## GENERAL INSTRUCTIONS

This exam consists of three essay questions. They have equal point values. Therefore, you should devote roughly the same amount of time (60 minutes) to each question.

Including this page, there are seven pages in this exam. Please make sure that you have all seven pages.

Please read all questions carefully.

Write on one side of the blue book page only and please write legibly.

Good luck.

## QUESTION 1

Ever since he was a young man, Bill C. has been an admirer of the late former President, John F. Kennedy (JFK). One could say that JFK was Bill's one true hero. Therefore, Bill could hardly contain his excitement when he learned that some of JFK's personal belongings were to be sold at an auction at Sotheby's in New York City. Even if he had to go as high as \$5,000, Bill, an avid golfer, was determined to purchase a set of golf clubs used by JFK.

Bill became distraught upon learning that during the first day of the auction, goods were sold at extraordinarily high prices. He knew he could not afford to buy the golf clubs. In his distress, Bill began to formulate a plan. He summoned his assistant, Al, to his office. He told Al that the only way to get the clubs would be to break into Sotheby's at night and steal them. Bill asked Al to fly to New York and carry out the plan that evening. Bill had a full schedule that evening and wouldn't be able to get away.

Al was reluctant at first, however, he finally concluded that it might help his career to help his boss, so he agreed. There was one problem. Neither Bill nor Al had any experience committing a burglary. They asked an old colleague, Dick, to teach Al how to break into a locked room.

Without being told about the plan, Dick gave Al a lesson in breaking and entering. Knowing of Bill's affection for JFK, Dick wondered if Bill and Al were planning to steal something from the

auction, but, then thought "they can't be that stupid."

Al arrived at Sotheby's late that night, wearing black and carrying the tools suggested by Dick. Al slipped inside the building. Unbeknownst to Al, a security guard caught sight of him as he entered the building. As luck would have it, however, the guard was so disgusted by the astronomical prices being paid for the Kennedy property that he not only looked the other way, but temporarily deactivated the alarm system.

Meanwhile, Al approached the room containing the Kennedy property. He unpacked his tools, put on gloves and was just about to pick the lock when he thought, "I must be crazy. If I get caught my career will be ruined." He put away the tools, left the building, found the nearest police station and confessed his deeds.

Discuss the criminal liability of <u>Bill</u>, <u>Al</u>, <u>Dick</u> and the <u>security guard</u>. For this question only, assume that your jurisdiction has adopted the Model Penal Code in its entirety.

Turn the page for the next question.

## QUESTION 2

The State of Widener defines the following offense:

Rape. A person who has sexual intercourse with another person is guilty of rape if the other person is less than 10 years old.

Rape is a felony of the second degree.

You have just been retained by Suzy Wuzy. She tells you the following: She is addicted to cocaine. Last week while she was babysitting for a neighbor's daughter her boyfriend, Andy, dropped by. He brought some cocaine and while the child was sleeping in another room both Suzy and Andy snorted quite a bit of it. Suzy got very high but after awhile she noticed that Andy had been gone from the room for a long time.

She checked the child's room and was horrified to see Andy, undressed and in the child's bed. Suzy gasped. Andy looked up and then reached for a switchblade knife from his pants at the foot of the bed. Andy didn't say a word, but, pointed the knife at Suzy in a very menacing way. Suzy, paralyzed with fear and knowing that Andy could be violent, retreated to the living room and sat on the sofa. After a few minutes Andy emerged from the bedroom and left the house. Suzy waited until the child's mother returned, accepted payment for babysitting and left, saying nothing about what had happened.

Suzy has since learned that Andy has been arrested and charged with rape. It seems everyone in town except Suzy knew that Andy

had previous convictions for child molestation. A medical examination of the child revealed evidence of trauma to her genitals. Apparently the child was 9 years old. Because she was already in middle school, Suzy assumed the child was at least 11.

Suzy has learned that the police are looking for her. She understands that Andy committed a crime, but, she knows of no law (other than possession of cocaine) that she has broken. She thought she should consult a lawyer anyway.

Discuss whether or not Suzy could be charged with rape and what points could be asserted in her defense.

Turn the page for the next question

## QUESTION 3

Joe Cutthroat is a fiercely competitive businessman. He is the founding and managing partner of Cutthroat and Associates, Widener City's oldest and largest law firm. Lately, Younger and Younger, a rival firm, has been courting Cutthroat's clients.

Last night, well after business hours, Cutthroat went to the Younger and Younger firm with the intention of burning the building to the ground. He went equipped with gasoline and a lighter. As Cutthroat approached the building he looked inside and saw Ms. Younger in her office having a conversation with Madge, Cutthroat's Convinced that Younger was obtaining personal secretary. confidential client information, and that his business would be ruined, Cutthroat went into a rage and hid in the bushes waiting for Younger to leave the building. Twenty minutes later Younger emerged from the building. Cutthroat saw her shut the lights and lock the door. Still in a rage, Cutthroat lunged at her and hit her in the head with a lead pipe he found lying on the ground. Younger died instantly. In a frenzy, Cutthroat poured gasoline on the body and set it on fire. The fire quickly spread to the building which burned to the ground.

At the time he set fire to Younger's body, Cutthroat did not know that Madge was still in the building using the ladies' room. He also did not know that Madge was there that evening to help Younger plan a Bar Association dinner in Cutthroat's honor. Madge

died in the fire.

Pursuant to the Penal Code of the State of Widener the crime of arson is committed when:

a person starts a fire or explosion with the purpose of damaging a building or structure.

Analyze Cutthroat's liability for the deaths of both Younger and Madge.

End of exam - Have a great summer!