higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL JUSTICE STRUCTURE AND MANDATE
NQF LEVEL 3

6 March 2020

This marking guideline consists of 11 pages.

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SECTION A

QUESTION 1

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

(10 × 1) **[10]**

QUESTION 2

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

(10 × 1) **[10]**

QUESTION 3

3.1 3.1.1 community
3.1.2 independent prison visitors
3.1.3 detained

(3 × 1) (3)

3.2 3.2.1 judge
3.2.2 assessors

(2 × 1) (2)

3.3 3.3.1 eighteen
3.3.2 vulnerable
3.3.3 separately

(3 × 1) (3)

3.4 investigation (1)

3.5 equality court (1)

[10]

TOTAL SECTION A: 30

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SECTION B

QUESTION 4

4.1 NOTE TO THE ASSESSOR: Any of the THREE answers indicated below for FUNCTIONS of the Constitutional Court. Any of the THREE answers indicated below for DUTIES of judges of the Constitutional Court. A maximum of SIX marks to be awarded for QUESTION 4.1.1. Allow for learners' own interpretation.

Functions of the Constitutional Court:

- Anyone wishing to bring a constitutional case before the Constitutional Court usually has to start in the High Court.✓
- The case will be dealt with by the High Court, which has the power to award relief, including the invalidation of provincial or parliamentary legislation.✓
- Should the High Court invalidate provincial or parliamentary legislation, the order of invalidity must be confirmed by the Constitutional Court before it has any effect.✓
- Should the High Court decide not to award the relief sought, the Constitutional Court may be approached on appeal.✓
- The Court does not hear evidence or question witnesses. It does not decide directly whether accused persons are guilty or whether damages should be awarded to an injured person. These are matters for the ordinary courts.✓
- Its function is to determine the meaning of the Constitution in relation to matters in dispute.✓ One consequence of this is that the Court works largely with written arguments presented to it by the parties.✓ The hearings of the court are intended to address particularly difficult issues raised in the written arguments by the parties.✓
- The hearings of the Court are open to the public and the press.✓

(Any 3 × 1)

Duties of judges of the Constitutional Court:

- They are all independent.✓
- Their duty is to uphold the law and the Constitution which they must apply impartially and without fear, favour or prejudice.✓
- The Constitution requires that any matter that comes before the Court should be heard by at least eight judges. In practice all eleven judges hear every case.✓
- A decision of the Court is reached by a majority vote of the judges sitting on that particular case. ✓
- Each judge must indicate his/her decision.✓
- The reasons for the decision are published in a written judgement.✓

(Any 3 × 1)
(3 × 2) (6)

4.2 NOTE TO THE ASSESSOR: Any FOUR marks for strategic planning and any FOUR marks for tactical planning. A maximum of EIGHT marks to be awarded. Allow for learners' own interpretation.

STRATEGIC PLANNING	TACTICAL PLANNING
Top management ✓	Middle and lower management ✓
Continuously on an irregular basis✓	Done on a regular basis for a particular time period✓
More alternatives for top managers✓	Fewer alternatives ✓
Greater uncertainty✓	Less uncertainty and risks✓
One-time problems are handled✓	Problems are more structured and occur repeatedly✓
Information from external environment is required✓	Information from the internal functioning of the department is sufficient✓
Long term✓	Short term
Done by the whole department✓	Only done by a specific department or section✓
It serves as a framework for tactical planning✓	Execute plans formulated by managers✓

(Any 4 × 2) (8)

4.3 Activation is the stimulation and motivation of members to remain positive in the attainment of a department's goals and objectives.✓ Activation is closely related to leadership and guidance in a department.✓ (2)

4.4 NOTE TO THE ASSESSOR: The learner must differentiate between indirect and direct control. ONE mark for each concept. A maximum of TWO marks to be awarded. Allow for learners' own interpretation.

Indirect control – refers to embracing the use of formal control measures to ensure that the activities will remain goal directed.✓

Direct control – is achieved by the policy and procedures being followed.✓

OR

Direct control exercised by managers at the various hierarchical levels, and that the activities of different units are co-ordinated.✓ (2)

4.5 NOTE TO THE ASSESSOR: A maximum of FIVE marks to be awarded. Allow for learners' own interpretation.

The SANDF supports the SAPS and other institutions in combatting crime by:

- Patrolling South Africa's borders.✓
- Combatting transnational crimes by supporting the specific state department involved, for example SAPS, Customs✓
- Conducting air patrols✓ and monitoring airspace along South Africa's borders.✓
- Patrolling South Africa's coast line.✓
- The SANDF can also be called upon to assist the SAPS in serious matters of unrest and violence within South Africa,✓ as in the xenophobic attacks,✓ but this only occurs in extreme situations.

