

ESSAY EXAMINATION INSTRUCTIONS

1. This portion of the examination contains one fact situation. It is worth approximately 50% of the total course grade. You have 1 hour and 30 minutes to complete this portion of the exam. Be sure you answer all questions asked; do not omit any. No additional time will be given, so watch your time carefully.
2. No questions may be asked during the examination period unless the question deals exclusively with administrative matters and is asked of the proctor.
3. **NO EXAMINATION OR EXAMINATION ANSWER MAY BE REMOVED FROM THE ASSIGNED TESTING ROOM FOR ANY REASON OTHER THAN GOING DIRECTLY TO OR FROM A TYPING ROOM.**
4. Students are to use the Blue Books provided unless typing, in which case other normal typing paper may be used. Examination numbers will be placed on each answer page unless a Blue Book is used. If a Blue Book is used, the number may be placed on only the cover of each book used. No student's name or other identifying mark may appear anywhere on the examination answer.
5. This is an "open-book" test. You may use any written materials you have brought with you. You may not ask for or receive information, directly or indirectly, from any other person, or from materials brought to the examination by another person.
6. All copies of the examination will be turned in with the answers. Students may leave as soon as they complete the examination. If you leave early, please be quiet so you don't disturb your classmates.
7. Read the fact situation and questions carefully. Answer only what is asked, and write your answers legibly.
8. Enjoy the Holidays!

SIMPSON CHARGED WITH EX-WIFE'S MURDER FOLLOWING BIZARRE CHASE THROUGH L.A.!

The phone rings. Your boss, the Los Angeles District Attorney, is on the line. She says you are being assigned to the Simpson case, the biggest celebrity murder case of the century. "Don't make me look bad on this one," she warns. You quickly shower and dress, jump in your red Porsche 911 Targa still wet with the morning dew (the car, not you), and roar off, leaving sleepy, annoyed neighbors in your wake. The freeway mile markers fly by like a picket fence as you make the two-hour commute to the office. A large crowd of hungry reporters jams the door to the County Office Building. You mutter "No comment" a hundred times, dodging the greedy, probing glass eyes of a score of minicams as you fight your way to the relative peace of your glassed-in cubicle, a space where you spend 60 hours a week behind a gray metal government desk, surrounded by stacks of files chronicling the lives and deeds of the players in this decade's revival of that timeless American classic, "Crime and Punishment."

You spot it immediately. It's a big, fat thing occupying the center of your coffee-stained desk blotter. You know it's the one; the manila still has that new, crisp look. This file is your life for the next year, your ticket or your albatross - maybe both. Pushing the garden-variety stabbings and drive-bys to the side, you switch on your feeble desk lamp and open THE file. On top of the stack of photos, lab reports, statements, and memos, as if this were just another case like all those others, is the case report, that stilted memorandum dictated by some weary, underpaid homicide detective that cuts to the chase. This is the sow's ear you're supposed to make into a silk purse.

Everyone in LA knows the story of Homer and Marge, his surprising popularity in a weekly sitcom, stories of infidelity to the high school sweetheart he married when he was a struggling actor, rumors of abuse, the front-page divorce last year. But nothing could have prepared America for the shocking news just two weeks ago that Marge had been found stabbed to death outside her beach house in Malibu. Alongside her body was that of a younger man she had been seeing, a foreign student named Taz. A tearful Homer and the kids at Marge's funeral were captured in Kodachrome on the front of every tabloid in the check-out line.

Mike "The Hammer" Manhunter, a crusty homicide detective in his mid-50's, has led the investigation. He was the one who went to Homer's Beverly Hills mansion to give him the news about Marge's death. He was the one who asked Homer what he knew about Taz, whether Homer had been seeing Marge again, and, of course, who could have wanted Marge dead. Homer was completely cooperative; he admitted his marriage had been rocky before the divorce; they fought constantly, he even hit and slapped her a few times. He said he didn't know Taz, didn't know anything about him. He talked about the children coming to live with him.

Hammer told Homer not to leave town; they would want to talk with him again. Almost as an afterthought, Hammer asked, "By the way, where were you last night around 10 when this was goin' down?" Homer's expression changed to one of surprise as the implication of the question settled in. "Home alone," he replied.

