

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
FEBRUARY 2020**

QUESTION 1 — 40 POINTS

One evening, Jamie, who had recently completed serving a sentence for armed robbery, decided to go out to a sports bar to watch a football game and have a couple of drinks. Jamie proceeded to drink nine double bourbon drinks. Jamie became intoxicated and got into a heated argument with another man at the bar, Bob, over the game. This led to Jamie, who thought of himself as a bit of a tough guy, to act like he was going to punch Bob. In defense, Bob struck Jamie. This led to a physical altercation, with both Bob and Jamie exchanging punches. Ultimately, no one was hurt, but the bar owner ushered Jamie out of the bar. Jamie then threw a bottle at a neon light fixture hanging above the entrance to the bar, breaking it. The bar owner told Jamie never to return to the establishment or law enforcement would be called.

Enraged, Jamie began walking home, but decided to make a quick stop to pick up some marijuana to calm his nerves. He called his friend, Claire, and the two discussed where and when to meet so that Jamie could purchase an ounce of marijuana from Claire. The two then met in a nearby parking lot. Jamie got in the front passenger seat of Claire's car. While Claire was weighing out the ounce she agreed to sell to Jamie, Jamie discussed the events that occurred at the bar. The two then developed a plan to make a quick buck by robbing the bar. Claire, who didn't like Bob, convinced Jamie that she and Jamie should kill Bob while they were robbing the bar.

Once Jamie and Claire arrived at the bar, they both put on masks. Jamie also armed himself with a 9mm handgun. Claire brought into the bar a pocket knife and duffel bag. Immediately after they walked into the bar, Jamie walked up to Bob and shot him twice in the chest. Bob suffered very severe injuries, but ultimately survived. Next, Jamie pointed the gun at three other bar patrons and told them to put their hands on their heads, lay face down on the ground, and to "keep their eyes shut or they will never see their friends or family again". While brandishing the pocket knife, Claire walked up to the bartender and forced him to empty the cash register into the duffel bag. After Claire got all the money out of the register, she and Jamie went to leave. The bartender then pulled out a 12-gauge shotgun he had hidden behind the bar. Jamie in turn shot and killed the bartender.

Jamie and Claire then got into Claire's car, and Jamie drove. Jamie subsequently crashed the car into a light pole and was apprehended by law enforcement shortly thereafter.

- 1.1 With what crimes, if any, might Jamie reasonably be charged under the Louisiana Criminal Code (Title 14 of the Louisiana Revised Statutes) and is he likely to be convicted? Please discuss each crime fully, identifying the elements of each crime and the facts supporting each crime.**
- 1.2 With what crimes, if any, might Claire reasonably be charged under the Louisiana Criminal Code (Title 14 of the Louisiana Revised Statutes) and is she likely to be convicted? Please discuss each crime fully, identifying the elements of each crime and the facts supporting each crime.**

[End of Question 1]

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QUESTION 2 — 40 POINTS

Assume all the facts given in Question 1, in addition to the following:

Immediately after Jamie crashed Claire's car into the light pole, police officers arrested Jamie and placed him into the back of a police cruiser. Claire, however, managed to flee on foot to her home before law enforcement arrived at the scene of the crash. The officers then searched the car Jamie was driving and found a duffle bag of cash, a 9mm handgun, multiple cell phones, and approximately 3 pounds of marijuana. Prosecutors intend to introduce the money, the gun, and the marijuana into evidence at trial.

After the search, one of the police officers returned to his cruiser and attempted to advise Jamie of his Miranda rights. But Jamie abruptly interrupted the officer before the officer could complete the warnings and angrily proclaimed "I've been arrested before, man. I already know all that stuff." The officer did not complete the reading of the warnings. Minutes later, Jamie offered a statement implicating himself regarding the incident at the bar.

Before police transported Jamie to the parish jail, one of the bar patrons was taken to the accident scene. Once there, investigators asked the patron if he could identify Jamie as the person who had pointed a gun at him. The patron quickly indicated that Jamie was the culprit.

Investigators then learned that Claire had been Jamie's partner during the commission of the robbery. They also learned that she may have purchased a mask similar to one used by a suspect at the scene of another armed robbery and shooting reported at a different local bar the evening before. Investigators also learned that the mask may have been stored at the home Claire shared with her boyfriend. The investigators thought the mask would make good evidence for their case and drove to Claire's home with the intention of conducting a search for the mask and arresting Claire. Upon arrival, they identified themselves to Claire's boyfriend and requested his consent to search the residence. Claire's boyfriend readily consented to the search. Claire herself, however, vigorously opposed it. Relying on the consent given by Claire's boyfriend, officers proceeded to search the couple's bedroom and discovered the mask. Claire was later arrested.

