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===== Start of Answer #1 (1121 words) =====

Crimes of Amy

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*Did Amy commit a burglary when she entered Bob's home?*

Burglary is the trespassory breaking and entering into the dwelling house of another in the nighttime with the intent to to commit a felony therein?

Modernly the elements of breaking, dwelling house and nighttime are not required and felonies are expanded to include any theft related crime.

Larceny is the trespassory taking and carrying away the personal property of another with the intent to permanently deprive.

Amy broke into the house when she opened the window and entered when she crawled in. The house was the dwelling of Bob and the act took place in the nighttime. She broke in with the specific intent to commit a larceny therein. Amy will argue that she did not intend to commit a larceny therein because the property she was intending to take was outside on the lawn. However, the cord was inside and she took that as well. She did commit a burglary with the intent to commit a larceny.

*Did Amy commit a larceny when she took the earrings?*

See larceny supra.

Amy believed that the earrings were hers at the time that she took them, and thus she did not have the specific intent to deprive another of their personal property. Her mistake of fact and honest belief that they belonged her to mean that she did not commit a larceny of the earrings.

*Is Amy responsible for the homicide of Bob?*

Homicide is the killing of a human being by another human being. It can be lawful or unlawful. Lawful homicide is one which is justified or excusable. Unlawful homicide is murder or manslaughter. Bob died as a result of AMy's actions and she is responsible for his homicide.

*Did Amy commit murder?*

Murder is killing of another with malice aforethought. Malice is an unexcused, unjustified, and unmitigated man endangering state of mind. Malice can be express or implied. Express malice is the specific intent to kill. There are no facts that imply that Amy intended to kill Bob.

Malice can be implied in three ways. First, when the defendant shows wanton, wilfull and total consciuos disregard for the value of human life,also know as depraved heart murder. The second is when the defendant intends to inflict great bodily injury upon the victim and the victim dies (GBI). Third, the felony murder rule (FMR) implies malice when a homicide occurs while in the commission of a felony.

Amy's actions do not show a wanton, wilfull disregard for the value of human life. They do not rise to that level of irresponsibility or lack of care for dangerous consequences. She also in know way intended to inflict GBI upon Bob. Amy was in the commission of the felony of larceny, and/or burglary when Bob was killed. At common law larceny as the underlying felony will trigger the FMR rule and Amy will likely be found guilty of implied malice murder while in the commission of larceny.

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Modernly the underlying felony to trigger FMR must be inherently dangerous in the abstract, and does not include larceny, and therefore she will not be guilty of FMR modernly.

*Can Amy mitigate to voluntary manslaughter (VM)?*

Manslaughter is an unintentional killing without malice aforethought. It has two forms. First, an imperfect self defense is where the actor uses deadly force where minimal force may have been allowed for the self defense, or the actor mistakenly and unreasonably believes that his life is threatened and acts accordingly. The second more common VM is in the heat of passion. This requires a sufficient provocation, no cooling off period, and that the actor is not acting with the benefit of reasoning. The act must be caused directly by the provocation. There are no facts leading to analysis for VM.

*Can Amy mitigate to involuntary manslaughter (IVM)?*

IVM is an unintentional killing that occurs in one of two ways. First, is when homicide occurs while in the commission of an unlawful act not rising to the level of a felony, misdemeanor manslaughter. Second is during the commission of a lawful act without due care or circumspection, criminally negligent homicide.

Modernly Amy will be able to mitigate the crime to an IVM, by way of the misdemeanor manslaughter rule, as she was not in commission of felony, or inherently dangerous crime when Bob's death occurred.

*Did Amy commit an assault and battery when she yanked Carl's nose ring?*

Assault has two definitions:

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Common law assault is an attempted battery.

Modernly assault is the placing another in fear of an imminent battery.

Battery is an unlawful application of force on the person of another.

Attempt is an act which moves beyond preparation and into the zone of perpetration. It can also be a substantial step toward commission of the crime.

When Amy reached to grab Carl's nose he was most likely in fear of an imminent battery, and Amy did commit a modern law assault.

Amy also attempted to to grab the nose ring, and so committed a common law assault.

Amy applied an unlawful (unconsented force on Carl's person) when she grabbed the nose ring. It is not necessary that she touch his actual person as the nose ring was an extension of his person, or was the implement that she used to cause the unlawful touching. When she committed the battery the common law assault merged with the battery.

*Did Amy commit mayhem when she pulled off a large chunk of Carl's nose?*

Mayhem is the malicious dismemberment or severe maiming of a limb or body part. Malice can be express or implied. Amy did not expressly intend to cause the maiming or dismemberment of a body part. However, malice can be implied because her act evidenced a behavior that could reasonably lead to such injury, or it can be said that she had a body part endangering state of mind. The prior battery merges into the mayhem as it is a felony and the battery is not.

