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529 CRIMINAL PROCEDURE
Semester II, 1996-97

UNM School of Law
Final Exam
Three Credits

Professor Eliz. Rapaport
Monday, May 5, 1997
9:a.m. to 12:30 p.m.

INSTRUCTIONS

This is a 3 ½ hour in-class examination. The questions are designed to be answered in 3 hours. There is an additional one-half hour for reading the questions carefully, and for organizing and preparing your answers.

In preparing your answers, you may consult your casebook, any treatises or hornbooks, class handouts, class notes, and any outlines you have prepared yourself or in collaboration with your classmates. You may not consult commercial outlines.

Please write only on every other line of the blue book, and only on one side of each page.

This exam contains three parts: Part I is multiple choice; Part II is short answers (or short essays). Part III contains two essay questions. Parts I and II count, together, for one-third of the points in the exam; each question in Part III counts for one-third of the points in the exam. Therefore, you should devote approximately one-half hour to Part I, one-half hour to Part II, and an hour to each of the essay questions in Part III.

[EXAMINATION BEGINS NEXT PAGE]

4. Part III - Essay Questions

Question I.

Police suspected Jonah Jones of a purse snatching in which the victim was hit on the head and later died. They learned that Jones was in the hospital being treated for knife wounds, and paid him a visit. When arriving at his hospital room they asked medical personnel to leave them alone with Jones for a while. They did not ask and were not told anything about his medical condition. They therefore did not know that Jones was due for a painkiller and was in terrible pain.

The police introduced themselves to Jones and said they wanted to ask him a few questions. They informed him that they had asked the doctors and nurses to leave them along with Jones until they cleared a few things up. They asked him several questions about the purse snatching, and did not tell him that the victim had died. He admitted that he had taken the victim's purse.

At that point, police gave him his Miranda warnings. They proceeded to question him further about his infliction of physical harm on the victim. But he said he didn't want to talk anymore; he couldn't think straight. At this point a nurse gave him a painkiller. Officer Jeffers was assigned to stay with Jones and guard him for the rest of his hospital stay. Gradually Jones and Jeffers became friendly and started playing cards together. Two days after the arrest, Jones asked Jeffers: "Am I in a lot of trouble?" Jeffers replied, "That depends on what you did and on how much you cooperate." Jones said "Maybe I should talk to you, then." Jeffers gave him another set of Miranda warnings, and Jones then confessed to hitting the victim over the head several times with a baseball bat. He also said that he had just taken the victim's purse for a lark, but that things had gotten out of hand.

Jones recovered fully and quickly from his injuries and was incarcerated pending trial. The police planted an informant named Judas in Jones' cell. The two men became friendly and whiled away the time in conversation. One day Judas began discussing the life of crime in which he claimed he had been engaged, giving details of various crimes he claimed to have committed, including the burglary for which he had supposedly just been arrested. He said, "I suppose if they hadn't caught me for this, I would have been caught for something else. I guess you know what I mean." Jones then told Judas that he had done the robbery and murder for which he was arrested, and also told him about two previous robberies for which he had never been arrested.

INSTRUCTIONS. Jones seeks to suppress all confessions. You are a law clerk for the Ultimate Supreme Court. The Ultimate Supreme Court is the highest court in the land, and reviews the opinions of all lower courts including the United States Supreme Court.

Discuss both the current law on the issues raised and how you think the Ultimate Supreme Court ought to resolve them.

Question II

You are the legal advisor to the police department in Disharmony City. There is a public housing project in Disharmony City, Contini-Brown, which is comprised of four towers of apartments, plus playgrounds and open areas. It takes up a full city block. It is clear that is drug dealing regularly taking place on that block: young males, only some of whom live in the project, sell drugs from the open areas near the apartment towers to users walking or driving by the projects. The dealers store their drugs both in and around the trash-strewn playgrounds and in some of the empty apartments, which they break into and use as "safe houses." Prior arrests have established these patterns, but have not stopped the drug bazaar from operating. There is also suspicion that some tenants are using their apartments as "crack houses" in which drugs are sold and consumed, though the evidence for this consists almost entirely of anonymous complaints and statements made by rival dealers. In only one case have police succeeded in entering a suspected occupied apartment in time to find drugs there. Increasing concern over the drug sales has been expressed by tenants recently and the police are especially worried by the new pattern of rival drug-dealing gangs engaging in gun battles over "rights" to sell from particular locations. Some of the tenants have expressed fear that children may get caught in the cross fire. They are demanding that the police "do something."

Several "somethings" have been suggested by the tenants' organization, by the mayor, and by some of the line officers who work in the area. These include the following:

1. Require all tenants, in order to move in or to renew their annual leases, to agree that they will consent to police requests to search their apartments for illegal drugs. (The leases already require them not to have any such drugs in their apartments.) Then the police can search apartments whenever they think they may be being used as crack houses or when gunfire has been heard from that general vicinity.
2. Try to stifle the demand that is keeping the drug bazaar operating by stopping any car driven slowly past the project block by a white person, given that the population of Contini-Brown projects is 100% Black and Hispanic. The police can then do a Terry-like brief questioning, request consent to search, check for suspended licenses or any other violations of law, etc.
3. At regular intervals, set up a "roadblock" at the entrances to the project. Each pedestrian seeking to enter would be briefly stopped and asked for identification and the reason for entering. Those whose answers or demeanor aroused adequate suspicion would be shunted aside for somewhat more questioning. As appropriate, officers could frisk persons in the course of the procedure.

The relevant law against which the proposed procedures must be judged is the Fourth Amendment to the Constitution, as interpreted by the cases you were assigned to read in your Criminal Procedure course. That provision, in its entirety, states "The right of the people to be secure in their houses, papers, persons, vehicles and effects against unreasonable searches and seizures shall not be violated."

The police chief has come to you for advice. He wants to control the crime that is making the lives of the innocent residents of Contini-Brown miserable, but he wants to do so within the bounds of the law. Should he institute any of the proposals, as is or with modifications? Are there other techniques you might recommend to him that would meet his criteria of legality and effectiveness? Draft a memo to the chief responding to his request.

[END OF EXAMINATION]

Examination No. _____

750 ETHICS

Semester II, 1996-97

UNM School of Law
Final Examination
Three Credit Hours

Professor Rapaport
Saturday, May 10, 1997
9:00 a.m.-12:30 p.m.
Wednesday, May 14, 1997
9:00 a.m.-12:30 p.m.

INSTRUCTIONS

This is a three and one-half exam. The questions are designed to be answered in three hours. There is an additional one-half hour for organizing and preparing your answers.

In preparing your answers, you may consult any class materials, including casebook and rules pamphlets, and notes or outlines prepared by you or you working with classmates, and any treatise or hornbook; you may not consult commercial outlines.

Assume that the New Mexico Rules of Professional Responsibility are in force. There are two parts to the exam: In answering the questions in **Part I** (Essays), you should make reference to the rules where relevant, and give an analysis of the problems under the rules. You should also feel free to criticize the rules and to employ other perspectives, if the rules do not provide solutions you find adequate. Treat **Part II** (Short Answer and Multiple Choice), however, purely as an exercise in the rules; answer each question based only on the New Mexico Rules.

The time suggested for each question roughly reflects its weight in grading.

Please write legibly, in ink, on one side only of each bluebook page, and please write only on every other line. Check to make sure your copy of the exam contains all 10 pages including this page.

GOOD LUCK!

[Exam begins on next page]