

THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2020

LAW 221.002  
CANADIAN CRIMINAL LAW AND PROCEDURE

Professor Goold

**EXAMSOFT PASSWORD:**  
**EXAMSOFT RESUME CODE:**

**TOTAL MARKS: 100**

**WRITING TIME ALLOWED: 3 HOURS**  
**READING TIME ALLOWED: 15 MINUTES**  
**PREPARATION TIME ALLOWED: 10 MINUTES**

Preparation Time has been given to download/print/set up for your exam once the exam has been made available online through Canvas. This time cannot be used for writing exam answers. All exam answer uploads will be monitored to ensure that typing of answers only occurred for the allotted Writing Time.

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This is an open book examination, meaning that you can refer to class notes, casebooks and other class readings. The use of library books is not permitted.

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software.

If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question.

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As this exam is being written off-campus and is unsupervised, any communication whatsoever (including but not limited to in person, telephone, e-mail, text, social media etc.) concerning the contents of this examination with anyone (other than your instructor or staff of the Allard School of Law) is strictly prohibited.

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Your Exam Code, Course Number, Name of Course, and Instructor Name  
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Candidates must answer **three** of the four questions. All questions are worth equal marks. No additional marks will be awarded for answering a fourth question.

**SECTION ONE**

1. “As for the role of the presumption of subjective fault in assessing competing interpretations, it sets out an important value underlying our criminal law. It has been aptly termed one of the “presumptive principles of criminal justice” ... While the presumption must – and often does – give way to clear expressions of legislative intent, it nonetheless incorporates an important value in our criminal law, that the morally innocent should not be punished.”

Justice Cromwell in *R. v. A.D.H.* [2013]

To what extent does Canadian criminal law adhere to the presumption of subjective fault identified by Justice Cromwell? Given the many functions of the criminal law, under what circumstances might other values outweigh our commitment to ensuring that the morally innocent should not be punished? Explain your answer with reference to the materials you have studied in Criminal Law this year.

2. How do we justify the imposition of criminal punishments in Canada? To what extent is our system of criminal sentencing based on a consistent and coherent approach to punishment? Explain your answer with reference to the materials you have studied in Criminal Law this year.

**LAW 221.002****SECTION TWO**

3. Alice and Bob are both famous pastry chefs who live on the same street in a large city in Canada. Having been professional rivals for many years, they now dislike each other intensely. One morning Alice reads an article in the magazine “Pastry World”, which claims that Bob makes the best chocolate soufflé in Canada. This angers Alice, who considers chocolate soufflé to be her signature dessert. Later that day, Alice is walking home from a local bakery and meets Bob. They immediately have a heated argument about the article in “Pastry World”, which ends with Bob grabbing Alice firmly by the arm and yelling “I always knew my chocolate soufflé was better than yours! Just more evidence that you’re a total failure as a chef!” Alice manages to break free of Bob’s grip and runs home. Once she arrives home, Alice checks her arm and sees that it is severely bruised. Already angry, this sends her into a rage. Alice grabs a heavy rolling pin from her kitchen and walks over to Bob’s house. Bob and his friend Carl are standing on a stone path just outside the front of Bob’s house. Before Bob has a chance to react, Alice yells “Take this!” and throws the rolling pin at Bob’s head. Bob instinctively ducks out of the way of the flying rolling pin, which hits Carl in the face. Carl falls backwards and hits his head on a paving stone. Bob immediately calls an ambulance and Carl is taken to hospital. In the rush to get Carl from the ambulance to the emergency room, the paramedics drop the stretcher Carl is lying on and he hits his head on the steps of the hospital. Later that day Carl dies from severe head trauma.

**The Crown is considering charging Alice and Bob with one or more offences under the *Criminal Code*. What offence(s) do you think each person is most likely to be charged with, and are they likely to be convicted? Explain your answer with reference to materials you have read for Criminal Law this year and include a discussion of all elements of the relevant offence(s) and any available defences.**

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4. Alex is a fan of 1980s Australian films and recently watched the movie “Crocodile Dundee” for the first time. Inspired by the film, Alex goes to his local Canadian Tire store and buys a hunting knife with a 20cm long blade. Later that week, Alex meets his friend Blake at a coffee shop. The two of them get into a heated argument after Blake suggests that “Crocodile Dundee” is a terrible movie and that Australian films are “all criminally over-rated.” When Blake leaves the table to get another round of coffees, Alex takes the hunting knife out of his backpack and places it on his lap out of sight. Ten minutes later, Blake comes back to the table with two cups of fresh coffee. Alex then says to Blake, “I dare you to say anything bad about Crocodile Dundee!” Before Blake has a chance to answer, Alex jumps up and stabs at Blake’s chest with the knife. Blake manages to move out of the way of the knife and is instead stabbed in the arm. Before Alex has a chance to attack Blake again, Colin, another customer, comes over to help Blake. Alex step backwards and says to Colin: “If you come any closer, you’ll get some too!” Colin pauses for a moment, and then rushes forward to grab Alex. Alex and Colin fall to the ground and roll around on the floor fighting. A few seconds later Alex screams out in pain. Colin stands up and sees that Alex has been stabbed in the stomach. Alex and Blake are taken to a local hospital to be treated for their injuries. Blake has a deep wound, but it is not life threatening. Alex has serious internal injuries and requires extensive surgery. It takes Alex many months to fully recover from his injuries.

**The Crown is considering charging Alex and Colin with one or more offences under the *Criminal Code*. What offence(s) do you think each person is most likely to be charged with, and are they likely to be convicted? Explain your answer with reference to materials you have read for Criminal Law this year and include a discussion of all elements of the relevant offence(s) and any available defences.**

**END OF EXAMINATION**