

MPTC Breaking and Entering Practice Test (Sample)

Study Guide



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SAMPLE

Questions

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- 1. What distinguishes "entering" from "breaking" in breaking and entering cases?**
 - A. Entering requires the use of force to gain access**
 - B. Entering refers to the act of intruding into a building**
 - C. Breaking is specific to structures that are locked**
 - D. Entering is only applicable to commercial properties**
- 2. What additional factor must be present under §17 for entering without breaking?**
 - A. Lawful occupants are put in fear**
 - B. Presence of minors in the dwelling**
 - C. Ownership of the property**
 - D. Time of day the entry occurs**
- 3. What law chapter covers unarmed burglary?**
 - A. MGL c. 266 §15**
 - B. MGL c. 266 §14**
 - C. MGL c. 266 §18C**
 - D. MGL c. 266 §12**
- 4. What is the primary concern during the prosecution of home invasion cases?**
 - A. The suspect's previous criminal record**
 - B. The suspect's awareness of the occupant's presence**
 - C. Whether any property was stolen**
 - D. The time of day when the crime occurred**
- 5. What is required as evidence for the charge of home invasion concerning threats?**
 - A. Verbal warnings**
 - B. Use or threat of force**
 - C. Written notices**
 - D. Noise complaints**

6. How can business owners enhance security against breaking and entering?

- A. Relying solely on local law enforcement**
- B. Implementing access controls and lighting**
- C. Reducing hours of operation**
- D. Using only verbal warnings for trespassers**

7. How does the law differentiate between attempted breaking and entering and completed breaking and entering?

- A. Attempted requires prior arrest records**
- B. Attempted involves intent and action towards entry**
- C. Completed requires a witness to the act**
- D. Both require the same legal consequences**

8. What conduct is required for a charge of home invasion?

- A. Use or threat of force or intentional injury**
- B. Breaking and entering with no intent**
- C. Stealing from an unoccupied dwelling**
- D. Remaining in a property after permission is revoked**

9. In the context of trespassing, does the person in control of the property need to be present to forbid entry?

- A. Yes, their physical presence is necessary**
- B. No, they do not need to be present**
- C. Only for residential properties**
- D. Only if signs are posted**

10. Which of the following does NOT constitute breaking?

- A. Opening a closed but unlocked door**
- B. Forcing open a window**
- C. Finding an open window**
- D. Breaking a window**

Answers

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- 1. B**
- 2. A**
- 3. A**
- 4. B**
- 5. B**
- 6. B**
- 7. B**
- 8. A**
- 9. B**
- 10. C**

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Explanations

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1. What distinguishes "entering" from "breaking" in breaking and entering cases?

- A. Entering requires the use of force to gain access**
- B. Entering refers to the act of intruding into a building**
- C. Breaking is specific to structures that are locked**
- D. Entering is only applicable to commercial properties**

The distinction between "entering" and "breaking" in the context of breaking and entering is centered on the definitions and implications of each term. "Entering" specifically refers to the act of an individual intruding into a building or structure, which can occur through various means—whether the door is locked or unlocked, or whether the entry is lawful or unlawful. This encapsulates the broader concept of trespassing, regardless of the method used to gain access. On the other hand, "breaking" typically involves the use of force or some form of physical action to gain entry into a building, especially when barriers such as locks or doors are involved. This might include actions like prying open a door or window. Thus, while "breaking" addresses the method of gaining entrance, "entering" more broadly considers the act of actually crossing into the property itself. Understanding this distinction is crucial in legal contexts, as it can affect the charges and consequences faced in breaking and entering cases. The term "entering" applies universally to any unauthorized physical intrusion, without limitation to the nature of the property or the status of locks.

2. What additional factor must be present under §17 for entering without breaking?

- A. Lawful occupants are put in fear**
- B. Presence of minors in the dwelling**
- C. Ownership of the property**
- D. Time of day the entry occurs**

The correct answer highlights an essential aspect of understanding unlawful entry under the specified statute. Entering a property without breaking, such as through an open door or window, involves considerations of the individuals within the space. For a charge to be substantiated, there needs to be an element of intimidation or fear imparted to the lawful occupants of the dwelling. This is critical because the legal framework aims to protect individuals from not only physical intrusion but also the psychological impact that such an intrusion may cause. The presence of fear in occupants under these circumstances is indicative of the unlawful nature of the entry, reinforcing the violation of the sanctity of one's home. It's necessary to establish that the entry was not only unauthorized but also menacing to those inside, enhancing the severity of the offense. Other factors such as the presence of minors, ownership of the property, or the time of day are relevant in different contexts but do not directly contribute to the specific requirements needed to establish the unlawful nature of entering without breaking under §17. They do not inherently capture the critical element of the occupants' experience of fear, which is paramount in assessing the legitimacy of the entry.

