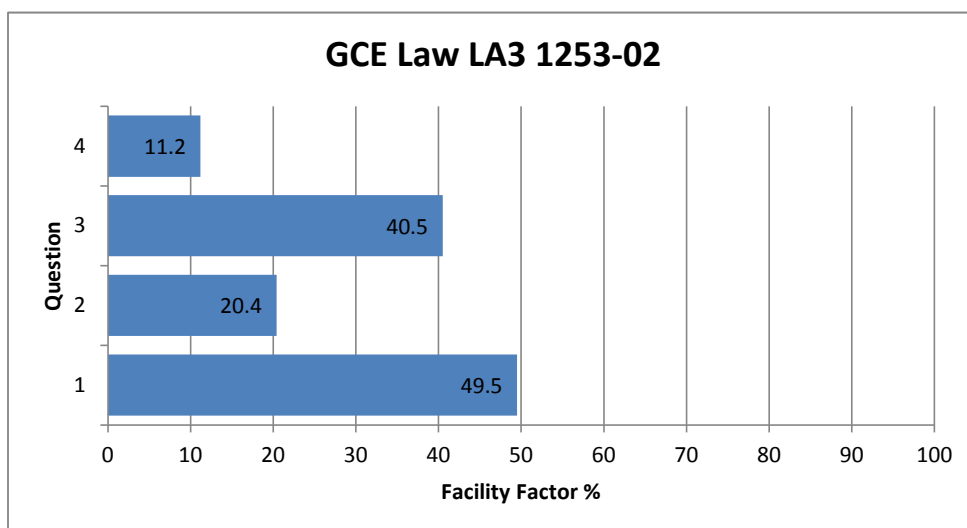


GCE Law LA3 1253-02

All Candidates' performance across questions

						
<i>Question Title</i>	<i>N</i>	<i>Mean</i>	<i>S D</i>	<i>Max Mark</i>	<i>F F</i>	<i>Attempt %</i>
1	648	12.4	6.9	25	49.5	98.8
2	628	5.1	7.3	25	20.4	95.7
3	640	10.1	8	25	40.5	97.6
4	628	2.8	5.7	25	11.2	95.7



Option 2: Criminal Law and Justice

Answer two questions.

1. Study the text below and answer the questions based on it.

Jason was driving along a motorway when he was suddenly forced to swerve on to the hard shoulder to avoid being hit by a van which was being driven by Brian. Furious, Jason chased after the van and rammed it from behind. The impact of the collision caused Brian to lose control of the van and crash into the concrete pillar of a motorway bridge, suffering serious injuries to his head and chest. The emergency services quickly arrived on the scene, and the air ambulance was summoned to take Brian to hospital by helicopter. Brian was placed in the helicopter under the care of Amy, a paramedic, who administered oxygen to him throughout the flight. However, as the helicopter was coming in to land, Brian's condition began to deteriorate sharply. Amy panicked, and increased the amount of oxygen that Brian was receiving. This was the wrong thing to do under the circumstances, and Brian later died from a combination of the injuries sustained in the accident and the excessive level of oxygen in his brain.

- ☐ ☐ In the light of reported case law and other sources of law, consider whether Jason might be criminally liable for the death of Brian. [14]
- ☐ ☐ Explain the process of selecting a jury in the crown court. [11]

1 1

^{Brian (B)}
~~Jason (J)~~ has died therefore homicide will be discussed. It appears once Jason (J) has the mens rea for murder.

Lord Coke defines murder as one unlawfully ^{Killing} ~~causing death~~ to another human being with malice aforethought.

The Actus Reus (AR) for murder is; unlawfully causing death to another human being under the Queen's peace within any country of realm.

~~Causation in the mens rea for murder~~
is held to be two things in Moloney; as expressed malice (intention to kill) and implied malice (intention to cause GBH) (ABH). GBH is defined in Saunders as 'serious' harm.

It appears that J has the mens rea to cause GBH (Grievous bodily harm) with direct intention.

Causation is established in ~~fact~~ ^{fact} White, Kimsey and in law Merchant and Muntz. However, there are possible novus actus interveniens in the form of the paramedic giving excessive level of oxygen to Brian ~~due to washing to a concrete pillar of motorway~~.

