

Criminal Justice - Professor Hensch
Final Examination Fall Semester, 2008
December 2008
Two (2) Hours

1. **EXAMINATION NUMBERS:** Please make sure that your examination number appears on your copy of this Examination, and on EACH of your bluebooks. **Do not put your name or other identifying mark anywhere on the examination materials or bluebook(s) or in your answer.**

2. **QUESTIONS:** This examination consists of **one question** based on one fact pattern. Please answer in the bluebook provided or type on ExamSoft© and return the examination when you turn in your bluebook. Each bluebook should be numbered in sequence [*e.g.*, 1 of 2; 2 of 2]. **If you hand write, skip every other line and write on one side of each page only. Ignoring this instruction will hurt your grade.**

3. **PAGES:** There are **TWO (2) pages to this examination, including this instruction page. Check NOW to make sure you have both pages.** Feel free to mark up the examination question sheet in any way that will help you, but nothing that you write on the question pages will count either for you or against you.

4. **OPEN BOOK:** This is an **open book examination.** You may consult books, notes, or other materials brought with you, whether prepared by you or by someone else.

5. **LIMITATIONS:** You may NOT consult or log onto any form of electric, electronic, or other data storage or recording or communication or playback device *in any way*. You may NOT consult materials outside of the examination room, and you may NOT consult any other person, either in person or via any communication medium, during the exam, EXCEPT that you may address questions concerning the exam process itself to the proctor on duty.

6. **TIME AND ORGANIZATION:** Two (2) hours have been allotted for the examination. Please note carefully what you are asked, and answer in the manner indicated by each Question.

7. **LEGIBILITY, CLARITY:** Make your answer succinct and organized, and **do** write legibly. I cannot give credit for anything I cannot read! I advise leaving space at the end of each major part of your answer in case you want to add something later.

8. **ASSUMPTIONS and FACTUAL INFERENCES:** Base your answers on the facts given and *logical* inferences which can be drawn from the facts. If you think it necessary to make assumptions or to draw inferences, (for example, if significant facts appear to have been omitted or are ambiguous) state **CLEARLY** what assumptions you are making, and analyze accordingly. You may NOT assume, however, that facts given are untrue, and you may not make assumptions contrary to the stated facts.

9. **LAW AND STATUTES:** **Your answer should apply generic common law.**

10. **NON-RESPONSIVENESS:** Do not overlook the importance of answering what was asked. Points will be deducted for non-responsive portions of any answer. **Do not simply “dump” your outline into your answer!** You should address all issues reasonably raised by the fact pattern, but not matters that have no possible bearing on the case. **Your ability to discern the difference is part of what is being tested.**

FACT PATTERN:

Assume that all of the following can be proven in court:

Darth intended to rob the Half Foods Warehouse to get even with them for firing him. Darth asked his sister Sugar to give him a ride to the warehouse. Sugar agreed. Although Sugar knew Darth committed crimes from time to time, Sugar did not know then that Darth planned to rob the warehouse that day, but when they got to the warehouse, Sugar saw Darth take a gun and mask from the glove box of the car. Darth winked at Sugar and said, "Be back in a minute." Sugar did not want Darth to get caught or hurt, so she said "You're crazy - but hey, bring me some bananas." Sugar waited in the car.

Security guard Gavin was on duty. Gavin had drunk a bottle of whiskey, but was still conscious, though very intoxicated. Darth knew Gavin and had made a habit of visiting Gavin at the warehouse during his working hours. Darth greeted Gavin and offered Gavin some wine spiked with a powerful knock-out drug which Darth knew would cause Gavin to go unconscious and have amnesia afterward. Gavin was soon unconscious and snoring in the small office at the rear of the warehouse. Darth was gathering up the goods when he heard someone enter through the front door and approach the office. Darth assumed it was Sugar, and as a prank, Darth released the pack of attack chihuahuas Gavin kept for security. The approaching person was Police Officer Paul, not Sugar. When the first chihuahua bit Paul, Paul fired his weapon at Darth, but missed, and struck Gavin. Darth returned fire at Paul, severely wounding Paul. Darth ran back to the car carrying a bag of bananas, pursued by the chihuahuas. Darth jumped in the car and said, "Step on it." Sugar, misunderstanding, quickly stomped the bananas, but realizing her error, Sugar drove away rapidly, secretly intending to inform the police at her first opportunity

Sugar was driving along attempting to punch in 9-1-1 on her cell phone when Moe's car pulled out quickly and Sugar inadvertently cut him off. Moe, enraged because Sugar cut him off, followed Sugar to a stop sign where they both stopped. Moe jumped out of his car and began to hit Sugar's car with the tire iron while screaming "I'll kill you, you're a dead man." Darth jumped out of the car, wrestled Moe to the ground and knocked him unconscious with his fists. Darth grabbed Moe's tire iron, then threw it aside and returned to the car and tried to lock the door. Moe woke up and followed Sugar, and reached in the window, at which point Darth shot and killed Moe. Gavin died from a combination of the gunshot trauma, the knockout drug, the wine, and the whiskey.

Assume that all this happened in Hawai'i in 2008. You are a law clerk in the prosecutor's office, and have been assigned to write a memo detailing all crimes with which Darth can legitimately be charged. You need not include a fact section, but should refer to these facts to support your analysis. Provide CAREFUL ANALYSIS of the strong and weak points of each potential charges, and of any defenses Darth may raise.