3. What law chapter covers unarmed burglary?

- A. MGL c. 266 §15**
- B. MGL c. 266 §14**
- C. MGL c. 266 §18C**
- D. MGL c. 266 §12**

The law chapter that covers unarmed burglary is MGL c. 266 §15. This statute defines the offense of burglary and specifies the distinctions regarding the use of weapons during the crime. It outlines the legal parameters for what constitutes unarmed burglary, including the intent to commit a crime after unlawfully entering a building or structure. This is fundamental in criminal law, as it helps differentiate between types of burglary based on the presence or absence of a weapon, which can lead to varying degrees of penalties. Understanding the provisions of MGL c. 266 §15 is crucial for anyone studying criminal law or involved in law enforcement, as it lays the groundwork for handling burglary cases and determining appropriate charges and defenses related to unarmed incidents.

4. What is the primary concern during the prosecution of home invasion cases?

- A. The suspect's previous criminal record**
- B. The suspect's awareness of the occupant's presence**
- C. Whether any property was stolen**
- D. The time of day when the crime occurred**

The primary concern during the prosecution of home invasion cases centers on the suspect's awareness of the occupant's presence. This element is crucial because it underscores the intention and threat posed by the suspect during the crime. In many jurisdictions, knowing that someone is home can elevate the severity of the offense, transforming it from a simple burglary into a more serious charge, as it indicates a direct risk to the safety of the occupants. Understanding whether the suspect was aware of the occupants present can influence charges and the overall legal strategy since it demonstrates an understanding of the potential danger posed to individuals in the home. Proving this awareness can be vital for the prosecution to establish the intent and severity of the crime, particularly when considering potential violent outcomes. While the other aspects, like the suspect's criminal background, whether property was stolen, or the timing of the crime, can be relevant in context, they do not carry the same weight in establishing the immediate threat to individuals present in the home during a potential invasion. Hence, awareness of the occupant's presence stands out as the most critical factor in home invasion cases.

5. What is required as evidence for the charge of home invasion concerning threats?

- A. Verbal warnings
- B. Use or threat of force**
- C. Written notices
- D. Noise complaints

The requirement for evidence of home invasion, specifically regarding threats, centers on the use or threat of force. This means that for a home invasion charge to be substantiated, there must be a demonstration that the individual either exerted force or communicated a threat of force against a person within the premises. This could entail actions like brandishing a weapon, making physical contact, or verbalizing intentions to harm, which would instill fear or compliance from those inside the home. The focus on the use or threat of force is essential because home invasion laws are designed to address situations where individuals feel threatened and unsafe in their own living spaces due to aggressive or illegal entry. The presence of physical or implied violence is a critical factor in differentiating a mere trespass from the more serious offense of home invasion. This emphasis on force distinguishes it from other options that may not contribute to establishing the severity of the crime. For instance, verbal warnings or noise complaints do not fulfill the requirement of demonstrating a clear and present danger or threat to individuals inside a dwelling, which is pivotal in home invasion cases.

6. How can business owners enhance security against breaking and entering?

- A. Relying solely on local law enforcement
- B. Implementing access controls and lighting**
- C. Reducing hours of operation
- D. Using only verbal warnings for trespassers

The correct choice emphasizes the importance of implementing access controls and lighting as effective measures to enhance security against breaking and entering. Access controls, such as keycard systems, security codes, or biometric systems, regulate who can enter the premises and help ensure that only authorized personnel have access. This can deter potential intruders who know that entry is monitored and restricted. Additionally, adequate lighting plays a crucial role in preventing break-ins. Well-lit areas can discourage criminal activity, as thieves prefer to operate in darkness where they are less visible. By ensuring that both the exterior and interior spaces are well-lit, business owners can eliminate hiding spots and increase the likelihood of deterring intruders or attracting attention from passerby or law enforcement. This option provides a proactive approach to security that combines physical deterrents with the management of access, creating an environment that is less appealing for illegal activities. In contrast, relying solely on local law enforcement, reducing hours of operation, or only using verbal warnings for trespassers do not adequately address the vulnerabilities that can lead to breaking and entering incidents.

