Chapter 1 : Specific Criminal Offences

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An eavesdropping device is any device capable of being used to hear or record oral conversation or intercept, or transcribe electronic communications whether such conversation or electronic communication is conducted in person, by telephone, or by any other means; Provided, however, that this definition shall not include devices used for the restoration of the deaf or hard-of-hearing to normal or partial hearing. An eavesdropper is any person, including any law enforcement officer and any party to a private conversation, who operates or participates in the operation of any eavesdropping device contrary to the provisions of this Article or who acts as a principal, as defined in this Article. A principal is any person who: For the purposes of this Article, "private conversation" means any oral communication between 2 or more persons, whether in person or transmitted between the parties by wire or other means, when one or more of the parties intended the communication to be of a private nature under circumstances reasonably justifying that expectation. A reasonable expectation shall include any expectation recognized by law, including, but not limited to, an expectation derived from a privilege, immunity, or right established by common law, Supreme Court rule, or the Illinois or United States Constitution. For purposes of this Article, "private electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, pager, computer, electromagnetic, photo electronic or photo optical system, when the sending or receiving party intends the electronic communication to be private under circumstances reasonably justifying that expectation. Electronic communication does not include any communication from a tracking device. For purposes of this Article, "bait car" means any motor vehicle that is not occupied by a law enforcement officer and is used by a law enforcement agency to deter, detect, identify, and assist in the apprehension of an auto theft suspect in the act of stealing a motor vehicle. For purposes of this Article, "surreptitious" means obtained or made by stealth or deception, or executed through secrecy or concealment. Elements of the offense; affirmative defense. For the purposes of this subsection d , "penal institution" has the meaning ascribed to it in clause c 1 of Section 31A The following activities shall be exempt from the provisions of this Article: Such recordings must be destroyed, erased or turned over to local law enforcement authorities within 24 hours from the time of such recording and shall not be otherwise disseminated. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except i where a party to the conversation suffers great bodily injury or is killed during such conversation, or ii when used as direct impeachment of a witness concerning matters contained in the interception or recording. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of recordings, and reports regarding their use. Absent such a ruling, any such recording or evidence shall not be admissible at the trial of the criminal case; h Recordings made simultaneously with the use of an in-car video camera recording of an oral conversation between a uniformed peace officer, who has identified his or her office, and a person in the presence of the peace officer whenever i an officer assigned a patrol vehicle is conducting an enforcement stop; or ii patrol vehicle emergency lights are activated or would otherwise be activated if not for the need to conceal the presence of law enforcement. Under no circumstances shall any recording be altered or erased prior to the expiration of the designated storage period. No communication or conversation or any part, portion, or aspect of the communication or conversation made, acquired, or obtained, directly or indirectly, under this exemption j , may be, directly or indirectly, furnished to any law enforcement officer, agency, or official for any purpose or used in any inquiry or investigation, or used, directly or indirectly, in any administrative, judicial, or other proceeding, or divulged to any third party. When recording or listening

authorized by this subsection j on telephone lines used for marketing or opinion research or telephone solicitation purposes results in recording or listening to a conversation that does not relate to marketing or opinion research or telephone solicitation; the person recording or listening shall, immediately upon determining that the conversation does not relate to marketing or opinion research or telephone solicitation, terminate the recording or listening and destroy any such recording as soon as is practicable. Business entities that use a telephone monitoring or telephone recording system pursuant to this exemption j shall provide current and prospective employees with notice that the monitoring or recordings may occur during the course of their employment. The notice shall include prominent signage notification within the workplace. Business entities that use a telephone monitoring or telephone recording system pursuant to this exemption j shall provide their employees or agents with access to personal-only telephone lines which may be pay telephones, that are not subject to telephone monitoring or telephone recording. For the purposes of this subsection j , "telephone solicitation" means a communication through the use of a telephone by live operators: For the purposes of this subsection j , "marketing or opinion research" means a marketing or opinion research interview conducted by a live telephone interviewer engaged by a corporation or other business entity whose principal business is the design, conduct, and analysis of polls and surveys measuring the opinions, attitudes, and responses of respondents toward products and services, or social or political issues, or both; k Electronic recordings, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under Section A his or her full or partial name, nickname or B a physical description; or C failing either A or B of this paragraph 2 , any other supporting information known to the law enforcement officer at the time of the request that gives rise to reasonable cause to believe that the specified individual will participate in an inculpatory conversation concerning a qualified offense. No part of the contents of any wire, electronic, or oral communication that has been recorded or intercepted as a result of this exception may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision of the State, other than in a prosecution of: A the qualified offense for which approval was given to record or intercept a conversation under this subsection q ; B a forcible felony committed directly in the course of the investigation of the qualified offense for which approval was given to record or intercept a conversation under this subsection q ; or C any other forcible felony committed while the recording or interception was approved in accordance with this subsection q , but for this specific category of prosecutions, only if the law enforcement officer or person acting at the direction of a law enforcement officer who has consented to the conversation being intercepted or recorded suffers great bodily injury or is killed during the commission of the charged forcible felony. Whenever any private conversation or private electronic communication has been recorded or intercepted as a result of this exception that is not related to an offense for which the recording or intercept is admissible under paragraph 4 of this subsection q , no part of the contents of the communication and evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision of the State, nor may it be publicly disclosed in any way. For the purposes of this subsection q only: This subsection q is inoperative on and after January 1, No conversations intercepted pursuant to this subsection q , while operative, shall be inadmissible in a court of law by virtue of the inoperability of this subsection q on January 1, Any private conversation or private electronic communication intercepted by a law enforcement officer or a person acting at the direction of law enforcement shall, if practicable, be recorded in such a way as will protect the recording from editing or other alteration. The original recordings shall not be destroyed except upon an order of a court of competent jurisdiction; and r Electronic recordings, including but not limited to, motion picture, videotape, digital, or other visual or audio recording, made of a lineup under Section A-2 of the Code of Criminal Procedure of Recordings, records, and custody. The recording shall, if practicable, be done in such a way as will protect it from editing or other alteration. During an interception, the interception shall be carried out by a law enforcement officer, and the officer shall keep a signed, written record, including: The

