

SIMULATED EXAM

3

All Ranks

Simulated Exam #3
Case Law & Attorney General Guidelines/Directives

1. Where a defendant makes a substantial preliminary showing that a false statement _____ was included by the affiant in a search warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request.
 - A. knowingly
 - B. intentionally
 - C. with reckless disregard for the truth
 - D. All the above

2. If at a hearing (referenced in Question #1), the allegation is established by the defendant by a preponderance of the evidence and with the affidavit's false material set to one side, the affidavit's remaining content is insufficient to establish probable cause, what would be the outcome?
 - A. The search warrant must be admitted but revised in a redacted manner excluding the false statements.
 - B. The search warrant must be voided, and the fruits of the search excluded.
 - C. There shall be an additional hearing to determine if the search warrant can be supported by probable cause without the false statements.
 - D. The entire prosecution against the defendant must be dismissed without prejudice.

3. If a search warrant affidavit contains lawfully obtained information which establishes the probable cause required for a search, but also contains false or unlawfully obtained evidence, evidence obtained pursuant to the warrant:
 - A. will not be suppressed.
 - B. will be suppressed.
 - C. the defendant will be entitled to an evidentiary hearing.
 - D. the entire prosecution against the defendant must be dismissed.

4. An affidavit submitted on the application for a search warrant described the premises as: 371 10th Street, which is a one-story frame building with the only store on the block. In front a large sign over the entrance saying, "Candy Store." The affidavit mentioned that a "look-out" was stationed on the front porch most of the time. The judge issued the search warrant which authorized a search of the premises located at 371 10th Street, a candy store located in a one-story frame building. No other structure in the vicinity matched that description of the building described in the affidavit. The officer who executed the warrant was the affiant in the affidavit and he had personally made the surveillance of the premises detailed in the affidavit. Ultimately it was found that the correct number of the building was 375, rather than 371. Which of the below statements is true regarding this scenario?
- A. The search warrant is invalid as it, and the affidavit, did not accurately describe the place to be searched.
 - B. The search warrant would have been valid had it not included any actual address to the building.
 - C. The search warrant is valid because the building was unmistakably described in the affidavit. The place searched was undeniably the place as to which probable cause had been made out.
 - D. In cases where the affiant is the executing officer, there is no need to be specifically particular in the description in the place to be searched.
5. All New Jersey law enforcement agencies shall immediately report any suspicious activity with a possible nexus to terrorism or other criminal activity related to terrorism to:
- I. Counterterrorism Watch (CTWatch)
 - II. their County Terrorism Coordinators (CTC)
 - III. New Jersey Suspicious Activity Reporting System (NJSARS)
- A. I only
 - B. II only
 - C. I and II only
 - D. All the above

6. An investigator submitted an affidavit in support of seven search warrants, targeting a defendant involved in a large-scale illegal gambling operation out of several establishments. The affidavit also identified a 1995 red Honda that defendant had been using to facilitate his activities. "Search Warrant Four," pertaining to the red Honda, contained a description of the vehicle and then a detailed description of "Sonny's Cleaners," a "two story brick and siding building located at the northeast corner of the intersection of Pacific Street and Warwick Street." Which of the below statements is true regarding this scenario?
- A. The search warrant for the 1995 red Honda, which also contained a reference to a building known as Sonny's Cleaners, was violative of the Fourth Amendment and Article I, paragraph 7 of the New Jersey Constitution, because it failed to describe with particularity the place that the officers were entitled to search.
 - B. An officer executing the warrant could ascertain, with little effort, that the 1995 red Honda was the subject of the search warrant by consulting the supporting affidavit, which established probable cause for searching the automobile. The warrant was valid.
 - C. It can be inferred that the judge who signed the search warrant for the 1995 red Honda missed the typographical error on the face of the warrant thus abandoning his role as a detached and neutral magistrate. The warrant is invalid.
 - D. None of the above statements are true.
7. Officer Pringle has arrested Jose and is concerned that Jose and his family may try to threaten or intimidate the victim. The officer must make this concern to the prosecutor responsible for the case. Before making this notification, the officer must have:
- A. an inarticulable hunch.
 - B. specific and articulable facts warranting heightened caution.
 - C. reasonable suspicion.
 - D. probable cause.

8. Narcotics Detective Arroyo received information from a reliable, confidential informant (CI) that drugs were being distributed from a house located at 674 Hamilton Street. A surveillance and controlled buy were set up, through which the CI purchased cocaine from Jeffrey Till. Ten days later, the detective entered the premises and purchased additional drugs from Till. Further investigation revealed that the house was owned by Florence M. Sheehan. The detective concluded that the house was a single-family residence. A search warrant issued authorizing a search of the entire home. During the ensuing search, the police confiscated cocaine and other drugs from Till's bedroom, a bedroom occupied by James Sheehan, and the kitchen. While in the home, the officers discovered that the second floor consisted of three bedrooms and a bathroom separated by a narrow hallway. Detective Arroyo did not know that the other two bedrooms were occupied until the day of the search. At that time, the detective first became aware of the fact that James Sheehan and his sister resided in the house along with Till and that each had a separate bedroom. According to the detective, both drug transactions had occurred in a bedroom occupied by Till. Detective Arroyo testified that Till kept the illicit drugs in a nightstand immediately adjacent to his bed. The doors to the other two bedrooms were open both when the detective purchased the cocaine and when he entered the premises to execute the search warrant. Which of the below statements is true regarding this scenario?
- A. The drug sales described in the affidavit occurred in Till's bedroom. Sheehan occupied a separate bedroom and the warrant, which authorized a search of the entire house was unconstitutionally broad.
 - B. It was not unreasonable for the police to expect to find evidence of criminality in bedrooms other than that occupied by Till. The residence was not an apartment, boarding house, or any other type of separately divided or partitioned multiple-unit building.
 - C. The detective was derelict in his duties by neglecting to further investigate the fact that narcotics could be found in other areas of the residence.
 - D. The statements in both A & C are correct
9. To be valid, a defendant's waiver of his or her rights must be made:
- I. knowingly
 - II. intelligently
 - III. voluntarily
- A. I only
 - B. I and II only
 - C. I and III only
 - D. All of the above

