ID # ___ ___ ___ ___ ___

Fall 2016

CRIMINAL LAW FINAL EXAM

Professor Rodriguez

DURING THIS EXAM YOU ARE NOT TO HAVE ANY OTHER DOCUMENT OR A CELL PHONE OR 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. At the end of the exam please turn in **your exam packet** and your scrap blue book.

2. **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 **one** part for a **<u>total of 155 Points</u>** and will account for **70% of your semester grade.** The total time for the exam is **three hours**.

Part One consists of **fifteen** directed, short answer questions of various values as follows**;**

Question 1 = 20	Question 7 = 15	Question 14 = 5
Question 2 = 15	Question 8 = 10	Question 15 = 10
Question 3 = 10	Question 9 = 10	
Question 4 = 10	Question 10 = 15	
Question 5 = 5	Question 11 = 5	
Question 5a = 5	Question 12 = 5	
Question 6 = 10	Question 13 = 5	

If you have extra time, there is a Bonus Question at the end, consisting of one essay type question, worth 20 points, with which you may supplement your score.

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: After Jethro was fired from his job, he decided to "get even" with his ex-employer. So, one night, Jethro broke into Farmer John's barn and set fire to John's favorite tractor. The barn was located approximately 100 feet from the main house.

One of Farmer John's neighbors, Leroy, saw smoke coming from the barn. Leroy ran over and put out the fire before any part of the barn was destroyed. There was, however, extensive charring to the barn. Also, several of the items in the barn were burned.

What **common law crimes** has Jethro committed? (20 points) **Limit your answer to the space provided.**

QUESTION # 2: A man had spent the evening drinking at a local bar and was weaving down the street on his way home, singing. Suddenly, a person wearing a cartoon character mask jumped out from an alley, pointed his gun at the man, and snarled, 'This is loaded, buddy, and I don't mind using it. Hand over your cash pronto." The man was so drunk that he failed to understand what was going on and started to howl with laughter at the sight of the cartoon mask. Surprised and rattled by the man's reaction, the masked gunman fled. The man soon recovered his composure and staggered home safely.

Discuss fully the most serious common law and Model Penal Code crime(s) the gunman has committed. (15 points) Limit your answer to the space provided.

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QUESTION # 3: A defendant hated his boss, who had recently demoted him to a less prestigious position. Late one afternoon, the defendant saw his boss walking down the hallway. The defendant pulled out a gun and fired four shots at his boss. Although none of the bullets directly hit his boss, one of the shots ricocheted against a wall and struck the boss in the head, killing him instantly.

Discuss fully the most serious common law crime the defendant has committed. (10 points) **Limit your answer to the space provided.**

QUESTION # 4: Bill and Ted are partners in a major drug distribution operation. They agree to sell ten kilos of cocaine to Mickey, a drug dealer in the town of Bedrock. One night, Bill and Ted drive over to an abandoned warehouse to make the sale to Mickey. Bill notices several police cars cruising the neighborhood, and he becomes alarmed. He tells Ted, "I don't want any part of this one. It's too dangerous. You should pull out, too." Ted responds, "You no-good wimp. I can do this without your help." Bill leaves, and Ted goes through with the sale to Mickey. Assume that Ted is later caught and arrested. Hoping to make a deal for a lighter sentence, he tells the police that Bill helped him to plan the sale.

Discuss fully what common law crime Bill and Ted have committed and what if any available defenses they may raise: (10 points) **Limit your answer to the space provided**.

QUESTION # 5: 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 Common Law, discuss fully whether Jose can be held criminally liable for his role in the criminal enterprise. (5 points) **Limit your answer to the space provided**.

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QUESTION # 5(a): Suppose instead that an hour before the bank robbery, Jose said to both Alex and his friend, "hey, listen guys, I changed my mind. I don't want to be part of this. This is wrong and I'm not going to wait outside the bank."

Discuss fully whether Jose may raise any common law or **Model Penal Code** defenses to the crime you identified in Question # 5. (5 points) **Limit your answer to the space provided**.

QUESTION # 6: A defendant, while eating in a restaurant, noticed that a departing customer at the next table had left a five-dollar bill as a tip for the waitress. The defendant reached over, picked up the five-dollar bill, and put it in his pocket. As he stood up to leave, another customer who had seen him take the money ran over to him and hit him in the face with her umbrella. Enraged, the defendant choked the customer to death.

