

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2025**

**QUESTION 1 (40 POINTS)**

Jim lost a lot of money betting on sports and needed to find some cash fast. He got in his car and drove over to his friend Tony's house where they discussed a plan to steal an ATM (Automated Teller Machine) and split the proceeds. They then drove to a restaurant not far from Tony's house to get a bite to eat and hash out the details before moving forward with their plan. While at the restaurant, they went to the restroom, and each snorted a line of cocaine. Although unsteady from the cocaine, they then drove to a local hardware store to buy a crowbar and chains. Jim was driving the car at first, but on the way, they switched seats in the car so that Tony could drive and Jim could count how much cash he had in his wallet. Once they arrived at the store, Tony got out of the car and went inside to buy the supplies. Tony made sure to pay cash so as not to leave a paper trail. Meanwhile, Jim waited in the car to keep an eye out for a vehicle big enough to pull the ATM out of the ground. When a customer in a large white truck pulled up and went inside the hardware store, Jim got into the unsuspecting customer's unlocked truck; to Jim's surprise, the keys to the truck were laying on the driver's seat. As Tony came out of the store, Jim signaled for him to get in the truck. They left Jim's car at the hardware store but left it locked and parked in an inconspicuous spot in an adjacent parking lot. They drove to a standalone, drive-up ATM location, backed up the truck, and hooked the chains around the ATM. They got back in the truck, slammed on the gas, and jerked the ATM out of the ground. They then drove through town at a furious pace, dragging the ATM behind the truck. At one point, they ran a redlight. As a result, two cars collided, and the driver in one of the cars died. Undeterred, they drove the truck with the ATM in tow all the way back to Tony's house. Once at Tony's house, they unhooked the ATM and brought it to a storage shed in the backyard. They pried open the ATM with a crowbar and divided the cash between them. Afterwards, they went inside Tony's house to drink a few beers and celebrate the score. Their plan was to have a few beers, dispose of the truck, and return to the hardware store to retrieve Jim's car. But before they could get going, police officers arrived at the house and knocked on the door.

*Answer the following question. Explain your answer; an answer without explanation will receive no credit.*

- 1.1 Identify all crimes with which either or both of Jim and Tony might be reasonably charged under Louisiana law. Include in your response all lesser included charges, and explain the elements and supporting facts of each identified crime. (40 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2025**

**QUESTION 2 (40 POINTS)**

*The facts for this Question 2 include the same facts as for Question 1 plus the following additional facts.*

Police officers were dispatched to the hardware store to take a statement from the truck owner who reported his truck stolen. After arriving at the store, officers made contact with the truck owner and, as is routine, once the officers obtained the truck's license plate number, they entered that information into the police's License Plate Reader program to help locate the stolen vehicle. After interviewing the truck owner, officers went inside the store and viewed surveillance footage from the store's cameras (there were no cameras located outside the store). The surveillance footage showed a customer paying cash for a crowbar.

One of the officers noticed Jim's car in the parking lot and had a hunch there was something suspicious about the car. Using equipment from his police car, the officer unlocked the car, searched it, and found a receipt with Tony's name on it from the restaurant. The officer then pulled up Tony's license from DMV records. From his license picture, the officer was able to identify Tony as the customer in the video who paid with cash. The officer also learned Tony's address and called dispatch to have officers sent to Tony's address to question him. In the meantime, the bank called the police and reported the stolen ATM. As a result, a different set of officers was dispatched to the location of the missing ATM to begin an investigation.

