

CRIMINAL LAW EXAMINATION
INSTRUCTOR: H. JOHNSON
FALL 2013

GENERAL INSTRUCTIONS

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

- IDENTIFY YOURSELF BY STUDENT IDENTIFICATION NUMBER ONLY.
- TRY TO LIMIT YOUR EXAMINATION ANSWER TO TWO BLUE BOOKS. IF YOU MUST EXCEED THIS LENGTH, YOU MAY.

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 20 POINTS

ANSWER TWO OF FOUR QUESTIONS. BE CONCISE. YOU MAY, IF YOU WISH, USE OUTLINE FORM WHERE APPROPRIATE TO ANSWER BUT DO NOT NEGLECT TO DISCUSS THE LAW AND THE KEY FACTUAL POINTS AND TO CONCLUDE.

SECTION II: 80 POINTS

FOLLOW THE FACT PATTERN AND USE "IRAC" IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, REGARDLESS OF WHETHER OR NOT THEY SURVIVE THE HYPOTHETICAL, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE LAW TO THE FACTS. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.

SECTION I

1. Guthrum has kicked his cocaine habit. Officer Babbles, who is acting undercover, posing as a cocaine dealer, approaches Guthrum. Babbles says, "Guth, I got some really good cocaine here. I'll give it to you to try for nothing." Guthrum declines. Babbles then waves a packet of cocaine under Guthrum's nose and Guthrum snatches the packet and inhales the cocaine. Officer Babbles immediately arrests Guthrum for possession of cocaine.

What would be the obvious possible defense for Guthrum? Define it.

What are the applicable tests? Define them.

Will Guthrum be successful? Why or why not?

2. Junior spies his neighbor Cal's sports car. The keys are in the car and the door is opened. Junior decides to take Cal's car for a ride. Junior drives Cal's car around town and leaves it in a downtown parking lot. He takes the bus home. Junior is arrested and charged with larceny of the car.

Will Junior be convicted? Why or why not?

Is there an additional common statutory crime, generally, with which Junior could be charged?

3. What is the "Breaking in Bulk Doctrine?" Where does or did it come into play?

4. Alcock despises Lindy. Alcock decides to kill Lindy. Alcock drives his car around town looking for Lindy. Alcock does not find Lindy. Alcock is charged with attempted murder.

Define attempt. Describe it in the context of attempted murder.

Will Alcock be convicted? Why or why not?

SECTION II

The Big Big Train Station, hereinafter "BBTS", is the centerpiece of urban redevelopment in Click Clack City which is located in the state of Bliss, the fifty-first state in the Union. The BBTS has been ornately restored, at great taxpayer expense, to its former grandeur of a time when trains moved the wealthy in the very best of styles. In a throw-back to that golden era, the East-West Limited, hereinafter "EWL", steams in late each afternoon carrying the great and the good in opulent Victorian style for which passengers pay through the nose.

The BBTS is run by a corporation, BBT, Inc. The Board of Directors is composed of Mel, the President and Chief Executive Officer, Merv, the Chief Financial Officer and Minny, the Vice President and Secretary-Treasurer. High above the train

tracks, the Board is meeting. Mel, over morning tea, says, "Listen, you two! We need more money. This old dump takes a lot to keep it going. Minny, put together a grant application for Click Clack City. Say we have seven thousand passengers a day. Forget about the recent study that says we have only three thousand." Minny swallows hard and nods in the affirmative. Merv, the C.F.O., says nothing, but grins and looks to the sky. The meeting ends.

Minny returns to her office and takes the grant forms from the drawer before lunch. She then leaves to get a strong drink in the Click Clack Pub.

As noon approaches, pedestrian traffic picks up in the station. Grip, Grab and Glom, who had just gotten out of the same cab, are walking together among the others in the BBTS. Grip and Grab, who are in no way associated with the railroad business, are dressed in old fashioned train conductor costumes. Glom is in civilian clothing. All three have been on social media communicating to those who monitor such things that they intend to "spontaneously" break into a dance number at noon in the BBTS. Grip, Grab and Glom requested participants. The dance number is taken directly from the new Broadway hit, "Conductors in Love."

At the strike of noon, a good half of all pedestrians in the BBTS break into a dreadful approximation of a dance number. As he high kicks, Stepper, one of the participants, accidentally kicks Jaws, a passerby, in the chin, breaking his jaw. Jaws rises from the floor and drawing a pocket knife, slashes at Stepper, unintentionally removing his eye.

At that instant, two of the flash mob participants, Pete and Pest, begin randomly punching other pedestrians in an attempt to "win" by knocking them out with one punch. The two continue the "game" as they run from the building out onto the street. Pete strikes Softchin, who is terribly prone to head injury, and the blow immediately kills him.

As the chaotic dance number continues, Glom walks into the branch of the Little Little Bank, which is located in the BBTS. Glom pulls a gun, which looks quite real but is actually a toy, and says to the teller, Telly, "Give me all the cash." Telly reaches into his cash drawer and pulls out his gun. Telly fumbles with the gun, for which he does not have a license, and it fires. Chops, a customer, is struck in the head and the bullet lodges in Chops' skull. Glom flees.

Chops is placed in an ambulance which is driven by Anna, an alcoholic, who had been drinking Bloody Marys all morning. Despite many sincere attempts, Anna has not been able to cease drinking alcohol. En route to Slab Hospital, Anna drives the ambulance into a telephone pole. Chops' head strikes the wall of the ambulance and, as a result, the bullet dislodges and enters his brain. Chops dies. A later autopsy reveals that, with adequate medical treatment, Chops would have survived the bullet wound.

