

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2006**

EVIDENCE AND FORENSIC MEDICINE

(THURSDAY, AUGUST 3 , 2006)

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

- (a) What is meant by the term 'positional asphyxia'?
 - (b) Explain why the site of a contusion is not indicative of, point of impact.
 - (c) Discuss the use of insects in establishing time of death of a found body.
 - (d) Discuss wound characteristics that would enable the Forensic Pathologist to distinguish an entry gunshot wound from an exit gunshot wound.
 - (e) A 26 year old man recently convicted of strangling his wife to death is found in his prison cell with stab wounds to his body.
 - (i) Discuss post mortem findings that may be used to establish manner of death as suicide or homicide.
 - (ii) Comment on the statement made by the Forensic Pathologist at the Coroner's Inquest investigating the circumstances of the prisoner's death that the depth of the stab wounds are not reflective of the length of the instrument used in inflicting the wounds.
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PART B
EVIDENCE

QUESTION 2

What burden(s) and standard(s) of proof, if any, apply in the following circumstances?

- i) Roger is injured by a falling brick when walking by a building being constructed by Best Construction Ltd. He sues for negligence.
 - ii) Arlene is charged for dangerous driving. She raises the defence of automatism.
 - iii) A statute which provides "Any person who sells liquor, without a license, the proof of the existence of which shall be on the person conducting such a sale, shall be guilty of an offence".
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QUESTION 3

Keith is a taxi driver charged for the rape of Ann. The allegations are that shortly after picking up Ann who did not know him before, he drove to a secluded area and raped her. His defence is mistaken identity.

- a) Advise on the admissibility and evidential value, if any, of evidence from Ann that after the alleged rape she immediately fled to the nearest home where she reported the rape to the occupant John. John will also testify to what she said.
- b) Are any special directions required?

QUESTION 4

Roger is charged on an indictment for the offence of burglary and larceny. Constable Brown, the investigating officer, cannot recall in the course of the trial the items allegedly stolen although he had recorded this in his notebook.

Advise on the following:

- a) May Constable Brown refresh his memory from his notebook in court and if so, in what circumstances?
 - b) If Constable Brown can refresh his memory, is the defence counsel entitled to inspect the notebook and cross-examine on its contents? If so, what should counsel bear in mind?
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QUESTION 5

Bill is charged for burglary and larceny and is taken into custody by Sergeant Dennis.

Shortly after being charged, and before seeing his attorney-at-law, Sergeant Dennis approached Bill in his cell and advised him to plead guilty. He further told Bill that “the court is far more lenient with property offences when offenders don’t waste the court’s time in lengthy trials”. Bill then confesses to Sergeant Dennis.

- a) Advise on the principles of admissibility relevant to Bill’s confession.
- b) If Bill disputes the admissibility of the confession at the trial before a jury advise on the procedure to determine its admissibility.

QUESTION 6

Jack is charged for the wounding of his girlfriend Jane and is being tried before a jury.

Jane testifies for the prosecution that she was wounded when she fell during a quarrel between them and she was accidentally wounded then. Jane had previously given a statement to the police to the effect that Jack had punched her causing the wound.

The prosecutor successfully applies to treat Jane as hostile and when she was confronted with the police statement she admitted that she told the police that Jack punched her and that the statement was true. Other witnesses to the incident testify for the prosecution.

The investigating officer Constable Yorke testified that Jack originally denied having a quarrel with his girlfriend but admitted this to him later.

Jack's defence is accident and at trial in giving evidence he admits his lie to Constable Yorke but says it was out of fear.

- a) Is the trial judge obliged to direct the jury that Jane's evidence is unreliable and valueless?
 - b) Are special directions required in relation to Jack's lie to Constable Yorke?
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QUESTION 7

Jacks Roofing Co. Ltd, a roofing tile manufacturer, has been sued by Pat in the High/Supreme Court. Pat alleges that the company supplied her with defective tiles.

The suit has reached the stage of disclosure. Advise Jacks Roofing Ltd whether the following are subject to disclosure and/or production at trial.

- a) Test reports by the company's employees on the tiles delivered to Pat just prior to delivery.
 - b) A memorandum from the Managing Director of the company to the Financial Controller after Pat complained to the company. The Managing Director requested the Financial Controller to set aside funds in the event that a suit was filed by Pat because it was likely that the company would be liable.
 - c) Advice to the company from their attorneys-at-law advising that the suit be settled.
 - d) Correspondence between the company's attorneys-at-law and Pat's attorney-at-law attempting to negotiate settlement which failed.
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QUESTION 8

While on mobile patrol, Constable John sees a crowd gathered on the street and hears gunshots in that vicinity. He rushes to the scene and sees a lady seriously wounded and lying on the street. He also sees a man fleeing from the scene. Members of the crowd at the time point out the man as the estranged husband of the deceased who shot her during a quarrel.

The lady in her extremely distressed condition also tells Constable John that “I am Mary it was Roger, my husband who did this. Who will take care of my children now!?” She died within minutes.

Constable John tracked down Roger subsequently who when confronted with the allegation against him said “I was not there and did nothing”. Constable John is unable to obtain statements from any member of the crowd through fear on their part.

- a) Advise on the admissibility of –
 - i) Constable John’s evidence as to what the members of the crowd said;
 - ii) What the deceased Mary said?
 - b) What is the evidential value, if any, of Roger’s verbal statement to Constable John when confronted?
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