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Criminal Law

Student's Name

Course

Professor's Name

Institution

Date

Criminal Law

Question 1

I would want to gather several pieces of information to determine whether the law is constitutional. I would gather information about the exact language of the law. This would include the definition of “annoying” behavior, the law’s scope, whether the rule applies only to panhandlers or all groups of people, and the penalties for violating the law. I would also want to have information on the rationale for the law. I want to understand the city’s officials’ reasons for proposing the law. Specifically, I would want to know whether empirical evidence supports the claim that panhandling negatively affects the tourism industry. I would want to know whether the city officials have considered alternative solutions to address the issue of panhandling that may be less restrictive of individual rights. I would also want to know the potential impact on individual rights. Any law restricting individual rights must be narrowly tailored to achieve a compelling government interest. Therefore, I would want to evaluate the law’s potential impact on the 1st, 4th, and 8th Amendments relating to individual rights.

Based on this information, the law would face several significant constitutional hurdles. The definition of “annoying” behavior is potentially vague and broad, which could lead to arbitrary enforcement by law enforcement officials. Additionally, if the law is targeted solely at panhandlers, it may be challenged as discriminatory and in violation of the Equal Protection Clause of the 14th Amendment. The law would also infringe on the 1st, 4th, and 8th Amendment rights. The interview would therefore lead to an amendment of the law to prevent colliding with various constitutional clauses.

Question 2

The federal government should be allowed to use extraordinary renditions since this is an effective tool in the fight against terrorism. The extraordinary rendition can yield valuable intelligence information that may not be obtained through other means. Extraordinary rendition may be necessary in cases where traditional law enforcement and intelligence-gathering methods have failed or where the risks of a public trial or exposure of sensitive information are too high (Egan et al., 2019). The benefits of extraordinary rendition outweigh this practice's potential risks and negative consequences. Additionally, the federal government should be allowed to use extraordinary rendition since it can bring terrorists to justice, allowing them to be tried in countries where the crimes were committed.

The primary purpose of extraordinary rendition is to interrogate individuals suspected of involvement in terrorism or other serious crimes. This is key in providing information that may not be available through other means. These individuals are transferred from one country to another without a legal interrogation process, often to obtain information related to terrorism or serious crime. Extraordinary rendition can be both an individual act and a policy. Sometimes, individual officials or agents may perform extraordinary renditions without explicit authorization or guidance from higher authorities. However, in many cases, extraordinary rendition is part of a larger policy or strategy developed and implemented by governments, intelligence agencies, or military organizations. In such cases, extraordinary rendition may be conducted systematically and coordinated, with clear policies, procedures, and rules governing its use. The information uncovered by extraordinary rendition is reliable since it yields valuable information that may not be obtained through other means. Therefore, the information may help fight against terrorism and ensure justice is served.

Question 3

Actual possession refers to the physical possession of an item. This means the person has direct physical control over the item in question. For example, if an individual has drugs in their pocket or a gun, they possess those items. On the other hand, constructive possession refers to a situation where an individual may not have actual possession of the item. However, they have the ability and intention to control it (Boginskaya, 2020). This can occur when the item is located in a place the person can access, such as a car. The difference between actual and constructive possession can have essential implications for prosecuting possession-related crimes. In the case of actual possession, it can be relatively easy for the prosecution to prove that the defendant had control over the illegal item. However, in the case of constructive possession, the prosecution must show that the defendant knew of the item's presence and the intention to exercise control over it.

Criminal statutes related to possession do not necessarily require proof of ownership since possession alone is sufficient to establish criminal liability. These laws focus on possessing illegal items, regardless of who may have owned them. For instance, if an individual is found to have a stolen item, it may not be necessary to prove who the original owner was to establish criminal liability for possession.

Question 4

The individual committed the crime of attempted robbery when he entered the patio wearing a hood, carrying a gun and demanded money from the people claiming to shoot someone if his demand was unmet. Attempted robbery is a crime that occurs when an individual intends to steal something from someone but is prevented from doing so by some intervening

forces, such as the actions of the victims or police arrival. In this case, the man was prevented from completing the robbery as the friends did not give him any money or property. However, he did not complete his robbery as he took no money or property.

