
Student Number

Barker College

2017
TRIAL HIGHER SCHOOL CERTIFICATE

Legal Studies

ANSWER SHEET

Staff Involved:
- **VZA**
- **KZD**
- **KAK**
- **SCM***

PM TUESDAY 8TH AUGUST

85 copies

Section I
Part A – Multiple Choice
Choose the best response and fill in the response oval completely

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Start Here →

1.	A ○	B ○	C ○	D ○	**11.**	A ○	B ○	C ○	D ○
2.	A ○	B ○	C ○	D ○	**12.**	A ○	B ○	C ○	D ○
3.	A ○	B ○	C ○	D ○	**13.**	A ○	B ○	C ○	D ○
4.	A ○	B ○	C ○	D ○	**14.**	A ○	B ○	C ○	D ○
5.	A ○	B ○	C ○	D ○	**15.**	A ○	B ○	C ○	D ○
6.	A ○	B ○	C ○	D ○	**16.**	A ○	B ○	C ○	D ○
7.	A ○	B ○	C ○	D ○	**17.**	A ○	B ○	C ○	D ○
8.	A ○	B ○	C ○	D ○	**18.**	A ○	B ○	C ○	D ○
9.	A ○	B ○	C ○	D ○	**19.**	A ○	B ○	C ○	D ○
10.	A ○	B ○	C ○	D ○	**20.**	A ○	B ○	C ○	D ○

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General Instructions

- Reading time – 5 minutes
- Working time – 3 hours
- Write using black pen

Total marks – 100

Section I Pages 2 – 6

20 marks
- Attempt Questions 1 – 20
- Allow about 30 minutes for this section.

Section II Pages 7 – 12

30 marks
This section has two parts, Part A and Part B
- Allow about 1 hour for this section

PART A – 15 marks
- Attempt Questions 21 – 23

PART B – 15 marks
- Attempt Question 24

Section III Pages 13 – 15

50 marks
- Attempt TWO questions from Questions 25 – 31, each from a different Option
- Allow about 1 hour and 30 minutes for this section

Section I

20 marks
Allow about 30 minutes for this section

Attempt Questions 1–20

Use the multiple-choice answer sheet for Questions 1 – 20.

Select the alternative A, B, C or D that best answers the question. Fill in the response oval completely.

Sample 2 + 4 = (A) 2 (B) 6 (C) 8 (D) 9

(A) ⬭ (B) ⬭ (C) ⬭ (D) ⬭

If you think you have made a mistake, put a cross through the incorrect answer and fill in the new answer.

(A) ● (B) ⊗ (C) ⬭ (D) ⬭

If you change your mind and have crossed out what you consider to be the correct answer, then indicate this by writing the word *correct* and drawing an arrow as follows.

correct ↙

(A) ● (B) ⊗ (C) ⬭ (D) ⬭

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1. Which of the following is a non-government organisation which promotes human rights?

(A) World Vision
(B) The European Union
(C) The World Trade Organisation
(D) The International Criminal Court

2. Which purpose of punishment is achieved by fining a speeding driver?

(A) Retribution
(B) Rehabilitation
(C) General deterrence
(D) Specific deterrence

3. Which of the following is an example of situational crime prevention?

(A) Anti-graffiti paint

(B) A community service order

(C) Providing scholarships for disadvantaged children

(D) Reducing the number of police officers patrolling during the daytime

4. Who of the following is an accessory before the fact?

(A) A person who robs a bank

(B) A person who agreed with the plan to rob the bank

(C) A person who advises another person how to rob a bank

(D) A person who hides the money after the bank has been robbed

5. Which of the following was the first internationally recognised human right?

(A) Self-determination

(B) Freedom of religion

(C) Universal education

(D) Freedom from slavery

6. A person is convicted of a minor crime in the local court. He is required to report to the police station once a week.

What type of penalty does this represent?

(A) Fine

(B) Bond

(C) Imprisonment

(D) Criminal infringement notice

7. A person is accused of smuggling cocaine from Bangkok to Melbourne.

What type of crime has he committed?

(A) A transnational crime

(B) A crime against the person

(C) A crime against the sovereign

(D) A crime against the international community

8. What is it called when the police arrest someone and formally accuse them of a crime?

(A) Bail

(B) Charge

(C) Indictment

(D) Conviction

9. A young person is 15 when he is caught shoplifting.

Which of the following is NOT an alternative to court available to him?

