

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, JULY 2020**

LAW OF EVIDENCE AND FORENSIC MEDICINE

WEDNESDAY, JULY 8, 2020

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, not their names, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering any Part, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**
- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year I JULY 2020 EXAMINATIONS, LAW OF EVIDENCE AND FORENSIC MEDICINE DROP BOX on TWEN** by **Thursday, July 9, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

(k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:

- Go to ***www.lawschool.westlaw.com***.
- Log in using your username and password credentials and select the **TWEN** button.
- Click on the link for “**Assignments and Quizzes**” located on the left-hand side of the navigation screen.
- Select the relevant examination and the examination drop box as follows:
 - Year I students with Examination ID numbers between 1100 -1176 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1176***”.
 - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1177-1252***”.
 - Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1253-1326***”.

Answer both Part A and B

PART A

FORENSIC MEDICINE

While a group of Norman Manley Law School students were hiking in the Blue Mountain range, they stumbled upon the deceased body of a female who appeared to be in her late teens.

(a) Her lower body was nude and there were abrasions to the proximal thighs on the medial aspect, as well as on her genitalia.

Explain the process of abrasion formation and indicate, based on the location, the type of crime suspected. Outline the importance of the different types of specimen that should be collected as trace evidence.

(b) The body was noted to be cold and stiff, and the sclera was noted to be cloudy.

Explain the process related to the above findings and detail how these findings can be used to estimate the time of death prior to the body being found.

- (c) The body was found face down with the face submerged in a deep pool of water.
Explain how death could have occurred by the face being submerged in water, yet there is no fluid found in the lungs at post mortem.
- (d) Two pieces of dreadlocks were found tightly clutched in her right hand. The Body was found to have low-cut processed hair.
Explain the phenomenon described above and how, if at all, does it point to the cause of her death and finding a possible offender.
- (e) There were two gunshot wounds found at the autopsy: one to the anterior abdomen in the midline and the other to the back on the posterior lateral aspect on the right side. Both wounds were noted to have a circumferential margin of abrasion, but X-rays showed no bullets in the body. A bullet was found between the body and the hard rocky surface.
Explain the phenomenon above and account for how it could have occurred in both wounds.
- (f) There were horizontal, patterned, almost circumferential abrasions to her neck anteriorly and she was also noted to have petechial haemorrhage.
Explain the cause of this type of injury and how this could result in causing someone to die.

Note:

Your answer to this Part should not exceed **1500 WORDS**.

PART B

EVIDENCE

(This Part should be commenced on a new page and titled Part B)

Abel, Barry and Charles were jointly charged for arson. On the same indictment, Charles is also charged for rape and Abel and Barry are charged for aiding and abetting the rape. Their trial is pending and each is separately represented.

The accused men all live in an inner city community called Zinc Gardens which adjoins another inner city community called Tenement Town. Both communities border a busy commercial area.

The prosecution's case is grounded in the statements of three witnesses, Inspector Justice, Mary Innocent and the investigating officer, Sergeant Meticulous.

Inspector Justice is a member of a specialized police department called the Gang Department for the past twelve years. The Gang Department's function is to study and collate information on gangs and Inspector Justice had been assigned to study gangs in the Zinc Gardens and Tenement Town communities. Inspector Justice's knowledge about gangs in the communities is based on his own personal observations, specialized

training and also information contributed by other officers in the department. Members of the department pool the above information in a shared database.

Inspector Justice's credentials, as outlined above, are recorded in his statement. In that statement he also said that Abel, Barry and Charles were members of a gang called the "Fire Gang" which controlled their Zinc Gardens community. The gang's leader was a gangster called "I Don", who was recently shot and killed.

Inspector Justice also said that the adjoining community, Tenement Town, is controlled by a rival gang called the "Diehard Gang". Both gangs amass wealth by extorting businesses in the adjoining commercial area and the sale of illegal drugs. Although both gangs have not been in conflict for sometime there is an understanding that the residents of both communities do not visit the other. There is also a history of retaliation by both gangs against each other if there is an act of "disrespect" or attack on a member of its community from the adjoining community.

Mary Innocent, in her statement, said she was a nursing student who lived alone in the small house in Tenement Town, which had been willed to her by her parents who had since passed. She finances her study through a student loan. She said she knew Abel, Barry and Charles from childhood as they had all attended the same high school in the area. She did not associate herself with them because of their criminal activities and their residence in the adjoining community. She said that Charles made sexual advances to her when they came into contact with each other at a concert. She said she loudly condemned him and I Don for their gang activity and said she had a boyfriend.

