

Actus Reus and Mens Rea worksheet

Each of these scenarios, decide if you think that the person had the *actus reus* (guilty act) and the *mens rea* (guilty mind) necessary to be found guilty of the crime.

- a) While browsing in a CD store, Rasheed ran into a friend from his old school. They decided to get a coffee. As they left the store, Rasheed forgot that he had a CD he was considering buying under his arm.
- b) In line for a concert, a friend asked Chanice to hold her bag while she went to the bathroom. A drug dog stopped in front of Chanice. The police searched the friend's bag and found a marijuana joint. Chanice was charged with possession of a narcotic.
- c) Sophie baby-sits the neighbour's kids everyday after school, sometimes driving them to soccer in the family car. After dropping them off one day, she decides to watch their practice. Sophie leaves the dog in the car for a few hours even though it's 35 degrees outside. Before the end of the game, someone walks by, notices the distressed dog, and calls the police.
- d) Mao was charged with assault after he lost his temper in a restaurant. He felt the bill was unfair. He slammed his fist down on the table and a glass flew off, hitting a customer at the next table and cutting his cheek just below the eye.
- e) Brandon was on his way into the beer store when a woman asked him if he would mind buying her a six-pack of beer while she stayed outside with her dog. He said sure and accepted her money. Once in line he thought that she looked a little young, but bought her the beer anyway.
- f) It's Hockey Night in Canada and the Leafs are playing the Senators. Colton Orr of the Leafs is looking to get back at Chris Neil of the Senators for a dirty body check in their last game. After a brief verbal exchange, the two players drop their gloves and start punching each other. When the referee notices Neil's nose bleeding, he stops the fight. Neil is not seriously hurt but he sits out the rest of the period.
- g) Carmen comes to work one Tuesday feeling really sick. She's recovering from a particularly bad flu and after a few hours at work, she decides she needs to go home because she's really tired. Carmen gets into her car and starts driving but she's having a hard time focussing on the road because she's so tired. A police officer driving behind her notices she is weaving across driving lanes. Just before he stops her Carmen falls asleep at the wheel and drives into a ditch. Luckily, no one is seriously hurt.

The above scenarios are designed to help students decide whether the *actus reus* and *mens rea* are established and only include a fraction of what would be relevant information in court. In many of the listed scenarios, students' findings on whether *actus reus* and *mens rea* exist are subjective or may depend on assuming facts not in the brief scenarios. A judge in court hears much more information relating to the offence and possible defences in deciding whether or not the accused person is guilty of a criminal offence.

- a) The *actus reus* for theft is established because Rasheed left the store with the unpaid CD. However, there is no *mens rea* because Rasheed did not intend to steal the CD.
- b) Again the *actus reus* of possession of a narcotic is established but the *mens rea* may not be. If Chanice knew the backpack contained drugs, she would have the required "state of mind". However, if she did not know there were drugs in the backpack, there is no *mens rea*.
- c) This is an "omission" instead of a "commission" offence. To establish *actus reus*, Sophie must be found to have either abandoned the dog in distress, wilfully neglected it thereby causing pain or suffering, or failed to provide it suitable care [see s. 446(b) or (c)]. Leaving a dog locked in a car for several hours in hot weather is enough evidence to establish *actus reus* for these offences. Intending to leave the dog in the car is enough to satisfy the *mens rea* requirement for the offence.
- d) In order to be guilty of assault, Mao would have had to intentionally apply force to the customer. Because he did not intentionally do so, he does not possess the required *mens rea*.
- e) Under ss. 30(1) and 30(2) of the *Ontario Liquor Licence Act*, it is an offence to knowingly sell or supply liquor to a person under 19 years of age or to sell or supply liquor to a person who appears to be under 19 years of age. In this example, the *actus reus* of selling liquor to a minor is established. Regarding *mens rea*, Brandon either knew the woman appeared to be under 19 or was wilfully blind to that effect.
- f) In this case, Colton Orr would have the required *mens rea* because he intended to punch Chris Neil. Despite the existence of *mens rea*, there are circumstances where there is no *actus reus* in a consensual fight. Where a consensual physical fight results in no harm or minor harm or where the consensual fight is part of socially valued activity such as sports, the act is not illegal. However, there is no consent where a fight that is at first consensual ends in serious harm. In a sports context, if the fighting goes beyond what is normally accepted behaviour, the act can become an illegal one.
- g) A person is guilty of dangerous operation of a motor vehicle under s. 249 where she or he operates a motor vehicle in a way that is dangerous to the public having regard to all the circumstances including road conditions and traffic. In this case, Carmen's driving satisfies the *actus reus* requirement because she is weaving across lanes, falls asleep and drives into a ditch. There is also evidence to establish *mens rea* because, even if she did not intend to drive dangerously, a reasonable person in Carmen's shoes would have known that driving while that tired posed a risk to the lives and safety of others. Negligence satisfies the mental element for the offence of dangerous driving and does not require proof of intention. What are some arguments for why it shouldn't matter whether or not Carmen intended to drive dangerously? What about if Carmen had been drinking before she got in the car?