



Federation of Law Societies of Canada

National Committee on Accreditation

SAMPLE

**Examination for
Evidence**

Candidate No.: _____

*(To ensure your anonymity, please **DO NOT** include/type your name in any part of your exam)*

TO PROTECT THE INTEGRITY OF THE EXAMINATION PROCESS,
REPRODUCTION OF THIS EXAM IN WHOLE OR IN PART
BY ANY MEANS IS STRICTLY FORBIDDEN.



SAMPLE

Examination for Evidence

General conditions of NCA online exams:

To help NCA applicants transition to online long form examinations, the NCA now allows an extra hour, or **four (4) hours in total**, for completion of each exam.

NCA exams are open-book. **Only hard copy study materials** will be permitted; you will **NOT** have access to electronic copies of your notes or textbooks.

The examination will be graded on a **pass/fail** basis (50% is a pass).

The contents of the examination, including the exam questions, **must not be disclosed** or discussed with others

If you finish early, you must stay in place, with your computer still locked down, for the full 4 hours. **Failure to follow the proctor's instructions regarding sequestering is a violation of the Candidate Agreement and will result in your exam being disqualified.**

NCA online exams are available through a secure, browser-based platform that locks down your computer. This means the computer cannot be used for any other purpose or to access any other material during the exam.

As you write your exam, a person designated as proctor will check your identification and monitor you **using two cameras**; a web camera on your computer and a camera on a tablet or phone.

For more information concerning the NCA's online exams, including, exam rules, technical requirements and the candidate agreement please see the links below:

<https://nca.legal/exams/online-exam-rules/>
<https://nca.legal/exams/technical-requirements-and-testing-for-online-exams/>
<https://nca.legal/exams/nca-candidate-agreement/>



**Each exam may have its own special instructions,
therefore, it is important for you to read these carefully before starting.**

Instructions specific to this exam:

1. This exam consists **XYX questions** for a total of **100 marks**.
2. Assume that all proffered evidence is relevant and material. No marks will be awarded for any discussion of relevance or materiality.
3. Answer in complete sentences, paying careful regard to the specific instructions provided. Please double-space your answers.
4. **DO NOT USE NON-CANADIAN CASES** in your answer.

This sample exam provides an indication of the style/type of questions that may be asked in each exam. It does not reflect the content or actual format/structure of questions nor their value. Actual exams for a specific subject vary from exam session to exam session.



This sample is a compilation of two exams, therefore the value and the times indicated in this sample would be proportionate to a 6 hour exam. Your actual exam will only be 3 hours and the questions and times will be set appropriately

Please note that these are provided as samples of the types of questions you might see on the evidence exam. Not all types will necessarily appear on all or any exam.



PART A

**30 Multiple Choice Questions (60 marks – 2 marks for each question)
(Suggested time: 100 minutes)**

Answers all MC questions on the pads provided and not in the blue booklet.

If you pick more than one answer, no marks will be assigned. Don't treat this as an essay question, because **marks will be assigned based only on the letter choice**. Marks are not deducted for choosing the wrong answer.

BACKGROUND FACTS

Last summer, Omar Schu, a young Black male in Toronto was shot by a police officer. It occurred at an apartment complex where Schu lived. The police were called to the complex after a shooting involving four men. Schu was not involved in that shooting. The four men were described as White and in their mid-40s. Schu was 16 years old. When he saw the police cars arrive, he fled the scene. He knew that because he was Black he would likely be questioned and possibly held overnight. Constable Fantina ordered him to stop. He didn't listen. He knew he had no legal obligation to stop. According to a witness (Sam), Constable Fantina threatened to shoot Schu if he did not stop. Schu complied. As Schu was putting away his iPhone, he was shot in the chest. Schu died instantly. Following an investigation by the Special Investigations Unit (SIU), Constable Fantina was charged with second degree murder. Sam's statement to the police was videotaped and taken under oath. No warning was given to him about the possibility of charges should he give a false statement. Sam was initially charged with obstruct police in relation to the shooting that led the police to the apartment complex but that charge was withdrawn by the Crown prior to Constable Fantina's trial. As this is a murder charge, Constable Fantina will have a preliminary inquiry and then if committed to stand trial, he will be tried before a jury.

