

**Write Your Exam Code Here:** \_\_\_\_\_

Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

Attachments:

1. Course Outline (2 pages)
2. Criminal Law Table of Contents (7 pages)

**THIS EXAMINATION CONSISTS OF 3 PAGES (INCLUDING THIS PAGE)  
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA  
FACULTY OF LAW**

**FALL SEMESTER EXAMINATION - DECEMBER 2019**

**LAW 221  
Criminal Law and Procedure**

**Sections 4  
Professor Harris**

**TOTAL MARKS: 100**

**TIME ALLOWED: 1 HOUR and 15 minutes reading time**

**NOTE:**

1. This is a closed book examination, but students may bring two pages of notes to the exam and an unannotated *Criminal Code* with tabs. The notes can either be on one two-sided page, or two one-sided pages.

2. THIS EXAMINATION CONSISTS OF 1 QUESTION.

Alan Accused is charged with unlawfully causing bodily harm contrary to section 269 of the *Criminal Code* in the following charging sheet:

Alan Accused, on or about the 15<sup>th</sup> day of August 2019, in the City of Vancouver in the Province of British Columbia, did unlawfully cause bodily harm, contrary to section 269 of the *Criminal Code*, by violating the *B.C. Safe Used Vehicle Act* and causing a broken arm to Vince Victim.

In British Columbia in 2018, accident reports showed that there was an increase in serious accidents resulting from persons driving used vehicles they recently purchased. The used vehicles turned out to have had serious mechanical defects which were not known to the purchasers when they bought the vehicles, and there were a series of injuries caused from accidents which occurred when the purchasers suddenly found that the brakes or steering of the vehicle did not work properly. The B.C. government responded by passing into law the *B.C. Safe Used Vehicle Act* which came into force on January 1, 2019 and reads as follows:

It is an offence for a person to sell a used vehicle which is not in proper working order at the time of the sale. The penalty for a violation of this offence is a maximum fine of \$1000 or up to six months imprisonment.

Alan Accused lived in Vancouver, B.C. and he had a 15 year old van that he wanted to sell in August of 2019. Accused found the van to be reliable, but also found that it was starting to cost him a lot of money in repairs. Accused had heard about the *B.C. Safe Used Vehicle Act*, and lots of licensed mechanics were advertising that they could do “working order” inspections for \$500. Accused was selling the van for \$500, so he did not want to spend any money on an inspection. Luckily for Accused he had a neighbor, Nathan Nextdoor, who had been a licensed mechanic for 20 years before retiring two years ago. Accused invited Nextdoor over one evening for a beer, and as Nextdoor was leaving Accused begged him to do an inspection of his van for free. Nextdoor reluctantly agreed. Accused gave Nextdoor the key for the van and Nextdoor left the house to look at Accused’s van which was parked on the street. About 20 minutes later, Nextdoor came back in the house and told Accused he had inspected the van and said that it was working fine. Accused then listed the van for sale on social media, and the next day, which was August 15, 2019, Vince Victim said he was interested in buying the van. Victim said he wanted to look the van over first, but he had no way of getting to Accused’s house. Accused drove the car over to Victim’s house and Accused found that the van worked fine for him as he drove it. When Accused arrived at Victim’s house, Victim agreed to buy the van and gave Accused \$500.

Victim started using the van regularly for his busy food delivery business. Three months later, Victim was driving the van and he was coming to a red light. Victim applied the brake pedal, heard a snapping sound, and the brake did not work. Victim bumped into a car ahead of him waiting at the red light, and that car was driven by Don Driver. Driver exited his vehicle and yelled at Victim about being a “menace to the roads” and then Driver punched Victim’s left arm through the open window of Victim’s van.

Victim's left arm was seriously injured by Driver's punch and Victim had to wear a sling on his left arm for two months. B.C.'s top vehicle safety expert inspected the van after the accident and found that the brake line which applies the brakes when the brake pedal is pushed had fallen apart, and she said she was not surprised of this because the brake line was very worn and should have been replaced.