Meanwhile Grip, seeing where things are going, flees. He jumps into a cab which is driven by Wheels. Grip breathlessly says, "Get me outta here!" Wheels, who had heard about the flash mob and the robbery on the radio is suspicious, but says, "A fare's a fare." Wheels drives Grip to a nearby bus station.

At that instant, Grab, also panicked, runs from the BBTS and out onto the railroad tracks.

As things approximate a return to normality, the EWL, right on schedule for its sunset arrival, approaches the BBTS. The replica steam engine belches to a stop as the interior passengers finish their champagne and hors d'oeuvres. All seems well. Ah, but

appearances can be deceiving. Olaf and Greta, who are husband and wife, are in the dining car sipping the last of the champagne. Olaf and Greta occupy Cabin 819, which is luxuriously appointed in mahogany and is equipped with a closet, beds and a sink.

As Greta and Olaf are finishing their champagne, the conductor, Baton, sneaks down the aisle to Cabin 819. Baton breaks open the door, though he has a pass key to all cabins in his pocket. Once inside, Baton opens the safe. He reaches in with a pair of pliers and extracts what he believes to be the famed Dope Diamond, which has been valued at over ten million dollars. Baton, who had been under great stress of late, then exclaims, "I'm a jackrabbit, I'm a jackrabbit! My feet are too long!" Baton then leaves the train and is approached by Detective Sharpeye. Sharpeye, who is in plain clothes, pulls a gun and points it at Baton. Baton, who is alone with Sharpeye on the lengthy platform, exhibits great strength and picks up a large coal bin and strikes Detective Sharpeye on the head with it. The blow kills him. Baton is arrested almost immediately. Baton says, "Have you seen Halley's Comet? I think I lost it."

The item which Baton believed to be the Dope Diamond is, in fact, a false copy worth only two-hundred dollars. Greta never traveled with the real Dope.

Following a lengthy session at the bar car, Greta and Olaf return to Cabin 819. Greta, on the way back to the cabin, expresses a desire for intercourse to Olaf. On arrival, Greta, intoxicated, however, promptly passes out. Olaf, himself highly intoxicated, is unaware Greta is out. Olaf disrobes and engages in intercourse with Greta. Greta awakens, startled. Olaf tells Greta that he enjoyed the intercourse, of which she was unaware. Greta, incensed, stabs Olaf in the stomach with a diamond studded letter opener. Olaf bleeds to death. Greta takes no steps to seek medical care for Olaf in the minutes before his death.

The EWL is finally prepared for its night departure. The engineer, Shifty, puts the train into motion and the EWL majestically leaves the station. Shifty observes, at some distance, Grab walking down the tracks. Shifty intensely dislikes Grab since learning of Grab's affair with Shifty's wife, Sherrie. Shifty accelerates the train's speed as the EWL approaches Grab in the hope that Grab will not be able to prevent himself being run over. Shifty's assistant engineer, Whalebone, knowing of the history, grabs Shifty's arm and attempts to slow the train. Shifty responds by striking Whalebone with a nearby wrench in the head. Whalebone swings wildly and strikes Shifty. Shifty is dazed, as is Whalebone. Shifty sits in a semi-conscious state in his engineer's chair as the train runs over and kills Grab.

On reflection, Minny tells Mel and Merv she will not submit the request for a grant. Mel decides to do it on his own.

CRIMINAL LAW EXAMINATION
INSTRUCTOR: H. JOHNSON
FALL 2010

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RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

ANSWER THREE OF FIVE QUESTIONS. BE CONCISE. YOU MAY, IF YOU WISH, USE OUTLINE FORM WHERE APPROPRIATE TO ANSWER BUT DO NOT NEGLECT TO DISCUSS THE LAW AND THE KEY FACTUAL POINTS AND TO CONCLUDE.

SECTION II: 70 POINTS

FOLLOW THE FACT PATTERN AND USE "IRAAC" IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, REGARDLESS OF WHETHER OR NOT THEY SURVIVE THE HYPOTHETICAL, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE LAW TO THE FACTS. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.

SECTION I

1. At common law, define prison breach and escape. What is the difference between the two?
2. Grubby wanders onto Neat Nick's land. Grubby observes a ripe tomato dangling from a tomato plant. As Grubby reaches for the tomato it falls from the plant into his hand. Grubby runs off to get a salt shaker.
Grubby is later charged with larceny. Define the elements of the crime. Has Grubby committed larceny? Why or why not?
3. Define the crimes of forgery and uttering.
4. Officer Wanda, acting in an undercover capacity, poses as a heroin dealer. Officer Wanda is in a high drug area of town known as Thirsty Terrace. Officer Wanda approaches Stinger, a known heroin user. Wanda says, "Hey, I got some great powder. Want to buy some?" Stinger replies, "Nah, I'm trying to get clean. It's been tough." Wanda persists saying, "Don't you want to get high? I'll sell you this for the bargain price of a dollar. Good deal." Stinger then hands Wanda a dollar. Wanda hands Stinger the heroin and arrests Stinger for possession of heroin.
You represent Stinger. What defense will you raise? What are the different applicable tests? Evaluate Stinger's chances of success.
5. Define the crime of statutory rape. Is mistake of fact considered a defense?

