

Violent crime answer key- Emma, Rebecca and Sydney

Intro- Beck

Violence-related crime, to those unfamiliar with Canada's Criminal Code, may be considered a complex area of law. Many aren't aware of its variations, its severity and what the repercussions of it can entail. That being said, today we will be diligently explaining the various categories and levels of assault, sexual assault, **consent**, abduction and **robbery**.

Assault- Emma

There are **three** levels of assault in Canada, which are based on level of **severity** and **corresponding** penalties: Level 1- assault, level 2- assault causing bodily harm, level 3- aggravated assault. These levels are in section 265 of the Criminal Code, with common elements such as; 1. The **accused** must have intent to carry out the **attack** and cause **harm**. 2. There must be no **consent** by the victim.

Level One Assault- Sydney

First level assault may include the following **three** things. The **maximum** penalty you can face up to **five** years in prison.

1. Applying intentional force to another person without that person's consent. (punching, grabbing someone)
2. Attempting or threatening someone by an act or a gesture, to do against someone (waving your fist at someone you are trying to hit)
3. Approaching or blocking the way of someone (aggressive panhandling in major cities)

Level Two Assault- Beck

An assault requires a higher degree of severity to be handled as a **second level** assault. Assault Level Two, also known as common assault, is defined in section **267** of the Criminal Code as carrying, using or **threatening** to use a weapon against someone or causing someone **bodily** harm. It can qualify as anything that would threaten one's **health** and **comfort**, as well as require medical attention. For instance, if Emma were to hit her brother with a baseball bat to the point of injury, he could charge her for Level Two Assault. This could land her a maximum of **ten** years in prison.

Level Three Assault- Becky

Level Three Assault is the most **severe** degree of assault in the criminal code, for it could threaten not only one's well-being, but also threaten their **life**. This is usually defined as **aggravated** assault, as stated in section 268 of the criminal code. It entails acts such as wounding, maiming, disfiguring or endangering the life of said victim. As an example, if Federico were to toss Emma out of the Law 12 class's window, she could claim Level Three Assault, for this act threatens her life. Consequently, Federico could face a maximum sentence of **14** years in prison.

Sexual Assault- Emma

Sexual assault is a specific form of **assault** that involves any form of **unwanted** sexual activity. This occurs when consent was not given. Bill C-127 was passed in 1983 in Canada. Changes were made to the law of rape, rape was the old term in the Criminal Code for "sexual assault". **Sexual assault** is grouped into **three** categories by the legislation, these groupings include; ranging from unwanted sexual touching to violent physical **attacks**.

Level One Sexual Assault- Syd

Level one of sexual assault is defined in section 271(1) of the criminal code quite **similar** as criminal assault. The only **difference** between the **two** is that it occurs in relation to sexual conduct or when the victim's sexual integrity is violated. This could involve minor **physical** injury to the victim or **no** injuries at all. The maximum imprisonment is 10 years. For an example is a molestation offence, which is a non-consensual forced physical **sexual** behaviour.

Level Two Sexual Assault- Beck

Sexual assault of the second level is defined in section 272(1) of Canada's *criminal code*. It involves sexual assault with **weapons**, imitation of weapons, **threats** or bodily harm, setting it aside from level one. For example, if one were to be raped at knifepoint, this would be considered second level sexual assault. This crime **holds** the maximum sentence of 14 years in prison.

Level Three Sexual Assault- Emma

Level three sexual assault is the **most** severe form of sexual assault; aggravated sexual assault. You can find this in section **273** of the Criminal Code, this is a sexual attack so serious that physical injuries can even be life threatening. The maximum penalty is life in prison.

Consent- Syd

Consent is defined in section 273.1(2) of the Criminal Code. **Consent** is an agreement of the accuser to engage in the sexual activity in question. The **Actus Reus** act of sexual assault is the **sexual** touching to which the victim does not consent. **Mens Reu** (intent) of sexual assault can rest on knowledge that the victim has no consent, recklessness, or willful blindness. Consent is a frequent issue with sexual assault trials because there are usually **few** witnesses to these assaults.

Rape shield- Beck

The rape shield, bill C-49, is an essential **tool** in the prosecution in a case of sexual assault and or **rape**, for it's a law which limits the defendant's cross examination of the **victim**. Oftentimes, the defence in a rape case will attempt to cross examine assault victims regarding their sexual history and tendencies. In 1991, however, this was declared as a violation of human rights. Consequently, Canada's supreme court struck it down at this time. The criminal code now states that one can not be held accountable for their **assault** due to sexual reputation.

Age of Consent- Emma

Is the legal age an individual can consent to sexual activity. Before **1892** the age of consent was 12 years old but was then changed to **14**. Nearly a century later Canada changed it to 16 years old in February of **2008**. Now the legal Age of Consent in Canada is **18** years old. The following statements are other factors to determine if a young person is being sexually exploited:

- Age difference- is the person much older than the young person?
- Evolution of the relationship- how did the relationship develop? For example , did it develop quickly and secretly over the Internet?
- Control or influence over the young person- what degree of control or influence did the other person have over the young person? For example, was there an employer/employee or student/teacher relationship?

Abduction- Syd

Abduction involves **capturing** and carrying off a person by force, against their **will**. Abduction is similar to **kidnapping**. But in legal terms abduction has a different and more precise meaning. Its section **282** of the Criminal Code and defines abduction as “ the forcible removal of an unmarried person under the age of 16 from the care of a parent, **guardian**, or any other person who has lawful care of the child.” January 1983 abduction by a parent was added to the Criminal Code and became a criminal offence. Anyone who is found **guilty** of child abduction can be in prison for up to 10 years.

Robbery-Beck

Robbery is illegally taking someone’s property **without** permission.

As an example, Federico takes my cell phone without asking. Theoretically, I could call this **theft** or robbery. However, the legal terminology regarding robbery defines the crime differently. Robbery is a theft involving **violence** or the threat of violence using a weapon such as a gun, knife, or even a stick. The severe punishment for robbery is life in prison.

The case of Elizabeth Smart- Beck.

As a prime example of three of the topics within this presentation, we look at the case of Elizabeth Smart. As a fourteen year old girl, she was not only abducted from her Salt Lake City home in Utah, but also assaulted as well as sexually assaulted for nine months by Brian David Mitchell and his wife Wanda Barzee. Unwillingly and under the age of consent, she faced the constant abuse of Barzee and the frequent rape of this Mitchell in a variety of cities and wooded areas. Eventually, she tricked the couple into taking her back to her hometown, where the offenders were recognized and detained by the authorities. Mitchell was sentenced to life in prison in 2011, while Barzee was sentenced to 15 years in federal prison in 2010 for her role in the abduction.

<https://www.pardons.org/types-assault-charges-canada/>

<https://www150.statcan.gc.ca/n1/pub/85-224-x/2008000/dd-eng.htm>

<https://www.cnn.com/2013/04/14/us/elizabeth-smart-fast-facts/index.html>

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