GENERAL INSTRUCTIONS

The exam is lengthy. Take note of the point value of each section when budgeting your time. The basis of your analysis, unless otherwise specified, should be the common law and general American law, including statutes. Discuss, for contrast, minority positions, Massachusetts law and the Model Penal Code, where appropriate.

IDENTIFY YOURSELF BY SOCIAL SECURITY NUMBER ONLY.

TRY TO LIMIT YOUR EXAMINATION ANSWER TO TWO BLUE BOOKS. IF YOU MUST EXCEED THIS LENGTH, YOU MAY.

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

ANSWER ALL FIVE QUESTIONS. BE CONCISE. A PARAGRAPH OR TWO SHOULD SUFFICE. YOU MAY, IF YOU WISH, USE OUTLINE FORM WHERE APPROPRIATE TO ANSWER BUT DO NOT NEGLECT TO DISCUSS THE LAW AND THE KEY FACTUAL POINTS AND TO CONCLUDE.

SECTION II: 70 POINTS

FOLLOW THE FACT PATTERN AND USE “IRAAC” IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE FACTS TO THE LAW. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.
5. Ingmar stands in line at his local grocery, Megamunch, Inc. Ingmar purchases his groceries and receives his change. Dagmar, working the register, gives Ingmar a twenty dollar bill instead of the ten dollars he is owed. Dagmar, unbeknownst to Ingmar, always liked him and wants him to have the extra money for holiday shopping. Ingmar later discovers the twenty but does not return it.

What crime, if any, has Dagmar committed? Why or why not? Has Ingmar committed a crime? Why or why not?

**PART II: 70 POINTS**

As the festive holiday season approaches each year the public becomes pathologically consumed by at least one toy or gadget that engenders an overpowering desire in individuals to possess it. The unhealthy frenzy this year is generated by the “Wonder Box 8,” hereinafter the WB8. The WB8 is the latest in a gruesome series of games that simulate actual warfare, including the dismemberment of the characters. To add realism, the WB8 spurs a reddish blood-like liquid at the appropriate time and emits an odor of gunpowder. The WB8 also remotely operates small kitchen appliances. The WB8 is a huge success in the marketplace.

According to an advertisement, the retail giant Whinemart, whose store is located in Metro in the State of Confusion, the fifty-third state in the Union, will tomorrow receive an ample supply of the games for sale to the populace. The good, the bad and the less than palatable plan their pursuit of the amazing WB8.

Patrons line up outside the Whinemart with their beef jerky and tents, including Volt, Locke, Roose and Ham. As the day wears on, the group, overcome by the goodwill of it all, passes around a marijuana cigarette that Volt has brought with him. All inhale.

As darkness falls, a group of would be toughs from the nearby town of Suburbia meets at the local upscale coffee shop, Bigbucks. The group has taken to calling itself the Gamergoons and includes Grendel, Drac, Frank and Godz. Dressed in their colors, blue blazers, a discussion begins. Grendel says, “Let’s knock off Whinemart. Those idiots outside will have some money and we can get some WB8 games. We can unload the games to my friend Picket. I talked to him already.” Drac responds, “Let’s go.” Frank says, “I like the idea, but I’m concerned about the cops.” Godz says nothing. After finishing their cappuccino, the group jumps into Godz’s Mercedes Benz sedan and heads for Whinemart. Godz parks at the far end of the massive parking lot, the store barely visible. Grendel and Drac, wearing “Groucho Marx masks,” approach the front of the store. Frank walks to the rear loading dock area. Grendel approaches Volt as Drac stands nearby. Grendel, hand in pocket simulating a gun, says “Stick ‘em up or I’ll shoot. Give me your money.” Volt punches Grendel in the head. Grendel falls and Volt repeatedly kicks him. After a few seconds, Drac steps in and stabs Volt in the stomach with his letter opener. Volt drops to the ground, bleeding. Locke, who has a pre-existing heart ailment suffers a heart attack and dies on the spot. Grendel, who suffered a concussion from the blows administered by Volt, rises and strikes out at Roose who is standing nearby. Roose suffers a bruise to his arm. Roose, incensed, draws his replica
Samurai sword, which he always carries, and slashes at Grendel removing his right arm and slashing his face. Grendel runs directly into traffic, immediately into the path of an oncoming car driven by Minnie, who is en route home from a Christmas party. Minnie, though intoxicated, could not have seen the masked, blazer-clad Grendel on the darkened street. Grendel dies as a result of his injuries. Grendel would have died within minutes as a result of blood loss in any event, according to the later autopsy. Drac, perhaps wisely, takes flight.