written records of the interception or recording conducted under subsection g of Section shall not be destroyed except upon an order of a court of competent jurisdiction and in any event shall be kept for 10 years. Notice of interception or recording. Any evidence obtained in violation of this Article is not admissible in any civil or criminal trial, or any administrative or legislative inquiry or proceeding, nor in any grand jury proceedings; provided, however, that so much of the contents of an alleged unlawfully intercepted, overheard or recorded conversation as is clearly relevant, as determined as a matter of law by the court in chambers, to the proof of such allegation may be admitted into evidence in any criminal trial or grand jury proceeding brought against any person charged with violating any provision of this Article. Nothing in this Section bars admission of evidence if all parties to the private conversation or private electronic communication consent to admission of the evidence. Civil remedies to injured parties. This provision does not diminish the protections given to electronic accounts of a minor under any existing law other than this Article. Common carrier to aid in detection. Subject to regulation by the Illinois Commerce Commission, any common carrier by wire shall, upon request of any subscriber and upon responsible offer to pay the reasonable cost thereof, furnish whatever services may be within its command for the purpose of detecting any eavesdropping involving its wires which are used by said subscriber. All such requests by subscribers shall be kept confidential unless divulgence is authorized in writing by the requesting subscriber. Discovery of eavesdropping device by an individual, common carrier, private investigative agency or non-governmental corporation. Discovery of eavesdropping device by common carrier by wire - disclosure to subscriber.

(b) It shall be a defense under subsection (b) and subsection (c) of Section and subsection (d) of Section of this Code that the accused reasonably believed the person to be 17 years of age or over.

Criminal Justice Responses Alternatives to specific offences These include, for example, a lack of understanding of what elder abuse is, a reluctance to acknowledge and report elder abuse, and low rates of prosecution. Some of the reasons for under-reporting include that the victim is dependent on the perpetrator for their daily care and are fearful reporting may see them placed in a residential care facility, the shame associated with being a victim of elder abuse, fear of jeopardising relationships with family, and fear of retaliation. There may also be an inability of the older person to access police services to be able to report crime, and the ability to be able to communicate what has been happening to a police officer due to the abuser being the primary carer, the presence of cognitive impairment, or language and cultural barriers. Larry told the ECLC duty lawyer that this was the third time that the police had attended at his home in the last six months due to his being subjected to assaults by his adult son aged The assault that precipitated the recent police attendance had rendered Larry unconscious. Larry refused to admit that his son had assaulted him and claimed that he fell down the stairs. Larry said that the second time that the police attended, they had warned him that they would make an intervention order application on his behalf if they were called out to his home again. He was immensely embarrassed and feared that his son would be rendered homeless if he agreed to exclude him from the home as recommended by the police. Larry indicated that he understood that the police and ECLC were very concerned about his safety, but said that he loved his son too much to agree to exclude him from the home. When he appeared before the Magistrate, the Magistrate questioned Larry closely on his safety. In the questioning, the Magistrate deduced that even if Larry were to have a full intervention order excluding the son from the home, that Larry would still allow him to stay. Such initiatives should be combined with initiatives to enhance community awareness of elder abuse as part of a National Plan. This report informs the action to be taken by Victoria Police. The report guides police through a risk assessment and risk management process, including: We had a matter recently in Ku-ring-gai where an abusive relative was appropriately charged with a domestic violence offence against an older person. The constables, in their keenness, removed the offender from the homeâ€”as they normally wouldâ€”and left the older person alone. We relied upon the assistance of an inspector who worked in the command â€¦ who was able to step in, amend the bail conditions, intervene appropriately, remedy the situation and train the constables as to what better approach could have been taken. During the trial, police officers use a tiered screening tool to determine when a family violence incident should be referred to the family violence specialist team as well as the appropriate response by the specialist team. The tool includes two parts: Part A is to be completed by frontline police at the scene of the incident to determine whether to refer the matter on; and Part B is to be completed by the family violence specialist team to prioritise risk. Six questions rely on interviewing the victim, three questions rely on police observation, and the remaining five questions rely on a review of crime databases to ascertain matters such as relevant criminal history. If the assessment results in a score of four or more, the matter is referred to a specialist team. If the assessment results in a score of four or more, the specialist team will assign a more fine-grained risk prioritisation. WA Police suggested that this might include participating in interagency activities, developing proactive approaches which harness responses and resources available elsewhere within the government and community sector, and engaging in community awareness activities. Recognising the time constraints on frontline police, the establishment of specialist positions or units provides an opportunity for greater engagement in such networks. They are usually defined as witnesses with intellectual or cognitive impairment, children, or special classes of victims such as victims of sexual assault. Stakeholders responding to the Discussion Paper suggested that such mechanisms be improved. The Royal Commission into Family Violence supported strengthening the role of specialist officers, recommending that career structures within Victoria Police reflect the role of specialist family violence liaison officers as core business: Police also retain a discretion to refer a matter to a specialist team if the score falls below this threshold. Section 21B of the

