENSE FOR VETERANS (1)**

- **PTSD...WHAT IS IT?**
  - **Post Traumatic Stress Disorder is a defense available to veterans of combat based on the hardships and experiences they had to endure during combat and the relation of those experiences to their present actions.**




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Slide 5

**DEFENSE FOR VETERANS (2)**

An example of PTSD would be a combat veteran who witnesses death and torture of women and children at the hands of the enemy during the war. The veteran is walking down the street and sees a boy lying on the ground curled up in a defensive position on the ground. A grown man is beating the boy with a steel rod. A pool of blood surrounds the boy's body. The veteran reacts instantaneously to the boys outcry in pain and kills the boy's assailant. The veteran reacted just as he would have in combat. Therefore he can fall upon the PTSD defense.

**Do all Veterans have PTSD?**

- Although the law specifically states Viet Nam Veterans, any veteran can claim the PTSD defense if he can show such traumatic experiences triggered his reaction.

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Slide 6

**JUVENILE CRIMINALS (1)**

**Who is a Juvenile?**

- **In the State of Texas a juvenile is defined as any child not older than 16 years of age and not younger than 10 years of age**



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Slide 7

**JUVENILE CRIMINALS (2)**

**Why are juvenile laws different?**

- Juvenile laws are specifically set aside from adult laws due to the fact that juveniles, according to the law, are perceived as juvenile delinquents who have broken a penal code law or children with conduct in need of supervision. Juveniles are not considered "criminals" in the same aspect as adults. Children cases are treated as "Civil Offenses" and their records are sealed once the child turns 17 years of age (unless the child has a continued record of criminal activity up to and after the age of 17). These sealed records cannot be opened without a court order.

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Slide 8

**JUVENILE CRIMINALS (3)**

**What if a "Child" commits a crime?**

- When a child commits a crime that child is "Taken into Custody" by law enforcement
- The child is transported, without delay, to a Juvenile Processing Office
- The child is taken before a Magistrate and given a magistrate's warning in which the child is advised of his/her rights and the charges against him/her are explained
- The child is then given an opportunity to give a written or oral statement to law enforcement (if the child chooses to)
- The juvenile offender is then fingerprinted and photographed (Both fingerprints and photos are destroyed within one year of the date of the offense unless further criminal activity occurs)
- The juvenile is then released to parents/guardians or turned over to Juvenile Probation for further processing

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Slide 9

**DO OTHER DEFENSES EXIST?**

- Duress
- Entrapment
- Irresistible Impulse
- Public Duty Defense
- Necessity
- Accident
- Self-Defense
- Durham Rule
- M'Naughten Rule



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Slide 10

***DURESS !!!***

- You are coerced or forced, by another person, to commit a crime
- You, under normal conditions, would not have committed the crime
- You do not have a history of committing crimes
- You were in fear of bodily injury, exposure, or in fear of injury to another, or death

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Slide 11

***ENTRAPMENT***

- You are "enticed" to commit a crime when you normally would not commit that crime
- You do not have a criminal history showing that you typically would commit that crime
- You have never been seen committing such a crime by other citizens
- An example would be leaving a bag of groceries setting on the hood of a car in a "poor" neighborhood where people are starving and then arresting anyone who chose to "lift" the abandoned food.

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Slide 12

***IRRESISTIBLE  
IMPULSE!***

- Impossible to control your conduct
- Your emotions are not normal
- Outside factors impact your action
- The action of another triggers your impulse to act
- An example would be of someone who had not eaten anything for weeks. They are walking down the street and see a display of apples in a cart on the outside of a grocery store. The starving person walks by the store and grabs two apples, immediately beginning to eat one of them. A cop sees the offense and places the person under arrest for theft. The offender's defense is "Irresistible Impulse".

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Slide 13

**PUBLIC DUTY DEFENSE**

- Police are justified in their use of force
- Their action defends another against serious bodily injury or death
- Their action prevents serious harm to themselves...or death
- Police fear that it is their duty to use deadly force

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Slide 14

**NECESSITY**

- You committed the act to avoid a greater evil...or crime
- You sincerely felt you had no other choice
- You were in fear of the consequences if you did not commit the crime
- Any other normal, prudent person would have made the same decision
- An example is that you find a person drowning in flood waters. Their arm is wedged under a fallen tree. Blood is pouring out of the person's arm and the flood waters are rising. In fear that the person will drown or bleed to death before other help could arrive you cut the person's arm off in order to free them. The greater evil would have been to let the person drown or slowly die from blood loss.

