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WIDENER UNIVERSITY SCHOOL OF LAW FALL 1997 EXAMINATION CRIMINAL PROCEDURE I: INVESTIGATION SECTION A

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December 11, 1997

Instructions:

- 1. This is a closed book exam.
- 2. You have exactly three (3) hours to complete this exam. The exam consists of two (2) parts on fourteen (14) pages, including these instructions. CHECK NOW TO BE SURE THAT YOUR EXAM IS COMPLETE.
- 3. Part I consists of twenty-five (25) questions in multiple choice format. Your answers to the questions in Part I must be marked in pencil on the computer answer sheet provided to you. Please do not make any stray marks on the answer sheet, because such marks may affect the computer scoring. Answers marked on the exam itself will not be considered.
- 4. Part II consists of two, equally weighted essay questions. Answer the questions in Part II in one or more blue books. Be sure to write legibly, and please write only on one side of each blue book page. If I can't read it, I can't give you credit for it.
- 5. When you are finished the exam, you must hand in the exam itself, the computer answer sheet, and your blue books. Please put your exam number on all blue books, the exam itself, and the computer answer sheet.
- 6. Each of the two parts of the exam is worth one-half (½) of the total exam grade. You should structure your time accordingly. Before beginning to write, take sufficient time to think about and organize your answers.
- 7. GOOD LUCK AND ENJOY THE BREAK!

Note: Part I. onitted.

Part II - Two Essays - 50 points each

Part II consists of two 45 minute essay questions of equal weight. Think and organize before beginning to write.

II.A.

You are a federal prosecutor presented with the following facts:

State Trooper Michael Lennon noticed the car being driven by Dara Bonnie because it was going 10 miles *under* the highway speed limit of 55 miles per hour. While driving 45 miles per hour was legal, in Trooper Lennon's experience many people who drove under the speed limit had something to hide. In addition, as Trooper Lennon followed the car he noticed Bonnie and David Clyde, the car's passenger, looking back nervously, and then leaning forward, perhaps to put something under the seat. Lennon then stopped Bonnie's car, and asked if there were any drugs in the car. When Bonnie responded, "not that I know of," Lennon asked if he could look in the car, and Bonnie said "go ahead." Clyde, who heard this exchange, said nothing. In the trunk, Lennon found a garment bag and a suitcase. Bonnie said "the bag is mine, but the suitcase is his," referring to Clyde. Lennon searched the garment bag first and found nothing incriminating. He then picked up the suitcase, noted that it was heavy, and asked Clyde what was inside it. When Clyde said nothing, Lennon opened the suitcase and discovered a large quantity of marijuana. He then arrested both Bonnie and Clyde.

Prepare a memorandum to your supervisor that addresses the admissibility of the marijuana against both Bonnie and Clyde. Be sure to include all reasonable arguments for suppression that might be offered on behalf of either Bonnie or Clyde, your responses to those arguments, and an assessment of the likely outcome.

End of Part II.A.

Exam Continued on Next Page

П.В.

You and your boss, Art Attorney, represent Paul Irving, who today was indicted for robbing the Third National Bank of Concord on November 24, 1997. Your investigation to date reveals the following undisputed facts:

On December 1, 1997, armed with an arrest warrant, Detective Lewis Merletti arrested Paul Irving for the November 24, 1997 robbery of the Third National Bank of Concord two weeks earlier. Merletti handcuffed Irving and advised him of his Miranda rights. Asked if he understood those rights Irving said, "I'm not talking until I see Sal." Merletti knew Sal to be Irving's older brother and a former police officer who was now an attorney. On the way to the station house, Irving asked, "what happens now?" Merletti responded: "That depends on you. It's a shame that a bright guy like you got mixed up in something like this. If you're smart you'll see your way clear to help yourself. That's what Sal would tell you." After a minute or two of silence, Irving said: "I shouldn't have to take the fall for this. They just asked me for a ride, and the bastards messed up my interior." When Merletti asked where he could find the car, Irving told him. When Merletti asked who the other robbers were, Irving said, "I gotta talk to Sal first."

Once back at the station, Merletti noticed Bob Teller, one of the Third National Bank tellers, waiting to see him. Teller immediately turned and said: "That's the guy! That's the bastard who stuck the gun in my face!"

Later, Merletti looked for and found Irving's car. Its interior was stained with red ink traceable to the exploding dye pack inserted into the money given to the Third National Bank robbers.

Attorney has asked you to prepare a memorandum that addresses the admissibility of the following evidence: (1) Irving's statements to Merletti; (2) the exploding die pack evidence found in Irving's car; and (3) any identification testimony from Teller. Be sure to include not only all reasonable arguments in support of suppression but also likely government responses and an assessment as to the probable outcome.

End of Exam