

Fall 2011

CRIMINAL LAW FINAL EXAM

Professor Rodriguez

YOUR ENTIRE STUDENT ID NUMBER: _____

DURING THIS EXAM, YOU ARE NOT TO HAVE A CELL PHONE OR ANY OTHER DEVICE OR DOCUMENT 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:

Please read the instructions on this page. Do not look beyond this page until you are instructed to begin the exam.

1. Do not use your own scrap paper. Instead, please take one (1) blue book, mark it as "Scrap." and use the blue book labeled "Scrap" as scrap paper. Please *do not* turn in your scrap blue book; I only want this exam packet.
2. All of your answers to the short answer questions must be written directly in the exam packet, which you will turn in at the end of the exam.
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 3 parts for a combined total of 70 points. **The total time for the exam is three (3) hours.**

1. **Part One** consists of 10 definitions, each worth 2 points. Please define each legal principle fully in the space provided.
2. **Part Two** consists of 3 short answer questions, each worth 5 points. Please **DO NOT** write beyond the space provided. **Please pay particular attention to the call of the question.**
3. **Part Three** consists of 1 essay question, worth 35 points. Your answer **MUST** be written in a blue book and you must write **ONLY** on one side of each page. You are limited to a single bluebook for your essay answer.

I will give a **15 minutes 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 bring **stop writing immediately**.

GOOD LUCK!

PART ONE

Please fully define each legal principle below :

1. Insanity defenses

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

2. Conspiracy

3. Assault & Battery

4. Larceny

5. Solicitation

6. Self Defense

7. Attempt

8. Robbery

9. Extortion

10. Kidnapping

PART TWO

Short Answer (Please answer within the space provided)

Question # 1 is based on the following:

Stanley, desperately needing money to go on a vacation after his first semester of law school, stole an iPad from Bill's house. (Assume that, under applicable law, **NO burglary has occurred.**) Three days later, Stanley holds an "everything must go" garage sale and offers to sell the iPad to Murdock for \$50. When Murdock asks Stanley how he could sell the item for "such a bargain," Stanley replies that he needs the money "quickly" to go to Disney World, to see Mickey Mouse for Christmas. Murdock pays Stanley \$50 and takes the iPad without ever getting proof of title for the item.

QUESTION # 1 Discuss fully what **crime** was committed and all available defenses. (**Please answer using only the space provided.**)

Question # 2 is based on the following:

Angelina Jolie and Jessica Alba were both at a fashion show to raise money for the MSL annual holiday party for local needy children. During the event Angelina began shouting obscenities at Jessica because Jessica looked better than she ever did, even after recently having a baby. Jessica turned and shoved Angelina. The two exchanged shoves for a short while. Angelina then pulled a knife and made stabbing motions toward Jessica, inflicting several minor cuts on Jessica.

QUESTION # 2 Discuss fully whether Angelina can succeed if she brings a claim of self-defense for her use of the knife (**Please answer using only the space provided**)

Question # 3 is based on the following:

Mary Hatch Bailey was at home and turned on the TV to watch her favorite television show at 8:00pm. She heard someone on her porch, yelling, “I want to live again, I want to live again.” Thinking it was her husband, she opened the front door. On her porch was a strange man named Steven who demanded she let him in the house. Mary told Steven to go, “pound sand” and when she refused, Steven pulled out a knife. Mary, fearful for her life, let Steven in. Once inside, he searched for oatmeal raisin cookies as they were his favorite holiday cookie. Upset that he couldn’t find any oatmeal raisin cookies he decided to take what he originally came there for which was Mary’s lavish engagement ring and cash from her knitting drawer and then left the house.

QUESTION # 3 Discuss fully what **crime** was committed and all available defenses. (**Please answer using only the space provided**)

PART THREE

Please review the following question, reflect on it and consider solutions to the problem. Again, use only your student ID number on this examination and blue book. You are limited to using **no more than a single blue book for your answer**. I will evaluate your answer on your ability to recognize issues, knowledge of the applicable law, and your analysis and application of law to facts.

Essay (Please write your answer in the blue book)

Question # 1 is based on the following:

Lindsay Lohan, in need of some serious cash, went to her agent, Frank and asks him to help her rob the corner pawnbroker's shop. After discussing the plan for several hours, Frank agrees, but, knowing Lindsay's drug fueled temper, says, "No violence. No weapons. We simply go in, take a few things and leave." Lindsay agrees.

Inside the store, Charlie Sheen is attempting to persuade Rod Stewart, the owner, to give him "a few dollars" for an outdated, 8-track player. "I can't take it," replies Rod. "I'd never be able to sell it." Charlie takes a revolver from his coat pocket. "I just want its market value. Please." Rod remains adamant. "I can't do it." Charlie puts down the gun and says, "My child has kidney failure. He needs a transplant. I need the money." Rod goes into the register to give Charlie market value for the player, and while placing the money on the counter Rod drops a fifty. Unhappily, Charlie is so nervous he drops the player, and it hits Rod on the head knocking him unconscious as he was bending down to retrieve the money. Charlie runs out of the door, as Lindsay and Frank come in.

Lindsay and Frank notice that the owner is on the floor. Before they can take any items, Rod awakens and struggles to stand up. Frank screams, "It's you! I've been waiting 20 years for this." Frank takes a nearby golf club and hits Rod. "Stop!" yells Lindsay. "You agreed no violence and I don't want to do this anymore, this isn't a very good idea." "This guy killed my daughter 20 years ago. Now he'll pay for it," says Frank. Lindsay, with no materials from the store, runs out of the shop. Frank pushes Rod back to the floor and hits him 30 more times, killing him. Just as Frank was delivering the fatal blow to Rod, Tiger Woods walks into the pawnshop and, horrified at how poorly Frank swings the golf club, offers him a lesson on how to get more power into his swing.

