higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL JUSTICE PROCESS
NQF LEVEL 4

24 November 2023

This marking guideline consists of 14 pages.

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SECTION A

QUESTION 1

1.1 B
1.2 A
1.3 C
1.4 D
1.5 C

(5 × 1) **[5]**

QUESTION 2

2.1 True
2.2 True
2.3 False
2.4 True
2.5 False

(5 × 1) **[5]**

QUESTION 3

3.1 G
3.2 L
3.3 F
3.4 J
3.5 A
3.6 H
3.7 B
3.8 C
3.9 E
3.10 I

(10 × 1) **[10]**

QUESTION 4

4.1 presiding officer
4.2 dignity
4.3 judicial body
4.4 in the court during a trial
4.5 outside the court

(5 × 1) **[5]**

TOTAL SECTION A: 25

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SECTION B

QUESTION 5

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum TWO (2) marks may be allocated for this question. Any TWO (2) of the following:

5.1 When a crime has been reported to the police, the police will start with the investigation process.✓ The police official in the community service centre (CSC) (or charge office)✓ at the police station opens a case docket.✓ This is a file to record the actual complaint in writing.✓ Information will be taken from the complainant and or witnesses✓ in the form of statements (affidavits)✓ and these documents will be filed in this case docket.✓ (Any 2 × 1) (2)

Notes to the assessor: May show own interpretation and understanding:

5.2
- Aspects are parts or portions of something; not the whole thing.
- Voluntarily refers to the way in which something is done without force or obligation, but out of one's own free will.
- Received is the process of having obtained and accepted something.
- Existing legal system refers to a current legal system that is in place in a territory at the time. (4 × 1) (4)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

5.3 Objectives of the African Union (AU):

The objectives of the AU applicable to the rights of arrested and detained persons are in keeping with the *Charter of the United Nations* and the Universal Declaration of Human Rights (UDHR):✓

- To encourage international cooperation✓
- To promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights as well as other relevant human rights instruments✓

The *African Charter on Human and Peoples' Rights* is interpreted by the African Commission on Human and Peoples' Rights (ACHPR).✓ This is a quasijudicial body tasked with promoting and protecting human rights and collective rights throughout Africa.✓ It investigates human rights violations,✓ creates and approves programmes of action for encouraging human rights,✓ and sets up effective communication between itself and states to obtain first-hand information on violations of human rights.✓ The ACHPR does not have any actual power and cannot enforce laws.✓ They draft proposals to send to the Assembly of Heads of State and Government for them to act accordingly.✓

(Any 5 × 1) (5)

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Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum FOUR (4) marks may be allocated to this question. Any FOUR (4) of the following:

5.4 From time to time the state president✓ announces the granting of a certain period of special remission✓ as amnesty to certain categories of offenders.✓ An offender's sentence is reduced ✓ with the granted amnesty✓ and the amnesty cannot be forfeited later for any reason.✓ (Any 4 × 1) (4)

[15]

QUESTION 6

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student may or may not recommend day parole – the reasoning must contain the principles of day parole. Allocate ONE (1) mark for the recommendation and FOUR (4) marks for the reasoning thereof. Maximum FIVE (5) marks may be allocated to this question. Any FOUR (4) of the following:

6.1 Day parole is a placement option that is used to ensure effective control over selected offenders who are not yet ready,✓ in all respects, for placement on parole.✓ It can therefore be regarded as a pre-phase for parole.✓

Such parolees are allowed to leave the correctional centre during office hours,✓ for example to work, to seek employment or accommodation and attend programmes✓ but they have to return to the correctional centre at night.✓

Offenders who may be selected for day parole✓ are those who:

- Are experiencing practical resettlement problems✓
- Are institutionalised or those with adaptation or socialisation problems✓
- Have a doubtful prognosis and pose a high security risk✓

The aim is to combat criminalisation and institutionalisation✓ in the sense that:

- The day parolee gradually becomes used to life in free society✓
- Control and supervision are still exercised over the day parolee during the day parole period✓
- He or she is systematically exposed to more responsibility✓
- The parole or correctional supervision of a parolee who does not comply with the conditions may be revoked✓ and the offender may be detained in a correctional centre to serve the unexpired portion of the sentence✓

(Any 5 × 1) (5)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum FOUR (4) marks may be allocated to this question. Any FOUR (4) of the following:

6.2 The argument for the defence is conducted according to the same procedure as for the state,✓ the only difference being that the position is reversed:✓

