

Monterey College of Law
Criminal Law & Procedure
Midterm Examination
FALL 2025
Professor S. Haas

General Instructions:

Answer Three (3) Essay Questions.
Total Time Allotted: Three (3) Hours

QUESTION 1

It is 2:00 a.m. outside The Clover Bar. Derek, a bartender, has just finished a 14-hour shift. He is physically exhausted and eager to go home. Earlier that night, Derek had thrown out Victor, an intoxicated and belligerent customer who started a fight. Enraged, Victor waited in the parking lot for hours. As Derek exited the bar, Victor began hurling insults and threats, shouting that Derek 'would regret humiliating him.'

Victor suddenly lunged toward Derek, but in his intoxicated state fell face-first onto the pavement. Derek started to walk away toward his car. From the ground, Victor screamed again. Derek turned around and saw Victor raising his arm, pointing what Derek believed was a gun.

In a split second, Derek drew his licensed handgun (which he routinely carried for protection after late shifts) and fired one shot, striking Victor in the chest. Victor died instantly. When police arrived, they found no firearm—only a black iPhone a few feet from Victor's outstretched arm. Derek immediately told police: "He pointed a gun at me—I swear I saw it. I thought he was about to shoot." The autopsy confirmed Victor's blood alcohol level was 0.22%, and there was no gunpowder residue on his hands.

Of what crimes can the prosecution charge Derek? What defenses, if any, may he raise? Answer according to California Law only.

QUESTION 2

After a long week of stressful shifts, Tina goes out drinking with friends. By 1:00 a.m., she has consumed multiple shots and beers and appears highly intoxicated—slurring, stumbling, and saying she’s “just gonna crash at my friend Jessica’s place.”

Tina’s friend Jessica lives in Apartment 3B of a downtown complex. When Tina arrives at the building, she mistakenly enters Apartment 3A (next door) whose door is unlocked. Inside, Nina, a 60-year-old woman, is asleep on her couch.

Tina, disoriented, begins rummaging through the kitchen cabinets and muttering, “Where’s my phone?” Nina wakes up and screams. Tina, startled, yells back, “Stop yelling—I’m just grabbing my stuff!” and grabs Nina’s purse off the counter thinking it’s her own bag. As Nina runs toward the hallway phone, Tina instinctively shoves her aside, knocking her down. She runs out with the purse.

She reaches her house, throws all the contents of the purse on the floor including Nina’s Driver’s License, and ends up going to sleep. Police arrive moments later and arrest her. Tina tells them, “I swear I thought it was my apartment and my bag! I didn’t mean to rob anyone—I was wasted!”

Question

Of what crimes can the prosecution charge Tina, and what defenses, if any, can she raise?

QUESTION 3

Hank, a 62-year-old lifelong rancher, lives alone on a remote property several miles from the nearest town. He is legally blind and rarely leaves his ranch except for medical appointments and groceries. His only constant companions are two massive Rottweilers, “Thunder” and “Justice,” whom he has raised, trained and usually remain restricted. These dogs are protective and aggressive toward strangers but have never attacked anyone on Hank’s property without provocation.

During the past month, there have been several break-ins in the surrounding rural area. Local police have warned residents that the suspects appear to be a group of teenagers addicted to meth, breaking into homes and sheds to steal small valuables or food. Hank, already fearful because of his blindness and isolation, begins sleeping less and keeping his dogs inside the house.

Hank has been diagnosed with paranoid schizophrenia. When medicated, he functions well. However, he frequently stops taking his medication because he believes his doctor is “working with them” to poison him. Without medication, Hank experiences auditory hallucinations and intense delusions that people are plotting to harm him. Over the past few weeks, his condition deteriorated — he began hearing voices saying that “agents are coming for your heart” and that only his dogs could protect him.

After the most recent neighborhood burglary, Hank tells his neighbor, “I’m leaving the dogs inside from now on. Anyone who walks in that door is a dead man. Those dogs will tear them apart — that’s the only way I can sleep.”

He begins leaving his dogs to roam freely inside the house during night time. One night, two unarmed teenagers quietly pry open the back screen door, intending to steal beer and tools. The dogs immediately charge, mauling both teenagers to death.

