ID # ____ ____ ____ ____ ____

Fall 2015

ADVANCED CRIMINAL LAW FINAL EXAM

Professor Rodriguez

DURING THIS EXAM YOU ARE NOT TO HAVE ANY OTHER DOCUMENT OR A CELL PHONE OR ANY OTHER DEVICE THAT CAN TRANSMIT AND/OR RETAIN INFORMATION. POSSESSION OF THE ABOVE IS A VIOLATION OF THE HONOR CODE AND WILL BE DEALT WITH ACCORDINGLY.

INSTRUCTIONS:

1. Do not use your own scrap paper. Instead, take one blue book, mark it as "Scrap" and use it as scrap paper. **Your scrap blue book must be turned in together with the exam packet at the end of the exam**.

2. Your **ANSWERS MUST BE WRITTEN DIRECTLY IN THIS EXAM PACKET**, which you will turn in at the end of the exam.

3. **Do not identify** yourself in the exam packet in any way other than by student ID. Do not write any information that could reveal who you are.

4. This is a closed-book examination. Other than writing implements, you are not to have any materials on your table or at your feet. Place all books, knapsacks, briefcases, etc. at the side or front of the room.

This exam consists of **fifteen** directed, short answer questions of various values as follows:

Question 1 = 15	Question 9 = 5
Question 2 = 5	Question 10 = 5
Question 3 = 5	Question 11 = 10
Question 4 = 5	Question 12 = 10
Question 5 = 15	Question 13 = 10
Question 6 = 15	Question 14 = 5
Question 7 = 5	Question 15 = 5
Question 8 = 5	

T**he exam consists of a total of 120 Points** and will account for **90% of your semester grade.**

If you have extra time, there is a Bonus Section at the end consisting of 10 questions, each worth 2 points, with which you may supplement your score.

The total time for the exam is **3 hours**.

I will give a **15 minute** warning, at which point no one may leave the room until the exam ends.

I will also warn you when there are **5 minutes** left and **1 minute** left. When I call time, you are to stop writing immediately.

PART ONE - DIRECTED, SHORT-ANSWER QUESTIONS (Point value for each question is listed with the question)

Part One consists of fifteen questions in the form of hypotheticals, each of which describes a situation from which a particular criminal charge is likely to be brought and which is, therefore, governed by a specific rule of law. Each question requires that you identify the specific rule, or rules, that will control the result and requires a short answer, written in the following form:

> Your answer must be a concise, proper analysis that includes: (1) Your statement of the likely result; (2) followed by an explicit statement of the governing rule of law; (3) followed by your application of that rule to the specific facts of the situation.

Limit your answer to the space provided. I will not read anything written beyond the lines provided. Pay particular attention to the call of the question.

Question # 1 (15 points)

A man who is a drug addict needed to find property that he could easily sell on the street to make money to feed his vicious drug habit. The man went to the home of his old neighbors, Fred and Wilma, and opened a closed window on the ground floor of the house, which he climbed through at 1:30 in the morning. Once inside, he looked around for small electronics, cash, jewelry and anything else that he could quickly get his hands on. Fred, a light sleeper, came downstairs to investigate the noises he heard. Finding the intruder in the kitchen he shouted, "if you don't leave, I'm going to call the police." Hearing this, the man grabbed a large steak knife from a set of knives on top of the kitchen counter and stabbed Fred to death. He then fled with the stolen property and was later apprehended and arrested by the Charlton, Massachusetts Police Department.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the man be charged with? **Limit your answer to the space provided**.

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Question # 2 (5 points)

Defendant, who was a passenger on the MBTA's Orange line, sat next to a physically disabled man who was confined to a wheel chair. Upset that the wheel chair took up too much room the Defendant began to yell at the man, telling him he should be riding on one of the Ride Share vehicles so his wheel chair did not take up so much room. Displeased with the man's response the defendant then spit on the man and called him names. The defendant was later caught and arrested on the Blue Line by the MBTA Transit Police.

Applying the laws of the Commonwealth of Massachusetts what statutory offense may the defendant be charged with? **Limit your answer to the space provided**.

Do Not Write in This Space

(Turn The Page For The Next Question)

Question # 3 (5 points)

Bill, taking a drive West on Route 2 to see the beautiful fall foliage, was stopped by a State Trooper. When the trooper approached Bill's vehicle he observed a firearm in plain view on the front passenger seat. After a closer inspection of the weapon it was determined that the firearm was actually an inoperable, but very real looking, airsoft bb gun.