In Pagett it was held that only extraordinary events will break the chain of causation.

Firstly, the paramedic panicked and gave B an excessive level of oxygen. This act of intervention is in the category of actus non medical ~~not~~ third party (medical profession). Jordan principle applies as the mistake done by one paramedic was 'palpably wrong' breaking the chain of causation therefore J is no longer liable.

~~Secondly~~

~~But~~ Jason (J) can plead loss of control. Loss of control is contained under s54 of Coroners and Justice Act 2009 and it was previously contained under s3 of Homicide Act 1977. It was known as provocation however s56 abolished this. ~~Only now~~

Loss of control is a special and partial defence. ~~because~~ It is special because it is only available to murder and partial because if successful, it will not result in a full acquittal but the conviction reduced to voluntary manslaughter.

~~There are three elements to satisfy~~
Firstly Jason must satisfy three elements to plead loss of control:

Firstly, at the time of the act the defendant was suffering from a loss of control.

Lord Devlin stated that it must be so sudden and temporary that there is no time for blood to cool. However,



~~Shirley~~ as to Duffy now abolished one
and does not need to be sudden.
Case Therefore cases such as Thomson,
Humphreys and Ahluwalia may be successful.
For Jason was furious and cried after the
secondly ~~his~~ ~~to~~ van showing he had
lost his self control.

Secondly, the loss of control resulted from an qualifying trigger. Qualifying triggers contained under ~~SSA~~ SS5.

555(4) Things said or done or both Davis
as held to in Davis applying to a 555e

SSS 4 (a) that constituted from grave character, SSS 4(b) ~~that~~ ^{to have a} ~~justifiable~~ ^{not feeling} sense (objective) ~~to feel~~ ^{of feeling} seriously wronged (subjective).

② Trigger two applies or join-become
has had

Thirdly, the guy must ~~seem~~ satisfy that a person the age same age and sex (Camplin) with a normal ~~degree~~ ^{degree} of tolerance and ~~re~~ self ~~re~~ restraint restrain (Hobbs) in ~~some~~ all circumstances would have acted in some similar way (Von Degen, Clarke)..

Holley codifies that any reactors that
moves the defendant feel much more
angry and may will be excluded.
~~There are also the law~~

So the jury must decide a man or woman
same age and sex as Jason driving along
a motorway, ^{who} had to avoid



Brian's driving would have acted in one
some similar way. This is ultimately
up to the jury to decide.

The law states that anyone who desires
it for revenge will not be able to
plead loss of control as held in *Roberts* &
and *Gregory*.

To conclude, ~~if the defence of loss of~~
~~control~~ is the *Johnson* has the evidential
burden to prove beyond civil standards
and it is the prosecution who has to
prove disprove beyond reasonable doubt.
If ~~successful~~ successful it will be reduced
to voluntary manslaughter and judge
will have complete discretion with
regards sentencing.

12

Jury Selection Act 1974 makes it
available for people to sit as a jury
and make decision based on one
fact of the case.

The Jury Summoning Bureau uses
one computer to set randomly select
jurors. 15 jurors are picked for every
case. The court clerk of
court then picks random 12 names
from the list.

The Magna Carta stated that
a person has the right to be tried
by his peers. Therefore a person used,



Write the two digit question number *inside* the boxes next to the first line of your answer

Answer

Leave blank

other one age of 18 who has been a resident in the UK or Channel or Island or Isle of Man for 5 years or the age of 18 13 and it is on the electoral system. A person will not be selected if they are disqualified or has a mental disorder.

Previously, some people were able to become excused however the Criminal Justice Act 2003 has abolished this and every eligible person must serve. The only excused people are those who are members of the serving army.

Jury trials are only in three per cent of cases and are dealt in the Crown Court. Therefore, jury selection is not very common. As stated the jury decides on the facts of the case while it is the judge's job to decide on the point of law.

In the Crown Court, the jury must have a majority verdict usually of 11:1 or 10:2. This will decide if a verdict whether the defendant is guilty or not guilty.