7. How does the law differentiate between attempted breaking and entering and completed breaking and entering?

- A. Attempted requires prior arrest records
- B. Attempted involves intent and action towards entry**
- C. Completed requires a witness to the act
- D. Both require the same legal consequences

The distinction between attempted breaking and entering and completed breaking and entering hinges primarily on the requisite elements of intent and action. In cases of attempted breaking and entering, an individual must demonstrate clear intent to enter a structure unlawfully and take significant steps towards that goal. This means they have engaged in actions that showcase their purpose to enter the property without permission, even if they do not ultimately execute the entry. On the other hand, completed breaking and entering signifies that the unlawful entry has indeed occurred. The focus here is on the actual act of breaching the property, fully realizing the intended crime. Therefore, intent is crucial in both scenarios, but it is the manifestation of that intent through actions, culminating in completed entry, that marks the transition between the two phases of the offense. The other choices do not accurately reflect the legal definitions and requirements for differentiating these two forms of the offense. For instance, having prior arrest records is not a legal prerequisite for establishing an attempted crime. Similarly, completed breaking and entering does not rely on the presence of a witness for the act to be defined legally. Finally, the consequences for attempted versus completed offenses can vary depending on jurisdiction and specific circumstances, so implying that they require the same legal consequences is misleading.

8. What conduct is required for a charge of home invasion?

- A. Use or threat of force or intentional injury**
- B. Breaking and entering with no intent
- C. Stealing from an unoccupied dwelling
- D. Remaining in a property after permission is revoked

The correct answer is based on the specific elements required to establish the crime of home invasion. Home invasion laws typically necessitate that the perpetrator either uses or threatens force against someone present in the dwelling, or causes intentional injury. This requirement emphasizes the violent or threatening nature of the crime, as home invasion is generally defined as illegally entering a person's residence with the intent to commit an unlawful act while endangering individuals inside. The focus on the use or threat of force is significant because it captures the heightened level of danger and violation of personal space that home invasion represents, distinguishing it from less severe offenses such as simple trespassing or burglary without the presence of individuals. In contrast, the other options do not align with the critical components defining home invasion. They either lack the necessary violent aspect or do not involve the presence of individuals in the home during the offense.

9. In the context of trespassing, does the person in control of the property need to be present to forbid entry?

- A. Yes, their physical presence is necessary**
- B. No, they do not need to be present**
- C. Only for residential properties**
- D. Only if signs are posted**

The correct understanding is that a person in control of a property does not need to be physically present to forbid entry. They can convey their intent regarding who is allowed on the property through various means, whether it's through prior communication, posted signs, fencing, or other indicators that establish boundaries and access rights. This principle acknowledges that property rights exist regardless of the owner's physical presence, allowing them to control access even when they are absent. Other responses may imply conditions or limitations that are not necessary for establishing the prohibition of entry. For instance, claiming that the owner's presence is required to enforce boundaries undermines their legal rights as the property controller. Additionally, suggesting that these rules only apply under certain conditions, such as the type of property or the display of signs, narrows the overarching property rights established by law. Thus, the fundamental principle remains: an individual can designate access to their property at any time, irrespective of their physical presence.

10. Which of the following does NOT constitute breaking?

- A. Opening a closed but unlocked door**
- B. Forcing open a window**
- C. Finding an open window**
- D. Breaking a window**

Finding an open window does not constitute breaking because the term "breaking" implies the act of forcibly entering a structure. In the context of breaking and entering, breaking typically involves actions that create an entry point where none existed or disrupt a barrier, such as forcing a door or window. An open window presents an available and lawful entryway, as it does not require any forceful action to access the interior. Thus, since no physical barrier is being manipulated or breached, it does not meet the legal definition of breaking. In contrast, the other scenarios involve some form of manipulation or force against an entry point, which clearly falls within the definition of breaking as recognized in legal terms.