Evidence Act 16â€”

Chapter 3 : OUP Companion web site:Part B: Offences

Updates to Part B: A decision by the court to alter the common law so as to create a defence to murder in the case of active voluntary euthanasia would be to introduce a major change in an area where there are strongly held conflicting views, where Parliament has rejected attempts to introduce such a change, and where the result would be to create uncertainty rather than certainty. To do so would be to usurp the role of Parliament. One purpose of amendments was to ensure a greater equilibrium between the law and medical science. The issue is the level of mental functioning of the defendant, which must arise from a recognised medical condition, rather than an abnormality of mind. We do not think that it does. In this case the appellant, B, killed his wife in a deliberate, savage and clearly pre-meditated attack, after which he concealed her body in a grave he had prepared for her. Such a disorder is recognised in the International Classification of Diseases, and is a recognised medical condition. The overriding factor, on that evidence, was abnormality of mental functioning caused by the adjustment disorder. But after the verdict of manslaughter was given he went on to impose a heavy sentence of 24 years, plus two more for obstructing the coroner. Dowds [] EWCA Crim confirms that under the new law on diminished responsibility, as under the old, voluntary intoxication, uncomplicated by any alcoholism or dependence, is incapable of founding diminished responsibility. As Lord Judge CJ explained: To seek to compartmentalise sexual infidelity and exclude it when it is integral to the facts as a whole is not only much more difficult, but is unrealistic and carries with it the potential for injustice. Appleby we consider has created a situation in which there has now been a step change in the tariff of sentencing in such cases, each of which of course ultimately rests on its own particular facts, but in general by reference to a proper consideration of the consequences of the offence, in cases such as these of course the fatal consequences of the offence. The Act amends s. The amendment is not yet in force. Procedure The circumstances in which a count for common assault may be joined to other counts in an indictment under the CJA , s. Prosecutors may invoke this charge in grave cases where the penalties for dangerous driving under the RTA may be considered insufficient. The offenders in question were in their early 20s and had had criminal records for offences such as affray and possession of offensive weapons, but had not been the ringleaders. They eventually pleaded guilty, on the third day of the trial, to charges of conspiracy to cause grievous bodily harm with intent, but did so only after seeking disclosure of evidence concerning the criminal backgrounds of their principal victims. On a reference by the A-G, the Court of Appeal agreed with the contention that this had to be categorised as a category one case. The lowest starting point was therefore 9 or 10 years. Even taking the lower of the two, and allowing for a small reduction for the late guilty pleas, the sentences were still unduly lenient. Sentencing guidelines Fadairo [] EWCA Crim provides an example of a case in which the judge was fully entitled to sentence far more severely than would ordinarily be indicated by the relevant sentencing guideline. Various aggravating factors in this case including the fact that D was attempting to blind his victim by stabbing him in the eye meant that a sentence of 11 years in a young offender institution was not excessive even though the actual wound inflicted proved relatively minor and would otherwise fall within Category 2 of the guideline. Sentence The relationship between kidnapping and child abduction by a parent was examined in Kayani [] EWCA Crim , in which the court noted that some such offences may also involve contempt of court. Defences The scheme of the Child Abduction Act , s. Where D acts for a number of purposes he must look instead to s. B3 Sexual Offences B3. General In H [] EWCA Crim , the Court of Appeal heard eight appeals involving sentencing for cases of historic sexual abuse and issued further guidance as to sentencing in such cases. In the course of a long and complex judgment, Lord Judge CJ issued this statement of the guiding principles to be applied: We further suggest that reference to earlier decisions is unlikely to be helpful, and, again dealing with it generally, to be discouraged. Subsequent decisions of this court which do not expressly state that they are intended to amend or amplify this guidance should also be treated as fact specific decisions, and therefore unlikely to be of assistance to court. Similarly, if maximum sentences have been reduced, as in some instances, for example theft, they have, the more severe attitude to