When Tiger finally realizes that Frank was swinging the golf club at Rod, Tiger punches Frank in the stomach in an attempt to come to Rod's aid. Feeling very little pain from Tiger's punch, Frank tells Tiger that this is his unlucky day and that Tiger is going with him. Before Frank leaves the store with the 8 track player, the watches, and with Tiger, against his will, Frank lights a book of matches and throws them on a stack of old receipts lying in a corner of the pawnshop. As they walk through the door, the shop goes up in flames. Frank then placed Tiger in the trunk of his car and drove to an abandoned factory not too far from the pawnshop. Frank forced Tiger into a locked storage container and then drove to the home of his ex-girlfriend, Meryl Streep, telling her what happened and asking if he could hide out at her apartment for a few days to avoid the police. Meryl who was still in love with Frank agreed to let him stay at her apartment for a few days. She even agreed to take the stolen goods (8 track player and watches) to try and sell them on the street for some quick get-away cash.

Later investigations reveal the following facts. (1) Charlie Sheen has no child. He and his wife, Brooke Mueller, have long fantasized about a child, and to Charlie, at least on some occasions, the child is very real. Charlie's honest but delusionary belief is that his child was in kidney failure. (2) Twenty years earlier, Rod had been (nonnegligently) driving a car when Frank's daughter ran directly into its path. An investigation found that Rod had not committed any crime. Frank had always thought Rod criminally responsible, but had moved away soon thereafter and did not know that Rod was running the pawnshop. (3) The pawnshop was completely burned to the ground and Rod's charred body was also found in the rubble.

Please fully discuss what crimes were committed and all available defenses.

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Fall 2012
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

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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**.
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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 total of 80 Points**. The total time for the exam is **THREE HOURS**.

Part One consists of [10] definitions for a total value of **30 points**; Point values for individual questions are noted at each question.

Part Two consists of [10] directed, short answer questions, for a total value of **50 points**; Point values for individual questions are noted at each question.

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.

If you need to leave the room in order to use the restroom you must sign out in the sign-out book located at the front of the room.

GOOD LUCK !!!

DO NOT TURN THIS PAGE UNTIL YOU ARE INSTRUCTED TO BEGIN THE EXAM.

PART ONE - Define each principle given below, clearly, fully and correctly.

1. **Murder** (for 5 points)

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

3. **Solicitation** (for 2 points)

4. **Receiving Stolen Property** (for 3 points)

5. **Mayhem** (for 2 points)

6. **Embezzlement** (for 2 points)

7. **Entrapment (to include approaches)** (for 5 points)

8. **Felony & Misdemeanor** (for 2 points)

9. **Deadly Force** (for 2 points)

10. **Actus Reus** and **Mens Rea** (for 2 points)

PART TWO – DIRECTED, SHORT-ANSWER QUESTIONS

The following questions each raise specific issue(s) and require ONLY a short answer. Please read the following hypotheticals carefully, reflect on each, and consider your response before you write it. 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: While holiday shopping one day, Beverly went into a fancy, designer shop in Downtown Crossing where she came across an incredibly beautiful leather jacket that she had to have. Unfortunately it was out of her price range. Beverly slipped off her own inexpensive coat and put on the jacket. She then went into the dressing room to see how she looked in the jacket and decided to rip off the security sensor and the price tag. When Beverly came out of the dressing room she made her way towards the exit, looking around to be sure nobody was watching her. A few steps out on the street, Beverly was stopped by a security guard.

QUESTION # 1 (for 5 points) What **common law crime** has Beverly committed? (Please answer using only the space provided.)

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QUESTION # 2: Late one evening, while walking down 42nd Street in Times Square, Poindexter, a street vagrant, approached Buster from behind and attempted to snatch Buster's shopping bags that were filled with holiday gifts. Buster immediately tried to resist Poindexter's attempt to steal his shopping bags, however Poindexter was much stronger than Buster and he managed to run off with Buster's shopping bags.

QUESTION # 2 (for 5 points) Discuss fully what **common law crime** Poindexter has committed. (Please answer using only the space provided.)

QUESTION # 3: Andy and Bill were good friends until a month ago when Bill “stole” Andy’s girlfriend, Cindy. At the time Andy wanted to “remove Bill from the picture” but recently Andy saw Bill at the Diamond Square Mall and they talked things over. Andy said he forgave Bill for going out with Cindy and friends once again they went out driving together to enjoy the beautiful and festive holiday lights and decorations. Andy began speeding down the road, shouting into the wind with excitement, “we’re best friends again, we’re best friends again!” Suddenly, Andy hit a telephone pole while driving at 130 m.p.h. and Bill was killed instantly in the crash.

QUESTION # 3 (for 5 points) Discuss fully whether Andy has committed the **common law crime** of murder. (Please answer using only the space provided.)

QUESTION # 3(a): Suppose, instead, that after the deadly crash it was later discovered that Andy has had a long history of alcoholism, disease, and trauma, including previous hospital confinements for treatment. Suppose further that Andy has been convicted of murder in Bill's death.

QUESTION # 3(a) (for 2 points) Discuss fully what available affirmative defense Andy may raise; and if successful what effect, if any, it would have on his murder conviction.

QUESTION # 4: Hungry from all the larcenies they just committed, Sybil and Regan went into a convenience store to buy some sodas and snacks. After entering the store, they browsed the aisles a bit and noticed that no one was at the cash register. Sybil went behind the counter and started trying to open the cash register. Sybil exchanged brief eye-contact with Regan, who said nothing, but giggled a bit and looked around the store nervously. Sybil managed to get the cash register open, filled her pockets with the cash, and started to run out of the store with Regan. Sybil and Regan went to a nearby park and began to split up the money that was taken from the cash register. Sybil and Regan were caught several minutes later by the police.

QUESTION # 4 (for 5 points) With respect to the non-verbal exchange between Sybil and Regan, what **common law** or **MPC crime** could they be charged with.. **(Please answer using only the space provided.)**

QUESTION # 5: While on a camping trip, Ed, an avid outdoorsmen, decided to take a walk late at night. However when he tried to find his way back to the campsite he became lost because it had become very dark outside. He did, however, come across a secluded cabin in which he decided to take shelter for the night. Since the door to the cabin was locked, he broke a window and entered the structure. Once inside, he fell asleep on the sofa. When he awoke the next morning he was hungry. Looking in the refrigerator, Ed found some food, which he cooked and ate. Before leaving the cabin, Ed looked around to see if there was anything worth stealing. He opened the door to the bedroom and found a diamond necklace on the nightstand. Ed placed the necklace into his pocket and left the cabin.