SECTION II

Delusionville [hereinafter DV], in the State of Shock, the fifty-first state in the Union, is the quintessential New England town. It boasts church spires reaching skyward, a quaint general store and the stately homes of local worthies, all of which surround the lush town common. In fact, a local ordinance is still on the books which permits the grazing of residents' cows on the common, though few cows are kept in town.

The pace of our times, the constant unwelcome news, the unseen but real electronic chains that, for better or worse, bind us all to each other, and the unrestrained dumping of personal information on the web, cause many residents of DV to cling, even more tightly, to time honored tradition.

One such grand tradition is the Fall Fair. Each fall, all manner of humanity descends, like a swarm of locust, on the common searching for cider doughnuts and bargain craft offerings. This year is no exception. The participants prepare for the great gathering.

The vendors begin setting up their booths. Bill Bulb, who sells vintage baseball memorabilia, is present. Next to Bill's booth is Crafty Cora, whose small, unsettlingly life-like troll dolls are known throughout the county. Next to Cora, is Dank, a local artist who paints nightscapes of DV, which are frightening to children and art critics alike. The DV Library Boosters booth, which sells doughnuts, hot dogs and cotton candy, is next to Dank.

This year has been a struggle for the vendors. License commissioner Sticky required an "honorarium" of a five-hundred dollar payment in addition to the regular twenty-five dollar fee. Sticky used the money to help ease the DV budget crisis.

The first events begin on Friday evening. All the local third graders, consistent with the absurd local tradition, dangerously carry lanterns around the streets bordering the common. As the third graders line up, Gaggles, a member of the local street gang, the Geese, confers with fellow member Feathers. Gaggles says, "Feathers, I have a gun. Keep a sharp eye out and I'll climb the statue of old Governor Gaspain and let a shot go at that jerk, Mrs. Mandrake, who's leading the kids. She gave me an "F" in pottery. Feathers establishes a position to view events. Gaggles climbs the statute. Gaggles, who is less than dexterous, slips. As he falls, Gaggles takes old Governor Gaspain's knee in the back which causes his hand to clench on the gun which discharges a bullet. The bullet strikes Nosey, as he peers from his bedroom window in his house on the common, in the head. The sound is muffled by the dreadful, but loud, local band known as the Smelling Salts. Allears, Nosey's wife enters the bedroom, sees the fallen Nosey, and collapses dead of a heart attack.

Meanwhile, Bill is working a sale. Bill shows a customer, Gully, a baseball and states, "I saw the great shortstop, Claw Kelp, sign that ball with my own eyes in Chicago back in '65." Gully forks over the asking price of five-hundred dollars. Unbeknownst to Gully, Bill has never visited Chicago and Claw Kelp died in 1963.

At that moment, things are heating up at the food booth. Primrose, the local librarian, is short of cash. Munchy approaches and asks for a doughnut and coffee, proffering the two-dollar price. Primrose hands over the coffee and doughnut, but

Primrose places the money in her pocket as opposed to the cash register. Primrose, out of sorts, then becomes embroiled in an argument with Staid, a coworker, regarding the best doughnut. Primrose throws a pot of hot coffee at Staid. Staid, exhibiting great flexibility, ducks and the coffee lands on Moonbeam, the local free spirit.

Moonbeam, incensed, grabs a small replica statue of Governor Gaspain from a booth nearby. Moonbeam runs at Primrose and strikes her with the statue. Primrose, dazed, turns and punches Staid in the face. Staid stumbles off, about ten feet, and falls into the DV Fountain and drowns. Primrose then collapses and dies.

Despite the excitement, business at the Fair remains slow. Cora says to Dank, "Hey Dank, we're going broke. Let's slip into Doctor Hans Happyfingers' mansion over there and steal him blind. His housekeeper, Neat Nelly hates him. She gave me the combination to the strong box. It is 321. Dank reaches into his artist drawer and pulls out a putty knife.

The clock over the town hall chimes for eight p.m. as Cora and Dank cross Birdsong Street and walk up to the Happyfingers mansion. Dank approaches the door and finds it wide open. Dank enters but Cora, overcome by guilt, exclaims, "I can't." Cora scampers back toward the common. At that instant, Bubbles, who has just left a party, after drinking copious amounts of beer, is driving down Birdsong Street within the speed limit and within his lane. Bubbles' car strikes and kills Cora.

Meantime, Dank walks into the foyer of the Happyfingers place, which Doctor Hans uses as a waiting room. Dank opens the strong box, which is mounted on the wall, and uses an umbrella to reach in and extract a bejeweled statue of the beloved Governor Gaspain. Dank, running toward the door, does not see Gretty, Hans' wife, in the foyer. Dank runs into Gretty who pitches into a large radiator, striking her head. At that moment, Dr. Hans emerges and surveys the scene. Dr. Hans slowly walks over to a display case, opens it and retrieves an antique scalpel. Dr. Hans, an old dart champion, throws the scalpel striking Dank directly in the heart, killing him. On being arrested, Dr. Hans states, "I was just trying to wing him."

At that instant, Farmer Frank sits, sling shot in hand, in his window peering into his family garden. Frank is waiting for the yearly ritual of local teens known as "raiding gardens," a pastime whereby they skulk about the farms grabbing vegetables to eat together as a misguided form of bonding. Goober, Grabber and Geeky, in unison, approach the tomato patch. Goober reaches up and disengages a few tomatoes from a plant and Frank lets go a stone from the slingshot. The stone strikes Goober in the eye. Goober later loses the eye as a result. Grabber, upon seeing this drops to the ground in fright. All three quickly make their way off the farm. They jump into the car of their friend, Gale who spirits them away. Gale was parked, sleeping, down the road. Geeky, however, returns.