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Slide 15

**ACCIDENTAL**

- Result of Happenstance
- You did not plan the harm
- You did not want to harm anyone
- There were no factors influencing your actions
- You are working on re-building a brick ledge. You have a scaffold set up on the sidewalk with a warning sign to passerby's. As you turn to add another cleaned brick to the pile you sneeze and accidentally knock an existing brick from the pile. A person passing underneath the scaffolding at that moment in time is struck by the brick and suffers serious bodily injury of a skull fracture from the impact of the brick. Your defense is "accidental".

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Slide 16

**SELF-DEFENSE**

- Your action was strictly to defend yourself against unlawful assault
- Your action was strictly to stop the unlawful assault
- You harbored no pre-meditated harm or ill-feelings against the actor
- A normal, prudent person would have reacted in the same manner
- The key to this defense is that you reacted strictly with justified force and only the force that was needed to stop the assault. In other words if someone walks up and hits you without provocation or justification you may be able to stop the assault by telling them to simply "Stop". If they stop that is all of the force you are allowed to use. If they attempt to hit you again you can use whatever force is necessary to protect yourself from further bodily injury, serious bodily injury or death. Basically, you are allowed to use one level of force greater than the force being used against you to stop the force.
- Once again, once the force against you has stopped you must stop your own use of force against the actor

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Slide 17

**THE DURHAM RULE**  
**Temporarily Insane**

- You feel like you were not in control of your senses at the time of the crime
- You were emotionally driven due to outside factors
- Your actions were totally contrary to your normal personality
- The jury decides whether or not they accept your plea of insanity

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Slide 18

**THE M'NAUGHTEN RULE**

- You are genuinely incapable of determining right from wrong
- You're mental health is provable in court
- A jury of your peers agrees that, based on professional witness, you are incapable of determining right from wrong
- Your mental awareness is determined by a "Right or Wrong" insanity/mental health test

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Slide 19

**DEFENSES IN REVIEW (1)**

- Is it possible for a woman to get away with murder by claiming "battered woman syndrome"?
- In what way can a woman rely on the insanity defense?
- How often has the PMS defense been used in the State of Texas?
- What is PTSD?
- Do all veterans have PTSD?
- Is PTSD strictly something that veterans suffer from?
- What is the age range of a juvenile?
- Can a law enforcement officer arrest a juvenile?
- Once a juvenile suspect is in custody how soon should the law enforcement officer deliver the juvenile to the juvenile processing office?
- Why are juvenile offenders treated differently than adult offenders of the same offense or crime?
- What is the process a child must go through once they are taken into custody by law enforcement?

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Slide 20

**DEFENSES IN REVIEW (2)**

- What is the process a child must go through once they are taken into custody by law enforcement?
- How can you commit a crime of necessity and not suffer a penalty or imprisonment?
- If you do not kill or injure someone intentionally what defense can you claim?
- Self-Defense is a strict defense. What must you be able to prove in order to claim this defense?
- Explain the term "Duress" and how it applies to the law.
- Entrapment is a defense against prosecution if you are enticed to commit what?
- When could you possibly have an irresistible impulse that would be a defense to prosecution?
- Law enforcement officers have what defense available for crimes they may be required to commit in the line of duty?
- The Durham Rule applies to what particular defense?
- The M'Naughten Rule applies to what particular line of defense?

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Slide 21

**THE DEFENSES ARE...GONE**

**"THAT' ALL FOLKS"  
YOU LEAVE NOW!!...OK?**



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## **CRIMINAL PROSECUTION**

### **DEFENSES TO PROSECUTION OUTLINE**

#### **PERSONAL DEFENSES TO PROSECUTION FOR WOMEN (1)**

##### Battered Woman Syndrome Defense

- It is now a defense to prosecution when a woman can show, in her defense, that based on history of abuse from the actor that the victim was in fear of bodily injury, serious bodily injury or death from probable assault from the actor and that the victim acted strictly based on the assault history of the actor against the victim
- In other words, her old man comes home drunk or doped up every night and beats her with whatever weapon that is available. He comes home one night. The victim hears the actor opening the door of their home and she waits for him just inside the door. As soon as the spouse opens the door she hits him over the head with an iron skillet. The man dies from the blow to the head. The wife is able to file the “battered woman syndrome defense” against prosecution.