The jury vetting procedure is conducted on jurors which is a ^{routine} general police

Write the two digit question
number *inside* the boxes next
to the first line of your answer

Answer

Leave
blank

cheek and also political cheating for
political affiliation which none
affect was one trial, as illustrated in
ABC trial.



1 1

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Lord Coke defines murder as one unlawfully ~~causing~~ ^{Killing} death to another human being with malice aforethought.

The Actus Reus (AR) for murder is; unlawfully causing death to another human being under the Queen's peace within any country of realm. **Tick**

~~Causation in murder~~ Mens rea for murder is held to be two things in Moloney **Tick** as expressed malice (intention to kill) and implied malice (intention to cause GBH) (ABH). GBH is defined in Saunders as 'serious' harm.

It appears that J has the mens rea to cause GBH (Grievous bodily harm) with direct intention.

Causation is established in ~~fact~~ ^{fact} White, Kimsey and in law Merchant and Muntz. However, there are possible new acts intervening in the form of the paramedic giving excessive level of oxygen to Braden ~~due to washing to a concrete pillar of motorway~~. **Tick**

In Pagett it was held that only extraordinary events will break the chain of causation. **Tick**

Firstly, the paramedic panicked and gave ~~to~~ B an excessive level of oxygen. This act of intervention is in the category of actus reus from ~~medical~~ third party (medical profession). Jordan principle applies as the mistake done by one paramedic was 'palpably wrong' breaking the chain of causation therefore J is no longer liable. Tick

~~Secondly~~

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~~Outly now~~

Loss of control is a special and partial defence. ~~because~~ It is special because it is only available to murder and partial because if successful, it will not result in a full acquittal but the conviction reduced to voluntary manslaughter.

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Firstly, at the time of the act the defendant was suffering from a loss of control.

Lord Devlin stated that it must be so sudden and temporary that there is no time for blood to cool. However,



Brian's driving would have acted in one some similar way. This is ultimately up to the jury to decide.

The law states that anyone who desires it for revenge will not be able to plead loss of control as held in Ibrahim & Gregory.

To conclude, ~~if the defence of loss of control is the~~ Jason has the evidential burden to prove beyond civil standards and it is the prosecution who has to prove disprove beyond reasonable doubt. If ~~successful~~ successful it will be reduced to voluntary manslaughter and judge will have complete discretion with regards sentencing. Tick 

12

Jury Selection Act 1974 makes it available for ~~people~~ ^{Tick} to sit as a jury and make decision based on one facts of the case.

The Jury Summoning Bureau uses one computer to set randomly select jurors. 15 jurors are picked for every cases. The court ~~of the~~ ^{Tick} Clerk of court then pick random 12 names from one list.

The Magna Carta stated that a person has the right to be tried by his peers. Therefore a person used, Tick



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other one age of 18 who has been a resident in the UK or Channel or Island or Isle of Man for 5 years or the age of 18 13 and it is on the electoral system. ^{Tick} A person will not be selected if they are disqualified or has a mental disorder.

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In the Crown Court, the jury must have a majority verdict usually ^{with} 11:1 or 10:2 ratio ^{or} 11:1 or 10:2. This will ~~at least~~ ^{be} a verdict whether the defendant is guilty or not guilty. ^{Tick}

The jury vetting procedure is conducted on jurors which is a ^{routine} general police

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Answer

Leave
blank

cheek and also political cheating for
political affiliation which none
affect was one trial, as illustrated in
ABC trial.

Tick



12: 8



Q 4

0 1

Murder is a common law offence and the most substantial crime in English law and it has a maximum sentence of life imprisonment that Jason could be liable for. Murder is the killing of a human being under the Queen's peace within the realm within a year and a day but this was abolished by the Murder Reform Act 1965. The mens rea of the crime for Jason would be malice aforethought and this would either be expressed malice (intention to kill) or implied malice (intention to cause GBH) and this is implied by law. B Jason would also need the intention of murder as defined in Nedrick 86 and then Woollin 98 that charged "intent to find" and this would be determined by the jury in the Crown court as either direct or oblique intent. Direct intention would be intention to kill while oblique intent would be if the actions of Jason were a "virtually certain consequence (barring some unforeseen intervention) of the defendant's actions, therefore this would be likely that the jury would say B Jason has the intent. #

Therefore it would next be a question of causation and this could be factual causation and the "but for test" or translated as "Sin Qua Non" and this would mean it but for the actions of Jason would Brian have died as used in White 1910 and Dalloway 1947. Therefore with this causation Jason
and A Fadiir Nisri 2008

would probably be guilty as Jason wouldn't have died without this as Page 1983 looked at and must be "significant". However the courts would also look at legal causation and this is moral responsibility as in Palloway 1847 where the defendant escaped liability and the jury would probably find Jason guilty on this occasion.