Crimes of Carl

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*Did Carl commit malicious mischief (MM) when he popped the inflated cow?*

MM is the malicious destruction or damage to the property of another.

Carl destroyed or damaged the cow with express malice. His intent was to do so and he did, and therefore did commit MM.

*Did Carl commit an assault and battery of Amy?*

see assault supra

see battery supra

Carl intended to place Amy in fear of an imminent battery when he held a knife to her and threatened her. He therefore, committed a modern law battery.

There is no evidence that he attempted to actually apply an unlawful force upon Amy and ,thus did not commit a common law assault or a battery.

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2) ===== End of Answer #1 =====

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**Start of Answer #2 (1851 words)** =====

Crimes of Donna

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*Did Donna commit larceny when she took money from the safe?*

Larceny is the trespassory taking and carrying away the personal property of another with the intent to permanently deprive.

Larceny is a crime against possession. As such, Donna can only commit larceny

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if she is taking something which she does not have legal possession of. If she was not in legal possession of the money in the safe then she did commit a larceny as she took and carried away the money with the intent to permanently deprive. If she was in legal possession of the money then she committed an embezzlement

*Did she commit embezzlement?*

Embezzlement is the conversion of property which one has legal possession of. Certain people like bookkeepers, bank tellers and such have legal possession of the money which they handle, as they are given greater responsibility than most. If she did have legal possession her crime is embezzlement a misdemeanor, not a felony.

*Did Donna commit a burglary when she went into safe?*

Burglary is the trespassory breaking and entering into the dwelling house of another in the nighttime with the intent to commit a felony parenthetically therein. Modernly, the elements of breaking, dwelling house and nighttime are not required and felonies are expanded to include any theft related crime.

At modern law there is no burglary as it was not a dwelling house, nighttime and the crime may not have been a felony. Modernly, Donna most likely did commit a burglary with the intent to commit a larceny or theft related crime of embezzlement (see definitions supra) therein. She broke into the safe when she opened it and she entered it when she stuck any part of her body in to extract the money. While her entry into the building was not trespassory her entry into the safe, after she had been fired was. The only question left is whether the safe was a structure sufficient for a burglary. Generally, the rule is that it must have four walls and be large enough for a man to stand upright in but in some cases a

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smaller structure, such as this is sufficient.

*Did Donna commit assault and battery on Franci?*

Battery is the unlawful application of force on the person of another.

Assault is 1) an attempted battery at common law; or 2) placing another in fear of an imminent battery, modernly.

Attempt is an act which goes beyond preparation and into the zone of perpetration. It can also be a substantial step toward the commission of a crime.

As Donna was about to hit Franci with the box it can be assumed that Franci was in fear of an imminent battery, and thus Donna committed a modern law assault. Donna also attempted to hit Donna with the box and is guilty of a common law assault. However, this merges with the battery that Donna did commit when she actually did apply an unlawful force on Franci, using the box as an extension of her own person.

*Is Donna culpable for homicide of Franci?*

Homicide is the killing of a human being by another human being. It can be lawful or unlawful. Lawful homicide is one which is justified or excusable.

Unlawful homicide is murder or manslaughter. Franci died as a result of Donna's act and Donna is culpable for the homicide.

*Did Donna commit the murder of Franci?*

Murder is killing of another human being with malice aforethought. Malice is an unexcused, unjustified, and unmitigated man endangering state of mind. Malice can be express or implied. Express malice is the specific intent to kill. There are

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no facts that imply that Donna intended to kill Franci.

Malice can also be implied in three ways. First, when the defendant shows wanton, wilfull and total conscious disregard for the value of human life, also known as depraved heart murder. The second is when the defendant intends to inflict great bodily injury (GBI) upon the victim and the victim dies (GBI). Third, the felony murder rule (FMR) implies malice when a homicide occurs while in the commission of a felony. Modernly the underlying felony to trigger FMR must be inherently dangerous in the abstract, and does not include larceny.

Donna's actions do not show a wanton, wilfull disregard for the value of human life. They do not rise to that level of irresponsibility or lack of care for highly likely dangerous consequences. It may be argued that Donna intended to cause great bodily injury but the facts of hitting Franci with the box, don't really lend themselves to such an intent.

Modernly and commonly Donna may have been in the commission of a felony if she is determined to still be in the act of the larceny. A crime is considered complete when the actor reaches a safe place, and the res gestae is terminated. Donna has not reached a safe place as she is still within the building where she committed the larceny. At common law then, Donna may be guilty of implied malice murder by way of the FMR. Modernly, however because the felony was larceny, which is not an inherently dangerous crime the FMR does not apply. Likewise, although the assault may be inherently dangerous modernly, an assault cannot be the underlying felony because this would be bootstrapping which is not permitted.