Applying the laws of the Commonwealth of Massachusetts may the State Trooper arrest and charge Bill with the unlawful possession of a firearm? **Limit your answer to the space provided**.

Do Not Write in This Space

(Turn The Page For The Next Question)

Question # 4 (5 points)

Bill, hungry for a snack, decides to go down to the Seven Eleven to purchase a can of Sour Cream & Onion Pringles and a can of cherry cola. Knowing that recently there have been a number of violent robberies in the area, Bill decides to strap on his holster and carry his Smith and Wesson 9 mm hand gun with him for protection. While he is walking along the street an Avon police officer on patrol notices Bill openly carrying his hand-gun. When the officer approaches Bill to inquire whether he has a license to carry (LTC) a firearm, Bill tells the officer that he has a firearm identification card (FID) which permits him to carry his gun.

Applying the laws of the Commonwealth of Massachusetts may the officer arrest and charge Bill and if so what statutory offense may he be charged with? **Limit your answer to the space provided**.

Question # 5 (15 points)

The defendant lived next door to his neighbors, the Browns, for more than 15 years in the quiet community of Lawrence, Massachusetts. Every year during the Christmas Holidays, the Browns would create a dazzling and spectacular Christmas lights show, on Christmas Eve, complete with theme music and fireworks. This year, the Browns' Christmas Lights Show was synchronized to the theme song "It's Beginning to Look a Lot Like Christmas" sung by Bing Crosby.

The defendant hated the Browns' Christmas lights show and he hated Bing Crosby even more. Angry at all the attention and crowds of people who trampled his front lawn to see the show, the defendant decided he would put an end to the show. On the night before Christmas Eve, the defendant went to the Browns' house with a plate of holiday cookies he baked. Once inside the home the defendant sprung into action and according to his plan he forced the entire family into the living room. The defendant then viciously stabbed Mr. Brown to death by inflicting over 50 stab wounds to his heart and head with a steak knife. The defendant then bound Mrs. Brown and her two teenage children together using Christmas lights, marched them out to the front lawn, and shot them each in the head at close range. Prior to and during the shooting of Mrs. Brown and her children, the defendant laughed and sang the song, "Jingle Bell Rock," as he watched them take their last breaths.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the defendant be charged with? **Limit your answer to the space provided**.

Question # 6 (15 points)

Assume that you are retained by the defendant to represent him on the charges from question 5 above, and prior to the Defendant's arraignment you learn from him and his family members who are present at the arraignment that the defendant is bipolar and manic depressive and that, prior to the deaths of the Browns, voices in his head instructed him to kill the Browns. You also learn that the defendant consumed drugs and alcohol just prior to the murders and there's some question as to whether the defendant knew that when he consumes drugs or alcohol it causes him to become paranoid and to hear the voices.

What specific affirmative defense will you raise on behalf of the defendant, who has the burden of proof and what must be shown in order to successfully raise or defeat the defense? **Limit your answer to the space provided**.

Question # 7 (5 points)

Jose's son, Alex, told Jose that he planned to rob a bank with a friend. Although Jose expressed concerns about the scheme, especially that they might get caught and be sent to prison, Jose did not do anything to stop his son from carrying out the plan. Several days before the robbery was to take place, Alex asked his father if he would go to the coffee shop next to the bank, sit outside, and alert him if the police were coming while the robbery was taking place. Jose agreed, and on the day of the robbery he went to the coffee shop, sat outside and watched the bank. The robbery was interrupted in progress, and Alex and his friend were arrested and charged.

Applying the laws of the Commonwealth of Massachusetts what statutory offense may Jose be charged with. **Limit your answer to the space provided**.

Question # 8 (5 points)

Arnold and Tina, who did not know each other. were at a party. Tina was a petite woman, weighing just 105 pounds while Arnold was a bodybuilder and weighed well over 200 pounds. Tina had a few alcoholic drinks and went to an upstairs bedroom for a nap. Arnold saw Tina go upstairs, and, twenty minutes later, he went up and saw that she was sleeping in the bed. He pulled down his pants, and without saying anything, began to fondle Tina, and then lay on top of her. Tina awoke, looked at Arnold, but said and did nothing. She later testified that she did nothing because she was terrified that Arnold would harm her if she did. Arnold then inserted his penis inside Tina and ejaculated.

