UNIVERSITY EXAMINATIONS

UNIVERSITEITSEKSAMENS

UNISA university of south africa

CMP2601 (494491) October/November 2014 Oktober/November 2014

LAW OF CRIMINAL PROCEDURE: PRE-TRIAL
STRAFPROSESREG: VOOR-VERHOOR

Duration 2 Hours — 100 Marks
Tydsduur 2 Uur — 100 Punte

EXAMINERS / EKSAMINATORE :
FIRST / EERSTE : PROF M BASDEO, MR/MNR MT MOKOENA, MISS/MEJ MG KARELS
SECOND / TWEEDE : PROF JP SWANEPOEL

Closed book examination.
Toeboekeksamen.

The paper consists of 23 pages that also include additional blank pages plus instructions for completion of a mark reading sheet Students must hand in both the completed mark reading sheet and the examination question paper.
Hierdie eksamenvraestel bestaan uit 23 bladsye wat ook ekstra blanko bladsye insluit plus instruksies vir die voltooiing van 'n merkleesblad. Studente moet beide die voltooide merkleeskaart en die eksamenvraestel inhandig.

INSTRUCTIONS

1. THE QUESTIONS IN THIS PAPER COUNT A HUNDRED MARKS AND THE PAPER CONSISTS OF TWO SECTIONS, MARKED A AND B. SECTION A COUNTS 16 MARKS AND SECTION B, 84 MARKS. YOU MUST ANSWER BOTH SECTIONS A AND B SECTION A CONSISTS OF MULTIPLE CHOICE QUESTIONS WHICH HAVE TO BE ANSWERED ON A SEPARATE MARK READING SHEET SECTION B CONSISTS OF FOUR QUESTIONS THAT HAVE TO BE ANSWERED ON THE EXAMINATION QUESTION PAPER.

2. SECTION A: The questions in this section have to be answered on the mark reading sheet which will be issued with your examination question paper. You have to read the instructions in connection with the use of the mark reading sheet carefully. Failure to do so may result in the computer being unable to read your answers

   Section A consists of eight (8) multiple choice questions. Answer all eight questions. Each of the eight multiple choice questions in Section A, consists of four statements, marked (a)-(d). Some of these statements are correct and some are incorrect You have to decide which are correct and which are not The four statements are followed by five possible answers marked (1)-(5) claiming that a certain statement or combination of statements is correct or incorrect. You have to decide which answer reflects the accurate version of your conclusion Each correct answer counts 2 marks (or 2%). Read the questions carefully then select only one of the alternative possible answers which you regard as correct. Mark the chosen option (1), (2), (3), (4) or (5) on the mark reading sheet next to the correct number of the question. Also bear in mind that if a composite statement is partly correct and partly incorrect, the statement AS A WHOLE is incorrect.

[TURN OVER]
[BLAAI OM]

3. SECTION B The questions in this section have to be answered on the examination paper, totalling 84 marks Section B consists of Questions 1 – 4. Question 1 consists of twelve true and false statements each counting 2 marks, and totalling 24 marks Questions 2 – 4 consist of three questions with subsections totalling 60 marks

Additional numbered pages have been attached at the back of this paper should you require more paper space in order to complete an answer. Unless you inform the examiner on the allotted page about this and indicate the page number where you have completed the question, the remaining part of your answer *will not be* marked! (Please indicate also the question number at the back where you are continuing.)

4. **Please note that in this paper all references to specific sections, refer to either the Criminal Procedure Act 51 of 1977 (CPA) or the Cild Justice Act 75 of 2008 (CJA) unless otherwise indicated.**

INSTRUKSIES

1 *HIERDIE VRAESTEL TEL HONDERD PUNTE EN BESTAAN UIT TWEE AFDELINGS, GEMERK A EN B. AFDELING A TEL 16 PUNTE EN AFDELING B TEL 84 PUNTE. U MOET BEIDE AFDELINGS BEANTWOORD AFDELING A BESTAAN UIT MEERVOUDIGE-KEUSEVRAE WAT U OP 'N AFSONDERLIKE MERKLEESBLAD MOET INVUL. AFDELING B BESTAAN UIT VIER VRAE WAT OP DIE VRAESTEL BEANTWOORD MOET WORD.*

2 *AFDELING A: Beantwoord hierdie vrae op die merkleesblad wat saam met u vraestel aan u uitgereik word. U moet die instruksies oor die voltooiing van die merkleesblad sorgvuldig deurlees. Versuim om dit te doen kan veroorsaak dat u antwoorde nie deur die rekenaar nagesien kan word nie*