QUESTION # 5 (for 5 points) Discuss fully what **common law crime** Ed has committed. **(Please answer using only the space provided.)**

QUESTION # 5(a): Suppose instead that when Ed broke into the cabin his plan was to look around for something worth stealing instead of seeking shelter. Suppose further that while looking around the cabin, Ed looks out the window he broke and sees what he believes to be a picture of his higher power melted in the snow which causes him to abandon his plan.

QUESTION # 5(a) (for 2 points) Discuss fully whether Ed has any **common law** or **MPC defenses** to his crime he has committed in Question # 5(a). (**Please answer using only the space provided.**)

QUESTION # 6: Lester was walking down Main Street when a gust of wind blew his hat off. Reaching out trying to grab his hat, Lester narrowly missed striking Marjorie in the face with his hand. Marjorie, fearful of being struck by Lester, pushed him away.

QUESTION # 6 (for 3 points) Discuss whether Marjorie will succeed if she argues self-defense for her use of force. (**Please answer using only the space provided.**)

QUESTION # 7: 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.

QUESTION # 7 (for 5 points) Discuss fully whether Jose can be held criminally liable for his role in the criminal enterprise. **(Please answer using only the space provided.)**

QUESTION # 7(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.”

QUESTION # 7(a) (for 2 points) Discuss fully whether Jose may raise any common law or MPC defenses to the crime you identified in Question # 7. **(Please answer using only the space provided.)**

QUESTION # 8: Peter walked into class with an unloaded gun and pointed it directly at Tom. Tom, believing it to be a loaded gun, dove under his desk for protection. Upon seeing Tom dive under the desk, Peter walked over to Tom and called him a “yellow-bellied chicken” and spit directly in Tom’s face.

QUESTION # 8 (for 5 points) Discuss fully what common law crimes have been committed and whether Peter has any available defenses. **(Please answer using only the space provided.)**

QUESTION # 9: Santiago worked for his family’s pizzeria delivering pizzas after school. While he was waiting at a traffic light a stranger came to up to Santiago’s passenger door, which was unlocked, opened it and sat down in the car. The stranger pointed a gun at Santiago and told him to drive to an address 20 miles away. While Santiago drove, the stranger kept nervously checking the rear view mirror. After arriving at the destination, the stranger told Santiago to “pull over,” and that they “were waiting for his friend.” Within five minutes a woman emerged from a building and started walking down the street from where they were parked. The stranger told Santiago “that’s my friend.” The stranger then pointed the gun at Santiago and told him to “run her over with the car.” Santiago, fearing for his life, put the car into drive, drove up onto the sidewalk, and ran over the woman, killing her instantly.

QUESTION # 9 (for 3 points) Discuss fully whether Santiago may successfully raise the excuse of duress (coercion or compulsion). **(Please answer using only the space provided.)**

QUESTION # 10: Sherri told her husband, Albert, that she did not want to make love with him anymore. Albert told Sherri to “shut her mouth” and “do as she was told.” Then over Sherri’s express objections, Albert threw Sherri onto the bed and had sexual intercourse with her.

QUESTION # 10 (for 3 points) Discuss fully what **common law crime** was committed and whether Albert has any available defenses. (**Please answer using only the space provided.**)

Fall 2013
CRIMINAL LAW FINA EXAM
Professor Rodriguez

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This exam consists of [7] parts for a **total of 110 Points**. The total time for the exam is **three hours**.

Part One consists of a combination of [5] True or False **or** Fill-in-the-Blanks, worth **2** points each for a total value of **10 points**;

Part Two consists of [2] definitions, worth **10** points each, for a total value of **20 points**;

Part Three consists of a combination of [5] True or False **or** Fill-in-the-Blanks, worth **2** points each for a total value of **10 points**;

Part Four consists of [4] directed, short answer questions, for a total value of **20 points**; and one essay question worth **15 points**; for a total value of **35 points**.

Part Five consists of combination of [5] True or False **or** Fill-in-the-Blanks, worth **2** points each for a total value of **10 points**;

Part Six consists of [5] directed, short answer questions, worth **5** points each, for a total value of **25 points**;

Part Seven consists of [1] Bonus Question, worth **5** points.

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 – CONSISTS of 5 TRUE or FALSE or FILL-IN-THE-BLANK (each question is worth 2 points)

1. In order to prove a crime at common law the prosecution must prove the existence of the following elements:

True [] False []

1. Actus Reus
2. Mens Rea
3. Concurrence in Time
4. Causation
5. Injury or harm.

2. For the mnemonic: “BEST FARM CALF” fill in the proper Specific Intent Crimes:

<u>B</u> _____	<u>F</u> _____	<u>C</u> _____
<u>E</u> _____	<u>A</u> _____	<u>A</u> _____
<u>S</u> _____	<u>R</u> _____	<u>L</u> _____
Larceny by <u>T</u> _____	<u>M</u> _____	<u>F</u> _____

3. In general, a person does not have a legal duty to come to the assistance of a stranger in peril, however, in certain situations a legal duty to act on behalf of another person arises. Please list all seven legal duties in their entirety which, if met, create that a duty.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

4. One of the element of *Actus Reus* requires that to be guilty of a crime the defendant must act involuntarily?

True [] False []

5. At Common Law the General Intent Crimes were:

1. _____
2. _____
3. _____
4. _____

1. Insanity defenses (to include insanity)

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PART THREE – CONSISTS of Five TRUE / FALSE or FILL-IN Questions (each question is worth 2 points)

1. Harold, intoxicated from drinking all day at the Ye Ole Brown Jug, struck Tim, another patron at the bar, over the head with a bottle, killing him instantly.