Geeky enters the farm area and approaches a barn near Farmer Frank's house. Geeky opens the door and goes into the barn. There he drops a lighted match in a pile of hay. The fire starts. Geeky exclaims as he flees, "I have done this to prevent the Martian takeover." The fire, miraculously, burns out leaving only a small amount of blackening from the flame on a stall.

Meanwhile, at the Morbid mansion on the common, Oxnard and Bella Morbid are finishing up the last bit of cocaine from their personal stash, though Bella kept plenty more outside in the pool house for sale. Oxnard, intoxicated on the cocaine, clumsily

makes a sexual advance toward his wife. Bella responds, "Not tonight, you're too high." Oxnard asks a second time and Bella nods and smiles and then, herself intoxicated, passes out. Oxnard delicately disrobes Bella, so as not to wake her, and engages in intercourse. Bella awakens, however, and punches Oxnard in the nose, knocking him out cold.

Outside, Nosey is loaded into an ambulance operated by Mario. Gretty is loaded into an ambulance operated by Barney. En route to the hospital, the ambulances are stopped side-by-side in traffic. Barney exclaims, "Hey Mario, I just slept with your wife. She's leaving you for me. Tough luck." As the ambulances begin to move, Mario purposely drives his ambulance into Barney's. Barney is ejected and dies. Nosey suffers a further head injury. Gretty is unhurt. When the parties finally arrive at the Buryem Hospital it is found that "Doctor" Crankcase is on duty. Gretty passes away under Crankcase's care. Nosey dies before anyone can get to him. The post mortem determines that Nosey's death was caused by the two head injuries. It is later learned that Crankcase is an automobile mechanic posing as a doctor.

In the aftermath of the tragic Fair, it is learned that the Conglom Corporation, which supplied the food, provided items well beyond their sell date to increase profit. The corporate directors, Missile and Torpedo planned this. Cleanhands, also a director, had no part in the scheme.

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FALL 2008

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RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

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

SECTION II: 70 POINTS

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SECTION I

1. What is Wharton's Rule generally? Give an example of a crime in which Wharton's Rule would be applicable. In crimes where Wharton's rule is inapplicable, what is the rule?
2. What is the difference between forgery and uttering? Define each.
3. Junior rests in his crib. Pop and Mom argue. Pop picks up a ceramic statue of Winnie the Poo and throws it at Mom. Mom ducks and the statue lands on Junior, causing a small cut. What crime or crimes has Pop committed? Why or why not?
4. Duck is walking down the street. Duck looks across the street and observes Dodge punching Hyde in the face. Duck comes to Hyde's aid and, being an ex-boxer, Duck knocks out Dodge with one punch. Unbeknownst to Duck, Hyde had initiated a murderous attack on Dodge due to a disagreement regarding the level of holiday decorating.

Duck is charged with Assault and Battery. You represent Duck. What defense will you raise? What are the different standards? Will you succeed?

5. What is the difference between Larceny by Trick and False Pretenses? Define each.

SECTION II

Fleecy Investments, Inc. has flourished for the past ten years under the leadership of Grab, the Chief Executive Officer, Gouge, the Chief Financial Officer and Grip, the Chairperson of the Board of Directors. The firm manages and sells investment products, primarily based in real estate mortgage receivables. The firm's "family" of clients has grown accustomed to windfall profits. Fleecy and its leadership have managed, through a combination of market forces, doctoring the books and inflated estimates of the worth of its products, to deliver outlandish returns on investment.

As the annual meeting date draws near, shareholders and clients descend on Fleecy's headquarters, located in the State of Flux, the fifty-first state in the Union. The meeting itself, which is to be held at the pricey, nearby Hotel Kosta Bunch, will take place in a ballroom, lit with crystal chandeliers, to the strains of the hottest pop band, Harry and the Hotplates. The shareholders and investors, with the look of cult member simplicity on their faces, anticipate the usual buffet, which features a pile of caviar in the

shape of a dollar sign, and the blissful talk of more money. Times, however, have changed.

The first investors to check into the Kosta Bunch are Per, Ingmar and Nils. The three are shown to their room, Room 819. The meeting is also to be attended by Jumpin Jack and his wife, Mona, and Captain Flywheel and his wife, Lisa. The two couples are shown to their rooms, Room 820 and 822 respectively. The rooms have an adjoining door, which the two couples have agreed to leave unlocked.

Meanwhile over at Fleecy, Grab, Gouge and Grip are in conference in Grab's office. The three know the true financial state of the business and are desperate. Gouge says, "Boys, we better figure a way out of this or we're all dead." Grab, overcome by the emotion of it all, runs into the spacious closet and locks the door. Grip says to Gouge, "Old Grab's lost it. Hey, Gouge, if something happens to Grab, Fleecy's entitled to the proceeds of his fifty million dollar life insurance policy. That will save us for the short run." Gouge says nothing, but looks at Grip. Gouge shoulders open the closet door and Grip runs into the closet and places Grab in a bear-hug. Gouge opens the French-style doors and Grip drops Grab off the patio. Instead of cascading down the entire twenty floors, Grab lands three floors below on the gold encrusted patio of the executive washroom. Grab suffers internal injuries.

