CRIMINAL LAW
(PREPARATORY WORK 2026)

In a moment, you will be invited to read and answer questions on a) two academic articles, and b) the report of a case. Before you do so, you should do some preparatory reading, partly so as to begin to find your way around Criminal Law generally, and partly so as to understand the concepts that you will come across in the case, such as the difference between *actus reus* and *mens rea*.

Please read **either**:
AP Simester, JR Spencer, F Stark, GR Sullivan, and GJ Virgo, *Simester and Sullivan's Criminal Law: Theory and Doctrine* (2022, 8th edn, Hart/Bloomsbury) ch 1 'Criminal law: definition and ambit'
ch 4 'The Actus reus'
ch 5 'Mens rea'

Or:
J Herring, *Criminal Law: Texts, Cases, and Materials* (2023, 13th edn, Oxford University Press)
ch 1 'An introduction to criminal law' ch 2 'Actus reus: the conduct element' ch 3 'Mens rea: the mental element'

Task 1
Read the articles by Ashworth and Williams in the attached PDFs. Answer the following questions:
a) What are the articles discussing?
b) What is Ashworth's view on omissions? What arguments does he raise to support his view?
c) What is Williams' view? What arguments does he use? d) Why does Williams disagree with Ashworth?
e) Whose view do you find more compelling, and why?

Task 2
Turn to the case *Fagan v Commissioner of Metropolitan Police* [1969] 1 Q.B. 439. Please read the report in the attached PDF. It is made up of the following parts:
Page 439F-G: **The keywords.** These give an idea of the legal topics(s) with which the case is concerned.
Pages 439G-440F: **The headnote.** This gives a summary of the facts of the case, and what the court decided, and why. It will be of interest to you, but bear in mind that it is only a summary, and can sometimes mislead, or omit something that you need to attend to – so you need to read the judgment(s) (see below) as well.
Pages 440F-442E: **The case's history,** i.e., the path by which it found itself in front of the court whose decision is now reported. This can matter occasionally, but more usually it can be skipped.
Pages 442F-443A: **Summaries of the arguments of counsel (the barristers) appearing for the two sides.** Again, these can be of interest, but it is usually fine to skim them – they should, in any case, be reflected in the shape of the judgment(s).
Pages 443B-446G: **The judgments.** In *Fagan v Commissioner of Metropolitan Police*, there is one main judgment (by James J); a second, very short, judgment, simply expressing agreement with the latter (by Lord Parker CJ), and a dissenting judgment (by Bridge J). This

is typical enough, though other cases may have fewer judgments, or more. The judgment(s) are the crucial part of the report: they explain how the judges came to the conclusions they did, which is your key concern (it is called the '*ratio decidendi*'). So: compulsory reading.

Once you have read the report, please answer the following questions. They correspond to the sorts of things you should be trying to unearth every time you encounter a case. Plan your answers and write as clearly and concisely as you can.

a) With what offence was Mr Fagan charged?
b) What was the outcome of the case (a) in the Magistrates' Court, and (b) in the Divisional Court of the Queen's Bench Division?
c) What was the key difficulty that had to be resolved in the case?
d) How does James J (with the agreement of Lord Parker CJ) respond to this difficulty?
e) In what way does Bridge J consider James J to have gone wrong? And how does he respond to the difficulty?
f) Do you see any flaws in the reasoning of James J and/or Bridge J?
g) What do you regard as the correct analysis, and how would you have decided the case?