PRELIMINARY INQUIRY

1. Following the calling of evidence at the preliminary inquiry, the Crown asks the judge to order the accused to stand trial on the charge of second degree murder. The defence asks that Constable Fantina be discharged. The preliminary inquiry judge's jurisdiction to grant either order comes from:
 - (a) The common law
 - (b) The *Charter*
 - (c) Section 548(1) of the *Criminal Code*
 - (d) (a) and (c)
 - (e) All of the above



2. The threshold test that the preliminary inquiry judge has to apply is described as follows:
 - (a) The “air of reality” test
 - (b) “Whether or not there is any evidence upon which a reasonable jury properly instructed could return a verdict of guilty”
 - (c) Whether the evidence meets the reasonable doubt threshold
 - (d) Whether the facts speak for themselves
 - (e) All of the above

3. In applying the test described in #2, a preliminary inquiry judge:
 - (a) Cannot weigh the evidence
 - (b) Must assume the direct evidence is true
 - (c) Weigh the circumstantial evidence to ensure that guilt is the most reasonable inference
 - (d) Weigh the circumstantial evidence to ensure that guilt is a reasonable inference
 - (e) (b) and (d)

Constable Fantina is ordered to stand trial on a charge of second degree murder.

PRE-TRIAL APPLICATION

4. Prior to trial, the Crown wants to challenge jurors for cause on the grounds that they may be racially biased and not be able to render an impartial verdict. The defence objects on the grounds that there is no evidence of racial bias in relation to a victim as opposed to an accused. What case will the judge consider in deciding whether to grant the Crown application?
 - (a) *R v Hart*
 - (b) *R v Zundal*
 - (c) *R v Spence*
 - (d) *R v Lyttle*
 - (e) None of the above

TRIAL PROCEEDINGS

5. The first Crown witness is Sam. The following exchange occurs:
 - Q. Good morning Sam.
 - A. Good morning.
 - Q. Can you tell us where you were on the night of July 3, 2012?
 - A. I was finishing a basketball game with some friends.
 - Q. I want to take you to the shooting of the deceased.
 - A. Okay.



- Q. Did you hear anything before the fatal shot was fired?
A. Not that I recall.
Q. Isn't it true that Constable Fantina threatened to kill the deceased?
A. No.
Q. Sam, why are you lying here today?

The defence objects. On what grounds?

- (a) The Crown is violating the rule in Browne and Dunn
(b) The Crown is leading its witness
(c) The Crown is leading inadmissible hearsay evidence
(d) The Crown has failed to comply with section 10 of the CEA
(e) (b) and (d)
6. The relevant case cited by the defence in support of its objection is:
(a) *R v McNeill*
(b) *R v Rose*
(c) *R v Cassibo*
(d) (b) and (c)
(e) None of the above
7. Sam adopts his statement to the police and testifies that he heard Constable Fantina threaten the deceased that he would shoot if he did not stop. The defence objects. Which of these grounds has some merit:
(a) The statement is inadmissible hearsay
(b) The statement is inadmissible opinion evidence
(c) Sam is biased in favour of the Crown and incompetent
(d) The evidence is collateral
(e) None of the above
8. Sam further testifies that Constable Fantina did not hesitate after shooting Schu or express any concern that he had just shot someone. The defence objects to this evidence. The Crown argues that:
(a) The evidence is probative of intent and admissible pursuant to *R v White*
(b) The evidence is an exception to the opinion exclusionary rule
(c) (a) and (b)
(d) The evidence is admissible under the principled approach to hearsay
(e) All of the above



9. In deciding its admissibility, the trial judge will have to engage in the following:
- (a) Inductive reasoning
 - (b) Deductive reasoning
 - (c) Balance its probative value and prejudicial effect
 - (d) (a) and (c)
 - (e) (b) and (c)

