

**Final Examination
Criminal Procedure I
Professor Sepulveda
Summer 2009**

1. You have a total of **three (3) hours** to complete this exam.
2. This is a **closed book** exam.
3. This exam consists of **three (3)** parts.
 - **Part I** consists of **twenty (20) Multiple Choice** questions (**40 Points**) (2 points each). Please mark your responses to the multiple choice questions 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 II** consists of **eight (8) Short Answer** questions (**40 Points**). These range in value from 4 to 6 points. 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 as provided by the question). **Do not answer Part II in blue books.**
 - **Part III** consists of one (**1**) **long essay question (40 Points)** **Part III is to be answered in blue books (or typed)**. Please write clearly. Write on every other line and every other page to permit instructor comments. Deal with *all* the issues raised in the essay question, even if you believe the disposition of one is controlling.
4. Write your exam number on your exam envelope. Put your correct class section and student exam number (#) at the top of this page, each page of questions, each blue book, and the “ParSCORE TEST FORM.” **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.

GOOD LUCK!

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

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

Officer Don Quick was on patrol at 2:30 a.m. when he observed a car, driven by defendant, run a stop sign. Quick recognized defendant from past contacts when defendant was involved in drug trafficking. The area where defendant ran the stop sign was known as a high drug-trafficking area. Officer Quick suspected that defendant might be selling drugs. Officer Quick activated his siren and lights, and attempted to pull over defendant's car. Defendant accelerated to a high rate of speed and ran several other stop signs in an apparent attempt to evade the police. Finally, Officer Quick was able to cut off defendant's car and effectuated a stop.

Officer Quick's suspicions about defendant's conduct were now heightened. He approached defendant's car and ordered defendant out. Defendant ignored Officer Quick's order and appeared to be leaning down, reaching under his seat. Knowing from his years of experience as an officer, including a five year stint as a narcotics investigator, that drug dealers are frequently armed with firearms, Quick feared that defendant was reaching for a gun. He again ordered defendant out of the car, and defendant finally complied. After pat-searching defendant and finding nothing, Officer Quick placed him under arrest for misdemeanor reckless driving and misdemeanor evading a police officer, handcuffed him, and put him in the backseat of his patrol car. Quick then searched the passenger compartment of the car and found a loaded 9mm handgun under the driver's seat and two baggies of cocaine in the glove compartment. Officer Quick then popped open the trunk (with a lever located in the passenger compartment) and thoroughly searched it, finding a large quantity of cocaine packaged in a manner consistent with sales, over \$20,000. in cash, and pay-owe ledgers. Quick informed defendant that he was additionally under arrest for possession of cocaine for sale and illegal possession of a firearm, and after having the defendant's car towed to the impound yard, he transported defendant to the police station. As they pulled away from the scene, defendant blurted out, "Give me a break, man! I don't normally deal drugs. I just lost my job and was trying to make enough money to pay the mortgage." Officer Quick responded, "You don't have a mortgage, dude. I know you've lived in that flophouse down on 4th Street for years. Admit it, you were selling because that's what you do for a living, right?" Defendant said, "Yeah, you got me man. I've been dealing in this neighborhood for a long time."

After booking defendant, Officer Quick took him to an interview room, advised him of his *Miranda* rights, and obtained a valid waiver. He interviewed defendant for an hour; defendant confessed to selling cocaine out of his car and indicated that he was carrying the gun for protection. Toward the end of this interview, defendant said that he didn't want to talk anymore. Quick stopped the interview and returned defendant to his cell. That afternoon, the district attorney filed a complaint charging defendant with possession of cocaine for sale, illegal possession of a firearm, and misdemeanor reckless driving and evading a police officer.

Two days later, Detective Anderson contacted defendant in his cell and obtained a *Miranda* waiver. He interviewed defendant about an unrelated homicide that occurred two months ago at the corner where defendant was arrested. Defendant admitted involvement in the homicide and the complaint was later amended to charge him with murder.

Defendant now moves to suppress all physical evidence seized on the night of his arrest, and his statements to Officer Quick and Detective Anderson. How should the court rule and why?

END OF EXAM