

HLP - EVIDENCE
FINAL EXAMINATION
PROFESSOR CALHOUN
SUMMER 2005
GENERAL INSTRUCTIONS

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

Part I

- } Part I is to be answered on a separate ParScore answer sheet.
- } Part I consists of 35 multiple-choice questions.
- } Each question is worth two points.
- } Part I is worth a total of 70 points.

Part II

- } Part II is to be answered in blue books or typed. If you answer Part II in a blue book, please write on every other line.
- } Part II is worth a total of 35 points.

Part I: Consists of 35 multiple choice questions. Each question is worth 2 points.

Total for Part I: 70 points.

Special instructions for Part One:

You are to answer all questions according to the Federal Rules of Evidence unless the question indicates otherwise or unless a question of evidentiary privilege is raised - in which latter case, you should apply the California Evidence Code, unless the question indicates otherwise.

Part II: Consists of one essay question, which is worth 35 points.

Total for Part II: 35 points.

Special Instructions for Part Two:

You are to base your answers on the Federal Rules. However, in those areas where there are significant differences in the Federal Rules and the California Code, you should contrast how each would apply. In the area of privilege, you should base your answers on the California Code - but again you should note any material differences between California and Federal law.

Deal with all issues raised - even though you believe disposition of one is controlling.

5. Write your exam number on the exam envelope, all used bluebooks, at the top of this page, and on the ParScore answer sheet. **Do not use your name, student ID number, or Social Security Number on any exam materials.**
6. At the conclusion of the exam, return all test materials to the exam envelope and submit it to the proctor. Do not seal the envelope.

GOOD LUCK!

PART II ESSAY

Defendant is charged with the murder of his wife in the family home. Defendant denies the charge. He claims that at the time of the killing he was visiting a friend who lives over 100 miles from the family home.

At trial, considerable evidence was offered by both sides. In addition, the following evidence was admitted by the court. Assume all appropriate objections were made. Discuss which, if any, of the following evidence was properly admitted. Set forth your reasons.

A police 911 operator was called who authenticated a 911 tape as the recording of a call she received moments after the time of the killing. On the tape a neighbor of Defendant identified herself and said she just heard screams coming from Defendant's home. She said she then saw Defendant run out of the house and drive off in his car. She gave a complete physical description of Defendant and his car, including the license plate number of the car (which corresponded to Defendant's license plate). The tape was played for the jury.

A different Neighbor was called who testified she lived next door to Defendant and his wife and that, in the past year, she saw Defendant assault his wife twice. Each time the assaults were so severe that the wife was taken in an ambulance to the hospital.

Defendant's employer was called by the prosecution. He identified a letter written by Defendant and addressed to Defendant's lawyer. In the letter, Defendant set out his alibi theory although he admitted that he might have been at the friend's house after the killing rather than at the time of the killing. (At a pre-trial hearing it was established that this letter had been composed by Defendant in response to his Lawyer's request for a statement as to his version of the facts. It was composed on the computer at Defendant's work place. Defendant was unaware that his employer had access to everything he wrote on his office computer. Employer discovered this letter while routinely scanning employee computer entries. Employer then turned it over to the police.) The letter was admitted into evidence.

After Defendant testified in his defense he was asked whether he had been convicted of robbery in 1999 in San Francisco Superior Court. Defendant denied the conviction. The prosecutor then offered a certified abstract of conviction showing Defendant as having been so convicted. The document was admitted into evidence.

END OF EXAM