An ambulance is called and Grab is placed in it for transport to Carving Hospital. En route, the ambulance driver, Jackie, siren blaring, speeds through a stop sign. Thirsty, highly intoxicated and driving his pickup, crashes into the ambulance. Jackie suffers a head injury. Jackie walks up to Shockey as he walks down the street and punches the appropriately astonished Shockey, raising a welt.

Grab, who suffered further significant internal injuries in the accident, is transported, this time without incident, to Carving Hospital. Grab is prepared for emergency surgery. The operation is to be performed by Dr. Slash, a renowned surgeon. Just before the operation is to begin Dr. Slash enters the hospital pharmacy, waves a scalpel at the attendant, Pill, and states, "Gimme some oxycodone." Pill says, "There's a new shipment right there," and gestures across the room. Dr. Slash takes the oxycodone and exclaims, "Zippity-doo dah!" Dr. Slash runs from the pharmacy and performs surgery on Grab. Dr. Slash slips and cuts Grab's aorta during the surgery and Grab dies as a result. Dr. Slash is confronted by Nurse Rivet who states, "Doctor, you don't seem right," in the operating room. Doctor Slash immediately disrobes and exclaims, "Kalamazoo!" Dr. Slash is taken away by hospital security.

Meanwhile, back at the Kosta Bunch, after the obligatory moment of silence for Grab, the meeting and buffet go off without a hitch. Gouge, following dessert, approaches the podium and says in the course of a droning two hour speech, "Fleecy is sound. Your money is safe and will grow quickly with us." A number of the attendees purchase additional securities and shares in the company.

Ingmar, a computer expert who had himself just bought shares, retires to his room. He bypasses Fleecy's security devices on its computer system, and reviews the company's financials. Ingmar learns the truth. Ingmar says to Per, who purchased shares at the meeting as well, "Fleecy is broke. I saw their books. I'm going in there and get my money." Ingmar and Per approach the front door of the magnificent Fleecy Headquarters Building. Ingmar steps on the automatic door mat and the door opens. Vigilant, the security guard, approaches the two. Ingmar strikes Vigilant on the head

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FALL 2006

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RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

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

SECTION II: 70 POINTS

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5. Ingmar stands in line at his local grocery, Megamunch, Inc. Ingmar purchases his groceries and receives his change. Dagmar, working the register, gives Ingmar a twenty dollar bill instead of the ten dollars he is owed. Dagmar, unbeknownst to Ingmar, always liked him and wants him to have the extra money for holiday shopping. Ingmar later discovers the twenty but does not return it.

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

PART II: 70 POINTS

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

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

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

As darkness falls, a group of would be toughs from the nearby town of Suburbia meets at the local upscale coffee shop, Bigbucks. The group has taken to calling itself the Gamergoons and includes Grendel, Drac, Frank and Godz. Dressed in their colors, blue blazers, a discussion begins. Grendel says, "Let's knock off Whinemart. Those idiots outside will have some money and we can get some WB8 games. We can unload the games to my friend Picket. I talked to him already." Drac responds, "Let's go." Frank says, "I like the idea, but I'm concerned about the cops." Godz says nothing. After finishing their cappuccino, the group jumps into Godz's Mercedes Benz sedan and heads for Whinemart. Godz parks at the far end of the massive parking lot, the store barely visible. Grendel and Drac, wearing "Groucho Marx masks," approach the front of the store. Frank walks to the rear loading dock area. Grendel approaches Volt as Drac stands nearby. Grendel, hand in pocket simulating a gun, says "Stick 'em up or I'll shoot. Give me your money." Volt punches Grendel in the head. Grendel falls and Volt repeatedly kicks him. After a few seconds, Drac steps in and stabs Volt in the stomach with his letter opener. Volt drops to the ground, bleeding. Locke, who has a pre-existing heart ailment suffers a heart attack and dies on the spot. Grendel, who suffered a concussion from the blows administered by Volt, rises and strikes out at Roose who is standing nearby. Roose suffers a bruise to his arm. Roose, incensed, draws his replica

with his pocket computer, rendering Vigilant unconscious. Ingmar removes a set of keys from Vigilant's belt. Nils joins the two at this point and Per, Ingmar and Nils head for the elevator. Nils, just before getting on the elevator says, "I can't do it. No violence." Nils leaves the building.

Ingmar and Per proceed to Gouge's office. Using the keys taken from Vigilant, Ingmar opens the large safe. Ingmar reaches in and takes twenty-five thousand dollars, the amount of their total investment that day, and an additional two hundred and fifty-one dollars for cab fare.

As Per and Ingmar are leaving, they are confronted by Knuckles, Gouge's bodyguard. Knuckles states, "Say your prayers, chumps." Knuckles picks up a brick-sized gold paperweight and swings it at Ingmar. Ingmar ducks and strikes Knuckles with his pocket computer. Knuckles falls backwards and is impaled on the horns of a large statue of a bull. Knuckles dies as a result. Nils drives Per and Ingmar to the airport.

