

**THIS EXAMINATION CONSISTS OF 4 PAGES
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**THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW**

FALL SEMESTER EXAMINATION – DECEMBER 2021

LAW 221

CANADIAN CRIMINAL LAW AND PROCEDURE

Section 1

Professor Goold

TOTAL MARKS: 100

TIME ALLOWED: 90 MINUTES

- NOTE:**
1. This is an **open book** examination. Communications devices such as mobile phones are not permitted.
 2. 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.

**THIS EXAMINATION CONSISTS OF TWO SECTIONS
(WITH FIVE QUESTIONS)**

SECTION ONE

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

1. What does it mean to say that crimes are “public wrongs”? Do you think the idea of crimes as public wrongs is coherent, and does it sufficiently distinguish criminal law from other areas of law that also seek to address wrongful conduct? Explain your answer, with reference to materials you have read for Criminal Law so far this year.

(25 marks)

2. Do you think all of the *mens rea* elements for s.268 of the *Criminal Code* should be subjective? What would be the effect of requiring subjective foresight for aggravated bodily harm? 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 in criminal law? Do you think the existing approach to intervening acts strikes an appropriate balance between the interests of the accused and victims of crime? Explain your answer with reference to materials you have read for Criminal Law so far this year.

(25 marks)

SECTION TWO

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

4. Avery and Blake are law students. One day after criminal law class, they get into a heated discussion about causation. Frustrated with Avery's arguments, Blake throws her criminal law casebook on the ground. The book bounces and hits Avery on the leg. Avery grabs Blake's arm, saying: "You need to calm down." Blake tries to break free of Avery's grip and yells "Let go of me!" Avery releases Blake's arm, and Blake falls to the floor. As Blake is trying to get up, Avery reaches out her hand to help Blake back to her feet. Blake tries to avoid Avery's hand and falls again, this time banging her head on a desk. The police arrive and arrest Avery and Blake. Avery has a bruise on her lower leg. Blake has a bruise on her upper arm and a large cut on her forehead.

The Crown is considering charging Avery and Blake each with assault. Discuss Avery and Blake's potential criminal liability contrary to Sections 265, 267, and 268 of the Canadian Criminal Code. Do you think Alex and/or Blake 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)

LAW 221.001

5. Casey is driving home late one night on a remote rural road. It is dark and the road is wet. Although the speed limit on the road is 80 kilometres per hour, Casey – who has driven along this road many times – is driving at 100 kilometres per hour. Casey drives around a long uphill bend and sees a slow-moving truck in the distance. Casey accelerates to 110 kilometres per hour to overtake the truck. Just as Casey moves into the left-hand lane another car – driven by Dion – comes down the hill in the opposite direction. Dion swerves off the road to the right, and narrowly avoids Casey. Dion then tries to steer the car back onto the road but loses control and crashes into a tree. Dion is later treated for a bruised collarbone.

- (i) **With reference to the offences you have studied this term, advise Casey on their 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 Casey had moved into the left-hand lane to avoid an obstacle in the right-hand lane? 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 Dion had been driving at 100 kilometres per hour? Explain your answer with reference to materials you have read for Criminal Law so far this year.**

(10 Marks)

END OF EXAMINATION