

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

MID-TERM EXAMINATION – DECEMBER 2020

LAW 221.001
Canadian Criminal Law and Procedure

Professor Goold

EXAM PASSWORD: CS88vn
RESUME CODE: ABB0A2

TOTAL MARKS: 100

(8:50 AM PST) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 75 MINUTES**

8:50-9:00 AM Preparation Time (Exam writing not permitted) – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

9:00 AM Exam Writing Time – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

This is an open book examination, meaning that you can refer to class notes, articles, textbooks and other class readings. The use of library books is not permitted. The examination consists of **two sections**. Candidates must answer **two questions** from Section One (each of which is worth **25 marks**) and one question in Section Two (which is worth **50 marks**). No additional marks will be awarded for answering a third question in Section One or a second question in Section Two.

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. Do not email your professor or anyone else about this while the exam is in progress.

ACADEMIC INTEGRITY

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. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

CONFIDENTIALITY REGULATIONS – READ CAREFULLY

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 the Student Services staff of the Allard School of Law) is strictly prohibited.

In the event any information comes to your attention regarding a breach of these regulations (by others, or inadvertently by you), please immediately contact Student Academic Services (studentservices@allard.ubc.ca) and make full disclosure.

A breach of these regulations may constitute student misconduct, and you may be subject to penalty or discipline under UBC's Academic Misconduct policies.

What Do I Do If:

- **I cannot access the exam questions on Canvas**

If you experience technical difficulties accessing the exam questions on Canvas, email studentservices@allard.ubc.ca and the exam questions will be emailed to you. Please provide your phone number when emailing Student Services.

- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are STRONGLY encouraged to spend NO MORE THAN 5 minutes attempting to do so. You will NOT BE GIVEN ANY EXTRA TIME to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you MUST immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

When you have finished writing the exam, you must upload the exam answers that you completed in Exemplify (if you are prompted for a Resume Code, it is on the coversheet of the exam questions). Email Bernie Flinn, flinn@allard.ubc.ca, for help with this. Please provide your phone number in the email. Bernie or another IT Support staff person will then help you to upload any answers that you typed in Exemplify.

You must also upload to Canvas your hand-written exam answers into the “Exam Answer File Upload (Word Processor or Hand-written ONLY)” folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:
Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking - Galileo**

- **I’m experiencing technical difficulties EXITING and UPLOADING the exam**

If you experience any difficulty exiting and uploading your Exemplify exam answers, you must wait until the allocated time period specified on the coversheet of the exam has ended, then email Bernie Flinn, flinn@allard.ubc.ca, and he or another IT Support staff person will help you to upload your Exemplify exam file. Please provide your phone number in the email.

If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to studentservices@ubc.ca.

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I’m unable to continue writing my exam**

Please stop writing, note the time that you stopped, and email studentservices@allard.ubc.ca immediately to notify them and discuss options. Please provide your phone number when emailing Student Services.

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SECTION ONE

Answer any **TWO** of the following three questions:

1. What is the difference between true crimes and regulatory offences? To what extent does the distinction between true crimes and regulatory offences reflect the different functions of the criminal law? Explain your answer, with reference to materials you have read for Criminal Law so far this year.

(25 marks)

2. What is the function of *mens rea* (guilty mind) in criminal law? Do you think we should abandon objective tests of *mens rea* when determining criminal responsibility in Canada? Explain your answer, with reference to materials you have read for Criminal Law so far this year.

(25 marks)

3. Why do we require both factual and legal causation to establish criminal responsibility for offences like assault causing bodily harm? Do you think we should remove the requirement of legal causation for such offences? Explain your answer, with reference to materials you have read for Criminal Law so far this year.

(25 marks)

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SECTION TWO**Answer ONE of the following two questions:**

4. Jordan is walking in a park. Ryan is also in the park, playing ball with his dog Charlie. Ryan throws the ball towards Charlie and accidentally hits Jordan in the side of the head. Jordan picks up the ball and, in a fit of anger, throws it back at Ryan as hard as he can. The ball hits Ryan in the chest, causing him to stumble backwards and fall to the ground. Ryan then yells to Charlie: "Go get him!" Charlie growls loudly and starts to run at Jordan. Seeing the dog rushing towards him, Jordan runs to a nearby tree and climbs up to escape from Charlie. As Jordan climbs the tree, one of the branches breaks, and Jordan falls two meters to the ground. Ryan calls for an ambulance and both Jordan and Ryan are taken to hospital. Ryan is treated for a sprained ankle, and Jordan is treated for a bruised ear and a broken leg.

The Crown is considering charging Jordan and/or Ryan with assault. Discuss their potential criminal liability contrary to Sections 265, 267, and 268 of the *Canadian Criminal Code*. Do you think Jordan or Ryan are likely to be convicted of any offences under any of these sections? 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).

(50 Marks)

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5. Taylor works at an office in downtown Vancouver. Because he stayed up late the night before, Taylor has been tired all day. Worried that he will be too sleepy to drive home at 5pm, Taylor decides to leave work a few hours early. At 3pm, Taylor goes down to the office parking garage and gets in his car. Although he is having trouble keeping his eyes open, Taylor drives out of the parking garage and towards home. It is raining heavily, and visibility is poor. Ten minutes later, Taylor falls asleep at the wheel and drives through a red light. Blake, who is driving through the intersection, swerves to avoid Taylor and crashes into a car driven by Drew. Blake is uninjured, but Drew suffers minor bruises and a broken wrist.

- (i) **With reference to the offences you have studied this term, advise Taylor on his potential criminal liability under Section 320.13 of the *Criminal Code*. Explain your answer with reference to materials you have read for Criminal Law so far this year and include a discussion of all elements of the relevant offence(s).**

(30 Marks)

- (ii) **Would your answer in (i) be any different if it could be shown that Taylor fell asleep at the wheel because he was suffering from an undiagnosed sleep disorder? Explain your answer with reference to materials you have read for Criminal Law so far this year.**

(10 Marks)

- (iii) **Would your answer in (i) be any different if it could be shown that Blake was driving significantly over the speed limit when Taylor drove through the red light? Explain your answer with reference to materials you have read for Criminal Law so far this year.**

(10 Marks)

END OF EXAMINATION