Back at the Kosta Bunch, Jumpin Jack, Mona, Captain Flywheel and Lisa, all highly intoxicated, return to their rooms. Flywheel, who has always had a thing for Mona, opens the unlocked adjoining door and climbs into bed and has intercourse with Mona, who is passed out. Jumpin Jack who is asleep on the floor, awakens, sees the two in bed and says, "I knew it, I'll kill you Flywheel." Jumpin Jack bludgeons Flywheel to death with a small bronze replica of the New York Stock Exchange building. Jumpin Jack rests a moment, and then bludgeons the unconscious Mona to death. Jumpin Jack flees. Lisa enters the room and finds the bodies of Mona and Flywheel. Lisa removes Flywheel's wallet, containing some three thousand dollars in cash, and takes then diamond necklace from the body of the departed Mona. Lisa then leaves.

Over at Fleecy, Grip, overcome by guilt, jumps out the window trying to end it all. Grip's fall is broken by Tidy, the office cleaner. Tidy, unfortunately, is killed. Gouge, who had been holding the proceeds of the insurance policy on Grab, takes the money and absconds to the Bahamas.

GENERAL INSTRUCTIONS

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

IDENTIFY YOURSELF BY SOCIAL SECURITY NUMBER ONLY.

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

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

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

SECTION II: 70 POINTS

FOLLOW THE FACT PATTERN AND USE "IRAAC" IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE FACTS TO THE LAW. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.

SECTION I: 30 POINTS

1. In the State of Confusion, the fifty-first state in the Union, a statute prohibits the possession of kangaroos, such possession being punishable by “imprisonment in state prison for not more than six months.”

Is the crime a felony or a misdemeanor? What are the applicable standards in that determination?

2. What is the concept of “legality?”
3. What are the distinctions, generally, between involuntary manslaughter and criminally negligent homicide statutes?
4. Coke and Blackie are drinking at a local pub. Coke picks up a bottle and swings it at Blackie’s head in the course of an argument. Blackie ducks and pulls out his pistol and points it at Coke. Coke responds by again swinging the bottle at Blackie’s head, this time connecting and killing Blackie.

Will Coke’s claim of self defense be successful? At common law? Under the majority American position? Under the minority American position? How about Massachusetts?

5. Sherman suffers from a drug problem. He enters the Megapolitan Museum to get warm. Sherman sees a vase, similar to one his mother had purchased for him as a child. Nostalgic and suffering the effects of narcotic intoxication, Sherman picks up the vase and walks out of the museum. Sherman is apprehended. The vase is actually worth one-million dollars.

What if any crime or crimes has Sherman committed? Why or why not? What issues are raised by the hypothetical?

6. Laurel is angry with Buster. Laurel speaks to Hardy, a known fire-starter and states, “I’ll give you three grand to burn down Buster’s barn.”

- a. At this point, what, if any, crime has been committed by Laurel?
- b. Assume Hardy takes the money and nods in the affirmative. What, if any, crime has been committed and by whom? Why or why not?
- c. Assume the facts in (b.) with the additional fact that the barn is burned by Hardy. What if any crime or crimes has been committed and by whom?

7. a. Omar enters Fluffy Furriers, a shop on fashionable Newby Street. Omar approaches the sales clerk, Marshall, and says, "I paid the owners for the mink hanging there behind the counter. Give it to me." Marshal gives Omar the fur. Omar leaves with it. In fact, Omar had not paid for the mink.

What, if any, crime(s) has been committed. Why or why not?

- b. Wavell is employed by "Beemers is Us," a high end automobile dealership. The owner, Brooke, has given Wavell a prototype rocket-powered Beemer to show, but not to sell. Wingate, a customer, enters the store and offers Wavell one-million dollars for the rocket-powered Beemer. Wavell takes the money and signs over the title of the car to Wingate. Wingate drives off. Wavell pockets the million.

What if any crimes have been committed and by whom?

8. Linnaeus is at home and hears a knock on the door. His brother, Gustav, enters. Gustav states, "I just shot Karl down by the river. He was breathing when I left." Linnaeus takes Gustav upstairs and tells him to hide under a bed. Gustav does. In fact, Karl dies just after Linnaeus leaves the bedroom.

Assume Gustav is charged with murder and later found not guilty by reason of insanity. What if any crime(s) has Linnaeus committed?

9. Toby is approached on the street by Peter, an undercover narcotics officer. Peter says, "Toby, I got some powder here, a little coke, wanna go back to the eighties?" Toby, a recovering cocaine addict, declines. On three subsequent occasions, Peter similarly approaches Toby. On the last occasion, Toby buys the cocaine. Toby's reason for buying the cocaine was to save another potential addict from getting hooked.

Toby is charged with possession of cocaine.

What if any defense(s) could be raised by Toby? What are the standards? Are any other issues raised?

10. Yeats and Joyce become embroiled in an argument. Yeats pulls his trusty shotgun and shoots Joyce, killing him. Can Yeats be convicted on a common law felony murder theory? Why or why not?

SECTION II: 70 POINTS HYPOTHETICAL

The picturesque village of Lexington, in the state of Confusion, the fifty-first state in the Union, is a powerful magnet for those seeking to relive the thrill of the American Revolution. Tourists flock each April to get in touch with their national roots on the anniversary of the great battle.

The Lexington Green, the scene of the ancient bloodshed, is now a quiet, well maintained town common, ringed by stately homes. One of the homes has been converted into a small hotel, The Old Musket Inn, hereinafter "the Inn." The Inn is maintained by George and Martha, whose stormy marriage has not been helped by their business relationship. As the anniversary approaches, guests from the world over check in.

