

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST-YEAR EXAMINATIONS, 2002

EVIDENCE AND FORENSIC MEDICINE

(THURSDAY, AUGUST 8, 2002)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer QUESTION ONE and FOUR others.
- (c) Answer QUESTION 1 on a separate answer booklet provided.
- (d) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
- (e) It is unnecessary to transcribe the questions you attempt.
- (f) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

FORENSIC MEDICINE

COMPULSORY

QUESTION 1

- (i) What is the difference between a Laceration and an Incised wound?
- (ii) In the course of a murder trial, the defendant in his evidence, stated that during a struggle for the handgun the weapon was accidentally discharged, hitting the deceased in the left chest. In cross-examination by the prosecution, the defendant stated that the weapon at the time it was discharged, was about 18 inches from the deceased. The doctor in his evidence stated that an entrance gunshot wound was noted on the left anterior chest of the deceased and this wound was surrounded by a circular patterned abrasion. Gunpowder residue was also noted in the subcutaneous tissues of the wound.
- (a) In your opinion, what caused the circular patterned abrasion?
- (b) What was the range of fire?
- (c) Give a brief opinion as to whether the doctor's evidence correlates with the defendant's evidence.
- (iii) With regard to the medical examination of a rape victim, name two test samples usually taken for forensic laboratory investigation. State briefly what is the legal significance of these tests.
- (iv) State three causes of asphyxia.

PART B

LAW OF EVIDENCE

QUESTION 2

- (a) While Tom and Peter, both licensed firearm holders, are practising at the local shooting range Tom is injured by a bullet from Peter's gun.

Peter is charged for wounding and his defence is accident. The judge in summing up to the jury states –

“Members of the jury, the accused has raised the defence of accident and as such he must satisfy you that this is how the complainant was injured. Only then can you acquit.”

Advise on the correctness of this direction.

- (b) A statute in your jurisdiction provides that it is an offence “to use a motor vehicle without the consent of the owner.”

Advise on the burden and standard of proof in a prosecution for this offence.

- (c) Distinguish between the admissibility and weight of evidence.
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QUESTION 3

- (a) Distinguish between the competence and compellability of witnesses.
- (b) Summarize the law in your jurisdiction in criminal cases as to –
- (i) the competence of young children as witnesses;
 - (ii) the competence of mentally defective persons;
 - (iii) the compellability of spouses.
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QUESTION 4

- (a) Roy, a prosecution witness in a murder case, has given a statement to the police about the murder.

Advise and discuss whether the prosecution can –

- (i) have Roy refresh his memory from the statement before giving evidence;
- (ii) adduce evidence of the contents of the statement at trial to rebut a suggestion by the defence that Roy is untruthful;
- (iii) adduce evidence of the contents of the statement at trial to rebut a suggestion by the defence that Roy's evidence is a recent concoction.

- (b) Explain the purpose and limits of re-examination.
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QUESTION 5

- (a) Cyrus is on summary trial in the Magistrate's Court.

Prior to being charged, he was called from his desk at work into a room with the investigating officer and his employer. They told him that they intended to get to the bottom of the irregularities in the office, and question him for as long as it took to do so. They then proceeded to question him for several hours when eventually Cyrus gave a written confession.

Advise Cyrus as to whether –

- (i) he has a basis to challenge the admissibility of the confession, and
 - (ii) if Cyrus challenges the admissibility of the confession at trial whether a voir dire is necessary for this purpose.
- (b) Patrick is on trial for possession of cocaine. The cocaine was recovered from Patrick's house when a police party, without a search warrant, forcibly entered his house.

Patrick's attorney-at-law submits that the judge ought to exercise his discretion to exclude the evidence of the cocaine find because of the illegal entry and search of Patrick's house.

Discuss whether this submission has any merit.

QUESTION 6

Describe the following –

- (a) the privilege against self incrimination,
 - (b) the rules of legal professional privilege as they relate to communication between attorneys-at-law and their clients and communications between attorneys-at-law or their clients and third parties,
 - (c) the 'without prejudice' rule.
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QUESTION 7

- (a) Junior, who has no previous convictions, is on trial for murder and in the course of giving evidence in his defence asserts his good character.
 - (i) What directions, if any, should the trial judge give the jury in relation to this.
 - (ii) Would it make any difference to your answer to (i) above that although Junior has no previous convictions the evidence at his trial shows that he is guilty of another offence for which he has not been charged?
- (b) Assume on the facts of (a) above that Junior has a previous conviction for the unrelated offence of forgery. What course of action, if any, is open to the prosecution when John gives evidence of his good character?

QUESTION 8

- (a) Lyle is on trial for burglary of a convenience store. In the course of his investigations the investigating officer reviewed the security video camera at the store and on that basis identified Lyle as the burglar and charged him for the offence.

The security videotape has since been lost but the investigating officer intends to testify to what he saw on it.

Advise whether the investigating officer's evidence is admissible.

- (b) Advise on the admissibility of -

evidence from June, who is on trial for the murder of Mary, that Mary boasted that she had an affair with June's husband and it was then that she struck the fatal blow.