CRIMINAL LAW
FALL 1997 EXAMINATION
PROFESSOR HARRISON

USE NUMBERS ONLY! DO NOT PUT YOUR NAME ON YOUR EXAMINATION

1. This is a three-hour open book examination.

2. There are 2 pages to "examination including " page. Check your examination now to be sure that you have 2 pages.

3. If you are writing the answers to your examination questions in bluebooks, please write on one side of the page only and skip every other line. Number your bluebooks consecutively.

4. If you believe a question is ambiguous, please explain the ambiguity in your answer and explain how the ambiguity affected your analysis of the issues.

5. The Honor Code applies to this examination.

6. GOOD LUCK AND HAPPY HOLIDAYS!

QUESTION 1
(2/3's of Examination- 2 Hours)

Mr. Menelaus King was stabbed twelve times in the chest and stomach last night and is now in critical condition at St. Patrick's Hospital in Missoula. The stabbing occurred in Menelaus' home, and the wounds were inflicted by Castor Zeus, who was found drunk and unconscious at the scene.

Mr. Zeus is the brother of Menelaus' wife, Helen. Helen and Menelaus had been having marital difficulties which at times erupted into violence. Helen was close to her brother, and she had shared with him all of the marital problems she had experienced with Menelaus. Castor often got very upset when informed by his sister of these problems and threatened to take care of Menelaus. He even threatened to kill Menelaus when he heard that Menelaus had hit his sister.

At dinner last night Menelaus and Helen had an especially vicious fight during which Menelaus hit Helen and threw her out of their house. She drove to her brother's apartment, some ten minutes away by car, where she told her brother what happened. She also told him that she was afraid that Menelaus would come after her and kill her. When Castor saw her bleeding from the nose and crying, he said, "I'll kill that crazy husband of yours." Castor, who had been drinking heavily, picked up a steak knife from the table, swallowed the remainder of the ouzo from the fifth that he had opened earlier that afternoon, and asked for the keys to Helen's car. She gave them to him and he left. Castor drove immediately to the King home where he kicked open the door, found Menelaus, and inflicted the stab wounds.

If Menelaus dies of ft stab wounds, what charges do you think the evidence might sustain, and against whom. In addition, please discuss all possible defenses to these charges.
If Menelaus does not die, what difference would this make in the charges that you might file. Why?

QUESTION 2
(1/3 of Exam - 1 Hour)
Jane Smith and her two daughters, three-and-a-half-year old Bethany and two-year old Amy, lived with David Foster. One day, Amy refused to sit on the couch instead of the floor to eat a snack. Foster became angry, took Amy into the bedroom and began hitting her. Foster hit her repeatedly, knocking her to the floor. Smith then joined Foster to “assist” in Amy's "discipline." Foster and Smith often "disciplined" the children together. Defendant knocked Amy backwards and she fell, hitting her head on the closet door. Amy stiffened and went into respiratory arrest Smith and Foster took her to the hospital where she died that evening. You are the prosecutor. What charges would you bring against whom, and why?