

Empire College of Law
Criminal Law Examination
Fall 2025
Prof. K. Pozzi

Instructions

1. This examination consists of three (3) questions.
2. There is a three (3) hour time limit to complete the exam.
3. Answer each question according to the times allocated by Prof. Pozzi.
4. There are three essay questions. Make sure that you read each essay question carefully before answering. Attempt to organize your answer before you start writing.
5. The essay questions test your ability to apply the law to the facts. Use IRAC. After stating the issue, provide a succinct statement of the relevant legal principles, followed by a detailed analysis of how these legal principles apply to the facts and a conclusion.

Empire College of Law
Criminal Law Final
Professor Pozzi
Fall 2025

Question 1 (1 hour)

Andi asked her friend Bella for help to retrieve a ring that was left behind at her ex-boyfriend Carl's house. Andi told Bella that Carl refused to give it back. Bella agreed to help her friend, but found it suspicious that Carl would not give Andi back her ring. The ring that Andi was referring to actually belonged to Bella, Carl's new girlfriend. It was finding that ring that caused Andi to break-up with Carl. Andi had no idea that Carl was now dating Bella.

The next night, knowing that Carl was out bowling, Andi and Bella went through the closed but unlocked back door and into Carl's house looking for the ring. Bella found the ring that actually belonged to her and reluctantly handed it to Andi. It was not until then that Bella realized the ring that Andi had been referring to was actually her own ring.

Andi said, 'If I find out who he is dating, I will kill the hag.'

As Andi and Bella were leaving through the back door, Carl was coming through the front door. Upon seeing Bella (but not Andi), Carl yelled out, "What a happy surprise, sweetheart." Andi heard this as she was stepping out of the house and suddenly realized that Bella was Carl's new girlfriend.

Furious, Andi pushed the door fully open, stepped back into the house, grabbed a heavy cast iron pan and hurled it toward Bella. Bella ducked but the pan hit Carl, killing him instantly.

Bella in retaliation, picked up the pan and hit Andi over the head with it. Andi has a hard head and only received a headache.

Andi left with Bella's ring, but not before she tried to light the house on fire to destroy the evidence. The fire extinguished itself before any damage occurred.

What crime or crimes have been committed by Andi and Bella, if any, and state any defenses that each may have, if any?

Empire College of Law
Criminal Law Final
Professor Pozzi
Fall 2025

Question 2 (1 hour)

"Twas the night before Christmas when all through the night, Lana contemplated how she might get presents for her children, especially a toy cow and a new kite. Through the neighbors window later that night, Lana could see gifts that might be just right.

While visions of gifts danced in their heads, her little children slept in their beds. Lana tucked them in tight, but at two and four years old, she feared it was not right. To the neighbors window Lana flew in a flash, tore open the shutters and threw up the sash. As she grabbed a kite and other toys, she could hear out on the lawn a disturbing noise. She sprang from the roof and down to see what was the matter. There she saw her children running around with a clatter. Lana chased them until they were out of sight, mowing over the neighbor's garden that foggy night. Just then a large white haired bearded man drove from around the corner, in a hurry and quite quick. Lana knew in a moment it must be Mr. Nick.

More rapid than eagles and without a care, Mr. Nick drove toward the children not knowing they were there.

Then all of a sudden Lana heard the screeching of tires. It was Mr. Nick who hit the kids and the moments were dire.

Her children, Dancer and Prancer, were out in the street, hurt and injured and in great need.

Mr. Nick, scared, not knowing what to do, sped off quickly and really flew.

Lana was shocked and just walked away, leaving her children on the street and they were not okay.

Dancer did not make it and later died. Prancer lost a finger and had a large bruise on her side.

Lana was heard to exclaim as she walked out of sight,
'Merry Christmas to all and to all a good night"

What crime or crimes have been committed by Lana and Mr. Nick, if any, and state any defenses that each may have, if any?

