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**CRIMINAL LAW
FINAL EXAMINATION**

This is an essay examination. Listed below are two questions; the point value for each question is noted at the beginning of the question.

You have three hours to complete the examination.

In answering the questions you can use any inanimate resources, e.g., your casebook, class hand-outs, notes, outlines, commercial outlines and study aids, etc. You cannot obtain advice or assistance from another person.

Write as legibly as possible. If you write your answer in bluebooks use a **separate** bluebook (or separate bluebooks) for each question and label each bluebook to indicate which question is answered in it.

Remember, the purpose is to test your ability to spot issues and apply the principles we discussed to them. Read the directions presented for answering each question and answer accordingly. Analyze a question in terms of **every issue** you think can pertain to the problem presented. If you believe an issue would not be relevant in resolving the problem, note that and briefly explain why this is your conclusion. Also, in your analysis, remember to address the arguments that can be made by **both** the defendant and the prosecutor.

As you read a question, if you find the facts ambiguous or if you need to assume certain facts to support your answer, assume the facts you need to be able to answer and state that you are doing so (i.e., "I am assuming that . . .").

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QUESTION #1 (350 points):

In 2001, Neva Netupski began a marijuana-growing and –distribution operation in Ohio. Neva and her son Rick Roe grew marijuana and sold it to locals. By 2005, she led an operation that involved 116 people: Her nephew Greg Roe supervised 60 people who grow marijuana in local forests. Her brother-in-law Sam Roe supervised 20 people who processed the marijuana and packaged it for distribution. Neva's cousin, David Roe, was the County Sheriff; out of family loyalty, he ensured that his deputies did not interfere with Neva's operation.

Neva's brother, Ned Netupski, distributed the marijuana to 10 dealers in 3 states. Ned gave the money the dealers paid him to Neva; she used it to pay those involved in the operation and buy equipment and supplies.

Neva's niece, Gina Roe, supervised the security group – 10 people who protected Neva's operation. They used guns to keep competitors from stealing or burning Neva's plants; they also burned marijuana belonging to competitors.

Ann Bartin owns a gun store; Gina buys guns for herself and her staff from Bartin. She bought 6 automatic rifles from Bartin; since it is illegal to sell automatic rifles to civilians, Bartin told her supplier the rifles were for the County Sheriff's Department. It is legal to sell automatic weapons to law enforcement. Bartin told Ben, her assistant, "Gina is my best customer. I've got to keep her happy." In the last two years, Gina bought 25 handguns and 10 semi-automatic rifles from Bartin; the purchase of the guns was legal, but Bartin did not record the purchases, as is required by law. Gina also bought large quantities of ammunition from Bartin. In 2004-2005, Gina's purchases accounted for 45% of Bartin's sales.

Nora Doe who worked for Gina, decided to "eliminate" Gina and take over the security operation. Nora and her boyfriend, Ted Dassin, went to the house that was headquarters for the security group. Gina was in her office in the back of the house. Nora and Ted entered and went to the office Nora shares with 5 other members of the security group; there they retrieved guns Gina bought from Bartin. Nora and Ted entered Gina's office; each carried a gun pointed at Gina. Gina's office had its own entrance; because it was a warm day, she had opened the door to the outside. Nora said, "you're history – I'm taking over" and shot at Gina. Gina pulled a gun from her desk and shot back, killing Nora. Dassin fled. Gina looked for him, and found him two days later, hiding in his car. She killed him.

As part of an undercover investigation, DEA agents Coy James and Eva Dunn began growing marijopa, which resembles marijuana but has none of its effects in an area Neva does not use. James and Dunn hired Gina's brother Mack, who thought they were really growing marijuana, to harvest the plants. Mack brought a trailer to the agents' field and spent three days harvesting the crop; James paid him \$1,000 for the work.

When Mack heard what Dassin had done, he left a message on Gina's answering machine, telling her where she could find Dassin. Gina retrieved the message after she killed Dassin.

Nancy Netupski, who worked for Greg Roe, asked Dunn to sell her plants so she could start her own marijuana operation. Dunn said, "sure – come by tomorrow." Nancy said, "I'll be there." Neva heard about this and said to Nancy, "You're not planning to desert me, are you?" Nancy never picked up the plants or contacted Dunn again.

You work for a joint state-federal prosecution task force that wants to bring appropriate criminal charges based on the above facts. You have been assigned to:

- a) identify the offenses, if any, the individuals described above can be charged with, using the general principles and specific statutes we discussed in class; and
- b) analyze the viability of each possible charge, i.e., consider what, if any, issues the person charged can use to attack the charge or otherwise defend himself or herself.

Write a memo to that effect.

QUESTION #2 (250 points):

Janet Doe is charged with manslaughter -- with causing the death of a human being as the result of committing misdemeanor child abuse. Misdemeanor child abuse is defined as follows: "A person commits child abuse if such person recklessly causes an injury to a child or permits a child to be placed in a situation that results in the death of the child or serious bodily injury to the child."

Janet is physically addicted to alcohol. Research shows that those who are addicted to alcohol exhibit the following characteristics: a compulsion to drink, an inability to stop drinking, physical dependence manifesting itself in withdrawal symptoms when alcohol is not available, and increasing tolerance for alcohol.

Janet lived with her husband, Sam, and their four-month-old daughter, Amy. Sam was not addicted to alcohol but he liked to drink whiskey and often over-indulged. Janet and Sam went to a party at a friend's house; they left Amy with a neighbor, Lynda McGee. Janet and Sam drank heavily at the party, and they kept drinking in the car as they drove home to pick up Amy. They got to Lynda's around midnight. Lynda later said Sam was staggering, and was clearly intoxicated. She said, "I could tell Janet had been drinking, but she wasn't nearly as bad off as he was." Lynda suggested they leave Amy with her, but Janet insisted on taking Amy home with them.

When they got home, Janet got ready for bed. Amy always slept in their bed on a pillow between them. When Janet entered the bedroom, Sam was in bed; Amy was on the pillow next to him. Janet got into bed on the other side of the pillow, and fell asleep. When she woke the next morning, Amy was dead; Sam had rolled over on her during the night and crushed her. She woke Sam to tell him what had happened and then called an ambulance.

You clerk for the attorney who has been appointed to defend Janet Doe. She asks you to write a memorandum that analyzes: (i) the validity of the charge against Doe; and (ii) the arguments, if any, that can be used to defend Doe against the charge. Draft that memorandum.