

**CRIM PRO I LS1 MOSKOVITZ FALL 2009**

**PART II: ESSAY QUESTION**

**50% of Grade**

To: My law clerk

From: Deputy Public Defender Holly Makral

My client, Dan Dork, has been charged with sale of marijuana and possession of cocaine. After arresting Dork, San Francisco Police Officer Carl Copp filed the following police report:

**POLICE REPORT RE ARREST OF DAN DORK**

On Monday, November 23, I was driving my patrol car in a residential area. An elderly woman waved me down. When I pulled over, she pointed to a man sitting in the driver's seat of a maroon Toyota. She said, "That man has been selling marijuana to our kids. He's ruining our neighborhood."

I went over to him and said, "Could you please get out for a moment? I'd like to talk to you." He got out of the car. When he opened the door, I smelled a whiff of marijuana smoke. I said, "Have you been selling marijuana?" He said, "Not for a while, but I do take a little puff now and then."

I told him that he was under arrest for selling marijuana. I then said, "Neighbors have been complaining about you." He said, "Who? That old bag? She bought some dope from me and then complained that it didn't get her high." I went through his pockets, finding a baggie of marijuana in his pants pocket.

I handcuffed him behind his back and locked him in the back seat of my patrol car. I then went through his car, finding a clear plastic vial of cocaine on the back seat.

I plan to file a motion to suppress the cocaine and the marijuana, as well as the two statements Dork made. Will the court grant my motion?

**END OF PART II**

**END OF EXAM**