When officers interview Hank, he appears disoriented and states: “They came to kill me. The voices said they’d be here tonight. My boys did what they had to do.” He also admits he knew the dogs would kill anyone who entered but claims he had no choice because “it was them or me.” Hank is arrested and charged with multiple counts of homicide.

Question

Discuss all defenses that Hank may raise.

Please discuss all major insanity tests, not just the California standard.

Answer according to California Law only.

ANSWER OUTLINE

MCL

Criminal Law

Fall 2025

Prof. S. Haas

Q1 - Answer Outline

Homicide

Homicide is the killing of a human being by another. The grading depends on the defendant's mental state—malice, intent, or negligence. Victor is dead, and causation is clear. The issue is Derek's mens rea and potential defenses.

Potential Charges

A. Murder (PC §187) requires unlawful killing with malice aforethought.

1. First-Degree Murder – Requires willful, deliberate, and premeditated killing. No evidence of advance planning or cool reflection; encounter was spontaneous.

2. Second-Degree Murder – Intentional killing without premeditation but with malice aforethought. Derek intentionally fired his gun. If self-defense is rejected, malice is implied from use of deadly force.

Mitigations to Manslaughter

A. Voluntary Manslaughter (Imperfect Self-Defense) – Occurs when D kills with honest but unreasonable belief in need for deadly force. Derek believed Victor had a gun; belief was mistaken. Honest but unreasonable belief negates malice.

B. Heat of Passion – Less likely, words alone are not sufficient. Provocation was more about perceived threat than rage.

C. Involuntary Manslaughter – Not applicable since Derek's act was intentional.

Defenses

A. Perfect Self-Defense – Requires reasonable belief of imminent danger and necessity of deadly force. Victor's prior aggression, intoxication, and sudden movement support Derek's belief. Possible full justification.

B. Mistake of Fact – Honest and reasonable mistake negates malice.

Q2- Answer Outline

I. Potential Charges

A. Robbery (PC §211): Taking of property from another by force or fear with intent to permanently deprive. Tina took Nina's purse and used force, but lacked intent to steal if she thought it was her own bag or was too intoxicated to form intent. If jury believes she realized it wasn't her and fled, robbery complete.

B. Burglary (PC §459): Entry into structure with intent to commit theft or felony. Requires specific intent at entry. If Tina thought it was her friend's apartment, or was too intoxicated to form intent, burglary fails.

C. Battery – Unlawful use of force or violence on another. Shoving Nina = battery. Intoxication not a defense.

D. Theft - If she later realized purse was not her and kept it. Intoxication could be a defense but the ID was on the floor.

II. Defenses

Voluntary Intoxication Defense

Voluntary intoxication may negate specific intent required for burglary and robbery. Tina's extreme intoxication supports argument she lacked ability to form intent to steal. However, it is no defense to general intent crime like battery.

Mistake of Fact – Honest mistake negates specific intent. Tina believed it was her apartment and her bag.

Answer Outline-Question 3

I. Defense of Habitation (Castle Doctrine)

A homeowner may use deadly force to prevent an intruder's unlawful entry or to protect against imminent threat of death or serious injury. However, the force must be reasonable, proportionate, and contemporaneous — the actor must make a human judgment at the time of the threat. Deadly traps or mechanical devices are not justified, even inside one's home.

He knew anyone entering would likely die, yet he was not reacting to an imminent intrusion; he planned the setup in advance. Courts (e.g., *People v. Ceballos*) reject "trap" defenses because they eliminate human judgment and can kill innocents. Therefore, the defense fails — Hank's conduct was premeditated and disproportionate; no immediate evaluation of threat occurred.

II. Self-Defense and Imperfect Self-Defense

Deadly force is justified if the defendant reasonably believes it is necessary to prevent imminent death or great bodily injury.

Hank honestly believed intruders intended to kill him, but this belief stemmed from paranoid delusions, not objective circumstances. Teenagers were not harmful and possibly not reasonable to protect with deadly Rottweillers but Hank is blind. Also, just because the teenagers are stealing for small items does not mean they are not dangerous.

III. Insanity Defense

Under the M'Naghten Rule, a defendant is insane if, due to mental disease, they did not know the nature and quality of the act or did not know that it was wrong. The Model Penal Code test allows acquittal if the defendant lacked substantial capacity to appreciate criminality or conform conduct to law.