the offence in earlier years, even if it could be established, should not apply. Due allowance for the passage of time may be appropriate. If, for example, the offender was very young and immature at the time when the case was committed, that remains a continuing feature of the sentencing decision. Similarly if the allegations had come to light many years earlier, and when confronted with them, the defendant had admitted them, but for whatever reason, the complaint had not been drawn to the attention of, or investigated by, the police, or had been investigated and not then pursued to trial, these too would be relevant features. However the circumstances in which the facts come to light varies, and careful judgment of the harm done to the victim is always a critical feature of the sentencing decision. On the other hand, mitigation may be found in an unblemished life over the years since the offences were committed, particularly if accompanied by evidence of positive good character. Just because they relate to facts which are long passed, the defendant will inevitably be tempted to lie his way out of the allegations. It is greatly to his credit if he makes early admissions. Even more powerful mitigation is available to the offender who out of a sense of guilt and remorse reports himself to the authorities. Considerations like these provide the victim with vindication, often a feature of great importance to them. He did not know her well. He had met her a couple of times before but there had never before been any sexual activity between them. He nevertheless tried to argue that he had believed she would consent. Lord Judge CJ explained the operation of s. It was suggested that section 75 of the Act reverses the ordinary principles relating to the burden of proof in criminal cases. We do not agree. Section 75 is an evidential provision. It relates to matters of evidence, and in particular evidential presumptions about consent in circumstances where, as we have already indicated, as a matter of reality and common sense, the strong likelihood is that the complainant will not, in fact, be consenting. If, however, in those circumstances there is sufficient evidence for the jury to consider, then the burden of disproving them remains on the prosecution. The Court of Appeal agreed with the trial judge. There was accordingly no evidence capable of rebutting the evidential presumption. Clarke is also noted in this update at F The question which then arose was whether A would in English law have been guilty of raping B if B had consented only to protected sex, but A, without her knowledge, failed to use a condom, or at some point removed the condom he had initially worn. If the conduct of the defendant is not within s. B goes no further than deciding that failure to disclose HIV infection is not of itself relevant to consent under s. On each of those issues, it is clear that it is the prosecution case she did not consent and he had no or no reasonable belief in that consent. Those are issues to which s. Furthermore it does not matter whether the sexual contact is described as molestation, assault or, since it involved penile penetration, rape. The dual criminality issue is the absence of consent and the absence of a reasonable belief in consent. Those issues are the same regardless of the description of the conduct. The Court saw no reason for a judge in such a case to impose anything less than a severe custodial sentence, the primary object of which would be punishment and deterrence. In relation to the issues raised by the decision in Porter, any problems can be resolved if the indictment addresses the deletion issue by alleging possession of the indecent image over a period covering either the date of the deletion if it can be established or between the dates when the defendant assumed control of the computer and the date when the images were found. If that were done, although that would not be the end of the case, it would be open to the defendant to advance any of the statutory defences provided in [the CJA] s. And if the defendant had truly tried to rid himself of the material that would be likely to provide sufficient mitigation. Images and video clips were found on his computer showing a young woman having sex with horses and dogs. On the contrary, said the Court, the women involved are often trafficked or forced into their involvement. The violin was never recovered and was not insured for its full value. D-N dropped his cycle and fled, pursued by members of the gang, who later returned and made off with the cycle. But they apparently did not keep it for long, because it was found abandoned by a bus shelter only 50 yards away. V and his friends were charged with robbery but argued that they had lacked any intention to permanently deprive D-N of his property; and although there had evidently been force and threats of further force, it was argued that this had not been used or threatened for the purpose of taking the bicycle. The judge however rejected a submission of no case to answer and the Court of Appeal held that he had been right to do so. There was evidence from which the jury might infer that the defendants used or threatened force in order to steal, dishonestly appropriated the bicycle by taking it, and either intended to

permanently to deprive D-N of it or treated it as their own to dispose of regardless of his rights. He had left to the jury the option of concluding that the act of theft was completed only when the cycle was abandoned. If the theft was committed only at the moment of abandonment, the prosecution case of robbery was fatally undermined. In those circumstances the prosecution could not prove that force or the threat of force was used before or at the time of and in order to steal. That sufficed to dispose of the appeal the Court did not think it appropriate to substitute convictions for taking a pedal cycle or theft , but Pitchford LJ went on to examine the scope of the Theft Act , s. What section 6 1 requires is a state of mind in the defendant which Parliament regards as the equivalent of an intention permanently to deprive All the offenders had entered early guilty pleas. Despite the very high profile nature of both the disturbances themselves, and the resulting Court of Appeal case, it is submitted that the judgment offers little more than a general indication that cases of this type will be treated severely, and in some cases more severely than the SGC guideline might otherwise suggest. It is very simple. Those who deliberately participate in disturbances of this magnitude, causing injury and damage and fear to even the most stout-hearted of citizens, and who individually commit further crimes during the course of the riots are committing aggravated crimes. They must be punished accordingly, and the sentences should be designed to deter others from similar criminal activity. Sentencing Guidelines The Sentencing Council for England and Wales has issued a definitive guideline on burglary aggravated burglary, domestic burglary and non-domestic burglary. It applies to offenders sentenced on or after 16 January who are aged 18 or over. It can be accessed at http: The guideline has however, been produced in two different versions to fit within existing formats for judges and magistrates. A conviction for burglary under the Theft Act , s. The theft of cabling on the railway and underground systems has become an ever increasing problem. Operators and members of the public may be endangered or put to great inconvenience as a result of such thefts. In respect of these, Lord Judge CJ said: None of these cases of dishonest handling involves someone who handled stolen goods by way of encouragement of the commission of burglary and theft as part of the disorder. Rather each represents opportunistic involvement after the burglaries had occurred, and although in close proximity to the scenes of disorder, the appellants did not participate or contribute to them. The connection between the offences which they committed and the burglary and theft committed during the disorders takes them outside the ordinary guidelines for handling offences, but not every handling offence committed during the public disorder was as intrinsic to it as, say, the burglaries of shops which had been smashed and looted. The sentences must recognise these distinctions. Despite the very high profile nature of both the disturbances themselves, and the resulting Court of Appeal case, it is submitted that this case offers little more than a general indication that cases of this type will be treated more severely than offences occurring outside the context of a riot situation. B5 Fraud, Blackmail and Deception B5.

