higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL JUSTICE STRUCTURES AND MANDATES
NQF LEVEL 3

23 November 2023

This marking guideline consists of 10 pages.

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SECTION A

QUESTION 1

1.1 True
1.2 True
1.3 False
1.4 False
1.5 False
1.6 True
1.7 True
1.8 False
1.9 True
1.10 False

(10 × 1) **[10]**

QUESTION 2

2.1 E
2.2 H
2.3 A
2.4 C
2.5 B
2.6 I
2.7 D
2.8 F
2.9 J
2.10 G

(10 × 1) **[10]**

QUESTION 3

3.1	3.1.1	encourages	
	3.1.2	enables	(2)
3.2	3.2.1	reduce	
	3.2.2	mitigate	(2)
3.3	3.3.1	arbitrarily	
	3.3.2	discretionary	
	3.3.3	excluded	(3)
3.4	3.4.1	accountability	
	3.4.2	diversion	
	3.4.3	restorative justice	(3)

[10]

TOTAL SECTION A: 30

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SECTION B

QUESTION 4

4.1 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 4 marks may be allocated.

Section 39 deals with the interpretation of the Bill of Rights.✓ A court ✓, tribunal✓ or forum ✓must take the following into account when interpreting the Bill of Rights✓:-

- The values that underlie an open and democratic society✓ based on human dignity✓, equality✓ and freedom✓
- International law must be considered✓, and foreign law may be considered✓.

When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must✓: –

- Promote the spirit✓, meaning✓ and objects✓ of the Bill of Rights.

The Bill of Rights does not deny the existence of any other rights or freedoms✓ that are recognised by common law, customary law or legislation✓ to the extent that they are consistent with the Bill.✓ (Any 4 × 1) (4)

4.2 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 2 marks may be allocated.

4.2.1 Impersonation and identity theft are defined as theft of identity.✓
Criminals get information from lost or stolen identity✓ and other personal documents.✓
Criminals use identity theft to commit credit card and other fraud.✓
Identity theft is the fraudulent practice of using another person's name and personal information✓ in order to obtain credit or loans, file taxes or get medical services.✓
Identity theft occurs when someone uses or steals another person's personal information✓, like their name, identity number, or credit card number, without their permission, to commit fraud or other crimes.✓
Identity theft is a malicious practice and considered a computer crime.✓ It consists of impersonating another person✓ through photos, social media accounts, or credit cards✓. The objective is to access some type of benefit to which you are not entitled.✓
(Any 2 × 1) (2)

4.2.2 The Southern African Fraud Prevention Service✓ or SAFPS✓
(Any ONE) (1)

4.2.3 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 6 marks may be allocated.

The Southern African Fraud Prevention Service✓ or SAFPS is a South African company which combats fraud in the financial services industry✓ by providing a shared database to member organisations.✓
It also offers the public a means of protecting✓ themselves against impersonation and identity theft. ✓
The primary objective of the organisation is to provide fraud prevention data-sharing services✓ across all sectors of South African business.
Since the company started in 2001, the SAFPS member organisations have successfully prevented more than R8 billion being lost due to attempted fraud.✓
SAFPS also prevented many innocent members of the public from becoming victims of impersonation, with its associated trauma and problems, by dealing with business organisations, and removing names from backlists✓.
SAFPS services include: –

- SAFPS database, which is a database of people who are involved in fraudulent behaviour and which can identify individual and syndicate-type fraud. ✓
- Protective registration, which is a free internet-based service to the general public for the registration of lost or stolen identity books/cards and passports. It also assists victims of identity fraud.✓
- Employment application fraud and employee fraud database, which is a database of people involved in fraudulent activities during the recruitment process and in the workplace.✓
- Data analysis service, which entails procedures that provide matches across a variety of data fields and portray the data in graphic format. ✓The *DataCink* fraud syndicate service identifies fraud syndicates operating in the country and distributes warning emails to all SAFPS members.✓ (Any 6 × 1) (6)

4.3 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 2 marks may be allocated.

National Prosecuting Service (NPS)✓
Asset Forfeiture Unit (AFU)✓
Specialised Commercial Crime Unit (SCCU)✓
Sexual Offences and Community Affairs (SOCA)✓
Witness Protection Unit (WPU)✓
Priority Crimes Litigation Unit (PCLU)✓ (Any 2 × 1) (2)

4.4 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 10 marks may be allocated.

