

**UNIVERSITY OF UTAH
COLLEGE OF LAW
EXAMINATION COVER SHEET**

Student Examination Number: _____

Criminal Law

University of Utah – S.J. Quinney College of Law
Daniel S. Medwed

Spring 2007

**April 27, 2007
8:30 a.m.**

⌚ **Time Allowed:** **Four (4) Hours.** The exam is designed to take three hours and thirty minutes with thirty minutes of extra “buffer” time.

Authorized Materials:

1. You may consult your casebook as well as personally prepared notes and outlines (including materials prepared by classmates with whom you have collaborated/shared materials).
2. You may not consult any commercial outlines, commercial study aids or hornbooks.

Special Instructions:

1. I am not looking for a “treatise” on Criminal Law, but rather a thoughtful “treatment” of the issues presented by the questions. With respect to each question, I strongly recommend that you organize and outline your thoughts before you begin to write your answer.
2. Please pay careful attention to what each question is asking you to do.
3. If, in the course of answering a question, you believe that more information is required, describe that information and explain why it is relevant. Likewise, if you deem it necessary to make an assumption not otherwise provided in the question, please state your assumption.
4. Good luck on this examination and in all future endeavors! Please keep in touch!

GENERAL INSTRUCTIONS FOR ALL EXAMS:

- 1. Exams do not leave the exam room! Write your exam number on your copy of the examination questions, and return it to the proctor at the end of the exam.**
- 2. Students may NOT take any bluebooks or scratch paper from the examination room, whether blank or used. Return to proctor.**
- 3. If you are using a bluebook print your exam number, the title of the course and the instructor's name on the front of each bluebook.**
- 4. Number each bluebook (1 of 3, 2 of 3, 3 of 3, etc.) and place all bluebooks and examination questions inside the first numbered bluebook.**

QUESTION I: Car Trouble (Approx. 2 Hours, 5 Minutes/60 Points)

Adam and **Becky** were married and had two children, **Cindy** (age 3) and **David** (age 18). The family enjoyed living in New York City for many years, that is, until September 11, 2001, and the destruction of the World Trade Center. Becky was particularly affected by the tragedy; she worked near the site and experienced the devastation firsthand. Ever since 9/11, Becky suffered from a feeling of hopelessness that sometimes manifested itself in suicidal tendencies. Specifically, Becky frequently fantasized about plunging from tall buildings or ledges, and when driving often felt tempted to swerve off the road. She was aware these thoughts were dangerous, but was unable to control them. The family ultimately moved out west to the State of Youta to help Becky regain her emotional and mental equilibrium. Becky's anxiety nevertheless appeared to worsen after the move. As a result, Adam began to fear not only for the safety of his beloved wife, but also for the well-being of his children, especially for Cindy, a sensitive child who seemingly could only find peace of mind while sitting in her car seat.

One day Adam suggested that the family take a camping trip to Lion State Park, a scenic place in southern Youta. David already had plans with his friends that weekend and decided to stay home; Adam, Becky and Cindy therefore went by themselves. Adam had previously visited Lion and found a suitable camping spot: a remote location on a mountain plateau. That night, the family grilled hamburgers and hot dogs at the campsite. Adam steered the conversation toward their life in New York City and asked Becky many pointed questions about 9/11. Becky soon became visibly upset.

While Becky was getting ready for bed, Adam repositioned the family vehicle so that it was facing directly over the mountain ledge. He left the front door unlocked and the keys in the ignition. He consciously avoided looking in the backseat or anywhere else in the car. Later that night, Becky – knowing that Cindy was asleep in her car seat in the back of the vehicle – drove the car over the ledge. Cindy died but Becky incurred only minor injuries and lived. The next morning, while trying to help Becky exit the damaged vehicle, the police found a small amount of cocaine in Becky's jacket pocket.

Please note that Youta’s criminal code follows the **Model Penal Code (MPC)**. In evaluating the issues in this case, you should feel free to refer to case law from non-MPC jurisdictions if it aids your analysis. In addition, Youta Criminal Code Section 100 provides that “The use of a motorized vehicle to commit a crime in a state park is a violation punishable by a fine of up to \$1,000.” The legislative history to Section 100 indicates that, in enacting the law, state lawmakers expressed concerns about protecting the environment as well as the safety of park visitors.

I.A. Prosecutors are considering charging **Adam** with a crime or crimes. Please assess what crime(s) might be charged and what obstacles prosecutors face in convicting Adam.

I.B. Prosecutors are considering charging **Becky** with a crime or crimes. Please assess what crime(s) might be charged and what obstacles prosecutors face in convicting Becky.

.....

QUESTION II: Lawn Pawn (Approx. 1 Hour, 25 Minutes/40 Points)

David (Adam and Becky’s son from Question I) was saddened by the death of his sister Cindy and the overall decline of his family’s welfare, so he decided to leave Youta for a fresh start. He eventually landed in the State of Whyomy where he joined a landscaping company owned by **Ethel** and **Frank**. It was hard, backbreaking work – digging, shoveling, and mowing – and it did not pay much either.

David contemplated various ways to supplement his meager income and in due course settled on one idea in particular: taking lawn ornaments from the company’s clients during work and pawning them for cash. David’s plan was to use the cash to start his own landscaping business which, once profitable, would allow him to return to the pawn shop, retrieve the lawn ornaments, and return them to their rightful owners. (In doing business with a pawn shop, a customer typically gives property to the shop in exchange for a monetary loan. Upon repayment of the cash plus some sort of fee within a certain period of time, the customer can recover the property).

One day, while working on **Goliath's** lawn, David decided to execute his plan for the first time. A small, marble Boston Red Sox fountain was located in Goliath's backyard, which coincidentally was where David had been assigned to work that day. David unearthed the fountain from its base and had just lifted it up when Goliath came out from his house, wielding a rifle.

Goliath screamed at David to stop. David complied. For a moment, they remained quiet – David poised to throw the fountain in Goliath's direction and Goliath aiming at David with his gun. Then David took one step toward Goliath, at which point Goliath fired his rifle. The bullet, however, missed David and instead struck **Harriet**, a next door neighbor who was minding her own business, pruning her roses in her garden. The bullet pierced Harriet's heart and she died a few hours later. Harriet had a terminal illness and was going to die within two days anyway. Goliath was surprised by this result; he thought that he had only blanks in the gun chamber and that he had removed all of the live ammunition.

Please discuss what crime or crime(s) these individuals may be charged with and what obstacles prosecutors may face in convicting them. The State of Whyomy has **not** adopted the Model Penal Code. To that end, in evaluating any particular crime or defense, please discuss the issues in light of the various non-MPC rules that we have studied.

End of Examination. Congratulations!