

## **PCLL CONVERSION EXAMINATION JUNE 2018**

Title of Paper : Criminal Procedure  
Date : 21 June 2018  
Time : 9:30 a.m. – 9:45 a.m. (Reading Time)  
9:45 a.m. – 12:45 p.m.

### **Instructions**

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a three-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 3 pages, including Part A and Part B. A total of 50 marks may be awarded.
8. Part A contains one compulsory question with four sub-sections. The question contains no element of choice. Candidates should attempt all four sub-sections in the order in which they appear on the paper. Part A is worth 30 marks.
9. Part B contains three short questions. This part also contains no element of choice. Candidates must answer ALL three questions. Part B is worth 20 marks.
10. The passing mark for this paper is 25 marks.

**DO NOT OPEN THIS QUESTION BOOK  
UNTIL YOU ARE TOLD TO DO SO**

# PCLL Conversion Examination June 2018

## Criminal Procedure

### **PART A (30 marks)**

#### **Long Fact Pattern**

#### **Question 1**

On the evening of 22<sup>nd</sup> January, 2018, Albert and Ben, who respectively are 19 and 15 years of age, were intercepted at a road block as passengers in a taxi. As Albert appeared nervous, PW1, a uniformed police officer, asked him for his identity card for inspection. Albert became annoyed and agitated. He alighted from the taxi and started punching PW1. Ben, upon seeing this, joined in the assault of PW1. Albert and Ben were immediately subdued by other officers. A small quantity of cocaine (one gram) was found in the possession of Albert after a frisk search. The police declared the arrest of Albert and Ben for the offence of “assaulting a police officer”, contrary to section 36 of the Offences Against the Person Ordinance, Cap. 212. Albert was also arrested for the offence of “possession of dangerous drugs”, contrary to section 8 of the Dangerous Drugs Ordinance, Cap. 134.

The police ran a detailed background check on Albert and Ben upon return to the police station. Albert was listed as a wanted person in connection with a series of burglary-related cases. Ben, on the other hand, had a clear record. The officer in charge of the case ordered for photographs, finger-prints and toe-prints to be taken from both Albert and Ben.

#### **Question 1.1**

Advise Albert and Ben if the police had properly exercised the power to stop, search, arrest and to seize the suspected dangerous drugs. **(9 marks)**

#### **Question 1.2**

Advise Albert and Ben, at which court and for what charge (or charges) will their case be heard. Why? **(9 marks)**

#### **Question 1.3**

Advise Albert and Ben whether the police have the power to take photographs, finger-prints and toe-prints from them. **(9 marks)**

#### **Question 1.4**

Assuming that Albert is convicted after trial of the offence of “assaulting a police officer”, contrary to section 36 of the Offences Against the Persons Ordinance, Cap.212, can he be sentenced to 3 months’ imprisonment suspended for a period of 2 years? Give reasons for your answer. **(3 marks)**

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**PART B (20 marks)**

**Short Answer Questions**

**These questions are NOT based on the above Long Fact Pattern.**

**Question 1**

David is convicted after trial of an offence of “theft”. The magistrate, having considered a probation report, a background report and a Drugs Addiction Treatment Centre (DATC) report, has made a DATC order against David. On the second day of detention in DATC, David seriously wounded another inmate and was sentenced to 4 years’ imprisonment by a District Court judge.

- (a) Is it lawful for the magistrate to impose a DATC order against David given that “theft” is an offence unrelated to dangerous drugs? **(5 marks)**
- (b) What is the effect of the DATC order after David is sentenced to 4 years’ imprisonment? **(5 marks)**

**Question 2**

The prosecution case is that a police officer lawfully stopped and searched Candy on the street. As a result, one kilogram of suspected dangerous drugs was found on her. Candy verbally admitted under caution that she was aware that the drugs were “ice”.

The defence case is that Candy remained silent under caution. She does not claim any police impropriety towards her.

In the circumstances, is it necessary to conduct a voir dire in respect of the alleged verbal admissions? Give reasons for your answer? **(5 marks)**

**Question 3**

Edmond is facing two offences, namely, “driving whilst disqualified” and “driving without third party insurance”. The case will be heard before a magistrate tomorrow. He intends to defend himself. Advise him of the procedures for bail pending appeal in the event that he is convicted following trial. **(5 marks)**

**~ End of Examination Paper ~**