The next day Hammer interviewed a neighbor of Marge's who had been running on the beach past her house at 10:07 p.m. He remembered the time exactly because Baywatch had just ended, and he always ran during the 10 o'clock news so he could get back home in time for Letterman. He told Hammer that he had heard loud angry voices outside Marge's house, and

when he looked, there were two men and Marge in a heated discussion. Figuring it was none of his business, the man ran on by, but he was almost sure one of the men was Homer Simpson. He had never met Homer, but he watched the show every week and he knew Marge was Homer's ex.

Late that evening, Hammer got the preliminary forensic report on the evidence they had found at the crime scene. Some of the blood drops were type AB, the same as Homer's. The two victims were both type O. A bloody footprint at the scene was identified as the same size and type shoe often worn by Homer, a very expensive, and relatively rare, designer athletic shoe.

The next morning, Hammer received a phone call from a woman who wouldn't give her name. She claimed to have been friends with Marge and Homer, and she said that Homer was insanely jealous, even after the divorce. The caller told Hammer that Taz and Marge had met when Taz was hired to do lawn work at the Simpson estate. In a fit of jealous rage, Homer had threatened Marge with a hunting knife and fired Taz. After the divorce, Marge began seeing Taz socially, but the caller couldn't say whether Homer knew about the relationship. Homer had said, however, that if he couldn't have Marge, no one could.

Based on this information, Detective Hammer prepared an affidavit and sought a combination search and arrest warrant. The local justice of the peace issued a search warrant to search Homer's house for the athletic shoes and the hunting knife, and to obtain a blood sample from Homer for DNA testing. The warrant also authorized the arrest of Homer Simpson for the murders of Marge Simpson and Taz DeVille. Hammer called Homer and told him there was a warrant for his arrest, and that Hammer was on his way to Simpson's house. He didn't say anything about searching the house.

Before Hammer could get to Homer's, he received a radio call that patrol officers were in

pursuit of Simpson's stretch limo on Airport Freeway. As eight squad cars followed the gleaming white limo, and the whole country watched on television, Homer threw a package from the car. One of the officers stopped and retrieved it while the rest followed Homer back to his own driveway where he stopped the car and surrendered. The package contained a hunting knife.

Homer was handcuffed, read his *Miranda* warnings, and placed in the back of a squad car parked outside his house. The police held him there while they thoroughly searched the house and limo. Inside the house, they found the athletic shoes in a closet, and in a desk drawer they found a note in an envelope in Homer's handwriting that said, "Please forgive me for what I did to Marge. I just couldn't stand to see her with that scum." Under the front seat of the limo, the police found a bloody rag.

At his bail hearing, Homer said he wanted his lawyer, Effie Leigh Bailey, to represent him in the case. The judge set bail at two million dollars and ordered Homer placed in a comfortable cell to await trial. Shortly after he had made himself comfortable in his new home, Homer was visited by "The Hammer." Hammer again read Homer his *Miranda* warnings and asked if he would answer a few questions. Homer said, "Well, let me try to get Bailey on the phone." After learning that his lawyer was appearing on *Oprah* and wouldn't be available until the next day, Homer told Hammer, "I've got nothing to hide. Let's get this over."

Hammer started by saying he knew Homer had lied to him; that he knew Taz had worked for the Simpson's and Homer knew who he was. This caught Homer by surprise, as did Hammer's assertion that he could charge Simpson with felony perjury for lying to him. You cringe when you read this because you know there's no perjury case unless Homer was lying

under oath. The report then related that Simpson broke down and started crying, saying "I never meant to do it." When Hammer asked, "Do what?", Homer seemed to come to his senses and refused to answer any more questions.

Later that day, Simpson was put in a lineup with some other inhabitants of the jail. The neighbor-jogger-witness picked Simpson as the man he had seen at Marge's house on the night of the murder. When Effie Bailey heard what had happened, she hit the roof, but it didn't keep the grand jury from indicting Homer.

Now you are facing a pretrial suppression hearing. Effie has moved to suppress the following:

1. Homer's statement to Hammer at their first meeting that he "didn't know Taz; didn't know anything about him;"
2. the pretrial lineup identification of Homer by the neighborhood jogger (she also has filed a motion in limine to prevent the State from eliciting an in-court identification by the witness);
3. the hunting knife;
4. the athletic shoes;
5. the note found in the desk drawer in the house;
6. the bloody rag; and
7. Homer's statement, "I never meant to do it."

Discuss the arguments you anticipate Effie Bailey to make regarding each of these pieces of evidence, the arguments you would make to try to defeat her motions, the probable ruling on each, and the reasons for the rulings.