(Any 5 × 1) (5)

4.6 NOTE TO THE ASSESSOR: A maximum of FIVE marks to be awarded. Allow for learners' own interpretation.

A reservist is a member of the community✓ who volunteers his/her services to perform policing functions for the South African Police Service✓ without being remunerated for such services.✓ (Any 2 × 1) (2)

4.7 NOTE TO THE ASSESSOR: A maximum of FIVE marks to be awarded. Allow for learners' own interpretation.

- Political instability✓ – interference in operational matters by politicians,✓ interference in management style by politicians,✓ ignorance and inefficiency from political instability all weigh heavily on planning.✓
- Lack of knowledge of the environment ✓ – unless the manager keeps abreast of changes, crime patterns, social trends, judicial changes and technological developments, it will not be possible to plan successfully.✓
- Lack of organisational knowledge✓ – this relates to knowledge of available resources like personnel, finance and logistics.✓
- Resistance to change✓ – many organisations or people within organisations regard change as a threat.✓ They fear the consequences thereof and are therefore opposed to change.✓ (Any 5 × 1) (5)

[30]

TOTAL SECTION B: 30

QUESTION 5

5.1 NOTE TO THE ASSESSOR: A maximum of SIX marks to be awarded. Allow for learners' own interpretation.

Law practitioner

- Every accused in a criminal case is entitled to legal representation.✓ The presiding officer must remain courteous towards law practitioners, because as officers of the court, they are obliged to treat the presiding officer with respect.✓

Public prosecutors

- The consideration mentioned in respect of the relationship between the presiding officer and the legal representatives naturally also applies to the relationship between the presiding officer and the prosecutor.✓ It is the duty of the presiding officer to educate and guide state prosecutors who are not very proficient at court proceedings.✓

The accused

- The trial of an accused must be conducted in his or her presence unless the accused behaves in such a manner that it becomes impossible for the hearing to proceed.✓
- The case may only be concluded, however, once the absent accused has returned to the proceedings and has had the opportunity to present his or her evidence to conclude the case.✓ The accused is the central figure in a criminal hearing and, where possible, the presiding officer must assist an undefended accused.✓
- If an accused is not assisted by council, the court must ensure that the accused is aware of his or her rights and must afford the accused every opportunity to conduct a proper defence on his/her own behalf.✓
- The presiding officer must exercise patience towards the accused and treat him or her courteously.✓
- During the trial no information on the prior convictions of an accused may be put to the court because such knowledge may influence the court to the detriment of the accused.✓
- Once a person has been convicted and the court has dealt with his or her prior offences, the accused is given the opportunity to present evidence in mitigation of sentencing. In less serious cases, mitigating factors are usually put to the court by the accused and his or her legal representative.✓
- In serious cases the services of expert witnesses, such as forensic criminologists, are being used increasingly to submit pre-sentencing evaluation reports to the court.✓
- The purpose of pre-sentencing evaluation report is to show the court what kind of person the accused really is, so that individualised penalties may be imposed.✓ (Any 6 × 1) (6)

5.2 5.2.1 Department of Correctional Services✓ (1)

5.2.2 NOTE TO THE ASSESSOR: A maximum of SEVEN marks to be awarded. Allow for learners' own interpretation.

- Safe custody of prisoners.✓
- Supervision and control over probationers and parolees in the community✓
- Provision of development services✓
- Re-integration into community✓
- Break the cycle of crime✓
- Manage security risks✓
- Implement court sentence so that the offender is rehabilitated✓
- Provide an environment where rehabilitation can take place over time✓
- Guide and support offenders within the community once they are awarded probation and parole✓ (Any 7 × 1) (7)

5.3 5.3.1 Department of Safety and Security✓ or South African Police Service.✓ (1)

5.3.2 NOTE TO THE ASSESSOR: The undertaking is part of the code of conduct that the learner must discuss. A maximum of FIVE marks to be awarded. Allow for learners' own interpretation.

In order to achieve a safe and secure environment for all the people of South Africa each police official undertakes to:

- with integrity, render a responsible and effective service of high quality which is accessible to every person and continuously strive towards improving this service;✓
- utilise all the available resources responsibly, efficiently and cost-effectively to maximise their use;✓
- develop our own skills and participate in the development of fellow members to ensure equal opportunities for all;✓
- contribute to the reconstruction and development of, and reconciliation in our country;✓
- uphold and protect the fundamental rights of every person;✓
- act impartially, courteously, honestly, respectfully, transparently and in an accountable manner;✓
- exercise the powers conferred upon us in a responsible and controlled manner;✓ and
- work actively towards preventing any form of corruption and to bring the perpetrators thereof to justice.✓ (Any 5 × 1) (5)

[20]

TOTAL SECTION C: 20

SECTION D

NOTE TO THE ASSESSOR: Mark only ONE question from SECTION D.

QUESTION 6

6.1 NOTE TO THE ASSESSOR: A maximum of TEN marks to be awarded. Allow for learners' own interpretation.

- Improvement of legitimacy and public confidence in the criminal justice system.✓
- Elimination of key weaknesses and blockages in the criminal justice system✓ through short and medium-term interventions.✓
- Sustained efficiency and effectiveness of the criminal justice system through✓ improved co-ordination and management of the system as a whole.✓
- Modernisation of the whole system✓ through sustainable long-term intervention.✓
- Results are reflected in a partnership between business and government at all levels.✓
- It is a partnership that functions at both national and provincial level✓ involving many business executives and other individuals and groups.✓
- Results reflected in a partnership between business and government at all levels is regarded as one of the best practices of its kind internationally.✓

(Any 10 × 1) (10)

6.2 NOTE TO THE ASSESSOR: ONE mark for each pillar. TWO marks for each discussion of each pillar. A maximum of TEN marks to be awarded. Allow for learners' own interpretation.