Police officers also decided to search Claire's childhood trailer where she had grown up with her family. They obtained a court-issued warrant to enable them to do so. When they arrived at the trailer, Claire's brother, Bill, was present. While searching the trailer, the officers ordered Bill to empty his pockets and discovered a small amount of cocaine in Bill's shirt pocket.

At Jamie's later criminal trial, Jamie's lawyer challenged the admissibility of Jamie's statement implicating himself regarding the incident at the bar and the admissibility of the witness's identification of Jamie.

At Claire's later criminal trial, her attorney challenged the legality of the search of Claire's car and home.

At Bill's later criminal trial, his attorney challenged the legality of the search of Bill's person and the seizure of the cocaine.

Please address the following five questions:

- 2.1 What are the state and federal constitutional bases, if any, for challenging the admissibility of Jamie's statements, and are they likely to succeed? Discuss. (8 points)**
- 2.2 What are the state and federal constitutional bases, if any, for challenging the admissibility of the results of the witness identification procedure, and are they likely to succeed? Discuss. (8 points)**

- 2.3** What are the state and federal constitutional bases, if any, for challenging the search of Claire's car, and are they likely to succeed? Discuss. (8 points)
- 2.4** What are the state and federal constitutional bases, if any, for challenging the legality of the search of Claire's home, and are they likely to succeed? Discuss. (8 points)
- 2.5** What are the state and federal constitutional bases, if any, for challenging the legality of the search of Bill's person and the seizure of the cocaine, and are they likely to succeed? Discuss. (8 points)

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
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QUESTION 3 — 20 POINTS

The following subject matters were tested in this multiple choice section:

Criminal pretrial discovery
Deadlines for capital cases
Evidence of other crimes
Impeachment evidence
Institution of criminal proceedings
Procedures relating to objectionable evidence
Relief for judge's bias
Review of criminal pretrial order
Scope of cross-examination
Suppressing evidence

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE, AND EVIDENCE TEST

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
JULY 2019**

QUESTION 1 – 40 POINTS

Andrew and Chris knew that Doug, who lived nearby, dealt drugs. They also believed Doug had a lot of money in his house because he dealt drugs. So, one evening, Andrew and Chris decided they would try and steal the money from Doug's house. They each took several shots of vodka to get up the nerve and then got into Andrew's vehicle; Andrew then drove them over to Doug's house. They loaded their guns, exited the car, and then kicked in the door to Doug's house with their guns pointed and Andrew yelled "Give us your money or we'll shoot." As soon as the door opened up, Andrew and Chris discovered three men sitting in the living room. When one of the men in the living room reached for his gun, Andrew and Chris then started shooting at him. One of the bullets from Andrew's gun ricocheted, hit Chris and killed him. Stunned, Andrew ran out of the house, got back into his car and drove to his girlfriend's house.

- 1.1. What crimes has Andrew likely committed under the Louisiana Criminal Code? Explain fully. (40 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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JULY 2019**

QUESTION 2 – 40 POINTS

Question 2 is a continuation of the facts from Question 1.

Police officers learned of Andrew's involvement in the crime because Andrew's girlfriend called and told them that Andrew was at her apartment and that Andrew had just told her about what happened with Chris prior to his arriving at her apartment. Accordingly, police officers immediately went to the girlfriend's apartment to arrest Andrew. When police officers arrived, they arrested Andrew, read him his *Miranda* rights, and told him they needed him to give a statement about what happened. They also searched his person and took his cellphone. Officers looked through the phone and noticed several incriminating text messages.

Once back at the station, officers brought Andrew into the interview room and began questioning him. Andrew denied any wrongdoing and after approximately an hour of questioning told the officers "I'm done talking, bring me back to my cell." The officers nonetheless continued questioning him and eventually told him that they had talked with the District Attorney and that, if Andrew confessed, the District Attorney would not seek the death penalty. Andrew eventually confessed to going to Doug's house to steal money and told the officers he accidentally shot Chris.

The officers subsequently booked Andrew into the jail on one count of at least one of the crimes committed at Doug's house. Thereafter, the officers obtained a search warrant for Andrew's phone and discovered additional incriminating messages relating to the alleged crime.

