

FINAL EXAMINATION
CRIMINAL PROCEDURE I
ROBERT CALHOUN
FALL 2007

1. You have three (3) hours to complete this exam.
2. This exam is **closed book**; no materials are allowed.
3. This exam consists of three (3) parts.

Part I

- Part I is to be answered on the separate “ParSCORE TEST FORM” using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.
- Part I consists of 20 multiple-choice questions.
- Each question is worth two points.
- Part I is worth a total of 40 points.

Part II

- Part II is to be answered on this exam paper in the space provided. (If you type, you may answer on a separate sheet of paper, but you should restrict your answer to the same amount of space provided by the question.)
- Part II consists of five (5) short answer questions. These range in value from 5 to 9 points.
- Part II is worth a total of 40 points.

Part III

- Part III is to be answered in blue books (or typed). If you answer Part III in a blue book, please write on every other line.
- Part III consists of one (1) long essay question.
- Part III is worth a total of 40 points.
- With regard to the essay question, deal with all issues raised – even though you believe disposition of one is controlling.

4. Write your **exam number** on this exam envelope, all used blue books, at the top of this exam packet, and on the ParScore answer sheet. **Do not use your name, student ID number, or Social Security Number on any exam materials.**

At the conclusion of the exam, return all test materials, including blue books, ParScore answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

Part III (40 Points)

The following essay should be answered in blue books or typed.

Daniel Defendant and Fred Friend go camping in a national forest in preparation for a hike up Mount Procedure. They register with a ranger before setting off on the hike. As part of registration, they are assigned camp sites at a campground two miles up the trail on the side of Mt. Procedure. They hike in. Defendant sets up his tent at camp Site 11. Friend makes camp at Site 12, about 200 feet away.

While they are eating dinner around the campfire, a heavy rainstorm hits. Defendant's tent is flooded out so he decides to stay with Friend in his tent. They close the flap and zip it tight to keep out the rain. Before they do so, they put their food and garbage in respective tote bags and hoist them over a tree limb to keep them out of the reach of bears.

While they are sleeping, Police Officer Jones arrives at the entrance to the Park. He has a valid arrest warrant for Defendant, whom Jones believes is running a major marijuana growing operation in the hills above the campsite on Mt. Procedure. In fact, he had been told by a confidential, reliable informant that Defendant would be tending to his crop the next day.

Officer Jones asks the ranger where Defendant is camped. The ranger tells him that Defendant is in Site 11 and that his Friend is in Site 12.

When Jones arrives at Site 11 he finds Defendant's washed out tent, flattened and empty. Thinking Defendant might have moved to Friend's camp site, he walks over to Site 12. There he sees two tote bags hanging on a tree. One has "D. Defendant" stenciled on the outside. Jones squeezes the bag and feels what he believes to be a handgun. He removes the gun and confiscates it.

Then Jones turns to the tent on Site 12. He unzips the tent flap and sees Defendant and another individual asleep. Jones grabs Defendant, pulls him from the tent, arresting him for marijuana cultivation and possession of a weapon (Defendant was a convicted felon).

Defendant, who is by now soaking wet, asks if he can get his poncho from his backpack back at Site 11. Jones says, "You're handcuffed. I'll get it – is that O.K.?" Defendant says yes. In rummaging through the backpack to find the poncho, Jones comes upon a brick of marijuana, which he seizes.

At the police station, Defendant is given his Miranda warnings by Jones. Defendant says he wants to remain silent and talk to his lawyer. He is booked and placed in a cell. His lawyer

comes to visit him and advises Defendant not to talk to the police. The two agree they will talk later after the attorney gets out of court.

Shortly thereafter, Officer Jones comes to Defendant's cell. He enters and merely stares at Defendant, shaking his head back and forth. At this point, Defendant asks if he could talk to Jones "in private." Jones readvises Defendant of his Miranda rights. Defendant agrees to waive his rights and tells Jones all about his marijuana cultivation operation.

Defendant is charged with felony marijuana cultivation and possession of a weapon by an ex-felon. Prior to trial, Defendant moves to suppress all evidence taken in violation of his constitutional rights. What would his attorney argue on his behalf in support of such a suppression motion? What would the prosecutor argue? How should a court rule?

END OF EXAM