10. Sam is cross-examined by the defence:

Q. Sam, isn't it true that you are lying here today?

A. No.

Q. Are you sure?

A. Yes.

Q. Did the Crown agree to withdraw your charge in exchange for your testimony?

The Crown objects that the evidence is collateral. The defence indicates that if the witness answers “no” that it intends to call evidence to contradict the witness. The trial judge will rule with respect to the cross-examination and contradictory evidence:

- (a) The evidence is not collateral
 - (b) The collateral fact rule does not apply to cross-examination
 - (c) The evidence is an exception to the collateral fact rule
 - (d) (a) and (b)
 - (e) (b) and (c)
11. The defence wants to cross-examine Sam on his criminal record which includes possession for drugs, assault and breach of recognizance. The Crown objects and brings a Corbett application. The trial judge rules:
- (a) The application is dismissed as the prejudicial effect of the evidence does not outweigh its probative value
 - (b) The application is dismissed as the prejudicial effect of the evidence does not substantially outweigh its probative value
 - (c) The application is allowed for the convictions for drugs and assault as they are not crimes of dishonesty or involving the administration of justice
 - (d) There is no exclusionary discretion to exclude the criminal record of a Crown witness
 - (e) None of the above



12. The next defence witness is Constable Fantina's son. He will testify that his father is a well-respected police officer who has won numerous awards for bravery and community service. This evidence is:
- (a) Admissible as good character evidence relevant to the accused's credibility
 - (b) Admissible as good character evidence relevant to the accused's credibility and likelihood that he intended to kill the deceased
 - (c) Collateral evidence and inadmissible because it only goes to credibility
 - (d) Inadmissible lay opinion evidence
 - (e) (c) and (d)
13. During a break in the proceedings, the Crown and defence counsel began to argue over the admissibility of a piece of evidence. At one point, defence counsel accused the Crown of "trying to screw my client" and that the prosecution was motivated by trying to "win votes rather than seek justice." At this point, the trial judge:
- (a) Could remind defence counsel of their ethical obligations to act civilly
 - (b) Declare a mistrial
 - (c) Hold counsel in contempt
 - (d) Report defence counsel to the Law Society for unethical conduct
 - (e) (a) and (d)
14. The defence then calls the accused – Constable Fantina. Following examination-in-chief, the Crown cross-examines the accused:
- Q. Why did you suspect that the deceased was involved in the shooting?
A. I was investigating the incident and wanted to question everyone that was present.
Q. Isn't it true that you suspected him because he was a young Black male?
A. No.
Q. But those involved were described as White and in their mid-40s?
A. Yes but it was a stressful moment.
Q. Isn't it true that last year, a trial judge found you to be a liar?
A. Not that I recall.
Q. Have you ever been found guilty of a criminal offence?
A. Yes but that was a long time ago and I received a discharge.
Q. Why did you think that the deceased was armed?
A. I saw a silver reflection and thought he had a gun.

Defence objects to this cross-examination because:



- (a) *R v Ghorvei* prohibits cross-examination on the finding of another judge
 - (b) The Crown is violating the rule in *R v Lyttle* that requires a good faith foundation before a suggestion is put to a witness
 - (c) Section 12 of the CEA which permits cross-examination on a criminal record does not apply to discharges
 - (d) (a) and (c)
 - (e) (a), (b) and (c)
15. The defence advises the trial judge that it wants to call Constable Thomas as its next witness. Constable Thomas will testify about a conversation he had with a witness to the shooting. The witness is now dead. In his statement to the police, the witness stated that Constable Fantina did not threaten to shoot the deceased. He also stated that the deceased was shot when he tried to remove a shiny object from his pocket. The statement was audio-taped. The Crown objects to the admissibility of the witness' statement. In order to succeed, the defence will have to:
- (a) Establish necessity and reliability
 - (b) Establish that the evidence is not collateral
 - (c) Satisfy section 10 of the CEA
 - (d) Satisfy the best evidence rule
 - (e) (a) and (c)
16. To what standard of proof will the defence have to establish the elements described in #15:
- (a) Clear, cogent and convincing evidence
 - (b) Beyond a reasonable doubt
 - (c) Balance of probabilities
 - (d) No standard as the standard of proof does not apply to individual pieces of evidence
 - (e) None of the above
17. In deciding the admissibility of the statement referred to in #15, the following are all relevant factor(s) that can be considered by the trial judge:
- (a) Whether the statement was made under oath or with a warning as to the consequences of giving a false statement
 - (b) Whether there is evidence of a motive to lie
 - (c) Whether there is corroborative evidence
 - (d) (a) and (b)
 - (e) (a), (b) and (c)