Please address the following three questions:

- 2.1. What state and/or federal constitutional bases, if any, exist for Andrew to challenge the admissibility of any statements made to the officers after he told them "I'm done talking, take me to my cell"? Explain fully. (10 points)**
- 2.2. What state and/or federal constitutional bases, if any, exist for Andrew to challenge the admissibility of (a) the text messages initially found by officers on his cell phone and (b) the additional text messages found after a search warrant was obtained? Explain fully. (20 points)**
- 2.3. What state and/or federal constitutional bases, if any, exist for Andrew to challenge the admissibility of his confession to officers at the police station based on their promise not to seek the death penalty? Explain fully. (10 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
JULY 2019**

QUESTION 3 – 20 POINTS

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

- 3.1. Admissibility of evidence of other acts
- 3.2. Time limits for institution of criminal proceedings
- 3.3. Procedures for pretrial motions
- 3.4. Deadlines for capital cases
- 3.5. Pretrial proceeding
- 3.6. Scope of cross-examination of witness
- 3.7. Impeachment of witness
- 3.8. Institution of criminal proceedings
- 3.9. Procedures relating to objectionable evidence
- 3.10. Motions to Quash

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST

**CRIMINAL LAW, PROCEDURE AND EVIDENCE
LOUISIANA STATE BAR EXAMINATION
FEBRUARY 2019**

QUESTION 1 - 40 POINTS

One afternoon, Brandon received a telephone call from Chris. Chris wanted Brandon to help him locate some marijuana to share with his friends. In response to Chris's request, Brandon called Eric about obtaining marijuana. Eric said he didn't have any, but told Brandon to call Adam. Brandon then texted Adam, who replied via text that he had at least 2 or 3 lbs. of marijuana available for sale. After texting with Adam, Brandon called Chris back and let him know he had lined up a deal for that afternoon. Chris and Eric then went and picked up Brandon at his house. The three then went over to Adam's apartment to purchase the marijuana.

Eric stayed in the truck while Brandon and Chris went up to purchase the marijuana from Adam. Adam let Brandon and Chris into the apartment and told them they could sit on the sofa in the living room. Adam said he would be right back after he got the marijuana from his bedroom. A few minutes later Adam emerged from the bedroom wielding a pistol, pointed it at Chris, and yelled for Chris to give up the money. When Chris refused, Adam slapped him with the pistol and shot Chris in the side. Chris then removed the money from his shoe and handed it to Adam. Adam took the money and fled. Chris then jumped out the bedroom window and ran back to the truck where Eric proceeded to take him to a hospital emergency room. Brandon fled the scene on foot and ran back to his house.

- 1.1. What crimes, if any, have been committed under Louisiana Criminal Code and by whom? For each crime, identify the elements of the crime and the facts supporting the crime. (40 points)**

[End of Question 1]

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**CRIMINAL LAW, PROCEDURE AND EVIDENCE
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FEBRUARY 2019**

QUESTION 2 - 40 POINTS

Question 2 is a continuation of the facts from Question 1.

After Chris arrived at the hospital, the hospital staff quickly called the police and reported a shooting victim. When police officers arrived, Chris told the officers that he and Eric had come to town to hang out with Brandon. Chris told the officers that they went to Adam's house to hang out as well. Chris then told the police officers that Adam had taken his money at gunpoint, and pistol whipped and shot him, but claimed that it was not drug related. Eric told the police the same story.

Officers then immediately went to Adam's apartment and forced their way inside. The officers did not wait to obtain a warrant because they believed that Brandon could have also been shot and could still be inside the apartment. The officers did not find Brandon at the apartment but did find marijuana in Adam's room. The officers also found a mop/bucket along with a bloody towel in the kitchen pantry.

After searching the apartment, the officers returned to the hospital to question Chris and Eric. When the officers arrived back at the hospital, the doctor had just finished up with Chris's bandaging and was releasing Chris to go home. The officers told Chris and Eric that they had a few more questions for them and requested that Chris and Eric come to the police station to provide formal video statements. Chris and Eric were then transported via separate police units back to the station.

Upon arrival at the police station, the officers placed Eric into a holding cell and told him they would return once they finished with Chris's statement. The officers then escorted Chris down the hallway into an interrogation room. After being properly advised as to his rights under *Miranda*, Chris waived his rights and agreed to speak to the officers. The officers then questioned Chris for approximately 3 hours during which time Eric remained inside his holding cell. While waiting for the officers to finish their questioning of Chris, Eric requested permission to use the restroom from one of the officers responsible for monitoring the station holding cells. That officer told Eric that he did not have authority to let him out of the holding cell and that he would have to wait for the other officers to return from interviewing Chris. During his statement, Chris refused to admit to any wrongdoing and stuck to the same story he had previously given to the officers at the hospital.