When officers arrived at Tony's house, they saw the white truck in the drive way, verified it was the stolen truck, and knocked on the front door. Tony opened the door, and police officers immediately placed him in handcuffs, arrested him, and read him his Miranda rights. Tony was placed in the back of a police vehicle to be transported to the station for questioning. Officers then took Jim's identification information but did not arrest him and told him he was not a suspect at the time. Officers told Jim that he could either leave the house or wait with them while a warrant was secured to search the truck. Jim told officers he would just wait with them. Meanwhile, officers secured a search warrant authorizing them to search the truck in the driveway. Neither the warrant, nor the affidavit in support of the warrant, mentioned the house, premises, or shed. Regardless, some of the officers went in Tony's backyard and searched the outdoor storage shed. There they found the ATM and reported it to dispatch. The officers then received a call from the officers investigating the ATM theft who informed them that a surveillance video, obtained from a business near the location of the stolen ATM, showed the license plate of the white truck which matched the one reported stolen. Another surveillance video from a business near the hardware store appeared to show two people in the stolen truck driving away with the ATM in tow.

Upon receiving this information, officers asked Jim if he rode in the white truck with Tony that day. When Jim indicated that he had, officers immediately placed him under arrest and read him Miranda warnings. After being transported to the police station, both Jim and Tony refused to speak with the officers and were booked into the jail on various charges.

*Answer the following three subquestions. These questions are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 On what state and/or federal constitutional basis, if any, may Jim reasonably challenge the search of his car and seizure of the receipt from his car? What arguments, if any, might the State reasonably make in response, and is Jim likely to succeed? Explain fully. (15 points)**
- 2.2 On what state and/or federal constitutional basis, if any, may Tony reasonably challenge the search of his shed and seizure of the ATM from his shed? What arguments, if any, might the State reasonably make in response, and is Tony likely to succeed? Explain fully. (15 points)**

TEST CONTINUES ON NEXT PAGE

- 2.3 On what state and/or federal constitutional basis, if any, may Jim challenge the admissibility of his statement to the officers that he had ridden in the car with Tony that day prior to being arrested, and is he likely to succeed? Explain fully. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2025**

**QUESTION 3 (20 POINTS)**

*For each of the following multiple choice items, select the letter that corresponds with the correct answer.*

*The multiple choice items below are **NOT** based on the facts in Questions 1 and 2.*

- 3.1 Post-conviction relief
- 3.2 Time limits for institution of criminal proceedings
- 3.3 Preliminary examination
- 3.4 Institution of criminal proceedings
- 3.5 8<sup>th</sup> Amendment forfeiture
- 3.6 Evidence of other crimes; admissibility of evidence of prior acts
- 3.7 Scope of cross-examination of witnesses; admissibility of evidence concerning criminal records
- 3.8 Challenge of venire
- 3.9 Evidence; hearsay exceptions
- 3.10 Right to counsel

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2024**

**QUESTION 1 (40 POINTS)**

After the big football game, Jason went to his usual spot, the Home Team Pub, to have a couple of drinks and celebrate his team's victory. After several drinks, including several shots of liquor, he saw another man at the bar who was wearing the other team's jersey. Jason approached the man and told him he needed to leave the pub or else he would forcibly remove him from the premises. When the man refused to leave, Jason then forcibly grabbed the man and carried him out into the parking lot. Numerous other drunken patrons followed Jason and surrounded the man in the parking lot, yelling insults at him. Without provocation, Jason attacked the man, and tackled him onto the ground. Jason then kicked and punched the man, eventually knocking him unconscious and leaving him badly wounded and bleeding. Several police officers then arrived on scene and came running over to disperse the crowd. Seeing Jason standing over the injured male, officers yelled for Jason to "get on the ground and put your hands behind your head." Jason, along with the rest of the crowd, ignored officers' commands and took off running. Jason climbed over a fence and ran onto a private golf course located adjacent to the pub's parking lot. Jason immediately ran to the garage where the golf carts were located, climbed through a window, got in a cart, and drove it away, continuing to evade the officers chasing him. Officers eventually caught Jason when he intentionally wrecked the golf cart on the 13<sup>th</sup> hole. Both the golf cart and putting surface were damaged. The victim ultimately succumbed to his injuries and passed away at the hospital later that night.