- It is a practical form of community policing✓ as it involves policing smaller, more manageable areas.✓
- It ensures more effective crime prevention✓ because attention is given to the causes of crime✓ and the factors and circumstances that allow crime to take place in a sector.✓
- It contributes to community involvement,✓ which leads to sound partnerships between the police and the community.✓
- It encourages and enables communities to take greater responsibility for their own safety and security. ✓
- It improves the relationship between the police and the community,✓ which increases the community's trust✓ in, respect for✓ and understanding of the police✓, reduces the fear of crime✓ and improves service delivery by the police.✓
- It is policing at its most basic.✓ (Any 10 × 1) (10)

[25]

TOTAL SECTION B: 25

SECTION C

QUESTION 5

ASSESSOR: Allow for learner's own interpretation. Allocate 1 mark for correctly identifying the High Court. A maximum of 11 marks may be allocated.

5.1
- The High Court deals with serious criminal cases.✓
- High Courts include provincial, local and circuit local divisions.
- The provincial division in the article is the Polokwane High Court.
- Each division of the High Court consists of a Judge President and one or more Deputy Judges President, as determined by the President, and as many judges as determined in accordance with prescribed criteria.
- Judges preside over the High Courts − jurisdiction of the High Courts.
- In serious criminal cases, a judge may appoint two assessors to assist him or her.
- Assessors are usually advocates or retired magistrates.
- The High Courts are competent to hear the following cases:
  - Any type of criminal case, in particular the more serious cases where the lower courts are not competent to make an appropriate judgement or impose a penalty
  - General jurisdiction, including decisions on appeals from lower courts and the review of the proceedings of such courts
  - Any constitutional matter not falling within the exclusive jurisdiction of the Constitutional Court
- The penal jurisdiction of the High Courts, except where minimum or maximum sentences are prescribed by law, is unlimited. It includes life imprisonment in specified cases.

(Any 11 × 1) (11)

5.2 The Department of Correctional Services. (1)

5.3 **ASSESSOR:** Allow for learner's own interpretation. Allocate 1 mark for correctly identifying the Department. Total of 5 marks may be allocated.

The South African Police Service✓
According to section 205(3) of the Constitution, the objectives of the police service are:
- Prevent, combat and investigate crime.✓
- Maintain public order.✓
- Protect and secure the inhabitants of the Republic and their property.✓
- Uphold and enforce the law.✓

5.4 **ASSESSOR:** Allow for learner's own interpretation. A maximum of 8 marks may be allocated.

The National Prosecution Service (NPS) manages the performance of Directors of Public Prosecutions (DPPs) and prosecutors in courts countrywide.✓
The NPS has the power to institute and conduct criminal proceedings on behalf of the state.✓ The role of the NPS is: –

- Institute and conduct criminal proceedings on behalf of the state.✓
- Issue policy instructions which are to be followed in the prosecution process.✓
- Intervene in the prosecution process when policy is not complied with. ✓
- Carry out the necessary functions associated with instituting and conducting such criminal proceedings. ✓
- Review a decision to prosecute or not to prosecute after consulting the relevant DPP✓ and after obtaining submissions from the accused, the complainant and any other relevant person.✓
- Discontinue criminal proceedings if required to do so.✓ (Any 8 × 1) (8)

[25]

TOTAL SECTION C: 25

SECTION D

QUESTION 6

ASSESSOR: Allow for learner's own interpretation. A maximum of 20 marks may be allocated.

Imprisonment of vulnerable prisoners could have detrimental effects.✓ Because the prison population is as diverse as the general population and because different categories of prisoners have different needs, the DCS has established special categories of prisoners:✓ These categories include:

- Females✓
- Mothers with babies✓
- Children✓
- Disabled prisoners✓
- Prisoners with HIV and Aids✓

Females

- Female prisoners must be kept separate from male prisoners.✓
- Separate prisons for women✓
- Female correctional official must accompany any male visiting a prison or section for women.✓
- Female correctional officials must supervise female prisoners.✓

Mothers with babies

- Provides for the imprisonment of women with babies in facilities separate from those of other female inmates.✓
- It also provides that the place where mothers with babies are held should cater for the care, stimulation and development of babies.✓
- Provision is made for separate sleeping accommodation for mother and child as well as crèche.✓
- Unit focuses on normalising the environment to promote the child's physical and emotional development and care.✓
- A female prisoner is allowed to have her child with her until the child is five years old.✓
- Department of Correctional Services is responsible for food, clothing, healthcare for the sound development of the child while the child remains in prison.✓
- Provides prenatal and postnatal care and treatment.✓
- Whenever possible, children must be born in a hospital outside the prison.✓
- The use of solitary confinement in cases involving women and children is prohibited.✓
- Mothers in prison pose specific challenges because when a mother is incarcerated, it is more likely to result in a serious disruption within the family.✓
- Imprisonment causes enormous stress, which social services need to deal with.✓