Mary went on to say that on the date of the alleged arson and rape about midday Abel, Barry and Charles arrived at her house in a heavily tinted car driven by Abel. They immediately broke and entered the house and Charles forced her into her room where he raped her. After that, each of the men set the house alight and escaped in the car, again driven by Abel. She expressed fear about giving evidence in court.

Sergeant Meticulous gave a statement concerning the arrest and charging of Abel, Barry and Charles and spoke also to Charles's previous criminal record.

When arrested, Abel gave a written statement under caution in which he denied being a member of the Fire Gang. He said that he was a taxi driver and was hired by Barry and Charles to take them to Mary's house. When he arrived there he was told to leave and to return on their call. He was not at the scene throughout the incident and did not know that Barry and Charles intended to commit offences there.

When arrested Barry also gave a written statement under caution. In it he denied he was a member of Fire Gang. He said he knew Charles as they attended the same high school in the community, but they were not friends because Charles became a member of the Fire Gang. He said I Don, the Fire Gang leader, summoned him and Charles to a meeting. In that meeting, I Don said he heard of the "disrespect" by Mary in condemning

him and Charles as gang members. Barry went on to state that I Don ordered both of them to retaliate by burning down Mary's house. I Don threatened to kill him, Barry, and his family, unless the order to burn down Mary's house was carried out. He said Abel was innocent and was hired by Charles and himself to take them to the scene but he, Abel, did not know anything of their intentions.

When arrested, Charles was shown Barry's statement under caution. Charles also gave a written statement under caution. In it he denied being a member of the Fire Gang and having any meeting with I Don. He said Mary was receptive to his advances at the concert. They communicated secretly by text and he agreed to pay for her study at the nursing school. He said that on the day in question, Mary and he were to meet at her house to consummate their secret relationship. Mary told him that her boyfriend had become suspicious, but she did not expect him to visit her as he was on security guard duty. Charles said that he and Barry knew the boyfriend from attending the same high school. Charles further said that he asked Barry to accompany him to lookout for the boyfriend just in case he came to the house. Charles said that Mary said they could exit through the back door if that were to happen.

Charles said that on the day in question after he and Mary had consensual sex the boyfriend arrived unexpectedly. He and Barry were forced to beat a hasty retreat through the back door when Mary's boyfriend pulled his licensed firearm. On fleeing the premises, he clearly heard the boyfriend threatening Mary saying he was going to burn down the house. Mary was begging for forgiveness and begging her boyfriend not to burn down the house. He said that on fleeing the house he looked back and saw it ablaze.

Investigations by Sergeant Meticulous revealed that Charles had in the past been charged and tried for rape of three different complainants in his community on three separate occasions and in separate trials. He was acquitted on all three occasions. His defence in each case was that each complainant was in a consensual sexual relationship with him and that he gave financial support to each of them in their university studies. His defence was further to the effect, that on completion of their studies, they falsely accused him of rape.

Assume that at their trial the statements under caution of Abel, Barry and Charles are admitted in evidence on the prosecution's case without objection from either accused. Assume also that they will seek to give evidence in their defence which accords with each of their statements under caution.

Advise on the following, giving reasons:

1. What burden(s), and/or standard of proof, if any, do Abel, Barry and Charles bear as to their defences at trial? Indicate the basis, if any, on which the trial judge should allow Inspector Justice to give evidence that Abel, Barry and Charles were members of the Fire Gang led by I Don and also of that gang's history of retaliation

against persons in the Tenement Town Community? Can he refer to information in the database supplied by other members of the Gang Department?

2. What is the evidential value of Barry's written statement under caution in relation to Abel and Charles? Should the trial judge allow Barry to give evidence at trial as to what I Don told him at the alleged meeting?
3. Assume that Mary gives evidence in examination-in-chief significantly materially different from her statement and unhelpful to the prosecution's case. She is then treated as hostile and is cross-examined by the prosecution to prove inconsistencies between her evidence and the statement. What factors should the trial judge take into account as to how to treat her evidence? Assume instead that Mary gives evidence in accordance with her statement, should the trial judge give a corroboration warning or caution/care warning in her capacity as a complainant in a sexual case?
4. Should the trial judge allow Charles to give evidence of what he allegedly heard Mary and her boyfriend saying as he and Barry allegedly fled the scene? (the boyfriend has not been seen since). Should the prosecution be allowed to lead evidence from the previous complainants and on Charles's defences from his prior rape charges?

Note:

Your answer to this Part should not exceed **3500 WORDS**.

END OF PAPER