*Answer the following question. Explain your answer; an answer without explanation will receive no credit.*

- 1.1 Identify all crimes Jason might be reasonably charged with under Louisiana law. Include in your response all lesser included charges, and explain the elements and supporting facts of each identified crime. (40 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2024**

**QUESTION 2 (40 POINTS)**

*The facts for this Question 2 include the same facts as for Question 1 above plus the following additional facts:*

After Jason wrecked the golf cart, officers caught up to him at the 13<sup>th</sup> hole and immediately placed him in handcuffs and into the back of a police car; they also seized his cell phone incident to arrest at that time. He was not given *Miranda* warnings at that time. After approximately 20 minutes, a transporting officer then got into the police car and drove Jason down to the police station to be questioned by detectives. Along the way, the transporting officer asked Jason “what were you thinking?” In response, Jason indicated that he wasn’t thinking at all, that he was just drunk, and that he shouldn’t have hurt the other man since the man hadn’t done anything wrong. These statements were captured on the dash camera video located inside the police car and the prosecution intends to use this statement against Jason at trial.

Upon arrival at the station, Jason was then placed in a holding cell by the transporting officer. Two detectives arrived approximately an hour later and escorted Jason into an interview room. At the outset of the interview, the detectives read Jason his *Miranda* warnings and Jason agreed to speak with them. However, at the same time the detectives were going over the *Miranda* rights form with Jason, an attorney and family friend of Jason’s, sent by Jason’s family to represent him, arrived at the police station and requested he immediately be allowed to speak with Jason and that Jason wouldn’t be answering any questions. Officers at the front desk told the attorney that he would have to wait until the detectives were done questioning Jason. During the interview with detectives, which lasted approximately one hour, Jason admitted to punching and kicking the victim for no reason other than the victim had on the rival team’s jersey. Not until the conclusion of the interview did the detectives tell Jason that the attorney was there and wanted to speak with him.

After Jason met with his attorney and the attorney left the facility, the detectives returned to the holding cell and told Jason they had a few more questions for him. Jason told the detectives that he didn’t want to answer any other questions without his lawyer present.

Approximately an hour later, the detectives returned to the holding cell a second time. There, the detectives explained to Jason that if he wanted his lawyer, they could call him, but that they only had one other question for him and didn’t want to make his lawyer drive up to the station for just one more question. The detectives told Jason that all they wanted to know was how many drinks he had consumed before the altercation. Jason told the detectives that he consumed 6 beers and 4 shots of liquor before the altercation. The detectives then promptly returned Jason to his cell. Prosecutors intend to use these statements against Jason at trial.

Finally, later that night, the detectives were able to guess Jason’s password to his phone and gain access to the phone. The detectives did not obtain a search warrant before searching the phone. During their search of the phone, however, the detectives discovered numerous messages Jason had posted to various message boards in the past threatening to kill fans of rival teams. Prosecutors intend to use this evidence against Jason at trial as well.

*Answer the following four subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 On what state and/or federal constitutional basis, if any, may Jason reasonably challenge the introduction at trial of his statements made while in the back of the police car while being transported to the station; and is he likely to succeed? Explain fully. (12 points)**
- 2.2 On what state and/or federal constitutional basis, if any, may Jason challenge the admissibility of his confession to the detectives at the police station; and is he likely to succeed? Explain fully. (8 points)**

TEST CONTINUES ON NEXT PAGE

- 2.3 On what state and/or federal constitutional basis, if any, may Jason challenge the admissibility of his admission to consuming 6 beers and 4 shots of liquor to detectives; and is he likely to succeed? Explain fully. (12 points)**
- 2.4 On what state and/or federal constitutional basis, if any, may Jason challenge the search of his cellphone; and is he likely to succeed? Explain fully. (8 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2024**

**QUESTION 3 (20 POINTS)**

*For each of the following multiple choice items, select the letter that corresponds with the correct answer.*

*The multiple choice items below are NOT based on the facts in Questions 1 and 2.*