- The defence had the opportunity to conduct an examination-in-chief of its witnesses.✓
- The public prosecutor has the opportunity to cross-examine each defence witness in the same way that the defence cross-examined state witnesses to reveal flaws in the defence.✓
- The defence also has the opportunity to re-examine its witnesses to clarify points of dispute or doubt raised by the cross-examination.✓
- The defence closes its case after all the evidence in defence of the accused has been led.✓ (Any 4 × 1) (4)

Notes to the assessor: The student may provide additional explanations and or examples. This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum SIX (6) marks may be allocated to this question. Any SIX (6) of the following:

6.3 **The process of adjudication and sentencing**

Sentencing:

The three principles (the triad) that have been worked out by courts as the basic elements of sentencing✓ are applied when imposing a sentence.✓ The three principles that must be considered when sentencing are:✓

- The gravity or seriousness of the crime✓
- The interests of the community✓
- The particular personal circumstances of the accused✓

Sentencing is complicated because various factors always have to be borne in mind when considering an appropriate sentence.✓ Three questions that are jointly related are the following:

- What are the appropriate goals of sentencing and how should they be weighed in the light of the facts of the current case?✓
- How can the goals of sentencing be achieved in the circumstances of the case?✓
- What specific sentence is justified given the facts of the case?✓

Passing the sentence:

The decision relating to the sentence is an important element in court procedure.✓ In pronouncing the decision, the trial court announces the sentence and makes it known to the accused and other interested parties.✓

The decision must be given:

- In open court and in the presence of the accused✓
- In the presence of all interested parties✓
- In a language which the accused and all interested parties can understand✓
- As soon as possible after conviction✓

After hearing the sentence, the accused may apply for leave to appeal against the verdict to a court of appeal.✓ The appeal court will be in a position to identify and consider the thinking of the trial court at the time of passing sentence.✓ Passing sentence is the duty of the presiding officer, who alone decides on a suitable sentence and sentences the offender.✓ (Any 6 × 1) (6)

[15]

TOTAL SECTION B: 30

SECTION C

QUESTION 7

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

7.1 **The procedure of the accusatorial process in court is as follows:**

- Plea: The accused pleads guilty or not guilty to the charge (assume a plea of not guilty).✓
- Case for prosecution:✓ The prosecutor opens case and calls witnesses (defence can cross-examine witnesses).✓
- Case for defence:✓ The defence opens case and calls witnesses (accused may give evidence if he/she so wishes to do).✓
- Final address:✓ Both parties may address the court to deliver their arguments.✓
- Verdict:✓ The presiding officer delivers the verdict.✓
- Sentence:✓ The presiding officer sentences the accused after considering mitigating and aggravating factors.✓ (Any 5 × 1) (5)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. "protection of the owner and the mine – no unnecessary information will be provided to anybody or the media". Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

7.2 This charter acknowledges the rights of victims to:

- Be treated with fairness and with respect for dignity and privacy✓
- Offer information✓
- Receive information✓
- Protection✓
- Assistance✓
- Compensation✓
- Restitution✓ (Any 5 × 1) (5)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. "the identification of the specific prisoner/inmate related to the charge of in possession of gold concentrate". Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

7.3 The identity of each inmate must be determined immediately after admission✓ by taking thumbprints✓ and comparing them to those taken by the police.✓ This is not a once-off process✓ – whenever prisoners/inmates leave a prison and then return later, their thumbprints must again be taken✓ and compared with the record on hand.✓ The person responsible for the identification must also sign the relevant document.✓ In addition to the original identification, it is also essential that inmates be identifiable at any time.✓ For this purpose, each inmate is given an identity card on admission✓ that must be worn at all times.✓ This card is issued according to the present status of an inmate,✓ provided that if the status changes, the card will be amended accordingly.✓ (Any 5 × 1) (5)

[15]

QUESTION 8

Notes to the assessor: The student may provide additional explanations and or examples in their own words. This is applied theory in practice – therefore you may allocate marks for logic correct answers. Allocate maximum TWO (2) marks for explaining the term *witness*. Allocate maximum THREE (3) marks for explaining the term *evidence*.

8.1

Witnesses	Evidence
• A witness is a person who presents information or evidence✓ to a court about an alleged offence.✓ • A witness is a human being.✓	• Evidence includes all facts submitted to the court✓ to settle the question at issue.✓ • Evidence includes both written and oral statements✓ by witnesses, as well as objects✓ and documents✓ submitted to the court for inspection.✓

(2 + 3) (5)

Notes to the assessor*:* This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. "the perpetrators have to be kept separately in the cells". Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

8.2 According to section 7 of the CSA, the separation of the different categories of inmates is another important issue, namely:✓