Applying the laws of the Commonwealth of Massachusetts please discuss whether Arnold has committed the statutory offense of rape. **Limit your answer to the space provided**.

Do Not Write in This Space

(Turn The Page For The Next Question)

Question # 9 (5 points)

Larry, Harry and Barry discuss over the phone a plan to rob People's First National Bank. If the police learn of their plan to rob the bank can Larry, Harry and Barry be charged with the statutory crime of conspiracy if they never met in person?

YES or NO

In the space provided below recite the applicable rule of law and apply it to the facts to support the conclusion you reached in your answer. **Limit your answer to the space provided**.

Question # 10 (5 points)

Larry, Harry and Barry agree to rob People's First National Bank however they cannot agree on whether they will actually use real or fake guns to commit the robbery. If the three co-conspirators cannot agree to the every detail of the plan can they be convicted of the statutory crime of conspiracy?

YES or NO

In the space provided below recite the applicable rule of law and apply it to the facts to support the conclusion you reached in your answer. **Limit your answer to the space provided**.

Question # 11 (10 points)

While at a wedding, a woman told a man about her plan to rob Macys on Christmas Eve because she knew that the Macys had a lot money in its vault for the holidays. The man told the woman that he had previously robbed several banks and department stores and that he knew what it took to successfully rob a department store. The man and woman then met on several occasions during which the man went over step by step how to rob Macys and he also provided her with the necessary items consisting of a mask, a gun and a police scanner which she would need to rob Macys. Assume that the woman is later caught and charged by the Boston Police Department for armed robbery.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the man be charged with? **Limit your answer to the space provided**.

Question # 12 (10 points)

Same set of facts as Question # 11 above: however, suppose the man learns that the police are looking for him for his role in the robbery of Macys. Suppose further that the man heads to his brother's home located in Springfield, Massachusetts and he tells his brother that he played a minor role in a store robbery and that he needs a place to lay low for a couple of days until the cops stops looking for him.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the brother be charged with if he allows the man to stay with him and discuss any available defenses? **Limit your answer to the space provided**.

Question # 13 (10 points)

A man went into Cambridge Rindge Latin High School and, armed with a gun, took a backpack full of drugs and cash from the victim. During the robbery the man's gun accidentally went off killing the victim instantly.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the man be charged with? **Limit your answer to the space provided**.

Question # 14 (5 points)

Amesbury Police arrested the defendant on a default warrant for violation of a restraining order. Immediately upon searching him, police discover a miniature wooden bat on the defendant's person that he used for protection.

Applying the laws of the Commonwealth of Massachusetts what additional statutory offense may the defendant be charged with? **Limit your answer to the space provided**.

Question # 15 (5 points)

The defendant and his girlfriend were driving on Main Street when his girlfriend told him that the man standing on the corner had beat her up pretty badly a month ago. Upon hearing this, the defendant became upset and told his girlfriend, "no one's going to get away with hurting my girl, I'm going to kill that asshole." The defendant pulled the car over and stopped next to where the man was standing. He then got out the car and pointed a loaded 357 magnum handgun at the man and fired a shot which just missed the man's head.

Applying the laws of the Commonwealth of Massachusetts what statutory offense may the defendant be charged with? **Limit your answer to the space provided**.

BONUS QUESTIONS – SELF DEFENSE (Each Question is worth **2 points**)
Answer by marking either True ("T") or False ("F") with an "X":

Question # 1. As to self-defense, the Commonwealth must prove beyond a reasonable doubt that the defendant did not act in self-defense.

T [ ] : F [ ]

Question # 2. To raise the affirmative defense of self-defense, one of the required elements is that the defendant must do everything reasonable in the circumstances to avoid physical combat before resorting to force.

T [ ] : F [ ]

Question # 3. To consider whether the defendant used excessive force in self-defense the jury may not consider evidence about where the incident took place.

T [ ] : F [ ]

Question # 4. Defense of another is a complete defense?

T [ ] : F [ ]

Question # 5. A person lawfully occupying a house, apartment or other dwelling is required to retreat from combat with an unlawful intruder.

T [ ] : F [ ]

Question # 6. Generally, the original aggressor has a right of self-defense

T [ ] : F [ ]

Question # 7 With respect to a claim of self-defense, the jury may consider whether the victim had a reputation for violence or being quarrelsome that was known to the defendant prior to the alleged incident.

T [ ] : F [ ]

Question # 8 Admission of evidence of specific acts of violence is not preferred over more general evidence of the victim's reputation for violence.