18. The next defence witness is Dr. Alvin, a sociologist at the University of Toronto. Her area of specialty is the behaviour of police officers. The defence wants to call her to testify about the stressful situation police officers find themselves in when responding to a “gun” call. What case is most relevant to the defence application:
- (a) *R v J(JL)*
 - (b) *R v Abbey*
 - (c) *R v Mohan*
 - (d) *R v Trochym*
 - (e) *R v Graat*
19. The trial judge prepares a charge to the jury for counsel to review. Defence counsel will want to ensure that the following case(s) are discussed in the charge to the jury:
- (a) *R v Morgan*
 - (b) *R v W(D)*
 - (c) *FH v McDougall*
 - (d) *R v Handy*
 - (e) *R v S(N)*

Constable Fantina is acquitted.

THE CIVIL ACTION

Following the acquittal, Schu’s family filed a wrongful death civil suit against Constable Fantina in Ontario. They allege that the shooting was the result of racial profiling. The following evidentiary issues have arisen during the course of the trial.

20. Prior to trial, the defendant filed a motion for summary judgment. During the motion, the defendant’s lawyer argued that there is no evidence of racism in the case. Which of the following statement(s) is/are true:
- (a) The corresponding test “is whether there is a genuine issue of material fact requiring trial”
 - (b) The motion will be granted because race has nothing to do with the issue of whether the death was wrongful
 - (c) The motions judge has no jurisdiction to assess the credibility of witnesses in determining whether there is “a genuine issue of material fact requiring trial”
 - (d) All of the above
 - (e) (a) and (b)



21. As part of the motion, the defendant argues that the verdict of acquittal demonstrates that there is no cause of action. Which decision will assist the trial judge in deciding this issue:
- (a) *R v Mullins-Johnson*
 - (b) *FL Receivables Trust v Cobrand Foods Ltd.*
 - (c) *Toronto (City) v CUPE, Local 79*
 - (d) *Polgrain Estate v Toronto East General Hospital*
 - (e) None of the above
22. The plaintiff brings a pre-trial motion that the burden of proving racial profiling should be on the defendant. They also argue that in this case the doctrine of *res ipsa loquitur* applies in their favour. The trial judge dismisses both of these applications using the following case(s):
- (a) *Peart v Peel Regional Police*
 - (b) *Devgan v College of Physicians & Surgeons*
 - (c) *Anderson v Maple Ridge*
 - (d) *Fontaine v Insurance Corp of BC*
 - (e) (a) and (d)
23. Constable Ripe, a twenty-year veteran of the service, witnessed the shooting. He was not called as witness by the Crown at the criminal trial. He is subpoenaed by the plaintiff. He gave a video-taped statement to the SIU in which he indicated that Constable Fantina referred to the deceased as a “gangsta” when he ordered him to stop running. Ripe refuses to swear an oath. He can testify provided that he:
- (a) Promises to tell the truth
 - (b) States that “I solemnly agree that the evidence before me shall be the truth, the whole truth and nothing but the truth”
 - (c) Adopts his videotaped statement pursuant to section 18.3 of the Ontario Evidence Act;
 - (d) Follows the procedure set out in section 15(1) of the Canada Evidence Act
 - (e) (a) or (b)
24. After the procedure described in #23 is followed, the plaintiff’s lawyer begins her questioning. After the first question, Constable Ripe states that he refuses to answer any questions on the grounds that the answers may incriminate him. In response, the plaintiff’s lawyer submits to the trial judge that:
- (a) Only in criminal cases can a witness refuse to answer questions
 - (b) The officer is compelled to answer pursuant to section 5(1) of the Canada Evidence Act
 - (c) Section 11 of the Charter will protect the witness from being incriminated against in any police disciplinary proceedings
 - (d) The trial judge must compel the officer to answer the questions or be held in contempt
 - (e) (c) and (d)



