

NAME \_\_\_\_\_

**DIRECTIONS:** Answer any five (5) of the following questions. Your answers must be detailed and must contain examples whenever possible. If you refer to the text, you must be careful to cite, and place in quotation marks, all ideas and sentences taken from the book. Keep such quotes to a minimum. *This exam must be typed, and this exam sheet must be stapled to the top of your answers.* **Due: All exams are due no later than Tuesday, May 3. If the exam is not handed in during the class in which it is due, the exam must be signed and dated by a staff member before it can be left in my office or mailbox. If these instructions are not followed, the exam will not be accepted.**

1. a. Carefully explain the difference between *Retributive* and *Utilitarian* Punishment, giving an example of each, **but not one given in class or in the text.**  
b. Offer one *strength* and one *weakness* in **each** of the two types of punishment.
2. a. Carefully explain the difference between *Hard Determinism*, *Soft Determinism*, and *Libertarianism*.  
b. Re "The Case of the Dog Provetie," which position, of the three in part a. of this question, did the Court take, concerning Provetie's Free Will? Explain carefully.
3. Re *Gregg v. Georgia*,
  - a. Explain the term "Cruel and Unusual" punishment.
  - b. Explain why the court concluded that Georgia's death penalty does not violate the 8<sup>th</sup> Amendment.
  - c. Do you agree with either or both of the dissenting opinions? Explain.
4. a. Briefly explain the *Rummel v. Estelle* case, showing how the court decided.  
b. Summarize the Dissent, explaining whether you agree with the Majority Opinion or the Dissent, in this case.
5. a. Briefly explain the *McCleskey v. Kemp* case, showing the court's decision, as well as the Dissent.  
b. Do you agree with the Majority decision in this case? Explain.
6. Regarding the Justifiability of Actions,
  - a. Briefly explain the case of *The Queen v. Dudley and Stephens*, being sure to show what the Court would have accepted as defenses to the action committed.
  - b. Do you agree with the Court's decision? Explain.
7. a. Regarding the issue of *intent* (mens rea), explain the issue of *impossibility* when determining liability.  
b. Do you agree with the Holdings in the *United States v. Oviedo* and *People v. Duglash* cases? Explain.
8. a. Re the Estrich article, carefully explain the author's claim that the requirement in rape trials of evidence of *force* burdens women unfairly. (You should be sure to write about problems establishing the mens rea in men, and the difficulties defining "Physical Resistance.")  
b. What is your view on these points? Explain.
9. Briefly explain the three most common Test of Insanity, as described by Gerber, offering your own opinion as to the validity of **each**.
10. Re the article "The Cultural Defense in the Criminal Law,"
  - a. Carefully explain the "cultural defense" and "individualized justice."
  - b. Do you agree or disagree with the authors? Explain.