T [ ] : F [ ]

Question # 9. When two people engage in a fist fight by agreement, generally neither of them is acting in self-defense.

T [ ] : F [ ]

Question # 10. A person who is arrested by someone who he (she) knows is a police officer is allowed to resist that arrest with force if the arrest is unlawful.

T [ ] : F [ ]

Spring 2014

ADVANCED CRIMINAL LAW MID-TERM QUIZ

Professor Rodriguez

YOUR STUDENT ID NUMBER: ___ ___ ___ ___ ___ ___ -- 59

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INSTRUCTIONS:

1. Do not use your own scrap paper. Instead, take one (1) blue book, **mark it with the word "Scrap" and your student ID #,** and use that as your scrap paper. At the end of the exam please turn in **your exam packet** and your scrap blue book.

2. Your **ANSWERS TO PARTS 1 & 2 MUST BE WRITTEN DIRECTLY IN THIS EXAM PACKET**, which you will turn in at the end of the exam.

3. Do not identify yourself in the exam packet in any way other than by student ID. Please do not write anything that might reveal who you are.

4. This is a closed-book examination. Other than writing implements you are not to have any materials on your table or at your feet. Place all books, knapsacks, briefcases, etc. at the side or front of the room.

This exam consists of [**2**] parts for a **<u>total of 60 Points</u>** and will account for **20% of your semester grade.**

The total time for the exam is **1 hour and 15 minutes**.

Part One consists of **5** multiple choice, true/false or fill-in questions worth **2** point each, for a total value of **10 points**;

Part Two consists of **10** directed short answer questions, each worth 5 points, for a total value of **50 points**;

I will give a **15 minute** warning, after which no one may leave the room until the exam ends.

I will also warn you when there are **5 minutes** left and **1 minute** left. When I call time, you are to stop writing immediately.

GOOD LUCK !!!

PART ONE (Each Question in this section is worth 2 points)

1. According to the laws of the Commonwealth of Massachusetts, which of the following is incapable of use as a dangerous weapon within the meaning of G.L. c. 265 §15?

a) Sling shot;

b) Rottweiler;

c) Teeth;

d) Large Plastic Toy Gun.

2. According to the laws of the Commonwealth of Massachusetts, which of the following is a misdemeanor?

a) assault and battery

b) larceny from a person

c) larceny in a building

d) assault and battery for the purpose of collecting a loan

3. For Type 2: Threatened Battery a verbal threat does not constitute an assault

True [ ] False [ ]

4. Voluntary Intoxication is a defense to the statutory offense of Assault & Battery.

True [ ] False [ ]

5. The suspect maliciously intended to maim or disfigure; and committed one of the following acts to the victim:

_____; or

_____; or

_____; or

_____; or

_____

PART TWO

This section consists of questions in the form of hypotheticals, each of which describes a situation from which a particular criminal charge is likely to be brought and which is, therefore, governed by a specific rule of law. Each question requires that you identify the specific rule, or rules, that will control the result and requires a short answer, written in the following form:

> Your answer must be a concise, proper analysis that includes: (1) Your statement of the likely result; (2) followed by an explicit statement of the governing rule of law; (3) followed by your application of that rule to the specific facts of the situation.

Limit your answer to the space provided. I will not read anything written beyond the lines provided. Pay particular attention to the call of the question

Question 1 (This question is worth 5 points)

Stephen was at Joe's Pub and Grill on Andover Street in Methuen having a hamburger with Swiss cheese and jalapeños, and an order of curly fries. Ralph walked up and threw a punch at Stephen but missed as he slipped on a couple of Stephen's jalapeños that had fallen on the floor.

Applying the laws of the Commonwealth of Massachusetts what statutory offense may Ralph be charged with and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

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Question 2 (This question is worth 5 points)

Paul was standing outside the Home Depot located at the Loop in Methuen when a 1945 Volkswagen Van pulled up next to him and the driver said, “hey buddy you interested in buying some cheap merchandise?” Paul, in need of a gift for his mistress, told the driver he was interested and asked to see what he had. When the driver slid open the side door of the van Paul saw rows of shelves containing all kinds and types of jewelry with handmade tags attached, all at very cheap prices. Paul, suspecting that the jewelry may be stolen, chose not to ask and instead bought two diamond earrings and a necklace. Immediately after purchasing the property an undercover Methuen police officer approached Paul and arrested him.

