



## Examples from Australian universities

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### Exam Case Studies Based on ‘Real World’ Examples

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**Broad discipline area:**

- Law

**Year level:**

- Fifth year (final year undergraduate)

**TRN strategy:**

- Designing learning activities around contemporary research and practice issues

**Teaching and learning context:**

- Assessment item (exam questions)
- Real world learning

**Brief description of the initiative:**

Exam questions for *Legal Professional Practice*, a compulsory capstone course consolidating the ethics learning objectives embedded throughout the degree, taken by students in their final year of a Bachelor of Laws have included case study scenarios mirroring the well-publicised cases of Mohamed Haneef and Schapelle Corby (see below). In both cases, students were required to examine the lawyer’s professional ethical responsibilities in a way that was informed by research and theory in the discipline. In this way students were inducted into the discipline’s values, practices and ethics through practical examples. Both these cases had been discussed extensively during tutorials.

Note: Law\_1 gives examples of the vertical linking of ethics study at all levels of this degree.

**Exam Case Studies:**

“Haneef”

A foreign medical practitioner is charged in Queensland under Federal “terrorism” legislation. The doctor appoints Sam, a solicitor, to represent him. While the doctor is being held in custody, the Australian Federal Police give Sam a transcript of her

client's interview with the investigating officers. Sam decides to "leak" the transcript to the media. When interviewed the next day by a TV journalist, Sam admits to the leak and justifies it on the grounds that parts of the transcript have already been selectively leaked by the Federal Police. She claims that this was done in an effort to sway public opinion against her client. It is not known whether Sam's decision to leak the transcript was her own, or whether her client instructed her to do so.

An outraged government minister is reported as saying that Sam's action is "unethical" and prejudicial to the administration of justice, while a local newspaper carries an editorial critical of Sam's behaviour. The editorial contains the following passage: "This lawyer has acted unprofessionally. She clearly misunderstands the law on confidentiality and privilege and has violated her fundamental duty to the court. We wait to see what the Legal Services Commissioner plans to do about it."

Do you think that Sam has misunderstood her professional responsibilities? Why or why not? How would you best describe the nature of the lawyer's role in Sam's position? Are a lawyer's responsibilities purely "legal" ones in a situation like this? Please carefully explain your reasons for your answer to the previous question.

#### "Corby"

James acts for a client who has been charged with dealing in prohibited drugs. James's client gives James details about a network of dealers and suppliers of prohibited drugs in South-East Queensland. As a result of this, James becomes aware of the possibility that some members of the network were responsible for placing a large amount of heroin in the luggage of an Australian citizen, Rachel, while travelling to Singapore. James previously acted for Rachel's brother and met Rachel when she gave evidence at her brother's trial. Rachel, who was arrested in Asia, was subsequently tried and found guilty by an Asian court and sentenced to death under strict anti-drug laws. The death sentence has not yet been carried out. Perplexed by this information, James makes further inquiries through former clients whom he has previously represented in drug cases. As a result of all these inquiries, James becomes convinced that Rachel is the innocent victim of unscrupulous drug couriers. He asks his client whether he might disclose, to the Australian Federal Police, this crucial information to try to help correct the miscarriage of justice in the Asian court. However, James's client forbids disclosure of the information, saying that disclosure would compromise his position.

What are the arguments for and against disclosure of this information by James? What would *you* do if you were the lawyer in these circumstances? Would you make disclosure? If so, to whom would you make disclosure, and *why*? If you would not do so, explain *why* not.

#### **For further details:**

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