

**THIS EXAMINATION CONSISTS OF 4 PAGES
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

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

FINAL EXAMINATION – APRIL 2022

**LAW 221
CRIMINAL LAW AND PROCEDURE**

Section 1

Professor Goold

TOTAL MARKS: 100

TIME ALLOWED: 180 MINUTES

- NOTE:**
1. This is an **open book** examination. Communications devices such as mobile phones are not permitted.
 2. Candidates must answer **three** questions. All questions are worth equal marks. No additional marks will be awarded for answering a fourth question.

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

SECTION ONE

1. According to Terry Skolnick, “in a criminal law system premised on rationality, choice, and fair stigmatization, objective fault seems to fit uneasily into a choice-based conception of culpability.” Do you agree with this statement? Should we place additional limits on the use and scope of objective standards of fault in Canadian criminal law? Explain your answer with reference to the materials you have studied in Criminal Law this year.

2. To what extent do the 2015 amendments to the law of provocation address long-standing concerns about the nature and scope of the defence? Should the defence of provocation be abolished entirely? Explain your answer with reference to the materials you have studied in Criminal Law this year.

SECTION TWO

3. Andy, Brad, and Colin all work together at a music store. After years of being insulted by Colin, Alan decides that he is going to kill Colin and then flee the country. One day after work, Alan asks Brad if he can borrow Brad's gun. When Brad asks Alan why he wants the gun, Alan replies angrily: "So that I can finally give Colin what he deserves." Brad agrees to bring his gun to work the next day but tells Alan that he should "just hurt Colin and not kill him." The following morning Brad brings his gun to work and gives it to Alan. Unknown to Alan, Brad has loaded the gun with blanks. The store opens at 9am. Colin calls the store to say he is running late and won't arrive until 11am. Over the next two hours, Alan grows increasingly agitated and says to Brad several times: "I can't wait until Colin gets here." At 11:15am Colin arrives at the store. Alan immediately pulls out the gun and fires it at Colin. The gun makes a loud noise, but no bullet discharges. Alan pulls the trigger two more times, but each time there is only a noise, and no bullets discharge. Alan then rushes towards Colin and hits him in the face with the gun, yelling: "I'll kill you!" Colin grabs a guitar from one of the store's displays and hits Alan over the head. Alan falls to the floor. Colin then hits Alan two more times with the guitar. Before Colin can hit Alan again, Brad punches him in the face and breaks his nose. Brad then yells to Colin: "Get out of here! I'll keep him busy!" Alan runs towards the front door but is stopped by the police. The police then arrest Alan, Brad, and Colin.

The Crown is considering charging Andy, Brad, 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 studied in 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. Abby and Brooke both play baseball in a local amateur league. They play on different teams and have a longstanding rivalry. During the league final, Abby is pitching, and Brooke is batting. For her first pitch, Abby throws a fastball directly at Brooke's head. Brooke ducks and the ball misses. Abby then throws another fastball, again straight at Brooke's head. This time the ball hits the side of Brooke's helmet, and she falls to the ground. After the umpire, Casey, helps her up, Brooke takes off her helmet and sees there is a large dent in the side. Brooke then yells to Abby: "If you try that again, I'll kill you!" Abby throws another fastball at Brooke, this time hitting her on the arm. Brooke screams and swings her bat at Abby, letting go of the handle. The bat flies towards Abby and hits her in the chest. Abby then picks up the bat and runs towards Brooke. Brooke tries to run away but trips and falls. Abby reaches Brooke and starts attacking her with the bat, hitting Brooke repeatedly on the head and shoulders. Casey tells Abby to stop and tries to step between Abby and Brooke. Abby hits Casey in the side of the head with the bat. Casey stumbles into the dugout and bangs their head against a water cooler. The police arrive and arrest Abby and Brooke. Casey dies later that day from severe head trauma.

The Crown is considering charging Abby and Brooke 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 studied in Criminal Law this year and include a discussion of all elements of the relevant offence(s) and any available defences.

END OF EXAMINATION