10. During an interrogation, 32-year-old Steve was assured by the interrogating officer that he was acting solely in Steve's best interest. The officer told Steve that the person who killed the victim was not a criminal who should be punished, but rather a person needing medical treatment, and that the officer would help him with his problem if he told the truth. Steve ultimately waived his *Miranda* rights and confessed. Which of the below statements is true regarding this scenario?

- A. Steve's confession is admissible.
- B. Steve's confession is inadmissible. He was deluded and misled into believing that the officer was acting as a helper in addition to an interrogating officer.
- C. Steve's confession is inadmissible. The officer's remarks had an appreciable impact on him and contributed to an overbearing of his will.
- D. Both B & C are correct.

11. While investigating a possible child abuse an investigator properly advised Henry of his *Miranda* rights. The interrogating officer told Henry that the three-month-old was seriously injured and asked Henry to describe exactly what he had done to the baby so the doctors could treat the child accordingly. Henry, who was visibly upset and crying, confessed to shaking the child very hard several times, thereby injuring the child and causing his eventual death. Later, the Court described the officer's conduct as a deliberate act of deception to secure a confession. What was the result of the confession at trial?

- A. It was admissible. The officer's purpose in asking Henry to explain what he did to the child so doctors could help the child was overburdening but it did not rise to the level of coercion.
- B. It was not admissible. When one is upset and crying, such as Henry in this case, one experiences loss of impulse control which can interfere with their ability to think clearly. This, in turn, affects the cognitive faculties necessary to make informed decisions.
- C. It was admissible. The officer's actions did not rise to an improper level of psychological pressure warranting suppression of Henry's confession.
- D. It was not admissible. Henry was upset and therefore his mental state was in a diminished capacity thus limiting his ability to make an intelligent waiver of his rights.

12. During a murder investigation, Ronald was taken into custody. At the time of his arrest, Ronald was suffering from heroin withdrawal. During the ensuing hours between the time of Ronald's arrest and the commencement of an interrogation, officers made an audio recording account of the murder. An officer, posed as an eyewitness, and was "interviewed" on the recording that was later played to Richard who, despite his earlier denials of involvement, upon hearing the recording, confessed to the murder. The confession will be:

- A. inadmissible. Officers may not fabricate evidence to prompt a confession.
- B. admissible. An officer may, by the officer's statements, make misrepresentations of fact or suggest that evidence in the form of reports or witnesses exist that will implicate a suspect in order to prompt a confession.
- C. inadmissible. The use of trickery and deception provides a highly effective means of extracting confessions and therefore not allowable as a matter of law.
- D. admissible. Psychologically sophisticated interrogation techniques are proper because, while they are certainly effective enough to elicit confessions from guilty suspects, they would not cause an innocent person to confess.

13. After Paul's arrest on various charges of aggravated sexual assault, sexual assault, and child endangerment, he was transported to the police station, where he was read his rights. Paul signed a *Miranda* warning card and acknowledged that he understood his rights. Thereafter, he was escorted into a conference room, where he was given the criminal complaints to read for himself. At that point, Detective Ryan asked Paul if he wished to speak. Paul responded that he was guilty of some of the things on here but not all of them. Paul then stated that he would like to speak to the police but would like to consult with an attorney first. Paul asked what would happen to him next, and the officer told him about the arraignment process, setting of bail and appointment of counsel, if necessary. When asked if he had any questions, Paul paused for a moment, and asked to say something "off-the-record." The officer agreed to listen to an "off-the-record" statement. At this point, defendant made an incriminating statement. Paul's "off-the-record" statement will:

- A. not be admissible since it is "off-the-record" and was intended for Detective Ryan's ears only.
- B. be admissible as a product of a correctly obtained waiver of *Miranda* rights.
- C. not be admissible. Paul's request to speak "off-the-record" revealed a marked lack of understanding of the *Miranda* warnings.
- D. be admissible. An acquiescence to hear an 'off-the-record' statement from a suspect does not necessarily undermine and eviscerate the *Miranda* warnings.

14. Police are not permitted to employ unreasonable or improper inducements which impair a suspect's decision whether to give a statement or seek legal counsel. The rule applies to those situations where the police prompt an admission or confession by suggesting a benefit if the suspect forgoes his or her rights. A confession, in order to be admissible, must be free and voluntary. Which of the below scenarios would a confession/statement made by a suspect/defendant be considered to be made voluntarily, knowingly, and intelligently and not coerced after the suspect/defendant was advised of his/her *Miranda* warnings?

- I. A bank robbery suspect asked an FBI agent what he would receive in return for his cooperation. The agent replied that he would not be able to promise him anything in terms of help other than to notify the U.S. Attorney and a sentencing judge that he had cooperated in the matter.
- II. A suspect giving a confession believing that the interrogating officer was acting as a friend by telling him he needed medical help, not punishment.
- III. A suspect's statement given under the belief that he was a witness and not a suspect at the time he voluntarily responded to police headquarters.
- IV. An assistant prosecutor promised defendant a package deal of 20 years, 7 years without parole, if he cooperated with the police. The defendant then confessed to stabbing the victim three times with a knife.

