UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW **9084/21**

Paper 2 Data Response **May/June 2012**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
You may use a soft pencil for any diagrams, graphs or rough working.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **4** printed pages.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 Fred aged 23 and his friend Lee aged 17 are returning home after drinking all evening at the local bar. They see a light in a house which they know belongs to Susan. They know she lives alone with her two small children Karim and Leila. Fred knocks on Susan's door and when she opens the door they force their way into the house. They tie her up and then take a number of items from the house including jewellery, money and a camera. Karim and Leila sleep through the incident. Before they leave, Fred and Lee threaten Susan and tell her that they will come back and harm Karim and Leila if she informs the police.

Fred and Lee are arrested and later found guilty of robbery by a jury at Brackley Crown Court.

The court hears that Lee is still at college, training to become a plumber. He has only been in trouble once before and that was for stealing when he was fifteen years old. He tells the court that he had had too much to drink when they broke into Susan's house and anyway it was Fred who forced him to carry out the crime.

Fred has a previous conviction for robbery and two convictions for burglary but he has not been in trouble for the past three years. Fred was a drug addict at the time when he broke into Susan's house but he is now attending a rehabilitation clinic on a weekly basis. His wife is expecting to give birth to a baby in three months' time.

The jewellery taken from the house is imitation and worth less than £300. The money amounts to less than £100 and the camera is worth about £150.

(a) Consider what sentence would be appropriate for Fred. [10]

(b) Consider what sentence would be appropriate for Lee. [10]

(c) Explain the procedure that Fred and Lee should use if they decide to appeal the sentences given by the court. [10]

(d) Discuss the principles that the court would apply when considering the appropriate sentence for an adult offender. [20]

Source material

R v Saw [2009] 2 Cr App R (S) 54

The starting point must always be that burglary of a home is a serious offence; particular focus is required on the impact of the offence on those living in the burgled house...

The sentencing court must address two specific features:
(i) the overall criminality of the defendant, in the light of his previous convictions, and
(ii) the true impact of the offence on the victims.

The court should also consider aggravating features commonly encountered in burglary which should be considered e.g. trauma to the victim beyond the normal, inevitable consequence of intrusion and theft; premeditation and professional planning organisation; vandalism of the premises; deliberate targeting of any vulnerable victim; the presence of the victim at home; whether the burglary is by day or by night... appearance before the court of two or more burglaries of homes; the offender's previous record.

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Mitigating factors include good character; the fact that nothing or only property of low economic or sentimental value was stolen; the fact that the defendant only played a minor part in the burglary, or was exploited by others, or committed by impulse.

Powers of Criminal Courts (Sentencing) Act 2000

s.79

(1) this section applies where a person is convicted of an offence punishable with a custodial sentence other than one –
  (a) fixed by law;

(2) the court shall not pass a custodial sentence on the offender unless it is of the opinion –
  (a) that the offence or combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or
  (b) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from him.

s.111

(1) (a) a person convicted of a domestic burglary which was committed after 30th November 1999;
  (b) at the time when he committed he was 18 or over and had been convicted in England and Wales of two other burglaries; and
  (c) one of those other burglaries was committed after he had been convicted of the other and both of them were committed after 30th November 1999.

(2) The court shall impose *an appropriate custodial sentence* [a sentence] of imprisonment for a term of at least three years except where the court is of the opinion that there are particular circumstances which –
  (a) relate to any of the offences or to the offender; and
  (b) would make it unjust to do so in all the circumstances...

2 **(a)** In the course of a disturbance in the street Professor Plum produces a water pistol and sprays its contents over the crowd. The police arrive and discover that it was filled with a dangerous acid. Can he be charged with an offence under the Firearms Act and can he raise any mitigating circumstances? [10]

(b) Miss Scarlet is coming home from a student protest. She meets a group of youths who threaten her. During a fight in the street with them she produces a stun gun designed to emit electricity. Can she be charged with an offence under the Firearms Act and can she raise any mitigating circumstances? [10]

(c) Colonel Mustard has a World War II pistol with a barrel 15 centimetres long in his house. The police search his premises, find his pistol and charge him under the Firearms Act. If he is successfully prosecuted, what sentence can he expect and can he raise any mitigating circumstances? [10]

(d) Consider the various rules available to the judiciary when attempting to interpret statutes. [20]

Source material

Firearms Act 1968

s.5(1) A person commits an offence if, without the authority of the Defence Council, he has in his possession, or purchases or acquires, or manufactures, sells or transfers –

(a) any firearm which is so designed or adapted that two or more missiles can be successively discharged without repeated pressure on the trigger;

(ab) any self-loading or pump-action rifled gun other than one which is chambered for .22 rim-fire cartridges;

(aba) any firearm which either has a barrel less than 30 centimetres in length or is less than 60 centimetres in length overall, other than an air weapon, a muzzle-loading gun or a firearm designed as signalling apparatus;

(b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing;

s.51(A) (1) This section applies if an individual is convicted of an offence under s.5[1](aba) of this Act.

(2) The court shall impose a custodial sentence of at least five years unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

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