If Harold is successful at his later criminal trial in raising the defense of voluntary intoxication how should the court rule on his defense? Grant ☐ Deny ☐

2. Because Marylyn was late for work she decided to take back roads in order to avoid traffic. Unfortunately Marylyn, was stopped by the police for speeding on a commonly used back road where the posted speed limit was 25 miles per hour.

If Marylyn appeals her speeding citation offering as a defense that she was unaware of the posted speed limit how should the judge rule on defense? Grant ☐ Deny ☐

3. Papachristou was out late one night hanging around the downtown area where he was approached by a constable who arrested him for the crime of loitering. At his later criminal trial Papachristou argued that the Town's loitering statute was "unconstitutional for vagueness."

The test used to determine vagueness as discussed in *City of Milwaukee v. Nelson* is:

4. The following underlying felonies are considered "inherently dangerous" or a "danger to human life":

- Murder;
- Burglary;
- Arson;
- Robbery; and
- Receiving Stolen Property.

True ☐ False ☐

5. At common law life was said to end when the "heart stopped beating and the lungs stopped breathing?"

True ☐ False ☐

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.

Question # 1: (This question is worth 5 points)

Is Hannibal criminally liable for Clarice's death?

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Question # 2: This question is a complex hypothetical involving multiple likely charges as well as possible defense. Frame your answer accordingly. (This question is worth 15 points)

Crystal learned that her boyfriend, Carlos, had been cheating on her with Debbie, who was Crystal's best friend. Angry and upset with both Carlos and Debbie, Crystal decided to have her revenge by making both of them pay for humiliating her.

Crystal found out that Carlos and Debbie would be out later that evening. At that time she snuck over to Debbie's house intending to break in to set the place on fire.

Crystal found a closed but unlocked door in the rear of Debbie's house through which she was able to enter. Once inside she began splashing gasoline on the walls, the floor, the ceiling and the stairs leading up to Debbie's bedroom. Just before throwing a lit match that she had in her hand she said, "I hope the house burns to the ground, you bitch." With that Crystal threw the lit match and within seconds the house was engulfed in flames.

(Did I mention that before Crystal went over to Debbie's house she drank an entire bottle of Courvoisier?)

Crystal then drove to the restaurant at which Debbie and Carlos were having dinner, where she waited outside for hours until Carlos and Debbie came out. When they emerged from the restaurant they began walking down the street holding each other's hand, and stopped briefly to gaze into one another's eyes.

Outraged by what she saw, Crystal ran up to Carlos and Debbie and pointed an unloaded gun at them, which frightened the dickens out of them. Crystal forced Carlos and Debbie into a nearby shipping container which she locked and then drove to the loading docks. Crystal then had the shipping container loaded onto a shipping vessel which was scheduled to head out of the country. As the ship set sail out into the harbor Crystal laughed saying, "have a nice life in Papua New Guinea, suckers."

(Did I mention that while Crystal was waiting in her car for Carlos and Debbie to come out of the restaurant she smoked a bag of weed?)

Please fully discuss all crimes committed by Crystal and her possible defenses.

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This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, leaving small margins at the top and bottom. There is no handwriting or printed text on the page.

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Question # 3: (This question is worth 5 points)

Larry, Moe and Curly, who were in need of money, approached their wealthy uncle's housekeeper and asked her to poison their Uncle because they would inherit his estate when he died. The housekeeper agreed on the condition that they pay her \$10,000 from their inheritance. After the brothers agreed to her demand the housekeeper decided to place some cyanide in the uncle's tea in the morning. When she served the tea, she carefully set the tea on the table so that the uncle's cup was facing him. The uncle drank the tea, and seconds later died from the poison.

It was later learned that Moe had decided it was not a good idea to kill his wealthy Uncle, so he left a note for his two brothers telling them that he had changed his mind.

Discuss which inchoate crimes were committed and available defenses.

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Question # 4: (This question is worth 5 points)

Larry was at the sink in a public restroom at a mall when Mike entered the restroom and pointed a gun at Larry telling him not to make a sound. When Mike thought he heard someone approach the restroom he told Larry not to move. As Mike turned towards the door Larry took the opportunity to run to an open window, jumped onto the fire escape, and managed to get away.

Discuss what crime was committed and any available defenses

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Question # 5: (This question is worth 5 points)

Richard was walking to his car after a very long day of last minute Christmas shopping at the mall. As he approached his car he saw a man step out from behind another car and grab a small child. The mother of the child began screaming, "He's got my baby! He's got my baby! Please somebody help me!" Although the man had no visible weapon, Richard sprung into action, physically attacking the man in an effort to rescue the child.

If Richard is criminally charged with the common law crime of battery are there affirmative defenses he can successfully raise.

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PART FIVE – CONSISTS of FIVE TRUE / FALSE or FILL-IN Questions (Each question is worth 2 points)

1. Generally, for a killer to raise the defense of “Imperfect Self-defense,” the defendant must claim an honest but unreasonable (subjective) belief that the use of deadly force was necessary to repel an attacker.

True [☐] False [☐]

2. Jim and Sue, who are co-workers, have an argument over who’s the better employee. Sue, fed up with Jim, slapped him in the face causing him to cry.

For Sue to be criminally liable for the common law crime of battery, what elements must the prosecution prove?

- a. _____ ;
- b. _____ ;
- c. _____ ;
- d. _____ ; or
- e. _____ .

3. David and Joliath were fighting in the field when David drew his sword and cut off Joliath’s hand.

Please state the rule for the common law crime of Mayhem:

4. Sobe was charged with raping a woman who he met after a holiday party. At Sobe’s criminal trial his attorney offered irrefutable evidence that the alleged victim never offered any resistance.

At the close of the criminal trial, Sobe files a motion to dismiss. If the jurisdiction Sobe is tried in recognizes the common law rule for rape should the court grant or deny Sobe’s motion?

Grant [☐] Deny [☐]

5. Under the “Majority Subjective Test Jurisdiction” in order for the defendant to successfully raise the defense of entrapment he must show:

- (1) that the offense was induced by a government agent; and
- (2) government agents “employed methods of persuasion or inducements?”

