QUESTION 1

Angela and Bart are animal rights activists. Angela lived near a horse ranch owned by Chris. She told Bart that she suspected the horses were being abused because she saw people going in and out of the barn at all hours of the day and night, and suggested that they go there to investigate.

Unable to open the ranch gate, Angela and Bart climbed the fence, crossed the yard, opened the door to the barn, and stepped inside. There, they found healthy horses, but also a large amount of stolen electronic equipment.

Surprised to see intruders, Chris, who was carrying a rifle, pointed it at Angela and Bart and accidentally caused it to discharge. The bullet hit the side of the barn near Angela and Bart. The noise startled the horses. Angela and Bart fled, letting out the horses. A motorist, who was driving down the road, swerved to miss the stampeding horses, crashed into a tree, and died.

1. With what crimes, if any, can Angela reasonably be charged, and what defenses, if any, can she reasonably raise? Discuss.

2. With what crimes, if any, can Bart reasonably be charged, and what defenses, if any, can he reasonably raise? Discuss.

3. With what crimes, if any, can Chris reasonably be charged, and what defenses, if any, can he reasonably raise? Discuss.
Answer A to Question 1

Angela’s criminal liability:

I. **Conspiracy:** An agreement between two or more people to commit a crime with the intent that the crime be committed.

Here, Angela and Bart agreed to go to the barn to investigate possible horse abuse. At issue is what was the crime to be committed? Angela suspected that horses were being abused, and wanted to break into Chris' land to investigate (burglary, if there is an intent to commit a felony once inside), but it is unclear what they intended to do after entering the barn. Given that Angela & Bart are animal rights activists, it can be presumed that if they did see horses being abused, they may have taken immediate action such as taking the horses (larceny).

If it was their intent to commit a crime once inside the barn, then they would be found liable for conspiracy as the conspiracy is complete once the agreement is made; the crime does not actually have to be committed.

II. **Burglary:** At common Law, burglary is a breaking and entering at nighttime, into the dwelling house of another, with the intent to commit a felony inside.

Here, Angela and Bart did commit a breaking by opening the door to the barn and an entering by stepping inside. Although this is not a dwelling house of another -- it is a barn -- common law recognizes structures near the main house as part of the dwelling, so the barn being on the property of the ranch satisfies this element. Modernly, the law has been expanded to include any protected structure, so either way, this element will be satisfied.
This case will turn, however, on what Angela & Bart's intent was once they entered the barn. To be liable for burglary, one must have the specific intent to commit a felony. The facts are unclear as to what their intent was once they entered the barn. Angela's stated purpose was to investigate, which is not a felony. Assuming that she had no intent other than to investigate, Angela will not be found guilty of burglary.

III. **Homicide for the death of motorist:**

**Homicide:** An unlawful killing of a human being caused by the defendant.

**Causation:** To be guilty, the defendant must have been the actual cause and proximate cause of the death.

**Actual Cause:** Established when, "but for" the defendant's acts, the death would not have occurred. Here, "but for" Angela and Bart's letting out the horses, the horses would not have been on the road, causing the motorist to swerve and crash. Actual cause established.

**Proximate Cause:** Established when the death is a foreseeable result of the defendant’s conduct and there are no superseding events to break the chain of causation. Here, it is foreseeable that when one lets out a group of frightened horses that they will stampede off the property and cause injury to passersby. That one of those passersby was a driver who had to swerve to avoid them is foreseeable. Proximate cause established.

**Murder:** A homicide committed with malice aforethought.

**Malice:** Malice can be shown by an intent to kill; intent to cause serious bodily injury; depraved heart or a killing that occurred in the *res gestae* of a felony.
Here, Angela did not show any intent to kill, cause serious bodily injury or demonstrate a willful disregard for human life (depraved-heart) as she merely wanted to investigate whether animals were being abused. Further, most animal rights activists are peaceloving individuals so it is unlikely she had any intent to harm Motorist. As to felony-murder, they were simply at the barn to investigate, not commit a felony, so this does not apply either.

Since malice cannot be shown, Angela would not be guilty of murder.

Voluntary Manslaughter: A heat of passion killing or murder with mitigating circumstances.