25. Constable Ripe testifies in a manner consistent with his video-taped statement to the SIU. During his cross-examination, the defendant's lawyer seeks to question him on an oral statement given shortly before the trial to a friend in which he stated that he heard nothing discriminatory uttered by Constable Fantina. The plaintiff's lawyer objects to the cross-examination on the grounds that it relates to a collateral matter. The judge rules that:
- (a) The collateral fact rule does not apply in civil cases
 - (b) The lawyer must first call the recipient of the statement
 - (c) The collateral fact rule is only triggered where there is an attempt to prove the inconsistency
 - (d) The objection is sustained
 - (e) (b) and (c)
26. A bystander videotaped a portion of the shooting. The tape was seized by the SIU during the investigation. The plaintiff seeks to introduce the tape as an exhibit. The defendant objects to the admissibility of the tape on the following ground(s):
- (a) The tape is irrelevant as it only captures part of the shooting
 - (b) The tape has not been authenticated
 - (c) The tape is hearsay
 - (d) No one has testified to identify the plaintiff or deceased in the video
 - (e) (a), (b) and (c)
27. The plaintiff's next witness is Professor Scot Wortley from the University of Toronto. He is a criminologist with extensive experience in systemic racism. He wrote a report for the Ipperwash Inquiry which investigated the shooting death of Dudley George. In that report, Professor Wortley documented that Aboriginal and racialized individuals are disproportionately victims of police shootings. The defendant objects on the basis of *R v RDS* arguing that this social context is inadmissible. The plaintiff responds to the objection on the following ground(s):
- (a) The evidence is admissible as a lens to interpret the circumstantial evidence
 - (b) *RDS* is a criminal case and does not apply in civil cases
 - (c) *RDS* was not a case of racial profiling
 - (d) All of the above
 - (e) (a) and (b)
28. In deciding for or against the plaintiff, the trial judge will:
- (a) Apply the reasonable doubt standard as the underlying conduct involves a homicide
 - (b) Apply a standard of clear and convincing evidence
 - (c) Apply a balance of probabilities standard



- (d) Take into consideration the seriousness of the charge and consequences to the plaintiff's career in applying the requisite standard of proof
- (e) (c) and (d)

29. Case(s) relevant to answering Question #28 include:

- (a) *R v Starr*
- (b) *R v W(D)*
- (c) *FH v McDougall*
- (d) *Fontaine v Insurance Corp of British Columbia*
- (e) (a) and (c)

30. Constable Fantina does not testify. The plaintiff can ask the trial judge to:

- (a) Dismiss the case using the principle of *res ipsa loquitur*
- (b) Draw an adverse inference from his failure to testify
- (c) Hold the defendant in contempt until he does testify
- (d) (a) and (b)
- (e) None of the above



PART B

**R v Lawrence Arson Prosecution (8 Short Answer Questions) (40 Marks)
(Suggested time: 70 minutes)**

BACKGROUND FACTS

Lawrence is charged with arson. The allegation is that he burned down his golf store because he was losing money. He could not compete with the golfing giant that had opened a large store nearby. It was estimated that the fire started around 10:00 pm. The fire examiner's office could not determine the cause of the fire. Lawrence's defence is that the cause was accidental. In his statement to the police taken over a thirty minute period the day after the fire, he told the investigating detective that he remembered smoking a cigar that night as he was reviewing his books and it must not have been put out. He went home that night shortly before 10:00 pm. He vehemently denied starting the fire. The statement was taken by one officer and there were no breaks during the interrogation. The statement was videotaped. Lawrence does not have a criminal record. Lawrence has elected a jury trial. Please provide answers to the following questions that have arisen during the course of the trial.