(A) A caution

(B) A warning

(C) Circle sentencing

(D) Youth justice conferencing

10. Which of the following is true once a prisoner has served his minimum sentence?

(A) He will be released.

(B) He can apply for parole.

(C) He can request another sentencing hearing.

(D) He will be reclassified as a minimum security prisoner.

11. How does the division of powers protect human rights in Australia?

(A) By ensuring the rule of law is maintained

(B) By giving different responsibilities to the legislature, executive and judiciary

(C) By allowing both state and federal governments to pass laws enforcing human rights

(D) By allowing citizens to appeal to the High Court if they believe legislation violates human rights

12. How is the link between the behaviour of an accused and the injury to a victim best described?

(A) Causation

(B) Mens rea

(C) Actus reus

(D) Recklessness

13. Evidence is seized during a police search of a property.

Which of the following statements is true?

(A) The evidence is admissible if the police had a warrant.

(B) Police do not have the power to seize evidence from properties.

(C) The evidence is admissible if it is in the public interest to seize it.

(D) The evidence is only admissible if the suspect is present during the search.

14. Which of the following is true about a criminal trial in NSW?

(A) The accused must present a defence.

(B) All witnesses must be cross examined.

(C) The judge rules on the admissibility of evidence.

(D) The judge instructs the jury about which evidence it should believe.

15. A salesperson sells alcohol to a 16 year old without an ID.

Which of the following statements is true?

(A) In this case, the burden of proof shifts to the defendant.

(B) The prosecution has to prove its case on the balance of probabilities.

(C) The prosecution has to prove that the salesperson knew that the buyer was 16.

(D) The prosecution does not have to prove that the salesperson knew that the buyer was 16.

16. Which of the following statements is true about a jury's verdict?

(A) A jury must return a unanimous verdict.

(B) Only ten of the twelve jurors have to agree with the verdict.

(C) A jury can return a majority verdict after eight hours of deliberation.

(D) A judge must direct that a majority verdict is possible before the jury retires.

17. An accused argues at his hearing that he was provoked when he assaulted the victim.

How is this evidence relevant?

(A) The magistrate can reduce the charge.

(B) The evidence of provocation is only relevant in sentencing.

(C) The defence must prove the victim provoked the accused.

(D) If successful, the evidence of provocation will lead to an acquittal.

18. Which of the following rights is best protected in Australia by the common law?

(A) The right to vote

(B) The right to equal pay

(C) Freedom of association

(D) The right to legal representation

19. Which of the following best describes the role of regional intergovernmental organisations in the promotion and enforcement of human rights?

(A) They encourage victims to take action.

(B) They create international human rights law.

(C) They raise awareness of human rights issues.

(D) They take action to remedy breaches of human rights.

20. An accused pleads guilty, and gives evidence against her co-conspirators.

Which of the following best describes the key factor the judge will consider in sentencing?

(A) She has saved the court time, which is a mitigating factor.

(B) She gave evidence as a witness, which is an aggravating factor.

(C) She is an accessory after the fact, which is an aggravating factor.

(D) She is a principal in the first degree, which is a mitigating factor.

End of Section I

Student Number

Section II
30 marks
Allow about 1 hour for this section

Part A - Human Rights
15 marks
Attempt Questions 21 – 23

Answer the questions in the spaces provided. These spaces provide guidance for the expected length of the response.

Question 21 (3 marks)

How has the recognition of universal human rights evolved?

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Student Number

Question 22 (5 marks)

Describe the role of the United Nations in ensuring compliance with human rights.

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Question 23 (7 marks) **Student Number**

With reference to a contemporary human rights issue, evaluate the effectiveness of measures to protect human rights.

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Section II (continued)

Part B - Crime
15 marks
Attempt Question 24

Answer the question in a writing booklet. Extra writing booklets are available.

In your answers you will be assessed on how well you:

- demonstrate knowledge and understanding of legal issues relevant to the question
- communicate using relevant legal terminology and concepts
- refer to relevant examples such as legislation, cases, media, international instruments and documents
- present a sustained, logical and cohesive response

Question 24 (15 marks)

'Prisons alone do not achieve justice for victims, offenders and the community.'

To what extent is this statement true?

End of Part B

End of Section II

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Section III — Options

50 marks
Attempt TWO questions from Questions 25 – 31, each from a different Option
Allow about 1 hour and 30 minutes for this section

Answer each question in a SEPARATE writing booklet. Extra writing booklets are available.