- Sentenced inmates must be kept separate from unsentenced inmates.✓
- Male inmates must be kept separate from female inmates.✓
- Inmates who are children must be kept separate from adult inmates✓ and in accommodation appropriate for their age.✓
- Inmates of specific age, health or security risk categories✓ must be kept separate and must be prescribed by regulation.✓
- There may be departures from these provisions if they are approved by the HOP (head of prison),✓ effected under supervision of a correctional official✓ and are undertaken for the purpose of providing development or support services or medical treatment,✓ but under no circumstances may there be departures in respect of sleeping accommodation.✓ The above stipulations from the CSA are also consistent with Standard Minimum Rule 8.✓

(Any 5 × 1) (5)

[10]

TOTAL SECTION C: 25

SECTION D

QUESTION 9

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. "reintegration of inmates into society". Allocate maximum FIVE (5) marks for each of the following:

- Characteristics of effective reintegration programmes
- Institutional programmes
- Community-based programmes

Maximum FIFTEEN (15) marks may be allocated to this question:

9.1 **Reintegration programme: Characteristics of effective reintegration programmes**

- Multicultural and created by people: South Africa has a diverse population and care must be taken to ensure sensitivity.✓
- Transformational: Create space and the opportunity for people undergoing the programme to change their actions voluntarily.✓
- Journey based: The programme should aim to divert prisoners from conflict with the law and social norms and values.✓ The prisoner has to redefine a course of action and formulate goals and strategies.✓
- Process based: Programmes should be planned in detail and objectives should be formulated that can be achieved by building on the prisoner's strength.✓
- Adaptable: Programmes should be of such a nature that they are able to adapt to changing situations.✓
- Multifocused: A programme must accommodate the complexity of human nature and look at the past, present and future.✓ The prisoners must explore themselves in relation to others and formulate strategies for change.✓
- Multidimensional: Programmes must accommodate the multidimensional nature of human interaction✓ and address social, spiritual and psychological aspects of the prisoners. They must also consider the offenders' potential and intellect.✓ Further aspects such as inspiration, historical and cultural roots, community experiences, emotions and the way in which they express themselves are also important to the success of the programme.✓
- Holistic approach: The programme must reflect the values and principles of the environment.✓
- Multisourced: Various role players and resources should be used,✓ including volunteers, families, NGOs and community-based organisations (CBOs), professionals, the private sector as well as policy and decision makers.✓
- Active experience: the participants must be able to implement the values and principles obtained from the programme.✓ The aim of punishment must be to return a better individual to society.✓ (Any FIVE)

Reintegration programme: Institutional programmes

- Institutional programmes run by prisons are run at the discretion of the person presenting the programme.✓
- Social workers and other support staff may apply programmes that they have identified as successful or relevant.✓
- In the past, the Department of Correctional Services often bought expensive foreign programmes to implement in South African prisons.✓
- Fine's principles for an effective programme make it apparent why these programmes were often unsuccessful.✓
- Fine's criterion of a multicultural setting to ensure sensitivity and culturally appropriate design,✓ e.g. it is crucial for the programme to allow for diverse cultures.✓
- We need to integrate both a Western and an African perspective.✓
- The need for current institutional programmes includes life skills, educational programmes, job skills, recreational skills, conflict management skills and programmes developed✓ to help with the inmate reintegrate and adjust to life back in the community.✓ (Any FIVE)

Reintegration programme: Community-based programmes

- The following programmes are initiatives functioning in South Africa which take into account the unique socioeconomic, political and cultural nature of the population.✓
- The National Institution for Crime Prevention and Reintegration of Offenders (NICRO). This is a nonprofit organisation that works towards crime reduction and community development.✓ It endorses the 9 to 12 month intensive programme “Are you tough enough?” which assists ex-offenders and allows them to take responsibility for their life and create a better future for themselves and the family.✓
- A NICRO worker works closely with the individual, the family and the community to enable the offender to resolve any problems.✓ The community is encouraged to create an environment that will assist the offender to achieve his/her goals and stay out of prison.✓
- The individual must enter into a contract with NICRO,✓ which states the type of service and responsibilities involved both on the part of the offender and NICRO.✓
- The participant is assigned a mentor who acts as a guide and support person.✓
- The programme offers economic opportunities and other skills training.✓ Participants form support groups that function in the institution and in the community.✓
- Other programmes are offered by Common Prisoners' Rehabilitation Agency (COMPRA), South African Prisoners' Organisation for Human Rights (SAPOHR), Prison Fellowship International (PFI) and the Gauteng Rehabilitation Trust (GRT).✓
- They bridge the gap between the prison and the community.✓
- Offenders who have been released on day parole or parole are frequently required to attend programmes such as the above.✓ (Any FIVE)

(3 × 5) (15)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. *reintegration theory*. Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

