

**Final Examination  
Criminal Law  
Professor Chang  
Fall 2006**

1. You have **three (3)** hours to complete this exam.
2. This exam is a closed book exam. Students may not use any outside materials or confer with each other during the exam.
3. This exam consists of two parts. There are a total of 100 points for this exam.

**Part I** consists of one (1) essay question worth 50 points. Please write your response in the blue books provided. Please write clearly.

You may allocate your time between the essay question and the multiple choice questions as you wish. The suggested time for the essay question is one hour and thirty minutes.

**Part II** consists of twenty five (25) multiple-choice questions worth 50 points. Each multiple choice question is worth 2 points. Please mark your responses to the multiple choice questions on the separate "ParSCORE TEST FORM" using pen or pencil and following the instructions on that form. If you change your answer, place a clear X through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as wrong answer.

4. Essay Answers should demonstrate your understanding of the law as applied to the facts. Conclusions without analysis will not receive credit.
5. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the ParSCORE TEST FORM. **Do not** use your name, student ID number or Social Security Number on any exam materials.
6. At the conclusion of the exam, return all test materials, including the blue books, Par Score answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

**GOOD LUCK!!!**

## Essay Question

### 50 points

Dubov and Erin had a tumultuous marriage, marked with periodic violence. Nevertheless, they recently decided to have a child together. Because Dubov was both impotent and sterile, the couple used a prosthesis when they had sexual intercourse. They decided to use in vitro fertilization which is the process of fertilizing a woman's egg in a laboratory, followed by implantation in the womb for gestation. Dubov's brother, Bob agreed to act as a sperm donor. The procedure successfully resulted in 8 fertilized embryos. Unfortunately, the marital relationship deteriorated, so all embryos were frozen at the fertility clinic.

As part of his probation for a prior domestic violence conviction, Dubov attended several sessions with a psychiatrist. The psychiatrist advised Dubov that he suffered from a behavioral disorder that manifested itself in aggression towards women.

Dubov came home early from work and discovered Erin having sex with Bob in the bedroom. Dubov angrily shouted, "Well, at least I can kill those embryos at the clinic!" Erin screamed, "No, I won't let you kill my babies!" but Dubov sped away in his car. Bob ran after Dubov but slipped on the floor, hit his head, and began bleeding profusely. Erin left Bob and drove off after Dubov. Bob died from a brain aneurysm that ruptured from the impact.

Although the fertility clinic was closed, Dubov found an unlocked door in the back, entered, and began rummaging through the storage area for the Bob-Erin frozen embryos. Erin followed Dubov into the clinic and told him that he could not destroy her only chance at happiness. Erin then shot Dubov with her handgun. The bullet hit Dubov in the head and he fell to the ground.

Erin drove off with the frozen embryos. In her haste, she narrowly avoided a head-on collision with another car driven by Vlad. Vlad swerved to avoid Erin and hit an electrical tower. The power line erupted into fire and Vlad burned to death in his car.

The bullet lodged in Dubov's brain leaked, causing lead poisoning that interfered with his ability to think. Dubov was convinced that he could regain his mental acuity if he could have sexual intercourse with Erin. Dubov dialed his cell phone to call his friend, Finn to pick him up from the clinic and find Erin. Finn did and they were able to find Erin at a hotel. Once inside the hotel room, Finn watched as Dubov pushed Erin onto the bed and unzipped his pants. Finn rummaged through Erin's purse and pocketed her wallet as Dubov used the prosthesis to have intercourse with Erin.

All 8 embryos were damaged and deemed non-viable. A statute in this jurisdiction defines a fertilized human embryo as a "biological human being" with legal standing to sue and be sued.

Dubov, Erin, and Finn are arrested and taken into custody

EXAM#

Discuss the criminal liability, if any, of Dubov, Erin, and Finn.

Discuss their possible defenses.

Can the State prosecute Dubov and/or Erin for the “murder” of the embryos?

Note:

An aneurysm is a widening or ballooning of a blood vessel. Brain aneurysms are not believed to be present at birth but develop over time. Some individuals are predisposed to developing aneurysms. Most aneurysms are discovered upon rupture.