In your answer you will be assessed on how well you:

- demonstrate knowledge and understanding of legal issues relevant to the question
- communicate using relevant legal terminology and concepts
- refer to relevant examples such as legislation, cases, media, international instruments and documents
- present a sustained, logical and cohesive response

Question 25 — Consumers (25 marks)

(a) To what extent has law reform reflected marketing innovations? **25**

OR

(b) Evaluate the effectiveness of the law in protecting consumers. **25**

Question 26 — Global Environmental Protection (25 marks)

(a) 'Reforms to international law in response to conflict between the demand for resources and global environmental protection have been very effective.'

To what extent is this statement true? **25**

OR

(b) Evaluate the effectiveness of the law in protecting intergenerational equity. **25**

Please turn over

Question 27 —Family (25 marks)

(a) To what extent has law reform reflected the changing nature of families? **25**

OR

(b) Evaluate the effectiveness of the law in protecting victims of domestic violence. **25**

Question 28 —Indigenous Peoples (25 marks)

(a) To what extent has law reform reflected the changing recognition of indigenous peoples? **25**

OR

(b) Evaluate the effectiveness of the law in protecting intellectual property rights. **25**

Question 29 — Shelter (25 marks)

(a) To what extent has law reform reflected the obligation to provide shelter? **25**

OR

(b) Evaluate the effectiveness of the law in protecting the homeless. **25**

Question 30 — Workplace (25 marks)

(a) To what extent has law reform reflected the changing nature of the workplace? **25**

OR

(b) Evaluate the effectiveness of the law in protecting employees from discrimination. **25**

Please turn over

Question 31 — World Order (25 marks)

'Reforms to international law reflect the changing values of the international community about the responsibility to protect citizens.'

How effective are the legal responses to conflict? **25**

End of Paper

12LS Legal Studies
End of Semester Exam
Marking Guidelines

Q25 - Evaluate the extent to which the Criminal trial process achieves justice.
This essay question was examining the criminal trial process and therefore students could have chosen to include the following points:

- Court jurisdiction

- The adversary system
    - The Australian system of law is based on the adversarial system where two opposing sides present their version of events to an independent arbitrator (magistrate or judge) who determines the truth
    - Prosecution vs defence
    - A fair system that allows each party to present its case with a jury as an impartial observer.
    - However, problems lie when there is inequality before the law, with the potential of imbalance in resources, skills or knowledge. The jury system is seen as complex where cases may be misunderstood.

- Legal personnel

- Pleas/Charge negotiation
    - After an accused is charged, they will enter a plea as guilty or not guilty.
    - A guilty plea will go straight to sentencing whereas a not guilty plea will go to a trial after bail is granted or an accused is held in remand.
    - Charge negotiation is where the accused agrees with the prosecution to plead guilty to a particular charge or charges in exchange for a lesser charge and higher charges withdrawn or pleading guilty in exchange for a lesser sentence
    - Charge negotiation can occur at any time in the trial process resulting in a faster and less expensive case for the prosecution, the accused and the court.
    - It increases the rate of convictions; however, some crimes may go unpunished and an accused person may plead guilty to a crime they did not commit. Critics also suggest that it may lead to bullying or manipulation of the accused or the threat of more serious crimes intimidating offenders.

- Legal representation
    - There is a right to a fair trial in Australia and for this to happen there must be adequate legal representation.
    - It is difficult to maintain a fair trial if a defendant does not have representation. This was recognised in *Dietrich v The Queen (1992)*
    - Some defendants will pay for solicitors and barristers to advise and present their case with the quality varying dependent apon skill, expertise and cost
    - The *Legal Aid Commission Act 1979 (NSW)* created the NSW Legal Aid Commission which provides legal assistance and representation to people who are socially and economically disadvantaged such as women, children and indigenous persons. This ensures equitable access to the law safeguarding peoples' rights and improving access to justice.

    - Applicants must sit a test including means, merit, jurisdiction in order to access this service.
    - Legal Aid may come in the form of advice, preparation of a legal brief or standing up in court usually in conjunction with a contribution from the defendant themselves.