- Pillar 1: Criminal justice process✓
  - providing a sure and clear deterrent for criminals;✓
  - improving information systems so that quality information is available for investigation, prosecution and sentencing;✓
  - using community sentencing for minor offenders;✓
  - removing petty offenders and juveniles from the normal system;✓ and
  - reducing risks of criminals recommitting a crime.✓

- Pillar 2: Reducing crime through environmental design✓
  - reducing the opportunity for crime;✓
  - make it easy to find and identify criminals;✓
  - government taking steps of activation to strengthening internal regulations and control;✓ and
  - uncover hidden crime in the private and public sector.✓

– Pillar 3: Community values and education✓
  – concerns with ways of using public education and information to ensure that ordinary citizens help in crime prevention;✓
  – improving public understanding of the criminal justice system, so that the public can become involved;✓ and
  – promotion of non-violent conflict resolution, awareness of gender issues and encouraging social pressure against criminality.✓

– Pillar 4: Transnational crime✓
  – introduces programmes that aim at improving the controls over people crossing the country's borders and not allowing people who have committed crimes elsewhere to take refuge in South Africa;✓
  – determining how crime syndicates move across regions and how they operate;✓ and
  – restricting of smuggling of goods across borders through better regulation of ports of entry and border zones.✓ (10)

[20]

OR

QUESTION 7

7.1 NOTE TO THE ASSESSOR: A maximum of TEN marks in total to be awarded. Allow for learners' own interpretation.

- Commitment✓

A manager's first task is to encourage subordinates to become involved in the work that they like best, while not neglecting their training in areas where they perform poorly.✓

- Identification✓

Positive motivation will follow if subordinates feel that they mean something to one another and that their individual qualities are appreciated.✓

- Recognition✓
  – Recognition in the work situation is one of the major factors in the motivation of subordinates.✓
  – Positive recognition enhances someone's feeling of importance.✓
  – The person feels that he/she means something to the institution.✓

- Self-confidence
  – Subordinates must have faith in their superiors and vice versa.✓
  – Managers' faith in their subordinates must outweigh the latter's anxiety and doubt and offer a strong measure of security.✓

- Reprimand✓
  – An important procedure is to reprimand subordinates for their blunders.✓
  – In conjunction with recognition and reward, negative reaction by superiors – criticism and corrective measures – serve as positive motivation to guide subordinates in the right direction.✓

- Instilling fear✓
  – The subtle instilling of fear is a definite motivational technique.
  – On occasion managers should clearly show that they have the necessary authority, but also that they will not hesitate to enforce discipline.✓

- Control✓
  – Delegation not only creates a feeling of mutual trust, but also gives subordinates the opportunity of learning and of testing their own initiative.✓
  – In this way they are contributing to the institution's success.✓

(Any 10 × 1) (10)

7.2 NOTE TO THE ASSESSOR: Learners must name the principle and give an explanation of how it is applied when they perform their duties. Allocate marks as indicated below. A maximum of TEN marks in total to be awarded. Allow for learners' own interpretation.

- Integrity✓
  – Employees of the SAPS must regard integrity as of the utmost importance.✓
  – Employees of the SAPS must continually strive to uphold the mission, values, ethical principles and ethical standards of the SAPS.✓
  – They must behave in a manner that is consistent with these values. They must act honestly and responsibly in all situations. They must always tell the truth, perform their duties and set an example in the communities they serve.✓

- Respect for diversity✓
  – Employees of the SAPS must acknowledge the diversity of the people of their country and treat every person with equal respect.✓
  – In performing their duties, they must always show respect for the cultural and other diversities in the community.✓
  – They must treat every person with equal respect and honour their rights as inhabitants of South Africa.✓ They must not unlawfully discriminate against any person.✓

- Obedience to the law✓
  - Employees of the SAPS must respect and uphold the law, and in their application of the law they must always stay within the law and Constitution of the country.✓
  - They must, at all cost, avoid any conduct which would make them violators of the law.✓ They must protect the inhabitants of South Africa against unlawful action.✓

- Service excellence✓
  - Employees of the SAPS must work towards service excellence.✓
  - They must, at all times, perform their duties to the best of their abilities.✓ Their conduct will bear the mark of professionalism.✓ Their conduct and appearance must be proof of their commitment to service excellence.✓

- Public approval✓
  - Employees of the SAPS always work with and for the approval of the community.✓
  - They must serve the best interest of the community, seeking the approval of the broad community in everything they do.✓ (Any 10 × 1) (10)

[20]

TOTAL SECTION C: 20
GRAND TOTAL: 100

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