The defense of abandonment is an affirmative defense where the defendant claims to have voluntarily renounced their criminal intent before the crime was committed. The abandonment defense is only available if the defendant can demonstrate that they have entirely abandoned their criminal intent before committing it. The defendant must show that they changed their mind about committing the crime and took an active step to prevent its commission. In this case, the individual did not abandon his criminal intent before committing the crime since he took off his hood and commented about the food after committing the act of committed robbery. He only abandoned his criminal intent after realizing he had entered the wrong house. Additionally, possessing a gun suggests that he intended to use it to commit a crime.

Question 5

A defendant must be competent to stand trial since the fairness and integrity of the criminal justice depend on it. Competency to stand trial means that the defendant has the mental knowledge to understand the charges against them, the nature of the criminal proceedings, and the capacity to help in their defense (Liu, 2019). If a defendant is incompetent, they may not fully participate in their defense or understand the consequences of their actions. This can lead to an unfair trial and a miscarriage of justice. Medication can treat mental illness and restore an individual's competency of standing trial. However, the government should not be allowed to force a defendant to take medication, as this raises ethical and legal concerns. This can be

considered a violation of an individual's right and can be seen as a form of involuntary medical treatment. Courts must carefully weigh the benefits of medication and protect an individual's due process rights.

In my state, the rule for determining competency to stand trial are set out in the California Penal Code Section 1367 and requires a thorough evaluation and hearing process to ensure the defendants are treated fairly and justly (Liu, 2019). This section states that an individual lacks competency in standing a trial if they lack an understanding of the state and role of the proceedings against them. The court can order an evaluation to determine a defendant's competency if there is a reason to doubt their mental competency. The evaluation is conducted by a qualified mental health practitioner, who examines the defendant and provides a report to the court. Based on the report, the court may determine the individual's competency or order treatment to restore competency if necessary. In cases where medication is recommended to restore competency, the rule must hold a hearing to establish whether involuntary medication is necessary and justified.

Question 6

Law enforcement officers should be able to force uncooperative drivers suspected of driving under the influence (DUI) to provide a blood sample. The action is essential to ensure the protection of public safety since DUI is a severe offense that subjects the lives of drivers and others at risk. Obtaining a blood sample can provide strong evidence of impairment and help to do away with reckless drivers from the road. Law enforcement officers should also force the drivers to provide a blood sample to help prevent the destruction of evidence. Alcohol quickly metabolizes in the body, which can result in losing important evidence if a warrant is not

obtained promptly. Forcing a blood sample can help to preserve evidence that would otherwise be lost.

Additionally, forcing a blood sample is essential in saving time and resources. Obtaining a warrant can be a time-consuming process that requires the involvement of judges and other legal professionals. Allowing officers to obtain a blood sample without a warrant can save time and resources that can be better used for other law enforcement activities.

The courts have justified allowing law enforcement officers to force uncooperative drivers suspected of DUI to provide blood samples in certain circumstances. The primary legal justification for this practice emanates from the 4th Amendment to the US constitution, which protects individuals against unreasonable searches and seizures. However, the courts have recognized anomalies in the 4th Amendment in certain circumstances, such as when exigent circumstances or an individual's consent is obtained. In the case of DUI investigations, the courts have generally held that the extraction of a blood sample from a DUI suspect without a warrant does not violate this Amendment if the officer has probable cause of believing that the individual is DUI (Rider, 2021). The Supreme Court established this standard in *Schmerber v. California* case in 1966. This has been reaffirmed in subsequent cases. However, courts have limited forced blood draws in DUI cases. In *Missouri v. McNeely*, it was ruled that the natural dissipation of alcoholic beverages in the body did not constitute exigency justifying a warrantless blood draw in all DUI cases (Rider, 2021). Instead, courts must consider the wholeness of the situation in each case to establish if an exigency exists.

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