AFDELING A bestaan uit 8 meervoudigekeusevrae Beantwoord al hierdie vrae. Elkeen van die agt vrae bestaan uit vier stellings gemerk (a)-(d). Sommige van hierdie stellings is korrek en sommiges is verkeerd U moet besluit watter korrek is en watter is nie. Die vier stellings word gevolg deur vyf moontlike antwoorde gemerk (1)-(5), wat beweer dat 'n sekere stelling of kombinasie van stellings korrek of nie korrek is nie. U moet besluit watter antwoord die akkurate weergawe van u gevolgtrekking gee Elke korrekte antwoord tel twee (2) punte (oftewel 2%). Lees die vrae versigtig deur en kies dan slegs een van die alternatiewe moontlike antwoorde wat u dink korrek is. Dui die een verkose opsie (1), (2), (3), (4) of (5) op die merkleeskaart aan langs die korrekte nommer van die vraag. Waar 'n samegestelde stelling deels korrek en deels verkeerd is, dan is die stelling AS GEHEEL verkeerd.

3 *AFDELING B Bestaan uit, vrae 1-4 met onderafdelings met 'n totaal van 84 punte. Vraag 1 bestaan uit twaalf (12) 'waar' of 'vals' stellings waar elke stelling twee punte tel met 'n totaal van 24 punte Vrae 2-4 bestaan uit vrae met onderafdelings wat 60 punte in totaal tel. Beantwoord all vrae in hierdie afdeling op die eksamen vraestel*

Let ook op dat ekstra bladsye aan die einde van die vraestel ingevoeg is in geval u nie genoeg skryf ruimte gehad het om 'n vraag op die gegewe plek te kon voltooi het nie. Tensy u die eksaminator op die gegewe plek hieroor inlig en ook die bladsy nommer verskaf waar u voortgaan, sal die res van u antwoord* nie gemerk word nie! *(Verskaf ook die vraagnommer agter waar u voortgaan.)

4. **Let asseblief daarop dat alle verwysings in hierdie vraestel na artikels verwys van óf die Strafproseswet 51 van 1977 (SPW) óf van die Child Justice Act, 75 van 2008 (CJA) tensy anders aangedui.**

SECTION A/*AFDELING A*

Multiple choice questions/*Meervoudige keusevrae*

English and Afrikaans questions are separate. Afrikaans follows after English on page 7 Read the instructions above ***Engels en Afrikaans is apart. Afrikaans volg na Engels op bladsy 7*** *Lees die instruksies hierbo*

QUESTION 1

(a) The general principle is that South African courts may only exercise jurisdiction regarding offences committed on South African territory only

(b) There is no exception to the rule that the Supreme Court of Appeal is a court of appeal only

(c) The Constitutional Court is the highest court of appeal in respect of all criminal matters

(d) Criminal Procedure forms part of substantive law

[1] All the statements are incorrect.
[2] Only statements (b), (c) and (d) are incorrect
[3] Only statements (a) and (d) are correct
[4] All the statements are correct
[5] Only statements (b), (c) and (d) are correct

QUESTION 2

(a) In terms of s 20 of the Criminal Procedure Act, all the articles mentioned therein may be seized without exception.

(b) A private person may not arrest any person without a warrant of arrest

(c) When effecting an arrest, the arrestor must look at the facts as they really are and not as he/she may think them to be

(d) Failure by the judicial officer to duly inform the unrepresented accused about his/her right to legal representation can lead to a total failure of justice

[1] All the statements are correct
[2] All the statements are incorrect
[3] Only statements (a) and (b) are correct.
[4] Only statements (c) and (d) are correct
[5] Only statement (a) is correct

QUESTION 3

(a) South African criminal procedure ascribes to the inquisitorial system of procedure.

(b) In terms of the inquisitorial procedural system the presiding officer adopts a passive posture and does not actively participate in the proceedings

(c) A *mandamus* may be used by an applicant deter another person from acting in a certain way

(d) A regional court has the jurisdiction to hear all offences

[1] All the statements are correct
[2] Only (a) is incorrect.
[3] Only (a) and (d) are correct
[4] *All the statements are incorrect.*
[5] Only statement (c) is correct

QUESTION 4

(a) If an accused is acquitted on a criminal case, he/she may not then be pursued in a civil case on the same facts

(b) The Director of Public Prosecutions for a specific area where a High Court is situated is appointed by the Minister of Justice.

(c) The service of a summons must take place at least fourteen days (weekends and public holidays excluded) before the date fixed for the trial.