- 3.1     Witness; admissibility of evidence of prior acts
- 3.2     New trial
- 3.3     Review of pretrial order
- 3.4     Procedures relating to objectionable evidence
- 3.5     Impeachment evidence; admissibility of prior recordings
- 3.6     Preliminary examination
- 3.7     Evidence of other crimes; admissibility of evidence of prior acts
- 3.8     Authentication of evidence
- 3.9     Evidence of other crimes; admissibility of evidence of prior acts
- 3.10    Hearsay rule; exceptions to same

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST



**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2024**

**QUESTION 1 (40 POINTS)**

Fred and Andy were traveling home from New Orleans to Cameron, Louisiana late one night right after attending a Saints football game. Fred was driving his white pickup truck with Andy in the passenger seat. They had both consumed quite a bit of alcohol at the game. As they were crossing the Atchafalaya Basin Bridge, a Mazda Miata swerved in front of Fred's truck causing Fred to have to slam on his brakes. Fred and Andy were furious. Fred floored the accelerator, caught back up to the Miata, and got directly in front of the Miata. Fred then told Andy to grab some loose change from the center console and toss it out of the window at the Miata. Andy reached into the console, grabbed a handful of quarters, and threw the change out of the window. The change flew backward and hit the Miata, denting the hood of the vehicle in several places and causing numerous cracks in the windshield. Fred floored the accelerator again to speed away from the Miata. The driver of the Miata, however, sped up and pulled up even with Fred and Andy in the adjacent lane. The driver of the Miata then motioned for Fred and Andy to roll down their window, and after Fred rolled down the driver-side window, the driver of the Miata began yelling at them, threatening to call the police on them for what they did. Fred then swerved into the Miata's lane acting as if he was trying to ram the Miata, and the driver of the Miata responded by showing Fred and Andy the middle finger. Fred then swerved into the Miata's lane again, this time ramming the Miata, causing it to leave its lane of travel and sideswipe the guardrail of the bridge before returning into its lane of travel. When the Miata sideswiped the guardrail, the driver of the Miata hit his head on the driver-side window, resulting in a concussion and gash to his head that required stitches. Nonetheless, the driver of the Miata refused to slow down and sped up to get behind Fred's truck, Andy then removed a handgun from under the front passenger seat, cocked the firearm, pointed it at the driver of the Miata, and fired a shot toward the driver's side door. The driver of the Miata immediately slammed on the brakes, spun out, and came to a stop in the middle of the roadway. Fred and Andy returned home to Cameron and went to sleep at Fred's house. The driver of the Miata suffered a bullet wound to his left thigh, a concussion, and a laceration to his head requiring stitches. He was eventually released from the hospital after surgery and several months of treatment and physical therapy.

*Please answer the following question. Explain your answer; an answer without explanation will receive no credit.*

- 1.1 What crimes did Fred commit under Louisiana law, and what are the elements of each crime? What crimes did Andy commit under Louisiana law, and what are the elements of each crime? Explain fully. First, address the crimes committed by Fred; second, address the crimes committed by Andy.**

*In your response for Fred, do NOT include crimes he may have committed as a principal to Andy; similarly, in your response for Andy, do NOT include crimes he may have committed as a principal to Fred. (40 points total)*

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2024**

**QUESTION 2 (40 POINTS)**

*The facts for this Question 2 include the same facts as for Question 1 above plus the following additional facts.*

Using license plate reader information and a description of the vehicle and occupants from the driver of the Miata, law enforcement officers learned that Fred and his truck were likely involved in the altercation that took place with the driver of the Miata. Accordingly, law enforcement officers immediately drove to Fred's home with the intention of conducting a search for any relevant evidence and arresting him. Upon arrival, Andy, who rented a room from Fred, opened the door; officers identified themselves and then requested permission to search the residence. Andy refused consent to the search indicating that he could not give consent as Fred was the owner of the home. Andy then explained that Fred had gone to the store but would be back any minute. The officers then proceeded to search the home anyway and discovered a firearm in Andy's room matching the caliber and description of the firearm described by the driver of the Miata. Andy was then arrested and placed in the back of one of the officers' units. Approximately 30 minutes later, Fred arrived home, and officers immediately arrested him, placed him in the back of a police unit, and searched his truck. Officers located in the truck several spent bullet casings matching the caliber of the firearm found in Andy's room and matching the caliber of other casings found on the road near the scene of the altercation. Officers transported Fred and Andy to the police station for questioning and booking into the jail.

