NOTE: 1. This is an open book examination. Communication devices such as mobile phones are not permitted. Candidates may write notes during the 15-minute reading time but are not allowed to begin writing in the provided examination booklets or on ExamSoft until the end of the 15-minute reading time.

2. Candidates must answer three questions. All questions are worth equal marks. No additional marks will be awarded for answering a fourth question.
1. “Criminal laws are designed primarily to denounce and punish inherently wrongful behaviour and to deter people from committing crimes or engaging in behaviour that presents a serious risk of harm. Courts consider these purposes when sentencing offenders, but they are also concerned with the incapacitation and rehabilitation of the particular offenders and providing reparation to the victim and the community for the crime committed.”

Roach, Berger, Cunliffe and Stribopoulos
*Criminal Law and Procedure: Cases and Materials* (11th ed.)

Do you think this statement provides a sufficiently comprehensive account of the purposes of the criminal law? What should courts do when these different purposes conflict? Explain your answer, making specific reference to cases covered in this course where appropriate.

2. Why is there a presumption in favour of subjective tests of *mens rea* in Canadian criminal law? What would be the effect of moving to greater reliance on objective (or modified objective) tests of fault, and would you support such a move? Explain your answer, making specific reference to cases covered in this course where appropriate.
SECTION TWO

3. Chris and Lisa are a married couple who live next to Abel. For reasons that have never been clear to them, Abel dislikes Chris and Lisa and has spent many years harassing them in the hope that they will sell their house and move out of the neighbourhood. Although they have never been able to prove it, Chris and Lisa suspect that Abel has been responsible for slashing their car tires, poisoning plants in their garden, and vandalising their house. Abel is also verbally abusive and has implied on many occasions that if either Chris or Lisa ever set foot on his property, he will harm them.

One day, after deciding that she cannot endure any more of Abel’s abusive behaviour, Lisa suggests to Chris that Chris should “just kill him.” Chris immediately protests, but Lisa eventually convinces him that it is the only way for them to “end the nightmare.” Chris and Lisa then concoct a plan to lure Abel onto their property, with the intention of shooting Abel in self-defence when he refuses to leave. Later that day, Lisa buys a second-hand shotgun and some ammunition, which she gives to Chris.

The following morning, Lisa goes to Abel’s house. When Abel opens the door, Lisa tells him that it is time to “settle this once and for all” and that Chris is waiting for him on their front lawn. Lisa then runs back to her house. Abel picks up a baseball bat and runs after her. As soon as Abel steps foot on Chris and Lisa’s front lawn, Chris yells out: “What are you doing here? No, don’t attack me!” and fires the shotgun at Abel. The shotgun barrel explodes and causes severe injuries to Chris’ hands and arms. Abel then attacks Chris with the baseball bat, hitting him in the head three times. Chris falls to the ground unconscious. Realising what he has done, Abel drops the bat and calls 911. By the time the police and an ambulance arrive ten minutes later, Chris has regained consciousness. All three are arrested, and Chris is taken to hospital. Chris is then examined by a junior doctor who has only recently graduated from medical school. The doctor does not perform a full examination, and Chris is discharged into police custody. The next day, while still in police custody, Chris dies from an epidural hematoma (bleeding on the brain). A subsequent autopsy reveals that had the doctor detected the internal bleeding, his death could possibly have been prevented.

The police are considering charging Chris, Lisa, and Abel with one or more offences under the *Criminal Code*. What offence(s) do you think each person is most likely to charged with, and are they likely to be convicted? In explaining your answer, please consider possible defences.
4. Jim, Tom, and Henry are friends who all work as door security at a local nightclub. Unknown to Jim and Tom, Henry suffers from a delusional disorder that, when untreated, causes him to experience hallucinations. Henry's condition is managed through a combination of drugs, and he does not experience any symptoms provided he takes his medication three times daily.

One evening at the end of their shift, Jim, Tom, and Henry start talking about some of the nightclub's regular patrons. All three agree that Billy, who is frequently violent and refuses to leave at closing time, is extremely difficult to deal with. After each of them recounts an experience of having to use force to eject Billy from the nightclub, Jim says that something needs to be done. Tom then suggests that the next time they are all working together, they should "rough Billy up and teach him a lesson." Jim and Henry nod in agreement. After he returns home, Henry tells his flatmate John about his conversation with Jim and Tom. John tells Henry that it would be stupid to do anything to Billy. Henry agrees and then reassures John than he won't do anything to Billy in the future.

The following evening Jim, Tom, and Henry are all working on the door at the nightclub. Because Henry had to come in earlier than usual to help clean up from the night before, he has not had an opportunity to take his medication since early morning. Billy arrives at the club. Before he has a chance to enter, Jim stops him and tells him that he and Henry have "something to give him for being such a great guy." Jim then winks at Henry and asks Billy to accompany them to the parking lot behind the club. As they begin to leave, Tom discreetly hands Jim a can of pepper spray, whispering "use this." When they arrive at the parking lot, Jim immediately punches Billy in the face, breaking his nose. Henry then begins to suffer from an hallucination and believes he sees Billy pull out a gun and shoot Jim. Enraged by what he thinks is the murder of his friend, Henry picks up a piece of wood and hits Billy multiple times in the head. Jim, worried that Henry might kill Billy, sprays Henry in the face with the pepper spray, incapacitating him. Hearing noise from the parking lot, Tom arrives and calls the police. Jim, Tom, and Henry are arrested.

The police are considering charging Jim, Tom, and Henry with one or more offences under the Criminal Code. What offence(s) do you think each person is most likely to charged with, and are they likely to be convicted? In explaining your answer, please consider possible defences.

END OF EXAMINATION