9.2 The reintegration process must start as soon as possible after the prisoner is imprisoned.✓ Any good management philosophy must be based on a reintegration approach.✓

The reintegration theory of punishment is based on two moral premises:✓

- It is better for individuals to be in community with each other than not.✓
- Community should be pursued when it is absent.✓

These premises imply that, through integration, the offender is still seen as part of a community,✓ able to function and live like any other member of the community of law-abiding citizens.✓ Punishment is, therefore, justified in order to restore the community when a crime is committed.✓

How do we bring about a reintegration approach in the correctional system?✓ The first step is to introduce reintegration programmes into prisons✓ that prepare the prisoners for their release back into the community.✓ (Any 5 × 1) (5)
[20]

OR

QUESTION 10

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. professionalism and service delivery. Maximum SEVEN (7) marks may be allocated to this question. Any SEVEN (7) of the following:

10.1 There are specific guidelines laid down for members of the SA Police Service (SAPS)✓ when they deal with a person reporting a crime.✓ These include how to deal with a person making the report, ✓ called the complainant,✓ and the steps in dealing with the report.✓

When dealing with a complainant at the station, the SAPS member should always keep the principles of Batho Pele in mind.✓ The complainant should receive the best possible attention from the police official.✓

The official should always remember the following:

- Complainants feel that their reports are important and that they need help from the SAPS.✓
- The help or service that is needed depends on the particulars of the complaint that is being made.✓ (In this case the suspect who was in possession of an unlicensed firearm at Southport area).✓
- The SAPS is compelled by the Constitution of the Republic of South Africa, 1996 to render a service to the public.✓

The police official dealing with the complainant may be the first official of the SAPS with whom the complainant has to deal.✓ It is therefore important that the police official acts in a professional way✓ so that the complainant has a positive experience as first impressions last the longest.✓ (Any 7 × 1) (7)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding of the concept, e.g. “state of mind and win confidence of the complainant”. Maximum EIGHT (8) marks may be allocated to this question. Any EIGHT (8) of the following:

10.2 **Determine the state of mind of the complainant**✓

- Police officials must bear in mind that complainants will arrive at the station in various emotional states as a result of their ordeal, especially if they were victims of violent crimes.✓
- Some complainants will be upset and angry, while others will be extremely distressed.✓
- It is important for members of the police to remember that when a complainant phones or arrives at the station to lay a complaint, the complainant has been the victim (or witness) of some form of crime.✓
- The police official assisting the complainant should try to put himself/herself in the shoes of the complainant. Remember the saying that states: "Do to others as you would like to have done to yourself."✓
- In other words, if you were the complainant, what service would you like the police to give you? Police officials should try to identify the complainant's state of mind and act accordingly.✓

Win the confidence of the complainant✓

- Police officials should try to calm the complainant down.✓
- This can be done in various ways. The approach depends on the complainant's mental state at that moment.✓
- A police official should always try to give fast and efficient service.✓
- Officials can use reassuring sentences such as "I understand" or "I will try my best to assist you with …"✓
- It is important to reassure the complainant, but at the same time not lie or make promises that cannot be fulfilled.✓
- The SAPS member should convey to the complainant that the complaint is important and that SAPS members will do their best to deal efficiently with the complaint.✓

Act in a professional manner when recording the complaint✓

- The third step is to deal as professionally as possible with the complainant.✓ Members of the SAPS must regard every complaint by members of the public as important.✓
- All complainants deserve and should receive the best possible attention and service from the SAPS.✓ (Any 8 × 1) (8)

Notes to the assessor: This is applied theory in practice – therefore you may allocate marks for logic correct answers. The student has to demonstrate his/her understanding by evaluating the crime reporting process and link it with the case study provided. Maximum FIVE (5) marks may be allocated to this question. Any FIVE (5) of the following:

10.3
- When a person reports a crime to the police, the process of criminal justice is usually activated.✓ In this case, Mr Mailula lodged a complaint at the police station.✓
- The crime that is committed may be a common law offence,✓ such as assault,✓ or a statutory offence✓ such as in the case study – about a suspect who was in possession of an unlicensed firearm at the Southport area.✓ Thus, a specific law is enacted to create an offence.✓
- Sometimes the injured parties or victims themselves lay a charge.✓
- Anyone may lay a charge, even someone who has not personally been injured.✓ In this case the police proceeded to the said residence after the complaint was lodged and a search was conducted.✓
- Upon searching the house, one hunting rifle was found.✓
- The suspect was placed under arrest and charged with possession of unlicensed firearm.✓
- The seized firearm will also be sent for ballistic testing to ascertain if it was used in the commission of any crime in the country.✓
- Thus, the charge was laid successfully.✓ (Any 5 × 1) (5)

[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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