Hank suffers from schizophrenia with hallucinations commanding him to act. He arguably understood the nature of the act (he knew the dogs could kill) but may not have appreciated its wrongfulness, believing he was under mortal threat. Under M'Naghten, he may be found insane if he did not appreciate that killing intruders was wrong because he thought it necessary for survival.

IV. Diminished Capacity

This is mental illness short of insanity to negate specific intent (e.g., malice aforethought). Even if Hank fails the insanity test, his schizophrenia and delusions can support a finding that he lacked malice or intent, reducing homicide to manslaughter. Partial defense that may reduce but not eliminate liability.

1)

State v Derek

Student provided complete Rule Statement, Identified all issues. Analysis was factually driven. Perfect Essay

The prosecution may reasonably charge Derek with voluntary manslaughter, imperfect self-defense, barring any defenses he may have.

Murder is the unlawful killing of another human being with malice aforethought. There are several types:

1st degree murder: the intentional killing of a human being with malice aforethought, premeditation, and deliberation. Premeditation is the planning and preparation for the act. Deliberation is the contemplation; the weighing of the consequences. P&D

Here, Derek (D), a bartender had previously thrown out Victor (V), a customer, because V was highly intoxicated, belligerent, and had started a bar fight. V was then "enraged" and waited in the parking lot for hours. When D exited the bar to go home for the night, V began hurling insults and threats, shouting that D "would regret humiliating him." V lunged at D suddenly, but fell to the ground flat on his face. As D was walking towards his car to continue leaving, V continued screaming at D, raised his arm, pointing at D in such a way that D believed V was pointing a gun at D. D reacted "in a split second" and fired his licensed handgun, killing V instantly.

According to the facts, D reacted to V's provocation, he did not demonstrate premeditation or deliberation; D's intention and what he had been attempting, was to get in his car and drive home. Thus, the elements of first degree murder are not satisfied.

Beautiful

The prosecutor would be unlikely to charge Derek with first degree murder.

2nd degree murder: the unlawful killing of a human being with malice aforethought but without premeditation or deliberation. Malice aforethought may be express (intent to kill)

or implied. Implied malice is the conscious disregard for human life. Defendant (D) acted in such a way that the natural and probable consequence would be death or great bodily injury (GBI). It is foreseeable that death or GBI could occur. D acted knowingly and purposefully, knowing the risk that death or GBI could occur.

Here, according to the facts, Derek (D) did not have express malice (intent to kill) Victor (V). In fact, D continued to try and leave the parking lot, get to his car, and go home. He did not engage or fight V, even after V continued to scream at him. The prosecutor will argue that D acted with implied malice (conscious disregard for life), because he drew a gun, and fired it directly at V's chest. The natural and probable consequences of doing so would be death or GBI. However, D will argue that he was reacting in self-defense, because it was 2AM, dark, and V had continuously hurled insults and threats at D, screaming at him even while face down on the ground. D will argue that he reasonably believed his life was in danger, because when V pointed his arm in such a way that D believed he was pointing a gun, and D reasonably believed V had a gun. D will argue for mitigation to voluntary manslaughter, imperfect self-defense. *Very Good*

Voluntary manslaughter: the killing of another human being with either intent or conscious disregard for life, that is mitigated to heat of **passion/sudden quarrel or imperfect self-defense**.

Heat of passion requires 1) adequate or sufficient provocation from the V, 2) no "cool off" period which would allow the D to deliberate, and 3) a reasonable person would have acted rashly, in a heightened emotional state, such that their judgment would be clouded or inhibited.

Imperfect self-defense requires that D have a reasonable belief of imminent death or GBI, and a reasonable person would understand but could see that it was an unreasonable belief of imminent death or GBI.

Here, D was not provoked by V such that his emotions and judgment were clouded; D did not act rashly. After V continuously screamed insults at D, V lunged at D, falling on his face, but continuing to scream at D, and D walked away.

D will argue for imperfect self-defense. In a split second, when D turned and saw V pointing in such a way that he truly believed V was pointing a gun at him, D pulled out his licensed weapon in order to protect himself. Because it was dark outside (1AM) and because V had waited for hours in the parking lot, and because V had hurled threats and was continuously screamed at D, stating D "would regret humiliating him" D reasonably believed himself to be in imminent danger of death or GBI. D was mistaken that V had a gun; V did not have a gun, in his intoxicated state, V had pointed his cell phone, however, with continued threats, in addition to ~~being~~ highly intoxicated (0.22%), it would be unreasonable for D to have to wait and find out if V actually had a gun on him and fired at D, causing him death or GBI. D held a reasonable belief that could be viewed as unreasonable to a reasonable person standard, thus satisfying the elements for imperfect self-defense. *very Good*

The prosecutor would be likely to mitigate D's charge to voluntary manslaughter, imperfect self-defense.

