

CRIMINAL LAW
FINAL EXAMINATION
PROFESSOR COHEN
SPRING 2008

1. You have **three hours (3)** to complete this examination;
2. This is a **closed** book exam. No outside materials of any kind are allowed, nor may you consult or collaborate with other students.
3. The exam consists of two parts and counts for 100% of your course grade:
 - i. **PART ONE** is the essay, which is worth 50% of your grade. Writers please write your answer in your blue books, using every other page. Write clearly and legibly. **Illegible essays will not be read.**
 - ii. **PART TWO** consists of 50 multiple-choice questions and is worth 50%. Please mark your responses to the multiple-choice questions on the separate ParSCORE test form using pen or pencil and follow the instructions on that form. If you change your answer, place a clear **“X”** through the wrong answer and mark the correct one. A machine will score the exam and any ambiguities will be counted as a wrong answer.
4. You have the first 90 minutes for the essay portion of the exam during which time you may not look at PART TWO. After 90 minutes or less, **you must** put the essay, your question and your notes inside the exam packet and not return to it before proceeding to PART TWO of the exam..
5. Write your exam number on your exam envelope, at the top of this page, each page of questions, the ParSCORE test form, and each used blue book. **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 ParSCORE test form, 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!

PART ONE: ESSAY

In June, 2004, in a little town in the State of Illaskher, a situation occurred in a marital relationship between John and Marsha Jones. The couple had been having difficulties during the entire period of their marriage which commenced in August of 1999. According to friends and neighbors the couple had had many arguments, and as well many physical fights over the steamy course of their marriage. Physically, she (Marsha) was larger, and in much better shape than he (John) was. Both of them were heavy drinkers and many of these disputes occurred after they had been drinking for quite a while. On a number of these severe disputes, one or the other of them was actually injured and had to be treated for the injuries. Because Marsha often was more successful in these fights, John took to carrying a heavy iron bar with him “just in case”, as he told friends.

On the particular occasion in June 2004, when the incident in question occurred, the couple had gone out with one of Marsha’s friends, Alice Ambers, to the local bar and all had, as usual, consumed alcohol excessively. Again, as usual, the argument started. Marsha was dissatisfied with their standard of living, and thought the problem was John’s failure to earn enough. Alice was quite supportive of her friend Marsha. At about 1:00 A.M., at closing time, the three of them left the bar, and went into the parking lot. Marsha kept verbally complaining about John’s efforts, and Alice kept saying that Marsha should stop talking, and just give John a, as she put it, “good belt up side the head” and “show him who’s boss”. Marsha verbally agreed, saying it was about time she put him out, as she put it, “for good and forever”.

Before reaching the car, John decided he’d had enough. He pulled out the iron bar, and took a swing at Marsha, missing her, but breaking a window of a nearby car. When John swung again, Marsha tried to run back into the bar, which was by now locked up. The bartender, not wanting to get involved, refused to open the door. In the meantime, Alice started yelling, “Get him Marsha, get him.” Marsha then turned around, grabbed the iron bar from John and, while screaming, “I can’t stand this anymore”, swung at, and hit John who promptly fell down. Marsha, continuing to scream, kept hitting John.

In the meantime, because of the noise and the altercation, the bartender called the local police, and, grabbing a gun she kept behind the bar, ran outside to try and stop the fight. She yelled at the three to stop, with no result. She then shot in the air, with the result that

the fight stopped, and Marsha and Alice ran away. After the police arrived, John was taken to a local hospital where, unfortunately, he died of his wounds.

Subsequently, the police met with the local district attorney to discuss what crimes might successfully be prosecuted, and with what results, given the possibilities of defenses. The district attorney has assigned the matter to you to come up with a succinct, logical and well organized memo as to what crimes and what defenses might be involved as to any of the surviving participants.