

Part III (40 Points)

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

Stacey's, a department store in San Francisco, had been suffering a large amount of shoplifting. The store asked the police department what they could do. They were advised to place an employee in a spot above the dressing rooms where they couldn't be seen but from where they could see into the dressing room. Stacey's was told that a patrolman would be stationed out on the street and would stop and arrest any reported shoplifters. Stacey's placed Vera, one of their female employees, in the agreed-upon vantage point above the women's dressing room. Vera observed Doris Defendant enter the dressing room and stuff several articles of clothing into her purse. Vera alerted Patrolman Jones who was standing outside the store.

Doris exited the store and walked quickly in the direction of a blue car that was parked at the curb. Before she got to the car, Jones told her she was under arrest for petit theft (a misdemeanor). He looked through her purse and found two dresses with the tags still attached. Jones handcuffed Doris and placed her in his patrol car. He then searched the blue car. Inside the glove compartment he found several rocks of crack cocaine, which he seized.

Jones returned to the patrol car and gave Doris her Miranda warnings. She said she wanted to talk to her lawyer. Jones said that was fine and he did not question Doris any further.

When they got to the police station, Doris said she had thought about it some more and would talk to Officer Jones without her lawyer present. Jones took Doris into a small room and started to question her. Doris denied the drugs were hers and claimed not to know how the dresses managed to get into her purse. After almost ten minutes of questioning, Jones turned on a small tape recorder. Doris said she didn't want her conversation taped. Jones told Doris he would keep the tape recorder running. When he asked his next question, Doris said, "No comment." Jones asked five or six more questions to each of which Doris said "No comment". Jones continued to ask questions until finally, Doris said, 'Oh, all right, I stole the dresses and the drugs are mine. The rest of the drugs are hidden in the trunk of my car.' A subsequent search of Doris' car trunk turned up another ten grams of crack cocaine.

Doris was then charged with petit theft and possession of a controlled substance for sale. She moved to suppress all evidence taken in violation of her constitutional rights. How should the court rule and why?

END OF EXAM