Following Chris's interview, the officers returned to the holding cell to get Eric. After allowing him to finally use the restroom, the officers escorted Eric to the interrogation room. The officers advised Eric of his rights per *Miranda* and he agreed to waive his rights and speak with the officers. The officers then told Eric that Chris had told them everything and that they now knew the truth. In response, Eric quickly confessed and told the officers he and Chris had indeed gone to Adam's apartment to buy marijuana. Eric also told the officers of Brandon's involvement in arranging the deal and of Brandon being present at the time of the shooting. Chris and Eric were both arrested following Eric's interview. The prosecutors intend to use Eric's confession against Eric, Chris, and Brandon at their respective trials.

Once the officers finished booking Chris and Eric into the jail, they obtained an arrest warrant for Brandon from the local judge. Brandon was subsequently arrested without incident at his house. He was taken to the jail and booked on several charges. While booking Brandon into the jail, officers recovered Brandon's cell phone, searched the phone, and located text messages between Brandon and Adam discussing the drug deal.

Please answer the four subquestions which follow on the next page. (10 points each)

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- 2.1. What state and/or federal constitutional bases, if any, exist for Adam to challenge the search and seizure of the marijuana and bloody towel from his residence? Explain fully. (10 Points)
- 2.2. What state and/or federal constitutional bases, if any, exist for Eric to challenge the admissibility of his confession to officers at the police station? Explain fully. (10 points)
- 2.3. *Assume for Question 2.3 only that Chris' initial statements to the officers at the hospital included inculpatory statements.* What state and/or federal constitutional bases, if any, exist for Chris to challenge the admissibility of these inculpatory statements? Explain fully. (10 points)
- 2.4. What state and/or federal constitutional bases, if any, exist for Brandon to challenge the admissibility of the text messages seized from his cell phone? Explain fully. (10 points)

[End of Question 2]

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QUESTION 3 - 20 POINTS

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

The following multiple choice items are NOT based on the facts contained in Question 1 and 2.

- 3.1. Preliminary examination
- 3.2. Voir dire
- 3.3. Appeal
- 3.4. Evidence - impeachment evidence
- 3.5. Evidence - hearsay exceptions
- 3.6. Judgment of acquittal
- 3.7. Right to counsel
- 3.8. Motion for speedy trial
- 3.9. Grounds for recusal of judge
- 3.10. Discovery by the defendant

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
JULY 2018**

QUESTION 1 — 40 POINTS

Paul and his wife Cheryl were at home late one Saturday morning watching television when Paul received on his cell phone an extremely vulgar text message. Paul saw the message was from John, his longtime friend and a sales manager at a large, local car dealership. Paul then realized the text message was not directed at him but was meant for his wife, Cheryl. The text message from John had been inadvertently rerouted to Paul's phone instead of Cheryl's phone. The language in the text message made it clear to Paul that there was some type of relationship going on between Cheryl and John. John also called Cheryl derogatory names and stated "you and your family will suffer." Paul immediately called John and angrily questioned him about the message. John apologized to Paul and admitted he sent the message out of anger when he learned that Cheryl had encouraged several people in the community not to buy vehicles from the dealership where John works. John then told Paul he had to go because he had to close the dealership for the afternoon to hold an important meeting with all of his sales associates. After hanging up with John, Paul questioned Cheryl about the contents of the text message. Cheryl then admitted to Paul that John had been raping her for years and had even forced her to pose for naked photos and threatened to release them if she ever told anyone about the rapes.

Distraught, Paul left his house and drove to a convenience store, bought a bottle of vodka and drank the entire bottle as he sat in his car in the parking lot thinking about everything that Cheryl had told him. Paul then decided to drive to the car dealership where he knew John was leading the meeting that afternoon. Paul arrived and saw a sign on the front glass doors of the dealership that read, "Closed this afternoon for an important sales meeting. General public not allowed at this time." Paul grabbed his shotgun from the backseat of his car and went toward the front entrance doors of the dealership. Paul tried to open the doors but all of them were locked. Through the glass, Paul saw an employee standing in the lobby. Paul banged his gun on the glass to get her, then pointed his gun at her and motioned for her to open the door. The employee complied and unlocked the door for Paul. Paul then forced her into a maintenance closet where he locked her inside and told her he would kill her if she said a word.

