

## **Narrative Answer Questions [total weight is two-thirds of the examination]**

This section contains three (3) questions. The weight of each is stated below.

### **Question 1 [one-third (~33.33 percent) of the narrative answer portion of the examination]**

You have agreed to give a presentation on the Constitution of the United States to new Columbia police officers. (Someone else will discuss the Missouri Constitution another day; you should ignore it.) Before you even begin, the rookies begin asking questions.

One asks: “Let’s say I’m walking the beat in a tough neighborhood, and I see a teenager whose outfit just screams ‘Gang Member!’ Knowing that most gang members in this city carry illegal guns, may I arrest the person? If not, what can I do to protect the public?”

Before you can answer, a second officer asks: “The other day my partner and I were driving around in our squad car, and I flipped on the lights and sirens for fun. Before my partner could even start complaining, we saw someone sitting on the sidewalk look at us, get up, and start running. My partner turned the car to follow, and I jumped out and tackled the suspect. Was that legal?”

Finally someone cuts off the questions and provides some time for you to answer the two questions.

What do you say?

(Note that the officers want answers in plain English. You may mention cases if you wish, but don’t expect the officers to have read them or to look them up after you leave.)

**Question 2 [one-half (50 percent) of the narrative answer portion of the examination]**

Officers Beta and Zeta suspect Wayne White of participation in a conspiracy to commit tax fraud. They have some evidence but aren't sure it's enough to get a search warrant for White's home and office. To solve their problem, they "manufacture" (that is, they make up) some additional evidence. After preparing an affidavit containing the legitimate and manufactured evidence, Beta and Zeta present it to a magistrate on Monday, who issues a warrant to search White's home and office for relevant papers. On Tuesday, Beta and Zeta give the warrant to Officer Omicron, who was recently transferred to their anti-tax fraud unit from another department. Knowing nothing of Beta and Zeta's misbehavior with the affidavit, Omicron heads out to execute the warrant.

A few minutes before Omicron arrives at White's house, Betty Black knocks on the door. White opens the door, and Black asks for directions to the nearest vegan restaurant. Not knowing of any, White invites Black to come inside and use his computer to look up a restaurant.

Omicron then arrives at the house. He presents his warrant and orders White and Black to go outside. Seeing a suspicious bulge in Black's shirt, Omicron pats her down and finds an illegal pistol. Omicron arrests Black, recites the warnings on his "*Miranda* card," and puts her in his squad car.

Omicron then searches White's house and finds evidence of tax fraud in a filing cabinet marked "Tax Information." Omicron arrests White, recites the warnings on his "*Miranda* card," and puts White in his squad car next to Black.

Upon arrival at the station at 6 p.m., White and Black are processed and separated.

At 7 p.m., Officers Beta and Zeta attempt to question White, who immediately says, "Get out of here. I don't have to talk to you, and I won't." The officers leave.

Officers Beta and Zeta next try their luck with Black, who immediately says, "Get out of here. I want my lawyer." The officers leave.

Wednesday morning, White is taken to an interrogation room, where Officers Beta and Zeta are waiting. After reading White's *Miranda* warnings again, Beta says (falsely) that a confederate has identified White as the ringleader of the tax fraud scheme. Zeta says that if White wants to make a deal with the government, now is the time. White confesses to his role in the fraud scheme.

Meanwhile, officers have sent Randy Rat, a prisoner working undercover with the government, to Black's cell. Rat begins a conversation with Black, who eventually confesses that she illegally modified the pistol Omicron found on her person.

[Question 2 continues on next page.]

[Question 2, continued from previous page.]

White and Black are both taken before a magistrate Wednesday afternoon. White (charged with fraud) is freed on bail, and Black (charged with illegal gun possession and modification) is remanded to custody.

On Thursday morning, police again send Randy Rat to Black's cell. During Rat's visit, Black provides more details of her involvement in a massive scheme to modify guns illegally and then sell them.

On Sunday afternoon, Officers Beta and Zeta visit White at his home, and White agrees to speak with them. After reading White his *Miranda* warnings, Beta and Zeta obtain additional incriminating admissions.

You are a new prosecutor assigned to the office responsible for the prosecutions of White and Black. Your boss wants a memorandum addressing the following questions:

- (1) At White's trial, may the prosecution offer evidence of the papers found during the Tuesday search of the "Tax Information" cabinet?
- (2) At White's trial, may the prosecution offer evidence of the statements White made to officers Wednesday morning?
- (3) At White's trial, may the prosecution offer evidence of the statements White made to officers Sunday afternoon?
- (4) At Black's trial, may the prosecution offer evidence of the pistol found during the Tuesday pat down?
- (5) At Black's trial, may the prosecution offer evidence of Black's Wednesday morning statements to Rat?
- (6) At Black's trial, may the prosecution offer evidence of Black's Thursday morning statements to Rat?

What do you write in the memo?

**Question 3 [one-sixth (~16.67 percent) of the narrative answer portion of the examination]**

You have recently joined the legislative staff of a state senator. Your boss chairs the committee with jurisdiction over public schools. Your boss has sent you the following e-mail message:

“I’ve been reading about school searches—searches of students and their property on school grounds. Does the federal constitutional law governing searches by public school teachers and administrators make sense? If not, is there anything the state legislature can do about it?”

What do you write in reply?

(You may assume that your state has no relevant law already on the books.)

**[END OF NARRATIVE ANSWER SECTION.]**

**[MULTIPLE CHOICE QUESTIONS BEGIN ON NEXT PAGE.]**