OVERALL COMMENTS

The exam answers were generally of a good standard, resulting in a moderate failure rate. It appeared that students had considered and adopted the comments by the lectures during lectures and the weekend school regarding the appropriate way to structure exam answers.

As with previous exams, a key factor distinguishing good answers from adequate (or inadequate) answers was the extent to which the student not only identified the elements of the relevant offence or defence but discussed the application of each element to the facts. The more detailed the discussion, the more marks awarded for the answer.

The major issues to be discussed in the questions were:

QUESTION 1

- Attempted robbery (marks also awarded for discussion of break, enter and steal)
- Murder (Liability of Jye)
- Complicity (the doctrine of common purpose in a joint criminal enterprise, and the issue of withdrawal).
- Intoxication

The areas in which students often fell into error were:

- Failing to discuss the issue of intoxication.
- Failing to discuss the issue of complicity sufficiently.

QUESTION 2

The major issues requiring discussion were:

- Involuntary manslaughter (criminal negligence)-Beth
- Intoxication
- Involuntary manslaughter (unlawful and dangerous act)-Peter
- Fraud-Peter

The areas in which students often fell into error were:

- Not referring to the High Court decision in Burns (2012) 246 CLR 334, which was a key authority relevant to the issue of involuntary manslaughter.
- In respect of manslaughter by criminal negligence, failing to identify the circumstances in which the criminal law recognises a duty to act (Taktak (1988) 14 NSWLR 226)
• Failure to discuss the issue of intoxication.

QUESTION 3

The major issues requiring discussion were:

• Murder
• Extreme Provocation (s 23 Crimes Act 1900)
• Insanity
• Diminished responsibility (s 23A Crimes Act 1900)

The areas in which students often fell into error were:

• Failing to discuss the defence of Extreme Provocation (including that the defence would fail by reason of the fact that the victim’s conduct did not constitute a serious indictable offence)
• Not discussing the potential defences of Insanity and diminished responsibility in sufficient detail or at all.

QUESTION 4

The major issues requiring discussion were:

• Robbery (Bill)
• Aggravated assault (Bill)
• Self-defence (Bill)
• Aggravated assault (Claire)-marks also awarded for discussing Attempted Murder
• Automatism (Claire)

The areas in which students often fell into error were:

• Failing to discuss the issue of self-defence.
• Failing to identify and discuss the defence of automatism.

G.J SARGINSON
EXAMINER
APRIL 2018