Involuntary manslaughter: the unintentional killing of another human being due to gross criminal negligence.

Here, according to the facts, D did not in any way misuse his gun ie wave it around recklessly or fire a round of shots into the parking lot. He reacted in self-defense when he believed V was pointing a gun at him, after continuous verbal and physical threats from V.

The elements of involuntary manslaughter are not satisfied and the prosecutor would unlikely charge Derek with involuntary manslaughter.

Defenses:

Mistake of fact: Defendant's act may be negated if he/she was truly mistaken as to one of the facts. For general intent crimes, D must hold an unreasonable belief as to the mistake. For specific intent crimes, D must hold a reasonable mistake of fact.

Here, murder is a specific intent crime. Thus, D would have to hold an unreasonable belief as to the mistake of facts. In this case, D's mistake (believing V held a gun, when indeed he only had a cell phone), was reasonable to him given the facts discussed above. He reasonably believed that V was pointing a gun at him because it was dark, and V had waited for him for hours in the parking lot, and V had continuously screamed threats at him including, Derek "would regret humiliating him."

The prosecution may accept D's defense of mistake of fact, but would be more likely to charge him with voluntary manslaughter, imperfect self-defense.

Self-defense: D may use reasonable force if he/she believes they are in imminent danger of death or GBI. The force must be reasonable and proportionate to the believed threat. A reasonable person would have acted in a similar manner given the same set of circumstances.

Here, according to the facts, D believed V pointed a gun at him because he had just threatened him verbally and it was dark out (1AM). However, V did not have a gun on him and he was highly intoxicated and fell on his face. A reasonable person may not have believed himself to be in imminent danger of death or GBI. The prosecution may not accept this defense. , question is if they would believe he used proportional force in response to imminent danger.
very Good Job.

2)

Very Good Job, but missed
Robbery

80

Nina v Tina

The prosecutor could reasonably charge Tina with theft by larceny and battery, unless Tina's defense of mistake of fact holds.

Burglary: the unlawful ~~entry~~ into a building or structure, with the intent to commit theft or felony therein.

Here, Tina (T) who was quite intoxicated, mistakenly entered her neighbor Nina's (N) home, instead of her friend's home. Once inside, she began looking for her personal phone, because she thought she was in her friend's home. T then grabs N's purse, thinking it was her own, and at this point N awakens, sees T, and runs towards her and the purse. T instinctively shoves N and runs away with the purse.

Because T entered what she thought was her friend's home, which was next door and one letter different (3B instead of 3A) and took what she thought was her own purse, the elements of burglary are not satisfied because T did not have the specific intent to enter N's house to steal her purse. — Good

The prosecutor would be unlikely to charge T with burglary.

Theft by larceny: the trespassory taking of another's property with the intent to permanently deprive them.

Here, according to the facts, T did not have the specific intent required to take N's property (purse) because she truly believed the purse was her own, due to intoxication. N will argue that T should not have been in her home, and why else would she be in her home if not to take something? But T will argue that she truly believed she was in her friend's home (which is directly next door).

Because theft by larceny is a specific intent crime, and the element of intent is not satisfied here, the prosecutor would be unlikely to charge Tina with theft by larceny.

Battery: the willful touching of another that is offensive or harmful. Battery is a general intent crime and the defendant need not intend the harm/offense, they need only intend the act.

Here, after T entered N's home, albeit mistakenly, and grabbed N's purse, believing it to be her own, N ran towards her and T "instinctively" shoves her, knocking her down. Although T "instinctively" shoved N, she still voluntarily and willfully shoved her, thereby satisfying the element of battery. T may argue that she had no intention of harming N or causing her to fall down, however, N will argue that is irrelevant because T's arm made offensive contact with N, causing her to be knocked down and harmed.

The prosecutor will likely charge Tina with battery.

