CRIMINAL LAW
Final Examination

Professor Welling

This exam has four (4) essay questions. It is a closed book exam, so you may not use any outside material. You have three (3) hours. The percentage value of each essay question is indicated.

All academic endeavors of the students of the University of Kentucky College of Law are governed by the Honor Code. The Honor Code prohibits lying, cheating, stealing, and interference with academic pursuits. Additionally, the Honor Code places on all law students an affirmative duty to report a breach of the Code. A failure to report is itself a violation of the Honor Code.

In turning in this exam, I hereby pledge on my honor as a student that I have neither given nor received any unauthorized aid on this exam.

I. (30%)

Arnold had long had an interest in child pornography. He liked pictures of young children engaging in sexual acts.

Charlie worked at the Huntsville Athletic Club. The club included a gym where kids took various gymnastics lessons. In addition, the club ran programs for kids after school and during vacations. Charlie taught gymnastics to both girls and boys.

The club was owned and managed by Brett, a retired football player who had once played for the Bears.

Arnold was naturally drawn to the athletic club. He befriended Brett and Charlie. One day he suggested to Brett and Charlie that he take some pictures of the kids for their parents to show what a great program the club had. Arnold brought his camera and took lots of pictures of the kids doing their gymnastics. The pictures were sent home and posted on the walls. The parents and the kids and Brett and Charlie were delighted.

After some time, Arnold suggested to Brett and Charlie that it might be fun to do some "artistic" photos of the kids. He told Charlie that his 4:00 p.m. class would be a good subject, and suggested that Charlie end his class early one day to take some pictures.

Charlie at first resisted the idea. What did Arnold mean by "artistic" he wanted to know. Arnold explained what he meant explicitly—naked photos of children in sexual poses. Charlie again resisted. Arnold stated that such pictures were worth a lot of money and did not hurt the children in any way. Brett entered the discussion, endorsed the idea of the pictures and suggested to Charlie that he would be fired if he did not go along. Charlie agreed, reluctantly.

The next week, Charlie ended his class early and told his kids to follow Brett to have some special pictures taken. The kids did so. Charlie stayed in the gym.

In the back room, Brett took the kids' gym clothes off and posed them in various sexual poses while Arnold took the pictures. Arnold developed the photos. He gave one complete set to Brett. Arnold kept the negatives.

Arnold, Brett and Charlie were arrested when three of the kids filed complaints. When
their apartments were searched, police discovered Arnold with 10 sets of the photos and the
negatives, Brett with one set of the photos, and Charlie with none of the photos.
When he was arrested, Arnold told police he thought the kids were 14 years old—he had
no idea they were 10 years old.
A statute in this jurisdiction provides as follows:

Section 1. It is a felony to possess child pornography. The maximum sentence is one
year.

Section 2. It is a felony to possess child pornography with the intent to distribute. The
maximum sentence is 2 years.

Section 3. Definitions.
A. Possess: To have dominion and control over an object.
B. Pornography: Lewd pictures depicting sexual acts.
C. Child: Any person under 13 years old.

Who should be charged with what crimes? What defenses should they assert? Will they
be successful? Explain.