(d) In a formal bail application proof has to be discharged on a preponderance of probability

[1] Only statements (a) and (c) is correct
[2] *All statements are correct.*
[3] All statements are incorrect
[4] Only statements (a), (b) and (d) are correct.
[5] Only statement (d) is correct

QUESTION 5

(a) In terms of the so-called 'no knock clause' a police officer shall first audibly demand entry onto the premises which intends to search

(b) In the course of authorising a search warrant, the judicial officer must ensure that the articles mentioned therein are not expressed in broad and general terms, in order to avoid confusion

(c) When conducting a search on a person, a female person shall, as a rule, be searched by a female officer In the absence of such an officer, the search shall then be conducted by a suitable male person

(d) The actions of a person who proceeds without a search warrant may be reviewed by a court of law on the merits.

[1] All the statements are correct
[2] All the statements are incorrect
[3] Statements (a), (b) and (d) are correct
[4] Only statement (b) is correct
[5] Only statements (a) and (d) are incorrect

QUESTION 6

(a) As a general rule, prosecutors have a mandatory duty to prosecute whenever there is a good case to be prosecuted

(b) A trial may take place in the absence of an accused who is ill, and cannot thus attend the proceedings.

(c) An arrest without a warrant may only be effected where the arrestor has *reasonable suspicion* about the commission of an offence.

(d) The right to legal representation includes the right to confidentiality during consultation with the legal practitioner

[1] All the statements are incorrect
[2] All the statements are correct
[3] Only statements (a), (b) and (c) are correct
[4] Only statements (b), (c) and (d) are correct.
[5] Only statements (b) and (d) are correct

QUESTION 7

(a) A bail application in respect of Schedule 6 of the offences CPA refers to very serious charges and shall, therefore, be conducted only in the High Court.

(b) A third party may not, as rule, pay bail on behalf of an accused.

(c) The accused in a bail application is not necessarily compelled to disclose whether or not he has previous convictions, as this is patently unfair and can prejudice his/her application

(d) A summary trial is one which is not preceded by a preparatory examination.

[1] Only statements (a) and (c) are correct
[2] Only statements (a), (b) and (c) are incorrect
[3] Only statement (d) correct
[4] All statements are incorrect.
[5] All the statements are correct.

QUESTION 8

(a) After arrest the suspect *must* be brought to a police station within a period not exceeding 48 hours

(b) The seriousness of an offence will sometimes influence the decision to extradite. If the offence for which the suspect is sought in the receiving country is of a sufficiently serious nature, the suspect shall indeed be extradited even if the death sentence is may be imposed by the courts of the receiving country

(c) A handwriting specimen is regarded as a bodily feature for purposes of evidence as it is produced directly from the writer's hand

(d) Only medical staff may fingerprint suspects, accused persons or convicted persons

[1] All the statements are correct
[2] All the statements are incorrect
[3] Only statements (b), (c) and (d) are correct.
[4] Only statement (a) is correct
[5] Only statements (a) and (d) are correct

MEERVOUDIGEKEUSEVRAE

VRAAG 1

(a) Die algemene reëling is dat Suid-Afrikaanse howe net jurisdiksie kan uitoefen ten opsigte van misdade wat op die Republiek se grondgebied gepleeg is.

(b) Daar bestaan geen uitsondering op die reël dat die Hoogste Hof van Appèl slegs 'n hof van appèl is

(c) Die Kostitusionele Hof is die hoogste hof van appèl ten aansien van kriminele aangeleenthede.

(d) Strafproses is 'n afdeling van die materiële reg

[1] Alle stellings is verkeerd.
[2] Slegs stellings (b), (c) en (d) is verkeerd
[3] Slegs stellings (a) en (d) is korrek.
[4] Alle stellings is korrek
[5] Slegs stellings (b), (c) en (d) is korrek

VRAAG 2

(a) Daar bestaan geen uitsondering op die reël ingevolge a 20 van die Strafproseswet dat beslag gelê mag word op alle voorwerpe wat daarin genoem is nie.