- A. I only
- B. I and II only
- C. I, II and III only
- D. All the above

15. Fred was suspected of sexually molesting three of his minor children. Detective Rockwell telephoned Fred and informed him of the allegations that were made by his daughter. Fred replied that he had applied a prescription cream to his daughter's vagina but had never engaged in sexual activities with her. The detective asked Fred to give a formal statement at headquarters. Because the detective expected Fred's written statement would reflect the same account he had given over the telephone, the detective told Fred that he would be permitted to return to his home after giving his statement. At headquarters, however, after being apprised of his rights, Fred confessed to molesting his daughter. He was then arrested. Fred's confession will be:

- A. inadmissible. *Miranda* warnings should have been given at the time of the telephone call.
- B. admissible. Fred's confession had been voluntarily given.
- C. inadmissible. Fred's confession was involuntary because the detective extended a promise so enticing as to induce that confession.
- D. Admissible. Although Fred's will was overborne and his capacity for self-determination critically impaired, the confession was properly obtained.

16. Most internal affairs complaints are straightforward and that in many cases an internal affairs investigation will take no more than ____ days from the receipt of the complaint to the filing of disciplinary charges.
- A. 30
 - B. 45
 - C. 60
 - D. 90
17. Officers have made numerous arrests and are transporting prisoners to headquarters by separating men from women. Paula is a transgender woman. Which group should she be transported by if she does not specifically make any request of choice?
- A. Women
 - B. Men
 - C. Neither A nor B. Transgender individuals shall be always transported alone.
 - D. Either A or B. It is dependent on the judgement of the officer making the arrest.

18. The police took Roger into custody in connection with the commission of sexual assaults on three women. During a three-hour interrogation session, Detectives Newman and Seinfeld repeatedly promised Roger counseling, indicating that he would not go to jail if he cooperated. The following exchange took place during the interrogation:

[Detective Newman]: We want to get you the help that you need.

[Detective Seinfeld]: You need some help, dude. You got a problem.

[Detective Newman]: We want to make sure you get the right help.

[Detective Seinfeld]: We're here to help you.

[Detective Newman]: So, we're willing to get you the help that you need but you gotta be honest.

[Detective Seinfeld]: You gotta be honest.

[Detective Newman]: You gotta be honest.

[Detective Seinfeld]: We're going get you the help you need for your problem if you cooperate.

[Detective Newman]: Think about your daughter. I want you to be there to raise her.

[Detective Seinfeld]: The truth is going to set you free. The truth—and it is a true saying, the truth will set you free.

[Detective Newman]: I want to get you the help that you need. I know with the right help... you'll be fine down the road. We're also trying to help you rebuild for the future.

More than an hour into the interrogation, Roger made incriminating statements that implicated him in all three crimes. Which of the below statements is true regarding this confession?

- A. The detectives' advice that it would be helpful for Roger to tell the truth that it would set him free directly conflicts with the *Miranda* warning that anything Roger said could be used against him.
- B. The detectives repeatedly minimized the nature and gravity of Roger's alleged offenses—intimating that his conduct was amenable to counseling and rehabilitation.
- C. The detectives repeated claims that they would get Roger help in the form of counseling was a false promise as a substitute for jail.
- D. All of the above

19. Adrian Vincenty was incarcerated at the Garden State Correctional Facility when detectives visited him to question him about the attempted robbery and attempted murder of Jerry Castellano. During the attack, one of the assailants discarded a mask that officers recovered afterwards. Vincenty's DNA was found on the mask. Detectives also identified Vincenty from a video recording of the attack. After charges were filed, detectives sought to question Vincenty to identify the second assailant on the video recording. Vincenty was read his *Miranda* rights and he signed a waiver of those rights prior to questioning. At the time of *Miranda* waiver, however, the detectives did not advise Vincenty that he had been charged with attempted homicide, robbery, and conspiracy to commit robbery. Vincenty appeared willing and ready to waive his right against self-incrimination. He signed a form acknowledging that he understood his rights, spoke with the detectives, and did not request to speak with a lawyer. However, when Vincenty was informed of the criminal charges filed against him, everything changed. He appeared shocked and surprised. He seemed to understand for the first time the heightened magnitude of the interrogation. He instructed the detectives that he wanted to speak with a lawyer. His willingness to speak with the detectives dissipated. He was no longer willing to waive his right against self-incrimination. Which of the below statements is false regarding this interrogation?

- A. The failure to advise Adrian of the charges filed against him deprived him of the ability to knowingly and intelligently waive his right against self-incrimination.
- B. Adrian's ability to knowingly and intelligently decide whether to waive his right against self-incrimination was fundamentally altered when he was informed of the criminal charges filed against him.
- C. Until Adrian requested to speak with a lawyer, his statements were the result of a knowing, voluntary and intelligent waiver of his *Miranda* rights.
- D. The detective was obligated to make a simple declaratory statement at the outset of the interrogation that informed Adrian of the essence of the charges filed against him. That information should not be woven into accusatory questions posed during the interview.