**Please provide an opinion concerning whether Alan Accused will likely be found guilty. In your opinion, please include a discussion of all essential elements of the offence.**

**END OF EXAMINATION**

# CRIMINAL LAW 221-004

## COURSE OUTLINE - 2019 FALL SEMESTER

### Class 1:

#### Role of Crown Counsel:

- Minister of Justice: 271-272, 281-283
- Approving a Charge: Charge Approval Standard, B.C. Policy Manual

<https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/cha-1-charge-assessment-guidelines.pdf>

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### Class 2: Sources of Criminal Law

**Video 1: Introduction to the Crown Proving the Offence:** <https://youtu.be/sgvthqDHY1s>  
91(27) of the *Constitution Act*: pp. 1-11  
Codification: pp. 17-18  
Defining Criminal Law: pp. 63-71

#### Classes 3-5: The Impact of the *Canadian Charter of Rights and Freedoms*

Supremacy of the *Charter*: *R. v. Sharpe*, [2001] 1 S.C.R. 45 at paras. 1-29, 72-130  
<http://canlii.ca/t/523f>

Section 7 of the *Charter*: pp. 32-36, 97-114

#### Classes 6-7: The Essential Elements of an Offence

Charging Sheet: *R. v. Saunders*, [1990] 1 SCR 1020 <http://canlii.ca/t/1fsvd>  
Identity: *R. v. Sheppard*, 2006 CanLII 21748 (NLPC) <http://canlii.ca/t/1nq1w>  
Interpreting Statutory Elements: pp. 43-49; 452-454

#### Classes 8-9: The Onus and Burden of Proof

Onus: pp. 316-321, 324; see Section 348 of the *Criminal Code*

Burden: 325329; *R. v. Kylo, Lubkey and Toupin*, 2003 BCSC 1926, <http://canlii.ca/t/1g674>

The Burden of Proof and Credibility: *R. v. J.H.S.* 2008 SCC 30, <http://canlii.ca/t/1x1bb>;

Directed Verdicts: *R. v. Charemski*, [1998] 1 S.C.R. 679 at paras. 1-14, <http://canlii.ca/t/1fqtc>; *R. v. Tsang*, 2019 ONSC 3235 (CanLII), <http://canlii.ca/t/j0qbx>

### **Classes 10-11: Defining the *Actus Reus***

Acts and Omissions: pp. 339-342

Circumstances: pp. 356-359

Concurrence: pp. 401-405

Causation: 361-367, 387-395

Class Exercise I: Look at Sections 140(1)(a) and 140(1)(c) of the *Criminal Code* and list all of the elements of the offence, including all elements of the *actus reus*

### **Classes 12-14: Subjective *Mens Rea***

**Video 2: Introduction to Fault Standards in Criminal Law:** <https://youtu.be/0koSyDUIJTM>

Subjective Requirement: pp. 447, 454-458, 460-465, 470-472; *R. v. Tatton* 2015 SCC 33 at paras. 30-39, 46-49, <http://canlii.ca/t/gicji>

Review of Proof of Offence: *R. v. Lamb*, 2010 BCSC 1911 <http://canlii.ca/t/2fhq5>

### **Classes 15-16: Modes of Participation**

Principals and Aiding and Abetting: pp. 525-536; 542-552; *R. v. Roach*, 2004 CanLII 59974 (ON CA) <http://canlii.ca/t/1v6n0>

Group Participation: *R. v. H. (L.I.)*, 2003 MBCA 97 <http://canlii.ca/t/5878>

Combining Aiding and Mere Presence: *R. v. C.P.*, 2014 BCSC 2570 <http://canlii.ca/t/gxcrz>

### **Classes 17-18: Areas of Offences**

Class Exercise I: Fact Patterns

Offences against the Person: *R. v. Foti*, 2002 MBCA 122 <http://canlii.ca/t/5htb>

Financial Offences: pp. 466-470

Offences Against the Administration of Justice: *R. v. Buzeta*, 2003 CanLII 12456 (ON SC), <http://canlii.ca/t/7cx7>

Possession Offences: *R. v. Muthuthevar*, 2012 ONSC 4008 (CanLII), <http://canlii.ca/t/fs0k5>  
ONSC 4008 (web)

### **Classes 19-21: Non-Subjective Fault Requirements**

Strict Liability: pp. 415-424, 510-512

Objective Fault: pp. 480-492

*Charter* Limitations: pp. 425-430, 715-723, 492-496, 474-479

*R. v. Mills, Hylton, Dennis*, 2013 ONSC 5051 <http://canlii.ca/t/g0989>

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