

## OCTOBER/NOVEMBER EXAM 2021 MEMO

### QUESTION 1: 20 MARKS

**QUESTION 1 BASED ON QUIZZES: ALL QUESTIONS HAVE BEEN ASKED.**

<b>1.1 a</b>	<b>1.11 d</b>
<b>1.2 b</b>	<b>1.12 b</b>
<b>1.3 b</b>	<b>1.13 a</b>
<b>1.4 a</b>	<b>1.14 b</b>
<b>1.5 d</b>	<b>1.15 c</b>
<b>1.6 c</b>	<b>1.16 a</b>
<b>1.7 d</b>	<b>1.17 d</b>
<b>1.8 b</b>	<b>1.18 c</b>
<b>1.9 a</b>	<b>1.19 a</b>
<b>1.10 c</b>	<b>1.20 b</b>

### QUESTION 2: 20 MARKS

**2.1 Briefly discuss the following supposition (statement): The set of facts does not fall within the ambit of the purpose of the criminal law. (2)**

NO/Incorrect statement (1)

Purpose of criminal law (1) – to protect safety and security of all (even against themselves)

**2.2 Which legal advice will you provide to A to address her legal position? (6)**

Harassment -protection order (2)

Crimen iniuria define (2)

Extortion define (2)

**2.3 Why was a judicial inquest not instituted? Only one answer. (1)**

There is a suspect.

(Suicide is an unnatural death)

**2.4 In respect of C's defence, very briefly explain the presiding officer's judgement with reference to the relevant element and ONE case. (6)**

**CONDUCT ELEMENT (1)**

Murder a consequence crime

Causation

Factual causation (1)

Legal causation (1)

Was the shooting a novus actus interveniens? (define novus (1)

Peverett facts (name of case and facts briefly) (2) take note facts provided and Peverett not the same.

There was conduct.

**2.5 Assume the presiding officer rejected C's defence, may C be convicted with murder. Explain briefly. (5)**

Re Murder

Dolus eventualis (1)

Did he subjectively foresee the death? (1) and

Did he reconcile himself with the death? (1)

Accused did NOT have dolus eventualis.

NOT MURDER

Culpable homicide (1)

Would the reasonable person have foreseen it? (1)

Take note: This is not an example of domestic violence?

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**QUESTION 3: 20 MARKS**

**3.1 Assume the accused had unsuccessfully challenged the institution of prosecution. What would they allege? (3)**

Chapter 1: Did it many times?

The elements of the crime not proven

The accused not linked to the crime

Not a reasonable possibility of success.

**3.2 Why is the case number relevant? (1)**

Clear indication that the case is on the court role for a criminal trial.

3.1 and 3.2 are interlinked.

**3.3 Explain why the court of first instance is relevant. (4)**

Jurisdiction: REGIONAL COURT (see charge sheet)

Territorial jurisdiction (1)

Sentencing jurisdiction (1) – R300 000 and / or 15 years @ charge or Min Sentencing Act (1)

Substantive jurisdiction (1)

**3.4 Indicate and define for which crimes the accused will be charged? (4)**

Fraud define (2) want to see misrepresentation

Corruption define (2) want to see double intent/dolus

**3.5 These type of crimes are referred to as . (1)**

White collar or economic crimes.

**3.6 Provide the prescribed sentence that may be imposed with reference to one relevant case that the presiding officer must take into account. (5)**

Min sentencing Act (1)

Section 51 Part 2 (1) read with schedule 2 of the Min Sentencing Act – 15 years (1)

Common purpose (1) R100 000

Van der Walt case (1) must take each charge

**3.7 Indicate in which medium the crimes committed and what is the main characteristic of this medium? (2)**

ELECTRONIC MEDIUM

INTANGIBLE INFORMATION

**QUESTION 4: 10 MARKS**

**4.1 2 marks**

ELEMENT: UNLAWFULNESS (1)

PRIVATE DEFENCE (1)

**4.2 2 mark**

COMMON PURPOSE to commit robbery and foresaw that someone may be killed.

PERPETRATORS.

**4.3 6 marks**

DEFENCE: Mistake re causation/causal chain of events (1) can exclude DOLUS EVENTUALIS (1): difference between foreseen and actual course of events.

**Goosen case (1)** – facts of case (1): tried to steal a car

**not guilty to murder but culpable homicide (1)**

**BURCHELL (1)** says that the accused should have foreseen exactly how it would occur and if it deviated substantially from how it should have occurred, then a defence.