Children

The Child Justice Act 75 of 2008 (CJA) has established a criminal justice system for children who are in conflict with the law and who are accused of committing offences in accordance with the values of the Constitution and international standards.✓

A child is defined in the CSA and CJA as a person under the age of 18.✓

The Constitution singles children out for special protection and affords children in conflict with the law the right:✓-

- Not to be detained except as a measure of last resort and, if detained, only for the shortest appropriate time✓
- To be treated in a manner and kept in conditions that take the child's age into account✓
- To be kept separately from adults and boys from girls while in detention✓
- Prisoners who are children must be kept separately from adult prisoners and in accommodation appropriate to their age.✓
- Their diet must make provision for their nutritional requirements.✓
- Prisoners who are children and who are subject to compulsory education must attend and have access to educational programmes.✓
- The CJA has made provision for children convicted of offences to be sentenced to compulsory residence in a child and youth care centre.✓
- The Commissioner must provide children with social work services, religious care, recreational programmes and psychological services.✓
- The Commissioner must ensure the children remain in contact with their families through additional visits and by other means.✓
- To develop and empower young offenders so that they can be an asset to the community, the DCS has implemented programmes that focus specifically on the unique care, development and treatment needs of this group of prisoners.✓ The DCS endeavours to:

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- Establish separate facilities for young offenders✓
- Encourage the co-responsibility of parents or peers and other significant persons who can play a role in rehabilitation✓
- Promote a culture of development and learning to enable the integration of young offenders in their communities when they are released✓
- Follow a holistic approach aimed at the total development of the young person✓
- Follow a structured daily programme✓
- Develop programmes to accommodate the specific needs and interests of young offenders✓
- Follow a unit management approach with direct supervision✓
- Encourage personal responsibility and leadership✓
- Use community resources✓
- Establish effective human resource components to care for their needs after release✓

Disabled prisoners✓
Defined as physical or mental condition which prevents a prisoner from operating in an environment developed for persons without such an impairment.✓ This includes:
- Deafness✓
- Dumbness✓
- Paraplegia✓
- Quadriplegia✓
- Non-certifiable mental conditions✓
- Blindness or extreme impairment of vision✓

Police administrations must ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life. ✓
Prisoners with sensory disabilities must be provided with information about prison rules and regulations in a way that makes it accessible and understandable.✓
Solitary confinement is prohibited in cases of prisoners with mental or physical disabilities when their condition will be exacerbated by such measures.✓

Prisoners with HIV and Aids✓
- Prisoners who are not infected have the right to safe custody.✓
- It often happens that inmates demand mandatory testing for their own protection.✓
- Those prisoners who are HIV positive have the right to treatment and not to be discriminated against.✓
- The right to safety of infected prisoners could conflict with the infected offender's right to privacy and confidentiality✓.
- Healthcare services must be provided to ensure continuity of treatment and care, including for HIV✓
- Aids, tuberculosis and other infectious diseases as well as drug dependence✓

(Any 20 × 1) **[20]**

OR

QUESTION 7

ASSESSOR: Allow for learner's own interpretation. A maximum of 20 marks may be allocated.

Children as a group were only recently singled out for protection when the UN approved the International Convention on Children's Rights in 1989. According to the Convention, children have the following rights:

- A child means every human being below the age of 18 years. ✓
- States who are party to the Convention must ensure the rights of children set out in the Convention without discrimination of any kind. ✓
- The best interests of the child shall be a primary consideration in all actions concerning children.✓
- Every child has the right to life.✓
- Every child has the right from birth to a name and a nationality and the right to be cared for by his or her parents.✓
- Children may not be separated from their parents against their will.✓
- Children have the right to freedom of expression, thought, conscience and religion.✓
- Children have the right to freedom of association and peaceful assembly.✓
- State parties must ensure that children have access to information.✓
- Children must have access to material from national and international sources,✓ and promotion of well-being, physical and mental health.
- State parties must take measures to protect children from violence, injury, abuse, and neglect.✓
- State parties must ensure that children who are refugees receive appropriate protection and assistance.✓
- State parties must recognise the rights of disabled children to special care.✓
- State parties must try to ensure that no child is deprived of access to healthcare services.✓
- Children have the right to education, to rest and leisure, and to engage in play and recreational activities.✓
- Children have the right to be protected from economic exploitation, illegal drugs, sexual abuse and abduction.✓
- Children who are not yet 15 years old may not be recruited into armed forces.✓
- When children have broken the law, they must be treated in a manner consistent with the child's sense of dignity and worth,✓ and children have rights to be treated in a manner and kept in conditions that take the child's age into account.✓

(Any 20 × 1) **[20]**

TOTAL SECTION D: 20
GRAND TOTAL: 100