Empire College of Law
Criminal Law Final
Professor Pozzi
Fall 2025

Question 3 (1 hour)

Larry, Curly and Mo were childhood friends and now attending different colleges. One day during winter break they all came home and got together to have some fun.

Larry thought it would be fun to wear masks and scare their mutual friend Lucy in a feigned robbery attempt. Lucy worked a graveyard shift at Pete's convenience store and lived in the back. Curly agreed, but secretly thought that this would be a great opportunity to get some cash to pay his overdue tuition before he got kicked out of college.

Later that night the three masked men went to Pete's. Unbeknownst to Larry and Curly, Mo gave Lucy a heads up on the upcoming joke.

Lucy pretended to be scared when Curly demanded money from the register, but handed Curly \$500.00 thinking he would give it right back and the gig would be up. To Larry and Mo's surprise, Curly ran from Pete's with the \$500.00.

Larry jumped into his truck and gave chase to stop Curly. In doing so he ran over Sally, a nighttime jogger that was out in the street, killing her instantly. He stopped to help, but before she died, he took her Rolex watch from her arm and put it in his pocket.

Mo, a diabetic, in stress and medically in need of sugar, grabbed a candy bar from Pete's and gobbled it down.

What crime or crimes have been committed by Larry, Curly, and Mo, if any, and state any defenses that each may have, if any?

Monterey College of Law

ID: _____ (Student ID)

Exam Name: CrimLawPrc-ECL-F25-Pozzi-os

Exam Date: Dec 9, 2025

File Name: _CrimLawPrc-ECL-F25-Pozzi-os_20251209_final.xmdx

Exam Length: 182 minutes (Started @Dec 9, 2025, 6:30 PM; Ended @Dec 9, 2025, 9:33 PM)

Downloaded: Dec 8, 2025, 8:09 AM

Uploaded: Dec 9, 2025, 9:33 PM

GRADE _____

Total Number of Words in this Exam = 4513

Total Number of Characters in this Exam = 26251

Total Number of Characters in this Exam (No Spaces, No Returns) = 21829

80%

1)

Is Andi culpable for solicitation for asking Bella to help retrieve the ring?

Solicitation is asking, enticing, urging, or commanding another to commit a crime, with the specific intent that the crime be committed.

Larceny is the trespassory taking and carrying away of the personal property of another with the intent to permanently deprive them of it.

Burglary, at common law, is the breaking and entering into the dwelling of another during the nighttime with the intent to commit a felony (therein). Modernly, there is no requirement of breaking, dwelling, or nighttime, and the act therein can be any theft-related offense.

Here, when Andi asked Bella to help her retrieve the ring from Carl's house, she was asking Bella to help her commit a burglary with larceny of the ring being the felony therein. Thus, it seems likely that Andi is culpable for solicitation.

The facts do not indicate whether Andi believed that the ring was actually hers or if she knew all along that it belonged to Bella, but if she did believe that the ring was hers she may be able to raise a claim-of-right defense, which would negate her intent for larceny and thus negate the required intent to commit a felony for burglary.

Are Andi and Bella culpable for conspiracy?

Conspiracy is an agreement between at least two people to commit an unlawful act. Modernly, an overt act in furtherance of the conspiracy is required (mere preparation will suffice). Each co-conspirator will be culpable for the acts of other co-conspirators done in furtherance of the conspiracy.

Burglary, *supra*

Here, Bella did agree to help her friend commit a burglary. At common law, just the agreement is sufficient for culpability. Modernly, an overt act is required, which would be satisfied by the pair showing up to the house. Thus, the pair would likely be culpable for conspiracy at both common and modern law.

Are Andi and Bella culpable for burglary when they entered into the back door of Carl's house?

Burglary, *supra*

The the view of the common law, Andi and Bella satisfied the elements of a burglary. Though the door was unlocked, it was still closed, and just their act of them moving it would constitute a breaking. The facts also indicate that this occurred at night ("the next night..."), and in the dwelling of another (Carl's house). Though it is possible that Andi may raise the claim of right defense to negate the larceny (felony therein) Bella did not at this point know that the ring was hers, so she could not raise that defense. Also, their intent to commit a felony therein concurred in time with their entrance in the house. Thus, at both common and modern law, Andi and Bella would likely culpable for the burglary of Carl's house.

Are Andi and Bella culpable for larceny of the ring?

Larceny, supra

Here, when Bella finds the ring and hands it to Andi, she is not culpable for larceny since it was her own ring, and for larceny the trespassory taking must be from another. However, later in the fact pattern when she leaves with the ring after finding out that it is Bella's, she may be guilty of larceny. It is possible that she was already in possession of the ring since Bella handed it to her, but her original taking was likely unlawful and so she would most likely be found culpable for larceny.

Are Andi and Bella culpable for a second burglary when they re-enter the house when Carl came home.

Burglary, supra

Homicide is the killing of one human being by another human being. Homicides can be either lawful (self-defense, war, insanity, etc.) or unlawful. Unlawful homicides can be either murder or manslaughter. Murder is the killing of one human being by another human being with malice aforethought. Malice may be either express or implied. Express malice murder requires the intent to kill, usually evidenced by premeditation or deliberation. Implied malice murder has several prongs; (1) intent to inflict serious bodily injury; (2) wanton/willful disregard for the value of human life; or (3) the felony murder rule (except larceny, modernly). Manslaughter, on the other hand, does not require malice. It comes in two forms, voluntary and involuntary. Voluntary manslaughter is homicide that would otherwise be express malice murder but is mitigated by adequate provocation (heat of passion, imperfect self-defense). Involuntary manslaughter is the result of criminal negligence or the misdemeanor manslaughter rule.

Here, when Andi re-enters Carl's house, it seems like she had the intent to kill Bella. This is evidenced by the fact that she previously said "If I find out who [Carl] is dating, I will kill the hag." The facts indicate that she was "furious" when she came back in the house. This points toward premeditation and thus an intent to commit express malice murder upon re-entry. Furthermore, she pushes the door open, satisfying the breaking element, and it was still nighttime so at both common and modern law this would be a burglary. Andi would likely be culpable for burglary here. As to Bella, her re-entry was not done with the intent to commit a felony or theft-related offense therein, so she would not be culpable for burglary.

Is Andi/Bella culpable for larceny of the cast iron pan?

Larceny, supra

Here, when Andi takes the pan, it was constructively in the possession of Carl. However, she did not have the intent to permanently deprive, and thus would not be culpable for larceny. When Bella picks up the pan in retaliation, it would be in the constructive possession of the heirs of Carl since he is dead, but she also did not have the intent to permanently deprive, so she would likely not be culpable for larceny as well.

Is Andi culpable for the attempted murder of Bella? What about assault?

An attempt is an act beyond preparation into the zone of perpetration.

At common law, assault is an attempted battery. Modernly, it is an intentional act that places another in reasonable apprehension of receiving a battery.

Homicide, *supra*

To sustain a heat of passion defense, the perpetrator must have been adequately provoked and had no cooling off period.

For Andi, when she picked up the heavy cast iron pan and hurled it toward Bella, it was done right after she had discovered that Bella was dating Carl. Based on her previous comments about what she would do if she found out who was dating Carl, this would be sufficient evidence of malice to support attempted express malice murder. Andi would likely try to raise a heat of passion defense to have her sentence reduced, and it is true that she had no cooling off period, but since Carl is her ex boyfriend, this would likely not be a typical cuckold spouse type of situation that would sustain that defense. Also, even if Andi tried to argue that she wasn't trying to kill her, the court may imply malice by her throwing the pan to seriously injure Andi as well as the fact that she was still in the *res gestae* of a burglary under the FMR. Thus, Andi would likely be culpable for attempted murder of Bella, thwarted only because she ducked.

In addition, since Bella ducked after Andi's intentional act of throwing the pan, we can assume that she saw it coming and thus Andi would be culpable for assault of Bella.

Are Andi or Bella culpable for the death of Carl?

Homicide, *supra*

Conspiracy, *supra*

Here, Andi would certainly be culpable for the death of Carl. Since she was still within the *res gestae* of a burglary, under the FMR she would be culpable for Carl's death since it was a natural and probable consequence of her felony. As to Bella, since this was not within the scope of their original conspiracy to take the ring, it is unlikely that she could be found culpable for the death of Carl.

Is Andi culpable for attempted Arson?

Attempt, *supra*

Arson is the malicious burning of the dwelling of another, modernly this may expand to structures not just dwellings. There must be some damage to the combustible material of the structure. Malice may be either express or implied.

Malicious mischief is the malicious destruction or damage of the property of another. Malice may be either express or implied.

Here, the facts explicitly state that Andi tried to light the house on fire. Since this would destroy everything in the house, this would be attempted malicious mischief as well as attempted

arson.

Is Bella culpable for assault/battery of Andi? What about attempted murder?

Battery is the unlawful application of force on another.

Assault, supra

Attempt, supra

Homicide, supra

Here, by hitting Andi with the pan, Bella applied force on Andi. She may try to raise the defense of self defense, but since the facts state that it was done in retaliation, she would not be able to enjoy that defense. Thus, Bella would be culpable of assault. The facts also are unclear as to whether Andi saw this blow coming, but if she did Bella would be culpable for assault as well.

As to attempted murder, Bella swung the pan at Andi after she had just seen that pan kill Carl. Thus, a jury may find that she had either the express malice or the implied malice (intent to inflict serious bodily injury, or wanton/willful disregard of human life) to sustain a conviction for attempted murder. Andi only survived because she had a hard head, so Bella could not raise a defense of factual impossibility. She may also try to claim that she was acting in self defense or in the heat of passion. As to heat of passion, she would likely prevail since there was adequate provocation (Andi just tried to hit her with the pan and she just watched her boyfriend die) and it happened right after so there was no cooling down period. However, given that Andi just tried to kill Bella, she would probably want to claim perfect self defense, as her use of force was reasonable under the circumstances. For that reason, Andi would likely not be found culpable for the attempted murder of Bella.

Finally, Bella hit Andi in retaliation, which is never justification for an unlawful act and thus may negate any of Bella's defenses.

85%

2)

Is Lana culpable for burglary? What about larceny?

Burglary, at common law, is the breaking and entering into the dwelling of another during the nighttime with the intent to commit a felony (therein). Modernly, there is no requirement of breaking, dwelling, or nighttime, and the act therein can be any theft-related offense.

Larceny is the trespassory taking and carrying away of the personal property of another with the intent to permanently deprive them of it.

Here, Lana broke into the neighbors house when she "tore open the shutters, and threw up the sash" to get inside. Upon her entry, it was clear that she had the intent to commit a larceny of the presents inside, seeing as how she had been contemplating how to get presents and had seen them through the window. It was also the "night" before Christmas. Thus, all elements of burglary are met at both common and modern law and Lana will be culpable for Burglary.

As to larceny, she certainly had the requisite intent to permanently deprive the neighbor of their Christmas presents, as she was going to give them to her kids. The facts state that she "grabbed a kit and other toys" which will suffice for the taking and carrying away element. Thus, Lana will likely be culpable for larceny.

Is Lana culpable for malicious mischief for when she tore open the shutter?

Malicious mischief is the malicious destruction or damage of the property of another. Malice may be either express or implied.

Here, it is unclear if she actually damaged the shutter when she "tore it open" but if she did actually damage the shutter she would be culpable for malicious mischief. She may also be culpable for this if she destroyed their garden when she "mowed over" it.

Is Lana culpable for the death of Dancer under the felony murder rule?

Homicide is the killing of one human being by another human being. Homicides can be either lawful (self-defense, war, insanity, etc.) or unlawful. Unlawful homicides can be either murder or manslaughter. Murder is the killing of one human being by another human being with malice aforethought. Malice may be either express or implied. Express malice murder requires the intent to kill, usually evidenced by premeditation or deliberation. Implied malice murder has several prongs; (1) intent to inflict serious bodily injury; (2) wanton/willful disregard for the value of human life; or (3) the felony murder rule (except larceny, modernly). Manslaughter, on the other hand, does not require malice. It comes in two forms, voluntary and involuntary. Voluntary manslaughter is homicide that would otherwise be express malice murder but is mitigated by adequate provocation (heat of passion, imperfect self-defense). Involuntary manslaughter is the result of criminal negligence or the misdemeanor manslaughter rule.

The felony murder holds one who commits a felony culpable for the deaths that occur within the res gestae of the felony and that are the natural and probable consequences of the felony. Here, Lana was likely still within the res gestae of the felony of burglary since she was still on the neighbors lawn and had not yet returned to a place of safety. However, Nick speeding down the street may be a superseding intervening act which could cut off Lana's culpability since that would not be within the scope of the original felony. However, since they were only in the street since she chased them in an effort to avoid being discovered for her burglary, she would likely still be culpable for the implied malice murder of Dancer under the felony murder rule.

Furthermore, she may be culpable for the death of dancer by failing to rescue him once she saw him injured and laying in the street. Since she is his parent, she is obligated to try and

assist him, especially since she is the one who made him run into the street. By leaving him there, this could also be considered wilful/wanton disregard for the value of human life and would offer another theory under which she may be culpable for the implied malice murder of Dancer.

Could Lana be culpable for assault when she chased the kids?

Assault is an attempted battery. Modernly, it is an intentional act which creates in another the reasonable apprehension of an imminent battery. The actor must have the actual ability to carry out the battery.

Here, by chasing the kids, Lana may have put them in reasonable apprehension of an imminent battery, which would make her culpable for a modern assault.

Is Nick culpable for the homicide of Dancer? Which type of homicide?

Homicide, supra

The facts suggest that Nick may have been driving negligently since he was "more rapid than eagles and without a care" If he was, he may be culpable for involuntary manslaughter against Dancer under a criminal negligence theory. However, it was a foggy night, and it seems like the kids may have ran out quickly since they were chased by Lana, which may be a superseding intervening act to cut off his culpability. That said, he may run into trouble for his failure to help the children after he hit them. The facts say that he was scared and did not know what to do, indicating that he knew that he had probably injured them. By leaving them in the road, injured, this may be enough for a trier of fact to determine that he wantonly and willfully disregarded the value of human life by leaving them there. It seems likely that under this theory, Nick would be culpable for implied malice murder of Dancer.

Is Nick culpable for battery against the Dancer/Prancer?

Battery is the unlawful application of force on another. There is no specific intent necessary.

Here, by hitting Dancer and Prancer with his car, Nick unlawfully applied force to them. Even though he clearly was not intending to hit them, the facts suggest that he may have been speeding and thus would satisfy the general intent necessary. Thus, Nick would likely be culpable for battery on Dancer and Prancer.

Are Nick or Lana culpable for mayhem against Prancer?

Mayhem is the malicious disfigurement or dismemberment of another.

Here, Prancer lost a finger so he was clearly dismembered. Since malice may be either express or implied, it is possible that since he was speeding he could be culpable. Furthermore, he may be culpable since he failed to assist them after hitting them, since maybe he could have kept the finger if he was helped in time.

As to Lana, she may be culpable as well for failing to assist the children, implying malice. Also, since this all happened because she was chasing them to try and get away with her burglary, that may be sufficient to show implied malice as well.

Of course, either one of these individual acts may supersede the other and cut off culpability for the other party, but at least one of Nick or Lana would likely be culpable for the mayhem of Prancer.

Does Nick have any defenses?

If Nick was not speeding, and a jury determined that the proximate cause of Dancer's death was not from him hitting him, he may try to defend himself by saying that it was foggy and the kids ran into the street, and so him hitting them would be purely an accident and thus he would be culpable for no crimes.

3)

8590

Is Larry culpable for solicitation?

Solicitation is asking, enticing, urging, or commanding another to commit a crime, with the specific intent that the crime be committed.

Assault is an attempted battery. Modernly, it is an intentional act which creates in another the reasonable apprehension of an imminent battery. The actor must have the actual ability to carry out the battery.

Here, Larry asks his friends if they would like to scare Lucy by staging an attempted robbery. Modernly, this would be an assault, and would thus be a crime that he asked the others to help him commit. For this reason, Larry would be culpable for solicitation.

Are Larry, Curly, and Mo culpable for conspiracy? Did Mo withdraw by warning Lucy?

Conspiracy is an agreement between at least two people to commit an unlawful act. Modernly, an overt act in furtherance of the conspiracy is required (mere preparation will suffice). Each co-conspirator will be culpable for the acts of other co-conspirators done in furtherance of the conspiracy.

Here, there was an agreement between the trio to commit the unlawful act of assault on their friend Lucy. At common law, they would be culpable right there upon the agreement. Modernly, an overt act in furtherance of the conspiracy is required, so they would be culpable once they showed up at the store with masks. Because they did so, at both modern and common law, they would be culpable for conspiracy.

As to whether Mo withdrew by warning Lucy ahead of time, he needed to communicate this to the other co-conspirators. Because he did not, he did not effectively withdraw and will thus be culpable for any crimes that occur in furtherance of their conspiracy.

Are Larry, Curly, and Mo culpable for attempted robbery of the store? What about burglary?

An attempt is an act beyond preparation into the zone of perpetration.

Robbery is the trespassory taking and carrying away of the personal property of another by force fear threat or violence.

Burglary, at common law, is the breaking and entering into the dwelling of another during the nighttime with the intent to commit a felony (therein). Modernly, there is no requirement of breaking, dwelling, or nighttime, and the act therein can be any theft-related offense.

Here, they certainly did an act beyond preparation into perpetration when they went into the store with masks on. However, since Larry and Mo did not actually have the requisite specific intent to take anything from the store by force threat fear or violence (they did not actually intend commit the robbery), they cannot be found guilty of attempt. Curly, on the other hand, did have the specific intent when he went into the store to take money by force fear threat or violence with the intent to permanently deprive he could be found culpable of attempted robbery.

Furthermore, by entering into the store with the intent to commit a robbery, Curly may also be found culpable for burglary. The store was in the curtilage of where Lucy lived, and this occurred at night (graveyard shift). However, the facts are unclear as to whether there was any breaking required for common law burglary. Modernly, he would likely be culpable as there is no requirement of a breaking. He cannot be found culpable for robbery because Lucy did not actually perceive any threat or force or violence.

Is anyone culpable for an assault on Lucy?

Assault, *supra*

Here, since Lucy did not actually feel scared or apprehend that a battery may occur, none of the parties can be culpable for assault.

Which theft-related offense is Curly culpable for when he took the \$500? Are Larry and Mo also culpable as part of the conspiracy?

Larceny is the trespassory taking and carrying away of the personal property of another with intent to permanently deprive them of it.

Robbery, *supra*

Here, Curly was only given custody of the \$500, as the facts state that Lucy expected it to be given right back. Thus, since Curly never had lawful possession of the money even though it was handed to him, his act of taking it and running out of the store would be a larceny. He clearly had the intent to permanently deprive, and the money still belonged to the store. For these reasons, Curly would be culpable of larceny of the money. Again, he would not be culpable for robbery since Lucy only pretended to be scared of his demand.