Upon arrival at the police station, officers placed Fred and Andy into separate holding cells. Officers then told Fred they would return once they finished taking Andy's statement. The officers then escorted Andy down the hallway to an interrogation room. After being advised of his rights under Miranda, Andy said he wanted a lawyer. The officers left Andy in the interrogation room for a couple of hours during which time Fred remained in his holding cell. Officers wanted Fred to believe Andy was speaking with the officers the entire time.

Officers subsequently returned Andy to his holding cell then went to get Fred and escorted him to the interrogation room. While walking into the interrogation room, officers told Fred that Andy had confessed to everything and that they knew the truth. Fred did not say anything in response. Once in the interrogation room, Officers advised Fred of his rights per Miranda, and Fred agreed to waive his rights and speak with the officers. Fred quickly confessed to his and Andy's involvement in the altercation with the driver of the Miata. Fred also told the officers there was no reason to deny anything since Andy had already confessed.

After obtaining Fred's confession, officers returned to the holding cell where Andy was and told him that Fred had just confessed to everything and that if Andy just answered their questions, they would note his cooperation in their report and ask the prosecutor to go easy on him. Andy subsequently agreed to speak with officers and confessed to his role in the crimes as well.

*Please answer the following four subquestions. These questions are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 On what state and/or federal constitutional basis, if any, may Andy reasonably challenge the search and seizure of the firearm from his room and is he likely to succeed? Explain fully. (8 points)**
- 2.2 On what state and/or federal constitutional basis, if any, may Fred reasonably challenge the search and seizure of the evidence (spent bullet casings) from his vehicle and is he likely to succeed? Explain fully. (12 points)**
- 2.3 On what state and/or federal constitutional basis, if any, may Andy challenge the admissibility of his confession to the officers at the police station; and is he likely to succeed? Explain fully. (10 points)**

TEST CONTINUES ON NEXT PAGE

- 2.4 On what state and/or federal constitutional basis, if any, may Fred challenge the admissibility of his confession to the officers at the police station and is he likely to succeed? Explain fully. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2024**

**QUESTION 3 (20 POINTS)**

*Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.*

*The multiple choice items below are NOT based on the facts in Questions 1 and 2.*

- 3.1 Evidence of other crimes; admissibility of prior acts
- 3.2 Admissibility of other conduct
- 3.3 Post-conviction relief
- 3.4 Waiving criminal trial by jury
- 3.5 Scope of cross-examination of witness; admissibility of evidence concerning criminal records
- 3.6 Challenge of venire
- 3.7 Institution of criminal proceedings
- 3.8 Motion to Quash
- 3.9 8<sup>th</sup> Amendment forfeiture
- 3.10 Preliminary examinations

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2023**

**QUESTION 1 (40 POINTS)**

Jack, a coach for a local middle school basketball team in Baton Rouge, Louisiana, was known for his competitive nature and short fuse. During the district championship game, one of Jack's players was called for a foul. Jack disagreed with the call and yelled at the referee to make his objection known. In response, the referee ejected Jack from the game and ordered him off the school property. Jack left the gym but decided to wait outside in the parking lot for the referee to leave after the game was over to confront him. Pamela, the team mom, followed Jack out to the parking lot. Jack told Pamela, "I want to beat that referee up so bad." In response, Pamela told Jack that she would text him when the referee was leaving the gym. Jack told Pamela, "Yeah, text me when he is leaving. I'm going to beat the crap out of that referee."

