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

FINAL EXAMINATION – DECEMBER 2016

LAW 525.001
Canadian Criminal Law and Procedure

Section 1
Professor Robert Diab

TOTAL MARKS on this exam: 100

[Final exam consists of 60% of final grade in course]

TIME ALLOWED: 2.5 HOURS

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NOTE: 1. This is an open book examination. Candidates may refer to any written notes or texts aside from an annotated Criminal Code.

2. ANSWER ALL QUESTIONS.

THIS EXAMINATION CONSISTS OF TWO PARTS, WITH 3 QUESTIONS IN PART 1 AND 1 QUESTION IN PART 2.
1. **Explain the actus reus and mens rea, if any, for the following offence in section 17(2) of the Water Protection Act, RSBC 1996, ch 484.** (Section 17 is cross-referenced with section 5, both set out below.)

**Section 17: ‘Offences’**

17(2) A person commits an offence who contravenes section 5 [of this Act]...

17(4) A person who commits an offence under this section is liable on conviction

(a) to a fine of not more than $200 000, and
(b) if the offence is a continuing one, to a fine of not more than $200 000 for each day the offence is continued or to imprisonment not exceeding 12 months, or to both a fine and imprisonment.

**Section 5: ‘Prohibition against B.C. water removal’**

A person must not remove water from British Columbia unless the person

(a) is a registrant under a registered licence that remains in effect and complies with the registered licence,
(b) [Repealed 2014-15-207]; or
(c) removes the water in containers of 20 litres capacity or less, of water that has been packaged in British Columbia [...].
10  2. Explain the actus reus and mens rea, if any, for the following offence in section 35 of the Motor Dealer Act, RSBC 1996, ch 316:

Section 35: 'Offences'

35(3) A person commits an offence if the person does any of the following:
(a) supplies false or misleading information to a person acting under this Act;
(b) refuses or fails to provide information as required under this Act.

35(4) A person does not commit an offence under subsection (3)(a) if, at the time the information was supplied, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

Section 35.1: 'Penalties':

35.1 (1) An individual who commits an offence under this Act is liable
(a) to a fine of not more than $100 000,
(b) to imprisonment for not more than 6 months, or
(c) to both the fine referred to in paragraph (a) and the imprisonment referred to in paragraph (b).

35.1 (2) A corporation that commits an offence under this Act is liable to a fine of not more than $200 000.
3. Explain the *actus reus* and *mens rea*, if any, for the following offence in section 122 of the *Immigration Act*, SC 2001, c 27:

Section 122: 'Documents'

122 (1) No person shall, in order to contravene this Act,

(a) possess a passport, visa or other document, of Canadian or foreign origin, that purports to establish or that could be used to establish a person's identity;

(b) use such a document, including for the purpose of entering or remaining in Canada; or

(c) import, export or deal in such a document.

(2) Proof of the matters referred to in subsection (1) in relation to a forged document or a document that is blank, incomplete, altered or not genuine is, in the absence of evidence to the contrary, proof that the person intends to contravene this Act.

Section 123(1): 'Penalty'

123 (1) Every person who contravenes

(a) paragraph 122(1)(a) is guilty of an offence and liable on conviction on indictment to a term of imprisonment of up to five years; and

(b) paragraph 122(1)(b) or (c) is guilty of an offence and liable on conviction on indictment to a term of imprisonment of up to 14 years.
Katherine approached Elena with the idea of robbing a marijuana grow operation in a house in East Vancouver. She became aware of the operation through friends and gained reliable information that there would be a lot of cash in the house on the weekend in question. Katherine induced Elena to assist her through the offer of a large cut of the substantial sum that Katherine expected to find in the house. At the time she agreed, Elena said, "I'll do this only because I need the money."

Preparing for the robbery at Katherine's place on the afternoon of the event, Elena saw Katherine load bullets into a gun and said 'what's that for? You didn't say anything about being armed!' Katherine replied: 'Look sister, nothing's free in this world. You have to be ready to take what you want.'

They were planning to head to the grow operation at 7:30 pm. At roughly 6 pm, Katherine invited Elena to do cocaine with her. Elena declined. Katherine snorted several lines, consisting of several grams of the drug. Elena saw that Katherine's eyes were deeply red and her speech was delayed and her movements were slow and sluggish.

They headed over to the house in question and broke in through the back door. Doing so, they surprised the sole occupant, Gabi, who happened to be looking after the grow op with Cyrille, who had stepped out briefly a few moments before.

After a brief struggle, Katherine tied Gabi up to a chair in the kitchen and gave the gun to Elena, who then pointed it at Gabi as she kept watch over her. Katherine then began to search for the cash and found it in a cupboard above the sink. As she pulled it out and began counting it, Cyrille burst in.
(PART 2: Question 1 continued...)

He pulled out a gun and shot Katherine twice. He then turned around and pointed the gun at Elena, shouting 'drop that gun and get out of the way!' Elena complied. As Cyrille approached Gabi to begin untying her, Katherine quietly got up, pulled a knife out of the drawer and stabbed Cyrille in the back. He collapsed to the floor and died within a minute or so.

Hearing gun shots, neighbours had called the police and sirens could be heard approaching. Katherine, hemorrhaging blood, collapsed to the floor and shouted at Elena 'get out of here, hurry!' When police arrived, they found Gabi still tied up and Katherine on the kitchen floor, breathing heavily. Elena was arrested a block away, still carrying Katherine's gun.

(a) Elena is charged as a party to armed robbery. Can the Crown establish a prima facie case against Elena for this offence? (see below for robbery provision)

(b) Katherine is charged with murder. Can the Crown establish a prima facie case against her for this offence, and would it be first or second degree?

(c) What defences might Katherine rely on if charged with murder?

[See next page for robbery provision in Criminal Code]
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(PART 2: Question 1 continued...)

Robbery (from the *Criminal Code*)

343 Every one commits robbery who

(a) steals, and for the purpose of extorting whatever is stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property;

(b) steals from any person and, at the time he steals or immediately before or immediately thereafter, wounds, beats, strikes or uses any personal violence to that person;

(c) assaults any person with intent to steal from him; or

(d) steals from any person while armed with an offensive weapon or imitation thereof.

END OF EXAMINATION
Congratulations on being done!
Have a safe and happy holiday!