Paul then moved through a side hallway to the meeting conference room of the dealership where he spotted John giving a presentation to about twenty sales associates. Paul raised his gun, ran toward the conference room and fired a shot towards John. The first shot missed John but shattered a flower pot in front of the room. Reacting to the gunshot, sales associates all ducked under the conference room table as John ran toward one of the side exits from the conference room away from Paul. Paul then fired another shot at John, this time hitting and killing him. Later that night, Paul was arrested at his home and booked into the local jail on several charges.

Please address the following question:

- 1.1. Identify all crimes with which Paul might be charged under the Louisiana Criminal Code (Title 14 of the Louisiana Revised Statutes)? Discuss fully. For each such crime, you should identify the elements of the crime and the supporting facts for the crime. (40 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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JULY 2018**

QUESTION 2 — 40 POINTS

Question 2 is a continuation of the facts from Question 1.

Later that night, after Paul had been arrested and booked into the jail, officers brought one of the car sales associates to the jail to see if he recognized Paul as the shooter. The sales associate claimed to have been in the meeting room when Paul fired both shots and looked directly at Paul after the first shot before everyone hid under the conference table. He had given a very detailed description of Paul to the police immediately after the shooting. Once they arrived at the jail, the sales associate was asked to look through the window of the holding cell at Paul. Then, one of the officers said “Well, tell me we got the right guy?” The sales associate said “absolutely, yes.” Prosecutors intend to introduce the identification evidence into the record at Paul’s trial.

The next day, police officers returned to the car dealership and searched what they believed to be Paul’s vehicle which was still parked in the car dealership parking lot. Because the vehicle was locked, the officers used a special tool to get into the vehicle to search it. As a result of the search, the officers located a shotgun, a case of shotgun shells and an empty bottle of vodka which they seized as evidence. The officers did not obtain a warrant before searching Paul’s vehicle. After they searched the car and took the shotgun, vodka bottle and case of shotgun shells, the officers then had the vehicle towed back to police headquarters as potential evidence. Prosecutors intend to introduce the shotgun, shotgun shells and empty bottle of vodka into evidence at trial.

Later that day, officers drove to Paul’s residence to search for any additional evidence. Upon arrival, they identified themselves to Cheryl and requested her consent to search the residence. Cheryl hesitated and asked the officers if they had or needed a warrant to search the house. In response, officers indicated to Cheryl that if she made them go and get a warrant, they may very well consider charging her as an accessory or with obstruction of justice. Cheryl relented and told the officers they could search the home. The officers then searched the residence where they found in the printer next to the computer printouts of Paul and Cheryl’s itemized phone records from the past couple of months; calls between Cheryl and John had been highlighted on the printouts. The printouts were seized as evidence. Based on this information, officers later subpoenaed cellphone records associated with Paul and Cheryl’s account for several more months from their cell phone carrier. Those records showed that Cheryl and John had been communicating regularly for the last year; prosecutors intend to introduce these phone records into evidence to counter any argument that Cheryl was being raped by John and that Paul was only protecting her.

Please address the following four questions (10 points each):

- 2.1. What state and/or federal constitutional bases, if any, exist for Paul to challenge the witness identification procedure/evidence the prosecution intends to introduce at trial? Discuss.**
- 2.2. What state and/or federal constitutional bases, if any, exist for Paul to challenge the search and seizure of the evidence (shotgun, case of shotgun shells and empty vodka bottle) from his vehicle? Discuss.**
- 2.3. What state and/or federal constitutional bases, if any, exist for Paul to challenge the search and seizure of the evidence (printouts of cellphone bills and itemized call reports) from his residence? Discuss.**
- 2.4. What state and/or federal constitutional bases, if any, exist for Paul to challenge the information obtained as a result of the state’s subpoena to the cellphone company? Discuss.**

[End of Question 2]

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JULY 2018**

QUESTION 3 — 20 POINTS

Each of the following multiple-choice items counts for two points. Select the letter that corresponds with the correct answer.

