

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

FINAL EXAMINATION – APRIL 2021

LAW 221.001
CANADIAN CRIMINAL LAW AND PROCEDURE

Professor Goold

EXAM PASSWORD: cAsg7S
RESUME CODE: B104B2

TOTAL MARKS: 100

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

(9:00 AM PDT) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 3 HOURS**

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, casebooks and other class readings. The use of library books is not permitted. Candidates must answer **three** questions. All questions are worth equal marks. No additional marks will be awarded for answering a fourth question.

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@allard.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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Candidates must answer **three** questions. All questions are worth equal marks. No additional marks will be awarded for answering a fourth question.

SECTION ONE

1. “Canadian criminal law does not distinguish between the principal offender and the parties to an offence in determining criminal liability. Section 21(1) of the *Criminal Code* makes the perpetrators, aiders, and abettors equally liable ... The person who provides the gun, therefore, may be found guilty of the same offence as the one who pulls the trigger. The *actus reus* and *mens rea* for aiding and abetting, however, are distinct from those for the principal offender.”

R. v. Briscoe (2012)

Why does the criminal law hold perpetrators, aiders, and abettors equally liable? Do you think these justifications are convincing when applied to principles of liability under Section 21(2) [common intention] and Section 22 [counselling an offence committed]? Explain your answer with reference to the materials you have studied in Criminal Law this year.

2. How do we justify the existence of criminal law in Canada? Is it right to say that criminal law exists primarily to punish physical harms done to individuals and the public? Explain your answer with reference to the materials you have studied in Criminal Law this year.

SECTION TWO

3. Andrew is sitting in a diner having breakfast before his baseball practice later that morning. While Andrew is eating, he notices that Colin and Dale – who he knows from the local baseball league – are sitting at a nearby table. Andrew overhears Colin say that Bob (who is a friend of Andrew's) is the worst baseball player he has ever seen, and that "he couldn't hit the side of a barn from the inside." After Colin and Dale leave the diner, Andrew calls Bob and tells him about the insult. Bob becomes extremely angry and asks Andrew what he thinks he should do. Andrew tells Bob that Bob needs to "sort Colin out" and that he will help. Fifteen minutes later Bob arrives at the diner and he and Andrew walk around the neighbourhood looking for Colin. Ten minutes later they see Colin and Dale standing together in a park. Bob rushes towards Colin and punches him in the face. Andrew then hands Bob his baseball bat and says: "Finish him!" Bob swings the baseball bat at Colin's head, but Colin manages to duck out of the way. Before Bob has a chance to swing again Dale pushes him to the ground, causing Bob to drop the baseball bat. Andrew then yells: "Get up! We need to get out of here!" and begins to run away. Bob stands up and attempts to follow Andrew, but because he has sprained his ankle from the fall, Bob is unable to run. Colin then picks up the bat and hits Bob in the back of the head two times. Later that day Bob dies from severe head trauma.

The Crown is considering charging Andrew, Colin and Dale 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.

4. Alice and Betty are keen gardeners, and every year they each enter the local "Gardener of the Year" competition. Betty has won the competition for the last five years in a row, and Alice is extremely envious of her success. This year Alice decides that the only way she is going to win the competition is if Betty is unable to compete. A week before the competition, Alice invites Betty over for dinner with the intention of poisoning her. On the morning of the dinner, Alice takes a herb from her garden that she knows will cause anyone who eats it to immediately become seriously ill and possibly die. Betty arrives at Alice's house that evening, and they drink two bottles of wine between them before dinner. At dinner, Alice gives Betty a salad containing the poisonous herb. Unknown to

Alice, years of exposure to the same herb have made Betty immune to its effects. Betty eats the salad and is unharmed. As the evening goes on, Alice and Betty drink more wine, and Alice become increasingly frustrated by the fact that Betty appears unaffected by the herb. While they are eating dessert, Betty tells Alice that she is looking forward to beating her again in this year's competition. Alice becomes extremely angry and runs out of the room. Five minutes later, Alice returns holding a rifle and yells at Betty: "I'll make sure you don't win this year!" Betty runs out of the house, but before she can reach the front gate Alice shoots her in the leg. Alice fires again at Betty but misses and hits Cameron, who is walking by the house. Alice drops the rifle and yells: "Oh no! I am so sorry!" Betty then picks up the rifle and shoots Alice in the arm. The police arrive and arrest Alice and Betty. Cameron is taken to hospital and dies the next day from a gunshot wound to the chest.

The Crown is considering charging Alice and Betty 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