(b) 'n Private persoon mag nie enige ander persoon sonder 'n lasbrief in hegtenis neem nie

(c) Tydens arrestasie moet daar gekyk word na dit wat werklik bestaan en nie na dit wat die arresfeerder dink bestaan nie

(d) 'n Versuim aan die kant van die voorsittende beampte om die onverteenwoordigde beskuldigde in te lig aangaande sy reg op regverteenwoordiging mag daartoe lei dat 'n regskending volg

[1] Al die stellings is korrek
[2] Al die stellings is verkeerd.
[3] Slegs stellings (a) en (b) is korrek
[4] Slegs stellings (c) en (d) is korrek.
[5] Slegs stelling (a) is korrek

VRAAG 3

(a) Die Suid-Afrikaanse strafproses is basies inkwisitories

(b) Die voorsittende beampte in die inkwisitoriese stelsel beklee die posisie van 'n onbetrokke skeidsregter en speel nie 'n aktiewe rol in die hof verrigtinge nie

(c) 'n Applikant kan deur middel van 'n *mandamus* iemand verhoed om iets te doen.

(d) 'n Streekshof is bevoeg om alle misdade aan te hoor

[1] Al die stellings is korrek.
[2] Slegs stelling (a) is foutief
[3] Slegs stellings (a) en (d) is korrek
[4] Al die stellings is foutief
[5] Slegs stelling (c) is korrek

VRAAG 4

(a) 'n Onskuldig bevinding in 'n strafregtelike geding beteken dat die beskuldigde nie op dieselfde feite sivielregtelik aangeveg kan word nie.

(b) Die DOV van 'n spesifieke setel van die Hoë Hof word aangestel deur die Minister van Justisie

(c) Betekening van 'n dagvaarding moet geskied minstens veertien dae (met uitsluiting van naweke en openbare vakansies) voor die datum wat vir die verhoor bepaal is

(d) Die bewyslas in 'n formele borgaansoek moet bevredig word op 'n oorwig van waarskynlikhede.

[1] Slegs stellings (a) en (c) is korrek.
[2] Al die stellings is korrek
[3] Al die stellings is verkeerd.
[4] Slegs stellings (a), (b) en (d) is korrek
[5] Slegs stelling (d) is korrek

VRAAG 5

(a) Ingevolge die sogenaamde 'geen-klop' bepaling in die Strafproseswet moet die polisiebeampte eers hoorbaar toegang eis tot die perseel wat hy/sy van plan is om te visenteer.

(b) Om misverstand te vermy moet die voorsittende beampte wat die visenteringslasbrief magtig, toesien dat die genoemde voorwerpe nie in algemene terme omskryf word nie.

(c) Tydens visentering sal 'n vrou deur 'n ander vroue persoon deursoek word In die afwesigheid van 'n vrou sal die visentering gedoen word deur 'n geskikte manspersoon.

(d) Waar daar sonder 'n lasbrief opgetree word, is die betrokke vereistes vir 'n geldige visentering ten volle op die meriete toetsbaar in 'n hof

[1] Al die stellings is korrek
[2] Al die stellings is foutief.
[3] Slegs stellings (a), (b), en (d) is korrek
[4] Slegs stelling (b) is korrek.
[5] Slegs stellings (a) en (d) is verkeerd

VRAAG 6

(a) As 'n algemene reël het aanklaers 'n verpligting om aan te klia wanneer daar 'n goeie saak is om aan te klia

(b) 'n Verhoor kan wel plaasvind in die afwesigheid van 'n beskuldigde wat siek is en dus nie die verrigtinge kan bywoon nie.

(c) Inhegtenisneming sonder 'n lasbrief kan slegs plaasvind wanneer daar 'n redelike vermoede oor misdaadpleging bestaan

(d) Die reg op regsverteenwoordiging sluit die reg op vertroulikheid gedurende 'n konsultasie met die regsverteenwoordiger in.

[1] Al die stellings is foutief
[2] Al die stellings is korrek.
[3] Net stellings (a), (b) en (c) is korrek
[4] Net stellings (b), (c) en (d) is korrek.
[5] Net stellings (b) en (d) is korrek

VRAAG 7

(a) 'n Borgaansoek volgens Skedule 6–misdade van die SPW behels slegs ernstige klagtes en moet dus in die Hoë Hof aangehoor word

(b) As 'n reël mag 'n derde persoon nie borg namens 'n beskuldigde betaal nie.

(c) Dit word nie noodwendig vereis van die beskuldigde in 'n borgaansoek om sy vorige veroordelings te openbaar nie omdat dit klaarblyklik onregverdig is en sy aansoek kan benadeel

(d) 'n Summiere verhoor word nie voorafgegaan deur 'n voorlopige ondersoek nie.