According to the laws of the Commonwealth of Massachusetts what statutory crime could Paul likely be charged with and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question 3 (This question is worth 5 points)

While on patrol, officers from the Burlington Police Department receive a report from Target's Loss Prevention that they are detaining Brenda for taking possession of and carrying away property valued at $98.99. When the officers arrive on scene they are advised by Loss Prevention that Brenda took two pairs of jeans off the rack and attempted to walk out the door, however, they were able to stop her before she exited the store.

According to the laws of the Commonwealth of Massachusetts may the officers arrest Brenda and if so what statutory crime would they charge her with; and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question 4 (This question is worth 5 points)

Julio, a master pickpocket, was walking around the Liberty Tree Mall located in Danvers when he spotted Melissa as an easy mark. Julio walked over to Melissa when she was speaking to a woman selling perfume at a kiosk, and he took her wallet from her purse. Going into a nearby men's room, Julio took the cash and credit cards from the wallet. He then threw the wallet into the trash.

According to the laws of the Commonwealth of Massachusetts what statutory crime can Julio be charged with and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**. .

Question 5 (This question is worth 5 points)

Tom, a night watchman for Allied Trucking, was hired solely to guard Allied's physical property such as the building and it's equipment. While on his rounds one night Tom came across an open safe and saw more than $50,000 dollars in cash. Short of cash for the holidays, Tom exercised control over the money by taking it and using it to buy Christmas gifts, pay a few bills and booking himself on a nice Caribbean cruise during January.

After a diligent investigation the Foxboro Police Department was able to determine that Tom had stolen the money. They advised the owner of this but he failed to make a demand for the return of the money. Since the owner of Allied Trucking has failed to make a demand for the return of the money can the Foxboro Police Department charge Tom with the theft, and, if so, what statutory crime can Tom be charged with under the laws of the Commonwealth of Massachusetts and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question 6 (This question is worth 5 points)

Same facts as Question 5 above, however, suppose that Tom took the cash and hid it in a shoebox under his bed at home.

Can the Foxboro Police Department charge Tom with a crime if he secreted the money in a shoebox, and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question 7 (This question is worth 5 points)

Frankie, a sixty year old man who lives at Sunset Towers in Leominster, had an argument with a homeless man named Jerry who often sleeps with his dog in the lobby of the Towers. While they argued Jerry had his dog on a leash and he spoke a short phrase to the dog "in a stern voice" while partially unraveling the leash but continuing to hold it. The dog immediately lunged at Frankie and bit his hand which caused severe nerve damage. Jerry and the dog then fled the scene.

According to the laws of the Commonwealth of Massachusetts, if officers from the Leominster Police Department are able to apprehend Jerry what statutory crime would they charge Jerry with, and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**. .

Question 8 (This question is worth 5 points)

Same facts as Question 7 above, however suppose that when the dog lunged at Frankie, he reasonably feared an immediate attack and injured himself as he attempted to fend off the dog and to escape. If the dog never bit Frankie can the Leominster Police Department charge Jerry with a crime? If so, according to the laws of the Commonwealth of Massachusetts what statutory crime may they charge him with, and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**. .

Question 9 (This question is worth 5 points)

Michael was at Joe's Pub and Grill on Andover Street in Methuen enjoying his cheeseburger with melted provolone cheese and peanut butter with a bag of Wachusett's Sour Cream and Onion chips and a Shipyard Pumpkinhead beer when Robert walked up to Michael and punched him in the face.

According to the laws of the Commonwealth of Massachusetts what is the strongest action that the Methuen Police may take and why; and what statutory offense can Robert be charged with. Be certain to also discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**. .

Question 10 (This question is worth 5 points)

Farmer Brown was plowing his cornfield when his tractor broke down. While attempting to repair it he discovered that he needed a special kind of tool to make the repairs. Farmer Brown knew that Farmer Fred, his neighbor, used the same type of tractor and kept a large assortment of tools in his garage. Not wanting to make the long drive to the John Deere store to purchase a special tool he would probably only use once, Farmer Brown went to Farmer Fred's house to borrow the special tool. However, no one was home so he decided to look in Farmer Fred's garage for the special tool. Farmer Fred's garage was wide open so Farmer Brown walked right into the garage. Once inside, Farmer Brown found the tool and took it with him to work on his tractor. Farmer Fred returned soon after and contacted the Lancaster Police Department when he discovered that one of his tools was missing. Through a diligent investigation, the police were able to determine that Farmer Brown took the tool.

Assume that the crimes of burglary and breaking and entering have not been committed. According to the laws of the Commonwealth of Massachusetts what statutory offense can Farmer Brown be charged with, and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**. .

___ ___ ___ ___ ___ ___ -- 59

Fall 2014

ADVANCED CRIMINAL LAW FINAL EXAM

Professor Rodriguez

YOUR STUDENT ID NUMBER: ___ ___ ___ ___ ___ ___ -- 59

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3. Please do not identify yourself in the exam packet in any way other than by student ID. Please do not write any information that might reveal who you are.

4. This is a closed-book examination. Other than writing implements, you are not to have any materials on your table or at your feet. Place all books, knapsacks, briefcases, etc. at the side or front of the room.

This exam consists of: 11 questions, as follows:

 # 1 -- 10 points
 # 2 – 25 points
 # 3 – 15 points
 # 4 – 15 points
 # 5 – 15 points
 # 6 – 15 points
 # 7 – 10 points
 # 8 – 10 points
 # 9 – 20 points
 # 10 – 10 points
 # 11 – 5 points

for a **<u>total of 150 Points</u>** and will account for **85% of your semester grade.**

In addition, if you have extra time, there is a Bonus Section at the end consisting of 10 questions, each worth 2 points, with which you may supplement your score.

The total time for the exam is **3 hours**.

I will give a **15 minute** warning, at which point no one may leave the room until the exam ends.

I will also warn you when there are **5 minutes** left and **1 minute** left. When I call time, you are to stop writing immediately.

GOOD LUCK !!!

PART ONE (questions in this section are worth various numbers of points)

Question # 1 (10 points)

Shortly after 1 a.m., four partygoers left a neighborhood holiday party in Revere to head home when they were confronted by Jeffrey Moreno who was sitting in his Cadillac Escalade. Moreno, who lived next door to where the holiday party was taking place was furious that the partygoers had moved a couple of chairs he left to mark his wife's parking spot in front of his home. Moreno jumped out of his vehicle with a gun in his hand and fired three shots into the air and, in both English and Spanish, he threatened to shoot the partygoers if they did not move their car out of his wife's parking space. Moreno then jumped back into his vehicle, backed into his driveway, and ran into his home. Responding officers from the Revere Police Department made contact with Moreno, eventually seizing the firearm he used during his tirade, and arrested and charged him.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may Moreno be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 2 (25 points)

A Manager and two of his employees at a local McDonalds in Downtown Boston were in the process of closing up for the night. After cleaning the restaurant, the Manager escorted his two employees to the front door which was locked so they could leave to go home. When the Manager opened the door, the three were confronted by two masked men who were each armed with a machete. The two masked men forced their way into the restaurant, bound the workers' wrists with shoelaces, then repeatedly punched the Manager in the face demanding to know the code to the safe where the day's receipts were held. After obtaining the money, the two men left carrying two backpacks stuffed with cash before dumping clothing and gloves they were previously wearing in an alley behind the restaurant. Unfortunately for them, the two men did not get very far because officers from the Boston Police Department who were nearby during the commission of the offense confronted the two men in the alley behind the restaurant. The two suspects were arrested and taken into custody.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the Defendants be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 3 (15 points)

Defendant, who had been out of work for months and needing cash to purchase gifts for his four children, decided he would steal cash and jewelry from his wealthy neighbor who lived three houses down from him. Defendant waited until midnight when he knew his neighbor would be fast asleep to gain entry into his home. While inside the neighbor's home the Defendant, armed with a firearm that he had at the time of his entry, threatened to kill the neighbor, the neighbor's wife and their two small children. Hours after committing the offense the Defendant was arrested by the Swansea, Massachusetts Police Department.

Applying the laws of the Commonwealth of Massachusetts should the Defendant be charged with Armed Assault in a Dwelling or should he be charged with Home Invasion While Armed. Please fully define each of the above Massachusetts statutory offenses and in your analysis please distinguish between each offense, correctly conclude which statutory offense the Defendant should be charged with, and explain why. **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 4 (15 points)