Discuss fully the most serious common law crime the defendant has committed. (10 points) **Limit your answer to the space provided**.

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QUESTION # 7: The defendant hates her husband after learning that he is having an affair with her best friend. She also knows that her husband owes a man a large amount of money, which he refuses to pay. Before the husband is about to leave for work, the defendant looks out the window and sees the man hiding outside with a gun. The defendant decides not to warn the husband, who then walks outside and is shot and killed by the man.

Discuss fully what common law crime(s) the defendant may be charged and possibly convicted of as well as any available defenses. **(15 points) Limit your answer to the space provided**.

QUESTION # 8: Matthew worked for his family's dry cleaning delivery service after school. While he was waiting at a traffic light, a stranger came up to Matthew's passenger door, which was unlocked, opened it and sat down in the car. The stranger pointed a gun at Matthew and told him to drive to an address a few miles away. While Matthew drove, the stranger kept nervously checking the rear view mirror. After arriving at the destination, the stranger told Matthew to "pull over," and that they "were waiting for his friend." Within five minutes, a man emerged from a local deli and started walking along the street near where they were parked. The stranger told Matthew "that's my friend," then pointing the gun at Matthew told him to "run him over with the car." Matthew, fearing for his life, put the car into drive, drove up onto the sidewalk, and ran over the man, killing him instantly.

Applying the Common Law, discuss fully whether Matthew may successfully raise any specific affirmative defenses (fully state as part of your answer the applicable rule of law). (10 points) **Limit your answer to the space provided**.

QUESTION # 9: Jonathan and Peter are classmates at Podunk Law School in the state of Pretoria. One evening, they begin to discuss the proposed Pretoria legislation forbidding any school to promote or utilize affirmative action as a basis for admission. Before long, Jonathan and Peter are on their feet, arguing and shouting at one another. Peter calls Jonathan "a warped, opinionated, prejudiced, calloused, stupid idiot who doesn't belong in law school." Enraged by these remarks, Jonathan pushes Peter, who loses his balance and falls backwards, hitting his head against the edge of an oak table. Peter dies instantly. (Assume that common law principles are applicable in Pretoria.)

Discuss fully what common law crime(s) the defendant has committed. (10 points) **Limit your answer to the space provided**.

QUESTION # 10: A college student approached an undercover police officer and inquired about hiring someone to kill his girlfriend's parents. Unbeknownst to the college student, the police officer pretended to agree to handle the job and secretly taped subsequent conversations with the college student concerning plans and payment. A few days before the payment was due, the college student changed his mind and called the plan off.

Note: Disregard the possible issue of conspiracy.

Discuss fully what common law crime the college student has committed and any available defenses. (15 points) **Limit your answer to the space provided**.

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QUESTION # 11: A state has the following homicide statute in effect:

"Whoever, purposely and with premeditated malice, or in the perpetration of, or attempt to perpetrate a rape, arson, robbery, burglary, or any other felony dangerous to human life, kills any human being, is guilty of murder in the first degree, and, on conviction, shall suffer death or be imprisoned in the state prison for life; Whoever maliciously but without premeditation kills any human being, is guilty of murder in the second degree, and, on conviction, shall be imprisoned in the state prison for life; Whoever unlawfully kills any human being without malice, express or implied, either voluntarily upon a sudden heat or involuntarily, but in the commission of some unlawful act, is guilty of manslaughter, and on conviction, shall be imprisoned in the state prison not less than 2 years nor more than 20 years."

A man is having an affair with a married woman. The husband finds out about his wife's relationship with the man. The next day, the husband sees the man walking down the street. Enraged by the man's relationship with his wife, the husband pulls out a gun and shoots the man, killing him.

The husband is subsequently arrested and prosecuted under the homicide statute for killing the man. At trial, the husband's attorney attempts to introduce evidence that at the time the husband shot the victim, he was intoxicated.

Upon objection by the prosecuting attorney, the evidence is?

ADMISSIBLE or NOT ADMISSIBLE

In the space provided below, recite the applicable rule of law with respect to raising the affirmative defense of voluntary intoxication to the crime the husband has been charged with and apply it to the facts to support the conclusion you reached in your answer. (5 Points) **Limit your answer to the space provided**.

