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2. Classify Evidence	<ol style="list-style-type: none"> <li>Oral/Documentary/Real (Refer to documents 8 and 9 for depth)</li> <li>Direct/Circumstantial (Refer to document 3 for depth)</li> <li>Primary/Secondary</li> <li>Opinion (Refer to document 10 if this is relevant here)</li> </ol>
3. Circumstantial Evidence	Consider here in the flow of the question
4. Relevance and Admissibility	<ol style="list-style-type: none"> <li>Is it admissible</li> <li>Is it relevant</li> </ol>
Exclusionary Rules & Stuff Relevant to This	
5. Hearsay	Defines Hearsay Gives Exceptions
6. Admissions	Expands out exception to Hearsay
7. Confessions	Expands out exception to Hearsay
8. Documentary Evidence	Documentary Exclusions Documentary Exceptions
9. Real Evidence	Overlaps of Documentary & Real Circumstances which must be met to be admitted
10. Opinion Evidence	Exceptions to not being admissible
Random	
11. Complainants in Sexual Offences	
12. Weight	

## STEP TWO

**CLASSIFY EVIDENCE**

## CLASSIFICATIONS

1	Oral, Documentary or Real?	1
2	Direct or Circumstantial?	3
3	Primary or Secondary?	Nothing
4	Opinion?	Nothing

**1. ORAL, DOCUMENTARY OR REAL?**

## Consider

1	Oral
2	Documentary
3	Real

**1. ORAL**

<b>The assertion of a witness in court.</b>		
	May swear an oath on bible	<b>s 33 OA</b>
<b>May make solemn affirmation instead of oath if:</b>		
<b>YES</b>	That person has no religious belief or that person objects to taking an oath on religious grounds. The affirmation shall be of the same force and affect as if such person had taken an oath in the usual form.	<b>s 17 OA</b>
<b>YES</b>	It would be impractical to administer a binding oath in terms of that person's religion	<b>s 39 OA</b>
<b>YES</b>	That person otherwise objects to taking an oath, or appears incapable of understanding the nature of an oath. Judge must be satisfied that the person understands that he or she will be liable to punishment if evidence given under solemn affirmation is untruthful.	<b>s 37 OA</b>
<b>Translator</b>	Court may, in criminal proceedings, order a translator for an accused or witness	<b>s 131A QEA</b>
	Will be bound in manner determined by judge	<b>s 35 OA</b>

2. DOCUMENTARY

CONSIDER ITS OWN DOCUMENT IF NECESSARY!!

	Includes any items such as maps, graphs, drawings, labels, photographs, audio & video tapes:	Sch 3 QEA
YES	Any part of document in writing or any other document	Sch 3(a) QEA
YES	Book, map, plan, graph or drawing	Sch 3(b) QEA
YES	Photograph	Sch 3(c) QEA
YES	Label, marking, or other writing identifying/describing anything of which it forms part or to which it is attached by any means whatsoever	Sch 3(d) QEA
YES	Disc, tape, soundtrack, other device in which sounds or other data are embodied as to be capable of being reproduced therefrom	Sch 3(e) QEA
YES	Film, negative, tape etc in which 1+ visual images are embodied so as to be capable of being reproduced therefrom	Sch 3(f) QEA
YES	Any other record of information whatsoever	Sch 3(g) QEA
NB	Only originals are admissible unless lost or destroyed	Young; Godfrey

PHOTO/VIDEO

Can be both real and documentary evidence		Sitek; Butera
Words within photo/video	Documentary evidence	
No words	Real evidence	

HOW CAN THIS BECOME AN ITEM OF EVIDENCE

Documents as Real Evidence	Important not for it's writing but because of place it was found or its condition
	EG When a person accused of stealing a wallet is found minutes later attempting to use the bankcard that was in the wallet.
Evidence of Legal Transaction of Disposal of Property	Evidence of something else that has occurred [i.e title deeds to property, wills, receipts etc]
Contains evidence of relevant events	

3. REAL EVIDENCE

CONSIDER ITS OWN DOCUMENT IF NECESSARY!!

All evidence other than oral testimony and documents		<b>Taylor</b>
Used to describe all evidence that may be obtained from a 'thing' such as:		
<b>YES</b>	Stolen property found in possession of alleged thief	
<b>YES</b>	DNA Samples from rape suspect found on clothing of victim	
<b>YES</b>	CCTV footage of accused committing an offence	
<b>YES</b>	Other forensic and photographic evidence	

2. DIRECT OR CIRCUMSTANTIAL?

CONSIDER ITS OWN DOCUMENT IF NECESSARY!!

<b>Direct Evidence</b>	Direct evidence is evidence that leads <i>directly</i> to the proof of a fact in issue (e.g. CCTV footage)	
<b>Circumstantial evidence</b>	Circumstantial evidence is any fact (sometimes called an "evidentiary fact", <i>factum probans</i> or "fact relevant to the issue") from the existence of which the judge, or jury, may <i>infer</i> the existence of a fact in issue (sometimes called a "principal fact" or <i>factum probandum</i> )	
	Used to <u>draw inferences</u> – if the first fact exists [the piece of circumstantial evidence] then the second fact [the fact in issue] also exists	
	<b>EG</b>	The fact that the muddy shoe print is present infers that the shoe owner was present.
	<b>EG</b>	Fingerprints, hair samples, DNA, evidence of a bitter battle with another
	<b>YES</b>	Can convict entirely on circumstantial evidence
<b>YES</b>	Statements of regret made by S to his victim, V, and another person following intercourse with V were held to be circumstantial evidence that the intercourse occurred without V consent (it was regarded as a form of 'admission against interest')	<b>Soloman</b>

3. PRIMARY OR SECONDARY?

Conclude

4. OPINION

Flag. Go to own document if necessary!