Meanwhile, Frank approaches the loading dock area. He grabs a snow shovel which is nearby and reaches in the open window and removes a toy Santa which is standing on the floor. Frank hides the Santa in some nearby bushes. Within moments, a truck arrives which is driven by Sticky. Sticky unloads the precious WB8 games into the warehouse area. Sticky opens a box and grabs two WB8 games and places them in his pocket. Sticky intends to give one to his grandchild, Grabby, and one to charity. Frank observes Sticky from outside the warehouse. Frank enters the warehouse and says to Sticky, “Some guys out front are robbing people. Call the cops. But hey, I saw you steal those games. Give me one or I’ll tell them about you, too.” Sticky gives one WB8 to Frank and takes the other home and gives it to Grabby, who suspects the game may be stolen but avoids looking at the tag embossed on the game which would indicate date of sale.

At that moment, Godz, stricken with boredom, leaves his car and crosses the street. Godz, in search of food, enters the partially open door of the Housers residence. Godz opens the refrigerator and extracts an apple. Godz hears a noise upstairs and goes to investigate. There he finds Percocious, a young female. Precocious, upon seeing Godz, disrobes. Godz engages in sexual intercourse with Precocious on the bed. Unbeknownst to Godz, Precocious, who looks much older, is actually just thirteen years of age.

Volt, suffering from the stab wound, is taken to Slaughter Hospital. There he is treated by Doctor Dearth. Dearth performs surgery on Volt’s abdomen to repair the damage. During the operation Dearth grabs a scalpel that is four times bigger than what is necessary to complete the operation. Volt dies on the table from the incision which is inordinately large.

As daylight dawns Ham, the last of the customers remaining, enters Whinemart. Ham walks into the game department. Cheery, the customer service representative, tells Ham that the WB8 games will not be sold because of a defect in the simulated blood spraying system that causes the liquid to be expelled with the strength of a fire hose. In fact, the defect has already killed one person. Ham, who has an unfortunate psychiatric history, incensed, exclaims, “But, I’m Genghis Khan!” Ham then punches Cheery, breaking his jaw.

The WB8 games are manufactured by the Wallop Corporation, whose board of directors discussed the spraying system defect but decided, for reasons of profit, to take a chance on the sales. One board member, Dilly, had made a careful check for problems but the documents describing the defect were hidden from him by Mal, the C.E.O.
SECTION I: 30 POINTS

1. The State of Dread, the fifty-first state in the Union, has a law which provides as follows:

   "Any person who possesses a criminal law outline, not including a "hornbook," shall be punished by incarceration in the county jail for a period of not more than one year or by a fine of ten thousand dollars or both."

What are the elements of the "crime?" Is it a felony or a misdemeanor? What are standards used?

2. Miles and Winthrop, old college friends, decide to drive cross-country in an attempt to recapture their youth. Unfortunately, their car breaks down in the midst of the Goway Desert, which is located in the State of Denial, the fifty-second state in the Union. After a day of walking, without water, the two see Clunky's cabin. Miles breaks down the door as Winthrop waits outside. Miles runs to the refrigerator and takes a bottle of water. As he is leaving the premises, Miles also grabs a copy of a compact disc containing the greatest hits of the noted pop star, Bratiney Spores.

   Miles and Winthrop are charged with a statutory form of Burglary and Larceny. Describe their respective positions, the likely defense and the chances of success defining the requirements and applicability.

3. Woodrow has a history of heroin addiction. Woodrow is approached on the street by Officer Oliver, who is acting in an undercover capacity and posing as a seller of heroin. Oliver says, "Woody, I got some horse [an old street name for heroin] here. I'll give you a good price." Woodrow replies, "Nope. I'm clean now." Oliver presses, "Look, I'll give it to you for free." Oliver passes the heroin towards Woodrow. Woodrow weakens and takes the heroin and immediately snorts a portion of it.

   Woodrow is charged with possession of heroin and a second statutory violation, "being a person addicted to heroin."

   What points will likely be raised by the defense? What are the standards and the likelihood of success?

4. Honest Oxnard is a seller of antiques. Burbank enters Oxnard's store. Burbank fancies a statue of a horse, which Oxnard assures Burbank is a genuine work of the artist, Doogas. In fact, Oxnard knows the statue is a cheap reproduction. Burbank, using false identification, signs the name Francisco on a stolen check which is actually worthless. Burbank takes the fake Doogas and leaves.

   Define and describe what, if any, crimes have been committed and by whom.