GENERAL INSTRUCTIONS

The exam is lengthy, particularly the hypothetical. Take note of the point value of each section when budgeting your time. The basis of your analysis should be Federal Constitutional law, with Massachusetts Constitutional law included where applicable and as contrast or comparison.

IDENTIFY YOURSELF BY SOCIAL SECURITY NUMBER ONLY.

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

Answer ALL FOUR questions. Be concise. You may, if you wish, use outline form where appropriate to answer, but do not neglect to discuss the key facts and the law and to conclude.

SECTION II: 70 POINTS

Follow the fact pattern isolating the issues, discussing the applicable facts, defining the law and concluding in the classic issue hypothetical. Answer in essay form.
SECTION I
30 POINTS
ANSWER ALL FOUR QUESTIONS

1. Officer Gil Gruesome is investigating a particularly vicious random attack on a pedestrian, Stumbles. Stumbles was not able to get a good look at his assailant, but told police that he was, eventually, able to shoot his attacker in the arm with a pellet from his highly distinctive antique pellet gun.

   Officer Gruesome, based on the statement of a distant eyewitness, arrests a local hoodlum, Cookie. Cookie is in custody on an unrelated charge. Gruesome wants to have the jail physician, Doctor Yess, extract the pellet to prove that Cookie is the assailant.

   Officer Gruesome approaches Judge Jingles and seeks an order from him permitting a surgical extraction of the bullet.

   Is such an order possible? If so, what is the standard for allowing such a procedure? What would be the analysis?

2. Romey and Julie are married. Julie is unaware that Romey maintains a collection of shrunken heads in the living room closet, a souvenir from his single days. Officer Hipster, based on information from a drunken friend, who has an unfortunate mental health history, knocks at the Romey-Julie residence door located at 55 Capulot Way.

   The door is opened by Romey, who is standing with Julie. Hipster asks permission to search the premises. Julie states, “Ya, go ahead.” Romey says, “No way!” Hipster enters, finds the “collection” and arrests Romey for violation of a local law regarding the storage of human remains.

   Romey’s lawyer seeks to have the evidence suppressed.

   Will an examination of the information which led Hipster to knock at the door be fruitful for the defense, or not?

   Will the evidence be suppressed? Why or why not?

   Would the answer be the same if the facts were that only Julie answered the door and allowed Hipster entry while Romey was at work?

3. What is the Doctrine of Incorporation? What is incorporated into what? How? What is not incorporated? What are the theories of incorporation?

4. Flash is suspected of setting his home on fire, in violation of a local “arson” statute, to collect the insurance. The arson squad, which is led by Detective Waters, arrives on the scene during the extinguishing of the fire. The “squad” remains there for a few hours, examining the basement area where it appears the fire started. Tired, the squad goes home and returns the following day and finds a gas can during their search of the upstairs bedroom.

   Will the gas can be admissible against Flash? Why or why not?
SECTION II
70 POINTS
ISSUE HYPOTHETICAL

Goofbay Harbor is a picturesque, quintessentially beautiful New England seaside town perched on the shore of the Atlantic Ocean in the state of Confusion, the fifty-first state in the Union. The cobblestoned streets are lined with old sea captains’ homes and million dollar sailing yachts bob in the famed harbor. Despite the idyllic appearance, Goofbay, which is near the great capital city of Beantown, is a prime location for the drug trade.

Chief Brownshoes of the Goofbay Police, a large amiable fellow, is under great pressure from the town selectmen to assure that Goofbay remains as pure as its external appearance. To that end, the chief assembled a police force which employs three experienced drug investigators, Deputies Dredge, Seagrass and Dune.

One area of Goofbay, Holy Hill, is considered the center of drug activity. Dredge and Seagrass concoct a plan. The two set up a “drunk driving roadblock” in the middle of Holy Hill. Some ten officers spread out. The guidelines for the roadblock prescribe that the officers stop every vehicle and direct any driver exhibiting signs of alcohol consumption to a nearby parking lot for further investigation. Those found to be under the influence are to be arrested.

As ten p.m. rolls around, the roadblock is activated. The first driver who approaches the roadblock is Cook, in his classic MG auto. Cook pulls his vehicle to the curb a few feet before reaching Deputy Sandpiper, who is assisting in the roadblock. Cook jumps from his car and runs down the street. Sandpiper gives chase and observes Cook toss a handgun, which is later found to be stolen, from his person. Sandpiper tackles Cook and repeatedly strikes him with his service baton breaking his nose. Cook, after being cuffed, exclaims, “I stole the gun but Queeg used it to kill Halsey. Halsey was moving in on our heroin turf.” Sandpiper retrieves the gun and Cook is transported to the police station. During the ride to the station it becomes apparent that Cook is drunk. Cook’s MG is searched by Deputy Dredge and he finds, in the trunk, a dried puddle of what eventually is determined to be the blood of Halsey.

Based on the new information, Chief Brownshoes is called. Deputy Dredge explains the events to the Chief. Meanwhile, Deputy Seagrass observes Morgan, a known drug user, in the area of the roadblock. Seagrass sees Morgan approach Bluebeard, a convicted heroin dealer. The two embrace. Deputy Seagrass approaches the two and says, “Hey, boys, what’s up?” Morgan responds, “Just out of rehab, but I’m havin’ some problems.” At that point, Seagrass pats the clothing of Bluebeard and feels a bulge in Bluebeard’s pocket which he immediately recognizes as a large bag of marijuana. Seagrass removes the bag and arrests Bluebeard, placing him in the cruiser.

Deputy Seagrass says to Bluebeard, “Blue, ya don’t have to say anything, but if you do it could go against you. We can call your lawyer, Jabber, but if you haven’t got the dough to pay him, we’ll find someone for you.” Bluebeard says nothing. Seagrass asks, “What do ya know?” Bluebeard says, “I bought the grass from Halsey’s wife, Happy. She’s still runnin’ the family business. She just sold me the bag over at the Crabby Clam Tavern. She’s probably still there.”
Bluebeard is taken to the station. Jabber, who became aware of Bluebeard’s arrest, calls the police station and asks to speak to his client. Unfortunately, before the call can be put through, the dispatcher inadvertently disconnects Jabber. Jabber, engrossed in a DVD of “Moby Dick,” forgets to call back.

At that moment, the Chief completes his affidavit in support of a proposed search warrant for the Queeg residence, located at 45 Tiller Way. The chief includes the information from Cook, naming him, describing the gun’s use, and the attribution of Halsey’s cause of death to Queeg. Prior to applying for the search warrant, the Chief drives over to Tiller Way. Queeg’s residence is in darkness. The Chief, a former C.I.A. operative, picks the lock to the house and goes inside. There he sees, in the laundry area, a coat with the name “Queeg” on it. The coat is covered in blood. The Chief leaves the same way he arrived, leaving no trace.

The Chief then goes to visit Magistrate Megalith. Megalith, as is known to the Chief, is under investigation by the Goofbay Police for forging his wife’s name on a boat purchase agreement. Megalith reviews the affidavit and says to the Chief, “Well, it’s not great Chief, but I’d do anything for the Goofbay Police.” Megalith signs the warrant to permit the search of 44 Tiller Way. He also permits a No-Knock entry by checking the applicable box and allows, similarly, a nighttime execution.

The police arrive at Queeg’s house. They are accompanied by a local news camera crew, which includes local reporter, Glamour. At that instant, Queeg is observed to be walking towards the house. Detective Seagrass runs and grabs Queeg before he enters the house. Seagrass says, “You don’t mind if we search the house, do ya?” Queeg responds, “No. What’s the difference now?” At that point, the Chief approaches Queeg and shows him the warrant. The camera crew gets it all on film, Glamour providing the narration.

The search discovers the bloody clothing, which is taken. The police also take a scale model of the Mayflower, which they think might be stolen from the Goofbay Museum.

Meanwhile, Deputy Dune, dressed in plain clothes, goes to the area of the Crabby Clam. Dune, using satellite technology available to the Chief from his spy days, establishes the position of the patrons inside the bar. He also uses a large electronic “ear” to listen to conversations in the bar. He locates Ms. Halsey after hearing her say, “My husband may be dead, but business must go on.” Dune enters the bar and speaks to Ms. Halsey who sells him some marijuana. Dune writes out an affidavit including the information he obtained.

Dune goes back to Megalith, obtains a search warrant for the Crabby Clam, and returns. Dune arrests Ms. Halsey. A search of her person reveals a Roman coin recently stolen from the Goofbay Museum. A large stash of marijuana is taken from behind the bar and the bartender, Skip is arrested. Also, as a result of a search, Legless, a customer, is arrested for possession of fish eggs, a local ordinance which is arrestable but punishable only by a fine.

Queeg, who is under arrest for murder is arraigned before Judge Jumpy. Queeg is appointed counsel, Leapin. Queeg is remanded to custody. During the ride to the jail, Deputy Dredge, who accompanies him, states, “Halsey deserved what he got. Whoever killed him should get a medal.” Queeg then stated, “Pin it right here.”
At that moment a photo of Queeg is presented to Specs, an eyewitness to the murder by the Chief. Specs identifies Queeg as the shooter of Halsey. The parties are charged as follows:

**COOK:**
1. MURDER (HALSEY).
2. POSSESSION STOLEN GUN

**QUEEG:**
1. MURDER (HALSEY).
2. POSSESSION STOLEN GOODS (MAYFLOWER MODEL)

**HAPPY HALSEY**
1. DISTRIBUTION OF MARIJUANA
2. POSSESSION STOLEN GOODS (COIN)

**BLUEBEARD**
1. POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

**SKIP**
1. POSSESSION WITH INTENT TO DISTRIBUTE

**LEGLESS**
1. VIOLATION LOCAL ORDINANCE (FISH EGG POSSESSION).

PLEASE DISCUSS WHAT, IF ANY, CONSTITUTIONAL ISSUES ARE RAISED. WHAT EVIDENCE WILL BE AVAILABLE OR EXCLUDED AS AGAINST THE PARTIES AS A RESULT? WHY OR WHY NOT?

REMEMBER, THE BASIS OF YOUR ANSWER SHOULD BE FEDERAL CONSTITUTIONAL LAW, USING MASSACHUSETTS CONSTITUTIONAL LAW AS CONTRAST.

REMEMBER ‘IRAAC.’