

Question 1

Nosey Nan was President of her Neighborhood Watch Association. At 11:30 p.m. Nan called 911 to report a group of 4 juveniles in “hoodies” had parked a Honda Civic in an adjacent alley and were now loitering, fixated on their phones. While on the line, she reported hearing one of the boys shout, “This house doesn’t have what we want!” Policeman Paul responded within 5 minutes and blocked egress from the alley with his patrol car. Unbeknownst to Nan and Paul the teens were playing “Pokemon Go.”¹

Paul approached the group, shined his flashlight, and shouted, “Hey, can I talk to you?” Jack, blinded by the brightness, walked toward Paul with his friends close behind. As he approached, Paul told Jack he was “just going to search” him for his safety. Paul removed an empty bottle of Captain Morgan Rum and a baggie of marijuana from the front pocket of Jack's hoodie. Paul asked Jack his age; Jack replied, “16.” Paul placed Jack in handcuffs and ordered all the kids remain seated on the curb.

Paul emptied the pockets of Jack's cargo pants, removing a cell phone and wallet. Paul searched the wallet, locating a Honda key and a “pay-owe” sheet (an accounting system used by drug dealers). Using the key he searched the Honda, seizing 20 pounds of marijuana packaged for sale in the trunk.

Paul un-cuffed Jack and directed him to place his index finger on the back of the phone to unlock it via fingerprint reader; Jack's hand was trembling so badly that he could not perform this task. Paul asked Jack if he was “nervous or just drunk?” Jack replied, “Both.” Paul suggested Jack “just make this easy” and give him the numeric passcode. Jack told him “4.20.00” (his birthday). Paul unlocked the phone and searched its contents. Paul scrolled through Pokemon Go, to text messages and photographs confirming that Jack was selling marijuana to his fellow high school honor society students.

Paul placed Jack in his patrol car and read him his Miranda rights; Paul never asked Jack if he understood them. Instead, Jack asked Paul if could speak to his Mom; “I think my Mom could call an attorney.” Paul replied, “You don't want to talk to me? You don't want to try to fix this without your folks finding out?” After visualizing his folks' reaction in his head, Jack confessed to sales of marijuana.

As Paul placed him in the patrol car Nan came running out in her fuzzy pink slippers yelling, “That’s him!”

Paul impounded the Civic. Jack's dad, who was the registered owner, paid to get it out of the tow yard.

¹ “Pokemon Go” is a location based, augmented reality game for mobile devices.

At his trial, Jack insisted in testifying on his own behalf over the advice of his Public Defender Patty. Jack was subsequently adjudicated a ward of the juvenile court after trial.

Discuss Jack's rights under the Fourth, Fifth, and Sixth Amendments. Do not discuss any substantive defenses or other issues.

Question 2

To tackle a housing shortage, the County approved "tiny houses" on wheeled trailers in vacant county lots, subject to all regulatory requirements. Frank was the first to move in to what he believed would be the perfect live/work arrangement. Frank had decided to make his money the old fashioned way: by printing fake currency from his tiny office in the tiny house where he lived. Frank purchased an offset printer, presses, and specialized paper. He financed his racket with proceeds from defunct cannabis enterprise. In that case Frank was on bail pending trial, represented by Public Defender Patty.

On Thursday, Detective Dave was walking through the lot with his canine Carl doing regulatory inspections. He heard the loud, repetitive sound of a copy machine coming from Frank's place. As Dave approached the screen door on the tiny porch, Carl alerted to a chemical smell. Dave moved to the rear of the house, stood on the trailer hitch, and observed Carl examining a sheet of \$20 bills in the light.

Frank woke up Friday morning in the worse way possible: to the sound of Sheriff's Deputies yelling, "Search warrant, open up!" Frank jumped out of his loft, threw on jeans, and came to the door. Deputies immediately searched his person, seized counterfeit bills from his pocket, and business equipment from the home. He was transported to jail where he remained pending trial on both matters.

Frank never saw a copy of a warrant.

On Saturday, Dave received a call from Frank's crazy ex-girlfriend Gina to report Frank called her from jail asking her to dispose of \$200K in hidden counterfeit cash; Frank planned to call again at 7pm. Gina met Dave at the station so he could attach a digital recorder to her cell phone. Dave instructed that when Frank called, Gina should get Frank to discuss the extent of his operation in a pretext call with the aid of a list of questions Dave prepared. Dave listened in as Gina elicited Frank's full confession.

On Monday, the Court arraigned Frank on felony counterfeit charges, again appointing Patty to represent him. Frank told the Judge, "I'm a million dollar money maker. I'll represent myself." The Court immediately granted the request, accepted his not guilty plea, and set the case for Preliminary Hearing.

On Wednesday night, Dave visited Frank in jail, where Frank had secured a job working in the new kitchen. Dave was surprised by how much freedom Frank had to move around the facility. As Frank cleaned up, Dave followed Frank around, complimenting him on his business acumen and his ability to concurrently manage a cannabis and counterfeiting operations. Dave suggested that it would be terrible for Gina to get wrapped up his mess. After a few moments of silence, Frank confessed to his participation in both criminal enterprises. He subsequently was convicted following jury trial.

Discuss Frank's rights under the Fourth, Fifth, and Sixth Amendments. Do not discuss any substantive defenses.