The Bunker Hill Suite is occupied by Benji and Abby from New York. The Valley Forge Suite is occupied by Seth and Molly of London and the Trenton Suite is occupied by Benedict and Deborah of North Dakota.

The evening before the reenactment of the battle, the three couples meet in the One if By Land Bar. After the introductions and a few drinks Benji says, "Hey, let's have some fun with the reenactors. Let's mess up their little battle." The six discuss a plot whereby they will disrupt the battle by plugging up the musket barrels with glue and placing trip wires and digging holes on the Green.

Deborah states, "I'm not doing that." Deborah gets up and leaves the table, retiring for the evening. Benedict states, "She's a killjoy," nods, and follows his wife to their suite. Seth, Molly, Abby and Benji continue to drink.

Following a boozy dinner, Benji and Seth sneak from the Inn and find the storage shed, next to Issac's house, where the muskets are kept. They climb in the open window, Benji first and then Seth, Seth nudging the window with his backside. Once inside the two clog up some of the musket barrels with glue. They leave the same way, this time opening the window further for easier egress.

At the same instant, Molly sits on the porch of the Inn and watches as Abby strings trip wires around the trees on the Green. Seth and Benji join Abby and the three dig holes on the Green, strategically placed for the reenactors to fall into. The four then retire for the evening.

George and Martha, meanwhile, are engaged in their usual argument about the financial burden they face. The arguments have become violent in the past and this is no exception. Martha picks up her replica spinning wheel and swings it at George, striking him in the head. George then grabs his replica flintlock pistol and takes aim and fires striking Martha in the collarbone area. Martha falls. George calls an ambulance. The emergency medical team arrives and places Martha on a stretcher. As they try to negotiate the narrow colonial style staircase one of the medical technicians, Oafy, trips, dropping the stretcher. Martha is sent airborne, tumbles down the stairs and into the living room below and is impaled on a fireplace andiron. Martha is then brought to Helpus Hospital where Dr. Butcher is the only physician working. Dr. Butcher evaluates Martha's condition and decides to perform an emergency surgery to save her life by removing the andiron. Unfortunately, Dr. Butcher is a psychiatrist who has not performed surgery since his medical school days. Dr. Butcher nicks an artery and Martha bleeds to death.

CRIMINAL LAW EXAMINATION
INSTRUCTOR HAROLD JOHNSON
FALL 2001

This exam is lengthy. Please budget your time accordingly. Use the IRAAC formula where it is appropriate. Identify yourself by social security number only,
Relax and good luck.

INSTRUCTIONS BY SECTION:

SECTION I : SHORT ANSWER
40 POINTS

Answer **ALL** eight questions. Be concise. You may, if you wish, use outline form to answer but do not neglect to discuss the key points and conclude.

SECTION II : HYPOTHETICAL
40 POINTS

Follow the fact pattern and use IRAAC. Be sure to isolate the parties, crimes and defenses.

SECTION III : ESSAY
20 POINTS

Answer **ONE** of the three essay questions.

SECTION I

1. A statute in the State of Confusion, the fifty-first state in the Union, reads as follows:

“Any person who knowingly possesses a forged liquor identification card shall be punished by a fine of not more than one-thousand dollars or by imprisonment in the county jail for not more than one year or both.”

Please describe the elements of the statute and classify the crime as a felony or misdemeanor.

2. Bill, Chuck and Raymond were friends who went out together for an evening of hijinx and drinking. At evening's end all were highly intoxicated. As the three walked home, Bill and Chuck thought they would have some fun with Raymond. They dragged Raymond into a fountain in the park and stood him on his head, wedging his feet under the arm of an ornamental mermaid. Bill and Chuck left Raymond struggling and went home to “sleep it off”. Raymond drowned. Bill and Chuck were charged with “Murder”.

What if anything may Bill and Chuck be convicted of? On what theories?

3. Tolk, who disliked Lewis, stood outside Lewis' home. When Tolk saw Lewis pass by the picture window he picked up a stone and tossed it towards the window. Shards of glass from the broken window struck Lewis. The stone itself missed Lewis, as Tolk intended but stuck Lewis' sister, Joy.

What if any crimes have been committed? Please explain.

4. Oscar spent the evening with Gertrude. Upon their return to Oscar's place for a nightcap, Oscar punched Gertrude and dragged her to his bedroom. As Gertrude lay unconscious on the bed Oscar inserted his penis into Gertrude's vagina and then passed out from drink. Gertrude had died from a preexisting neurological condition unrelated to the events by the time of the intercourse

What, if any, crimes has Oscar committed?

5. Goliath, an ardent Red Sox fan, went to David's home at 9:30 P.M. on a warm summer night. He had been invited there for a late dinner.

Goliath looked into the detached garage and saw a vintage Ted Williams autographed photo hanging on the wall. Though famished, Goliath was overcome. He opened a window in the garage and reached in with a rake he had picked up outside on the grass. Using the rake, Goliath lifted the photo from the hanger. At that moment David came out of the front door and Goliath abandoned his endeavor. He put the photo down and joined David, enjoying a sumptuous meal. Goliath, suffering the pangs of guilt, told David what he had done. David forgave Goliath and made a gift of the photo to him.

What crimes have been committed by Goliath and what issues are raised?

