As you know (syllabus §8), both the midterm and the final exam will include multiple choice questions. You can expect that the instructions will be similar to those below, and that the kinds of questions asked will be similar to those below.

I. Instructions

_Circle the letter designating the correct answer to each of the following questions._ (On the midterm and final exam, you will mark your answers on a ScanTron answer sheet instead.) _Read all of the alternatives before choosing and marking your answer. Pick the best answer when you find more than one to be possible. Your score is based on your total number of correct answers. No points will be awarded for incorrect answers, but likewise they will not be penalized._ Your multiple choice questions are closed-book and closed-notes.

II. Kinds of multiple choice questions

A. You can expect questions about concepts covered in Schauer’s _Thinking Like a Lawyer_, and concepts that we draw upon in our class discussions and exercises. Here are two examples of such questions.

1. In the X/Y (formal) formulation of a question of law, X is supplied by:
   a. The language of some legal rule.
   b. A dictionary.
   c. **Some description of the facts**.
   d. Ordinary usage.
   e. Some description of the consequences of a holding.

2. In _Thinking Like a Lawyer_, Prof. Schauer asks whether thinking like a lawyer is truly distinctive, that is, different from other forms of reasoning typical in life and in governmental decision-making. Which of the following answers to that question does Prof. Schauer regard as the **most plausible**?
   a. Legal reasoning is distinctive because it is critical reasoning, with an eye to the logical structure of arguments, and alert to the evidence needed to support claims.
   b. Legal reasoning differs from moral and political reasoning because law is a closed, self-contained body of rules, analogous to the rules of a game such as chess.
   c. As an authority-based mode of reasoning, legal reasoning differs from most other modes of reasoning in social life.
   d. Law’s claim to a distinctive form of reasoning is false.
   e. **Adhering to the idea of the rule of law, which requires generality, law and legal reasoning are especially and distinctively concerned with general rules.**
B. You can expect questions that track our class discussion of the main cases. Such questions would not be about details, such as who wrote the majority opinion in Smith, or which state supreme court decided Blanchflower. Instead, the questions will explore legal reasoning. Here are two examples of such questions.

3. At T1, the Supreme Court decided Smith. At T2, Mr. Watson traded illegal drugs for a firearm. He was convicted of a drug trafficking offense and his sentence was enhanced under the federal sentence enhancement statute. The Supreme Court has agreed to decide whether Watson’s conduct counts as “using a firearm” within the meaning of the sentence enhancement statute. You represent Watson (you are part of the legal team defending him) and you are preparing for oral argument before the Supreme Court. In your argument, you plan to:

   a. Argue that the holding in the Smith, stated at the correct level of generality, does not cover Watson’s conduct.
   b. Urge the Court to assign more weight to the sentence enhancement statute’s general intent than to the ordinary meaning of “uses a firearm.”
   c. Argue that in ordinary language, one who pays $1.00 for a cup of coffee has “used” the dollar in the course of the transaction, but has not “used” the coffee.
   d. Rely, as your strongest argument, on the historical fact that when Congress enacted the statute, it never thought of the fact pattern in which defendant trades illegal drugs for a firearm.
   e. (a) and (c).

4. In Garratt v. Dailey, the Washington State Supreme Court decided that:

   a. When Brian moved the chair, he knew to a substantial certainty that Ruth would attempt to sit where the chair had been.
   b. A minor can be liable for battery only if he or she has an estate from which he or she could pay an award of damages.
   c. Knowledge to a substantial certainty that a harmful contact will result, counts as an intent to bring about a harmful contact, and thus satisfies the intent requirement for battery.
   d. Like having an intention to do a particular act, knowing that one is doing a particular act satisfies the volitional act requirement for battery.
   e. The case should be remanded to the trial court, with instructions to determine whether Brian had a purpose to harm Ruth or play a prank on her, when he moved the chair.
C. You can expect short fact-patterns followed by questions that ask you to apply legal reasoning to the fact-patterns. Here are two examples of such questions.

5. At T1, in a common-law tort case, the state Supreme Court affirmed a judgment imposing liability on a defendant who unlawfully sold liquor to a minor, and ordering the defendant to compensate those injured by the minor’s alcohol-related acts. At T2, a trial court in that state must decide whether one who unlawfully sells a gun to an adult who uses that gun in an armed robbery is liable in tort to those injured in the robbery. Within Ronald Dworkin’s approach to legal reasoning, which of the following best describes the bearing of the decision at T1 on the issue at T2?

a. The decision at T1 has no precedential effect on the issue at T2 because the case at T1 involved liquor, not a gun, and a minor, not an adult.
b. The decision at T1 controls the decision at T2 under the principle of stare decisis.
c. The decision at T1 has a precedential effect on the issue at T2 only if the court at T1 stated its holding at a high level of generality, in language capable of subsuming both liquor and guns, and both minors and adults, under the same rule.
d. The court at T2 should consider, in light of the goals and principles of tort law, the pattern of case outcomes, and what the court said at T1, what the best justification is for imposing liability on the seller of liquor to the minor, and whether that justification also calls for imposing liability on the seller of the gun to an adult.
e. The decision at T1 has a precedential effect on the issue at T2 only if the judges who handed down the decision at T1 had particular intentions about how their decision should bear on a fact pattern involving the unlawful sale of a gun to an adult who uses that gun in an armed robbery.

6. An ordinance of the City of Gould prohibits “bringing a vehicle into the park.” Ron walked to the park, pushing Junior in his stroller (baby buggy). When he got to the park, and continued pushing Junior in his stroller within the park, Gould issued a citation to Ron and charged him with violating the ordinance. Which of the following has the least bearing on a reasonable trial court’s analysis of the question of law in the stroller case?

a. Whether violation of the ordinance is a crime (that is, whether the violator faces criminal liability).
b. Whether the background justification of the ordinance would be served by treating pushing a baby in a stroller as bringing a vehicle.
c. Whether the background justification of the ordinance, together with the background justification for having parks, would be served by treating pushing a baby in a stroller in a park as an instance of bringing a vehicle into the park.
d. Whether Ron knew, when he entered the park, that there is a Gould ordinance that prohibits “bringing a vehicle into the park.”
e. Whether, in ordinary language, a stroller could be described as a “vehicle.”