

**UNIVERSITY OF UTAH  
S.J. QUINNEY COLLEGE OF LAW**

**Criminal Procedure  
Professor Paul Cassell**

**Spring 2006  
April 25, 2006**

**FINAL EXAMINATION**

**Instructions**

This examination begins at 8:30 a.m. It is designed to be a three-hour examination with three questions of one hour each. Each of the three questions will be given equal weight in determining the final grade. You are given an extra hour to allocate as you see fit. You must turn in your examination by 12:30 p.m.

This is essentially an open-book examination. You may have the following materials with you: your textbook, any supplemental materials distributed during the course, and any outline that you may have prepared by yourself or with other students. You may not have the following materials: any commercial publications, hornbooks, or the like, in either printed or electronic form.

In accordance with standard law school procedure, do not write your name (or any other information that could be used to identify you) anywhere on your exam. Write your exam number on your exam. This permits evaluation without knowledge of your identity. If possible, please do not write in pencil (it is difficult to read).

Page limits: **If you are handwriting this exam, you are limited to a total of three bluebooks, one side of each page, every other line.** The three-bluebook limit is for the whole exam. For example, if you have space left over in the first bluebook after answering Question I, you can use that space for Question II, etc. **If you are using a wordprocessor for this exam, you are limited to a total of 4350 words for the entire exam. (This word limit is roughly 8 and 13 pages.) Please double-space. On the last line of the exam, please type in the number of words that your word processing package shows for the test.**

## QUESTION I (one hour)

Douglas Driver was heading up Interstate-15, doing 75 miles per hour in a 65 m.p.h. zone, when he was pulled over Officer Oddone. Oddone asked for Driver's driver's license and vehicle registration. Driver gave his license to Oddone, but nervously said that he did not have any registration in the car. Oddone then returned to his police car, where a radio check on the name "Douglas Driver" revealed that Driver did not have any outstanding warrants or previous criminal history.

Oddone then wrote out a ticket to Driver for speeding and returned to Driver's car. He gave Driver the ticket, but began asking questions about the car's registration. In the fifteen minutes of questioning that followed, Driver gave increasing evasive and inconsistent answers about who owned the car. Unsatisfied with these answers, Oddone asked Driver for permission to search the glove compartment to see if he could find any documents that would help determine who owned the car. Driver said, "Go ahead – I think that's probably fine."

Oddone then asked Driver to step out of the car. Following his standard approach in such situations, Oddone frisked Driver. Feeling a small hard object in the exterior pocket of Driver's coat, Oddone reached in and pulled out a small vial of what appeared to be (based on Oddone's extensive training and experience in the area) crack cocaine. He asked Driver, "What this?" Driver said "Someone must have planted that crack on me."

Oddone then placed Driver under arrest and searched Driver's car. Immediately upon begin the search of the glove compartment, Oddone found heroin. Also, in the locked trunk of the car, Oddone discovered a box secured with a padlock. Breaking the padlock, Oddone discovered methamphetamine wrapped in plastic bags.

Later fingerprint analysis of plastic bags revealed the fingerprints of Karla Kingpin on the bags. Both Driver and Kingpin have been charged with dealing illegal drugs. The prosecution wants to introduce evidence pertaining to all of the circumstances surrounding the stop of the car and the eventual discovery of the cocaine, heroin, and methamphetamine, including the statements made by Driver, against Driver. They also want to introduce the cocaine, heroin, and methamphetamine against Kingpin. Defense attorneys for both defendants have moved to suppress all of this evidence.

Discuss the issues of criminal procedure that arise under the United States Constitution and the Utah Constitution.

## QUESTION II (one hour)

Letter of "apology"  
Wiretap

**QUESTION II** (one hour)

Some have suggested that crime victims should be able to file their own criminal charges in cases in which the prosecutor has declined to bring such charges.

From a public policy perspective, discuss the desirable and undesirable features of such a proposal, including any ways in which the proposal could be expanded, limited, or modified to make it more desirable.