Since malice cannot be established for murder, there was no adequate provocation or mitigating circumstances, Angela would not be found guilty of voluntary manslaughter.

Involuntary Manslaughter: An unintended homicide without malice aforethought. This can fall into two types: criminal negligence or misdemeanor-manslaughter.

Criminal Negligence: Reckless conduct which creates a great risk of death.

Here, Angela broke into Chris' barn, which created a risk that someone would be harmed. She had seen people going in and out of the barn at all hours of the day and night, so knew that there was some type of activity happening on the premises that was atypical. Further, breaking into someone else's dwelling at night creates a risk in and of itself. That she then fled after being confronted by Chris and let out a group of frightened stampeding horses further created a high risk of death. She had other options other than fleeing and letting the horses out -- she could have stopped, raised her arms, etc.

Defenses: There are no viable defenses.
Angela will likely be found guilty for the involuntary manslaughter for the death of Motorist.

Bart's criminal liability:

I. **Conspiracy**: supra. If it can be found that Angela & Bart did have a criminal intent when they agreed to investigate possible horse abuse, Bart will be liable for conspiracy.

Pinkerton’s Rule: One is liable as a co-conspirator for all the crimes committed by their co-conspirators that were a natural and foreseeable consequence of the crime or done in furtherance of the crime.

II. **Burglary**: Discussion supra. (incorporated by reference). Bart will likely not be found guilty of burglary.

III. **Homicide**: Discussion supra. (incorporated by reference). Here, Bart and Angela were equal participants in the activities of the night and the facts state that Angela & Bart fled, letting out the horses. While it is not clear if one or the other actually let the horses out, this is irrelevant, as co-conspirators are liable for the crimes committed by the other. Accordingly, Bart will be found guilty for involuntary manslaughter in the death of Motorist.

Chris' criminal liability:

I. **Assault** (towards Angela & Bart): An intentional causing of an apprehension of an immediate harmful or offensive contact, or an attempted battery.
Here, Chris pointed his gun and pointed it at Angela & Bart, which would likely cause Angela & Bart to fear getting shot at. Further, while the gun may have accidentally discharged, Angela and Bart likely did not know it was an accident and the fact that they fled demonstrates that they had an apprehension of getting shot (a harmful contact.).

Defenses: Defense of Property  One is privileged to use a reasonable amount of force as reasonably believed necessary to protect one's property. In any event, it cannot be deadly force unless the owner is in fear of death or serious bodily injury towards themselves.

Here, Chris was surprised by the intruders and pointed his gun at them to protect his property. While the gun was certainly a threat of deadly force, he did not actually intentionally discharge it or fire at them, so it can be argued that his actions were reasonable under the circumstances as he used absolutely no intentional physical violence at all towards Angela and Bart, but rather just wanted to scare them.

It is likely that Chris' defense will prevail and he will not be found liable for assault.

II. **Receiving Stolen Property**: Knowingly accepting property that one knows or has reason to know is stolen.

Here, it is unclear how that property got to Chris' barn, but it can be presumed that since there were people going in and out of the barn at all hours of the night, that Chris was accepting the property knowing it to be stolen. As he runs a horse ranch and the horses are housed inside the barn, this is a place he would need to enter daily to care for the horses, so of course he would see that there was a large amount of stolen electronic equipment in there. Accordingly, he cannot claim that someone put it in there without his knowledge.

Chris would be found guilty of receiving stolen property.
Answer B to Question 1

**State v Angela (A)**

**Solicitation**

Encouraging inciting another to commit a crime. May merge with target crimes and defendant will be charged with greater crime.

When A suggested to B that they go to the horse ranch owned by C, she solicited B to commit the crimes stated infra.

A will be guilty of solicitation.

**Conspiracy**

Agreement between two or more persons to commit an unlawful act or a lawful act by unlawful means.

Facts do not indicate that B expressly agreed to go to C’s ranch and investigate, but since he accompanied A, the State will argue there was an agreement.

A will be found guilty of conspiracy.

**Trespass to land**

Intentionally entering the land of another without consent or privilege.

