Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/23**

Paper 2 Data Response **May/June 2021**

1 hour 30 minutes

4311165167

You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **one** question.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 50.
- The number of marks for each question or part question is shown in brackets [ ].

This document has **8** pages. Any blank pages are indicated.

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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 **(a)** Calvin and Natalie have been married for five years and he is charged with unlawful act manslaughter after her body is found buried in their garden. He pleads not guilty. At his trial, Calvin says that he and Natalie were arguing at the top of steep wooden stairs when he pushed her. He says he did not think she would die when she fell down the stairs. Calvin was on bail at the time on a charge of burglary and he has two previous convictions in the last three years for assaulting Natalie. Calvin is convicted of unlawful act manslaughter.

Explain how the Sentencing Council Guidelines 2018 will apply in this situation. [10]

(b) Yasmin has lost her job and has very little money. She is the sole carer for her child and goes to a shop looking for cheap food. Inside the shop she hides a packet of biscuits in her coat. Pavel, a shop assistant, sees this and runs towards her. He tries to grab Yasmin but she kicks him hard in the stomach. Pavel falls to the floor and dies from internal injuries. At her trial for unlawful act manslaughter, it is revealed that Yasmin has no previous convictions. She says she acted without thinking because she was scared and is very sorry for what happened to Pavel. Yasmin is convicted of unlawful act manslaughter.

Explain how the Sentencing Council Guidelines 2018 will apply in this situation. [10]

(c) David sees an elderly man, Tom, sitting on a bench. Police Constable (PC) White sees David pointing a knife at Tom, stealing his bag and running away. PC White chases David, who drops the bag. PC White falls over the bag, fractures his skull and dies. At his trial for unlawful act manslaughter, it is revealed that David was on licence at the time of the offence after a conviction for robbery. He also has previous convictions for assault and possession of a knife. David is convicted of unlawful act manslaughter.

Explain how the Sentencing Council Guidelines 2018 will apply in this situation. [10]

(d) Describe the aims of sentencing used for adult offenders and assess the effectiveness of these aims. [20]

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Source material for Question 1

Sentencing Council Guidelines – unlawful act manslaughter; effective from 1 November 2018

Step 1 – Determining the offence category – culpability

A – Very high culpability

- The extreme character of one or more culpability B factors and/or
- A combination of culpability B factors

B – Factors indicating high culpability

- Death was caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to the offender
- Death was caused in the course of committing or escaping from a serious offence in which the offender played more than a minor role
- Concealment of the body

C – Factors indicating medium culpability

- Where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability
- Where death was caused in the course of committing or escaping from a less serious offence but in which the offender played more than a minor role

Step 2 – Starting point and category range

Culpability

A – Starting point 18 years' custody. Category range 11–24 years' custody.
B – Starting point 12 years' custody. Category range 8–16 years' custody.
C – Starting point 6 years' custody. Category range 3–9 years' custody.

Custodial sentences

Factors indicating that it would not be appropriate to suspend a custodial sentence:

- Offender presents a risk/danger to the public
- Appropriate punishment can only be achieved by immediate custody
- History of poor compliance with court orders

Factors indicating that it may be appropriate to suspend a custodial sentence

- Realistic prospect of rehabilitation
- Strong personal mitigation
- Immediate custody will result in significant harmful impact upon others

Factors increasing seriousness

Aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time elapsed since the conviction
- Offence committed whilst on bail
- History of violence or abuse towards victim by offender
- Victim particularly vulnerable due to age or disability
- Victim was providing a public service or performing a public duty at the time of the offence
- Commission of offence whilst under the influence of alcohol or drugs
- Persistence of violence
- Offence involved use of a weapon
- Actions after the event (including but not limited to attempts to cover up/conceal evidence)
- Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Remorse
- Attempts to assist the victim
- Lack of premeditation
- Sole or primary carer for dependent relatives

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2 **(a)** Richard, a farmer in England, is digging up a field which belongs to him but that he has not used for some years. Suddenly, he sees something in the soil reflecting the sunlight. He finds 20 coins which appear to be made of gold, showing the head of a king. That night Richard uses the internet and discovers that the king on the coins lived over 400 years ago. The next day Richard notifies the local district coroner of his find.

Explain how the Treasure Act 1996 will apply in this situation. [10]

(b) Sonia is walking along a beach in Wales at low tide when she sees a wooden structure which has been exposed by the sea. She takes a photograph and, using the internet, discovers that what she has seen is part of a boat which was common over 1000 years ago. Sonia sends her picture to a local museum. The boat is of a class designated by the Secretary of State as of outstanding historical importance. The beach on which it was found belongs to the Crown. The boat is to be transferred to the National Museum of Wales. It is worth £500 000 and Sonia is offered a reward of £50.

Explain how the Treasure Act 1996 will apply in this situation. [10]

(c) Arthur finds a solid silver sword in a field in England when he is walking his dog. Nine days later Arthur notifies the local district coroner, who says there must be an inquest and he notifies the British Museum. At the inquest the local district coroner rules that the sword, which is worth at least £200 000, belongs to the Crown as there is no record of who owns the land. The sword is transferred to the British Museum and the Secretary of State pays Arthur a reward of £175 000.

Explain how the Treasure Act 1996 will apply in this situation. [10]

(d) The literal, golden and mischief rules of statutory interpretation are not the whole story.

Describe the methods by which judges interpret statutes, other than the application of these three rules. Assess the effectiveness of these methods in ensuring fairness. [20]

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Source material for Question 2

Treasure Act 1996

Section 1 Meaning of "treasure".

(1) Treasure is—
  (a) any object at least 300 years old when found which—
    (i) is not a coin but has metallic content of which at least 10 per cent by weight is precious metal;
    (ii) when found, is one of at least two coins in the same find which are at least 300 years old at that time and have that percentage of precious metal; or
    (iii) when found, is one of at least ten coins in the same find which are at least 300 years old at that time;
  (b) any object at least 200 years old when found which belongs to a class designated under section 2(1);

Section 2 Power to alter meaning.

(1) The Secretary of State may by order, for the purposes of section 1(1)(b), designate any class of object which he considers to be of outstanding historical, archaeological or cultural importance.

Section 3 Supplementary.

(1) This section supplements section 1.
(2) "Coin" includes any metal token which was, or can reasonably be assumed to have been, used or intended for use as or instead of money.
(3) "Precious metal" means gold or silver.

Section 4 Ownership of treasure which is found.

(1) When treasure is found, it vests, …—
  (a) in the landowner;
  (b) otherwise, in the Crown.

Section 8 Duty of finder to notify coroner.

(1) A person who finds an object which he believes or has reasonable grounds for believing is treasure must notify the coroner for the district in which the object was found before the end of the notice period.
(2) The notice period is fourteen days beginning with—
  (a) the day after the find; or
  (b) if later, the day on which the finder first believes or has reason to believe the object is treasure.

Section 9 Procedure for inquests.

…
(2) A coroner proposing to conduct an inquest must notify—
  (a) the British Museum, if his district is in England; or
  (b) the National Museum of Wales, if it is in Wales.

Section 10 Rewards.

(1) This section applies if treasure—
  (a) has vested in the Crown under section 4; and
  (b) is to be transferred to a museum.

…
(3) If the Secretary of State determines that a reward is to be paid, he must also determine, in whatever way he thinks fit—
  (a) the treasure's market value;
  (b) the amount of the reward;
  (c) to whom the reward is to be payable; and
  (d) if it is to be payable to more than one person, how much each is to receive.
(4) The total reward must not exceed the treasure's market value.

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