[1] Slegs stellings (a) en (c) is korrek.
[2] Slegs stellings (a), (b) en (c) is verkeerd
[3] Slegs stelling (d) korrek
[4] Al die stellings is verkeerd
[5] Al die stellings is korrek

VRAAG 8

(a) 'n Gearesteerde persoon moet nie langer as 48-uur na arrestasie na 'n polisie stasie geneem word

(b) Uitlewering word soms geraak deur die erns van die misdaad: Indien die misdaad, waarvoor uitlewering versoek word na die staat waaraan hy/sy uitgelewer word van 'n baie ernstige aard is, sal die persoon uitgelewer word ongeag die feit dat die doodstraf opgelê kan word deur die howe van die staat waarna die persoon uitgelewer word.

(c) Iemand se handskrif kan as 'n liggaamlike kenmerk beskou word want dit word direk vanuit die skrywer se hand verkry.

(d) Die vingerafdrukke van verdagtes, beskuldigdes en veroordeelde persone kan slegs deur mediese personeel afgeneem word

[1] Alle stellings is korrek.
[2] Alle stellings is verkeerd
[3] Slegs stellings (b), (c) en (d) is korrek
[4] Slegs stelling (a) is korrek.
[5] Slegs stellings (a) en (d) is korrek.

SECTION B / *AFDELING B*

Question 1

Instructions: In respect of question 1, indicate whether each of the statements marked (a) – (l) are either 'true' or 'false' and give a brief explanation or justification why you regard the statement as either' true' or 'false'. Note that the English and Afrikaans questions are combined. Answer all questions according to the instructions above. Each statement counts two marks.
Instruksies: In hierdie eerste vraag van afdeling B dui aan of die stellings genommerd* (a) – (l) *'waar' of 'vals' is en gee 'n kort verduideliking of regverdiging van u standpunt waarom u van oordeel is dat 'n stelling 'waar' of 'vals' is. Engelse en Afrikaanse vrae is gekombineerd. Beantwoord al die vrae ooreenkomstig die instruksies. Elke stelling tel twee punte.

(a) In terms of the amended s 49 of the CPA the killing of a suspect for an offence referred to in Schedule 1, but who could not be arrested or be prevented from fleeing by other means than by killing him or her, is deemed to be justifiable homicide.

(a) Ingevolge die gewysigde a. 49 van die SPW is die doodslag van 'n verdagte, ten opsigte van 'n misdryf waarna in Skedule 1 verwys word en wat nie gearresteer of verhoed kan word om te vlug nie op 'n ander manier as om die verdagte dood te maak nie, as strafbare manslag geag.

.. . .
. . . .
. .. .

(b) A warrant of arrest may be executed by a private person.

(b) 'n Lasbrief tot arrestasie mag deur 'n private persoon uitgevoer word.

... ...
. .. .
.. ..

(c) Arrest should always only be effected by means of a warrant of arrest

(c) Arrestasie moet altyd by wyse van 'n lasbrief tot arrestasie geskied.

. ...
. ...
.. ..

(d) A constitutional matter includes any issue involving the interpretation, protection or enforcement of the Constitution.

(d) 'n Grondwetlike aangeleentheid sluit enige aangeleentheid in wat te make het met die interpretasie, beskerming en uitoefening van die Grondwet.

... .
. . . .
. ...

(e) The immunity of a diplomatic agent from the jurisdiction of the receiving state *does* also exempt him from the jurisdiction of the sending state

(e) Diplomatieke immuniteit teen die jurisdiksie van die ontvanger staat, onthef nie die diplomatieke agent van die jurisdiksie van die staat wat hom gestuur het nie

(f) The Supreme Court of Appeal will only impose a sentence as court of first instance where it convicts a person of contempt *in facie curiae.*

(f) Die Hoogste Hof van Appèl sal slegs 'n vonnis as hof van eerste instansie oplê waar dit 'n persoon aan minagting in facie curia skuldig bevind.

(g) A court may interdict the prosecuting authority from prosecuting where it has decided to do so A court will as a rule issue a *mandamus* to compel the prosecuting authority to prosecute

(g) 'n Hof mag die vervolgingsgesag deur 'n interdik gelas om nie te vervolg nie waar die hof so besluit. 'n Hof sal as 'n reël 'n mandamus uitreik om die vervolgingsgesag te dwing om te vervolg.

(h) If finally satisfied on all the available evidence that there is a *prima facie* case and if satisfied that there is no other compelling reason not to prosecute, the prosecutor has no discretion not to institute criminal proceedings.

(h) Indien die aanklaer op al die beskikbare getuienis uiteindelik tevrede is dat daar geen ander dwingende rede is om nie te vervolg nie, het die aanklaer geen diskresie anders as om 'n vervolging in te stel nie.