A man who is a drug addict needed to find property that he could easily sell on the street to make money to feed his vicious drug habit. The man went to the home of his old neighbors Fred and Wilma and opened a closed window on the ground floor of the home which he climbed through at 1:30 in the morning. Once inside, the man started looking around for small electronics, cash, jewelry anything he could quickly get his hands on. Fred, a light sleeper came downstairs to investigate the noises he heard. When Fred found the man in the kitchen he shouted, "if you don't leave, I'm going to call the police." The man upon hearing this grabbed a large steak knife from a set of knives on top of the kitchen counter and stabbed Fred to death. The man then fled with the stolen property; however he was later apprehended and arrested by the Charlton, Massachusetts Police Department.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the man be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 5 (15 points)

Roland Smith lived next door to his neighbors, the Browns for over 15 years in the quiet community of Brockton, Massachusetts. Every year during the Christmas Holidays, the Browns would create a dazzling and spectacular Christmas lights show complete with theme music and fireworks on Christmas Eve. This year, the Browns' Christmas Lights Show was synchronized to the theme song "Let it Go" from the motion picture movie *Frozen*.

Smith hated the Browns' Christmas lights show and he hated the movie *Frozen* even more. Angry over all the attention and crowds of people who trampled his front lawn to see the show, Smith decided he would put an end to the show. On the night before Christmas Eve, Smith went over to the Browns' house with a plate of holiday cookies he baked as a ruse to gain entry into their home. Once inside the home Smith sprung into action and according to his plan he forced the entire family into the living room. Smith then viciously stabbed Mr. Brown to death by inflicting over 50 stab wounds to his heart and head with and ice pick. Smith then bound Mrs. Brown and her two teenage children together with Christmas lights, poured gasoline over them, marched them out to the front lawn and set them on fire. As Mrs. Brown and children screamed from the pain of the flames and begged Smith to save them, he laughed and sang the song, "It's beginning to look a lot like Christmas," as he watched them burn to death.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may Smith be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 6 (15 points)

Assume that you are retained by Smith to represent him on the charges from question 5 above, and prior to Smith's arraignment you learn from him and his family members who are present at the arraignment that Smith suffers paranoid schizophrenia and that, prior to the deaths of the Browns, voices in his head instructed him to kill the Browns. You also learn that Smith consumed drugs and alcohol just prior to the murders and there's some question as to whether Smith knew or had reason to know that when he consumes drugs or alcohol it causes him to become even more paranoid and to hear the voices even more.

What specific affirmative defense will you raise on behalf of Smith, who has the burden of proof and what must be shown in order to successfully raise or defeat the defense? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 7 (10 points)

While at a bar one evening, a woman told a man about her plan to rob People's First United Bank on Christmas Eve because she knew that the bank had a lot money in its vault for the holidays. The man told the woman that he had previously robbed several banks and he knew what it took to successfully rob a bank. The man and woman then met on several occasions during which the man went over step by step how to rob the bank and he also provided her with the necessary items of a mask, a gun and a police scanner which she would need to rob the bank. Assume that woman is later caught and charged by the Stoneham Police Department for armed robbery.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the man be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 8 (10 points)

Same set of facts as Question # 7 above: however, suppose the man learns that the police are looking for him for his role in robbery of the bank. Suppose further that the man heads to his brother's home located in Worcester, Massachusetts and he tells his brother that he played a minor role in a bank robbery and that he needs a place to lay low for a couple of days until the cops stops looking for him.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may the brother be charged with if he allows the man to stay with him and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 9 (20 points)

Mr. and Mrs. Miller had a history of domestic violence between the two of them, often over finances and Mr. Miller's drinking. On Christmas Eve, Mrs. Miller told Mr. Miller that she had been having an affair with one of Mr. Miller's longtime golfing buddies, and that she was pregnant with the golfing buddy's child. Upon hearing this Mr. Miller flew into a rage and killed Mrs. Miller by striking her in the head with a hammer.

Assume that the Essex County District Attorney's Office has decided to charge Mr. Miller with First Degree Murder under a theory of deliberate premeditation. Assume further that you have been retained to represent Mr. Miller. Applying the laws of the Commonwealth of Massachusetts what argument would you make on behalf of Mr. Miller and what statutory charge would you recommend he be charged with? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**

Question # 10 (10 points)

Robert O'Sullivan at all times owned and operated the Foxxy Lady Gentlemen's Club in Springfield, Massachusetts which featured three floors of adult entertainment. The Main entrance to the club was located at 5-8 Shawmut Avenue. Two large doors located on the south side of the building led out to a spacious alley, however O'Sullivan was concerned that the nonpaying customers would attempt to enter the club late at night through these doors so he kept them shut by applying bars across the doors on the inside of the club. On the north side of the club there were also two large doors which O'Sullivan kept locked at all times. In the rear of the club there were two sets of large doors which opened out onto Massachusetts Avenue. O'Sullivan also kept those doors secured and the only way to open them would be to remove the bars with a special key. One evening, a sixteen year old employee was attempting to replace the burned out light bulb in the second letter "x" in Foxxy. The worker stood on a nearby ashtray to replace the bulb. As he was stepping down the ashtray tipped over and a couple of lighted cigarettes rolled under a nearby cloth couch.

