

Legal Method

- **Question statement (issue)**
 - Determine the question you need to answer, e.g., has the accused committed the crime of assault? Or is the defendant liable for trespassing?
- **Observation and analysis of facts (conduct).**
 - Isolate the relevant conduct in light of the question you want to analyze, i.e., the conduct that may potentially be criminal/tortious, from other conduct.
 - Describe the conduct.
 - Pay attention to details.
 - Take detailed notes of what you experience and what you observe.
 - State what you did not see. It is important to be aware of what has not happened. For example, suppose that you saw a man point a gun at a woman; then you looked at the woman, you heard a shot; and you saw the woman fall down, bleed, and die. You need to make it explicit that you did not see the man actually shoot the woman. It is possible, for example that someone else did it; or that the woman had an epileptic seizure, and she fell down and died as a consequence of this and not because of a gunshot.
 - If you have to make inferences and assumptions, make them explicit. For example, if you infer that the man shot the woman, make it explicit that you are inferring this (and that you did not actually observe it).
 - Analyze the conduct (break it down in relevant parts according to the legal theory, i.e., theory of offence or tort theory).
- **Analysis of the legal rule (definitional terms of a crime/legal rule of torts)**
 - Identify the applicable rule, e.g., the offence or the tort.
 - Find the definition of the offence you need to analyze, e.g., assault; or find the definition of the offence most likely to coincide with the conduct if you need to find out in general if there was a crime.
 - In tort law, you need to find the definition of the tort. But remember that it is not codified. Torts mainly come from court cases.
 - Break down the elements of the offence in light of the theory of offence.

- Break down the elements of the tort in light of tort theory.
- **Concurrence between conduct and definitional terms**
 - Determination if there is a match between facts (conduct) and legal requirements of the crime/tort in question.
- **Communication**
 - Start by retelling the facts in light of the legal issue.
 - State the legal rule and the breakdown of the legal rule in its elements.
 - Communicate your analysis. Make every aspect of your analysis explicit.
 - Make connections to other cases, discussions, facts, cases, analyzed in class. This is a very important aspect of the whole process. Connections include comparisons, illustrations, exemplifications, evaluations, etc. Use the situation under analysis in the future to connect other situations to this one.