True [☐] False [☐]

PART SIX - DIRECTED, SHORT-ANSWER QUESTIONS (each question is worth 5 points)

Part Six consists of five 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 questions 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:

Joe Bag O'Donuts was arrested and arraigned on charges of receiving stolen property. While sitting in his the jail cell Joe realized that Frank Zorro, an undercover police officer, was a rat.

Out on bail, Joe realized that the only way he could possibly stay out of jail was by preventing Zorro from testifying. While eating a dozen donuts Joe hatched a plan to go to Zorro's house, and to set it on fire while Zorro was inside.

Joe got in his car, drove to Zorro's house and then drove around the block twice to watch Zorro's house. Inside Joe's car was a rag, a book of matches, a can of gasoline, an aluminum baseball bat, a wire coat hanger and a note which read, "Zorro you rat, I'm gonna roast you like a marshmallow." Just as Joe was about to strike the match and light on fire a rag which he had previously soaked in gasoline, he was stopped by the police and he was arrested.

After Joe Bag O' Donuts had been arrested it was learned that just before Joe was stopped by the police he was about to abandon his plan because he thought he would be discovered by police.

Applying both the "Common Law Approach" and the "Model Penal Code's Substantial Step Approach," is Joe Bag O'Donuts criminally liable for the crime of Attempt; and does he have any available defenses?

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Question # 2:

Tracey was the manager of the local Apple Store where she had the full responsibility for ordering and pricing goods, hiring and firing employees, and generally promoting the store. One day she took home a fancy iPod Touch, sold it to her friend, and kept the money.

At Tracey's criminal trial she offered as a defense the argument that the Store owed her two weeks of pay, for which she took the iPod Touch believing that the money converted was owed to her.

Discuss what crimes Tracey committed and all available defenses.

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Question # 3:

While shopping one day, Tess came across a horrible looking sweater that she decided she “had to have” although it was out of her price range. Tess went into the dressing room to try on the sweater where she slipped off her own inexpensive sweater and put on the store’s sweater, ripping off the security sensor and the price tag. She continued to browse through the store and eventually made her way to the exit. A few steps out on the street Tess was stopped by store security and subsequently arrested.

At her criminal trial Tess argued that before she walked into the store she had been at Chili’s where she drank several margaritas.

Discuss what crime Tess committed and her available defenses.

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Question # 4:

Nick, carrying a gun inside his coat pocket, went into a convenience store intending to rob it. When Nick entered the store, the owner saw that Nick had his hand in his coat pocket. Although the owner did not actually see the gun, he noticed a bulge in Nick's coat pocket.

Worried because of a rash of recent robberies, the owner said, “Please don’t hurt me . . . I’ll do anything you want,” then fainted and fell to the floor. Nick walked behind the counter, opened the cash register, took the money from the register, and left the store.

While fleeing from the store Nick encountered the local Sheriff who he shot and killed.

Discuss what crime Nick committed and his available defenses.

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Question # 5 is based on the following:

Doug walked into the Five Cent Savings Bank intending to rob it. When Doug walked into the bank he ordered all the tellers to take the money from their cash drawers and put it into a bag. When Doug exited the bank, Nick was a block away waiting for Doug in a get-a-way car. Doug and Nick fled to Elaine's apartment where she agreed to take them in to avoid capture from the police, if they agreed to give her \$5,000 of the money stolen from the bank.

It was later learned that before the robbery took place, Ron, who worked for the bank, was able to obtain the floor and security plans for the bank as well as the fake license plates for the get-a-way car.

Applying the common law principle of "parties to a crime", discuss fully which role(s) Doug, Nick, Ron and Elaine played.

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery. There is no handwriting or other markings on the page.

PART SEVEN – CONSISTS OF ONE BONUS QUESTION Worth 5 Points

BONUS QUESTION:

Roger was working at his after-school job delivering groceries for his family's grocery store. After delivering groceries to the Smith's, a stranger came to Roger's passenger door, which was unlocked, opened it and sat in the passenger seat. Pointing a gun at Roger the stranger told him to drive him to an address 20 miles away. While Roger drove, the stranger nervously checked the rear view mirrors. He instructed Roger to drive faster than the posted speed limit and to drive on the shoulders of the streets they were on. Roger did so, and also went through several stop signs. After arriving at the destination, the stranger ran from the car.

If brought up on driving charges, could Roger successfully use the defense of duress for the driving offenses? Explain your answer using the applicable ROL and using only the space provided.

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Fall 2014
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

YOUR STUDENT ID NUMBER:

____ _ -- 59

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, please take one (1) 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 TO PARTS 1 through 4 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 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 [4] parts for a **total of 160 Points** and will account for **85% of your semester grade**. The total time for the exam is **three hours**.

Part One consists of a combination of [10] True / False or Fill-in-the-Blanks, or Multiple Choice worth 2 points each for a total value of **20 points**;

Part Two consists of [2] definitions, worth 10 points each, for a total value of **20 points**;

Part Three consists of a [4] directed, short answer questions, for a total value of **40 points**;

Part Four consists of [2] essay questions, for a total value of **80 points**.

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 – CONSISTS of 15 TRUE / FALSE, FILL-IN-THE-BLANK and MULTIPLE CHOICE Questions (each worth 2 points)

1. All Inchoate Crimes merge with their substantive offense? True [] False []

2. At common law an accessory before the fact is one who:

1. _____, _____, _____, or
2. otherwise _____ and _____ another;
3. to _____; and
4. _____ at _____.

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 struck his boss, one of the shots ricocheted against a wall and struck the boss in the head, killing him instantly.

What is the most serious crime that the defendant can be convicted of?

- A. Murder
- B. Voluntary manslaughter
- C. Involuntary manslaughter
- D. Assault

4. A student was a practical joker who liked to perform funny antics. Late at night after studying she would often walk around the campus dressed in a raincoat, a sports bra and boxers. As she approached young men she would flash them by opening her raincoat and exposing herself in her sports bra and boxers. The student believed that she was committing a crime by flashing herself in front of the co-eds. In this jurisdiction it is a felony to flash or expose oneself in the nude, so, unknown to the student, what she was doing was not a crime.

