



MIDLANDS STATE UNIVERSITY

FACULTY OF LAW

PROCEDURAL LAW DEPARTMENT

CRIMINAL PROCEDURE

CODE: LB201

OCTOBER 2020

DURATION: 3 HOURS

INSTRUCTIONS

1. Answer *all* questions.
 2. This paper is worth 70 Marks.
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Question 1

"One of the major dilemmas of the law of Criminal Procedure is the need to balance two conflicting Social interests, namely, protection of individual freedom and effective Crime control".

Using provisions of both the Constitution of Zimbabwe and the Criminal Procedure and Evidence Act [Chapter 9:07], discuss how our laws and rules of Criminal Procedure seek to balance these two conflicting interests. **[15 Marks]**

Question 2

Briefly discuss five (5) major methods of bringing an accused person to court for trial clearly stating the factors that may be considered in deciding which method to use. **[5 Marks]**

b) To what extent has the new section 121 of the Criminal Procedure and Evidence Act [Chapter 9.07] as amended, bolsters an accused person's right to liberty? **[5 Marks]**

c) State and explain the requirements that an accused person who raise the defence of *utrefoise acquit* should satisfy in order for the defence to succeed. **[5 Marks]**

Question 3

John is a police officer based at Mbizo Police station and drives a clearly marked police vehicle. While on patrol late one night, he noticed a vehicle that fits the description of a vehicle that was reported stolen earlier that night. John signaled to the driver, Peter to stop but he refused and sped away before John could get him to stop. John set out in pursuit but, by swerving from side to side across the road, Peter frustrated every effort by John to pass him. John fired a warning shot which Peter ignored. John then fired several shots at Peter and eventually wound him on the back. The vehicle was brought to a halt and John managed to arrest Peter. On getting closer, the body of another person named Susan was found on the passenger seat of the vehicle. It transpired later that Susan had assisted Peter with theft of the motor vehicle and had taken fright when he noticed

the police vehicle approaching and hid on the front seat. All this happened before John even gave the initial signal to stop. John was unaware of the presence of Susan and was under the impression that Peter was the only occupant of the vehicle. Ballistic tests proved that Susan was killed by a bullet fired by John. John is charged with the murder of Susan and attempted murder in respect of Peter. At his trial, John invoked the protection provided by section 42 of the Criminal Procedure and Evidence Act [Chapter 9:07].

Discuss the criminal liability of John.

[15 Marks]

Question 4

a) Discuss the circumstances in which a trial will take place in camera.

[5 Marks]

b) Explain the various methods and statutory requirements for the disposal of seized articles.

[5 Marks]

c) Explain the principle that an accused person must be present at his trial.

[5 Marks]

Question 5

There are a number of guidelines which have been developed over the years to ensure that identification parades are properly conducted. List ten (10) of those guidelines.

[10 Marks]

End of Examination