(i) One of the differences between a summons and a written notice to appear is that the former is issued by a peace officer whereas the latter is issued by a prosecutor

(i) Een van die verskille tussen 'n dagvaarding en 'n skriftelike kennisgewing om te verskyn is dat die dagvaarding deur 'n vrederegter uitgereik word en die kennisgewing deur die aanklaer

....

....

....

(j) The strict rules of evidence apply equally to bail applications and therefore previous convictions may not be proved by the state in the course of a bail application

(j) Die streng reëls van die bewysreg is van toepassing ook op borgtogaansoeke en daarom kan vorige veroordelings nie deur die staat in die verloop van borgtog-verrigtinge bewys word nie

....

....

....

(k) To achieve balance and proportionality, the law of criminal procedure lays down strict procedures with regard to any circumstances in which a limitation of any procedural rule will be permissible in order to investigate crime or to bring offenders to book during arrest.

(k) Om balans en proportionaliteit te bereik lê die strafprosesreg streng prosedures voor met betrekking tot enige omstandighede wat 'n beperking van enige prosessuele reël toelaatbaar sal maak in die ondersoek of die arrestasie van oortreders

....

....

....

(l) If a person is authorised to arrest another, a bad motive for the arrest makes an otherwise lawful arrest, unlawful.

(l) Indien 'n persoon gemagtig is om 'n ander te arresteer, maak 'n slegte motief vir die arrestasie nie 'n andersins regmatige arrestasie, onregmatig nie.

....

....

....

[24]

INSTRUCTION TO QUESTIONS 2- 4/ INSTRUKSIES TOT VRAE 2- 4

Please note when answering Questions 2 – 4 that English and Afrikaans questions are combined All the questions and sub-questions must be answered.
Let op dat wanneer u vrae 2 – 4 beantwoord, Engelse en Afrikaanse vrae gekombineer is. Beantwoord al die vrae met onderafdelings.

Question 2

(a) The testimony of state witnesses is an important and even crucial aspect of criminal proceedings. However, witnesses are not always willing to testify out of their own choice. Which process or procedures may the police and the prosecution pursue in order to 'compel' a witness to give evidence in court? (10)

(a) Die getuienis van staatsgetuies is belangrik en selfs van kardinale belang in strafregtelike verrigtinge. Nogtans is getuies nie altyd gewillig om uit eie keuse te getuig nie Watter prosesse of prosedures mag die polisie en die vervolging gebruik te einde die getuie te 'dwing' om in die hof te getuig? (10)

(b) The position of the victim of crime is not always as hopeless and helpless as it is made out to be. Within the criminal procedural framework victims are allowed a certain measure of participation, and also enjoy certain protections Discuss both aspects (15)

(b) Die posisie van die slagoffer van misdaad is nie altyd so hopeloos en hulpeloos soos dit voorgehou word nie. Binne die strafregtelike raamwerk word slagoffers 'n sekere mate van deelname toegelaat en geniet ook sekere beskerming. Bespreek beide aspekte (15)

[25]

Question 3

(a) A court may, where facilities are readily available, order the presentation of evidence under closed circuit television. Discuss these circumstances (5)

(a) 'n Hof mag waar fasiliteite geredelik beskikbaar is, die aanbied van getuienis deur middel van geslotebaan televisie gelas. Bespreek hierdie omstandighede (5)

(b) In terms of the Child Justice Act 75 of 2008 a child offender has the right to legal representation Section 80(1) of the Act requires that the legal representative representing a child must adhere to certain requirements Discuss these requirements (5)

(b) Ingevolge die Child Justice Act is 'n kinderoortreder geregtig op regs-verteenwoordiging. Artikel 80(1) van dié wet vereis dat die regsverteenwoordiger aan sekere vereistes moet voldoen Bespreek hierdie vereistes. (5)

(c) Discuss briefly the following aspects in relation to prosecution

(c) Bespreek kortliks die volgende aspekte met betrekking vervolging:

(i) What is a certificate *nolle prosequi*? (1)

(i) Wat is 'n nolle prosequi sertifikaat? *(1)*

(ii) Who has the authority to grant a certificate *nolle prosequi*? (1)

(ii) Wie het die gesag om 'n nolle prosequi sertifikaat toe te staan? *(1)*

(iii) Under which circumstances may a certificate *nolle prosequi* be granted? (2)

(iii) Wanneer mag 'n nolle prosequi sertifikaat toegestaan word? *(2)*

(iv) Briefly discuss the lapsing of the certificate *nolle prosequi* (2)