One night the student broke into a fraternity house intending to flash the fraternity brothers. Clad only in her raincoat, sports bra and boxers she entered the bedroom of one of the brothers who was lying in his bed studying for an exam. The brother, who knew the student, said, "What are you doing here? Shouldn't you be studying for finals?" The student then took off her raincoat and responded, "Study this, baby!" and began running through the fraternity house in her sports bra and boxers. Shortly thereafter, the police arrived and placed the student under arrest.

If the student is prosecuted, she should be found guilty of which, if any, of the following crimes?

- A. Burglary only.
- B. Attempted violation of the statute.
- C. Both burglary and attempted violation of the statute.
- D. Neither burglary nor attempted violation of the statute.

5. A defendant worked as a patent attorney in a law firm. Late one evening she left the office and walked outside to her car. While in the parking lot she noticed a gold watch lying on the ground. When the defendant picked it up she immediately identified the watch as belonging to one of the other lawyers in her law firm. She took it home intending to return it the next day. The following morning, however, the defendant decided to keep the watch, and did so.

The defendant has committed

- A. larceny only.
- B. embezzlement only.
- C. both larceny and embezzlement.
- D. neither larceny nor embezzlement.

6. The defendant was walking down the street when he saw a woman struggling with a man over a briefcase. Unbeknownst to the defendant the woman had just stolen the briefcase from the man on the street. Believing the woman to be the victim of an attack the defendant intervened and punched the man until the woman was able to get away with the briefcase. Confused as to why he wasn't being hailed a hero by the woman the defendant eventually realized that he had been an unwitting accomplice to the woman's theft. The defendant apologized profusely to the man and went home.

According to the alter ego rule, which of the following statements is correct with respect to the amount of force that the defendant was entitled to use in the woman's defense?

- A. Since the defendant did not stand in any personal relationship with the woman he was not justified in using force in her defense.
- B. Not knowing the true facts, the defendant was not justified in using force to protect the woman because the man was privileged to recapture his briefcase.
- C. The defendant was justified in using reasonable force in the woman's defense, since he reasonably believed she was in immediate danger of unlawful bodily harm from the man.
- D. The defendant was justified in reasonable force in the woman's defense, since his belief that she was in immediate danger of unlawful bodily harm from the man was both objectively and subjectively reasonable.

7. After weeks of deliberation, the defendant decided to rob a local liquor store. The defendant purchased a ski mask and then went into the liquor store, put his gun into the face of the clerk, and demanded the money from the register. Terrified, the clerk gave him the money from the register. The defendant pocketed the money, grabbed a bottle of tequila off the shelf for his celebration, and then ran back to the car and drove off. About an hour later, the defendant was slowly approaching his hideout in the outskirts of town when a young child suddenly darted in front of the defendant's car. He applied the brakes but couldn't stop in time. The car struck the child, killing her.

For the child's death the defendant should be found guilty of which, if any, of the following crimes?

- A. Felony murder.
- B. Involuntary manslaughter
- C. Voluntary manslaughter
- D. No crime.

8. At Common Law, the affirmative defense of “Defense of Others,” generally, required that one may _____ use _____ force in defense of another person, when he:

(1) _____ that the other is;

(2) in _____ of;

(3) _____ from his adversary; and

(4) that such _____ to avoid the _____.

9. At common law involuntary Manslaughter was defined as an _____
_____ resulting from the defendant’s _____
_____ or _____, or in the
commission of an _____.

10. Defendant intended to commit the designated offense of robbery and made an overt act in furtherance of the crime of robbery and completed the attempt by robbing a liquor store.

At the close of the criminal trial, defendant objects to the judge’s jury instruction that the defendant may be convicted of the crime of attempt or the substantive offense. Should the court sustain or overrule defendant’s objection?

Sustain[☐] Overrule [☐]

PART TWO – DEFINITIONS (Define each of the following, clearly, fully and correctly). (each question is worth 10 points)

1. Insanity defenses (to include insanity)

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PART THREE - DIRECTED, SHORT-ANSWER QUESTIONS

Part Three consists of four 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 15 points)

A man and woman went on a dinner date to a famous restaurant in Downtown Boston. During dinner, he and the woman drank two bottles of Champagne with their exquisite meal. After dinner the man invited the woman back to his apartment for coffee. Upon entering the apartment, the man violently assaulted her by having coitus with her. Although she tried to resist, he overpowered her and had his way with her.

At the man's later criminal trial the jury heard testimony from the man that he was so intoxicated that he honestly believed that the woman had consented to the intercourse.

Discuss what crimes were committed and all available defenses. (Answer using only the space provided)

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Question # 2: (This question is worth 5 points)

Defendant looking for a sweet deal for his wife for the holidays was standing outside Home Depot when a van pulled up next to him. The driver of van said, “hey buddy, have I got a sweet deal for you.” When the driver opened the sliding door to the van there were a number of different types of merchandise with the tags still on them inside the van which the guy was looking to get rid of for “a good price.” Defendant spotted an imitation fur coat with matching hat and scarf that had the Macy’s tags still attached to them. He bought them for his wife for a “really good deal.”

Discuss which crimes were committed and any available defenses.

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Question # 3: (This question is worth 5 points)

Mr. and Mrs. Smith, being the loving grandparents that they are, shipped toys to their 10 grandchildren using a transportation company called Ship R' Us. While the toys were in the custody of Ship R' Us an employee of the company "**broke**" open several boxes of toys belonging to the Smiths and misappropriated them for his own personal benefit, value, use and enjoyment.

Discuss what crime was committed

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Question # 4: (This question is worth 15 points)

Defendant goes into a local dairy farm with the intention of robbing it and during the commission or attempted commission of the robbery Defendant points a loaded gun at the store clerk. At the same time Officer Nolan who happens to be on foot patrol enters the store and discovers the robbery. Officer Nolan pulls out his gun, aims and fires a shot at the defendant in an effort to prevent the robbery however the bullet strikes and kills the store clerk.

