

**CRIMINAL LAW**  
Professor Alexander

Required Readings:

Dressler, Chs. 20-21; MPC §§ 3.04, 3.06, 3.07

**Problem Set 12**

1. D has been mugged by V previously, at which time V threatened D with a gun. V now accosts D and demands D's wallet. Although V does not show a gun, D fears that V has one and gives V his wallet. As soon as V begins fleeing the scene, D pulls a gun he has been carrying for self-protection and begins chasing V, demanding his wallet back, and threatening to shoot V if V does not drop the wallet. As D pursues V, D is joined by police officer P. After pursuing V for a few blocks and issuing several warnings, D and P, out of breath, fire at V, killing him. D and P are prosecuted for homicide and claim, in their defense, the privileges of MPC §§ 3.06 and 3.07. In the light of these provisions and Tennessee v. Garner, what result? (One and one-half pages)

2. Whiskey Joe is out fishing without a license again. He is known to be carrying a knife. When Whiskey Joe has been drinking he gets violent, and he has frequently boasted that if any game warden tried to arrest him, "he'd end up bleeding everywhere."

Warden Jim finds Whiskey Joe at a stream bank, fishing rod in hand, and an empty whiskey bottle beside him. Jim asks Joe to produce a fishing license; and when Joe refuses, Jim declares him to be under arrest and orders Joe to come with him. Joe says, "Try and make me." Jim grabs Joe's arm, at which time Joe pulls his knife with his other arm. Jim then pulls his gun and orders Joe to drop his knife. Joe refuses, and Jim shoots him. Joe dies, and Jim is charged with homicide. Given MPC §§ 3.04, 3.07, and the Garner case, what result? (One page)

3. D's home has been burglarized frequently in the past by burglars who the police have said are probably armed and dangerous. D keeps a loaded gun, but he is not very proficient in gun fighting. He resolves that the next time he sees someone entering a window at night he will fire on the person without warning, fearing that a warning will jeopardize his safety. May D do so under MPC § 3.06? If he may, may he set up a deadly spring gun in case he is a deep sleeper or a very poor shot? (One and one-half pages)