The next thing that could be looked at would be medical intervention as Smith 1959, Jordan 1956 and Cheshire 1991 (affirmed in Mellor) outline. Smith in 1959 looked at if the wound is "operating and substantial" ~~not~~ at the time of death and this is probably the case for Brian. Jordan 1956 said that the treatment must be "palpably wrong" the courts could use an intrinsic or extrinsic aid to determine this meaning or look at Howard and the jury would consider this. As Amy is a medically qualified this could break the chain of causation. The next case of Cheshire 1991 look if the wound is operating time of death and "significant" at the time of death, however it is very unlikely. However as the Brian's death deteriorated quickly wouldn't matter as the "thin skull principle" would be applied as in Blake a case of its own special facts but the courts could follow this precedent.

Jason ~~would~~ could reduce liability to voluntary manslaughter if the jury thought he had Diminished Responsibility as Section 2



of the Homicide Act 1957 said "if suffers from abnormality of mind the defendant won't be charged with murder" and this ~~was~~ defence was then consolidated in the Coroners and Justice Act 2009. However it is highly unlikely that Jason would be allowed this defence that is only available to murder if it needs to be from a recognised medical condition (SS4.5) and ~~that~~ have meant B Jason ~~had~~ couldn't form rational judgment (Konzani 2005), exercise self control of (loss of self control was provocation) until Coroners Justice Act 2009 and section 54.1 sets this out, while the Jason's actions must be ~~to~~ have a ~~reason~~ for or cause ~~trivial~~. This would be either a ~~serious~~ the ~~death~~ of person (Brian) was an extreme grave character or the Jason "acted violently" or had a "justifiable sense of being seriously wronged". This would be ~~used~~ as a special and partial defence ~~as~~.

Jason could also be guilty of constructive manslaughter if there is an unlawful act, dangerous act and a death. The actus reus for Jason's crime must be the unlawful act, this could be an indirect battery as in Fagan v Met Police Commissioner 1969 or Lowe 1970 or Martin 1892 and the dangerous act would be an objective test as in Church 1960 ~~and~~ as used in Dawson and Oliver 1985 or Khan 1998 (def not guilty) and therefore it the

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Leave blank

(church test of a "suber and reasonable man") is used. Jason could be found criminally ~~liable~~ liable. Must have the mens rea of ~~at~~ recklessness (Cunningham test) of ~~being~~ taking and unjustifiable risk.

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~~Dearest & Steven's Neighbor~~

In conclusion it is most likely that constructive manslaughter would be the crime that ~~Jason would be~~ the jury would find Jason guilty of constructive manslaughter as he has the actus reus and mens rea of him.

129 If Jason was going to be tried in the Crown Court this would follow the Juries Act 1967 that has had amendments such as Criminal Justice Act 2003.

Firstly it would be governed as by everyone who is on the electoral register (as Add Review and Morris Committee ~~for~~ charged) and then



Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leav
bian

a summons would be sent out randomly by the Central Jural Summons Bureau in London to the people. However in the case of Jason the person would be liable if they went through with this it and was disqualified as Contempts Court Act 1981. Maybe that would be disqualified would be: served like imprisonment at HMP or be on a suspended sentence or have had a community supervision order in the last 10 ~~years~~ years. This would be sent back by the juror to the court and they would arrive at the court where they they would be summoned to the court room for Jason's trial. Therefore 10 people would be selected from the panel of (usually 16) and the names would be called out in court and Jason could appeal. If there is mental incapacitation as in the case of Mr. McWhinney then the juror would be discharged, there would be no need for a multi-racial jury as in R Uford 1970. Jason could appeal "to the crown" or "to the excusal". There would be summoned into open trial and listen to the trial as the judge manages the trial. Therefore after the trial they would be given ^{at least} 2 hours to find Jason not guilty by a majority verdict (10 to 0) or unanimous decision of 9 to 1 or 8 to 2. The foreman would take the verdict in the secrecy of the jury room and Jason would be given guilty or not guilty. If Jason was to have a retrial then a new jury would be sworn into the court.



Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave
blank

The court clerk could have shuffled the names of the jurors in caps and have called them out.

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Q 4

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12a If Jason was going to be tried in the Crown Court this would follow the Juries Act 1967 ¹⁹⁷⁴ that has had amendments such as Criminal Justice Act 2003.

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Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave
blank

The court clerk could have shuffled the names
of the jurors in cards. **Tick** line called them
out.



12: 8

Option 2: Criminal Law and Justice

Answer two questions.

2. Study the text below and answer the questions based on it.

Tyrone and Percy went to the cinema with Percy's new girlfriend, Natasha. They bought hot dogs and fizzy drinks to enjoy while watching the film. Percy wanted to be alone with Natasha, so he asked Tyrone to sit somewhere else. Tyrone obligingly found himself a seat a few rows behind Percy and Natasha, but after the lights had gone down he crept gradually forward again, until he was sitting directly behind them. Tyrone waited until Percy and Natasha were absorbed in watching the film, and then stealthily removed the sausage from his hot dog and pushed it down the neck of Natasha's teeshirt. Natasha let out a scream, which brought one of the security guards, Austin, running to her aid. Thinking that Percy had assaulted Natasha, Austin dragged Percy from his seat and started punching him in the face, breaking his nose. Horrified at the consequences of his prank, Tyrone flung his arms around Austin's neck and attempted to pull him away from Percy. In doing so, he applied more pressure than he intended. Austin was unable to breathe, and suffered brain damage.

2 **1** In the light of reported case law and other sources of law, consider whether Austin and Tyrone may have committed any criminal offences. [14]

2 **2** Explain the appeals process from the magistrates' court. [11]

Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave
blank

22

migrants staying do not come from a regular background and are staying middle aged and middle class when some form of higher education. They can give cars up to \$5000 and a maximum security of 6 months. migrants do not have regular qualifications and not paid.

The initial training was very successful and was followed by two more sessions. They then continued their training of being supervised for 6 months. The overall training continued as the magistrates had regular meetings and were closely monitored and supervised by the magistrates training board. Some of the other books and DVDs that were given to them to read and watch were also used in the training. The magistrates were given an additional week of training with the training board. The training was very successful. The magistrates were given an additional week of training with the training board. The training was very successful.

However there may be both advantages and disadvantages of the above process of magnetising. For example an advantage would be that the precipitation of magnetites in the



Write the two digit question number *inside* the boxes next to the first line of your answer

Answer

Leave
blank

Justice system includes that part
is public participation of individuals
within the legal system. However
the lay members includes that
magistrates are cost effective and
do not need to be paid. However
magistrates also may be readily
available and have a flexible schedule.

However there are also disadvantages of
magistrates such as they do not
have legal qualifications so therefore
may lack the legal knowledge to
apply to cases where there appears
complex and busy.

In contrast magistrates are trained
in order to provide the same
however 45% of criminal cases are
heard in a magistrates court with
signifying the importance of
magistrate and their significance
in the legal system.



Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave
blank

22

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The initial funding was very low
 and was not covered by the already
 existing magistrates. They then
 started their work of very
 slow but steady, the
 appeal court continued as the
 magistrates had never met and
 were closing down and gradually
 the magistrates' court was
 not the great work and the
 had over 20 years in order to
 had been understood with the role
 is and in the and magistrates
 are given in addition with the
 been fully covered. However their
 training with content and they will
 be closely supervised throughout
 with courts.

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Answer

Leave
blank

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However there are also disadvantages of
magistrates such as they do not
have legal qualifications so therefore
may lack the legal knowledge to
apply to cases where there appears
complex and busy.