DOWNLOAD PDF PART B: SPECIFIC OFFENCES

Chapter 4 : CRIMES ACT - SECT B Offences of specific intent to which Part applies

B Offences of specific intent to which Part applies (1) An "offence of specific intent" is an offence of which an intention to cause a specific result is an element. (2) Without limiting the generality of subsection (1), the offences referred to in the Table to this section are examples of offences of specific intent.

What Is Medicare Part B? This can include outpatient care, preventive services, ambulance services, and durable medical equipment. It also covers part-time or intermittent home health and rehabilitative services, such as physical therapy, if they are ordered by a doctor to treat your condition. If you are not eligible for premium-free Medicare Part A, you can qualify for Medicare Part B by meeting the following requirements: You must be 65 years or older. You must be a U. S for at least five continuous years. You may also qualify for automatic Medicare Part B enrollment through disability. You may have to pay a late enrollment penalty for not signing up when you were first eligible. Once you are enrolled in Medicare Part B, be careful not to miss this one-time initial guaranteed-issue enrollment period for Medigap. If you are still working, you should check with your health benefits administrator to see how your insurance would work with Medicare. If you delay enrollment in Medicare Part B because you already have current employer health coverage, you can sign up later during a Special Enrollment Period without paying a late penalty. You can enroll in Medicare Part B at any time that you are still covered by a group plan based on current employment. Keep in mind that retiree coverage and COBRA are not considered health coverage based on current employment and would not qualify you for a special enrollment period. Your eight-month Part B special enrollment period begins immediately after your current employment or group plan ends whichever comes first. Medicare Part B premiums Medicare Part B premiums may change from year to year, and the amount can vary depending on your situation. For many people, the premium is automatically deducted from their Social Security benefits. If you were enrolled in Medicare Part B before and are receiving Social Security benefits, your monthly premium will typically be lower than the standard premium described below. You enrolled in Medicare Part B for the first time in You get billed for your Part B premium instead of having it automatically deducted from your Social Security benefits. Your income exceeds a certain amount. Your premium could be higher than the amount listed above, as there are different premiums for different income levels. See below for more details about the Medicare Part B premium. If you are receiving Social Security, Railroad Retirement Board, or federal retirement benefits, your Part B premium will be deducted directly from your monthly benefit. If not, you will be sent a bill every three months. The chart below shows the Medicare Part B monthly premium amounts, based on income. These amounts may change each year. A late enrollment penalty may be applicable if you did not sign up for Medicare Part B when you were first eligible. Medicare Part B monthly premium in Source:

Chapter 5 : Part I Offenses

Disclaimer: While every effort has been made to ensure that the information contained in this site is accurate and current, readers should consult with a qualified attorney before acting on any such information.

General provisions concerning offenses described in Sections Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section of this Code or the provisions of Section of the Juvenile Court Act of The medical tests shall be performed only by appropriately licensed medical practitioners. The testing shall consist of a test approved by the Illinois Department of Public Health to determine the presence of HIV infection, based upon recommendations of the United States Centers for Disease Control and Prevention; in the event of a positive result, a reliable supplemental test based upon recommendations of the United States Centers for Disease Control and Prevention shall be administered. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall be taxed as costs against the accused if convicted. A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection. No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected. Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph A to apply. B A person who is convicted of the offense of criminal sexual assault as defined in paragraph a 1 or a 2 after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph a 1 or a 2 after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph B to apply. C A second or subsequent conviction for a violation of paragraph a 3 or a 4 or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph a 3 or a 4 is a Class X felony. Aggravated Criminal Sexual Assault. A violation of subsection a 1 is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection a 8 is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection a 9 is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection a 10 is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph 2 to apply. Predatory criminal sexual assault of a child. A person convicted of a violation of subsection a 2 A commits a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection a 2 B commits a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection a 2 C commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years or up to a term of natural life imprisonment. Criminal sexual abuse for a violation of subsection b or c of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph 1 or 2 of subsection a of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection a of this Section is a Class 2 felony. For purposes of this Section it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense

involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section. Aggravated Criminal Sexual Abuse. Aggravated criminal sexual abuse is a Class 2 felony. Defenses with respect to offenses described in Sections Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent. No victim may recover in any such action unless he or she proves by a preponderance of the evidence that: However, if the victim was under the age of 18 years at the time of the conviction of the defendant for a violation of Section Indecent solicitation of a child. As used in this Section: Indecent solicitation of a child under subsection a is: Indecent solicitation of an adult.

Chapter 6 : Part 3 New York State Penal Law | Specific Offenses | NY Law

offenses contained in Section of the Criminal Code of as of the effective date of this amendatory Act of the 97th General Assembly, and only as those offenses have been defined by law or judicial interpretation as of that date.