20. Christine was arrested and transported to the police station. She was escorted into an interrogation room. After asking Christine about her background and employment, Detective Samson presented a *Miranda* card. On the front side of the card, the *Miranda* rights were set forth. The card's reverse side stated, "I acknowledge that I have been advised of the constitutional rights found on the reverse side of this card," followed by signature lines for the "Accused or Suspect," the "Advising Officer," and the "Witnessing Officer," as well as spaces to record the date and time. After reading Christine her rights from the card, the detective then said, "just sign here that I read you your rights" and "by signing the *Miranda* card you are not admitting you're guilty or anything it's just that I read you your rights." Without comment, Christine reviewed and signed the *Miranda* card. Which of the below statements is true regarding this scenario?

- A. The *Miranda* card used in this scenario reflects optimal law-enforcement practice.
- B. The card properly guided Detective Samson to ensure that Christine had waived those rights before the questioning began.
- C. The card clearly indicated the *Miranda* rights to the point that Christine would understand her rights and make a knowing, intelligent, and voluntary waiver of those rights.
- D. When Detective Samson requested that Christine sign the card, he should have avoided making the comment that minimized the significance of her signature on the card.

21. Which of the below statements is true with regards to *Miranda* rights cards or forms?

- A. A suspect's refusal to sign the *Miranda* rights form does not amount to an assertion of his Fifth Amendment rights.
- B. Failure to sign a form of waiver does not preclude a finding of waiver, nor does it make further questioning a violation of a suspect's constitutional rights.
- C. A written waiver of *Miranda* is not required. An oral acknowledgment by a suspect that he understood his rights is sufficient.
- D. All the above

22. Local law enforcement agencies shall report all confirmed or suspected bias incidents through the eUCR system as soon as is practicable, but not more than hours from the initial law enforcement response.

- A. 12
- B. 24
- C. 48
- D. 72

23. Investigation led to warrants issued for the arrest of Hartley, which were executed at his Brooklyn, New York, apartment. Executing the warrants were members of the Atlantic City Police Department, the FBI, the Atlantic County Prosecutor's Office, and the New York City Police Department. At the time of the arrest, Hartley was read his *Miranda* rights by Special Agent Robley and Hartley responded by invoking his right to remain silent. Hartley was then processed for identification and later Special Agent Frieberg of the FBI approached Hartley and resumed questioning without re-administering the *Miranda* warnings. Hartley gave what amounted to a full confession but refused to sign the finished typed version. After being questioned by the FBI agents, Hartley was approached by the New York and New Jersey police officials, was read his *Miranda* rights, and, in essence, made additional inculpatory statements. Again, Hartley refused to sign the typed description of this interview. Which of the below is true regarding this confession?

- A. The confession made to the FBI will be admitted.
- B. The confession made to the FBI and the New York and New Jersey officials will be admitted.
- C. The confession made to the FBI will be suppressed however the confession made to the New York and New Jersey officials will be admitted.
- D. None of the confessions will be admitted.

24. A waiver of rights is valid only if it is made voluntarily, knowingly, and intelligently. At court, it is the State's burden to prove that the confession was voluntary and not the product of official misconduct. Voluntariness is assessed by reference to the totality of the circumstances, including the characteristics of the defendant and the circumstances of the interrogation. Which of the below factors will be considered in determining the voluntariness of a suspect's confession?

- I. The suspect's age, education, and intelligence
- II. The suspect's willingness to cooperate prior to receiving the warnings
- III. His previous encounters with law enforcement
- IV. The advice received about his or her constitutional rights
- V. The length of detention

- A. I, II and III only
- B. I, III and IV only
- C. I, III, IV and V only
- D. All of the above

25. Joey (a juvenile) was taken into custody at about 3:45 p.m. as he was suspected in an arson investigation. He was accompanied by mother, Maria. Joey was questioned by Investigator Jimenez, a Spanish-speaking officer. At 5:05 p.m., A recorded statement was begun and ended at 5:31 p.m. Because Maria was Spanish-speaking, when the *Miranda* rights were given and waiver obtained, Jimenez read the warnings in Spanish. Maria had difficulty understanding the warnings and waiver thereof. The remainder of the interview, along with the resulting confession, was conducted entirely in English. Which of the below statements is true regarding this scenario?

- A. Maria was denied a meaningful role or participation during Joey's interrogation and the questioning was not conducted with fairness to Joey.
- B. Even though Maria was not able to comprehend the conversation between the investigator and Joey, her presence alone provided some source of support for Joey.
- C. The interrogation was not conducted with the utmost fairness to both Maria and Joey. The investigator violated Joey's Constitutional right against self-incrimination.
- D. None of the above statements are correct.

26. Regardless of the juvenile's age, law enforcement officers must use their best efforts to locate and ensure that the juvenile's parent or legal guardian is present during a custodial interrogation of the juvenile, and officers should be able to adequately account for such efforts. When the juvenile is under the age of _____, a different standard applies. In this context, an adult's absence will render the young offender's statement inadmissible as a matter of law, unless the parent or legal guardian is truly unavailable.

- A. 12
- B. 13
- C. 14
- D. 15

27. The right of the public to photograph, film, or otherwise record police officers conducting their official duties in public places is protected by the _____ Amendment.

- A. First
- B. Fourth
- C. Sixth
- D. Fourteenth

28. Glenda (age 16) told her mother that, a few days earlier while at a party and while she was intoxicated, Walter (age 16) touched and kissed her breasts, digitally penetrate her vagina, and forcefully held her hand on his penis until he ejaculated. The police were contacted, and Detective Smith obtained authorization from the county prosecutor to record a telephone conversation between Glenda and Walter in accordance with the New Jersey Wiretap Act. Glenda placed a telephone call to Walter at his home that, unbeknownst to him, was being recorded. Detective Smith positioned the telephone so that the detective from the prosecutor's office could listen to the conversation and assist Glenda in formulating appropriate questions to ask of Walter. During the telephone conversation, the detective wrote down what he thought Glenda should ask Walter. With questioning prompted by the detective, Glenda was able to get Walter to incriminate himself. Will the recorded phone conversation be admitted at trial?

- A. No. Walter's incriminating statements were improperly obtained because of the absence of parental consent and involvement.
- B. Yes. Walter was not in custody therefore the content of the phone conversation will be admitted.
- C. No. The Wiretap Act's use of the phrase "criminal conduct" was meant to exclude the police from intercepting communications of juvenile suspects.
- D. Yes. The phone conversation was the equivalent of an interrogation however, because Walter is 16 years of age, he may be interrogated without a parent.

29. Following his arrest for the commission of several armed robberies, William was given his *Miranda* rights. He then initialed the form and gave a statement in which he admitted that he robbed four 7-11 stores. As soon as the police detective heard this, he left the room, placed a micro-audio recorder in his pocket, turned it on and returned. The detective did not tell William that he was recording the conversation and William again admitted to the robberies. Which of the below statements is true regarding this scenario?

- A. William's statements will be admissible however the audio recording will be inadmissible.
- B. Both William's statements and the audio recording will be inadmissible.
- C. Both William's statements and audio recording will be admissible.
- D. William's statements will be inadmissible however the audio recording will be admissible.

30. Shelly feared charges of neglect when her son, afflicted with cerebral palsy, died in his sleep. She was present when two of her sons and their friends discussed burning her family's mobile home to conceal the circumstances of her son's death. Donald, an unrelated mentally ill 18-year-old living with the family, was left to die in the fire, in order to avoid the appearance that Shelly's son had been unattended. Five days later, the police arrested Shelly, but did not read her *Miranda* rights. At the police station, Detective King questioned her for 30 to 40 minutes, obtaining a confession that the plan was for Donald to die in the fire. He then gave her a 20-minute break, returned to give her *Miranda* warnings, and obtained a signed waiver. He resumed questioning, confronting Shelly with her pre-warning statements and getting her to repeat the information. The detective testified that he made a conscious decision to withhold *Miranda* warnings, question first, then give the warnings, and then repeat the question until he got the answer previously given. The technique the detective used is known as "*beachheading*" and:

- A. is an allowable process not violative of a person's right against self-incrimination.
- B. is likely to mislead and deprive a person of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them.
- C. there are no curative measures that can be taken to ensure that a reasonable person in the suspect's situation would understand the import and effect of the *Miranda* warnings and of the *Miranda* waiver.
- D. B & C

31. When *Miranda* warnings are given after a custodial interrogation has already produced incriminating statements, the admissibility of post-warning statements will turn on whether the warnings functioned effectively in providing the defendant the ability to exercise his state law privilege against self-incrimination. In making that determination, courts will consider all relevant factors, including all the below except:

- A. the attitude and cooperation of the defendant during pre-and post-warning questioning.
- B. the proximity in time and place between the pre-and post-warning questioning.
- C. whether the officers informed defendant that his pre-warning statements could not be used against him.
- D. the degree to which the post-warning questioning is a continuation of the pre-warning questioning.

32. Police officers obtained a valid warrant for Patrick's arrest in connection with the shooting death of Jessie. When the police were unable to find Patrick at his residence, they went to his aunt's house, where they had reason to believe Patrick stayed on occasion. The officers entered the house without a search warrant and without the aunt's express permission. The police did not discover any evidence of the crime during their search, however, they found Patrick hiding in the attic, arrested him, and brought him to police headquarters. Three hours later, he signed a waiver of his *Miranda* rights and confessed to shooting the victim. Which of the below statements is true regarding this scenario?

- A. Patrick's confession would be suppressed as it was given after an unlawful arrest and considered the "fruit of the poisonous tree."
- B. The police had no authority to enter the home of Patrick's aunt to search for him without a search warrant therefore Patrick's confession will be suppressed.
- C. Although the police unlawfully entered Patrick's aunt's home to search for Patrick, they would have been lawfully allowed to seize any evidence or contraband found in plain view.
- D. Patrick's confession will be admissible even with the "taint" of the constitutional violation into his aunt's house.

33. Officers relied on invalid arrest warrants when they set out to arrest Daniel, at his girlfriend's apartment, for his role in several armed robberies and auto thefts. Upon hearing the officers' knock at the door, Daniel fled through an apartment window onto an adjacent roof. After a twenty-minute standoff, the police arrested him. Later at headquarters, Daniel made incriminating statements after the police advised him of his *Miranda* rights. Which of the below statements is true regarding the entry and statements Daniel made?

- A. The arrest was lawful, and the statements Daniel made while in police custody are admissible.
- B. The arrest was lawful, and the statements Daniel made while in police custody are inadmissible.
- C. The arrest was unlawful, and the statements Daniel made while in police custody are admissible.
- D. The arrest was unlawful, and the statements Daniel made while in police custody are inadmissible.

34. John was questioned at the county prosecutor's office regarding the stabbing death of his friend and co-worker. When he arrived at the office, he was accompanied by his girlfriend, Fran. The detectives isolated John in an interrogation room and asked Fran to remain in the waiting room. As soon as John was taken away by the investigators, Fran called an attorney. The attorney told Fran that he would immediately send Vince Schnook, an associate from the law office. Fran immediately advised one of the officers that an attorney was on his way and asked that John not be questioned until the attorney arrived. The officer, according to Fran, nodded that he understood. When Schnook arrived at the prosecutor's office, Fran met him and explained that John had been taken into an office for questioning. Schnook approached the prosecutor who would eventually present the case against John and told the prosecutor that he was there to represent both Fran and John. The prosecutor informed Schnook that Schnook had no right to walk into an investigation. The prosecutor assured Schnook that the police would call him if, and when, John requested an attorney. No one informed John that a lawyer retained by Fran was waiting to see him. After waiving his *Miranda* rights, John confessed to the murder. The confession was given almost five hours from the time John had been taken into custody, and nearly four and one-half hours from the time the prosecutor had refused to permit Schnook to speak with John or inform him of the attorney's presence. Which of the below statements is true regarding this scenario?

- A. The refusal to inform John of the presence of the attorney violated his constitutional rights, including the privilege against self-incrimination, and therefore rendered John's confession inadmissible.
- B. The detectives had no obligation to advise John that Fran had summoned an attorney to advise him and was irrelevant to the question whether he had knowingly waived his rights.
- C. Until the attorney arrived at the prosecutor's office, or personally conveyed to a law enforcement official that he was representing John, the detectives were lawfully allowed to interrogate John without an attorney and need not inform him that one was secured by Fran.
- D. None of the above statements is true.

35. Rule 3:17 (Electronic Recordation) stipulates that, unless one of the enumerated exceptions are met, all custodial interrogations conducted in a place of detention must be electronically recorded when the person being interrogated is charged with certain crimes. Some of the exceptions where it will be allowable for electronic recordation not to occur are listed below. Which of the below is not one of the exceptions?

- A. A spontaneous statement is made outside the course of an interrogation.
- B. A statement is made in response to questioning that is routinely asked during the processing of the arrest of the suspect.
- C. A statement is made during an interrogation where the person has not been charged.
- D. A statement is made during a custodial interrogation that is conducted out-of-state.

36. In all cases of eyewitness identifications, the ultimate inquiry will turn on whether the eyewitness identification, in light of the totality of the circumstances, was reliable. Reliability, then, is the linchpin in determining the admissibility of identification testimony. To assess reliability under the federal approach, courts will consider several factors. Which of the below are some of those factors?

- I. the witness's degree of attention
- II. the witness's age and education level
- III. the accuracy of his prior description of the criminal
- IV. the time between the crime and the confrontation

- A. I and III only
- B. I, II and III only
- C. I, III and IV only
- D. All of the above

The New Jersey Supreme Court, in *State v. Henderson*, 208 N.J. 208 (2011) revised the State's framework for evaluating eyewitness identification evidence than those found in the federal approach. Questions #37 through #44 are based on the Court's findings.

37. Memory is malleable, and the body of eyewitness identification research suggests that an array of variables can affect and dilute memory and lead to misidentifications. The research divides those variables into two categories. Which variables are factors like lineup procedures which are within the control of the criminal justice system?

- A. System variables
- B. Procedural variables
- C. Scientific variables
- D. Evidential variables

38. Continuing with the stem of Question # 37, one other variable contains factors related to the witness, the perpetrator, or the event itself — like distance, lighting, or stress — over which the legal system has no control. What are these variables called?
- A. Subjective variables
 - B. Estimator variables
 - C. Objective variables
 - D. Personal variables
39. Along with the variables mentioned in Questions #37 and #38, a concept called _____ judgement helps explain how people make identifications and raises concerns about reliability. Under typical lineup conditions, eyewitnesses are asked to identify a suspect from a group of similar-looking people. This refers to the fact that the witness seems to be choosing the lineup member who most resembles the witnesses' memory relative to other lineup members. As a result, if the actual perpetrator is not in a lineup, people may be inclined to choose the best look-alike.
- A. bias
 - B. selective
 - C. directive
 - D. relative
40. An identification may be unreliable if the lineup procedure is not administered in a certain manner. An administrator who does not know who the actual suspect is in a lineup is called a/n _____ administrator.
- A. blind
 - B. double-blind
 - C. impartial
 - D. objective
41. Mugshot _____ is when a witness initially views a set of photos and makes no identification, but then selects someone—who had been depicted in the earlier photos—at a later identification procedure.
- A. commitment
 - B. exposure
 - C. bias
 - D. focus

42. Mugshot _____ occurs when a witness identifies a photo that is then included in a later lineup procedure. Studies have shown that once witnesses identify an innocent person from a mugshot, a significant number then reaffirm their false identification' in a later lineup—even if the actual target is present.
- A. commitment
 - B. exposure
 - C. bias
 - D. focus
43. When a suspect is unknown, eyewitnesses sometimes work with artists who draw composite sketches. Composites can also be prepared with the aid of computer software or non-computerized tool kits that contain picture libraries of facial features. Which of the below statements is false regarding what the New Jersey Supreme Court found during the *State v. Henderson* case?
- A. Composites produce poor results due to a mismatch between how composites are made and how memory works.
 - B. The Court could not make a finding on the effect the process of making a composite has on a witness so it set a bright-line rule prohibiting their use until further research can be investigated.
 - C. Evidence suggests that people perceive and remember faces holistically and not at the level of individual facial features.
 - D. Creating a composite feature-by-feature may not comport with the way that memories for faces are generally processed, stored, and retrieved.
44. Showups are essentially single-person lineups: a single suspect is presented to a witness to make an identification. Showups often occur at the scene of a crime soon after its commission. Experts believe the main problem with showups is that, compared to lineups, they fail to provide a safeguard against witnesses with poor memories or those inclined to guess, because every mistaken identification in a showup will point to the suspect. Thus, there is doubt on the reliability of showups conducted more than _____ hour(s) after an event, which present a heightened risk of misidentification.
- A. one
 - B. two
 - C. three
 - D. four

45. A robbery victim identified her assailant's photograph from an array displayed on a police computer. The computer contained photographs of individuals previously arrested by the police department. Through a software program called "Picture Link," Detective Manson was able to display only photographs of individuals who reasonably matched the description provided by the victim. Once the perpetrator's characteristics were entered into the system, the computer began to display 12 photographs at a time for between 10 and 12 seconds. After viewing between 36 to 60 photographs, the victim identified one of the images as that of the man who had attacked her on the street earlier that day. The detective then printed an enlarged version of the photograph and had the victim sign it. None of the other photographs viewed by the victim were printed or maintained as part of the investigative record. After the victim identified the suspect's photograph, he was able to use the Picture Link system to obtain the suspect's name. Which of the below statements is true regarding this scenario?

- A. The photographs viewed by the victim constituted an array and because the detective failed to retain all of the photos viewed by the victim it prevented a meaningful inquiry into the specific procedure employed and the identification procedure will be suppressed.
- B. The Picture Link system was, in effect, a mug shot book and since the use of mug shot books to develop an as-yet-to-be-determined suspect does not require that all the photographs viewed in the mug shot books be preserved, the identification process will be admissible.
- C. Whether a photo array or an electronic version of a mug shot book is used in an identification procedure, the photos shall be retained and a failure to do so will invalidate the identification and cause it to be suppressed.
- D. The identification procedure Detective Manson employed was impermissibly suggestive as the Picture Link system would display photographs of suspects the detective entered into the system.

46. Ben, a private security guard, was working the 4 pm to midnight shift in a housing complex. At the end of his shift, Ben entered his car and drove to the exit to wait for traffic to pass. While stopped, Ben was approached by Carmelo who was on a bicycle. Ben recognized Carmelo as a person he had seen in the area almost daily for the past month. Carmelo asked Ben for five dollars. When Ben replied that he had no money, Carmelo punched him twice, once in the face and once on the back of the neck, knocking Ben unconscious. When Ben regained consciousness, his car was missing, and he was bleeding. He walked to a nearby security booth and called the police. Upon the arrival of Officer Miller, Ben explained what occurred, and described his assailant as a Hispanic male, about 5'7", with a husky build, and a scar on his face, who was wearing something white and red. Ben was then transported to the hospital. Meanwhile, in the next town, Officer Carter was called to an accident scene shortly after 1:00 a.m. Investigation at the scene led to the arrest of the motorist (Carmelo) for drunk driving. A search of Carmelo revealed four black belt keepers, which are used by police or security personnel to secure their belts to gun holsters. At the station, Officer Carter received information that the damaged vehicle was stolen. After learning that Ben's car had been recovered, the police arranged a showup. Ben was told by an officer that "we located your car with somebody in it, we want you to come with us to identify the person." He was then taken to another hospital where Carmelo was being treated. As soon as Ben entered the emergency room, he looked around and identified Carmelo, who was sitting on a hospital bed about six feet away, as the man who had attacked him. The only other persons in the emergency room were two police officers and nurses. Which of the below statements is true regarding this showup procedure?

- A. The showup procedure was not impermissibly suggestive, the victim's identification of Carmelo is sufficiently reliable to be admissible at trial.
- B. The showup procedure was not impermissibly suggestive, however the victim's identification of Carmelo is not sufficiently reliable to be admissible at trial.
- C. The showup procedure was impermissibly suggestive, the victim's identification of Carmelo is sufficiently reliable to be admissible at trial.
- D. The showup procedure was impermissibly suggestive and the identification procedure will be suppressed at trial.

47. When a defendant presents some evidence of impermissible suggestiveness in the identification process, a “*Wade* hearing” should be conducted by the trial court. At the hearing, the first issue to be decided is whether the procedure utilized by the police was impermissibly suggestive. However, suggestiveness alone is not fatal. If suggestiveness is found, the second issue to be decided is whether the objectionable procedure resulted in a very substantial likelihood of irreparable misidentification. The essence of the second inquiry is:

- A. fairness
- B. objectivity
- C. subjectivity
- D. reliability

48. Which of the below statements, given as testimony by a law enforcement officer during trial, would be considered disallowed?

- A. A police detective testifying that he included defendant’s picture in a photographic array because he had developed defendant as a suspect based on information received.
- B. An officer calling a photograph of defendant a “mug shot.”
- C. Although an officer had no personal knowledge of the crime committed, he told the jury that he believed defendant closely resembled a composite sketch of the assailant and therefore he included a photo of defendant in the array.
- D. All the above

49. When a civil lawsuit is brought against a law enforcement officer for actions taken in the course of his or her employment, the officer may be protected by the doctrine of “qualified immunity,” which protects government officials from liability for civil damages insofar as their conduct does not violate clearly established _____ of which a reasonable person would have known.

- I. departmental procedures
- II. statutory law
- III. attorney general guidelines
- IV. constitutional rights

- A. II, III and IV only
- B. I, II and IV only
- C. II and IV only
- D. All the above

50. Walter, age 70, lived with his wife, Clara, in a senior citizens' complex. In the middle of September, Walter's neighbor, Helen told the apartment manager, Margaret, that she had heard Walter using loud and abusive language and that he was threatening to throw knives at his wife. Margaret called the police. Officers responded and first spoke with Helen and Margaret. Helen confirmed her initial report. At this point, the officers went to Walter's apartment and were allowed in by Clara. The officers noticed a knife on the kitchen floor and a red mark on Clara's arm. In response to their questions, Clara denied that any disturbance occurred, and that Walter did not assault her. Nonetheless, the officers arrested Walter. When he complained about not being able to walk, the officers believed that he was bluffing, but nonetheless got him a wheelchair, wheeled him out of the apartment, and transported him to the police station in an ambulance. At the station, the officers charged Walter with simple assault. Officer Fields signed the complaint because Clara refused to sign a domestic violence complaint against her husband. Which of the below statement is true regarding this scenario?

- A. Walter's physical condition precluded his being arrested. Had the allegation been true his wife, being in better physical condition, could have gotten away or physically resisted him before he inflicted any serious injury. His arrest was unlawful.
- B. Under the Domestic Violence Act, an officer is empowered to arrest an alleged perpetrator, even when the victim does not corroborate the incident, provided that the officer has probable cause to believe the incident occurred.
- C. Clara, herself, would have reached out to the police for assistance had she been threatened and/or assaulted. Officers should not primarily rely on neighbors to develop probable cause to arrest in domestic violence cases. The police did not establish reason to arrest Walter.
- D. The police were able to corroborate the details of the report through their independent investigation. It is undisputed that when the police were at the apartment, they saw a knife in plain view and a red mark on Clara's arm. Combined with Margaret's report, the officers had reasonable suspicion to arrest Walter.

51. In cases of suspected or confirmed bias incidents involving certain situations, the local law enforcement agency shall immediately notify a certain agency. Which of the below situations would require the immediate notification?

- I. A potential to generate large-scale public unrest
- II. A law enforcement officer as the alleged victim
- III. An organized hate group as the perpetrator
- IV. Cases of homicide, arson, robbery, assault

- A. I and III only
- B. I, II and III only
- C. I, III and IV only
- D. All of the above

52. Referencing Questions #51, what is the name of the agency that must be immediately notified?

- A. Bias Crimes Unit at the Division of Criminal Justice
- B. Office of Bias Crime and Community Relations
- C. State Police Unit
- D. The N.J. Attorney General's Office

53. Referencing the Internal Affairs Policy and Procedures, in providing a range of penalties, the agency can use the disciplinary process to achieve the basic goals of instruction and address inappropriate behavior of officers before minor problems escalate into major problems. At the same time, the subject officer should be made aware that repeated violations of the agency's rules will result in progressive discipline. Which of the below is the proper order of progressive discipline?

- A. Oral reprimand or performance notice; Written reprimand; Suspension without pay; Monetary fine; Loss of a promotional opportunity; Demotion; Discharge from employment
- B. Oral reprimand or performance notice; Written reprimand; Suspension without pay; Monetary fine; Demotion; Loss of a promotional opportunity; Discharge from employment
- C. Oral reprimand or performance notice; Written reprimand; Monetary fine; Suspension without pay; Loss of a promotional opportunity; Demotion; Discharge from employment
- D. Oral reprimand or performance notice; Written reprimand; Monetary fine; Loss of a promotional opportunity; Suspension without pay; Demotion; Discharge from employment

54. _____ must establish a familiarity with the agency's disciplinary process and develop an understanding of how to implement specific disciplinary procedures when called upon to deal with inappropriate behavior or misconduct.
- A. Administrative commanders
 - B. Middle managers
 - C. Line supervisors
 - D. All of the above
55. During an Internal Affairs investigation and when taking a formal statement from a civilian, the investigator shall _____ the statement according to the same protocols that would apply if the civilian were being interviewed in connection with a criminal investigation.
- A. Video record
 - B. Audio record
 - C. Either A or B
 - D. Both A and B
56. During an Internal Affairs investigation and when taking a formal statement from an officer, the investigator shall _____ the statement in cases that arise from a civilian complaint.
- A. Video record
 - B. Audio record
 - C. Either A or B
 - D. Both A and B
57. An agency's internal affairs function shall receive notice of any incidents involving any firearm discharge by agency personnel, whether on-duty or off-duty, unless the discharge occurred during the course of
- I. a law enforcement training exercise
 - II. routine target practice at a firing range
 - III. a lawful animal hunt
 - IV. the humane killing of an injured animal
- A. I and II only
 - B. I, II and III only
 - C. I, II and IV only
 - D. All of the above

58. Which of the below is true regarding an Extreme Risk Protective Order (ERPO) and its Act?
- A. The ERPO Act specifies that only a “petitioner,” defined as any person, may file a petition for an ERPO against any individual.
 - B. The definition of a “family or household member” covers the identical universe of those individuals who can be considered a “victim of domestic violence.”
 - C. The ERPO Act requires an act of domestic violence to have occurred.
 - D. The ERPO Act requires that only the petitioner’s well-being need be protected.
59. A family or household member may file a petition for a Temporary Extreme Risk Protective Order (TERPO) at:
- I. the Superior Court
 - II. a State, County, or Municipal Law Enforcement Agency
 - III. The Prosecutor’s Office
 - IV. The Attorney General’s Office
- A. I only
 - B. II and III only
 - C. I and II only
 - D. All the above
60. The ERPO Act provides that when a petitioner seeks a TERPO against a New Jersey law enforcement officer respondent, a different procedure must take place. The petition shall be submitted to the:
- A. Law Enforcement Agency in which the respondent-officer is employed.
 - B. Prosecutor’s Office.
 - C. Attorney General’s Office.
 - D. Superior Court.