#### **PERSONAL DEFENSES TO PROSECUTION FOR WOMEN (2)**

##### Insanity Defense

- The insanity defense is based upon the defenses ability to prove that, at the moment of time in which the actor committed the crime, the actor was not in complete control of his senses. In other words the actor was not acting in the normal manner that he or any other prudent person would have acted or reacted in similar situations.
- An example would be if a father comes home and finds a man has his daughter pinned down on the living room floor and is in the process of attempting to rape his daughter. The father reacts violently in defense of his daughter and beats the attacker over the head with a brass candlestick he took from the fireplace mantle. His defense is temporary insanity due to his mental state when he saw his daughter being attacked.

##### PMS Defense

- PMS is a defense in England and other European countries. It is not a defense, to this date, in the United States. It is similar to the insanity plea.

#### **DEFENSE FOR VETERANS (1)**

- PTSD...WHAT IS IT?

- Post Traumatic Stress Disorder is a defense available to veterans of combat based on the hardships and experiences they had to endure during combat and the relation of those experiences to their present actions.

### ***DEFENSE FOR VETERANS (2)***

An example of PTSD would be a combat veteran who witnesses death and torture of women and children at the hands of the enemy during the war. The veteran is walking down the street and sees a boy lying on the ground curled up in a defensive position on the ground. A grown man is beating the boy with a steel rod. A pool of blood surrounds the boy's body. The veteran reacts instantaneously to the boy's outcry in pain and kills the boy's assailant. The veteran reacted just as he would have in combat. Therefore he can fall upon the PTSD defense.

Do all Veterans have PTSD?

- Although the law specifically states Viet Nam Veterans, any veteran can claim the PTSD defense if he can show such traumatic experiences triggered his reaction.

### ***JUVENILE CRIMINALS (1)***

Who is a Juvenile?

- In the State of Texas a juvenile is defined as any child not older than 16 years of age and not younger than 10 years of age

### ***JUVENILE CRIMINALS (2)***

*Why are juvenile laws different?*

- Juvenile laws are specifically set aside from adult laws due to the fact that juveniles, according to the law, are perceived as juvenile delinquents who have broken a penal code law or children with conduct in need of supervision. Juveniles are not considered "criminals" in the same aspect as adults. Children cases are treated as "Civil Offenses" and their records are sealed once the child turns 17 years of age (unless the child has a continued record of criminal activity up to and after the age of 17). These sealed records cannot be opened without a court order.

### ***JUVENILE CRIMINALS (3)***

- What if a "Child" commits a crime?
  - When a child commits a crime that child is "Taken into Custody" by law enforcement
  - The child is transported, without delay, to a Juvenile Processing Office

- The child is taken before a Magistrate and given a magistrate's warning in which the child is advised of his/her rights and the charges against him/her are explained
- The child is then given an opportunity to give a written or oral statement to law enforcement (If the child chooses to)
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### ***DURESS !!!***

- You are coerced or forced, by another person, to commit a crime
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### ***IRRESISTIBLE IMPULSE!***

- Impossible to control your conduct
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***THE DEFENSES ARE...GONE  
“THAT’ ALL FOLKS”***

***YOU LEAVE NOW!!...OK?***

# CRIMINAL JUSTICE

## CRIMINAL PROSECUTION DEFENSES

### RUBRIC

|  | No Attempt | Minimum Requirements     | Basic Requirements               | Above Average Completion                          | Available Total Points |
|--|------------|--------------------------|----------------------------------|---|------------------------|
| Grade  | 0          | C                        | B                                | A   |                        |
| <b>Comprehension of the noted defenses to prosecution and how they are applied to case law</b> | None       | Very little effort       | Average Research                 | Extensive Research                                | <b>20</b>              |
| <b>Group Participation</b>   | None       | Minimal<br>No creativity | Basic w/room for improvement     | Very Active<br>Great Ideas<br>Obvious Planning    | <b>10</b>              |
| <b>Group Scenario</b>  | None       | Minimal<br>No creativity | Basic w/room for improvement     | Extensive<br>Active Involvement<br>Good Planning  | <b>20</b>              |
| <b>Instructor Test Scenario</b>  | None       | Minimal response         | Basic knowledge w/ average input | Extensive display of knowledge and creative input | <b>25</b>              |
| <b>Final Testing</b>   | None       | Minimal                  | Good results                     | Excellent Results                                 | <b>25</b>              |
| <b>Total Scores</b>  |            |                          |                                  |   | <b>100</b>             |