6. a. Winslow and Georgia were antique dealers. Winslow obtained a rifle at auction which had all the appearances of a genuine American Revolutionary War firearm.
1. Suppose Winslow discovered the rifle to be a replica, not genuine, and he told Georgia that a Smithsonian Institute expert vouched for its authenticity. As a result of the conversation, Georgia gave Winslow \$ 10,000 and Winslow signed a bill of sale, transferring the gun.
What, if any, crime has been committed?
 2. What if at the time of the transaction Winslow actually believed the rifle to be genuine and only following the transaction learned the firearm was a "knock off"?
What, if any crime, has been committed?
 3. Suppose Georgia told Winslow at the time of the transaction that she wanted to take the rifle to an appraiser she had contacted before payment was made. Winslow gave Georgia the rifle and she absconded with it as she intended. The appraiser did not exist. What, if any, crime has Georgia committed?
- b.
1. Paul Proprietor owns a dress shop. Mrs. Bigbucks purchased a dress from the shop which was held there for alteration. Bigbucks gave Everett Employee, the manager, the \$250. price. Everett gave Bigbucks the dress but pocketed the money. Has Everett committed a crime?

2. Suppose Everett was given the dress by Paul to deliver to Bigbucks. Everett liked the look of it and wore it to a party, where he accidentally spilled red wine on it ruining it. Has Everett committed a crime?

7. Jasper suffers from mental illness. He believes that bespectacled, bearded men are actually space aliens bent upon world domination. Jasper encounters such a person as he walks down the street and promptly stabs his "suitably astonished victim".

What are the standards for the presumed insanity defense which Jasper will raise?

8. Superman comes upon a fight in progress. Lois is slamming Jimmy's head into the pavement in front of the Daily Planet Building. Superman intercedes by grabbing Lois by the arm and throwing her against the wall. As a matter of fact, Lois was attacked by Jimmy who attempted to forcibly take her purse. Superman is prosecuted for assault and battery upon Lois. You represent the "Man of Steel". What is your defense?

SECTION II

Gray, Yeats, Joyce and Beckett worked in dangerous and difficult menial jobs at the Widget, Inc. factory. One day at lunch in the plant Wordsworth, Yeats, Joyce and Beckett dined together. Wordsworth suggested that Yeats, Beckett and Joyce should "get rid of Caligula". Caligula was the plant manager. Wordsworth then left the table.

The theme was picked up. Yeats stated that Wordsworth was right. The three decided to put a plan together. They met later at the Bee's Knees, a pub across the street. Yeats agreed to get a knife. Joyce agreed to drive his car to work on the following day. Beckett agreed to occupy Eva, Caligula's secretary.

Yeats obtained the knife from his girlfriend, Wanda, whom he told the entire plan. She gave him her largest butcher knife and said "good luck".

The following day, as planned, Beckett went to Caligula's office and chatted up Eva. While the two were in conversation Yeats burst into the office. Yeats exclaimed "lets kill him" as he ran into Caligula's inner office.

Eva hated Caligula and, appreciating what was happening, followed Yeats into Caligula's office. Eva stood by, grinning. Yeats screamed "prepare to meet your Maker, Cal". Caligula, who had been gleefully writing pink slips, stood, aghast. As Yeats approached, waving the knife, Caligula dropped dead of a heart attack.

Eva, reluctantly, called 9-1-1. Yeats ran out of the building and joined Joyce and Gray in Joyce's car. Joyce was driving. Yeats told Joyce to stop the car a few minutes after the ride began. Joyce stopped the car in front of Richard's house. As dusk fell, Yeats jumped out of the car and ran to the front door, pushed it open and went inside the house to use the restroom. Once inside the house Yeats decided to grab the makings of a sandwich. Richard came into the kitchen, and upon seeing Yeats, shot him in the chest severely wounding him as he spread the Miracle Whip.

Gray and Joyce drove away upon hearing the commotion. Gray, short of cash, suggested that the two "knock off" the First Fun Bank which was just down the street. Gray and Joyce entered the bank. Gray saw Victor, his ex-wife's current husband, writing out a deposit slip. Gray approached Victor and punched him in the nose. Victor fell and unfortunately struck his head on a stone Santa Clause. He died as a result.

Joyce approached the teller, Trembler. Joyce put his hand in his pocket, feigning a firearm, and said "give me your dough". In fact, Joyce felt the bank owed him the money for bad investment advice on a certificate of deposit.

Trembler was not impressed. He was not the least bit frightened. However, in accordance with First Fun policy Trembler gave Joyce \$3,700. Joyce returned \$700, since he only lost \$3,000 in the C.D.

Joyce and Gray fled. The police were called and Officer Oscar responded and took up pursuit. He pulled his gun and fired at the vehicle, missing it. The bullet struck and killed Father Brown as he returned to the rectory following a late service.

Joyce drove to his mother's home. Her name was Mim. Mim hid Gray and Joyce in the cellar. Mim denied seeing the two when Officer Oscar knocked at the door. Oscar

searched and when he arrived at the cellar Joyce opened the door. Oscar shot Joyce in the shoulder. Joyce then strangled Oscar killing him.

Wordsworth, it turns out, was an undercover Federal agent investigating Caligula for embezzlement.

What, if any, crimes were committed and by whom? What defenses are presented?

SECTION III

PICK ONE AND ANSWER.

- A. Describe homicide, including the definitions applicable and the degrees and variations of both common law and statutory offenses.
- B. Discuss causation in detail.
- C. Outline the special defenses, including the following; public authority, domestic authority, prevention of crime, self defense, defense of others, defense of habitation, defense of property and entrapment.