Murder is the unlawful killing of one human being by another. In , 19, murders came to the attention of police departments in the United States. Forcible rape is the least reported of all violent crimes. Robbery is the unlawful taking or attempted taking of property that is in the possession of another, by force or the threat of force. Guns are fired in 20 percent of robberies. Aggravated assault involves the unlawful, intentional inflicting, or attempted or threatened inflicting, of injury upon another person. In an aggravated assault, the perpetrator either uses a weapon or hurts the victim so badly that the victim requires medical assistance. Burglary is unlawful entry of a structure, vehicle, or vessel without force, with intent to commit a felony. It includes such crimes as shoplifting, pocket picking, purse snatching, and bike stealing. Motor vehicle theft is the unlawful taking or attempted taking of a vehicle owned by another with the intent to deprive the owner of it. Arson is the burning or attempted burning of property with or without the intent to defraud. Sources of Information on Crime Two sources of information, compiled by the federal government, provide data on crime in the United States. The Victimization Survey picks up crimes not reported to the police. Part I crimes are reported in terms of arrests. Part II includes, but is not limited to, some victimless crimes. During , law enforcement agencies made about 15 million arrests for Part II crimes. In , the Crime Index was Nonviolent property crimes made up almost 90 percent of the total number of index offenses. The crime rate, or the number of Part I offenses that occurred in a given area for every , people living in the area, is calculated as follows: The UCR also figures crime rates for specific crimes. For example, the national murder rate in was murders per , people. What does it mean when the official Part I crime rate increases? One or more of three things can be happening: More people are committing crimes. Offenders have higher individual crime rates. A higher proportion of crimes committed are being reported or recorded. An advantage of the UCR is that it includes homicides in its calculation of the violent crime rate which the NCVS by its nature cannot. Thus, UCR estimates of the volume and rates of crime are always lower than the actual frequencies of such occurrences because crime is subject to both nonreporting by citizens and nonrecording by the police. Trends in official statistics may be the result of changes in public reporting and police recording practices, not of actual changes in the amount of crime. It asks residents of the United States about their victimizations from crime and reports on rape, sexual assault, robbery, both simple and aggravated assault, theft, household burglary, and motor vehicle theft. It omits murder and drug crimes. The latter is an important omission because a shift in criminal activity from an included crime for example, burglary or robbery to drug dealing would appear as a decrease in the overall crime rate when no actual decrease had occurred. NCVS data reveal the following facts about crime and victimization. The actual amount of crime is several times greater than the UCR shows. Crime touches about 23 million households in the United States each year. Violent criminal victimizations are extremely rare events. Most crimes against individuals are absorbed by the victims without reporting them to the police. Crime Decreases One of the bigger myths about crime is that it is always increasing. The UCR shows that serious crime fell across the nation in , the sixth consecutive annual decrease. Violent crimes declined by 5 percent, led by 9 percent decreases in murders and robberies. Property crimes declined by 4 percent, led by an 8 percent drop in arson. Similarly, the NCVS shows that the number of violent crimes fell more than 9 percent in Violent victimizations dropped from Why is crime decreasing?

Chapter 7 : What Is Medicare Part B?

NIBRS defines and collects many specific sex offenses, including such crimes as sodomy, sexual assault with an object, and fondling, and sex offenses, nonforcible, including such crimes as statutory rape and incest.

A person is guilty of unlawfully dealing with a child when: Unlawfully dealing with a child is a class B misdemeanor. A person is guilty of endangering children when the person negligently abandons or leaves unattended in any place accessible to children any refrigerator, icebox or similar airtight box or container which has a locking device inoperable from within, without first unhinging and removing the door or lid thereof or detaching the locking device from the door or lid. Nothing in this section prohibits the normal use of a refrigerator, icebox or freezer for the storage of food. Endangering children is an unclassified misdemeanor. A person is guilty of sexual exploitation of a child when: Sexual exploitation of a child is a class B felony. A person is guilty of dealing in child pornography when: The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination; 4 The person, intentionally compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses any photograph, image, file, data or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act. Unlawfully dealing in child pornography is a class B felony. A person is guilty of possession of child pornography when: Possession of child pornography is a class F felony. Standing, sitting idly, whether or not the person is in a vehicle, or remaining in or around school property, while not having reason or relationship involving custody of or responsibility for a pupil or any other specific or legitimate reason for being there; or b. Standing, sitting idly, whether or not the person is in a vehicle, or remaining in or around school property, for the purpose of engaging or soliciting another person to engage in sexual intercourse, sexual penetration, sexual contact, or sexual harassment, sexual extortion, or indecent exposure. Criminal nonsupport is a class B misdemeanor unless the person has previously been convicted of the same offense or the offense of aggravated criminal nonsupport, in which case it is a class A misdemeanor. Aggravated criminal nonsupport is a class A misdemeanor, unless any 1 of the following aggravating factors is present, in which case aggravated criminal nonsupport is a class G felony: Unemployment or underemployment with justifiable excuse shall constitute a defense to any prosecution for criminal nonsupport or aggravated criminal nonsupport. If a support order has been entered, a fine paid pursuant to this subsection shall be applied in accordance with the support order. The amount of restitution is the arrearages that accrued under a support order during the time period for which the person was convicted of criminal nonsupport or aggravated criminal nonsupport, or, if there is no support order, an amount determined to be reasonable by the court. The Court of Common Pleas shall have original jurisdiction over these offenses for those 18 years of age or older, and the Family Court shall have original jurisdiction for those under the age of 18 at the time of the offense. A photocopy of the identification shall be attached to the information card that a customer shall complete at the time that the tattoo, body-piercing or branding is obtained. An indelible mark made upon the body of another person by the insertion of a pigment under the skin. An indelible design made upon the body of another person by production of scars other than by branding. Tongue-splitting in the first degree is a class A misdemeanor. Tongue-splitting in the second degree is a class B misdemeanor. Failure of the accused to present a photocopy of the identification to the court when raising a defense under this subsection shall be affirmative proof that no such identification exists. A person engaged in the sale or distribution of tobacco products or tobacco substitutes shall post conspicuously at each point of purchase and each tobacco vending machine a notice stating that selling tobacco products or tobacco substitutes to anyone under 18 years of age is illegal, that the purchase of tobacco products or tobacco substitutes by anyone under 18 years of age is illegal and that a violator is subject to fines. The notice shall also state that all persons selling tobacco products or tobacco substitutes are required, under law, to check the proof of age of any purchaser of tobacco products or tobacco substitutes under the age of 27 years. The notice shall include a toll-free telephone number to the Department of Safety and Homeland Security for persons to report unlawful sales of tobacco products or tobacco substitutes. A tobacco vending machine must be operated

