

CRW2602

(469775)

October/November 2016

CRIMINAL LAW. SPECIFIC CRIMES

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

PROF L JORDAAN
PROF C VAN DER BIJL
MR RD RAMOSA

PROF N MOLLEMA

SECOND

Closed book examination

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue

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THIS PAPER CONSISTS OF SEVEN (7) PAGES PLUS INSTRUCTIONS FOR COMPLETION OF A MARK READING SHEET

THE QUESTIONS IN THIS PAPER COUNT A HUNDRED MARKS. THE PAPER CONSISTS OF TWO PARTS, MARKED A AND B. YOU MUST ANSWER BOTH PARTS A AND B. PART A CONSISTS OF TEN (10) MULTIPLE CHOICE QUESTIONS. EACH QUESTION COUNTS THREE (3) MARKS, WHICH MEANS THAT THE QUESTIONS IN PART A COUNT A TOTAL OF THIRTY (30) MARKS. IN PART B, THE ANSWERS TO THE QUESTIONS MUST BE WRITTEN IN THE EXAMINATION SCRIPT ITSELF. THE QUESTIONS IN PART B COUNT SEVENTY (70) MARKS.

PART A (MULTIPLE CHOICE QUESTIONS)

IMPORTANT NOTICE. THE QUESTIONS IN THIS PART HAVE TO BE ANSWERED ON THE MARK READING SHEET, WHICH WILL BE ISSUED WITH YOUR EXAMINATION ANSWER BOOK. YOU HAVE TO READ THE INSTRUCTIONS IN CONNECTION WITH THE USE OF THE MARK READING SHEET CAREFULLY. FAILURE TO DO SO MAY MEAN THAT YOUR ANSWERS CANNOT BE MARKED BY THE COMPUTER.

Ten questions (marked 1 - 10) follow. Each question contains three (3) statements (marked (a)-(c)). Some of the statements are correct and some are incorrect. You must decide which of these statements is/are correct. The three (3) statements are followed by five (5) allegations (marked (1)-(5)). Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusions to which you have come.

[TURN OVER]

QUESTION 1

- (a) In the crime of terrorism, the interests protected are the safety and security of the Republic, its institutions and people
 - (b) For the crime of terrorism, a specific intention is required which has two components
 - (c) Public violence can be committed by an individual acting alone
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

QUESTION 2

- (a) Proof of mere presence at the scene of the crime is sufficient to be found guilty of public violence
 - (b) The status of the participants is one of the factors examined in order to determine whether or not the act of public violence can be classified as serious
 - (c) A witness who intentionally makes a false statement in the course of a legal proceeding commits perjury even if his statement is not under oath, but merely made after an affirmation to speak the truth or after being warned to speak the truth
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (b) and (c) are correct
 - (5) None of the statements is correct

QUESTION 3

- (a) Contempt *ex facie curiae* concerns acts which refer to pending and non-pending cases
 - (b) The crime of defeating the course of justice is **only** committed where it is proved that as a result of the conduct of the accused, an innocent person has been convicted or a guilty one discharged
 - (c) Defeating or obstructing the course of justice may be committed by either a positive act or an omission
- (1) All the statements are correct
 - (2) Only statements (a) and (b) are correct
 - (3) Only statement (b) is correct
 - (4) Only statement (c) is correct
 - (5) Only statements (a) and (c) are correct

[TURN OVER]

QUESTION 4

- (a) In the crime of statutory perjury both the statements made under oath need to be made in the course of a judicial proceeding
 - (b) One of the categories of specified persons whose corrupt activities are criminalised by the *Prevention and Combating of Corrupt Activities Act 12 of 2004* are agents
 - (c) In the crime of corruption, no distinction is made between the main crime on the one hand, and conspiracy or incitement to commit the main crime on the other
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (b) and (c) are correct
 - (5) All these statements are correct

QUESTION 5

- (a) In the instance where X unlawfully acquires property from Y by bringing pressure in the form of a threat of physical violence to Y himself, extortion and robbery overlap
 - (b) If X obtains drugs for her own personal use, she can be convicted of the crime known as "dealing in drugs"
 - (c) The *Firearms Control Act 60 of 2000* draws a distinction between "firearms", "prohibited firearms" and "weapons of war"
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (b) and (c) are correct
 - (5) All the statements are correct

QUESTION 6

- (a) Road traffic offences fall under crimes against public welfare
 - (b) A person pushing his vehicle by exercising control over the steering wheel and handbrake from outside the vehicle is "driving" the vehicle in terms of the *National Road Traffic Act 93 of 1996*
 - (c) Any person who drives a vehicle in wilful or wanton disregard for the safety of persons or property is guilty of inconsiderate driving
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (c) are correct
 - (4) Only statements (b) and (c) are correct
 - (5) Only statements (a) and (b) are correct

[TURN OVER]

QUESTION 7

- (a) "Sexual violation" is widely defined in terms of section (1) of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 Of 2007* so as to include not only the actual act of X whereby he or she makes direct or indirect contact with the body of another, but also any act whereby he or she **causes** such contact
 - (b) A person commits the crime of sexual grooming of a child over the internet if he or she invites the child by e-mail to travel with him/her in order to commit a sexual act with the child
 - (c) If X is charged with murder but lacked the necessary intention to murder because of intoxication, the crime is not automatically reduced from murder to culpable homicide
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (c) are correct
 - (4) All these statements are correct
 - (5) None of the statements is correct

QUESTION 8

- (a) A conviction of assault with intent to do grievous bodily harm is only possible where Y (the victim) in fact sustained grievous bodily harm
 - (b) Assault can be described as an *iniuria* against the physical integrity of another
 - (c) In order to secure a conviction for the crime of pointing a firearm, the state must prove that the firearm was loaded, and that it was capable of firing a shot
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

QUESTION 9

- (a) The requirement of publication in the crime of criminal defamation means that the allegations should have been made public in printed form
 - (b) The interests protected by the crime of abduction are the interest of the minor and the parents' or guardian's right to consent to the minor's marriage
 - (c) If X abducts Y (a minor) and demands a ransom for her (Y's) release, X will be guilty of kidnapping **only**
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) None of the statements are correct

[TURN OVER]

QUESTION 10

- (a) Any person, who assists a thief by hiding property after he (the thief) has stolen such property, is not regarded as an accessory after the fact but a co-perpetrator to the crime of theft
 - (b) If X sets fire to his own insured car in order to claim its value from the insurer, he commits the crime of arson
 - (c) Merely pushing open a door which has been closed, although not locked, and then walking into the house can never amount to "breaking" for the purposes of the crime of housebreaking with intent to commit a crime
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) All the statements are correct
 - (5) None of the statements is correct

SUB-TOTAL [30]**PART B**

THIS PART CONSISTS OF THREE (3) QUESTIONS EACH QUESTION IS SUBDIVIDED INTO A NUMBER OF SUB-QUESTIONS. YOU MUST ANSWER ALL THREE (3) QUESTIONS. SUBSTANTIATE YOUR ANSWERS AND REFER TO DECIDED CASES WHERE NECESSARY. IN DECIDING UPON THE LENGTH OF YOUR ANSWERS YOU SHOULD BE GUIDED BY THE MARKS ALLOCATED TO EACH QUESTION NOTE THAT SOME OF THE QUESTIONS CONTAIN A CHOICE BETWEEN TWO ALTERNATIVES

QUESTION 1

- (a) Name the three general speed limits and the roads to which they apply in terms of section 59(1) of the National Road Traffic Act 93 of 1996 (6)
- (b) X is married to Y, who is pregnant. X is a very jealous and controlling man. X hacks into Y's email account. X discovers that Y has been flirting with other men that she has been meeting on an online dating site. Enraged, he (X) creates a fake profile on the dating website and a fake e-mail address and sends Y romantic messages. Y responds and requests to meet X. X agrees and requests Y to meet him at a romantic scenic spot in the city. Y drives there and meets X who kills her (Y) and sets her body alight. Provide a definition of the various offences set out below (if it is recognised as an offence) and then consider whether X's conduct complies with all the elements of the offence. Also refer to relevant case law to substantiate your answer.
 - (i) *Crimen iniuria* (5)
 - (ii) Fraud (6)
 - (iii) Murder of the unborn foetus (4)

[TURN OVER]

(c) **NOTE THE CHOICE YOU HAVE IN THIS QUESTION**

- (i) Define the crime of contempt of court

OR

- (ii) Define the crime of theft by false pretences

(4)

[25]**QUESTION 2**

- (a) A group of nine workers belonging to the X union are unhappy about their employment conditions at a university and want more money. They decide to go on an unprotected strike. They place stones in the middle of the road and then start to sing and shout. They storm the law building and inform the employees to vacate their offices or else they will use physical violence to remove them. The employees are terrified and fearing for their lives they start running out of the building. The workers then deface a statue and set some of the employees' cars on fire. Fully discuss whether the workers belonging to the X union can be found guilty of the following crimes. In your answer you must set out the elements of the various offences.

- (i) Public violence (5)
 (ii) Malicious injury to property (3)
 (iii) Assault (5)

- (b) Discuss
- ONE**
- of the following cases

S v Sibiyi 1955 (4) SA 247 (A)**OR***S v Ndebele* 2012 (1) SACR 245 (GSJ) (6)(c) **NOTE THE CHOICE YOU HAVE IN THIS QUESTION**

- (i) Section 3 of the *Criminal Law (Sexual Offences and Related Matters)* Act 32 of 2007 provides that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent, is guilty of the crime of rape. In section 1(2) of the said Act it is provided that consent must be 'voluntary and uncoerced agreement'. Discuss the meaning of 'voluntary and uncoerced agreement'.

OR

- (ii) Explain the meaning of 'possession' in the crime of the use or possession of drugs (6)
[25]

[TURN OVER]

QUESTION 3

- (a) X and Y are gym instructors that are employed at a gym. They are role models and mentors of a gym programme that advocates a three-month 'Transform-Your-Body' routine that uses a banting diet (low carbohydrates and high fat diet) and regular gym exercise. Y does not like the banting diet as she loves to eat bread and does not like fatty food, nor does she like the idea of extensive exercise. Y therefore uses diet pills and steroid drugs to ensure that her body stays in top form. X is aware of Y's secret and tells Y that if she does not have sexual intercourse with him, he will inform the gym management of her secret. Y complies and has sexual intercourse with X to keep her secret safe. Has X committed the crime of rape? Discuss (5)
- (b) Briefly describe the two components for the act of appropriation in the crime of theft (2)
- (c) Briefly define the crime of corruption (3)
- (d) X doesn't like a fellow law student Y and punches him so that he falls to the ground. X then sees that Y's cell phone has fallen out of his pocket and decides to grab it and run. Is X guilty of the crime of robbery? Briefly discuss (4)
- (e) Write down the missing words or phrases in your **examination book**
- (i) In the crime of extortion the benefit or advantage can be _____ or _____ (1)
- (ii) In the crime of perjury at common law the false declaration must be made on oath or in a form that is allowed by law to be substituted for an oath such as an _____ (1)
- (iii) The intention required for housebreaking comprises an intention of unlawfully _____ as well as an intention of _____ (2)
- (iv) Section 54(1) of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007* provides that the failure to report sexual offences against _____ and the _____ is an offence (2)

[20]**SUB-TOTAL [70]****TOTAL [100]**

PART 1 (GENERAL/ALGEMEEN)-DEEL 1

STUDY UNIT e.g. PSY100 X
STUDIE EENHEID by PSY100-X

INITIALS AND SURNAME
VOORLETTERS EN VAN

DATE OF EXAMINATION
DATUM VAN EKSAMEN

PAPER NUMBER
VRAESTELNOMMER

EXAMINATION CENTRE (E.G. PRETORIA)
EKSAMENSENTRUM (BY PRETORIA)

STUDENT NUMBER
STUDENTENOMMER

UNIQUE PAPER NO
UNIEKE VRAESTEL NR.

For use by examination invigilator
Vir gebruik deur eksamenopsiener

IMPORTANT

1. USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
2. MARK LIKE THIS ➡
3. CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
4. ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
5. CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
6. CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
7. CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
8. DO NOT FOLD

BELANGRIK

1. GEBRUIK SLEGS 'N HB POTLOOD OM HIERDIE BLAD TE VOLTOOI
2. MERK AS VOLG ➡
3. KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
4. VUL U STUDENTENOMMER VAN LINKS NA REGS IN
5. KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VASTSTREK HET
6. KONTROLEER DAT DIE UNIEKE NUMMER REG INGEVUL IS
7. MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
8. MOENIE VOU NIE

PART 2 (ANSWERS/ANTWOORDE)-DEEL 2

| | | | | | | | |
|----|---------------------|----|---------------------|-----|---------------------|-----|---------------------|
| 1 | (1) (2) (3) (4) (5) | 36 | (1) (2) (3) (4) (5) | 71 | (1) (2) (3) (4) (5) | 106 | (1) (2) (3) (4) (5) |
| 2 | (1) (2) (3) (4) (5) | 37 | (1) (2) (3) (4) (5) | 72 | (1) (2) (3) (4) (5) | 107 | (1) (2) (3) (4) (5) |
| 3 | (1) (2) (3) (4) (5) | 38 | (1) (2) (3) (4) (5) | 73 | (1) (2) (3) (4) (5) | 108 | (1) (2) (3) (4) (5) |
| 4 | (1) (2) (3) (4) (5) | 39 | (1) (2) (3) (4) (5) | 74 | (1) (2) (3) (4) (5) | 109 | (1) (2) (3) (4) (5) |
| 5 | (1) (2) (3) (4) (5) | 40 | (1) (2) (3) (4) (5) | 75 | (1) (2) (3) (4) (5) | 110 | (1) (2) (3) (4) (5) |
| 6 | (1) (2) (3) (4) (5) | 41 | (1) (2) (3) (4) (5) | 76 | (1) (2) (3) (4) (5) | 111 | (1) (2) (3) (4) (5) |
| 7 | (1) (2) (3) (4) (5) | 42 | (1) (2) (3) (4) (5) | 77 | (1) (2) (3) (4) (5) | 112 | (1) (2) (3) (4) (5) |
| 8 | (1) (2) (3) (4) (5) | 43 | (1) (2) (3) (4) (5) | 78 | (1) (2) (3) (4) (5) | 113 | (1) (2) (3) (4) (5) |
| 9 | (1) (2) (3) (4) (5) | 44 | (1) (2) (3) (4) (5) | 79 | (1) (2) (3) (4) (5) | 114 | (1) (2) (3) (4) (5) |
| 10 | (1) (2) (3) (4) (5) | 45 | (1) (2) (3) (4) (5) | 80 | (1) (2) (3) (4) (5) | 115 | (1) (2) (3) (4) (5) |
| 11 | (1) (2) (3) (4) (5) | 46 | (1) (2) (3) (4) (5) | 81 | (1) (2) (3) (4) (5) | 116 | (1) (2) (3) (4) (5) |
| 12 | (1) (2) (3) (4) (5) | 47 | (1) (2) (3) (4) (5) | 82 | (1) (2) (3) (4) (5) | 117 | (1) (2) (3) (4) (5) |
| 13 | (1) (2) (3) (4) (5) | 48 | (1) (2) (3) (4) (5) | 83 | (1) (2) (3) (4) (5) | 118 | (1) (2) (3) (4) (5) |
| 14 | (1) (2) (3) (4) (5) | 49 | (1) (2) (3) (4) (5) | 84 | (1) (2) (3) (4) (5) | 119 | (1) (2) (3) (4) (5) |
| 15 | (1) (2) (3) (4) (5) | 50 | (1) (2) (3) (4) (5) | 85 | (1) (2) (3) (4) (5) | 120 | (1) (2) (3) (4) (5) |
| 16 | (1) (2) (3) (4) (5) | 51 | (1) (2) (3) (4) (5) | 86 | (1) (2) (3) (4) (5) | 121 | (1) (2) (3) (4) (5) |
| 17 | (1) (2) (3) (4) (5) | 52 | (1) (2) (3) (4) (5) | 87 | (1) (2) (3) (4) (5) | 122 | (1) (2) (3) (4) (5) |
| 18 | (1) (2) (3) (4) (5) | 53 | (1) (2) (3) (4) (5) | 88 | (1) (2) (3) (4) (5) | 123 | (1) (2) (3) (4) (5) |
| 19 | (1) (2) (3) (4) (5) | 54 | (1) (2) (3) (4) (5) | 89 | (1) (2) (3) (4) (5) | 124 | (1) (2) (3) (4) (5) |
| 20 | (1) (2) (3) (4) (5) | 55 | (1) (2) (3) (4) (5) | 90 | (1) (2) (3) (4) (5) | 125 | (1) (2) (3) (4) (5) |
| 21 | (1) (2) (3) (4) (5) | 56 | (1) (2) (3) (4) (5) | 91 | (1) (2) (3) (4) (5) | 126 | (1) (2) (3) (4) (5) |
| 22 | (1) (2) (3) (4) (5) | 57 | (1) (2) (3) (4) (5) | 92 | (1) (2) (3) (4) (5) | 127 | (1) (2) (3) (4) (5) |
| 23 | (1) (2) (3) (4) (5) | 58 | (1) (2) (3) (4) (5) | 93 | (1) (2) (3) (4) (5) | 128 | (1) (2) (3) (4) (5) |
| 24 | (1) (2) (3) (4) (5) | 59 | (1) (2) (3) (4) (5) | 94 | (1) (2) (3) (4) (5) | 129 | (1) (2) (3) (4) (5) |
| 25 | (1) (2) (3) (4) (5) | 60 | (1) (2) (3) (4) (5) | 95 | (1) (2) (3) (4) (5) | 130 | (1) (2) (3) (4) (5) |
| 26 | (1) (2) (3) (4) (5) | 61 | (1) (2) (3) (4) (5) | 96 | (1) (2) (3) (4) (5) | 131 | (1) (2) (3) (4) (5) |
| 27 | (1) (2) (3) (4) (5) | 62 | (1) (2) (3) (4) (5) | 97 | (1) (2) (3) (4) (5) | 132 | (1) (2) (3) (4) (5) |
| 28 | (1) (2) (3) (4) (5) | 63 | (1) (2) (3) (4) (5) | 98 | (1) (2) (3) (4) (5) | 133 | (1) (2) (3) (4) (5) |
| 29 | (1) (2) (3) (4) (5) | 64 | (1) (2) (3) (4) (5) | 99 | (1) (2) (3) (4) (5) | 134 | (1) (2) (3) (4) (5) |
| 30 | (1) (2) (3) (4) (5) | 65 | (1) (2) (3) (4) (5) | 100 | (1) (2) (3) (4) (5) | 135 | (1) (2) (3) (4) (5) |
| 31 | (1) (2) (3) (4) (5) | 66 | (1) (2) (3) (4) (5) | 101 | (1) (2) (3) (4) (5) | 136 | (1) (2) (3) (4) (5) |
| 32 | (1) (2) (3) (4) (5) | 67 | (1) (2) (3) (4) (5) | 102 | (1) (2) (3) (4) (5) | 137 | (1) (2) (3) (4) (5) |
| 33 | (1) (2) (3) (4) (5) | 68 | (1) (2) (3) (4) (5) | 103 | (1) (2) (3) (4) (5) | 138 | (1) (2) (3) (4) (5) |
| 34 | (1) (2) (3) (4) (5) | 69 | (1) (2) (3) (4) (5) | 104 | (1) (2) (3) (4) (5) | 139 | (1) (2) (3) (4) (5) |
| 35 | (1) (2) (3) (4) (5) | 70 | (1) (2) (3) (4) (5) | 105 | (1) (2) (3) (4) (5) | 140 | (1) (2) (3) (4) (5) |