

Crim Pro I
Professor Sosnov

Sample True - False
Questions from Past Exams

Facts for Questions 11-12

The police obtain an arrest warrant for a judge for accepting a bribe from a local union leader. The judge is then arrested in his automobile. They search the trunk of the car and find a slip of paper with the union leader's name on it and the notation \$300. The police then search a gym bag in the backseat of the car and find a small quantity of marijuana.

11. The search of the gym bag is unconstitutional.
12. The search of the trunk is unconstitutional.

Facts for Question 13

Police receive information amounting to probable cause that D is walking down Elm Street with a briefcase containing cocaine. Two policemen approach him. One says, "You are under arrest," and handcuffs him, while the other takes the briefcase and opens it. He sees the cocaine inside.

13. The discovery of the cocaine and its seizure is constitutional.

Facts for Question 25

Police, with reasonable suspicion that D committed a burglary, take him to a police station for further investigation. He is given his Miranda rights there two hours later, waives them, and then confesses.

25. D's statement was obtained in violation of his constitutional rights.

Facts for Question 30

D's mother, knowing he (an 18 year old) had committed a burglary, drives him to the police station. Inside the station, in front of the desk sergeant, she asks him to tell the man what happened. The desk sergeant, who did not know why they were there, but sensing a possible confession, gives no Miranda warnings, and just says, "Son, you should consider what you mom is saying to you."

30. D's motion to suppress the statement on the grounds that his Fifth Amendment rights were violated should be granted.

Answers - 11. F 12. T 13. T 25. T 30. F

Sample Essay Question

This Essay Question Was 50% of Exam
Do Not Ask Me What The Answer Was

Part II - Essay Question

On March 9, 1991, a robbery was committed at the Hillside bank with \$3,000 taken from teller Toady. The robber told the teller that she had a gun in her purse. The robber, who wore a skirt and blouse, was described over police radio as a 5'7" woman with curly black hair, weighing about 130 lbs. Her race and approximate age were also given, as well as a detailed description of her clothing.

Police immediately started to thoroughly search the area for a suspect, and 15 minutes after the robbery saw Ms. "X" who fit the description and was walking quickly in a direction away from the bank three blocks away. She was carrying a purse which also matched the description. A police officer stopped her and immediately opened her purse where he found no gun or loot, but a bag of marijuana. He then took her back to the bank where the teller said that she looked like the one, but that she was not the robber. She was never charged with the robbery. The officer then took her to the station where he told her he had to arrest her for the marijuana. He then said, "Why do you smoke that stuff? You know it's no good for you." She responded, "It helps calm me down, I've been a nervous wreck ever since I murdered my rotten brother." The police check out the information and find that her brother was indeed murdered the day before. Their records indicate that there had been an eyewitness "Z" to this previously unsolved shooting death who had said that he got a glimpse of the woman who murdered the man. He described her as a "young woman with curly hair," and said, "that's all I can say." Shown a fair lineup of 7 individuals an hour later without counsel Z says, "it could be No. 1 or No. 7". (Ms. X is the one in the No. 7 position.)

A detective, two hours later, goes to the cell and tells her, Ms. X, he is questioning her concerning the murder of her brother, and gives her Miranda warnings. He does not tell her that a lawyer, Lou Legal, had been retained by her family and had been trying to see her and had told police not to question her without him being present. Ms. X says that she understands the Miranda warnings and will talk to him without a lawyer but will not sign any statement or waiver of rights form. She then says, "I killed my rotten brother. I told you that before and that's all I'm going to say."

Later that day police go to the house that Ms. X shared with her mother and ask her mother for permission to enter and search the house for the gun used to kill the brother. She says, "It's okay with me for you to look for the gun. Guns are dangerous." The police enter and begin their search. They find cocaine in a small manilla envelope in the den, and then a stolen credit card when they look on the floor under the sofa in the den. They determine it is stolen when they lift the face down card, and turn it over. They recognize the name at that point as that of a stolen credit card which was part of the proceeds from a burglary. X's mother tells police, when confronted with this evidence, that X hangs out there in the den. Cocaine and possession of stolen credit card charges are added to X's marijuana and murder charges. Not having found the gun, based on an affidavit setting forth the confession of Ms. X, and the fact that her cousin Mary is also a friend of Ms. X, they obtain a search warrant for Mary's house. A search there results in the gun being found.

Two weeks before trial with her now indicted on the various charges, and Lou Legal, her lawyer, not being present, police show the eyewitness "Z" (previously mentioned) one photo, that of Ms. X, and he says, "Yes, I think that might be the one." At the time of the murder he had been gardening and heard a gunshot, and then looked in the direction of the sound to see a man falling and a woman, about 150 feet away, begin to run away.

You are the judge for the suppression hearing for Ms. X. The defense attorney for Ms. X has moved to suppress all of the evidence and the prosecutor is opposed to the motion. Give your ruling for each item of evidence, suppressed or not, and the reasons for your ruling.

Respond to each item individually for organizational purposes and refer to my lettering system (e.g., B. The First Statement) but you may address them in any order. If the same legal analysis or argument applies, where appropriate, you don't have to repeat it - just refer specifically to the previous applicable section.

- A. The Marijuana
- B. The First Statement("It helps calm me down, I'm a nervous wreck ever since I murdered my rotten brother")
- C. The Second Statement("I killed my rotten brother. I told you that before. . .")

D. Identification of Eyewitness Z In-Court at Trial (Defense counsel, as is customary in many places, pre-trial moves to suppress this future identification at trial as well as the out-of-court identifications. Do not concern yourself with the issue of suppression of the out-of-court identifications except as they relate to the judge's decision whether to suppress the in-court trial identification.)

E. The Cocaine

F. The Stolen Credit Card

G. The Gun