a minimum of 25 feet from any entrance to the premises and must be directly visible to the owner or supervisor of the premises. This prohibition shall not apply to business establishments to which persons under the age of 18 are not admitted unless accompanied by an adult, tobacco vending machines as permitted under subsection b of this section, or tobacco stores. As used in this subsection, "under the control" means customers cannot readily access the tobacco products or tobacco substitutes without the assistance of a cashier or other employee. A display that holds tobacco products or tobacco substitutes behind locked doors shall be constructed as under the control of a cashier or other employee. Upon the suspension of such license, the court shall advise the Department of Finance of the suspension in writing. The holder of the license shall surrender the license to the Department of Finance and no refund of fees shall be paid. For purposes of this subpart, a subsequent offense is one that occurs within 12 months of a prior like offense. In any prosecution for an offense under this subpart, it shall be an affirmative defense that the purchaser or recipient of tobacco products or tobacco substitutes who had not reached the age of 18 years presented to the accused proof of age which set forth information that would lead a reasonable person to believe that such individual was 18 years of age or older. For purposes of determining the liability of a person who owns or controls franchises or business operations in multiple locations, for a second or subsequent violation of this subpart, each individual franchise or business location shall be deemed a separate establishment. A subsequent adjudication of delinquency is one that occurs within 12 months of a prior like offense. The contract shall require the inspection and enforcement activities of the local law-enforcement agency to comply with this subpart and with all applicable laws. A copy of this report shall be available to the Governor and the General Assembly. The Justices of the Peace Court shall have jurisdiction over violations of this subpart, except in the instance of violations by a person who has not attained the age of 18, in which case the Family Court shall have jurisdiction. The provisions of this subpart shall preempt and supersede any provisions of any municipal or county ordinance or regulation on the subject of this subpart enacted after June 30,

Chapter 8 : Part B. Offenses Directed Against the Person | calendrierdelascience.com

part b INTERIM DISQUALIFYING INCARCERATION OFFENSES Conviction for one of the following felonies is disqualifying if the applicant was convicted, pled guilty (including 'no contest'), or found not guilty by reason of insanity within seven years of the date of the application; OR if the applicant was released from incarceration after.

Definitions[edit] Intent is defined in Canadian law by the ruling in R v Mohan as "the decision to bring about a prohibited consequence. The mental element, or mens rea , of murder , for example, is traditionally expressed as malice aforethought , and the interpretations of malice , "maliciously" and "willful" vary between pure intent and recklessness or negligence ,[citation needed] depending on the jurisdiction in which the crime was committed and the seriousness of the offence. The intent element of a crime, such as intent to kill, may exist without a malicious motive , or even with a benevolent motive, such as in the case of euthanasia. A person who plans and executes a crime is considered, rightly or wrongly, a more serious danger to the public than one who acts spontaneously perhaps because they are less likely to get caught , whether out of the sudden opportunity to steal, or out of anger to injure another. But intent can also come from the common law viewpoint as well. The test of intent[edit] The policy issue for those who administer the criminal justice system is that, when planning their actions, people may be aware of many probable and possible consequences. Obviously, all of these consequences could be prevented through the simple expedient either of ceasing the given activity or of taking action rather than refraining from action. So the decision to continue with the current plan means that all the foreseen consequences are to some extent intentional, i. For example, suppose that A, a jealous wife, discovers that her husband is having a sexual affair with B. B dies in the resulting fire. A is shocked and horrified. It did not occur to her that B might be physically in danger and there was no conscious plan in her mind to injure B when the fire began. If A had genuinely wished to avoid any possibility of injury to B, she would not have started the fire. Or, if verbally warning B to leave was not an option, she should have waited until B was seen to leave the house before starting the fire. As it was, she waited until night when it was more likely that B would be at home and there would be fewer people around to raise the alarm. Whereas intent would be less if A had set fire to the house during the day after ringing the doorbell to check no one was home and then immediately ringing the fire brigade to report the fire. The reasonable person would have foreseen a probability that people would be exposed to the risk of injury. Anyone in the house, neighbours, people passing by, and members of the fire service would all be in danger. The court therefore assesses the degree of probability that B or any other person might be in the house at that time of the night. The more certain the reasonable person would have been, the more justifiable it is to impute sufficient desire to convert what would otherwise only have been recklessness into intent to constitute the offence of murder. But if the degree of probability is lower, the court finds only recklessness proved. Some states once had a rule that a death that occurred during commission of a felony automatically imputed sufficient mens rea for murder. This rule has been mostly abolished, and direct evidence of the required mental components is now required. Thus, the courts of most states use a hybrid test of intent, combining both subjective and objective elements, for each offence changed. A court or jury, in determining whether a person has committed an offence, a shall not be bound in law to infer that he intended or foresaw a result of his actions by reasons only of its being a natural and probable consequence of those actions; but b shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances. Under s8 b therefore, the jury is allowed a wide latitude in applying a hybrid test to impute intent or foresight for the purposes of recklessness on the basis of all the evidence. See Intention in English law. There must be a culpable mental state and being accepting of the mens rea to hold a conviction. Offenses of basic and of specific intent[edit] In some states, a distinction is made between an offense of basic sometimes termed "general" intent and an offense of specific intent. Offenses requiring basic intent specify a mens rea element that is no more than the intentional or reckless commission of the actus reus. The actor either knew intended or deliberately closed his mind to the risk recklessness that his action actus reus would result in the harm suffered by the victim. The crime of battery , for example, only