As the referee was leaving the gym, Pamela sent Jack a text as planned. Jack then confronted the referee as he was walking to his car. Jack pushed the referee from behind as hard as he could, and the referee fell to the ground. At this point, Pamela arrived, and both Jack and Pamela began yelling at the referee telling him how bad a job he had done. As they became angrier, Jack and Pamela then began repeatedly kicking the referee while he was on the ground. Midway through their beating of the referee, Jack paused and said, "And if you ever tell anyone about what happened here, we will kill you." Jack and Pamela then continued kicking the referee. The referee suffered three broken ribs and was eventually knocked unconscious.

Afterward, Jack and Pamela looked at each other, and Jack said, "That will teach him." Pamela then took out her cell phone and took pictures of the referee's bloody face and body lying on the ground. Just as Pamela was taking her last picture, a parent from the other school came upon the scene and saw what Jack and Pamela had done. The parent immediately called for help, and a local law enforcement officer ran over. The officer then ordered Jack and Pamela to sit on the ground and told them they were being detained.

Jack and Pamela took off running, and Pamela directed Jack to her car nearby. Pamela got in the passenger seat, and Jack got in the driver's seat, started the car, and sped off. The officer ran to his patrol car and took off after them with his lights and siren engaged. The chase reached speeds of over 100 miles per hour. As Jack was speeding from the police, he was briefly able to separate from the police and let Pamela out of the vehicle at a friend's house. But the car chase quickly resumed and went for several more miles. During the car chase, Jack rammed a second police officer's patrol car, resulting in several flips and a fiery crash. The officer was killed as a result of the crash. Jack was ultimately arrested after he too later lost control of the vehicle, ran it into a ditch, and totaled Pamela's vehicle. Jack sustained injuries from his crash as well.

*Please answer the following question. Explain your answer; an answer without explanation will receive no credit.*

- 1.1 What crimes did Jack commit under Louisiana law, and what are the elements of each crime? What crimes did Pamela commit under Louisiana law, and what are the elements of each crime? Explain. First, address the crimes committed by Jack; second, address the crimes committed by Pamela.**

*In your response for Jack, do NOT include crimes he may have committed as a principal to Pamela; similarly, in your response for Pamela, do NOT include crimes she may have committed as a principal to Jack. (40 points total)*

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2023**

**QUESTION 2 (40 POINTS)**

*The facts for this Question 2 include the same facts as for Question 1 above plus the following additional facts.*

At the scene of Jack's wreck, officers removed Jack from his vehicle, immediately read him his Miranda rights, and placed him under arrest. However, it was clear Jack had suffered significant injuries, including a possible concussion in the wreck as he was incoherent. As a result, as opposed to being taken to the jail, Jack was taken to a local hospital where he received treatment over the next several days. Once he recovered, Jack was subsequently released back into the custody of law enforcement. Prior to booking Jack into the jail, officers placed Jack in a holding cell. Two detectives then entered the holding cell and began questioning Jack. During that time Jack made several incriminating statements. Jack also provided detectives with all relevant information related to Pamela's involvement, including her contact information and likely whereabouts. After approximately an hour, though, one of the detectives remembered that they hadn't read Jack his Miranda warnings at the outset of the interview. The other detective responded and pointed out that Jack had been read his Miranda rights days earlier immediately after the wreck. Jack had no memory of being read his Miranda rights after the wreck. In any event, out of an abundance of caution, since Jack was incoherent following the wreck and suffered a concussion, the detectives decided to re-Mirandize Jack (read him Miranda rights again) at that point and just re-question Jack about everything he had already said to the detectives during the first hour of the interview. Accordingly, the detectives read Jack his rights, and he agreed to voluntarily waive same and continue speaking to them. Jack then repeated everything he had already stated to the detectives during the first part of the interview. He was subsequently booked into the jail.

After booking Jack into the jail, detectives put out a press release indicating they had an arrest warrant for Pamela. As a result, Pamela turned herself into the jail, and her cell phone was seized and placed in a property locker. Detectives subsequently came to the jail, retrieved her phone, and searched it. Detectives did not get a search warrant to search the phone as the phone did not have a password protecting it. Detectives then located pictures on her cellphone of the referee's bloody body from the night in question.