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QUESTION # 12: A man was at a bar drinking beer when he started conversing with a woman who was seated at the next barstool. During the course of their conversation, the woman told the man that she was just laid off her job and desperately needed money to pay her rent. The man, a practical joker, pointed to a nearby coat rack and said, "Hey, see that fur coat there. Why don't you take it?" The man then told the woman that he would cause a disturbance to distract attention while she ran out of the bar with the coat. Believing that it was a good idea, the woman agreed to take part in the scheme.

Thereupon, the man lit a matchbook and threw it on top of the bar. He then yelled, "The bar's on fire, help!" When everyone turned to look at the man, the woman ran to the back of the bar, took the fur coat and scurried outside unnoticed. Just as the woman left the bar and was running down the sidewalk, she was apprehended and arrested by a police officer. Later, the man confessed that the fur coat that the woman took really belonged to him.

Is the woman criminally liable for common law larceny?

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. (5 Points) **Limit your answer to the space provided**.

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QUESTION # 13: A gangster and two of his friends were members of a teenage street gang. While they were returning from a dance late one evening, their car collided with a car driven by an elderly woman. After an argument, the gangster attacked the elderly woman with his fists and beat her to death. The two friends watched, and when they saw the woman fall to the ground they urged the gangster to flee. The gangster was eventually apprehended and tried for manslaughter, but the jury could not decide on a verdict.

If the gangster's companions are subsequently tried as accomplices to manslaughter, they should be found:

GUILTY or NOT GUILTY

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. (5 Points) **Limit your answer to the space provided**.

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QUESTION # 14: Donald and Matthew got into a verbal argument at Donald's house. Donald could see that if the argument went on much longer, it was going to become an outright fistfight. Donald stayed where he was. Matthew then shoved Donald.

Would Donald be justified in using the defense of self-defense if he shoved Matthew back?

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. (5 Points) **Limit your answer to the space provided**.

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QUESTION # 15: Two co-defendants were investment brokers at a bank. They had been employed by the bank for ten years. One day, they were unexpectedly fired by the bank's new manager. Apparently, the co-defendants' investments had not been performing well in the economic downturn. The co-defendants, upset and humiliated by their firing, vowed to get back at the bank.

As their revenge, they decided to plant a bomb in the bank and demand $2,000,000. After receiving the money, they would then reveal the location of the bomb and provide details for defusing it. The co-defendants agreed that the bank should be given adequate warning so that nobody would be injured.

In accordance with their plan, the co-defendants consulted the Internet, where they found all the information they needed on how to build a bomb. They built the bomb and placed it in a supply closet. Shortly thereafter, they phoned the bank and made a demand for the money. They said a bomb was in the bank and that it would explode in 24 hours unless the money was paid. The bank refused to pay the money.

Realizing that their plan had gone awry, they drove to the bank to attempt to defuse the bomb. As they were driving back to the bank, the bomb exploded, killing 30 people.

Discuss fully the most serious common law crime(s) the defendant has committed and any available defenses. (10 points) **Limit your answer to the space provided.**

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BONUS QUESTION: (Worth 20 points)

Valerie was hired at Target as a seasonal cashier for the holidays and, after successfully completing her probationary training, was put on the schedule as a cashier. After working at Target for a few weeks Valerie had friends and family members come into the store to make holiday purchases.

On Monday, Valerie's Uncle Max came into the store to purchase $200 worth of Christmas toys for his small children. When Valerie took the money from her uncle Max she placed the money into the cash register and when no one was looking took $100 out of the register placing it into her pocket.

On Tuesday, while Valerie was on her lunch break in the warehouse section of the store, Valerie broke into several bales of goods which contained hundreds of children's toys. After breaking bulk, Valerie took a number of children's toys and placed them in her duffle bag inside of her locker, which she later intended to give to her nieces and nephews as Christmas gifts.

On Wednesday, Valerie's friend Robin came into the store to purchase $80 of various clothing apparel. When Valerie took the money from Robin she immediately decided to keep $40 of the money, placing it into her pocket and putting the remaining $40 into the cash register.

On Friday, Valerie's Uncle Robert came into the store and handed Valerie a $20 bill for a $10 purchase and by pre-arrangement (**DO NOT ADDRESS CONSPIRACY**), Valerie gave her Uncle Robert $110 in change.

On Saturday, Loss Prevention brought Valerie into the office and confronted her about her week-long transactions and later turned her over to the police.

What **common law and/or statutory crimes** have been committed? (20 points) **Limit your answer to the space provided**.

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