Within minutes the couch went up in flames which quickly spread across the foam ceiling spreading thick black clouds of black smoke throughout the club. The fire continued to spread quickly to the upper floors with more and more smoke filling the building. Many of the club's 250 adult patrons began to run in all directions attempting to escape the flames and the thick smoke. After the fire was eventually put out by the Springfield Fire Department more than 150 bodies including patrons and employees were found dead inside the club from either smoke inhalation or by being consumed by the fire.

Applying the laws of the Commonwealth of Massachusetts what statutory offense(s) may O'Sullivan be charged with and discuss any available defenses? **Fully state the applicable rule of law in your answer and apply the ROL to the facts in your analysis**.

Question # 11 (5 points)

Detective Sergeant Kevin O'Malley of the Cambridge Police Department, an experienced narcotics investigator, became involved in an undercover investigation that involved Yomira Ortiz and Juan Martinez. On December 3, 2013, Detective Sergeant O'Malley bought four bags of cocaine from both Ortiz and Martinez for $150.00. On December 6, 2013 Det. Sgt. O'Malley made a second purchase of cocaine from Ortiz for $150. These two transactions were followed by two additional purchases of cocaine by Det. Sgt. O'Malley on December 12 and 13, 2013. On both occasions, Ortiz and Martinez jointly participated in the sale. On February 24, 2013, Det. Sgt. O'Malley made a fifth purchase of cocaine from Ortiz when he directly bought from her an "eight-ball" for $160. In the continuing criminal enterprise, this sale became the subject of the first trafficking indictment (no. 93934).

Suppose the Grand Jury has returned a True Bill on the indictment. According to the laws of the Commonwealth of Massachusetts what statutory offense (aside from the trafficking and various narcotics violations) should the defendants be prosecuted for and what must the Prosecution prove in order to convict the defendants.

BONUS POINTS (each bonus question is worth 2 points)

Bonus Question # 1

One of the elements of non-deadly self-defense that the Government must prove is that the defendant did not do everything within the circumstances to avoid physical combat before resorting to force.

[ ] True or [ ] False

Bonus Question # 2

In the Commonwealth of Massachusetts deadly force is defined as force intended or likely to cause death or great bodily harm or using a dangerous weapon in a manner intended or likely to cause death or great bodily harm?

[ ] True or [ ] False

Bonus Question # 3

The right to self-defense arises from necessity and ends when the necessity ends.

[ ] True or [ ] False

Bonus Question # 4

According to the "Castle Doctrine" in the Commonwealth of Massachusetts, in order for a person lawfully occupying a house or apartment or other dwelling not to retreat and to use deadly force the occupant must reasonably believe that the intruder is only about to inflict death on him (her) or on another person lawfully in the dwelling?

[ ] True or [ ] False

Bonus Question # 5

Generally, the original aggressor has no right of self-defense; however if he (she) withdraws from the conflict in good faith and announces his (her) intention of abandoning the fight he (she) may regain his (her) right of self-defense?

[ ] True or [ ] False

Bonus Question # 6

The "Adjutant Defense" allows the jury to take into consideration any act (acts) of violence that may have been initiated by the alleged victim on a prior occasion or prior occasions, even if the defendant did not know of that act or those acts of violence at the time of the incident.

[ ] True or [ ] False

Bonus Question # 7

Defense of another is a complete defense?

[ ] True or [ ] False

Bonus Question # 8

Where defense of others is relied upon by the defendant and evidence is sufficient to raise the issue, a judge must sua sponte give an instruction even absent a request by the defendant?

[ ] True or [ ] False

Bonus Question # 9

Self-defense is available only where there is an immediate need to resort to force and not where other remedies are available?

[ ] True or [ ] False

Bonus Question # 10

The affirmative defense of Self-defense permits under General Law c. 233, § 23E the introduction of evidence that the defendant has been the victim of acts of physical and psychological harm and even sexual abuse?

[ ] True or [ ] False