During Jack's subsequent criminal trial, the prosecution attempted to admit Jack's incriminating statements made during both hours of questioning by the detectives in the holding cell.

*Please answer the following four subquestions. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 On what state and/or federal constitutional basis may Jack reasonably challenge the admissibility of his incriminating statements made during the first hour of his questioning by detectives in the holding cell; and is he likely to succeed? Explain. (10 points)**
- 2.2 On what state and/or federal constitutional basis may Jack reasonably challenge the admissibility of his incriminating statements made after detectives read him his Miranda rights mid-way through the interview; and is he likely to succeed? Explain. (10 points)**
- 2.3 Assume for purposes of this Question 2.3 only that Jack and Pamela are tried separately. During Pamela's trial, the prosecution attempted to introduce Jack's confession and his statements to the detectives related to Pamela's involvement in the crimes. Pamela challenges the admission of Jack's statements on Fifth Amendment grounds. Is Pamela likely to succeed? Explain. (10 points)**

TEST CONTINUES ON NEXT PAGE

- 2.4 On what state and/or federal constitutional basis may Pamela reasonably challenge the admissibility of the pictures discovered as a result of the detectives' search of her cell phone; and is she likely to succeed? Explain. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
JULY 2023**

**QUESTION 3 (20 POINTS)**

*Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.*

*The multiple choice items below are NOT based on the facts in Questions 1 and 2.*

- 3.1 Authentication of evidence
- 3.2 Post-conviction relief
- 3.3 Impeachment evidence; admissibility of prior recordings
- 3.4 Preliminary examination
- 3.5 Suppressing evidence
- 3.6 Hearsay rule; exceptions to same
- 3.7 Review of pretrial order
- 3.8 Procedures relating to objectionable evidence
- 3.9 Evidence of other crimes; admissibility of evidence of prior acts
- 3.10 Restrictions on trial witnesses

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST



**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE, AND EVIDENCE  
FEBRUARY 2023**

**QUESTION 1 (40 POINTS)**

Louis, Daniel, and Paul were college roommates in Baton Rouge, Louisiana. Louis was always thinking of ways to make money. One day, Louis told his roommates that they could make fast money around campus making and selling brownies infused with marijuana. Daniel suggested that they host a bake sale on campus selling the brownies. Paul agreed to help make the treats.

After the three of them each sold their marijuana brownies for a few days on campus, Paul had an argument with Louis about how to divide up their earnings. Louis grew angry at Paul, went into the kitchen, grabbed the baking pan, and hit Paul over the head until he became unconscious. Daniel then dragged Paul into his bedroom and tied him up with the bed sheets.

“We have to get out of town,” Daniel told Louis. Neither of them had a car, so Daniel grabbed Paul’s car keys and wallet, and he and Louis fled in Paul’s car. Before leaving the apartment, Daniel smashed Paul’s cell phone, shattering it.

Daniel and Louis decided to hide out in New Orleans. Once they arrived, the car was almost out of gas. Louis went into a nearby gas station to purchase gas with Paul’s credit card, but the card was declined.

Louis and Daniel returned to the car to rummage around for loose money. Daniel discovered a black pistol in the console. He then told Louis, “I have an idea. Just play along.” Daniel re-entered the gas station with Louis close behind. Daniel pulled out the pistol, pointed it at the cashier, and demanded that she ring up a full tank of gas. The cashier complied. A customer, Joe, entered the store, startling Daniel. The pistol discharged and struck Joe.

Daniel went over to see if Joe was okay. Joe was still alive but bleeding excessively. Louis took the gun out of Daniel’s hand and shot Joe in the head, killing him instantly. Louis and Daniel then grabbed all the money out of the cash register and fled from the store.

The cashier called 911 to report the incident. As they were driving away, Daniel and Louis noticed police units nearby. Fearful that someone would be able to identify the vehicle, they drove into a neighborhood to hide.