1. The Crown wants to lead evidence that Lawrence owes over \$100,000 in debts in relation to his golf store. The defence objects to this evidence on the basis that the issue is who set the fire not Lawrence's ability to manage his finances. How will the Crown respond? **[5 marks]**
2. The Crown wants to call a witness who will testify that in the days leading up to the fire that Lawrence appeared distressed and depressed. The defence objects. What is the basis of the objection? How will the judge respond? **[5 marks]**
3. The Crown wants to call David who will testify that he was approached by Lawrence six months ago. Lawrence wanted him to burn his store to enable him to collect on the insurance proceeds. The defence objects that this is bad character evidence. Will the objection succeed? **[5 marks]**
4. Defence counsel is aware that this witness is telling the truth based on what Lawrence has told him. Assuming that the witness is permitted to testify, is it ethical for counsel to suggest to David that he is lying to try and negotiate a withdrawal of his current criminal charge. **[5 marks]**
5. The Crown wants to lead Lawrence's statement to the investigating detective that puts him at the store around the time of the fire. What preliminary finding will the trial judge have to make before the statement is admissible? If Lawrence testifies, will the defence be able to refer to the fact that he denied setting the fire when he was arrested? **[5 marks]**
6. Assume that the preliminary finding referenced in #5 is made. The Crown only wants to lead that part of the statement the Crown considers to be incriminating. Will they be allowed to? **[5 marks]**
7. The Crown wants the trial judge to give a Duncan instruction. Will their request be granted? **[5 marks]**



8. What motion can the defence bring at the end of the Crown's case before deciding whether it should call a defence? What is the legal standard? **[5 marks]**



PART C

**R v. X Criminal Assault Charge (6 Short Answer Questions) (70 Marks)
(Suggested time: 125 minutes)**

BACKGROUND FACTS

X is charged with assault causing bodily harm against Y, his girlfriend. Y was interviewed by the police after going to the hospital to have a cast set on her broken arm. At first, she was not willing to give a statement. After she spoke to a social worker at the station, she agreed. She was warned by the investigating officer of the importance of telling the truth and the consequences of giving a false statement. She acknowledged that she knew this. She told the officer that she and X were yelling at each other because she accused him of being controlling. He hit her and then pushed her down the stairs causing her arm to break. Y's police statement was videotaped.

X was also interviewed by the police. He told them that he and Y had gotten into a verbal altercation and Y accidentally fell down the stairs. He was released on bail with a no-contact order in relation to Y. Three days later, the investigating officer attended X's new apartment in uniform and the following conversation took place:

Q. Are you sure X that this is what happened?

A. Yes.

Q. I don't believe you. Look. Our courts are swamped with cases and we need to weed them out at the police station. If you are prepared to acknowledge guilt, then we can deal with this through a peace bond (an agreement that X will not contact Y for a period of 12 months) rather than go through a trial and risk a conviction or jail time. What do you say?

A. Okay. I was upset because she accused me of being controlling and I pushed her. I didn't think she would end up breaking her arm. I am sorry.

PRE-TRIAL APPLICATION STAGE

**QUESTION ONE – 10 MARKS
(Suggested time: 20 minutes)**

Before trial, the defence asks the trial judge to rule on the admissibility of X's inculpatory police statement. What argument will the defence make? How will the trial judge rule? Please answer with reference to the relevant legal tests and authorities.



THE TRIAL – THE CASE FOR THE CROWN

QUESTION TWO – 3 MARKS

(Suggested time: 5 minutes)

At trial, the Crown calls Y. When asked how she broke her arm, Y testifies that it happened a long time ago and that she wasn't sure. Can the Crown use Y's police statement to assist her recollection?

QUESTION THREE – 15 MARKS

(Suggested time: 25 minutes)

Y then testifies that she fell down the stairs accidentally and lied in her police statement because she was upset with X. Does this bring an end to the Crown's case or can they rely on other evidence? **Do not consider X's inculpatory police statement in answering this question. Assume Y made no statement to the social worker.** Please ensure to discuss admissibility issues and the likely ruling by the trial judge.

QUESTION FOUR – 7 MARKS

(Suggested time: 10 minutes)

During Y's cross-examination, she is asked whether she was having an affair. The Crown objects. Set out the basis of the Crown's objection and how the defence may respond. Assume that the defence has a good faith basis to ask the question. How will the trial judge likely rule? Please ensure to discuss the relevant legal principles and jurisprudence.

QUESTION FIVE – 20 MARKS

(Suggested time: 35 minutes)

The Crown wants to call a witness to testify that it is common for complainants in domestic violence cases to recant their police statements to bring an end to any criminal proceedings. They do so for a variety of reasons including fear of further violence, self-blame, and financial dependency. Consequently, according to the witness, no adverse inference should be drawn solely from the recantation. The witness has not interviewed Y. The witness is a criminologist who has conducted a national study of domestic violence criminal cases including interviewing over 250 complainants. How will the trial judge likely rule? Please ensure to discuss the relevant legal principles and jurisprudence.



THE CASE FOR THE DEFENCE

X testifies as the only defence witness and denies assaulting Y. He testifies that her injuries were as a result of a terrible accident. The defence does not ask him about his initial exculpatory police statement. During cross-examination, X admits that he has a criminal record for criminal harassment involving a previous girlfriend, two convictions for assault and three convictions for fraud. He maintains his innocence and that Y is lying because she was upset at him. There is no reply evidence called by the Crown.

THE VERDICT

QUESTION SIX – 15 marks (Suggested time: 30 minutes)

In assessing the evidence and reaching a verdict, what evidence cases will the trial judge have to consider? Briefly set out their relevance to her decision and what verdict she is likely to render taking those principles into account and the evidence elicited (including the evidence you have concluded would be admissible in the earlier questions). Do not address any admissibility issues in answering this question.



PART D

**Sam v. University Civil Proceeding (6 Short Answer Questions) (30 Marks)
(Suggested time: 54 minutes)**

BACKGROUND FACTS

Last summer, Sam was walking home from his night class when he was approached by two Campus police officers. They accused him of stealing a laptop from the computer lab. Sam, who is Black, felt that he was being harassed. He told the officers to leave him alone and he continued walking. They grabbed him and forced him to the ground. He was strip searched and assaulted. Nothing was found. Sam has retained you to file a civil suit against the University, Campus Police and the two officers. He alleges racial profiling, false imprisonment and unreasonable search. The trial is scheduled in the spring. It will be a judge alone trial. Sam is a second year law student (who has not taken Evidence) and wants you to answer the following questions about his case with relevant authority.

1. Sam is a straight A student and wants to know whether this evidence can be led? **(3 marks)**
2. Following the incident, the University implemented a new policy of requiring the Campus police to obtain the permission of their supervisor before strip searching a student on campus grounds. Sam wants to know if we can lead this evidence as an admission by the University that the officers acted unreasonably. **(4 marks)**
3. The defendants were criminally charged with assault in relation to this incident. They were acquitted. Sam wants to know if the acquittal can be admitted into evidence by the defendants. **(3 marks)**
4. This case will come down to credibility. Sam wants to know whether a Supreme Court of Canada decision he remembers from first year about reasonable doubt and credibility will be used by the trial judge in applying the standard of proof. What case is he referring to? Can it be used in this case? **(5 marks)**
5. The University has agreed that judicial notice can be taken of systemic racial profiling in Canadian policing of young Black males. Sam wants to know how this evidence can be used as part of his case. **(10 marks)**
6. Sam's allegations are serious and will result in the dismissal of the officers from their jobs if he is successful. He wants to know whether the Court will use a higher standard of proof than the normal balance of probabilities standard. **(5 marks)**