At common law Donna may be found guilty of implied malice murder. Modernly she will not be guilty of murder.



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*Did Donna commit voluntary manslaughter (VM)?*

Manslaughter is an unintentional killing without malice aforethought. It has two forms. First, an imperfect self defense is where the actor uses deadly force where minimal force may have been allowed to defend herself, or the actor mistakenly and unreasonably believes that his life is threatened and acts accordingly. The second more common VM is in the heat of passion. This requires a sufficient provocation, no cooling off period, and that the actor is not acting with the benefit of reasoning. The act must be caused directly by the provocation.

Donna may be able to argue that this was a crime done in the heat of passion. She was provoked by Franci's comments saying that it was glad it was her that was fired and admission that she had stolen from Efrain for years. There was no cooling off period, as Donna immediately struck her with the box and Donna was furious, legitimately angry and not acting out of reason. Her actions were indeed caused by the provocation, leaving the question of was the provocation sufficient. Words alone can never be adequate provocation, unless they are informational. Here, Franci's sudden admission of years of theft were informational. Next we must examine whether this was objectively adequate, would a reasonable person have reacted in such a manner. It is reasonable that someone upon hearing the admission of years of theft may react in this manner, and it is possible that Donna could mitigate to VM.

*Can Donna mitigate to involuntary manslaughter (IVM)?*

IVM is an unintentional killing that occurs in one of two ways. First, is when homicide occurs while in the commission of an unlawful act not rising to the level of a felony. This is known as misdemeanor manslaughter. Second is during the commission of a lawful act without due care or circumspection where a homicide

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results. This is criminally negligent homicide.

Modernly Donna was in commission of an unlawful act or acts not rising to the level of a felony and Franci died as a result of these acts. The assault and battery and the larceny or embezzlement are all crimes which can underly the application of the misdemeanor manslaughter rule here.

*Did Donna commit a robbery of Franci?*

Robbery is the taking of the personal property of another from their person or in their presence by way of force, fear, or threat of violence with the intent to permanently deprive.

Donna did take the ring and her intent was to permanently deprive, which can be inferred from the fact that she sold it the next day. The question then is did she use force to take the ring. Franci was still alive at the time of the taking, so it may be implied that some force was required to obtain the ring. However, she was near death and most likely no force was required, and if this is the case then no robbery took place.

*Did Donna commit larceny when she took the ring?*

see larceny supra

If Donna did not commit robbery when she took the ring, she did still commit a larceny, as she took the ring and left with it (carried it away) with the intent to permanently deprive Franci of possession. She may argue that Franci did not have rightful possession of the ring, as she most likely bought it with money she had stolen from Efrain. If this is the case, then she did not commit larceny as larceny is a crime against possession and she cannot deprive Franci of

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possession if she never had it in the first place. Donna might also argue that since Franci was dead or near dead, she no longer would have possession, but this argument fails as one's property immediately becomes the property of their heirs upon death.

*Did Donna commit an attempt to obtain money by false pretenses (FP) when she tried to sell the ring?*

FP is the fraudulent misrepresentation of past or present facts with the intent to obtain title or fraudulently pass title.

see attempt supra.

Donna materially misrepresented present facts when she claimed the ring was a family heirloom and her intent was to obtain money by selling it. She had moved beyond the zone of preparation and into the zone of perpetration as she entered the pawn shop and tried to sell the ring.

*Did Donna commit assault of Efrain?*

See assault supra

See battery supra

Donna attempted to commit a battery when she tried to run him over, an unlawful application of force. She also placed him in fear of an imminent battery. She committed an assault by either definition.

*Did Donna attempt to murder Efrain?*

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see murder supra

If it is determined that Donna had the express intent to kill Efrain then she may be guilty of murder. However, if this can't be determined than she cannot be found guilty as one can't be guilty of an attempted implied malice murder.

Crimes of George

*Did George attempt to obtain property by false pretense?*

see false pretense supra.

George deliberately and knowingly misrepresented that the ring was not real gold or a diamond. He did so with the intent to gain title to the ring for \$5 rather than \$5,000. He was beyond preparation and in the zone of perpetration, the only thing stopping him was Donna's rejection. Therefore did attempt to obtain by false pretense.

Crimes of Franci

*Did Franci commit larceny or embezzlement?*

see larceny supra

see embezzlement supra

By her own admission Franci stole money from Efrain. However without more detail we can't determine exactly what crimes she committed.

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**END OF EXAM**