Daniel parked the car behind a bush while Louis worked on gaining access to a home. A window was unlocked, so they both climbed in through the window and fell asleep.

*Please answer the following question. Explain your answer; an answer without explanation will receive no credit.*

- 1.1 What crimes did Louis commit under Louisiana law; what crimes did Daniel commit under Louisiana law; what crimes did Paul commit under Louisiana law; and what are the elements of each crime? Explain fully. First, address the crimes committed by Louis; then second, address the crimes committed by Daniel, and third, address the crimes committed by Paul. (40 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE, AND EVIDENCE  
FEBRUARY 2023**

**QUESTION 2 (40 POINTS)**

*The facts for this Question 2 include the same facts as for Question 1 above plus the following additional facts.*

Back at the apartment, Paul regained consciousness and was able to untie himself from the sheets and escape from the window. He ran to a neighbor's apartment and called the police, telling them everything that he knew about the marijuana brownies, as well as being bashed on the head, having his car and wallet stolen, his phone broken and being tied up.

Paul remembered that Daniel had a location sharing app on his phone. With this information, the police were able to track down Daniel's exact location. While Louis and Daniel slept, police entered the New Orleans home and apprehended them.

Once the officers apprehended Louis and Daniel, the officers informed them that they were suspects in an investigation involving the marijuana sales and various other crimes in Baton Rouge. Daniel asked the officers if they had an arrest warrant, and the officers advised that one was being obtained. Both men were handcuffed and placed in separate police units.

While on the scene, one officer heard through dispatch that two subjects matching Louis and Daniel's description had committed several offenses at the gas station five miles away. Dispatch also gave a description of the suspects' vehicle, a silver Bronco.

A second officer located a silver Bronco behind a large bush close to the home where Louis and Daniel had been apprehended. The officer confirmed that it was the vehicle seen fleeing the gas station. The two officers then searched the vehicle and located a large amount of cash, a wallet with a license belonging to Paul, and a black pistol.

After officers finished searching the Bronco, they returned to Louis and Daniel and advised each of them that they were also being arrested for the crimes that were committed at the gas station. Before the officers read Daniel his Miranda warnings, while asking Daniel for some biographical information, Daniel blurted out, "I shot the guy, but I did not kill him."

*Please answer the following four subquestions. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 On what state and/or federal constitutional basis may Louis and Daniel challenge their detention for the Baton Rouge crimes; and are they likely to succeed? Explain fully. (10 points)**
- 2.2 On what state and/or federal constitutional basis may Louis and Daniel challenge the search of the silver Bronco and seizure of the cash, gun and wallet; and are they likely to succeed? Explain fully. (10 points)**
- 2.3 On what state and/or federal constitutional basis may Daniel challenge the admissibility of his statement; and is he likely to succeed? Explain fully. (10 points)**
- 2.4 Assume for purposes of this Question 2.4 only that Louis and Daniel are tried separately. On what state and/or federal constitutional basis may Louis challenge the admissibility of Daniel's statement to police that he shot the guy but didn't kill him, so as to prevent the statement from being introduced against Louis at trial; and is Louis likely to succeed? Explain fully. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
CRIMINAL LAW, PROCEDURE AND EVIDENCE  
FEBRUARY 2023**

**QUESTION 3 (20 POINTS)**

*Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.*

*Question 3 involves separate questions and is NOT based on the facts in Questions 1 and 2.*

- 3.1 Timing and procedure for institution prosecution
- 3.2 Hearsay rule; exceptions to same
- 3.3 Institution of criminal proceedings
- 3.4 Motions to quash
- 3.5 8<sup>th</sup> Amendment forfeiture
- 3.6 Preliminary examinations
- 3.7 Admissibility of prior recordings
- 3.8 Procedure for motions to sever
- 3.9 Admissibility of evidence concerning criminal records
- 3.10 Admissibility of evidence of prior acts

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST