

CRW2602

(497270)

May/June 2017

CRIMINAL LAW. SPECIFIC CRIMES

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

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SECOND

Closed book examination

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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) A group of striking employees who violently prevents their non-striking colleagues from doing their work can be charged with and convicted of public violence
 - (b) For a conviction of the crime of public violence, it is required that a number of people act together, as opposed to a single individual acting on his own
 - (c) The breaking up and taking over of a meeting by a group of people may amount to public violence
- (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) X can be charged with statutory perjury if he makes two conflicting statements under the same oath in a legal proceeding
 - (b) A person can under certain circumstances commit perjury at common law by making a false declaration outside of court
 - (c) There is no difference between defeating and obstructing the course of justice
- (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) Laying a false criminal charge at the police against another person constitutes the crime of defeating or obstructing the course of justice (or an attempt to commit it)
 - (b) For the crime of defeating or obstructing the course of justice to be committed, it is required that a court case be pending
 - (c) If X makes a false report to the police to the effect that he had kidnapped another person, he will be convicted of the crime of defeating or obstructing the course of justice
- (1) Only statement (a) is 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) The crime of contempt of court is punished to protect the dignity of the presiding judicial officer **only**
 - (b) Falling asleep in court during proceedings amounts to contempt *in facie curiae*
 - (c) Fair comment on the outcome of a case or on the administration of justice in general does **not** constitute contempt of court
- (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 these statements are correct

QUESTION 5

- (a) In *Ex parte Minister van Justisie In re S v J en S v Von Molendorff* 1989 (4) SA 1028 (A), the court held that the benefit in extortion must be limited to a patrimonial one
 - (b) The crime of extortion is completed only once the benefit is handed over
 - (c) If X, a law professor, tells Y that he will fail her (Y) unless she has sexual intercourse with him, but she refuses, X may nevertheless be convicted of completed extortion
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (b) and (c) are correct

QUESTION 6

- (a) Culpability in the form of intention is required for the offence of "dealing in drugs"
 - (b) The Firearms Control Act 60 of 2000 makes it punishable to be aware that somebody else possesses a firearm unlawfully and then to fail to report this to the police
 - (c) In the crime of fraud the misrepresentation may be made by either a positive act or an omission
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) All the statements are correct

[TURN OVER]

QUESTION 7

- (a) The general speed limit as set out in section 59(1) of the National Road Traffic Act 93 of 1996 for a public road outside an urban area is 80 km/h
 - (b) If X forces Y to have sex with him, X is guilty of the crime of **compelled rape** according to the Sexual Offences and Related Matters Amendment Act 32 of 2007
 - (c) X does **not** commit the crime of sexual exploitation of a child if he obtains the services of Y, a consenting 17-year-old person, for sex for reward
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (b) and (c) are correct
 - (4) All these statements are correct
 - (5) None of the statements is correct

QUESTION 8

- (a) In the crime of common-law abduction, the person who is removed must be unmarried and a minor, and may be either male or female
 - (b) If X slaps Y's cheek and Y, a very obese man, falls backwards, knocks his head and dies, X will be not be guilty of culpable homicide as he could not reasonably have foreseen that Y, when slapped, would die
 - (c) One can steal part of a farm (an immovable property) by moving its beacons or fences
- (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) If X kisses Y without Y's consent, X may be guilty of the crime of sexual assault as in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007
 - (b) If X has a strong suspicion that the goods he received are stolen, but he wilfully refrains from making inquiries to confirm his suspicion, X may be found guilty of the common-law crime of receiving stolen property
 - (c) If X steals Y's credit card and then buys goods with the stolen card, she (X) commits theft of the credit card and also fraud every time she uses the card to buy goods
- (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 of the statements are correct

[TURN OVER]

QUESTION 10

- (a) The crime of forgery is completed the moment the document is falsified, and if the document is then brought to the attention of others a separate crime is committed, namely uttering the document
- (b) Arson is merely a form of the crime malicious injury to property
- (c) If X breaks into a motor car with the intent to steal a car radio, he may be convicted of the crime of housebreaking with intent to commit theft
- (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 QUESTIONS. NOTE THAT SOME OF THE QUESTIONS CONTAIN A CHOICE BETWEEN TWO ALTERNATIVES 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

QUESTION 1

- (a) Name the three forms of theft (3)
- (b) X has an 11-year-old son called S. S is about to cross a pedestrian crossing when a red sports car driven by D, drives onto the pavement and knocks him (S) down. S dies instantly. Tests performed on D reveal that D had a blood alcohol level of 0.07 grams per 100 millilitres at the time of the accident. As a result X develops an absolute aversion to alcohol and forms an ideological group which believes that anyone who drinks alcohol is evil. X decides to blow up Y's bar, the one and only local bar serving alcohol in his town. X plants a bomb which detonates and 40 people in the bar are killed. Answer **ALL** of the following questions
 - (i) Will X be found guilty of the crime of terrorism or not? Discuss. In your answer you must set out briefly the elements of the crime of terrorism (5)
 - (ii) Name two **other** crimes with which X may be charged (2)
 - (iii) Define the crime of driving with excessive alcohol in the blood (4)
 - (iv) Explain what is meant by "reckless driving" (3)

[TURN OVER]

(c) NOTE THE CHOICE YOU HAVE IN THIS QUESTION

- (i) Define the crime of perjury at common law

OR

- (ii) Define the crime of kidnapping

(3)
[20]**QUESTION 2**

- (a) Y is driving home from work. While stationary at a red traffic light, X squirts a substance onto the windscreen of her (Y's) car so that Y cannot see out of it. X then smashes the passenger window and grabs her handbag. X gives the bag to his accomplice Z, who runs away with it. X then points a very realistic looking toy gun at Y and instructs her to get out, forces Y to take drugs and instructs her to climb into the boot of her car. Y complies. X takes her to an isolated spot and opens the boot. X instructs Y to have sexual intercourse with him (X) and Y submits. X then strangles Y and pushes her body over a cliff. Provide a definition of the various offences set out below (if it is recognised as an offence) and then consider whether X will be found guilty or not of the specific offence. Also refer to relevant case law to substantiate your answer.

- (i) Rape (6)
 (ii) Assault (6)
 (iii) Pointing of a firearm (6)
 (iv) Robbery (6)

- (b) Briefly discuss the two ways that the state may prove the element of possession in the crime of the use or possession of drugs (4)

- (c) Name the two defences that X may rely on when charged with the crime of consensual sexual penetration of children (2)

[30]**QUESTION 3**

- (a) X works for a chocolate factory. He (X) often goes around calling his fellow employees names such as Lying Yasmine (Y), Crooked Pete and Tammy Tigress. One day he makes up a lie and tells Tammy that Y steals chocolates on her shift and that she (Y) is having an affair with Pete. Tammy tells Y and Y decides she has had enough of X's conduct and presses charges against X. X is charged with various offences but offers the prosecutor, Z, three bottles of expensive whisky and R10 000 to destroy his case docket so that the prosecution of his (X's) case will not be successful. Fully discuss whether X may be found guilty of the offences set out below. In your answer you must set out the elements of each offence.

- (i) Criminal defamation and/or *crimen iniuria* (6)
 (ii) Corruption (4)

[TURN OVER]

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

S v Nkosi 2012 (1) SACR 87 (GNP)

OR

S v Gardener and Another 2011 (1) SACR 570 (SCA) (6)

- (c) Write down the missing words or phrases in your **examination book**

- (i) The crime of public violence can be committed in a place and on
property (1)
- (ii) The interest protected by the crime of contempt of court is the (1)
- (iii) A 'child' for the purposes of the crime of sexual grooming is a person who is under
the age of years (1)
- (iv) It is a crime to fail to report sexual offences against children and against
persons (1)

[20]

SUB-TOTAL: [70]

TOTAL: [100]

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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

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INITIALS AND SURNAME
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DATE OF EXAMINATION
DATUM VAN EKSAMEN

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EXAMINATION CENTRE (E.G. PRETORIA)
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For use by examination invigilator
Vir gebruik deur eksamenopsiener

IMPORTANT

- USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
- MARK LIKE THIS
- CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
- ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
- CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
- CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
- CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
- DO NOT FOLD

BELANGRIK

- GEbruik SLEGS 'N HB POTLOOD OM HIERDIE BLAD TE VOLTOO
- MERK AS VOLG
- KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
- VUL U STUDENTENOMMER VAN LINKS NA REGS IN
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- MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
- MOENIE VOU NIE

PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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MARK READING SHEET INSTRUCTIONS

Your mark reading sheet is marked by computer and should therefore be filled in thoroughly and correctly

USE ONLY AN HB PENCIL TO COMPLETE YOUR MARK READING SHEET

PLEASE DO NOT FOLD OR DAMAGE YOUR MARK READING SHEET

Consult the illustration of a mark reading sheet on the reverse of this page and follow the instructions step by step when working on your sheet

Instruction numbers ❶ to ❿ refer to spaces on your mark reading sheet which you should fill in as follows

- ❶ Write your paper code in these eight squares, for instance

P	S	Y	1	0	0	-	X
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- ❷ The paper number pertains only to first-level courses consisting of two papers

WRITE

0	1
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 for the first paper and

0	2
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 for the second. If only one paper, then leave blank

- ❸ Fill in your initials and surname
- ❹ Fill in the date of the examination
- ❺ Fill in the name of the examination centre
- ❻ WRITE the digits of your student number HORIZONTALLY (from left to right). Begin by filling in the first digit of your student number in the first square on the left, then fill in the other digits, each one in a separate square
- ❼ In each vertical column mark the digit that corresponds to the digit in your student number as follows [-]
- ❽ WRITE your unique paper number HORIZONTALLY
- NB Your unique paper number appears at the top of your examination paper and consists only of digits (e.g. 403326)
- ❾ In each vertical column mark the digit that corresponds to the digit number in your unique paper number as follows [-]
- ❿ Question numbers 1 to 140 indicate corresponding question numbers in your examination paper. The five spaces with digits 1 to 5 next to each question number indicate an alternative answer to each question. The spaces of which the number correspond to the answer you have chosen for each question and should be marked as follows [-]
- ◆ For official use by the invigilator. Do not fill in any information here