

2011 Issues Outline
Criminal Procedure Final Exam

Question 1:

Initial contact between Odie and Harry

- Government action? (4th Amendment)
- Standing in Harry's person? (Rakas)
- Consensual encounter, detention, or arrest? (Hodari, Terry)
- If a seizure, reasonable suspicion to detain? (Terry)
- Legality of request for Harry's identification? (Hiibel)
- Validity of citation on arrest warrant/good faith exception? (Herring)
- Pretextual detention/prolonged detention? (Whren, Caballes)
- Pat search of Harry (Terry)
 - Evidence that Harry was armed and dangerous? (Terry)
 - Flask immediately apparent to be contraband? (Dickerson)

Secondary encounter between Odie and Harry

- Continued or renewed detention of Harry? (supra).
- Search of Harry's shopping cart absent a warrant?
 - Standing in Harry's cans or cart? (Rakas)
 - Search incident to arrest? (Chimel? Gant)
 - Automobile or probable cause exception? (Azevedo)
- Probable cause to arrest Harry? (4th Amendment)
- Statement by Harry to Odie in patrol car as Miranda violation?
 - Silence as invocation of Miranda? (Berghuis)
 - Questioning designed to elicit incriminating response? (Innis)

Sixth Amendment violation by using Ivan the informant?

- Has Sixth Amendment attached? (Massiah)
- Has there been a Sixth Amendment violation? (Moulton)

Exclusionary rule/Fruit of the Poisonous tree? (Wong Sun)

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Question 2:

Initial contact between Sid and Dave

- Government action? (4th Amendment)
- Standing in Sid's car? (Rakas)
- Consensual encounter, detention, or arrest? (Terry)
- If a seizure of Sid, reasonable suspicion to detain based upon informant? (White)
- If a seizure of marijuana, exception to the warrant requirement? (Hodari)
- Probable cause to arrest Sid? (4th Amendment)
- Search of glove compartment absent a warrant?
 - Search incident to arrest? (Gant)
 - Impound and inventory exception? (Opperman)
 - Automobile or probable cause exception? (Azevedo)

Preparation of Search Warrant by Dave to Jane

- Neutral and detached magistrate? (Text, Coolidge)
- Sufficiency of probable cause to issue warrant? (Profit)
- Affidavit supplemented by oral testimony? (Christofferson)

Execution of the Search Warrant

- Standing by Sid and/or Gaby? (Carter)
- Nighttime service? (Text)
- Consent to entry by Gaby?
 - Apparent third part authority to give consent? (Randolph)
 - Knowing, free, and voluntary? (Drayton)
- Detention or arrest of Gaby at scene of search warrant? (Ybarra)
- Search of laptop computer screen within scope of warrant? (Text)
- Miranda violation by questioning of Gaby?
 - Gaby subject to custodial interrogation? (Miranda)
 - Inevitable discovery of firearms in hall closet? (Nix)
- Probable cause to arrest Gaby? (4th Amendment)

Joint representation by Public Defender of Sid and Gaby? (Holloway)

Exclusionary rule/Fruit of the Poisonous tree? (Wong Sun)

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