When A climbed the fence and crossed the yard to gain access to the horse ranch owned by Chris (C), it would appear she was trespassing on the land of another with consent.
Burglary--Common Law

The breaking and entering into the dwelling of another at nighttime with the specific intent to commit a felony therein.

When A opened the door to the barn, she committed a breaking. When she stepped inside, she entered. Facts do not indicate if the barn was considered curtilage (if it was situated near enough to the dwelling to be considered part of the area), so the dwelling element may fail. Further, facts do not indicate if it was nighttime or not. Since A and B are animal rights activists, it may be inferred that they intended to unlawfully interfere with the horses, but facts are not clear.

She will not be guilty of common law burglary.

Modern law burglary

Breaking and entering into any structure with specific intent to commit a crime therein.

Since A did break, enter and may have had intent to commit a crime, she may be found guilty of modern law burglary.

Defenses

Necessity

A may claim that her trespass and all other crimes were necessary to stop possible abuse of animals. State will argue that she simply could have been informed law enforcement instead.

This defense will fail.
**State V Bart (B)**

**Accomplice Liability**

Accomplice liability may be found if a defendant has knowledge, intent and actively assist in the perpetration of a crime.

Facts state B was with A during the incident, and that they are both animal rights activists working in concert. He was an accomplice to the crimes of A.

**Conspiracy**

Defined supra.

B will be found guilty as a co-conspirator.

**Pinkerton's rule**

All members of a conspiracy are liable for all crimes in furtherance or probable consequence of.

B will be found guilty of all crimes A is charged with.

**Defenses**

**Necessity**

Defined supra.

This defense will fail.
State v Chris (C)

Possession of stolen property

Facts only indicate that the stolen property was in the barn on C's property. It could be inferred that the stolen property belonged to C, but since facts do not support, this charge will fail.

Assault

Attempted battery.

When C pointed the rifle at A and B, he committed an assault. Since he used a deadly weapon, he could be charged with aggravated assault.

Attempted murder

Attempt can be shown through specific intent, apparent ability, and moving from preparation to perpetration.

When C went to his barn with his rifle, he showed specific intent that could lead to injury. Since he had a gun, he was apparently able to injure and when he pointed it at A and B and it discharged, he went from perpetration to perpetration of the crime.

C could be charged with attempted murder.

Homicide of Motorist (M)

The killing of one human being by another.

A motorist (M) who was driving down the road died, so there was a homicide.
**Murder**

The unlawful of one human being by another.

When C discharged his rifle, he caused a chain of events which culminated in the death of the motorist.

**Causation**

**Actual cause**

But for C discharging the rifle, M would not have been killed.

C is the actual cause of the death of M.

**Proximate cause**

It is foreseeable that when one discharges a firearm that someone could get injured or killed. C will argue that the bullet hit the side of the barn and that the horses stampeding into the road was an intervening act, thus breaking the chain of causation. State will argue that the intervening act is foreseeable and the animal reaction was a normal response to the gun firing. Moreover, it is foreseeable that a motorist would swerve to avoid hitting animals and possibly crash.

C is the proximate cause of the death of M.

**Malice**

The mens rea of murder may be found through 1) specific intent to kill, 2) specific intent to seriously injure, 3) wanton, conduct/depraved heart, and 4) felony murder.

The facts state that C accidentally caused the rifle he was carrying and had pointed at A and B, to discharge. It would appear that he did so accidentally, so if the state cannot establish malice, C would be charged with involuntary manslaughter (see below).
**Second-degree murder**

All murders other than first-degree.

If the state can prove malice through wanton conduct, C may be charged with second degree murder.

**Involuntary Manslaughter**

The accidental killing of one human being by another without malice, but with gross negligence.

The facts state that the gun accidentally discharged as C pointed it at A and B. State will argue that his actions were reckless and negligent. C will argue that the firing of the gun was an unfortunate accident.

C could be found guilty of involuntary manslaughter absent any defenses.

**Defenses**

**Defense of property**

Use of reasonable force to protect property.

C will contend that he was surprised to see A and B intruding on his property, and he was within his rights to defend it. Since use of deadly force is only permitted when one’s life is at danger, it appears C exceeded his privilege since the facts do not indicate his life was in any imminent danger from A and B.

This defense will fail due to the excessive force used.