In contrast magistrates are trained
in order to provide the same
however 95% of criminal cases are
heard in a magistrates court with
signifying the importance of
magistrate and their significance
in the legal system.

Tick



22: 6



4. Study the text below and answer the questions based on it.

Nelly was in the final year of her college course in hairdressing and beauty. With exams looming, Nelly was anxious for an opportunity to practice her techniques. Nelly's older sister, Bella, worked at a beauty clinic, and she offered to smuggle Nelly into the clinic, lend her a uniform and introduce her to clients as a trainee working under Bella's supervision. All went well until one of the clients, Jenna, asked Nelly to perform a common but notoriously painful procedure using hot wax to remove unwanted body hair. Nelly inadvertently overheated the wax, with the consequence that she caused a severe burn to Jenna's leg which needed to be treated in hospital.

4 1 In the light of reported case law and other sources of law, consider whether Nelly could rely on the defence of consent if she were to be prosecuted for causing physical injury to Jenna. [14]

4 2 Explain how the Crown Prosecution Service decides whether to bring a prosecution. [11]

4 1 Consent is both statute law (eg Children Act 2005) and ~~common~~ a common law offence (as in Reg 1989, case of Billhurst 1978) and balances ~~freedom and~~ protection of the freedom of (Art 8 and others) Jones and others 1987. By this the defence of consent was considered in the Attorney General's Reference 6 of 1980 and it ~~is~~ the crime of Nelly is seen as battery & she could probably not have the defence as it is a "crucial factor" and must be done "contrary to the will" of Jenna to not be battery but a touch would suffice (Collins and Wilcock 1984). Consent has the doctrine of conferred consent and if Nelly knows the crime as Jenna it would be found guilty. However the principles of consent and it must be real and the person must know



Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

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all of the consequences as in *Burrell v Haver* 1967 and Jenna probably knew the possible consequences. There must be no fraud and as Nelly would be smuggled in this could be seen as fraud and no consent (*Tabassum 2000*) and is also falsifying ID as in ~~Richardson~~ Richardson. The person also must know the nature and consequences of the defendant's actions and the ~~but~~ consent could not be used as in *Williams 1932*. The case of Nelly could also look at *Burrell v Haver* as it is tattoos and imprinting onto the skin therefore as if Jenna knew the nature and possible consequences Nelly wouldn't be guilty. The courts could look at *Brown and Otter 1984* and if it is Grievous Bodily Harm as governed by Offences Against the Person Act Section 18 or 20 therefore could be guilty as there were 3 dissenting judges compared to 2 and ~~it is~~ consent isn't a defence to these acts. However as it is using hot wax and Jenna knew Nelly was doing it the case of *Slingsby 1965* could be followed. If this is seen as GBH it could follow *Billingham 1978* and convict Nelly. ~~However~~ Jenna could not have been forced into the act as this would have negated the consent whilst



4 2. The CPS was set up with the Prosecution of Offences Act 1985 as after a review the police were too close to the crime. Therefore in minor cases the police can prosecute but the new 13 areas after the recent 2013 reforms prosecute. There is a two stage test and these are the evidential test and public interest test, this evidential test means the evidence from Jenny Nelly's case must be admissible in court and not hearsay, this is likely as there would be photographic evidence. This goes with the public interest test and would be if Nelly was part of a gang, used a weapon or was in a position of trust. It is ~~not~~ likely she was in a position of trust so could be prosecuted. If it is an ~~important~~ important point of law therefore Nelly could be prosecuted by either an active case manager or high advocates either who can now present non-guilty cases ~~if they~~ in the Crown Court if the senior high advocacy rights by passing a ~~written~~ ~~and~~ ~~practical~~ written and practical test. The active case managers would work on the case whilst one of the 2,500 ~~would~~ ~~lead~~ lawyers would look at the legal side of things to see if the law has been broken. If there isn't enough evidence to prosecute therefore the case would be thrown out however if there was enough evidence the CP would be represented in court to prosecute Jenny, most probably in the Crown

Write the two digit question
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Leave
blank

Court in front of the jury.

42: 4



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41: 12



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Answer

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blank

Court in front of the jump

Tick



42: 4