requires the basic intent that the actor knew or should have known that his action would lead to harmful contact with the victim. A limited number of offences are defined to require a further element in addition to basic intent, and this additional element is termed specific intent. There are two classes of such offences: Thus, in addition to the conventional mens rea of intent or recklessness, a further or additional element is required. For example, in English law , s18 Offences against the Person Act defines the actus reus as causing grievous bodily harm but requires that this be performed: The rationale for the existence of criminal laws is as a deterrent to those who represent a danger to society. If an accused has actually committed the full offense, the reality of the danger has been demonstrated. But, where the commission of the actus reus is in the future and the accused is merely acting in anticipation of committing the full offense at some time in the future, a clear subjective intent to cause the actus reus of the full offense must be demonstrated. Without this specific intent, there is insufficient evidence that the accused is the clear danger as feared because, at any time before the commission of the full offense, the accused may change their mind and not continue. Hence, this specific intent must also be demonstrated on a subjective basis. At times a forensic psychiatric examination may be helpful in ascertaining the presence or absence of mens rea in crimes which require specific intent. A person is now held to intend a consequence obliquely when that consequence is a virtually certain consequence of their action, and they knew it to be a virtually certain consequence. The first leg of this test has been condemned as unnecessary: This has two applications: When a person is planning to achieve a given consequence, there may be several intermediate steps that have to be taken before the full result as desired is achieved. It is not open to the accused to pick and choose which of these steps are or are not intended. The accused is taken to intend to accomplish all outcomes necessary to the overall plan. Similarly, he may never consciously have considered the damage to the window, but both the murder and the damage under the Criminal Damage Act are intended. This is distinguishing between the direct intent, which is the main aim of the planâ€”and the oblique intent, which covers all intermediate steps. More generally, someone directly intends a consequence when their purpose or aim is to cause it, even though they believe the likelihood of success is remote. In R v Dadson, for example, the defendant shot at a man he wrongly believed was out of range. In this situation, the accused is taken to have intended all of the additional consequences that flow naturally from the original plan. This is tested as matters of causation and concurrence , i. Unconditional intent and conditional intent[edit] Unconditional Intent: For example, a couple is planning to have an outdoor wedding, but they also reserved an indoor facility in the unlikely condition of bad weather. The unconditional intent is to have the wedding outside. The conditional intent is to have the wedding inside on the condition of bad weather. The unconditional intent was to carjack without harm to the driver. The conditional intent was to carjack and cause harm to the driver if the driver became uncooperative. In other situations especially regarding specific intent crimes that have "with intent to" in their definition , intent may be considered to refer to purpose only.

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Chapter 9 : Alternatives to specific offences | ALRC

Part B covers 2 types of services. Medically necessary services: Services or supplies that are needed to diagnose or treat your medical condition and that meet accepted standards of medical practice.

The committee determined seven crimes fundamental to comparing crime rates: The first report in January reported data from cities throughout 43 states, covering more than 20 million individuals, approximately twenty percent of the total U. Since , the FBI served as a data clearinghouse; organizing, collecting, and disseminating information voluntarily submitted by local, state, federal and tribal law enforcement agencies. The UCR remained the primary tool for collection and analysis of data for the next half century. The purpose was to determine necessary system revisions and then implement them. The result of these conferences was the release of a Blueprint for the Future of the Uniform Crime Reporting Program release in May , detailing the necessary revisions. The report proposed splitting reported data into two separate categories, the eight serious crimes which later became known as "Part I index crimes" and 21 less commonly reported crimes which later became known as "Part II index crimes". In , FBI UCR data were compiled from more than 16, agencies, representing 93 percent of the population [5] in 46 states and the District of Columbia. Data collection[edit] Each month, law enforcement agencies report the number of known index crimes in their jurisdiction to the FBI. This mainly includes crimes reported to the police by the general public, but may also include crimes that police officers discover, and known through other sources. Law enforcement agencies also report the number of crime cases cleared. Part I offenses and Part II offenses. Aggravated assault , forcible rape , murder , and robbery are classified as violent while arson , burglary , larceny-theft , and motor vehicle theft are classified as property crimes. In Part II, the following categories are tracked: Two property reports are also included with the Return A. The first is the Property Stolen by Classification report. This report details the number of actual crimes of each type in the Return A and the monetary value of property stolen in conjunction with that crime. Some offenses are reported in greater detail on this report than on the Return A. For example, on the Report A, burglaries are divided into three categories: On the Property Stolen by Classification report, burglaries are divided into six categories based on location type and the time of the offense. Offenses are counted in residences with offense times of 6 p. The second property report is the Property Stolen by Type and Value report. The monetary value of both stolen and recovered property are totaled and classified as one of eleven property types: