

Fall 2023 CRIMINAL LAW FINAL EXAM
Professor Rodriguez

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3. **Remember, this is a closed-book examination.** You are prohibited from using class notes, outlines and/or casebooks. Furthermore, you are prohibited from accessing the internet to research the exam question(s) or for assistance in writing any of your answers. You are not to use any professional bar preparation materials when taking the exam and you are also not allowed to discuss the exam with anyone while you are taking the exam and after you have completed the exam until **Tuesday, December 19, 2023, at 11:59p.m.**
4. Other than writing implements, a bottle of water and energy snacks, you are not permitted to have any materials on your table, at your feet or on the back of your chair. Place all books, papers, knapsacks, backpacks, briefcases etc., at the side or front of the room.
5. Remember, if there is a crime and/or defense that has introductory language as part of the definition (or said another way, the rule of law) you must include the introductory language as part of your answer to have a complete response.
6. Please **NOTE**, I am the official timekeeper for the final exam, **NOT** Examsoft. I will tell students when to begin and when to end the final exam.
7. During the final exam, students are not permitted to take the final exam, the Bluebook, scrap paper or any other exam related documents out of the classroom.
8. ALL students **shall** turn in their final exam packet, Bluebook and/or scrap paper at the end of the exam to the Exam Proctor.
9. If you use Examsoft, upon completing the final exam you are to **immediately** upload and submit your typed written exam.
10. If you **receive regular time** on an exam, you will have **three hours** to complete the exam. If you **receive time-and-a-half**, you will have **four hours and thirty minutes** to complete the exam. If you **receive double-time**, you will have **six hours** to complete the exam.

This exam consists of **FIVE** parts for a **total of 445 Points** and will account for **75%** of your semester grade.

Part One consists of **3 Directed Short Answer Essays** for a total of **150 points**.

Question # 1 is worth **20 points**.

Question # 2 is worth **50 points**.

Question # 3 is worth **80 points**.

Part Two consists of **15 Multiple Choice Questions** each worth **two points** for a total of **30 points**.

Part Three consists of **20 Common and/or Statutory Law Crimes or Defenses** each worth **ten points** for a total of **200 points**.

Part Four consists of **15 Know the Elements Requirements** each worth **three points** for a total of **45 points**.

Part Five consists of **10 Multiple Choice Questions** each worth **two points** for a total of **20 points**.

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

PART ONE - DIRECTED, SHORT-ANSWER QUESTIONS

Part One consists of three 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.

Part One consists of three Short Directed Essay questions for a total of 150 points.

The total suggested time for this section is: 50 minutes.

Question 1. Two boys were playing with a pistol in their basement. The older boy, who was 15 years old, aimed the pistol in the younger boy's direction and fired two shots slightly to his right. One shot ricocheted off the wall and struck the younger boy, killing him instantly. What is the most serious crime which the older boy can be properly convicted of? **(This question is worth a total of 20 points)**

Question 2. A husband and a wife, who had been married for many years, spent their summers on a houseboat near a bay. They would frequently leave their home port and travel 15 miles into the bay to a favorite fishing spot, which was close to a town that had medical facilities.

One day, the husband and wife were fishing at their favorite spot when the husband began to complain of chest pain and pleaded with his wife to bring the boat to the nearby town so he could see a doctor immediately. The wife knew that the man had been diagnosed with a serious heart condition. Although the wife could have reached the town in 15 minutes, she did not like the town’s harbormaster and therefore decided to head to their home port, which was more than an hour away.

The husband was in a coma when he arrived at the hospital in the home port and died shortly after being admitted. An autopsy determined that he died of a blood clot in a coronary artery. Further testing showed that the clot could have been dissolved and the husband’s life could have been saved if he had received medical treatment within an hour of his first symptoms.

What is the most serious crime which the wife can be properly convicted of? **(This question is worth a total of 50 points)**

PART TWO – MULTIPLE CHOICE QUESTIONS. Part two consists of fifteen multiple choice questions each worth two points for a **total of thirty (30) points.**

The total suggested time for this section is: 30 minutes.

Question 4. At a party, the defendant and the victim agreed to play a game involving a gun. The victim took the unloaded gun, placed one bullet in the barrel, and spun it. The victim then pointed the gun at the defendant's head and pulled the trigger. The gun did not fire. The defendant then took the gun, spun the barrel, pointed the gun at the victim, and pulled the trigger. The gun fired, and the victim was killed.

A statute in the jurisdiction defines first degree murder as an intentional and premeditated killing, or one occurring during the commission of a common law felony. Second degree murder is defined as all other murders at common law. Manslaughter is defined as a killing done in the heat of passion upon adequate legal provocation, or a killing caused by gross negligence.

What is the most serious crime for which the defendant can be convicted in this jurisdiction?

- A. First degree murder, because the killing was intentional and premeditated, and it occurred during the commission of a felony.
- B. Second degree murder, because the defendant's act posed a high risk to human life.
- C. Manslaughter, because the defendant's act was grossly negligent.
- D. No crime, because the victim and the defendant voluntarily agreed to play the game and each assumed the risk of death.

Question 5. A thief held up a local convenience store. Determined not to harm anyone, he carried a toy gun that resembled a real gun. In the store, he pointed the toy gun at the clerk and demanded money. A customer who saw the robbery in progress pulled his own gun and fired at the thief. The bullet missed the thief but struck and killed the clerk. The thief has been charged with felony murder. The jurisdiction follows the agency theory of felony murder.

What is the thief's best defense to the felony murder charge?

- A. The thief did not intend to kill.
- B. The thief did not commit the robbery because he never acquired any money from the clerk.
- C. The thief did not intend to create any risk of harm.
- D. The thief is not responsible for the acts of the customer.

The next question begins on the next page.

Question 6. A drunken man began punching the victim for no apparent reason. Seeing that the drunken man was getting the best of the victim, the defendant came to the victim's aid and punched the drunken man. The drunken man fell backward onto the sidewalk and struck his head, which caused his death. The jurisdiction follows the common law.

Does the defendant have any defense in a homicide prosecution?

- A. No, unless the victim is a member of his family.
- B. No, because he used force resulting in death.
- C. No, because he did not know for certain that the drunken man was the aggressor.
- D. Yes, because he acted within the scope of the defense of others doctrine.

Question 7. A man ordered a dockhand at gunpoint to set fire to a boat, which was sitting next to the dock. Because the dockhand feared the man would shoot him if he refused to obey, he complied. The boat's owner saw the fire from the dock and ran onto the boat to recover his personal property. The boat capsized, and the owner drowned. The dockhand has been charged with felony murder of the boat owner. In the jurisdiction, the definition of arson has been expanded by statute to include boats.

Will the dockhand be found guilty of felony murder?

- A. No, because duress is a defense to arson.
- B. No, because the boat owner voluntarily put himself in danger.
- C. Yes, because duress is not a defense to murder.
- D. Yes, if the gun was not loaded.

Question 8.

The defendant was walking in front of a store when a thief, who had just robbed the store at gunpoint, ordered him to drive a getaway car parked at the curb. As the defendant and the thief approached a red light at a busy intersection, the brakes failed. To avoid hitting pedestrians, the defendant swung the car across the sidewalk and into a house. The car struck and killed the homeowner, who was in his living room.

What is the defendant's best defense to a charge of manslaughter?

- A. Defense of others as to the pedestrians in the intersection.
- B. Self-defense.
- C. Duress.
- D. Necessity.

The next question begins on the next page.

Question 9. A high school teacher shot and killed one of the students in his class on the spur of the moment. Psychiatric examinations indicated that the teacher believed that the student was trying to ridicule him in front of other students in the class and that he had to do something to stop him. The examinations also indicated that the teacher did not comprehend that killing was condemned by society when he shot his student.

If the teacher pleads not guilty by reason of insanity in a jurisdiction that applies the “M’Naghten test,” what would be his best argument?

- A. He did not know that the act of shooting the student was wrong.
- B. He lacked the substantial capacity to appreciate the criminality of his act.
- C. He did not know the nature and quality of his act.
- D. His act was the result of an irresistible impulse.

Question 10. While at a party, the defendant ran into an acquaintance. The acquaintance proceeded to ridicule the defendant about his looks. After an hour of verbal abuse by the acquaintance, the defendant suddenly took a champagne bottle that was on a nearby table and struck the acquaintance over the head, killing him instantly. At his arrest, the defendant told the police that voices inside his head told him to shut the acquaintance up, permanently.

The defendant was tried in a jurisdiction that follows the Model Penal Code test for insanity. At trial, the defendant’s lawyer introduced psychiatric testimony indicating that the defendant suffered from a mental illness.

Which of the following, if proved by the defense, would most likely relieve the defendant of criminal responsibility?

- A. The defendant’s actions were a product of his mental illness.
- B. The defendant could not appreciate the criminality of killing the acquaintance, or he could not conform his conduct to the requirements of the law.
- C. The defendant did not know that killing the acquaintance was wrong, or he could not understand the nature and quality of his actions.
- D. The defendant was unable to control himself or conform his conduct to the law.

The next question begins on the next page.

Question 11. A con artist asked his friend to introduce him to the town's banker so that he could apply for a loan to set up a hardware business. The friend, also a friend of the banker, arranged a meeting and later gave the con artist a glowing recommendation based on their long and deep friendship. When the banker approved a \$25,000 loan, the friend was present at the signing of the loan papers and co-signed on the con artist's behalf. Unbeknownst to the friend, the con artist intentionally misrepresented his intentions as to the proceeds of the loan and his financial status, forging some documents used to verify his solvency. The con artist has been tried and convicted of obtaining money by false pretenses (a felony) and sentenced to state prison.

If the friend is charged as an accessory to obtaining money by false pretenses, he should be found:

- A. Guilty, because he was present when the crime was committed and was thus a principal in the second degree.
- B. Guilty, because he encouraged and aided the con artist, and his ignorance of the con artist's insolvency is no defense to the charged crime.
- C. Not guilty, because he lacked the requisite mental state to be an aider and abettor.
- D. Not guilty, because his encouragement and aid was not the legal cause of the offense.

Question 12. A librarian and a teacher were customers in a bar, and late in the evening, they got into a loud shouting match. After trading a number of insults, the librarian raised his fist and shouted, "I ought to teach you a thing or two!" A former student of the teacher was a customer in the bar. The former student called out, "Do it! That guy's needed a beating for some years!" The librarian then grabbed the teacher and punched him in the face several times. The librarian was subsequently convicted of battery against the teacher.

If the former student is prosecuted for battery against the teacher, how should the court rule?

- A. Not guilty, because his words alone were not sufficient to imply any agreement between him and the librarian to attack the teacher.
- B. Not guilty, because mere presence at the scene of a crime and oral encouragement, whether or not the former student had the requisite intent, is not sufficient for conviction as an aider and abettor.
- C. Guilty, because he encouraged the librarian to attack the teacher.
- D. Guilty, because the former student's actions created an implied agreement with the librarian to attack the teacher.

The next question begins on the next page.

Question 13. A foreign diplomat discovered that a small person could enter a particular jewelry store by crawling through an air vent. The diplomat befriended a woman he met in a bar who he believed was small enough to crawl through the air vent. Without telling her that he was a diplomat, he explained how she could get into the jewelry store. She agreed to help him burglarize the store. Someone overheard their conversation and reported it to the police. Shortly thereafter, the police arrested the diplomat and the woman. Both were charged with conspiracy to commit burglary.

Before trial, the diplomat moved to dismiss the charge against him on the ground that he was entitled to diplomatic immunity. The court granted his motion. The woman then moved to dismiss the conspiracy charge against her. The jurisdiction has adopted the Model Penal Code version of conspiracy.

Should the court grant the woman's motion to dismiss the conspiracy charge against her?

- A. No, because the diplomat's defense does not negate any element of the crime.
- B. No, because the woman was not aware of the diplomat's status.
- C. Yes, because a conspiracy requires two guilty participants.
- D. Yes, because but for the diplomat's conduct, no conspiracy would have occurred.

Question 14. A woman and her coworker were invited to go on a hunting trip by their boss. The woman and the coworker were vying for the same promotion, so they were eager to impress their boss with their hunting skills. At one point while the woman and the coworker were hunting alone, the coworker pointed a gun at the woman while her back was turned and said, "Promise you will turn down the promotion or I will shoot you!" Unbeknownst to the coworker, the woman could not hear him because she had placed protective earplugs in her ears before the hunt began. The coworker believed that the woman was intentionally ignoring him, so he aimed at and killed a nearby deer, frightening the woman with the blast from the gun.

If the coworker is charged with assault, is he likely to be convicted?

- A. No, because the coworker took no substantial step toward committing a battery.
- B. No, because the woman was not aware of the coworker's threat of harm.
- C. Yes, because the coworker intended to cause apprehension of bodily harm.
- D. Yes, because the woman was placed in actual danger when the coworker pointed the gun at her.

The next question begins on the next page.

Question 15. In which of the following situations would the defendant most likely be found NOT GUILTY of robbery.

A. On a dark alley in Center City, Defendant approached Lee and said, "Give me the gold ring on your finger or I'll shoot you with this gun." Lee gave him the ring. However, the ring really belonged to Herman, as Lee was just borrowing it for the evening to impress his girlfriend. In addition, the gun that defendant had in his possession was really a water gun.

B. Defendant broke into Gloria's house and took her stereo system. After he placed the system in his car and was about to leave, Gloria came home and saw him. She raced to the car and started to hit Defendant through the open window in an attempt to get her stereo back. Defendant punched her in the nose and drove away with the system.

C. Defendant was walking behind Mary in a shopping mall when he suddenly reached for her gold chain, pulled it from her neck, and ran away into the crowd. Mary suffered a slight cut on her neck where the chain broke.

D. Defendant picked the lock on Jerry's apartment door. The noise startled Jerry, who had been sleeping. Defendant overpowered Jerry, tied him up, and forced him to disclose where he kept the cash. Jerry told Defendant to look in the kitchen cabinet, which he did. Defendant found \$120 in cash, took the money, and left the apartment.

Question 16. A woman told a man to accompany her into her friend's unlocked barn and retrieve an expensive black saddle that she said she had loaned to the friend. The man accompanied the woman to the friend's barn, opened the door, found a black saddle hanging high above the ground, and climbed a ladder to reach it. He handed the saddle down to the woman, and the two left with it together. In fact, the saddle belonged to the friend, and when the friend discovered the saddle missing, she suspected that the woman was the thief. The friend used a screwdriver to break into the woman's house to find the saddle. Upon discovering the saddle on the woman's kitchen table, the friend took it back and called the police.

The jurisdiction follows the common law, except that burglary covers structures in addition to dwellings and the nighttime element has been eliminated.

Which of these individuals is guilty of burglary?

- A. All of them.
- B. Only the friend.
- C. Only the woman.
- D. The man and the woman.

The next question begins on the next page.

Question 17. A writer was enraged when he learned that his editor was having an affair with his (the writer's) wife. Late one night while the editor was on a business trip out of town, the writer went to the editor's home, kicked in the back door that led to the editor's photography studio and darkroom, and used the volatile chemicals to build an intense fire, intending to burn down the house and destroy several years' accumulation of the editor's irreplaceable negatives and photographs. As the flames leaped to the ceiling and began to burn and char the structure, the writer realized that his marriage had been loveless and empty for some time and that he had unconsciously transferred his feelings of frustration and anger to the editor. The writer grabbed the editor's fire extinguisher and quickly put out the flames before they had destroyed any photographic materials. The writer returned the next night with tools and materials with which he completely repaired the broken back door and replaced all burned portions of the ceiling in the studio. As he was completing this work, police officers who had been summoned by neighbors arrived and arrested the writer.

The writer could properly be convicted of which of the following crimes in connection with the described events?

- A. Arson and burglary.
- B. Attempted arson and burglary.
- C. Burglary only.
- D. Arson only.

Question 18. The defendant is charged with the burglary of a home. Evidence presented at the defendant's trial indicates that he talked another person into assisting him. The jury is instructed on burglary, solicitation, conspiracy, and attempt.

If the defendant is found by the jury to be guilty of burglary, which of the following is true?

- A. He also may be found guilty of conspiracy, but not of solicitation or attempt.
- B. He also may be found guilty of conspiracy and solicitation, but not of attempt.
- C. He also may be found guilty of conspiracy or solicitation but not both, and he may not be found guilty of attempt.
- D. He also may be found guilty of solicitation or attempt but not both, and he may not be found guilty of conspiracy.

The next question begins on the next page.

Question 19. A defendant lost some money while playing poker with several people at his friend's house. When the defendant accused his friend of cheating, his friend asked him to leave. The defendant became abusive and refused to leave, so his friend and a couple of other players forced him to go. Angry and determined to get back his money, the defendant went to his home and picked up his pistol. He headed back to his friend's house, intending to shoot his friend if he did not give back the money. However, due to the altercation at the house, his friend had called the police. Just as the defendant was about to step onto his friend's property, the police pulled up and stopped him. They frisked him, found the pistol in his pocket, and arrested him. A state statute prohibits entry onto the property of another with the intent to commit violence thereon.

If charged with attempt under this statute, most likely the defendant will be found:

- A. Not guilty, because this is an "attempt" statute, and there cannot be an attempt of an attempt.
- B. Not guilty, because it would be an attempt to convict a person for a guilty mind.
- C. Guilty, because the defendant was trying to enter the property and he had the necessary state of mind.
- D. Guilty, because the statute was designed to protect the public from violence, and the defendant is dangerous.

Question 20. In a jurisdiction that has abolished the felony-murder rule but otherwise follows the common law of murder, a husband and wife, both armed with automatic weapons, went into a bank to rob it. The husband ordered all the persons in the bank to lie on the floor. When some were slow to obey, the wife, not intending to hit anyone, fired about 15 rounds into the air. One of these ricocheted off a stone column and struck and killed a customer in the bank.

The husband and wife were charged with murder of the customer.

Which of the following is correct?

- A. Both can be convicted of murder.
- B. Neither can be guilty of murder, but both can be convicted of manslaughter based upon an unintentional homicide.
- C. The wife can be convicted of murder, because she did the act of killing, but the husband cannot be convicted of either murder or manslaughter
- D. The wife can be convicted only of manslaughter, but the husband cannot be convicted of murder or manslaughter.

Multiple Choice Questions End Here

Go to Next Section Which is Part Three on the next page.

PART THREE - CRIMES AND/OR DEFENSES AND THEIR RULES OF LAW

This section consists of [20] common and/or statutory law crimes or defenses **each worth ten points for a total of 200 Points.**

Remember if there is a crime and/or defense that has introductory language as part of the definition (or said another way the **rule of law**) you **must** include the introductory language as part of your answer to have a complete response.

The total suggested time for this section is: 40 minutes.

Fully Define Necessity

Fully Define Duress

The next definition begins on the next page.

Fully Define Mistake or Ignorance of Fact involving General Intent Crimes or Crimes Involving Malice

Fully Define Lost or Mislaid Property

Fully Define Accomplice Liability – Renunciation / Abandonment / Withdrawal

The next definition begins on the next page.

Fully Define the Intent to Frighten Type of Assault

Fully Define the Attempted Battery Type of Assault

Fully Define Robbery

The next definition begins on the next page.

Fully Define Mistake or Ignorance of Fact involving Specific Intent Crimes

Fully Define Larceny by False Pretense

Fully Define M’Naghten Insanity Test

The next definition begins on the next page.

Fully Define Model Penal Code (MPC) Insanity Test

Fully Define Irresistible Impulse Insanity Test

Fully Define Rules for the Use of Non-Deadly Force – in Self-Defense

The next definition begins on the next page.

Fully Define Rules for the Use of Deadly Force – in Self-Defense

Fully Define Kidnapping (MPC § 212.1)

Fully Define Conspiracy

The next definition begins on the next page.

Fully Define Inchoate Crime of Attempt - MPC Substantial Step Test

Fully Define Common Law Inchoate Crime of Attempt

Fully Define Solicitation

Go to the next page for Part Four

PART FOUR – KNOW THE ELEMENTS

This section tests your knowledge of the black letter law, specifically, the rule of law behind the elements of various crimes and/or defenses. This section consists of **fifteen questions** which will require you to fully define the rule of law/requirement for a specific element of a crime and/or defense, **each worth three points for a total of 45 points**.

Please note that your answers should consist of anything from one to two words or a sentence or two **AT THE MOST**. This exercise **IS NOT** intended to be a brain dump and as such I will not accept a “brain dump” as a correct answer.

The total suggested time for this section is: 30 minutes.

Fully define the rule of law/requirement for the element of “breaking” for the common law crime of burglary.

Fully define the rule of law/requirement for the element of “trespassory” for the common law crime of larceny.

Fully define the rule of law/requirement for the element of “burning” for the common law crime of arson.

The next question begins on the next page.

Fully define the rule of law/requirement for the element of “force/battery” for the common law crime of robbery.

Fully define the rule of law/requirement for the element of “threat of forcible compulsion” for the common law crime or rape.

Fully define the rule of law/requirement for the element of “breaking” under the modern law for burglary.

Fully define the rule of law/requirement for the element of “stolen property” for the statutory crime of receiving stolen property.

The next question begins on the next page.

Fully define the rule of law/requirement for a “principal in the first degree” under the common law parties to a crime.

Fully define the rule of law/requirement for a “principal in the second degree” under the common law parties to a crime.

Fully define the rule of law/requirement for “duty to retreat” under the common law affirmative defense of self-defense.

Fully define the rule of law/requirement for the element of “fraudulent conversion” for the statutory crime of embezzlement.

The next question begins on the next page.

Fully define the rule of law/requirement for the element of “of another” for the statutory crime of embezzlement.

Fully define the rule of law/requirement for the element of “mere custody” for the common law crime of larceny.

Fully define the rule of law/requirement when it comes to distinguishing larceny by trick from false.

Fully define the rule of law/requirement for the element of “unlawful” for any of the common law crimes.

Go on to the next section which is Part Five

PART FIVE – MULTIPLE CHOICE QUESTIONS. Part two consists of ten multiple choice questions each worth two points for a total of twenty (20) points.

The total suggested time for this section is: 20 minutes.

Question 1. A man was extremely dishonest and a cheat. Always alert for new ways to cheat someone out of money, the man decided to defraud his insurance company. The man approached a local known for his "shady" character. The man proposed that the local climb a tree near the man's bedroom window late at night, reach in through the open window, and steal the man's grandmother's heirloom jewelry, which the man would leave on the nightstand under the open window. The man would then report the loss to his insurance company, and the men would split the proceeds. Thinking it sounded like easy money, the local agreed. The local told the man that he would take the jewelry the next Saturday night. On the designated Saturday night, the man carefully set the jewelry on the nightstand and left the window open before he went to bed. Meanwhile, a local petty thief was in the neighborhood looking for an easy target. He noticed the open window at the man's house and climbed a nearby tree to see if there was anything inside worth stealing. He noticed the jewelry, reached in, and stole it. He was later apprehended and charged with burglary.

What is the likely outcome of the burglary charge against the petty thief who stole the man's jewelry?

- (A) Not guilty, because there was no "breaking," as the window was unlocked.
- (B) Not guilty, because there was no "entering," as he merely reached inside the open window.
- (C) Not guilty, because the man arranged for the jewelry to be "stolen."
- (D) Guilty.

Question 2. A restaurateur receives a call from a friend who says that he has a load of pork chops that he can sell to the restaurateur "real cheap." Knowing that his friend moves in shady circles, the restaurateur asks if the meat is stolen. The friend tells him no, the meat is legitimate. The restaurant has been slow lately and the restaurateur could use some savings, so he agrees to purchase the pork chops. However, when the delivery arrives, the restaurateur finds that his friend has sent him filet mignon, which the restaurateur has never seen at such a low price. When the restaurateur asks his friend if he sent him the wrong load of meat, his friend tells him, "Don't worry about it. You just got lucky." The restaurateur loads the meat in his freezer. Later, the police inform the restaurateur that the filet mignon was stolen merchandise and arrest him for receiving stolen property.

Can the restaurateur be found guilty?

- (A) Yes, because the merchandise was stolen.
- (B) Yes, because the restaurateur should have known the merchandise was stolen.
- (C) No, because the restaurateur did not know the merchandise was stolen.
- (D) No, because the restaurateur agreed to buy pork chops, not filet mignon.

The next question begins on the next page.

Question 3. After three years of marital discord, a police officer left his wife and moved in with his best friend. A week later, the police officer discovered to his shock that his friend was having an affair with his wife. The police officer immediately moved out of his friend's house. Determined to get back at his friend for his betrayal, the police officer decided to steal his friend's valuable coin collection and anything else he could carry. On a night that he believed that his friend would be out with his wife, the police officer sneaked into his friend's house and snatched the coin collection from his friend's desk. However, the police officer then heard a noise from upstairs. Knowing that his friend had a gun, the police officer dropped the coin collection and ran into the garage. He knew that his friend kept the keys in the ignition of his car, so he jumped into the vehicle, intending to drive it to a more central location, park it, and then hail a taxi.

If the police officer is charged with stealing his friend's car, he will likely be found

- (A) guilty, because he used the car to flee the scene of a felony.
- (B) guilty, because he took the vehicle without permission.
- (C) not guilty, because leaving the keys in the car is implied consent.
- (D) not guilty, because he merely intended to use it to escape.

Question 4. In which of the following instances is the defendant most likely to be found guilty of common law arson?

- (A) A teenager goes to his ex-girlfriend's house. He gathers up her extensive collection of stuffed animals, places them in a pile in the bathtub, and sets the pile on fire. He then flees the area. The stuffed animals are mostly new and made of flame-retardant materials, and the fire burns out fairly quickly, only damaging some of the stuffed animals.
- (B) A bouncer hates a bartender because he is always showing off. The bouncer goes to the bartender's house and throws a firebomb into the bartender's brand-new luxury car, completely destroying it.
- (C) A babysitter is 18 years old. He is bored one afternoon and notices that there is a huge pile of leaves next to his neighbor's house. The babysitter walks over and sets the leaves on fire, because he figures seeing the fire will be exciting. Once they are ignited, however, the babysitter realizes that the process is not nearly as exciting as he had expected, so he leaves. Eventually, the fire from the burning leaves spreads to the house, destroying the family room of the house.
- (D) A senator has a very romantic night planned for his girlfriend. He goes to her house and starts setting the scene. He lights numerous candles and places them in various locations around the house. Realizing that he forgot to bring the Belgian chocolates and champagne, he runs out to buy them. While he is gone, his girlfriend's cat knocks over a candle, and the house catches fire. By the time the senator returns 10 minutes later, the whole house is engulfed in flames.

The next question begins on the next page.

Question 5. At an exceptionally busy restaurant, the owner and his staff often go out after work and blow off steam by getting drunk. One night, the owner and his employees stop into a local bar for some drinks. Late into the evening, after the owner pays for yet another round of drinks, the restaurant manager sees the owner's wallet slip out of his pocket and fall to the ground. The owner is too drunk to notice that his wallet is missing, and the manager surreptitiously picks it up. She knows that the owner always carries a lot of cash and that, even if she removes some of the money before returning the wallet, the owner will probably not even remember later how much he spent. Twenty minutes later, however, the manager realizes that it would be wrong to take advantage of her manager in this manner, and she returns the wallet, with all the cash inside, to the owner.

Of what crime, if any, is the manager guilty?

- (A) Larceny.
- (B) Embezzlement.
- (C) Receiving stolen property.
- (D) No crime.

Question 6. A steelworker is out at a local bar with his friends. It is a busy night, and the bar is very crowded. After several hours of drinking, the steelworker sees a woman walking into the bar. Although he has never met her before, he is struck by her beauty and runs directly to her, grabs her by the hand, and twirls her around, while exclaiming, "You are so gorgeous! Let me look at you!" As he's twirling her, the woman's hand hits another customer, who has very delicate bones, breaking his nose.

What is the steelworker's criminal culpability with regard to his conduct with the woman?

- (A) The steelworker is guilty of battery, because he acted recklessly.
- (B) The steelworker is guilty of battery, because a third party was injured.
- (C) The steelworker is not guilty of battery, because he did not injure the woman.
- (D) The steelworker is not guilty of battery, because he did not intend to offend or injure anyone.

The next question begins on the next page.

Question 7. Two friends are short on cash one night and, after a few drinks, decide to rob a gas station. Inside the store, one of them lifts his hand inside his jacket pocket, creating the impression that he's holding a gun inside, and says loudly to the clerk, "It's just a robbery--don't make it a murder. Empty the register into a bag and pass it over." The robbers failed to notice that another worker was dispensing a frozen drink from a machine near the back door. Hearing the threat, she moved quietly to the aisle adjoining the register and saw the raised arm inside the robber's jacket. She took a small pistol from her purse and shot the robber in the leg; the bullet nicked the femoral artery and the robber bled to death before help arrived.

The worker's best defense if she is charged with the killing of the robber is

- (A) that she did not intend to kill him.
- (B) that the robber assumed the risk when he decided to rob the gas station.
- (C) that she believed that the robber was going to kill the clerk.
- (D) that she was acting to prevent the commission of a felony.

Question 8. One night during his Christmas break from college, a student is out at a bar. The bar is extremely crowded, but the student and his friends don't mind, because the whisky they have been ingesting copiously has put them in high spirits. Late into the evening, exactly what the student has been hoping for occurs--the sorority president walks into the bar. The student runs to the president and throws his arms around her, lifting her up. As the student is swinging the president around in joy, the heel of her shoe hits a bar patron in the eye, severely damaging his cornea. The patron requires surgery to save his eyesight. The student is charged with criminal battery. It is revealed that at the time of the incident, the student's blood alcohol level is 0.12 percent, more than twice that permissible for operating a motor vehicle.

Is the student's intoxication likely to prevent his conviction of the crime of battery?

- (A) Yes, because his intoxication negated his intent.
- (B) Yes, because intoxication can negate recklessness.
- (C) Yes, because his intoxication indicates that he did not intend to cause the patron harmful or offensive contact or injury.
- (D) No, because intoxication cannot negate recklessness.

The next question begins on the next page.

Question 9. A man and his wife are thrill seekers. They decided to take a cross-country road-trip with enough money for only one tank of gas. Part of the thrill for them was trying to figure out how to make it to their destination without much cash. Along the way, the couple broke into empty homes to gather food and any money they could find. In one particular house, the man was waiting in the car when the wife was surprised by a homeowner who had suddenly returned home. The wife screamed for the man, and, in a panic, she smashed the homeowner's head with a frying pan. The man and wife, assuming the homeowner was dead, decided to cover their crime by unhooking a gas line with the homeowner inside, making it look like he had died from carbon monoxide poisoning. The wife went back to the car while the man "took care of things" in the house. However, the man never checked to see if the homeowner was actually dead. In fact, the homeowner was alive but unconscious, and he died as a result of the carbon monoxide poisoning.

What is the most serious crime, if any, for which the man is likely to be convicted with respect to the death of the homeowner?

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

Question 10. A girlfriend and boyfriend decide they can make some money by setting up a bomb to cause minor damage in a bank and then demand payment with the threat of several other bombs which are planted in the bank. However, the boyfriend decides that minor damage won't make enough of an impression and beefs up the strength of the bomb. They place the bomb together, and when it is detonated, a bank teller is killed.

What crime could the girlfriend be guilty of?

- (A) felony murder.
- (B) felony, but only if she knew of the boyfriend's actions.
- (C) conspiracy to commit murder.
- (D) no crime.

Multiple Choice Questions End Here

Go to Next Section Which is the Bonus Question on the next page.

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 she 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. Valerie took several 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 dollars of various clothing apparel. When Valerie took the money from Robin, she immediately decided to keep the \$80 dollars and placed it into her pocket.

On Friday, Valerie’s Uncle Robert came into the store and handed Valerie a \$20 dollar bill for a \$10 dollar purchase. Valerie handed her Uncle Robert \$110 in change and told her uncle Merry Christmas and winked at him.

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.

PART ONE - DIRECTED, SHORT-ANSWER QUESTIONS

Part One consists of three 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.

Part One consists of three Short Directed Essay questions for a total of 150 points.

The total suggested time for this section is: 50 minutes.

Question 1. Two boys were playing with a pistol in their basement. The older boy, who was 15 years old, aimed the pistol in the younger boy's direction and fired two shots slightly to his right. One shot ricocheted off the wall and struck the younger boy, killing him instantly. What is the most serious crime which the older boy can be properly convicted of? **(This question is worth a total of 20 points)**

The next question begins on the next page.

Question 2. A husband and a wife, who had been married for many years, spent their summers on a houseboat near a bay. They would frequently leave their home port and travel 15 miles into the bay to a favorite fishing spot, which was close to a town that had medical facilities.

One day, the husband and wife were fishing at their favorite spot when the husband began to complain of chest pain and pleaded with his wife to bring the boat to the nearby town so he could see a doctor immediately. The wife knew that the man had been diagnosed with a seriousness heart condition. Although the wife could have reached the town in 15 minutes, she did not like the town's harbormaster and therefore decided to head to their home port, which was more than an hour away.

The husband was in a coma when he arrived at the hospital in the home port and died shortly after being admitted. An autopsy determined that he died of a blood clot in a coronary artery. Further testing showed that the clot could have been dissolved and the husband's life could have been saved if he had received medical treatment within an hour of his first symptoms.

What is the most serious crime which the wife can be properly convicted of? (**This question is worth a total of 50 points**)

The next question begins on the next page.

Question 3. The mother and father of a nine-year-old girl divorced because of the mother's relationship with another man. After the divorce, the mother received custody of the daughter. One day, the father went to visit the daughter at the marital domicile and found her sobbing on her bed. When the father asked her why she was crying, she truthfully told him that the mother's boyfriend had just sexually abused her and then left to go drinking at a neighborhood bar. Enraged, the father confronted the mother. During their ensuing 15-minute argument, the father threatened several times to kill her boyfriend. The father then demanded the key to his gun cabinet, which was still in the house. The mother told him that she did not have it. The father then spent 20 minutes prying open the gun cabinet. Once he obtained his shotgun, he set out on foot to find the boyfriend. Twenty minutes later, after searching three bars, the father found the boyfriend in a dive bar. The father approached him, pointed the loaded shotgun at his head, and told him he was going to kill him for what he did to the daughter. As the boyfriend desperately pleaded for his life, the father pulled the trigger of his shotgun, instantly killing the boyfriend.

What is the most serious crime which the father may be properly convicted of? (**This question is worth 80 points**)

Go to Next Section Which is Part Two on the next page.

PART TWO – MULTIPLE CHOICE QUESTIONS. Part two consists of fifteen multiple choice questions each worth two points for a **total of thirty (30) points.**

The total suggested time for this section is: 30 minutes.

Question 4. At a party, the defendant and the victim agreed to play a game involving a gun. The victim took the unloaded gun, placed one bullet in the barrel, and spun it. The victim then pointed the gun at the defendant's head and pulled the trigger. The gun did not fire. The defendant then took the gun, spun the barrel, pointed the gun at the victim, and pulled the trigger. The gun fired, and the victim was killed.

A statute in the jurisdiction defines first degree murder as an intentional and premeditated killing, or one occurring during the commission of a common law felony. Second degree murder is defined as all other murders at common law. Manslaughter is defined as a killing done in the heat of passion upon adequate legal provocation, or a killing caused by gross negligence.

What is the most serious crime for which the defendant can be convicted in this jurisdiction?

- A. First degree murder, because the killing was intentional and premeditated, and it occurred during the commission of a felony.
- B. Second degree murder, because the defendant's act posed a high risk to human life.
- C. Manslaughter, because the defendant's act was grossly negligent.
- D. No crime, because the victim and the defendant voluntarily agreed to play the game and each assumed the risk of death.

Question 5. A thief held up a local convenience store. Determined not to harm anyone, he carried a toy gun that resembled a real gun. In the store, he pointed the toy gun at the clerk and demanded money. A customer who saw the robbery in progress pulled his own gun and fired at the thief. The bullet missed the thief but struck and killed the clerk. The thief has been charged with felony murder. The jurisdiction follows the agency theory of felony murder.

What is the thief's best defense to the felony murder charge?

- A. The thief did not intend to kill.
- B. The thief did not commit the robbery because he never acquired any money from the clerk.
- C. The thief did not intend to create any risk of harm.
- D. The thief is not responsible for the acts of the customer.

The next question begins on the next page.

Question 6. A drunken man began punching the victim for no apparent reason. Seeing that the drunken man was getting the best of the victim, the defendant came to the victim's aid and punched the drunken man. The drunken man fell backward onto the sidewalk and struck his head, which caused his death. The jurisdiction follows the common law.

Does the defendant have any defense in a homicide prosecution?

- A. No, unless the victim is a member of his family.
- B. No, because he used force resulting in death.
- C. No, because he did not know for certain that the drunken man was the aggressor.
- D. Yes, because he acted within the scope of the defense of others doctrine.

Question 7. A man ordered a dockhand at gunpoint to set fire to a boat, which was sitting next to the dock. Because the dockhand feared the man would shoot him if he refused to obey, he complied. The boat's owner saw the fire from the dock and ran onto the boat to recover his personal property. The boat capsized, and the owner drowned. The dockhand has been charged with felony murder of the boat owner. In the jurisdiction, the definition of arson has been expanded by statute to include boats.

Will the dockhand be found guilty of felony murder?

- A. No, because duress is a defense to arson.
- B. No, because the boat owner voluntarily put himself in danger.
- C. Yes, because duress is not a defense to murder.
- D. Yes, if the gun was not loaded.

Question 8.

The defendant was walking in front of a store when a thief, who had just robbed the store at gunpoint, ordered him to drive a getaway car parked at the curb. As the defendant and the thief approached a red light at a busy intersection, the brakes failed. To avoid hitting pedestrians, the defendant swung the car across the sidewalk and into a house. The car struck and killed the homeowner, who was in his living room.

What is the defendant's best defense to a charge of manslaughter?

- A. Defense of others as to the pedestrians in the intersection.
- B. Self-defense.
- C. Duress.
- D. Necessity.

The next question begins on the next page.

Question 9. A high school teacher shot and killed one of the students in his class on the spur of the moment. Psychiatric examinations indicated that the teacher believed that the student was trying to ridicule him in front of other students in the class and that he had to do something to stop him. The examinations also indicated that the teacher did not comprehend that killing was condemned by society when he shot his student.

If the teacher pleads not guilty by reason of insanity in a jurisdiction that applies the “M’Naghten test,” what would be his best argument?

- A. He did not know that the act of shooting the student was wrong.
- B. He lacked the substantial capacity to appreciate the criminality of his act.
- C. He did not know the nature and quality of his act.
- D. His act was the result of an irresistible impulse.

Question 10.

While at a party, the defendant ran into an acquaintance. The acquaintance proceeded to ridicule the defendant about his looks. After an hour of verbal abuse by the acquaintance, the defendant suddenly took a champagne bottle that was on a nearby table and struck the acquaintance over the head, killing him instantly. At his arrest, the defendant told the police that voices inside his head told him to shut the acquaintance up, permanently.

The defendant was tried in a jurisdiction that follows the Model Penal Code test for insanity. At trial, the defendant’s lawyer introduced psychiatric testimony indicating that the defendant suffered from a mental illness.

Which of the following, if proved by the defense, would most likely relieve the defendant of criminal responsibility?

- A. The defendant’s actions were a product of his mental illness.
- B. The defendant could not appreciate the criminality of killing the acquaintance, or he could not conform his conduct to the requirements of the law.
- C. The defendant did not know that killing the acquaintance was wrong, or he could not understand the nature and quality of his actions.
- D. The defendant was unable to control himself or conform his conduct to the law.

The next question begins on the next page.

Question 11. A con artist asked his friend to introduce him to the town's banker so that he could apply for a loan to set up a hardware business. The friend, also a friend of the banker, arranged a meeting and later gave the con artist a glowing recommendation based on their long and deep friendship. When the banker approved a \$25,000 loan, the friend was present at the signing of the loan papers and co-signed on the con artist's behalf. Unbeknownst to the friend, the con artist intentionally misrepresented his intentions as to the proceeds of the loan and his financial status, forging some documents used to verify his solvency. The con artist has been tried and convicted of obtaining money by false pretenses (a felony) and sentenced to state prison.

If the friend is charged as an accessory to obtaining money by false pretenses, he should be found:

- A. Guilty, because he was present when the crime was committed and was thus a principal in the second degree.
- B. Guilty, because he encouraged and aided the con artist, and his ignorance of the con artist's insolvency is no defense to the charged crime.
- C. Not guilty, because he lacked the requisite mental state to be an aider and abettor.
- D. Not guilty, because his encouragement and aid was not the legal cause of the offense.

Question 12. A librarian and a teacher were customers in a bar, and late in the evening, they got into a loud shouting match. After trading a number of insults, the librarian raised his fist and shouted, "I ought to teach you a thing or two!" A former student of the teacher was a customer in the bar. The former student called out, "Do it! That guy's needed a beating for some years!" The librarian then grabbed the teacher and punched him in the face several times. The librarian was subsequently convicted of battery against the teacher.

If the former student is prosecuted for battery against the teacher, how should the court rule?

- A. Not guilty, because his words alone were not sufficient to imply any agreement between him and the librarian to attack the teacher.
- B. Not guilty, because mere presence at the scene of a crime and oral encouragement, whether or not the former student had the requisite intent, is not sufficient for conviction as an aider and abettor.
- C. Guilty, because he encouraged the librarian to attack the teacher.
- D. Guilty, because the former student's actions created an implied agreement with the librarian to attack the teacher.

The next question begins on the next page.

Question 13. A foreign diplomat discovered that a small person could enter a particular jewelry store by crawling through an air vent. The diplomat befriended a woman he met in a bar who he believed was small enough to crawl through the air vent. Without telling her that he was a diplomat, he explained how she could get into the jewelry store. She agreed to help him burglarize the store. Someone overheard their conversation and reported it to the police. Shortly thereafter, the police arrested the diplomat and the woman. Both were charged with conspiracy to commit burglary.

Before trial, the diplomat moved to dismiss the charge against him on the ground that he was entitled to diplomatic immunity. The court granted his motion. The woman then moved to dismiss the conspiracy charge against her. The jurisdiction has adopted the Model Penal Code version of conspiracy.

Should the court grant the woman's motion to dismiss the conspiracy charge against her?

- A. No, because the diplomat's defense does not negate any element of the crime.
- B. No, because the woman was not aware of the diplomat's status.
- C. Yes, because a conspiracy requires two guilty participants.
- D. Yes, because but for the diplomat's conduct, no conspiracy would have occurred.

Question 14.

A woman and her coworker were invited to go on a hunting trip by their boss. The woman and the coworker were vying for the same promotion, so they were eager to impress their boss with their hunting skills. At one point while the woman and the coworker were hunting alone, the coworker pointed a gun at the woman while her back was turned and said, "Promise you will turn down the promotion or I will shoot you!" Unbeknownst to the coworker, the woman could not hear him because she had placed protective earplugs in her ears before the hunt began. The coworker believed that the woman was intentionally ignoring him, so he aimed at and killed a nearby deer, frightening the woman with the blast from the gun.

If the coworker is charged with assault, is he likely to be convicted?

- A. No, because the coworker took no substantial step toward committing a battery.
- B. No, because the woman was not aware of the coworker's threat of harm.
- C. Yes, because the coworker intended to cause apprehension of bodily harm.
- D. Yes, because the woman was placed in actual danger when the coworker pointed the gun at her.

The next question begins on the next page.

Question 15. In which of the following situations would the defendant most likely be found NOT GUILTY of robbery.

- A. On a dark alley in Center City, Defendant approached Lee and said, "Give me the gold ring on your finger or I'll shoot you with this gun." Lee gave him the ring. However, the ring really belonged to Herman, as Lee was just borrowing it for the evening to impress his girlfriend. In addition, the gun that defendant had in his possession was really a water gun.
- B. Defendant broke into Gloria's house and took her stereo system. After he placed the system in his car and was about to leave, Gloria came home and saw him. She raced to the car and started to hit Defendant through the open window in an attempt to get her stereo back. Defendant punched her in the nose and drove away with the system.
- C. Defendant was walking behind Mary in a shopping mall when he suddenly reached for her gold chain, pulled it from her neck, and ran away into the crowd. Mary suffered a slight cut on her neck where the chain broke.
- D. Defendant picked the lock on Jerry's apartment door. The noise startled Jerry, who had been sleeping. Defendant overpowered Jerry, tied him up, and forced him to disclose where he kept the cash. Jerry told Defendant to look in the kitchen cabinet, which he did. Defendant found \$120 in cash, took the money, and left the apartment.

Question 18.

The defendant is charged with the burglary of a home. Evidence presented at the defendant's trial indicates that he talked another person into assisting him. The jury is instructed on burglary, solicitation, conspiracy, and attempt.

If the defendant is found by the jury to be guilty of burglary, which of the following is true?

- A. He also may be found guilty of conspiracy, but not of solicitation or attempt.
- B. He also may be found guilty of conspiracy and solicitation, but not of attempt.
- C. He also may be found guilty of conspiracy or solicitation but not both, and he may not be found guilty of attempt.
- D. He also may be found guilty of solicitation or attempt but not both, and he may not be found guilty of conspiracy.

The next question begins on the next page.

Question 19. A defendant lost some money while playing poker with several people at his friend's house. When the defendant accused his friend of cheating, his friend asked him to leave. The defendant became abusive and refused to leave, so his friend and a couple of other players forced him to go. Angry and determined to get back his money, the defendant went to his home and picked up his pistol. He headed back to his friend's house, intending to shoot his friend if he did not give back the money. However, due to the altercation at the house, his friend had called the police. Just as the defendant was about to step onto his friend's property, the police pulled up and stopped him. They frisked him, found the pistol in his pocket, and arrested him. A state statute prohibits entry onto the property of another with the intent to commit violence thereon.

If charged with attempt under this statute, most likely the defendant will be found:

- A. Not guilty, because this is an "attempt" statute, and there cannot be an attempt of an attempt.
- B. Not guilty, because it would be an attempt to convict a person for a guilty mind.
- C. Guilty, because the defendant was trying to enter the property and he had the necessary state of mind.
- D. Guilty, because the statute was designed to protect the public from violence, and the defendant is dangerous.

Question 20.

In a jurisdiction that has abolished the felony-murder rule but otherwise follows the common law of murder, a husband and wife, both armed with automatic weapons, went into a bank to rob it. The husband ordered all the persons in the bank to lie on the floor. When some were slow to obey, the wife, not intending to hit anyone, fired about 15 rounds into the air. One of these ricocheted off a stone column and struck and killed a customer in the bank.

The husband and wife were charged with murder of the customer.

Which of the following is correct?

- A. Both can be convicted of murder.
- B. Neither can be guilty of murder, but both can be convicted of manslaughter based upon an unintentional homicide.
- C. The wife can be convicted of murder, because she did the act of killing, but the husband cannot be convicted of either murder or manslaughter
- D. The wife can be convicted only of manslaughter, but the husband cannot be convicted of murder or manslaughter.

Multiple Choice Questions End Here

Go to Next Section Which is Part Three on the next page.

PART THREE - CRIMES AND/OR DEFENSES AND THEIR RULES OF LAW

This section consists of [20] common and/or statutory law crimes or defenses **each worth ten points for a total of 200 Points**.

Remember if there is a crime and/or defense that has introductory language as part of the definition (or said another way the **rule of law**) you **must** include the introductory language as part of your answer to have a complete response.

The total suggested time for this section is: 60 minutes.

21. Fully Define Necessity
22. Fully Define Duress
23. Fully Define Mistake or Ignorance of Fact involving General Intent Crimes or Crimes Involving Malice
24. Fully Define Lost or Mislaid Property
25. Fully Define Accomplice Liability – Renunciation / Abandonment / Withdrawal
26. Fully Define the Intent to Frighten Type of Assault
27. Fully Define the Attempted Battery Type of Assault
28. Fully Define Robbery
29. Fully Define Mistake or Ignorance of Fact involving Specific Intent Crimes
30. Fully Define Larceny by False Pretense
31. Fully Define M’Naghten Insanity Test
32. Fully Define Model Penal Code (MPC) Insanity Test
33. Fully Define Irresistible Impulse Insanity Test
34. Fully Define Rules for the Use of Non-Deadly Force – in Self-Defense
35. Fully Define Rules for the Use of Deadly Force – in Self-Defense
36. Fully Define Kidnapping (MPC § 212.1)
37. Fully Define Conspiracy
38. Fully Define Inchoate Crime of Attempt - MPC Substantial Step Test
39. Fully Define Common Law Inchoate Crime of Attempt
40. Fully Define Solicitation

PART FOUR – KNOW THE ELEMENTS

This section tests your knowledge of the black letter law, specifically, the rule of law behind the elements of various crimes and/or defenses. This section consists of fifteen questions which will require you to fully define the rule of law/requirement for a specific element of a crime and/or defense, **each worth three points for a total of 45 points**.

Please note that your answers should consist of anything from one to two words or a sentence or two **AT THE MOST**. This exercise **IS NOT** intended to be a brain dump and as such I will not accept a “brain dump” as a correct answer.

The total suggested time for this section is: 30 minutes

41. Fully define the rule of law/requirement for the element of “breaking” for the common law crime of burglary.
42. Fully define the rule of law/requirement for the element of “trespassory” for the common law crime of larceny.
43. Fully define the rule of law/requirement for the element of “burning” for the common law crime of arson.
44. Fully define the rule of law/requirement for the element of “force/battery” for the common law crime of robbery.
45. Fully define the rule of law/requirement for the element of “threat of forcible compulsion” for the common law crime or rape.
46. Fully define the rule of law/requirement for the element of “breaking” under the modern law for burglary.
47. Fully define the rule of law/requirement for the element of “stolen property” for the statutory crime of receiving stolen property.
48. Fully define the rule of law/requirement for a “principal in the first degree” under the common law parties to a crime.
49. Fully define the rule of law/requirement for a “principal in the second degree” under the common law parties to a crime.
50. Fully define the rule of law/requirement for “duty to retreat” under the common law affirmative defense of self-defense.
51. Fully define the rule of law/requirement for the element of “fraudulent conversion” for the statutory crime of embezzlement.
52. Fully define the rule of law/requirement for the element of “of another” for the statutory crime of embezzlement.
53. Fully define the rule of law/requirement for the element of “mere custody” for the common law crime of larceny.
54. fully define the rule of law/requirement when it comes to distinguishing larceny by trick from false.
55. Fully define the rule of law/requirement for the element of “unlawful” for any of the common law crimes.

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 she took \$100 out of the register, placing it into her pocket.

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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.

DIRECTED, SHORT-ANSWER QUESTIONS

This exam consists of three 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.

Two boys were playing with a pistol in their basement. The older boy, who was 15 years old, aimed the pistol in the younger boy's direction and fired two shots slightly to his right. One shot ricocheted off the wall and struck the younger boy, killing him instantly.

What is the most serious crime which the older boy can be properly convicted of? (**This question is worth a total of 20 points**)

Question 2.

A husband and a wife, who had been married for many years, spent their summers on a houseboat near a bay. They would frequently leave their home port and travel 15 miles into the bay to a favorite fishing spot, which was close to a town that had medical facilities.

One day, the husband and wife were fishing at their favorite spot when the husband began to complain of chest pain and pleaded with his wife to bring the boat to the nearby town so he could see a doctor immediately. The wife knew that the man had been diagnosed with a seriousness heart condition. Although the wife could have reached the town in 15 minutes, she did not like the town's harbormaster and therefore decided to head to their home port, which was more than an hour away.

The husband was in a coma when he arrived at the hospital in the home port and died shortly after being admitted. An autopsy determined that he died of a blood clot in a coronary artery. Further testing showed that the clot could have been dissolved and the husband's life could have been saved if he had received medical treatment within an hour of his first symptoms.

What is the most serious crime which the wife can be properly convicted of? (**This question is worth a total of 50 points**)

Question 3.

The mother and father of a nine-year-old girl divorced because of the mother's relationship with another man. After the divorce, the mother received custody of the daughter. One day, the father went to visit the daughter at the marital domicile and found her sobbing on her bed. When the father asked her why she was crying, she truthfully told him that the mother's boyfriend had just sexually abused her and then left to go drinking at a neighborhood bar.

Enraged, the father confronted the mother. During their ensuing 15-minute argument, the father threatened several times to kill her boyfriend. The father then demanded the key to his gun cabinet, which was still in the house. The mother told him that she did not have it. The father then spent 20 minutes prying open the gun cabinet. Once he obtained his shotgun, he set out on

foot to find the boyfriend. Twenty minutes later, after searching three bars, the father found the boyfriend in a dive bar. The father approached him, pointed the loaded shotgun at his head, and told him he was going to kill him for what he did to the daughter. As the boyfriend desperately pleaded for his life, the father pulled the trigger of his shotgun, instantly killing the boyfriend.

What is the most serious crime which the father may be properly convicted of? (**This question is worth 70 points**)

Fall 2022
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

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Feeling depressed over his termination, Arnold decided to stop at the bar down the street from the department store. At the bar, Arnold had a few drinks with his friend Charles. Arnold told Charles that he had just been terminated from his job. Charles was outraged and told Arnold that "Benjamin deserves payback." Arnold initially dismissed the idea, but after a few more drinks, decided that he needed to do something. Arnold told Charles that he was going to go back to the store and "rob Benjamin blind." Charles said "Good, I want to help. I hate Benjamin. His prices are too high." Charles gave Arnold a pair of plastic gloves so that Arnold would not leave any fingerprints in the store. Charles, who was visibly drunk at this point, also drove Arnold back to the department store.

The department store was closed when Arnold and Charles arrived. Arnold threw a brick through the front window. He took 10 watches that were displayed in the front window of the department store. The watches were worth \$1,000 each and theft of the watches in this amount

would be felony in this jurisdiction. Arnold jumped into Charles's car and the two drove back to the bar. At the bar, Arnold and Charles told David what happened at the department store. All three men laughed at the story and shared another round of drinks. Arnold asked David to hold five of the watches for a few days. David agreed to hold the watches on the condition that he could keep one for himself. Arnold also gave Charles a watch and thanked him for the advice and assistance. Arnold paid for a final round of drinks and returned home with the remaining four watches later that evening. The next morning, Benjamin discovered the broken window and the missing watches. He immediately suspected Arnold and called the police. The police officer investigated the scene and told Benjamin that the police would ask around the neighborhood for information. When the police officer came to the bar, he asked David whether he knew anything about the incident at the department store. David said he knew nothing about it. After the police officer left the bar, David tried to call and warn Arnold, but there was no answer. The police officer told Benjamin that no one in the neighborhood had seen or heard anything about the incident. He also told Benjamin to contact the police if he found out any more information. Later that night, Benjamin went to Arnold's house. He knocked on Arnold's door and when no one answered, Benjamin opened the door and walked in where he found Arnold sitting on the couch. Arnold jumped up and told Benjamin to "get out of my house." Benjamin noticed that there were several watches located on Arnold's coffee table. Benjamin ran over to the couch and repeatedly punched Arnold in the face several times, knocking him to the floor. Enraged, Arnold rose from the floor, grabbed a gun, and shot and killed Benjamin.

What crimes have been committed and what affirmative defenses may be raised? Again, make sure you provide with a rule of law and a complete analysis for each crime and/or defense you address.

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On Friday morning, Fran collected \$25.00 from everyone. In addition to buying tickets for the group, Fran also purchased \$20.00 of lottery tickets for herself. Fran made copies of the groups tickets for everyone to check during the drawing on Friday evening." When the winning numbers were drawn, none of them matched the tickets purchased for the group. However, Fran was thrilled that one of her tickets would yield a \$50,000 cash prize. Fran sent a text message after the drawing to the group saying: "Hey ladies, I won! I won!" Lisa responded immediately saying: "What do you mean YOU won? Didn't WE ALL win?" Fran responded back: "I'll explain on Monday morning." Over the weekend, Fran decided to spend her cash prize on a

brand-new luxury SUV and a fur coat. She planned to bring both items to work with her on Monday morning.

When everyone arrived at work on Monday morning, they gathered at Fran's desk, eager to learn what had happened with the lottery tickets. Fran explained that she had purchased lottery tickets for herself with her own money separate and apart from the group. Fran encouraged the group members to double check their lottery tickets and confirm that none of the winning numbers matched. She then presented a copy of her own winning ticket. After explaining details of the winning ticket, Fran proudly displayed her new fur coat to her co-workers. She also pointed out the office window to direct the co-workers to view her new luxury SUV. The three co-workers congratulated Fran and returned to their desks.

Despite their kind words to Fran, Lisa and Melanie were furious. They felt betrayed by Fran and resented her for flaunting her winnings. Lisa and Melanie decided to meet over lunch to "figure out how we are going to handle this situation." They also invited Colleen to lunch. While Colleen was disappointed that the group did not win, she was genuinely happy for Fran.

Over lunch, Lisa and Melanie discussed ways to "get-even" with Fran. They insisted that Fran should have at least told the group about her buying tottery tickets on her own. Lisa suggested that the best way to get back at Fran was to cause damage to her luxury SUV. Melanie said in response: "That's fine, but what about the fur coat? I can't bear the thought of seeing that woman in that fur coat every day." Melanie suggested that they should also take Fran's fur coat. Lisa and Melanie agreed that Lisa would damage the SUV and Melanie would take the fur coat.

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Fall 2022
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

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What crimes have been committed and what affirmative defenses may be raised? Again, make sure you provide with a rule of law and a complete analysis for each crime and/or defense you address.

Fall 2011

CRIMINAL LAW FINAL EXAM

Professor Rodriguez

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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.
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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 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!

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 is 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

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. Please **DO NOT** turn in your scrap blue book. At the end of the exam turn in **only this exam packet**.
2. Your **ANSWERS TO PARTS 1 & 2 MUST BE WRITTEN DIRECTLY IN THIS EXAM PACKET**, which you **WILL TURN IN AT THE END OF THE EXAM**.
3. 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 [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.

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.**)

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

YOUR STUDENT ID NUMBER: _____ -- 59

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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:

B _____	F _____	C _____
E _____	A _____	A _____
S _____	R _____	L _____
Larceny by T _____	M _____	F _____

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. _____

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

1. Insanity defenses (to include insanity)

Horizontal lines for writing.

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 []

PART FOUR - DIRECTED, SHORT-ANSWER QUESTIONS

Part Four 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 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: (This question is worth 5 points)

Hannibal had been planning for more than a year to kill Clarice. One night, he carried out his plan by firing a single gunshot to Clarice’s head. She was rushed by ambulance to the hospital and immediately taken into surgery where doctors were able to successfully remove the bullet. After the surgery Clarice remained in a coma for 364 days. On the 365th day she died.

Is Hannibal criminally liable for Clarice’s death?

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.

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.

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?

Lined writing area consisting of approximately 26 horizontal lines for text entry.

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.

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.

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.

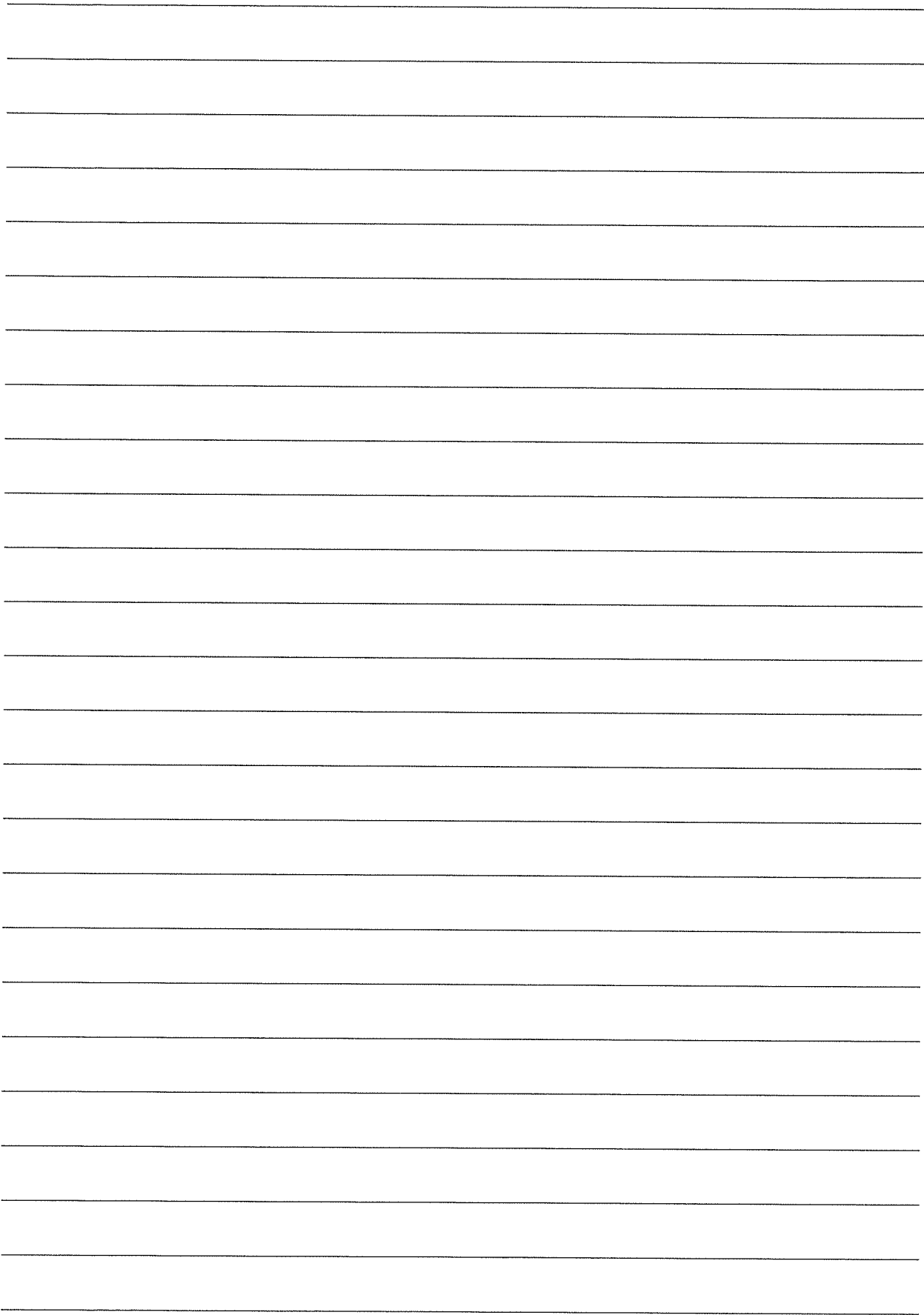
Discuss what crime Nick committed and his available defenses.

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.



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.

Fall 2014
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

YOUR STUDENT ID NUMBER:

____ _ -- 59

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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 [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)

Lined writing area consisting of multiple horizontal lines.

2. Common Law Murder

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)

A series of horizontal lines providing a ruled writing area.

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.

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

Lined area for writing the answer.

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)

[Lined area for writing or text]

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)

Lined writing area with 24 horizontal lines.

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.

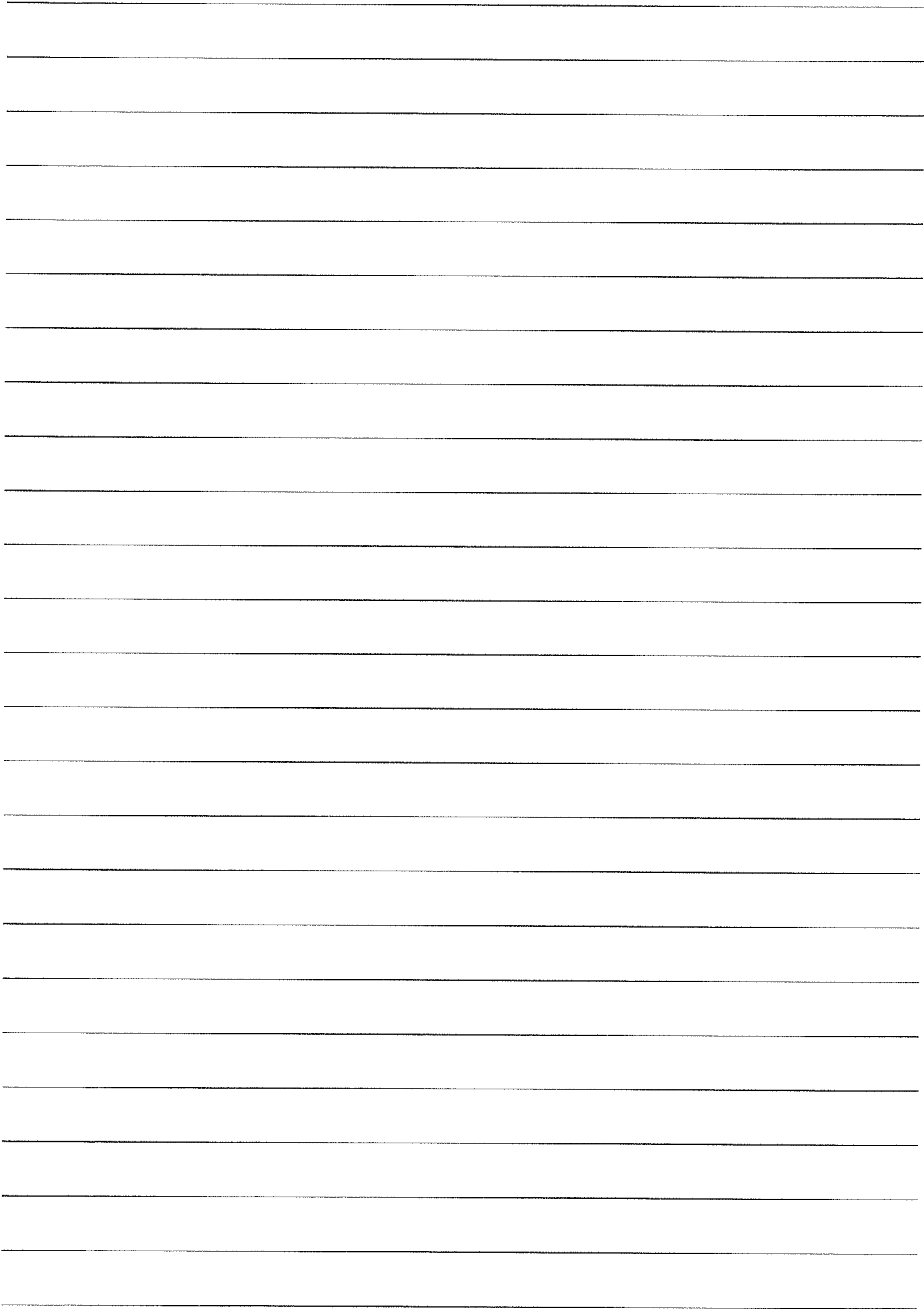
The girls entered the Brown’s garage, which was attached to the rear of their home, through the closed but unlocked garage door. Sarah and Betty rummaged through the toolboxes and practiced cutting wood on the table saw. Molly, alone near a corner shelf in the garage, saw a gold watch that had been left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

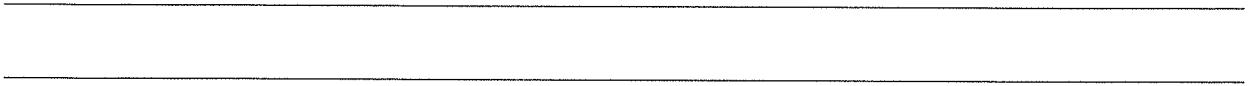
After about an hour in the garage, Sarah and Betty also left and continued to Blue’s toolshed for the stated purpose of taking a large screwdriver that had caught Sarah’s eye on a prior occasion. Blue’s shed was detached and sat about 50 yards from his house, but within a 3-foot-high picket fence that 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.

A series of 20 horizontal lines for writing.





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?:

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?:

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?

ID #: _ _ _ _

Lined writing area consisting of 25 horizontal lines.

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?

QUESTION 6: A tenant was cleaning out the living room of his apartment as his lease had expired. The tenant did not have very much living room furniture so he carried out his sofa, ottoman, coffee table, desk and chair. As the tenant inspected the room one last time, he noticed his bookcase that he had screwed into the wall when he first moved in. While he pondered whether to remove the bookcase, the tenant concluded that it constituted a fixture and, therefore, was a permanent part of the realty. Nonetheless, the tenant decided that the bookcase would fit nicely in his new apartment, so he removed it from the living room wall. When the landlord learned that the tenant had removed the bookcase, he contacted the tenant and demanded that he return it to the apartment. The tenant refused.

What crime has the tenant committed and what if any available defenses might he raise?

QUESTION 7: A woman was waiting in line to enter the Shubert Theatre in downtown Boston to watch the holiday performance of the Boston Nutcracker when she noticed a free show-pass on the ground. Each pass had a space in which the owner of the pass was supposed to write in his/her name. The woman waited until she got to the cashier's window and presented the pass, seeking a free admission to the movie, and claiming that she received it as a birthday present from a friend. The cashier told her that the passes were invalid unless the holder's name was entered on the pass. The woman wrote her name on the pass, gave it to the cashier, and was admitted to the theater.

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

Lined writing area with multiple horizontal lines.

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?

Lined writing area for the answer.

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:

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 **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

Do Not Write in This Space

(Turn The Page For The Next Question)

5. Durham Test

Do Not Write in This Space

(Turn The Page For The Next Question)

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.**

QUESTION # 3: An owner of a 3-story building, with apartments on the top two floors and a convenience store and gas station on the ground floor, resides with his family in one of the second-floor apartments One day, a truck driver pulled into the gas station for some gas. After filling up the tank, the truck driver entered the convenience store for a bite to eat. He was eating a bowl of chili when he noticed a cockroach in the food. The truck driver demanded a new serving of chili. When the owner refused, the truck driver stormed out of the store in anger.

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.

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

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

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.**

Do Not Write in This Space

(Turn The Page For The Next Question)

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.**

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: Frank and Tony are at Joe's Bar and Grill enjoying a couple of burgers with smoked Gouda cheese and mayonnaise and a Cherry Martini watching the Patriots and Jets game. Tony who's an avid Jets fan makes a couple of derogatory comments to Frank who's an avid Patriots fan. Frank, upset at Tony's comments, takes a couple of swings at Tony and knocks him to the floor. Tony then gets up, breaks the stem off of the martini glass, and advances towards Frank in a menacing and threatening manner.

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.**

Do Not Write in This Space

(Turn The Page For The Next Question)

QUESTION # 7: Nicholas walked into a crowded conference room with an unloaded gun and pointed it directly at Andy. Andy, believing the gun to be loaded, dove under the desk for protection. Seeing Andy dive under the desk, Nicholas walked over to Andy, called him a “yellow-bellied chicken,” and spit directly in Andy’s face.

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.**

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

Do Not Write in This Space
(Turn The Page For The Next Question)

QUESTION # 9: Steven and his wife Amanda were having dinner at Romano's famous Italian restaurant enjoying a bottle of the finest red wine with their meal. During dinner Steven saw another man wink at Amanda which angered him, and he began to argue with her because another man was paying attention to her. Steven had long suspected that Amanda was cheating on him with other men and he even suspected that she was having an affair with his cousin, James Kirk. The argument ended with Amanda telling Steven, "Well if it will ease your mind, I have been untrue to you," and "oh, by the way, your cousin is a much better lover than you in bed." Upon hearing this Steven flew into a rage and, in fact, was so enraged that he pulled a mallet out of his fanny pack and began hitting Amanda in the head with the mallet. Steven was later arrested for the brutal murder of his wife.

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

Lined writing area with 20 horizontal lines for notes.

QUESTION # 10: 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 a rag which he had previously soaked in gasoline on fire, he was stopped by the police and arrested.

After Joe Bag O' Donuts had been arrested it was learned that just before he 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 Approach," please discuss fully what if any crime Joe Bag O'Donuts may have committed and whether he has any available defenses? (15 points) **Limit your answer to the space provided.**

QUESTION # 11: One evening, a defendant set fire to a homeowner's occupied house. As a result of the blaze, the homeowner's daughter was killed.

Has the defendant committed felony murder?

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.**

QUESTION # 12: Same set of Facts in Question # 11: Suppose instead that the defendant was charged with felony murder on the first count and arson on the second count of a two count indictment. The jury found the defendant guilty on the first count (felony murder), but returned a not guilty verdict on the second count (arson).

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.**

QUESTION # 14: A state statute defines all murders as second degree murders unless deliberation and premeditation can be shown, in which case the crime is elevated to first degree murder. Manslaughter is defined as at common law.

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.

What common law crime has the defendant committed and what if any available defenses does he have? (10 points) **Limit your answer to the space provided.**

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QUESTION # 15: We Ship it Right, a well-known delivery company mistakenly delivers a package to the defendant. When the defendant takes possession of the package from the delivery driver, he immediately realizes the mistake but instead of returning the package to the driver he decides to keep the package.

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

QUESTION # 16: When The Kringles ship their toys they use a transportation company called *We Ship it Right Packing and Shipping Company*. While the toys are in the custody of *We Ship it Right*, the delivery driver “breaks” open several boxes of toys and **takes them**.

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

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.**

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 **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.**

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.

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.**

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.**

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.**

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.**

Fall 2018
CRIMINAL LAW FINAL EXAM
Professor Rodriguez

YOUR STUDENT ID NUMBER: _____

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

INSTRUCTIONS:

1. Do not use your own scrap paper. Instead, take one blue book, **mark it with the word “Scrap” and your student ID #**, and use that as your scrap paper. At the end of the exam **turn in your scrap blue book with your exam packet.**
2. Your **ANSWERS TO THIS EXAM 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 two parts for a **total value of 290 Points** and will account for **70% of your semester grade**. The total time for the exam is **three hours**.

Part One consists of **6 directed, short answer questions** and **1 four-part fill-in-the-blank questions** for a total value of **100 points**;

Question # 1 is worth 10 points

Question # 2 is worth 15 points

Question # 3 is worth 15 points

Question # 4 is worth 20 points

Question # 5 is worth 10 points

Question # 6 is worth 10 points

Question # 7 consists of 4 Fill-in-the-Blank sub-parts for a total 20 points

Part Two consists of **10 directed, short answer questions** for a total value of **190 points**

Question # 1 is worth 30 points

Question # 2 is worth 20 points

Question # 3 is worth 10 points

Question # 4 is worth 10 points

Question # 5 is worth 10 points

Question # 6 is worth 10 points

Question # 7 is worth 30 points

Question # 8 is worth 10 points

Question # 9 is worth 40 points

Question #10 is worth 20 points

If you have extra time, there is a Bonus Question at the end, consisting of one short directed essay type question, worth 10 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

Each of the first 6 questions consists of a hypothetical 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: Two friends decided to play catch with a baseball from opposite sides of a busy street. The friends threw the ball across the street to each other for approximately twenty minutes nearly hitting several cars, pedestrians and bicycle riders several times. As one of the friends wound his arm up to hurl the ball across the street once more, a bicycle rider came along. The ball hit the bicycle rider in the neck but did not injure the rider in any way. Annoyed, the rider flipped the ball to one of the friends and said, "You guys should probably take this game off the busy street."

What common law crime has the friend committed? (This Question is worth **10 Points**) **Limit your answer to the space provided.**

QUESTION 2: A husband and a wife were chronic alcoholics. One afternoon the husband drank a fifth of bourbon and was drunk when his wife returned home from work. When the wife saw her husband's condition, she got very angry because they had planned to go out to dinner and celebrate their wedding anniversary. While the husband was passed out on the living room couch, the wife decided to fix herself a martini. After drinking two martinis, the wife became extremely inebriated. A short while later, the wife began preparing a third martini and tried to slice a lemon for the drink. As she did so, the knife slipped, and she cut her hand severely. With blood gushing from the wound, the wife called her husband to help her. He awoke momentarily, stood up, but fell back on the couch and passed out. He failed to render any assistance, and the wife bled to death.

If the husband is charged with involuntary manslaughter what would the prosecution have to prove in order to properly convict him and what possible defense could the husband raise? (This Question is worth **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.

What is the most serious common law crime the defendant can be properly convicted of?

(This Question is worth 15 Points) Limit your answer to the space provided.

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QUESTION 4: A blacksmith ran a small forge in a tourist attraction depicting village life in the 1800s producing small metal trinkets for sale as souvenirs. A tourist came into the forge and started ridiculing the blacksmith, telling him that he was foolish for practicing such an out of date trade when modern equipment could produce the same trinkets faster and far more cheaply. Although he maintained a calm demeanor, the blacksmith was enraged by the time the customer finished and headed back out the door. He picked up an anvil and hurled it in the general direction of the customer. The anvil fell harmlessly to the ground after traveling maybe a foot.

What common law crime has the Defendant committed?

(This Question is worth **20 Points**) **Limit your answer to the space provided.**

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QUESTION 5: Victim, a quadriplegic as a result of an accident, is in a permanent coma at a nursing home, and has been so for two years. During a routine physical examination, it is discovered that victim is four months pregnant. Victim is not married, nor does she have a boyfriend. The Nursing home director states, “Someone is guilty of rape.” Is he correct? Support your answer with a proper analysis.

(This Question is worth **10 Points**) **Limit your answer to the space provided.**

QUESTION 6: A driver stopped at a red light in his home state. A stranger opened the passenger door, got in and pointed a gun at the driver. The stranger then directed the driver to keep driving. They drove several miles, crossed into a neighboring state, and drove several more miles. When they reached a remote location, the stranger ordered the driver to pull over. The stranger then robbed the driver of his wallet and cash and ordered him out of the car. The stranger drove off in the driver's car.

In a jurisdiction that follows the Model Penal Code, assume that the stranger has been charged with robbery (assault is a lesser-included crime of robbery) as well as larceny of the driver's car.

Can the stranger be properly convicted of any other crime? (This Question is worth **10 Points**)

Limit your answer to the space provided.

QUESTION 7: (a) (b) (c) & (d) are each worth 5 points for a total of 20 points.

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

B _____	F _____	C _____
E _____	A _____	A _____
S _____	R _____	L _____
_____ by T _____	M _____	F _____

b). At Common Law the General Intent Crimes were:

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

c). Please fill in the Basic Elements of a Crime:

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | |

d). Correctly define Involuntary Intoxication:

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

Part Two consists of ten 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 Farmer John's barn. 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 and several items inside the barn were burned.

Discuss all **common law crimes** Jethro may likely be criminally responsible for? **(30 points)**

Limit your answer to the space provided.

QUESTION # 2: 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. **(20 points) Limit your answer to the space provided.**

QUESTION # 4: A defendant was an alcoholic who frequently experienced auditory hallucinations that commanded him to engage in bizarre and sometimes violent behavior. He generally obeyed their commands. The hallucinations appeared more frequently when he was intoxicated, but he sometimes experienced them when he had not been drinking. After the defendant had been drinking continuously for a three-day period, an elderly woman began to reproach him about his drunken condition, slapping him on the face and shoulders as she did so. The defendant believed that he was being unmercifully attacked and heard the hallucinatory voice telling him to strangle his assailant. He did so, and she died. The defendant was charged with second degree murder.

If the defendant raises the affirmative defense of insanity in a jurisdiction that follows the M’Naghten Rule what would the defendant need to show in order to successfully raise this defense.

(10 points) Limit your answer to the space provided.

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(Turn The Page For The Next Question)

ID # _____

QUESTION # 5: A husband and wife were walking to their car one evening after having seen a movie. As they were passing a dark alleyway a defendant leaped out brandishing a gun. He pushed the wife against the wall of a nearby building. He held the gun to her head and demanded money from the man. The husband handed over the cash. The defendant grabbed the cash and ran away.

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

QUESTION # 6: A woman was employed as a sales clerk at a department store. She worked in the women's lingerie section. One evening, around closing time, the woman took a diamond necklace from a cabinet in the jewelry section of the department store and wrapped it in tissue paper. The Woman then surreptitiously stuffed the necklace in a shopping bag, intending to remove it when she left the store. Moments later, the store owner approached the woman and told her she needed to stay late in order to do inventory. While the woman was completing inventory, the owner discovered the necklace and called the police.

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

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QUESTION # 7: Hungry from all the murders they just committed, Carla and Lori went into Dairy Mart, a convenience store to buy some Cherry Cola and taco flavored Doritos. After entering the store, they browsed the aisles a bit and noticed that no one was at the cash register. Carla went behind the counter and started trying to open the cash register. Lori exchanged brief eye-contact with Carla, who said nothing, but giggled a bit and looked around the store nervously. Carla managed to get the cash register open, filled her pockets with the cash, and started to run out of the store with Lori. Carla and Lori went to a nearby alley and began to split up the money that was taken from the cash register. Carla and Lori were caught several minutes later by the police.

With respect to the non-verbal exchange between Carla and Lori, applying both the **common law** and **Model Penal Code** what crimes could they likely be criminally liable for. **(30 points) Limit your answer to the space provided.**

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QUESTION # 8: 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. **(10 points) Limit your answer to the space provided.**

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QUESTION # 9: Joe Bag O'Donuts was arrested and arraigned on charges of receiving stolen property. While sitting in 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 he was asleep inside the home.

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 a rag, which he had previously soaked in gasoline on fire, he was stopped by the police and arrested.

After Joe Bag O'Donuts had been arrested, it was learned that just before he 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 Approach," fully discuss fully all the crimes Joe Bag O'Donuts may likely be criminally liable for? **(40 points)**
Limit your answer to the space provided.

QUESTION # 10: A man and a woman had been feuding for years. In order to show him a thing or two, the woman decided to set fire to the man's house. Before dawn one morning, the woman went to the man's house and lit a match to gasoline she had poured at the man's front door. The house caught fire and quickly spread to the man's bedroom, where the man was able to leap out of the window without injury. A police officer who was driving by saw the woman running away one block from the man's house. The police officer pulled his car up to the woman to determine if she was involved in setting the fire. Upon seeing the officer, the woman started to flee the scene. As she is running away, the woman pulled out a revolver and started shooting indiscriminately behind her. The police officer was struck by one of the shots and was killed.

Discuss fully what common law crimes the woman may likely be criminally liable for **(20 points)**

Limit your answer to the space provided.

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Fall 2017
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 **total of 215 Points** and will account for **75% of your semester grade**. The total time for the exam is **three hours**.

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

Question 1 = 5
 Question 2 = 10
 Question 3 = 5
 Question 4 = 10
 Question 5 = 5
 Question 6 = 15
Total Points = 50

Part Two consists of **five** definitions each worth **5pts** for a total of **25 points**.

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

Question 1 = 20	Question 8 = 10	Question 15 = 5
Question 2 = 15	Question 9 = 10	
Question 3 = 10	Question 10 = 5	Total Points = 130
Question 4 = 10	Question 11 = 5	
Question 5 = 5	Question 12 = 5	
Question 6 = 10	Question 13 = 5	
Question 7 = 10	Question 14 = 5	

Part Four consists of **five** Select the Best Possible Answer question each worth **2 pts** for a total of **10 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.

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

Each of the first 5 questions consists of a hypothetical, 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: Two friends decided to play catch with a baseball from opposite sides of a busy street. The friends threw the ball across the street to each other for approximately twenty minutes, nearly hitting several cars, pedestrians and bicycle riders several times. As one of the friends wound his arm up to hurl the ball across the street once more, a bicycle rider came along. The ball hit the bicycle rider in the neck, but did not injure the rider in any way. Annoyed, the rider flipped the ball to one of the friends and said, "You guys should probably take this game off the busy street."

What common law crime has the friend committed? (This Question is worth **5 Points**) **Limit your answer to the space provided.**

QUESTION 2: A husband and a wife were chronic alcoholics. One afternoon, the husband drank a fifth of bourbon and was drunk when his wife returned home from work. When the wife saw her husband's condition, she got very angry because they had planned to go out to dinner and celebrate their wedding anniversary. While the husband was passed out on the living room couch, the wife decided to fix herself a martini. After drinking two martinis, the wife became extremely inebriated. A short while later, the wife began preparing a third martini and tried to slice a lemon for the drink. As she did so, the knife slipped, and she cut her hand severely. With blood gushing from the wound, the wife called her husband to help her. He awoke momentarily, stood up, but fell back on the couch and passed out. He failed to render any assistance, and the wife bled to death.

If the husband is charged with involuntary manslaughter what must the Prosecution show in order to convict the husband and what if any defense could he raise? Please note, you do not need to define involuntary manslaughter in order to properly answer this question.

(This Question is worth **10 Points**) **Limit your answer to the space provided.**

QUESTION 3: A sixteen-year-old girl walked into a liquor store to purchase alcohol. Before selling the alcohol to the girl, the liquor store owner asked the girl her age. She responded that she was twenty-two years old and the liquor store owner sold her the alcohol. The liquor store owner did not ask the girl for identification to verify her age. On her way home, a police officer stopped the girl and found the alcohol she had just purchased from the liquor store owner. The police officer went to the liquor store from which the girl had purchased the alcohol and arrested the liquor store owner for selling alcohol to a minor. In this jurisdiction, the legal drinking age is twenty-one years old.

Under both common and modern law is the store owner criminally liable?

(This Question is worth **5 Points**) **Limit your answer to the space provided.**

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QUESTION 4: Defendant threatens victim by pointing a rifle at her and threatening to “blow her in half.” Victim does not know it, but the rifle is not loaded. Has the defendant committed a common law crime?

(This Question is worth **10 Points**) **Limit your answer to the space provided.**

QUESTION 5: Victim, a quadriplegic as a result of an accident, is in a permanent coma at a nursing home, and has been so for two years. During a routine physical examination, it is discovered that victim is four months pregnant. Victim is not married, nor does she have a boyfriend. The Nursing home director states, “Someone is guilty of rape.” Is he correct? Support your answer with a proper analysis.

(This Question is worth **5 Points**) **Limit your answer to the space provided.**

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QUESTION 6:

a). For the mnemonic: "BEST FARM CALF" fill in the proper Specific Intent Crimes:

B_____	F_____	C_____
E_____	A_____	A_____
S_____	R_____	L_____
_____ by T_____	M_____	F_____

b) At Common Law the General Intent Crimes were:

- | | |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |

c). Please fill in the proper Elements of a Crime:

- | | |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | |

**PART TWO – 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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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: At a waterfront bar, a college student sought to provoke a fight with a merchant seaman by making insulting remarks. Eventually the seaman had had enough and threw a punch that connected to the student's jaw and sent him sprawling to the floor. The seaman then told the student that he wanted no further trouble. Getting up off the floor, the student pulled a knife out of his pocket and charged at the seaman. Three other students were standing between the seaman and the exit door. The seaman tried to dodge, but was cut on the forearm by the student's knife. The seaman immediately drew a gun and shot the student, killing him. The seaman was charged with murder.

If the seaman raises the affirmative defense of self-defense will he be successful in asserting this defense. Please state the applicable rule of law as part of your answer.

(10 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." Upset 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: An employee worked as a third-shift supervisor at a manufacturing plant. One of his duties was to ensure that all timekeeping records accurately reflected the time his crew actually worked. Workers, including the employee, were then paid for whatever hours the timecards reflected. The employee was also required to assist in submitting budgets for payroll. Needing to leave work early for a second job that he obtained, the employee had one of his trusted co-workers punch his card out at the regular time every day of the week. At the end of the week, he signed the timecard with those hours included, and was paid accordingly. He continued to do this for several weeks before being discovered.

What crime has the employee committed? Please state the applicable rule of law as part of your answer.

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

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, but the jury must be cautioned that it does not pertain to manslaughter

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.**

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.**

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 raising the affirmative 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.**

QUESTION # 15: A man and his friend were watching a televised football game at the man's home. Upset by a penalty called by the referee, the friend threw a bottle of beer at the man's television, breaking the screen. Enraged, the man picked up a nearby hammer and hit the friend on the head with it. The friend died from the blow.

In a jurisdiction that follows the common law principles is murder the most serious crime which the man could properly be convicted?

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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PART FOUR – SELECT THE BEST POSSIBLE ANSWER Each worth 2 points

QUESTION # 16 A state statute defines all murders as second-degree murders unless deliberation and premeditation can be shown, in which case the crime is elevated to first degree murder. Manslaughter is defined as at common law.

The defendant wanted to steal some papers from a business associate's office, and so he arranged to have a meeting with her at her office. When the associate left the room, the defendant put a knockout drug in her coffee. After she passed out from drinking the coffee, the defendant rummaged through her files, finding and stealing the papers that he wanted. Unfortunately, the defendant miscalculated the dosage, and the business associate died.

What is the most serious offense of which the defendant can be convicted:

(A) Murder in the First Degree **or** (B) Murder in the Second Degree

QUESTION # 17 A 15-year-old girl who worked as a prostitute in a city approached a man and offered her services. The man agreed, and the two engaged in sexual intercourse in the back seat of the man's car. These events were noticed by an undercover police officer, who arrested the girl and the man. The man admitted to having sex with the girl, and he was charged with statutory rape. The girl was charged with being an accomplice to statutory rape.

At the girl's trial, her best defense is that:

(A) As a minor, the girl does not have the capacity to be an accomplice

or

(B) the statutory rape law is designed to protect minors and therefore the girl cannot be convicted as an accomplice

QUESTION # 18 A woman and a defendant entered into an arrangement where the woman promised to pay the defendant \$10,000 to act as a surrogate mother. In return, the defendant agreed to be implanted with woman's embryo and carry the baby to term. The woman paid the defendant the \$10,000 upfront.

During the seventh month of the pregnancy, the defendant changed her mind and decided to keep the child herself. The defendant moved out of state and gave birth to the baby, which she refuses to turn o to the woman.

If the defendant is guilty of:

EMBEZZLEMENT **or** KIDNAPPING **or** NO CRIME

QUESTION # 19 A defendant had been drinking at a bar for three hours and was visibly intoxicated. A man entered the bar and sat down next to the defendant. After ordering a beer, the man turned to the defendant and said, “Hey buddy, you’re sure an ugly looking dude.” The defendant ignored the man’s insult and turned to walk away. The man then pushed the defendant against the bar and said, “Your face makes me sick to my stomach.” The defendant then pulled out a razor and slashed the man’s throat, killing him.

If the defendant is prosecuted for the man’s murder he will most likely be found: (5 points)

GUILTY, because his intoxication was voluntary **OR** NOT GUILTY, because of his intoxication

QUESTION # 20 A defendant gave a man a gun and instructed him to kill a victim. The man shot and killed the victim with the gun. The man was charged with murder and acquitted.

The defendant is now charged with the murder of the victim. He will be able to assert a valid defense if the man’s acquittal was based on which of the following?

SELF-DEFENSE **OR** THE WHARTON RULE