- 3.1. instituting prosecution

- 3.2. judgment of acquittal

- 3.3. preliminary examination

- 3.4. voir dire

- 3.5. grounds for new trial

- 3.6. appeal

- 3.7. speedy trial

- 3.8. post-conviction relief

- 3.9. evidence, hearsay exceptions

- 3.10. evidence, impeachment evidence

[End of Question 3]

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
FEBRUARY 2018**

QUESTION 1 — 50 POINTS

Henry and Wendy both age 25 and husband and wife, were at a wedding reception during which they both had consumed numerous alcoholic beverages. When Henry saw Wendy speaking to a man near the dance floor, Henry decided it was time for them to go home. Henry approached Wendy and told her it was time to leave. In response, Wendy told Henry she would meet Henry at the car. Henry then forcefully grabbed Wendy by the arm and said “Let’s go, Wendy.” The two then proceeded to leave. As they were walking toward the vehicle, Henry and Wendy began to argue. Then, after Henry called Wendy a “stupid drunk,” Wendy threw her purse at Henry and began running toward an open pasture away from Henry and in the opposite direction of their car. Henry chased after Wendy, grabbed her and picked her up, and began walking back to the car. Wendy kicked and screamed as Henry carried her, fighting to get away from him. When Henry got to the car, he put Wendy into the front seat and told her “You better not get out of this car or I swear I will kill you.” As Henry did this, he removed his pistol from his ankle holster and showed it to Wendy to indicate he was serious. Henry then returned the gun to his ankle holster and drove home with Wendy. On the way home, Henry ran off the road several times onto several people’s property, hitting and damaging their mailboxes with his car. By the time they arrived at the house, Wendy had passed out. Henry carried Wendy up to their bedroom. Still fuming, Henry then took pictures of Wendy passed out in their bed and shared the pictures on a popular social media site. Some of the pictures showed Wendy’s partially naked body. Henry then went to sleep. Later in the night, Wendy was woken up by all of the notifications from the social media site and text messages from her friends regarding the pictures Henry had shared on the site. After she realized what Henry had done, Wendy found Henry’s pistol, made sure it was loaded and then went back over to Henry and shot him three times. Henry was injured but survived.

Please address the following two questions:

- 1.1. What crimes, if any, has Henry committed under Title 14 of the Louisiana Revised Statutes? Discuss. (40 points)**

- 1.2. What crimes, if any, has Wendy committed under Title 14 of the Louisiana Revised Statutes? Discuss. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 — 30 POINTS

Ben pulled into the parking lot at Anywhere Fitness. As he was getting out of his car, a police vehicle suddenly pulled up behind Ben. The police officer driving the police vehicle immediately asked Ben: “Where’s the weed?” Before Ben could respond, the officer then told Ben to get back in his vehicle. Ben complied. The officer then responded: “Where’s the weed? I’m not stupid. I smelled it when you passed me just now.” Ben replied that he didn’t know what the officer was talking about. The officer then ordered Ben out of his vehicle and instructed him to place both hands on the trunk of his car. The officer then asked Ben: “You want me to get a dog out here?” In response, Ben said: “No. I want a lawyer though.” The officer then placed handcuffs on Ben and placed Ben in his police vehicle. The officer quickly learned that Ben had previously been convicted of a felony. The officer then searched Ben’s car and found approximately half an ounce of marijuana in the center console. During the search, the officer also located a gun in a container underneath the backseat. Following the search, the officer asked Ben if the gun was his and where it came from. Ben admitted to owning the firearm and indicated he bought it from a local pawn shop. Ben was later arrested and charged with possession of marijuana and with being a felon in possession of a firearm.

Please address the following three questions (10 points each):

- 2.1. What state and/or federal constitutional bases exist, if any, for Ben to challenge the search and seizure of the marijuana and is he likely to succeed? Discuss.**

- 2.2. Assume that the officer had probable cause to search Ben’s vehicle. Did the officer also have probable cause to search Ben’s container? Discuss.**

- 2.3. What state and/or federal constitutional bases exist, if any, for Ben to challenge his admission to owning and purchasing the firearm? Discuss.**

[End of Question 2]

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QUESTION 3 — 20 POINTS

Ten multiple choice questions, each worth 2 points, tested the following areas of law:

- 3.1. Motion in Limine
- 3.2. Motion for a Speedy Trial
- 3.3. Time delays for instituting prosecution
- 3.4. Instituting prosecution
- 3.5. Subject of witness testimony
- 3.6. Evidence – relevancy (offer to pay medical expenses)
- 3.7. Preliminary examination
- 3.8. Bill of Particulars
- 3.9. Evidence – relevancy (impeachment testimony)
- 3.10. Challenge of venire

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE AND EVIDENCE TEST