Good job, missed Robbery
Defenses:

Voluntary intoxication: may be used as a defense for specific intent crimes, if the prosecutor can show that D lacked the specific intent required for the crime. It is never a defense for murder and it is not a defense for general intent crimes.

Here, Tina was "highly intoxicated" and mistakenly entered her next door neighbor's house, instead of her friend's house, and mistakenly took her next door neighbor's purse. Because burglary and theft by larceny require that the defendant form the specific intent prior to committing the crime, T can argue for this defense. According to the facts, T did not enter N's home specifically to commit theft or a felony therein, and T did not take N's purse with the intent to permanently deprive N of her purse.

Battery however, is a general intent crime. Voluntary intoxication is therefore not a defense that T can use. T may argue that she was so intoxicated she did not know what

she was doing when she shoved N, however, this is a weak argument because moments after the incident, T was able to tell the officers, "I swear I thought I was in my apartment and my bag! I didn't mean to rob anyone--I was wasted!" indicating that she knew what she did and why she did it.

The prosecutor would be unlikely to charge T with burglary or theft by larceny due to intoxication. But the prosecutor would unlikely accept the defense of voluntary intoxication for battery.

Mistake of fact: Defendant's act may be negated if he/she was truly mistaken as to one of the facts. For general intent crimes, D must hold an unreasonable belief as to the mistake. For specific intent crimes, D must hold a reasonable mistake of fact.

Here, T thought she was entering her friend's house, which is 3B, and she actually entered 3A. This is a reasonable mistake given the fact that the apartment is part of the same building. T will argue that the apartments/building looked exactly the same except for the difference in letters. Because her mistake is reasonable i.e. a reasonable person could have made the same mistake, the prosecutor would be likely to accept this for specific intent crimes such as burglary and theft by larceny, but they would be unlikely to accept this defense for the general intent crime of battery.

3)

Complete Rule Statement,
Exod Analysis.

Hank's Culpability

In the killing of the teenagers on his property, what are Hank's defenses to the homicide charges raised against him upon his arrest?

Defense of Property

In California, a defendant may protect themselves or their personal or private property, including some caveats, by the following methods:

Defense of Personal Property: A defendant may reasonably defend their personal property (belongings) with force, however, deadly force is not permitted.

Here, the local group of teenage methamphetamine users were known to steal small valuables or food. Hank had reason to believe when the teenagers broke and entered to rob or burglarize his property, they would be stealing from him since they had stolen from his neighbors. Hank has reason and the right to defend his own personal belongings, however deadly force is not allowed in defense of personal property.

Hank may try to use defense of personal property as a defense pertaining to the foreseeable asportation of his belongings. However, Hank will not be able to justify the killing of the teenagers by means defense of property because defense of personal property by deadly force is not permitted.

Defense of Habitation: (P) A defendant may use deadly force against an aggressor when the defendant has reasonable fear the aggressor is entering their property without consent or privilege. The aggressor's intent to cause death or gross bodily injury is implied when they unlawfully enter the property of another. The owner or occupier must be present at the time of the trespass.

In Hank's instance, he did not have reason to believe the teenagers were entering his property to cause death or GBI. They did not have a history of hurting other neighbors. However, in CA, only entry is required to use deadly force. Hank was on the property when his dogs were released and mauled the teenagers.

he was defending unlawful entry w/ deadly force
Therefore, Hank's scenario meets the requisite elements of defense of habitation and he may use it as a valid defense if tried for the death of the teenagers.

Self Defense: A defendant may claim self defense if they reasonably believed they were in immediate harm of death or GBI from an aggressor.

Here, Hank believed the teenagers were going to cause physical harm to him when they broke and entered his property. Hank made sure his dogs were readily available to protect him and kill any intruders because he believed the teenagers were plotting to kill. Hank lives in a remote area, several miles from town, and is legally blind. It is reasonable for him to think that if he is in physical danger, he will not be able to protect himself due to his poor eyesight and his inability to seek help from a neighbor as none are nearby. Hank's mental illness, which will be further illustrated below, also gave him reason to believe he needed to defend himself. Due to his mental illness Hank believed he was in immediate physical danger when the teenagers entered his home to steal from him. It is both subjectively and objectively reasonable for Hank to believe he was in immediate harm involving death or GBI from the teenagers.

The arguments are good and should have been used under Defense of habitation as well.
Therefore, self defense serves as a valid method for culpability for Hank.

Insanity

A defendant may assert the defense of insanity if they were incapable of forming the adequate mens rea to commit a crime due to mental illness. Excuse for insanity may be determined by the following four tests:

M'Naghten: Defendant could not appreciate the quality of his or her acts or comprehend the legal or moral wrongness of their behavior due to the diagnosis of a mental illness identified in the DSM. The DSM is the governing literature widely accepted as the scientific basis for mental illness/mental health disorders.

Here, Hank had a known and documented diagnosis of Paranoid Schizophrenia. Despite Hank's DSM diagnosed mental illness, he *did* appreciate the quality of his acts. His knowledge of the quality of his acts was shown when he knowingly made his dogs readily available to attack intruders in the event they entered his property. He told his neighbor he was leaving the dogs inside, intentionally, and that anyone who walked through the door was a dead man. He had the ability to weigh that leaving the dogs inside, as opposed to outside, would result in the death of the teenagers. He also knew it was likely the teenagers would soon be targeting his residence. He may not have realized the legal or moral consequences. He showed indifference toward their death when he stated that they would be torn apart. This was likely impacted by his lack of sleep, frustration, and increasingly poor state of mental health, however, he does show awareness.

Therefore, Hank met some but not all of the requisite elements of M'Naghten as he was able to appreciate the quality of his acts.

Irresistible Impulse Test: Defendant is unable to control their actions based on a DSM-diagnosed mental illness.

In Hank's instance, he did not experience what would constitute irresistible impulses based on his mental illness (physical ticks, tremors, history of aggression, violence, rage, etc). The fact pattern states that Hank had auditory hallucinations which may lead him to hear false conspiracies and experience delusions or delirium. These auditory hallucinations did not influence him to make an involuntary physical act involving the homicide of the teenagers who broke into his home. The release of his dogs to attack them and kill them if they entered his property was intentional, and was not influenced by

his mental illness. He was fearful because of his blindness, per the fact pattern, and therefore was acting out of a legitimate fear, not acting out of impulses he could not control (though he did have them).

Therefore, Hank did not make his actions based on an inability to control them.

Durham: Defendant's conduct was a product of their DSM-diagnosed mental illness.

It is very likely Hank's conduct was a direct product of his Paranoid Schizophrenia. The fact pattern illustrates how he experiences severe symptoms which lead him to believe others are plotting against him. The DSM diagnosed mental illness makes him believe he is in danger and that "agents are coming for [his] heart." His conduct did not stem from paranoia, however, it was linked to the knowledge of criminals in the area knowingly burglarizing properties belonging to his neighbors. He clearly wanted to protect his property and himself, as he stated repeatedly, which is what led him to behave the way he did.

Therefore, Hank's conduct was not a product of his diagnosis of Paranoid Schizophrenia.

Model Penal Code 4.01: Defendant could not control their conduct nor could they conform their actions to the requirements of law based on their DSM-diagnosed mental illness.

Hank could control his conduct, as he made it very clear he intended to leave his dogs in his house so they could attack the teenagers and kill them so he could effectively protect his property. He may however have been unaware that his actions causing the unintentional killing of the teenagers would result in him being arrested and charged with multiple counts of homicide. It is likely that he knew he was legally able to defend his ranch as his homestead, by lethal force, as most 62-year old cowboys would.

Therefore, Hank did not confirm his actions to the requirements of the law, but this nonconformity was likely due to his knowledge of his ability to defend his property and self, NOT due to his heightened state of paranoia.

Diminished Capacity
Conclusion:

In conclusion, Hank will not be able to use an insanity excuse for the killing of the teenage boys who broke and entered on his ranch, however, he will be justify the homicide based on defense of habitation and self defense. Charges will be dropped and he will be excused because deadly force is permitted for defense of habitation, and Hank's actions met the requisite elements of defense of habitation and self defense.

Furthermore, because Hank is not deemed insane, he will forego being committed to a mental institution. I am running out of time but I am glad I am able to argue for Hank's defense so that he does not become institutionalized. It would be great to see him receive proper medical help and perhaps this will serve as an opportunity for him to commit to his prescriptions and mental health care plan while remaining on his beloved property versus being hospitalized indefinitely this is how I would best represent him as my client ... out of time! :)

END OF EXAM