Discuss what crime was committed and whether the defendant would be criminally liable if he were in a Proximate and Agency jurisdiction. Fully state the ROL. (Answer using only the space provided)

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PART FOUR – ESSAY QUESTIONS (Worth 80 points)

Part Four consists of two essay questions in the form of hypotheticals, which describe a situation from which particular criminal charges are likely to be brought and which is, therefore, governed by specific rules of law. The questions require that you identify the specific rule, or rules, that will control the result and requires a clear, concise and complete 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: (35 points)

Dr. Davie Jones is one of the world's most foremost heart surgeons. On December 12, the State Department called him at his home in Boston and requested that he perform a heart operation on a "very important figure in world affairs" (they did not tell him the patient's identity). The operation was to be performed on December 14th at Walter Reed Hospital, in Washington D.C.. Jones was further informed that, while the operation was a delicate one and that the patient would die without it, it would be a routine one for Jones, who had invented and perfected the technique required. Jones had explained that he had just received news that his son had been killed in a traffic accident and he felt entirely too nervous and upset to perform the operation. He was firmly pressed by the State Department and reluctantly agreed to meet a special Air Force plane at Boston's Logan International Airport on the morning of December 13th and perform the operation on December 14th.

After the call on the evening of December 12th, several friends visited the doctor to comfort him in his grief. As they began drinking, he told them about the call. As the evening progressed and the group became intoxicated, one of the visitors said he had heard that an ill Russian general had just defected to the United States. The group concluded that this was probably the important person in question and urged Jones not to help him. One friend suggested that Jones call the State Department and tell them to "go to Hell," but Jones said, "I don't owe them anything. Let 'em find another person if they can. Frankly, I hope the bastard dies." They then all drove up to a remote part of Vermont for a three-day fishing trip.

When Jones did not show up at the airport, the State Department tried to locate him, to no avail, while the Patient, the 75-year-old wife of the Prime Minister of Canada, died of heart failure late in the evening on December 14th.

Discuss what crimes were committed and all available defenses. (Answer using only the space provided)

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Question # 2: This question is a complex hypothetical involving multiple likely charges as well as possible defense. Frame your answer accordingly. (This question is worth 45 points)

Sarah, age 13, and Betty, age 16 bored by the prospect of another long summer afternoon, set out on their favorite pastime – rummaging through the garages and toolsheds of neighbors. In the past, they had sometimes stayed and used the tools found there, but other times they had taken small items. For the first time, Betty’s younger sister, Molly age 6, tagged along.

The girls entered the Brown’s garage, which was attached to the rear of their home, through the closed but unlocked garage door. Sarah and Betty rummaged through the toolboxes and practiced cutting wood on the table saw. Molly, alone near a corner shelf in the garage, saw a gold watch that had been left there inadvertently by Mr. Brown. Molly picked up the watch, put it in her pocket, and without a word left for home.

After about an hour in the garage, Sarah and Betty also left and continued to Blue’s toolshed for the stated purpose of taking a large screwdriver that had caught Sarah’s eye on a prior occasion. Blue’s shed was detached and sat about 50 yards from his house, but within a 3-foot-high picket fence that surrounded the shed and the house. Although the door was always locked, the girls had never had difficulty in prying open the door, and on this occasion they again broke the lock.

As Betty pushed the door open and stepped into the shed she was shot in the head, suffering a fatal wound. On the prior evening, Blue had mounted a loaded pistol in the shed, aimed it at the door and connected it so that the pistol would discharge automatically if the door were pushed open. Blue told the police he mounted the gun to protect his property from thieves, but that he intended only to scare them away, never intending to kill anyone. There is no statute prohibiting the use of spring guns.

Fully discuss all crimes committed by Sarah, Betty and Molly, (and Blue) and any available defenses.

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QUESTION 2: Ralph asked Susan Beagal if he could borrow her new Toyota. He told Susan that he needed the car to go to a party at a professor's house. When he made the statement, he had no other purpose in mind. Susan gave him the keys and told Ralph to have a good time. At the professor's party, Ralph had a violent argument with his fiancé and decided that he had to get as far away from her as possible. Ralph drove back to his house, put his most valuable possessions in Susan's car, and started on a trip out West. Ralph was arrested one week later when a custom's official checked the car's license plate at the U.S.-Mexico border.

What crime has Ralph committed and what if any available defenses may he raise?:

[illegible]

ID #: _____

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QUESTION 3: Joe, desperately needing money for his drug habit, steals a television from a friend's house. (Assume that, under applicable law, no burglary has occurred.) Three days later, Joe holds a garage sale and offers to sell the TV to Molly for \$50. When Molly asks Joe how he could sell the item for "such a bargain" Joe replies that he needs the money "quickly" to relocate to another city. Molly pays Joe \$50 and takes the television without ever getting proof of title for the item.

What crime has Joe committed and what if any available defenses may he raise?:

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QUESTION 4: Mary Hatch Bailey was at home and turned on the TV to watch her favorite television show at 8:00pm. She heard someone on her porch, yelling, “I want to live again, I want to live again.” Thinking it was her husband, she opened the front door. On her porch was a strange man named Steven who demanded she let him in the house. Mary told Steven to go, “pound sand” and when she refused, Steven pulled out a knife. Mary, fearful for her life, let Steven in. Once inside, he searched for oatmeal raisin cookies as they were his favorite holiday cookie. Upset that he couldn’t find any oatmeal raisin cookies he decided to take what he originally came there for which was Mary’s lavish engagement ring and cash from her knitting drawer and then left the house.

What crime or crimes has Steven committed and what if any available defenses may he raise?

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QUESTION 5: A woman drove her car through the drive-through lane of a fast-food restaurant in the afternoon. When she reached the microphone provided to place orders, she said, "There's a man across the street with a rifle. He can see everything you do. If you do not do exactly what I tell you, he will shoot you. Put all the money from the register into a sack and give it to me when I drive up to your window." The clerk did not see anyone across the street and was unsure whether anyone was there. However, unwilling to risk harm to himself, he put \$500 in a paper bag and handed it to the woman when she drove up to the delivery window. The woman drove off with the money but was arrested a short time later. She had lied about the man with a rifle and had acted alone.

