

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

**Student Examination Number:** \_\_\_\_\_

**Criminal Law**

University of Utah – S.J. Quinney College of Law  
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**Spring 2008**

**April 22, 2008**

⌚ **Time Allowed:** **Four (4) Hours.** The examination 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 students with whom you have collaborated/shared materials and those created by students who have previously taken the course).
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: The Luv Guv** (Approx. 2 Hours, 5 Minutes/60 Points)

**Al Spritzer**, the governor of Old York, greatly enjoyed life in the political spotlight with his wife **Brenda**. Nevertheless, Al decided that he wanted some additional female companionship. To that end, he asked his chief of staff **Chris** to arrange for him to obtain the services of a “high-end, youthful” prostitute. After a series of phone calls, **Chris** set up a meeting between Al and **Destiny**, an escort who charged \$4,000 per hour, at the Sunray hotel in Old York City. Al and Destiny hit it off and began to have monthly liaisons, which Al paid for in cash. During one of these liaisons, while Al was taking a shower, Destiny took an extra \$1,000 from Al’s wallet. She intended to use it for gambling at a poker game the next day and then return the money to him. Destiny lost all of the money at the card game and never repaid Al.

Eventually Brenda started to suspect that her husband was not being faithful to her. One evening, after drinking excessive quantities of alcohol, she followed him to the Sunray yet lost track of him in the lobby. A bellhop named **Eric** recognized Brenda as the first lady of Old York; he was also aware (and disappointed) that Al had been meeting Destiny at the hotel, so he wrote down “Room 102” on a piece of paper and handed it to Brenda.

Brenda hid behind a plant near Room 102 and watched the door. Several minutes later, she saw a young woman – Destiny - go into the room. Brenda took another drink of alcohol to steel her nerves and then burst into the room, whereupon she found her husband Al hugging Destiny, both of them in a state of partial undress. Enraged, she impulsively picked up a letter opener lying on the desk and ran toward Destiny. Just as Brenda was about to plunge the letter opener into the other woman’s heart, she dropped it and began sobbing uncontrollably. Al went to his wife’s side, as Destiny slipped out of the hotel room.

The whole sordid affair might have remained a secret had it not been for Chris – Al’s seemingly trusty chief of staff tipped off the tabloids about the liaisons and Al ultimately

was forced to resign. It also emerged during the ensuing media frenzy that Chris had been diverting state funds to which he had access to a nonprofit organization designed to find a cure for cancer. He deeply believed that states under-funded cancer research, and felt that the nonprofit was a much better recipient of the money than the “bloated” Old York state treasury.

Old York follows the **Model Penal Code (MPC)**, except for theft offenses. In addition, Old York Criminal Code Section 100 provides that “knowingly paying money for sexual services with a person under the age of 21 is a second-degree felony” punishable by an indeterminate sentence of five to ten years in prison. Destiny, who looked to be in her mid-twenties, was under 21 throughout her interactions with Al. Al had never asked how old she was and, in fact, did not know about the existence of Old York Criminal Code Section 100 at all.

Please assess what crime(s) might be charged and against whom, and what obstacles prosecutors face in convicting the potential defendants. 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. You need not discuss MPC provisions that we did not cover in the course.

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## **QUESTION II: Destiny's Child** (Approx. 1 Hour, 25 Minutes/40 Points)

Please assume that Destiny managed to avoid prosecution for any potential crimes described in Question I in exchange for her trial testimony against other defendants. Seeking to reinvent herself after the trial(s), she moved to Less Vegas, Neurota, to become a professional poker player and to give birth to a son, **Fred**, the product of her relationship with Al. Indeed, as Fred grew up, it became clear that he bore a distinct physical resemblance to the disgraced former Old York governor – his signature chin and curly brown hair. Destiny chose not to reveal the identity of Fred's father to her son, despite the fact that in due course Al had resettled in Less Vegas himself and lived in a mansion near the seedy building where Destiny and Fred rented an apartment.

Destiny and Fred struggled financially, and over time both of them became somewhat mentally unstable. One day after he had reached adulthood, Fred came home from work and found a note from his mother. "Dear Son: I need to be on my own. The pain is too much. Your father is Al Spritzer, that creep." Thereafter, Fred became increasingly distraught, plagued by the thought of his mother's abandonment. He had difficulty controlling his impulses and he suffered from insomnia; when he did manage to sleep, he was invariably tortured by dreams of Al Spritzer.

Fred decided to seek revenge by breaking into Al's residence. To do so, he knew that he had to incapacitate the security guard, **Greg**, who manned a small shed outside Al's front gate. Fred studied materials from terrorist groups' websites on the internet about how to make nerve gas bombs that would temporarily put someone to sleep. He built a bomb calibrated with just enough gas to knock out Greg – a tall, heavysset man – for a couple of hours. On the night of his planned breaking and entering, Fred slipped the bomb into the shed and waited for it to take effect. Once it appeared that the guard was asleep, Fred snuck onto Al's property and headed for the house. Unknown to Fred, Greg was not on duty that night and, instead, a short, slender guard named **Henry** had taken his place. Even though the gas would have merely knocked Greg out for a brief period, it resulted in killing his much smaller colleague Henry.

Fred, blissfully unaware of Henry's death, started to pry open the door to Al's house. He took one step into the dark, dimly-lit entry hall and suddenly changed his mind; Fred turned around and scampered back to the street. Just as Fred was leaving the property, Al looked out his bedroom window and caught a glimpse of a person's silhouette in the moonlight. There was no mistaking the person's bloodlines – the telltale chin, the brown hair, the curls. At that moment, Fred turned back and saw his father through the window. Al realized that he must have fathered a son out of wedlock, and the crushing guilt of a life of misdeeds and miscalculations overcame him. Then he clutched his chest, the victim of a massive heart attack. Fred watched his father suffer and, although he might have been able to save Al, he simply stood there. A few minutes later Al died.

News of Al's death swept the nation. The subsequent police investigation soon led to Fred's apartment where, in a box marked "Destiny's Stuff," the police discovered a large package of heroin.

Assume that Fred may be charged with the crime of "breaking and entering," a felony defined as "entering the residence of another without permission at night." What *other* crimes might Fred be charged with and what obstacles might prosecutors face in convicting him? The State of Neurota has NOT adopted any provisions of the Model Penal Code.

**End of Examination. Congratulations!**