Burglary – Common Law

Elements:

(1) Breaking (by actual or constructive force; and need not actually cause damage) and

(2) Entering (actual or constructive) an degree of entry is sufficient) of the

(3) dwelling of another

(4) at night, with the

(5) intent to commit a felony (e.g. theft) therein

Burglary – Modern Example - Illinois

- **Burglary:** (class 2 felony)

  (1) Knowingly entering or remaining

  (2) In any building or vehicle that does not belong to the defendant

  (3) With the intent to commit a felony or theft therein

- **Class 1 felony** if:

  The burglary is of a school OR of a residence

- **Criminal Trespass:**
  - Knowingly entering or remaining on someone else's property or vehicle (without an intent to commit a crime. (Misdemeanor)
  - Criminal Trespass of a dwelling that the defendant knew or should have known is inhabited by one or more people is a class 4 felony.

Some jurisdictions also increase the grade of felony if the defendant is armed and/or injures the inhabitants etc.

Arson – Common Law

Elements:

(1) The malicious

(2) burning (damage is required)

(3) of the dwelling

(4) of another

(5) by fire (or explosion)

Arson – Modern Rules

- **Modern statutes have eliminated most of the elements**
  - General intent (no malice required)
  - Water is also good enough
  - No requirement of dwelling, or even building
  - Can be one's own house (e.g. for insurance collection purposes)

QUIZ TIME

Arson – Modern Example – Rhode Island

(minimum-maximum sentence in parentheses)

- 7th degree: public unauthorized bonfire (fine of $100)
- 6th degree: destruction of woodlands by fire (0-2 years)
- 5th degree: destruction of property by fire or explosion (1-2 years)
- 4th degree: destruction of property worth more than $100 by fire or explosion (1-3 years)
- 3rd degree: destroying property by fire with intent to defraud an insurance company (2-20 years)
- 2nd degree: destroying an unoccupied building or structure by fire or explosion (2-20 years)
- 1st degree destroying an occupied building or residence (or one that was recently occupied) by fire or explosion (5 years - life)

If someone dies in a fire set by a 3rd degree or higher arson, sentence **must be** at least 20 years.