Here, Larry and Mo would likely not be culpable as co-conspirators since Curly's act was beyond the scope of their initial agreement. It could be argued that this was a natural and probable consequence of the original conspiracy, but since his intention was secret that would likely not be the case.

Are any of the parties culpable for the unlawful homicide of Sally?

Homicide is the killing of one human being by another human being. Homicides can be either lawful (self-defense, war, insanity, etc.) or unlawful. Unlawful homicides can be either murder or manslaughter. Murder is the killing of one human being by another human being with malice aforethought. Malice may be either express or implied. Express malice murder requires the intent to kill, usually evidenced by premeditation or deliberation. Implied malice murder has several prongs; (1) intent to inflict serious bodily injury; (2) wanton/willful disregard for the value of human life; or (3) the felony murder rule (except larceny, modernly). Manslaughter, on the other hand, does not require malice. It comes in two forms, voluntary and involuntary. Voluntary manslaughter is homicide that would otherwise be express malice murder but is mitigated by adequate provocation (heat of passion, imperfect self-defense). Involuntary manslaughter is the result of criminal negligence or the misdemeanor manslaughter rule.

Robbery, *supra*

Burglary, *supra*

Here, Larry may be culpable for Sally's death under either an implied malice murder felony murder rule theory or an involuntary manslaughter theory for criminal negligence. If the jury found that the trio was still in the commission of either a burglary or a robbery of the convenience store, this would be the natural and probable consequence of either of those felonies and thus malice could be implied. Even if they were not in the commission of a felony, Larry may have been speeding while chasing after Curly and been held to be criminally negligence. Thus Larry might be culpable for the unlawful homicide of Sally under either an implied malice murder theory (FMR) or an involuntary manslaughter criminal negligence theory. Additionally, by failing to help her after hitting her, he may have shown a wanton/willful disregard for the value of human life and could be culpable under that theory of implied malice murder.

As to Mo, if he was part of an ongoing felony, the felony murder rule could apply to him to make him culpable, but that seems unlikely since this all happened after Curly went rogue beyond the scope of the conspiracy and Larry chased him. Since Mo didn't actually kill Sally, and this did not happen as part of the conspiracy, he would likely not be culpable for homicide against Sally.

Finally, since Curly was still in the *res gestae* of his felony larceny, and felony burglary, at common law he could be culpable under the felony murder rule if it is determined that Larry chasing after him and hitting Sally was a natural and probable consequence of either of those felonies. At common law, the larceny would not count for FMR. If it is found that the death occurred because of the larceny only, he could still face charges for involuntary manslaughter under the misdemeanor manslaughter rule at modern law. However, Larry hitting her may be a superseding intervening act so as to cut off Curly's culpability.

Is Larry culpable for battery/assault on Sally? What about larceny? Maybe robbery?

Battery is the unlawful application of force on another.

Assault, *supra*

Here, by hitting Sally with his car, this was an unlawful application of force. Larry would likely be culpable for battery. It may occur again when he presumably touches her to take her watch. Also, if she saw either of those things coming, Larry may be culpable for an assault on Sally.

By taking her watch, he took her personal property from her possession since she was still alive when he did it. Further, since he hit her with his car, this might be the requisite element of force needed to elevate the larceny to a robbery.

Is Mo culpable for the larceny/malicious mischief of the candy bar? May he raise a necessity defense?

Larceny, supra

Malicious mischief is the malicious destruction or damage of the property of another. Malice may be either express or implied.

Here, by taking the candy bar (which was in the possession of the store) to eat (intending to permanently deprive) Mo could definitely be culpable of larceny. Furthermore, by destroying the candy bar, he may also be culpable for malicious mischief. However, he might be able to raise the defense of necessity, since he was medically in need of sugar forced to choose between potentially dying or eating the candy bar. Since the value of the candy bar would be much less the value of his life, he would likely succeed in a necessity defense and thus not be culpable for larceny.

END OF EXAM