

**FINAL EXAMINATION
CRIMINAL PROCEDURE I
ROBERT CALHOUN
SPRING 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.**
5. 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.

At approximately 11:35 a.m. San Francisco Police Officer Kathy Kopp received an all-points bulletin, advising her that a child has just been abducted in Golden Gate Park. The bulletin advised that the child had been taken in the north end of the park and that the mother of the child told police that the man who took the child was a white male, wearing a bright blue shirt. The mother said further that the suspect threw the child into the back seat of a beat-up white Honda Civic and then drove off east on Fulton Street at a high rate of speed.

Officer Kopp who was driving west on Fulton Street, not far from Golden Gate Park, saw a white dented Honda Civic drive past her at moderate speed, driven by a white male in a blue shirt with two young children in the back seat.

Officer Kopp made a U-turn and turned on her siren and directed the driver of the Civic to pull over.

Officer Kopp called for assistance and approached the Civic with her gun drawn. She shouted for the driver to exit the car. When he did, she frisked him and felt a bulge in the breast pocket of his shirt. She reached into the pocket and pulled out a wallet. When Kopp opened the wallet a rolled cigarette fell out and dropped at the driver's feet. Officer Kopp did not see the cigarette. She opened the wallet and saw a driver's license, identifying the driver as Dunston Defendant.

At this point, another patrol car arrived and two officers got out and informed Kopp that the child abductor had been apprehended several blocks away and that the child had been returned safely to the mother.

At this point, Defendant said, "What's this about?" Kopp said, "I'm sorry, Mr. Defendant. There's been a mistake." Defendant said, "Can I go?" Kopp said "Yes. Just let me run your license and registration." While Officer Kopp went back to her patrol car to do this, one of the other officers, Officer Gendarme, came over to stand by Defendant and noticed the rolled cigarette at Defendant's feet. He picked it up and sniffed it, noticing it smelled like marijuana. Gendarme looked in the car and saw a plastic bag protruding from the glove department, which was partially open. Officer Gendarme knew that marijuana is often packaged in plastic bags at the street distribution level.

Gendarme asked Defendant if he could look inside the car. Defendant said, "I think it would make my kids nervous." Gendarme said, "I'll only look in the front seat." Defendant said, "How long will it take?" Gendarme said, "Not very long." Gendarme then entered the car, opened the glove compartment and removed the plastic baggie, which contained 3 ounce of marijuana.

Kopp returned, saw the marijuana, and said to Defendant, “Now you are in trouble. Come with me. She took Defendant into her patrol car, and without handcuffing him, read him his Miranda rights from a pre-printed card. Before she had a chance to ask Defendant if he wished to talk, Defendant said, “Look. The marijuana is mine but I never used it in front of my kids. Just make sure they get home. My wife is waiting for them.” Defendant was arrested and charged with possession of marijuana for sale.

Prior to trial, Defendant moved to suppress all evidence taken in violation of his constitutional rights. What would his attorney argue on his behalf of such a suppression motion? What would the prosecutor argue? How should a court rule?

END OF EXAM