

## **INTRODUCTION TO CRIMINAL LAW AND PROCEDURE: MAKE-UP TEST**

You have to answer **ALL 5 questions/tasks in total**. Each question/task is worth 20% of the test. This take-home test evaluates your ability to apply the theories, methods, and principles that we discussed in class. Thus, **you have to apply the law as we discussed in class**, even if that is a simplification of the existing Canadian law. For example, if we discussed a certain rule with no exceptions, then you have to apply that rule as seen in class, even if there is an exception to that rule in Canada. Clarity and precision are essential. Please follow the required format. In all your answers, you must refer only to sources (topics, theories, elements, examples, readings, cases, etc.) that we discussed in class. Unless otherwise instructed, **no outside sources may be referred to or included in your answers**. You are not permitted to consult with anyone about this test. Please do not ask me questions about the test after the review class. As a matter of fairness, I do not want to give answers to some students that others do not have the benefit (or detriment) of hearing. You will simply have to use your own judgment about how to handle any possible difficulties, including the interpretation of the questions and tasks. **Submission:** You need to submit this evaluation to the Algoma University Moodle platform for this course by the deadline, i.e., **November 23, 2022 by 10 pm EST**. We will not meet in class on Nov. 16 so that you can work on this test.

### **Format and organization of your answers**

#### **Questions 1, 2, and 3**

You don't need to answer in essay form. You can use charts, bullet points, and conceptual maps. Please precede every idea or point you make by its corresponding heading.

#### **Questions 4 and 5: Short essay questions**

#### **Purpose**

The purpose of your essay is to state and prove your thesis. In general, this is the answer to the question or task from the test, e.g., explain and illustrate a quote, analyze a text, etc.

## **Introduction**

The introduction acquaints the reader with the topic. You will need to summarize in your own words the quote or text you need to explain and analyze and place it into a larger context. The introduction should be short, simple, and clear. The most important aspect of your introduction is your thesis, i.e., the point you want to make.

## **Thesis development.**

You need to divide your short essay into sections. Each section should include only one idea, major point, or argument. Generally speaking, each section should have only one paragraph. The section must be preceded by a heading, which must capture the main idea of the section. Also, each paragraph must contain a topic sentence, which must be similar to the heading. The rest of the section must provide examples, explanations, and evidence to prove the topic sentence. Please address the opposing arguments that others could have about your own arguments.

## **Conclusion**

The purpose of the conclusion is to bring the essay to a satisfying close. You should avoid bringing up a new point in your conclusion. You should avoid a lengthy and excessive summary. Simply, summarize your thesis and main arguments. The most successful conclusions are thoughtful and reflective. Go back to the context. After having presented your topic and proven your thesis, you want to be able to make an overarching statement based on that information. Just as the introduction sought to place the essay in the larger context about the topic, so should the conclusion insist on returning the reader to that ongoing conversation.

## **Citation Format**

The *Chicago Manual of Style* (author-date) or the **Canadian Guide to Uniform Legal Citation (aka The McGill Guide)**.

## **Example of format and organization**

Please have a look at Tetley's article on Mixed Jurisdictions Part 2, widely available online, for an example of the required format.

## Section A

1. Analyze each element of the definitional terms of the **ALL** the following offences. In your analysis, include, where appropriate, all the relevant issues discussed and practiced in class.

Every one who wilfully publishes a statement that he knows is false and that causes or is likely to cause mischief to a public interest is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

Every public official who intentionally uses office, which causes damage to the rights of individuals is guilty of an indictable offence.

A person commits an assault when, without the consent of another person, he applies force intentionally to that other person, directly or indirectly. This section applies to all forms of assault, including sexual assault. Everyone who commits a sexual assault is guilty of an indictable offence.

2. Make-up an offence, i.e., one that does not exist in the Canadian Criminal Code or any other penal code. Write the definitional terms of the offence, which must fulfill all of the following conditions:
  - The offence respects the principles of Criminal Law, i.e., it is a valid offence.
  - The voluntary act is multiple.
  - Social harm is definitional.
  - Social harm is expressed as a wrongful result. It also contains, at least, two attendant circumstances.
  - The offence includes an objective type of mens rea.
  - There is perfect symmetry between mens rea and every material element of the offence.

3. Analyze the follow scenario to determine if Julian committed the crime of driving without a licence.

Julian couldn't find his driver's licence. He had to drive to the airport to take a flight to Paris to see a PSG's game, where his favourite soccer player -Lionel Messi- plays. Julian knew that driving without a licence is a crime in Canada. But he didn't want to be late for the flight and miss the game. So, he grabbed his backpack and got into his car. While driving to the airport, he was stopped by a police officer who asked him for his driver's licence. Julian told him that he did not have it. The police officer gave Julian a ticket to appear before the court for violation of the following crime: "intentionally or knowingly driving without a driver's licence". A day before his court appearance, Julian found that his driver's licence was in his backpack, the same backpack that Julian had in the car when the officer stopped him. Analyze whether Julian committed the crime of driving without a licence.

4. Explain and analyze the following quote. Use examples to illustrate your explanation.

There is a trend to judge intentional mens rea on the impact on the victim rather than on the subjective mind of the accused.

5. Write a short essay to discuss if the notion of criminally protected legal goods may act as a limit to the punitive power of the state and, if so, how. Give, at least, two examples to illustrate your point, where you define the crime (actual or made up) and the facts of two made-up cases.