What crime or crimes has the woman committed and what if any available defenses may she raise?

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QUESTION 8: An actress was inside her dressing room on the set of a new television action movie. While she was applying her make-up, a man entered her dressing room and told her not to make a sound. Frightened, the actress got up and ran towards a back door in the dressing room however she tripped and fell over a coffee table, bruising her legs.

What crime has the man committed and what if any available defenses may he raise?

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Fall 2015
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:

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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 **two** parts for a **total of 160 Points** and will account for **85% of your semester grade**. The total time for the exam is **three hours**.

Part One consists of **five** definitions, worth **5** points each, for a total value of **25 points**;

Part Two consists of **eighteen** directed, short answer questions of various values as follows;

Question 1 = 5	Question 7 = 15	Question 14 = 10
Question 2 = 5	Question 8 = 5	Question 15 = 5
Question 3 = 10	Question 9 = 10	Question 16 = 5
Question 4 = 5	Question 10 = 15	Question 17 = 5
Question 5 = 5	Question 11 = 5	Question 18 = 5
Question 5a = 5	Question 12 = 5	
Question 6 = 5	Question 13 = 10	

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 – DEFINITIONS (Define each of the following, clearly, fully and correctly).
(Each question is worth 5 points)**

1. Insanity

2. M’Naghten Test

3. Irresistible Impulse Test

4. Model Penal Code Test

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5. Durham Test

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

Part Two consists of eighteen 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: While holiday shopping one day, John went into Macy's, in Downtown Crossing where he came across a LeBron James Nike basketball running suit that he had to have. Unfortunately it was out of his price range. John slipped off his own inexpensive Addidas running suit and put on the Nike running suit. He then went into the dressing room to see how he looked in the Nike suit and decided to rip off the security sensor and the price tag. When John came out of the dressing room he made his way towards the exit looking around to be sure nobody was watching him. A few steps toward the exit, John was stopped by a security guard never making it outside the store.

What **common law crime** has John committed? (5 points) **Limit your answer to the space provided.**

[illegible]

Discuss fully what **common law crime** Kim has committed. (5 points) **Limit your answer to the space provided.**

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The truck driver jumped into his truck and decided to get even by causing some damage. He purposely drove into one of the gas tanks, which ruptured the gas line. The collision caused a terrible explosion and the building became engulfed in flames. The owner could not escape the blaze and burned to death.

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With respect to the non-verbal exchange between Carla and Lori, applying both the **common law** and **Model Penal Code** what crime could they both be charged with. (5 points) **Limit your answer to the space provided.**

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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.

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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.**

[illegible]

Applying the Common Law, discuss fully whether Frank may use reasonable force to repel Tony use of force? (5 points) **Limit your answer to the space provided.**

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Discuss fully what common law crime(s) have been committed and whether Peter has any available defenses. **(15 points) Limit your answer to the space provided.**

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Applying the Common Law, discuss fully whether Matthew may successfully raise any specific affirmative defenses. (5 points) **Limit your answer to the space provided.**

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Discuss fully what common law crimes were committed and any available defenses. (10 points)
Limit your answer to the space provided.

[illegible]

Applying the Common law, if the defendant's attorney files a motion to set aside the guilty verdict on the felony murder charge discuss fully what the likely result will be? (5 points) **Limit your answer to the space provided.**

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What common law crime(s) has the father most likely committed? (10 points) **Limit your answer to the space provided.**

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The defendant, having been served with divorce papers, decided to drown his sorrows at the local pub. After drinking heavily and becoming intoxicated the defendant became enraged when another patron spilled a drink on him. He took a nearby ashtray and smashed it over the patron's head, killing him instantly.

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What common law crime has the defendant committed? (5 points) **Limit your answer to the space provided.**

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What common law crime has the delivery driver committed? (5 points) **Limit your answer to the space provided.**

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QUESTION # 17:

A man asked a coworker, who was a wine collector, to lend him a bottle of expensive wine to put in his liquor cabinet because he was inviting his mother over for dinner and wanted to impress her. The coworker permitted the man to take a bottle of wine worth \$700 to his apartment for the dinner provided that he return it the next morning. As he had planned all along, rather than his mother the man invited his girlfriend over for a romantic dinner, at which they drank the bottle of wine. The next day the man told his coworker that he had been mugged on his way home and that the muggers made off with the wine. Suspicious, the coworker found the empty bottle in the man's trash.

What common law crime has the man committed? (5 points) **Limit your answer to the space provided.**

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QUESTION # 18:

A shopper at a flea market noticed a vase and asked a nearby person how much it cost. The person replied, “one hundred dollars.” The shopper paid him the money and took the vase. The person was not the owner of the vase but merely a bystander and absconded with the \$100.

What common law crime has been committed? (5 points) **Limit your answer to the space provided.**

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BONUS QUESTION:

Andy was hired at Target as a seasonal cashier for the holidays and, after successfully completing his probationary training, was put on the schedule as a cashier. After working at Target for a few weeks Andy had friends and family members come into the store to make holiday purchases. On Monday, Andy's Aunt Mabel came into the store to purchase \$200 worth of Christmas toys for her small children. When Andy took the money from his Aunt Mabel he placed the money into the cash register and when no one was looking took \$100 out of the register placing it into his pocket. On Wednesday, Andy's friend Ralph came into the store to purchase \$80 of various clothing apparel. When Andy took the money from Ralph he immediately decided to keep \$40 of the money, placing it into his pocket and putting the remaining \$40 into the cash register. On Friday, Andy's Uncle Robert came into the store and handed Andy a \$20 bill for a \$10 purchase and by pre-arrangement Andy gave his Uncle Robert \$110 in change. On Saturday, Loss Prevention brought Andy into the office and confronted him about his week-long transactions and later turned him over to the police.

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

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Fall 2016
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

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This exam consists of **one** part for a **total of 155 Points** 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.**

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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 # 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.**

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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 # 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 # 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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