(iv) Bespreek kortliks wanneer 'n nolle prosequi sertifikaat verval *(2)*

(d) Discuss four (4) circumstances under which a private person may arrest a suspect. (4)

(d) Noem vier (4) omstandighede waaronder 'n private persoon 'n verdagte mag arresteer (4)

[20]

Question 4

(a) In terms of the Criminal Procedure Act 51 of 1977 certain articles may be seized by the State during a search

(a) Ingevolge die Strafproseswet mag sekere voorwerpe deur die Staat gedurende 'n deursoeking op beslag gelê word

(i) Name these articles (3)

(i) Noem hierdie voorwerpe (3)

(ii) What is the exception to the rule regarding articles which may generally be susceptible to be seized? Name the exception. (2)

(ii) Wat is die uitsondering op die reël ten opsigte van die artikels wat gewoonlik vatbaar vir beslaglegging is? Noem die uitsondering. (2)

(b) Discuss bail in the following respects

(b) Bespreek borgtog ten opsigte van die volgende aspekte

(i) Police bail may only take place during a specific stage of the proceedings Name the period. (1)

(i) Polisie-borgtog mag gedurende 'n sekere stadium of periode van die strafregtelike verrigtinge plaasvind Noem hierdie periode. (1)

(ii) Police bail may not be granted in respect of certain offences referred to in certain Parts of a Schedule attached to the CPA Name the specific Schedule and Parts thereto in respect of which police bail <u>may not be granted</u>. (2)

(ii) Polisie-borgtog mag nie ten opsigte van sekere misdrywe waarna in sekere Dele van 'n sekere Skedule wat aan die Strafproseswet geheg is verleen word nie. Noem die spesifieke Dele en die Skedule waarvoor polisie-borgtog <u>nie</u> verleen mag word <u>nie</u>. (2)

(iii) Prosecutorial bail may only take place during a specific stage of the proceedings Name the period (1)

(iii) Vervolgings-borgtog mag slegs verleen word tydens 'n sekere stadium gedurende die strafregtelike verrigtinge Noem hierdie stadium (1)

(iv) Prosecutorial bail may be granted only in respect of certain offences. Name at least two offence which do not qualify for release via prosecution-bail. (2)

(iv) Vervolgings-borgtog mag slegs verleen word ten opsigte van sekere misdrywe. Noem enige twee (2) misdrywe waarvoor vervolgings-borgtog nie verleen mag word nie *(2)*

(v) When is a court's refusal of bail in the interests of justice? Name any four grounds. (4)

(v) Wanneer is 'n hof se weiering van borgtog is belang van geregtigheid? Noem enige vier gronde *(4)*

[15]

TOTAL/ TOTAAL: 84

Additional page. Record the number of the question. Have you informed the examiner on the allotted space that you are continuing here?

Ekstra bladsy: Nommer die vrae. Het u die eksaminator op die gegewe plek ingelig dat u hier voortgaan?

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PART 1 (GENERAL/ALGEMEEN) DEEL 1

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

1

PAPER NUMBER
VRAESTELNOMMER

2

INITIALS AND SURNAME
VOORLETTERS EN VAN

3

DATE OF EXAMINATION
DATUM VAN EKSAMEN

4

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

5

STUDENT NUMBER
STUDENTENOMMER

6

7

UNIQUE PAPER NO
UNIEKE VRAESTEL NR

8

9

For use by examination invigilator

Vir gebruik deur eksamenopsiener

IMPORTANT

1. USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
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3. CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
4. ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
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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 VERSTREK HET
6. KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS.
7. MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS.
8. MOENIE VOU NIE.

