

Part III – Essay (40 Points)
Recommended Time: 1 hour

The following essay question should be answered in a blue book or typed.

At approximately 2 a.m., the Walnut Creek police department received information from an anonymous 911 caller, which indicated that an individual, described as a young white male in his early 20's driving a late model white Nissan sedan, was speeding in the area of Ygnacio Valley Road and Oak Grove Road, ran a red light, and struck a pedestrian in the crosswalk at that intersection. The caller indicated that there were several other young males in the suspect vehicle, which didn't even slow down after striking the pedestrian, and that she was concerned for her safety if she were to identify herself, as she "had to live in the area." She indicated that the incident had just occurred and that the suspect vehicle was proceeding eastbound on Ygnacio Valley Road at approximately 50-60 m.p.h. Officer Smith was dispatched to the area, and arrived within 3 minutes of the 911 call.

Smith observed an elderly male laying in the intersection of Ygnacio Valley and Oak Grove Roads; the victim appeared to have suffered major trauma and was not breathing. Leaving the victim with responding emergency personnel, Officer Smith proceeded eastbound on Ygnacio Valley Road in hopes of locating the suspect vehicle. Approximately 2 miles up the road, Smith observed a late model white Nissan sedan on the side of the road; the driver had apparently lost control of the car as it had collided with a tree. Officer Smith located the vehicle approximately 5 minutes after the 911 call was received. There were four young white males, including the driver, in the vehicle. They appeared stunned, but uninjured.

Officer Smith called for back-up and approached the suspect vehicle. Due to the proximity to the accident, the similarity in the description of the car and those in it to the information received from the 911 caller, and the fact that the driver had apparently lost control of the car, he believed that this was the vehicle that had struck the pedestrian. Smith noticed that the front passenger was reaching under his seat, and that he kept looking back at the approaching officer; he appeared to be very nervous. Officer Smith recognized the passenger as Tommy Tucker, an individual whom he had arrested for possession of narcotics in the past. Smith suspected Tommy was probably "holding" narcotics again and ordered him out of the car. Tucker quickly exited the vehicle, grasping at his waist. Officer Smith observed a bulge in that area of Tucker's pants and believing that Tucker might have a weapon, he pat searched him.

Officer Smith felt a hard object in Tucker's waistband area, and believing that it might be a weapon, he reached under Tucker's shirt and retrieved it. The object was not a weapon, but rather a small tin of "Altoid" mints. Smith opened the tin and found a coin bag containing a small amount of white powder, which he believed was cocaine. Smith placed Tucker under arrest for possession of cocaine and placed him in the rear of his patrol car. Officer Smith, with the assistance of back-up officers who had arrived on the scene, removed the other individuals from the suspect vehicle and searched it. Nothing was located in the passenger area of the car, however upon opening the trunk, Officer Smith found several baggies of what appeared to be cocaine, a large sum of cash, and two handguns. All four individuals were then placed under arrest for possession of cocaine for sale and illegal possession of firearms.

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It was later ascertained that the vehicle, owned by the individual who was driving it that evening, was not the one involved in the hit and run accident after all. All four individuals were charged with possession of cocaine for sale and illegal possession of firearms. Tucker was tried separately and he moved to suppress the cocaine and guns found in the trunk of the car. What result and why?

END OF EXAM