

A driver was stopped in traffic when he noticed a bicyclist riding quickly between the lanes of cars. To deter the bicyclist from continuing such dangerous behavior, the driver opened his car door as the bicyclist neared. The bicyclist, unable to stop, hit the door and fell, sustaining serious injuries.

In a jurisdiction that follows the common law definition of crimes, which is the most serious crime of which the driver can properly be convicted?

- A. Attempted murder.
- B. Attempted manslaughter.
- C. Battery.
- D. Assault.

Correct

Collecting Statistics

42 secsTime Spent

2023Version

### Explanation:

**Criminal battery** is the **unlawful application of force** to another that results in **harmful or offensive contact**. Here, to deter the bicyclist from riding between lanes, the driver opened his car door as the bicyclist neared, causing the bicyclist to collide with the car door and sustain serious injuries (harmful contact). Therefore, the driver can properly be convicted of battery.

**(Choice A)** A person is guilty of **attempt** if the person (1) had the specific intent to commit the crime, (2) took a substantial step toward completion of the crime, but (3) did not complete it. Here, there is no indication that the driver intended to kill the bicyclist. Therefore, he cannot be properly convicted of attempted murder.

**(Choice B)** Voluntary manslaughter is an *intentional* killing based on adequate provocation or imperfect self-defense. Therefore, to be properly convicted of *attempted* voluntary manslaughter, a defendant must have specifically intended to kill the victim (not seen here). And since a defendant's act cannot be both intentional (required for attempt) and negligent, there is no such crime as *attempted involuntary manslaughter*.

**(Choice D)** Assault occurs when a person (1) specifically intends to commit battery and takes a substantial step toward doing so or (2) intentionally places another in reasonable apprehension of imminent harmful or offensive contact. Here, the driver may have committed assault, but he also caused the bicyclist to suffer harmful contact. Therefore, the driver is guilty of the more serious offense of battery.

### Educational objective:

Criminal battery is the unlawful application of force to another that results in harmful or offensive contact.

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Harmful contact

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Offensive contact



Neither