- Burden and standard of proof

- Use of evidence, including witnesses
    - Evidence used in court to prosecute the accused
    - *Evidence Act 1995 (NSW)*
    - Admissibility of evidence – role of police, relevance to the case
    - Use of witnesses – rules, questioning, experts
    - Examples – *R v Wood (2012)*, expert witness testimony led to conviction however later overturned on appeal
    - Issues – Use of experts, jury understanding, limits on cross examination

- Defences
    - Defences involve a justification or excuse for the accused act.
    - Complete – justify the defendant's actions and if successful, will result in charges being dropped or result in an acquittal (i.e. not guilty of the crime). Eg mental illness (where the accused can prove they were in fact mentally incapacitated when they committed the offence, they were not criminally responsible for their actions), self-defence, duress, consent
    - Partial defence to murder where the accused may claim there were circumstances that caused them to act in such a way. Leads to a reduction in the sentence. Eg provocation

- The role of Juries
    - Definition/*Jury Act 1977 (NSW)*
    - Challenging jurors – lack of cross section of society
    - Eligible jurors
    - Role of the jury
    - Issues – Understanding complex terminology, bias, influence of media
    - Verdict – unanimous vs majority; hung juries eg Xie case *Jury Amendment (Verdicts) Act 2006 (NSW)* allowing 11:1 or 10:2
    - Expert opinion - Buddin

Students should avoid the following topics for this question:

- Mallard
- Appeals
- Sentencing
- Role of the victim
- Discretion
- Balance between the victim, society and offender

Markers Comments

Students showed strength *in the syllabus dot points and clearly knew the area of the* ***criminal trial process****. If you don't follow this in the HSC, you will not get any marks at all. Two to three dot points were explored and a good range of LCMs were used alongside expert opinions, but students must ensure the correct details of LCMs are used, i.e. the date, the source, the expert and the facts. If you are going to use it, don't make it up, get it right.*

Some students referred to a plan and I encourage more of this. It should be in your booklet, not on the exam paper and provide an outline of what you intend to cover, hopefully pushing you in the right area of the syllabus.

Better responses had a clear structure with an introduction that included the question and the areas they intended to discuss. A strong conclusion to finish that ties it all together. Clear paragraphs used throughout.

Students need to improve on *their ability to distinguish the trial process from sentencing or from the criminal investigation process. It is also important to pay attention to spelling and punctuation, if you want a Band 6 - cross the 'T's' and dot the 'I's' and underline any legislation you use.*

Students who did not refer to "the extent to which the criminal trial process achieves justice" did not answer the question. It is imperative to make a judgement, to do it early on and then come back to it. Greater use of LCM's is required, difficult to write a Legal Studies essay without legislation, but some students did.

It is important to provide a balanced argument, avoid giving a one-sided view.

Lastly, try to avoid using broad sweeping statements, such as "the criminal trial process has a limited extent when achieving justice", this is simply not true, for the most part our trial process is successful and does an adequate job. There may be certain parts or certain groups within the community that don't feel that justice is being achieved – focus on those.

Alternate Paper
End of Semester One exam 2017

Q25 Evaluate the extent to which the criminal investigation process achieves justice.

This essay question was examining the criminal investigation process and therefore students could have chosen to include the following points:

- Police powers - police have a role to investigate crime, make arrests, interrogate suspects and gather evidence. The power to do this is outlined in under *LEPRA 2002* and the Police Code of Conduct. Powers include detain and question suspects, search property, use reasonable force where necessary and so on. Powers become controversial when they conflict with the ordinary rights of citizens and justice may not achieved when this role is not conducted in a professional and appropriate manner eg Roberto Curti case
- Reporting crime
- Investigating crime:
    - gathering evidence – The *Evidence Act 1995* outlines strictly how police will gather evidence to support a charge in court which may involve, photographs, questioning witnesses etc. and ensure it is handled with integrity. Evidence that has been delayed or handled incorrectly will be deemed inadmissible in court.
    - use of technology – must be reliable otherwise may lead to inadmissibility in court eg use of databases to cross check information, fingerprinting and DNA, forensics; surveillance both video and audio, internet tracking
    - search and seizure,
    - use of warrants
- Arrest and charge, summons and warrants
- Bail or remand
- Detention and interrogation, rights of suspects

Markers comments
Some good attempts at this question, however it required a genuine focus on the criminal investigation process and having a sound knowledge of this part of the syllabus was necessary. Students needed to evaluate how the elements (around 3 is a good idea) of the CIP allowed for justice. Referring to a range of LCMs(LEPRA) to reflect how justice has been achieved or not achieved (Roberto Curti).

Students showed strength in their essay structure with a clear introduction and conclusion. A plan is also an excellent way to structure thoughts and ideas.