PART 2 (ANSWERS/ANTWOORDE) DEEL 2

10

1	c1 c2 c3 c4 c5	36	c1 c2 c3 c4 c5	71	c1 c2 c3 c4 c5	106	c1 c2 c3 c4 c5
2	c1 c2 c3 c4 c5	37	c1 c2 c3 c4 c5	72	c1 c2 c3 c4 c5	107	c1 c2 c3 c4 c5
3	c1 c2 c3 c4 c5	38	c1 c2 c3 c4 c5	73	c1 c2 c3 c4 c5	108	c1 c2 c3 c4 c5
4	c1 c2 c3 c4 c5	39	c1 c2 c3 c4 c5	74	c1 c2 c3 c4 c5	109	c1 c2 c3 c4 c5
5	c1 c2 c3 c4 c5	40	c1 c2 c3 c4 c5	75	c1 c2 c3 c4 c5	110	c1 c2 c3 c4 c5
6	c1 c2 c3 c4 c5	41	c1 c2 c3 c4 c5	76	c1 c2 c3 c4 c5	111	c1 c2 c3 c4 c5
7	c1 c2 c3 c4 c5	42	c1 c2 c3 c4 c5	77	c1 c2 c3 c4 c5	112	c1 c2 c3 c4 c5
8	c1 c2 c3 c4 c5	43	c1 c2 c3 c4 c5	78	c1 c2 c3 c4 c5	113	c1 c2 c3 c4 c5
9	c1 c2 c3 c4 c5	44	c1 c2 c3 c4 c5	79	c1 c2 c3 c4 c5	114	c1 c2 c3 c4 c5
10	c1 c2 c3 c4 c5	45	c1 c2 c3 c4 c5	80	c1 c2 c3 c4 c5	115	c1 c2 c3 c4 c5
11	c1 c2 c3 c4 c5	46	c1 c2 c3 c4 c5	81	c1 c2 c3 c4 c5	116	c1 c2 c3 c4 c5
12	c1 c2 c3 c4 c5	47	c1 c2 c3 c4 c5	82	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5
13	c1 c2 c3 c4 c5	48	c1 c2 c3 c4 c5	83	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5
14	c1 c2 c3 c4 c5	49	c1 c2 c3 c4 c5	84	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5
15	c1 c2 c3 c4 c5	50	c1 c2 c3 c4 c5	85	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5
16	c1 c2 c3 c4 c5	51	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5	121	c1 c2 c3 c4 c5
17	c1 c2 c3 c4 c5	52	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5	122	c1 c2 c3 c4 c5
18	c1 c2 c3 c4 c5	53	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5	123	c1 c2 c3 c4 c5
19	c1 c2 c3 c4 c5	54	c1 c2 c3 c4 c5	89	c1 c2 c3 c4 c5	124	c1 c2 c3 c4 c5
20	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5	90	c1 c2 c3 c4 c5	125	c1 c2 c3 c4 c5
21	c1 c2 c3 c4 c5	[illegible]	c1 c2 c3 c4 c5	91	c1 c2 c3 c4 c5	126	c1 c2 c3 c4 c5
22	c1 c2 c3 c4 c5	57	c1 c2 c3 c4 c5	92	c1 c2 c3 c4 c5	127	c1 c2 c3 c4 c5
23	c1 c2 c3 c4 c5	58	c1 c2 c3 c4 c5	93	c1 c2 c3 c4 c5	128	c1 c2 c3 c4 c5
24	c1 c2 c3 c4 c5	59	c1 c2 c3 c4 c5	94	c1 c2 c3 c4 c5	129	c1 c2 c3 c4 c5
25	c1 c2 c3 c4 c5	60	c1 c2 c3 c4 c5	95	c1 c2 c3 c4 c5	130	c1 c2 c3 c4 c5
26	c1 c2 c3 c4 c5	61	c1 c2 c3 c4 c5	96	c1 c2 c3 c4 c5	131	c1 c2 c3 c4 c5
27	c1 c2 c3 c4 c5	62	c1 c2 c3 c4 c5	97	c1 c2 c3 c4 c5	132	c1 c2 c3 c4 c5
28	c1 c2 c3 c4 c5	63	c1 c2 c3 c4 c5	98	c1 c2 c3 c4 c5	133	c1 c2 c3 c4 c5
29	c1 c2 c3 c4 c5	64	c1 c2 c3 c4 c5	99	c1 c2 c3 c4 c5	134	c1 c2 c3 c4 c5
30	c1 c2 c3 c4 c5	65	c1 c2 c3 c4 c5	100	c1 c2 c3 c4 c5	135	c1 c2 c3 c4 c5
31	c1 c2 c3 c4 c5	66	c1 c2 c3 c4 c5	101	c1 c2 c3 c4 c5	136	c1 c2 c3 c4 c5
32	c1 c2 c3 c4 c5	67	c1 c2 c3 c4 c5	102	c1 c2 c3 c4 c5	137	c1 c2 c3 c4 c5
33	c1 c2 c3 c4 c5	68	c1 c2 c3 c4 c5	103	c1 c2 c3 c4 c5	138	c1 c2 c3 c4 c5
34	c1 c2 c3 c4 c5	69	c1 c2 c3 c4 c5	104	c1 c2 c3 c4 c5	139	c1 c2 c3 c4 c5
35	c1 c2 c3 c4 c5	70	c1 c2 c3 c4 c5	105	c1 c2 c3 c4 c5	140	c1 c2 c3 c4 c5