

LEGAL PROFESSION ADMISSION BOARD

SEPTEMBER 2008

CRIMINAL LAW AND PROCEDURE

EXAMINERS COMMENTS

GENERAL COMMENTS

Due to the change in the course structure with Criminal Law and Procedure becoming the second subject, there was a significant increase in student numbers this semester. Many students were inexperienced in the art of successfully completing an exam, and this was reflected in the answers of those students who failed. Students generally failed for a combination of the following reasons:

- Inability to manage the time allocated in the exam efficiently, so that the first two questions attempted were of good or adequate quality, but the last question was not attempted at all, or the answer given extremely brief;
- Inability to identify a number of the major issues in the problem questions;
- When the legal issue was correctly identified, failing to demonstrate an understanding of the legal principles by discussing how the legal principle applied to the facts in the problem questions;
- In respect of the 'essay' options in Part B Question 3, answering the question by stating the law without answering the question by providing argument supported by reasons.

Most students answered Part A and the 'problem' questions in Part B (Questions 1 and 2), rather than attempting one of the 'essay' question options in Part B Question 3.

SPECIFIC COMMENTS

PART A

The **major** issues students were expected to discuss were as follows:

John

- Aggravated Robbery
- Murder/Constructive Murder
- Complicity

Bill

- Aggravated Robbery
- Murder/Constructive Murder
- Complicity

In respect of the murder issue, a number of students failed to discuss the mens rea of “intention to cause grievous bodily harm” with John chopping Pearl’s finger off, and Bill “hoping” Gloria would be knocked out when he punched her. Many students failed to discuss constructive murder, the foundation crime being aggravated robbery. Most students identified the complicity issue, but the depth of analysis of how the legal principles applied to the facts of the problem varied greatly.

PART B-QUESTION 1

The **major** issues students were expected to discuss were:

Andy

- Murder
- Involuntary Manslaughter
- Provocation

Dave

- Complicity

In respect of murder, a number of students failed to discuss the mens rea of “intention to cause grievous bodily harm” with Andy holding Clem face down in the water “for another half minute”. In respect of provocation, some students did not clearly articulate the elements of the subjective and objective limbs of the defence, and many students did not discuss how the legal principles applied to the facts of the problem. Many students failed to discuss complicity in respect of Dave’s potential involvement in the death of Clem.

PART B-QUESTION 2

The **major** issues students were expected to discuss were:

Max

- Aggravated Robbery

- Attempted Murder or Aggravated Assault
- Self Defence
- Intoxication

Mary

- Attempted Murder or Aggravated Assault
- Self Defence
- Automatism

Of all the exam questions, the quality of answers to this question was not as high as answers to Part A, and Part B Question 1. The reason for this appeared to be poor time management, as many students clearly ran out of time when answering the question. Many students either did not identify all of the above issues, or if they did identify the issues, failed to discuss how the legal principles applied to the facts contained in the problem.

PART B-QUESTION 3

Few students attempted the 'essay' question option in Question 3. Of those who did, the best students provided a reasoned argument that answered the question, while other students simply stated the law (e.g. the general principles pertaining to the defence of provocation in Part B Question 3 (c)) without providing any reasoned arguments which answered the question. In particular, many students who attempted Part B Question 3 (a) simply gave a case summary of two of the cases listed, without providing any detailed analysis of whether or not the decisions advanced the law.