

Mark Scheme for June 2012

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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Annotations used in the detailed Mark Scheme.

Annotation	Meaning
	Irrelevant
	Not answered question
	Level 1
	Level 2
	Level 3
	Benefit of Doubt
	Cross
	Unclear
	Repeat
	Tick
	Vague
	Omission mark
	Benefit of doubt not given
	Development of point

Question		Answer	Marks	Guidance						
1	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> To maintain the rights of individuals or to maintain law and order; The person beginning the case is given a different name; The cases take place in different courts; The judges are different; Terminology in the cases are different, eg, guilty or liable; The standard of proof is different. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each difference.</p> <p>(maximum 3 marks)</p>						
	(b)	<p>Candidates will successfully match any or all of the following:</p> <table style="margin-left: 40px;"> <tr> <td>A</td> <td>2</td> </tr> <tr> <td>B</td> <td>3</td> </tr> <tr> <td>C</td> <td>1</td> </tr> </table>	A	2	B	3	C	1	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each correct match.</p> <p>(maximum 3 marks)</p>
A	2									
B	3									
C	1									
2	(a)	<p>Candidates will explain any one of the following reasons:</p> <ul style="list-style-type: none"> The suspect's race or racial origin; The suspect's age; The suspect's previous convictions. The suspect's appearance 	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for identification. 1 mark for explanation. 1 mark for further development.</p> <p>(maximum 3 marks)</p>						
	(b)	(i)	<p>Candidates will insert Crown, Circuit and Recorder in this order.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct word identified.</p> <p>(maximum 3 marks)</p>					

Question		Answer	Marks	Guidance	
				Content	Levels of response
	(ii)	<p>Candidates will explain any two of the following:</p> <ul style="list-style-type: none"> • Since Pablo is aged 16 (and under 17) and has a learning difficulty he is entitled to have an 'appropriate adult' present during all interviews. This is a right under Code of Practice E. This is in addition to the right to legal advice. In <i>R v. Aspinall</i> (1999) the Court of Appeal decided that since the defendant suffered from schizophrenia they should have had an appropriate adult present. As Pablo was not given access to such a person, his detention is potentially unlawful; • Once Pablo has been arrested there are strict guidelines as to time limits on how long they can be held and when interviews are undertaken. Code of Practice C sets the time limits within which certain events need to occur. After arrest the first review by a custody officer must be conducted within six hours. As Pablo was not interviewed until after seven hours his detention is potentially unlawful; 	6	<p>Credit should be given for both breadth and depth.</p> <p>Candidates who only give one reason can only achieve three marks maximum.</p>	<p>ASSESSMENT OBJECTIVE 2</p> <p>(maximum 6 marks)</p> <p>5-6 marks: points are made with good reasoning through discussion.</p> <p>3-4 marks: points are made with some elaboration.</p> <p>1-2 marks: basic points.</p> <p>0 marks: no response or no response worthy of credit.</p>

Question			Answer	Marks	Guidance	
					Content	Levels of response
			<ul style="list-style-type: none"> Under s.76 of PACE Pablo is protected during his detention from inhuman or degrading treatment. Since the cell is cold and without light, Pablo's detention is potentially unlawful. It is the custody officer's responsibility to ensure that there are no such breaches of PACE; Under s.56 of PACE Pablo is entitled to have someone informed of his arrest who would have an interest in his welfare. They must be told of the reason for the arrest and their whereabouts. This should be done as soon as possible, but in the case of murder a senior police officer can authorise a delay of up to 36 hours. As Pablo was refused this right his detention could be potentially unlawful; Under s.58 of PACE the custody officer must inform Pablo of his right to legal advice. He can choose his own solicitor, or one can be appointed while they are detained. Pablo will be required to sign the custody record to acknowledge that he understands this. It is possible for a senior officer to authorise a delay of up to 36 hours. As Pablo was refused this right his detention is potentially unlawful. 			

Question	Answer	Mark	Guidance
(iii)	<p>Candidates will identify any three searches from the following:</p> <ul style="list-style-type: none"> • General or non-intimate Search; • Strip Search; • Intimate Search. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct search identified.</p> <p>(maximum 3 marks)</p>
(iv)	<p>Candidates will discuss one of the following:</p> <ul style="list-style-type: none"> • Against the Verdict: With certain exceptions only the defendant can appeal against the verdict. The main reason for this appeal is on a point of law. Here the defendant is challenging the law perhaps due to the judge's interpretation of the law or their direction to the jury. The appeal will be heard in the Court of Appeal (Criminal Division) and permission to appeal must be given by that court. If the defendant wishes to appeal he must say so in court or within 14 days of the trial. In order to appeal a notice of intent must be filed with the Court of Appeal within 28 days; the other appeal here is against a potentially unsafe conviction. Perhaps new evidence is discovered throwing doubt on the defendant's conviction. The Criminal Cases Review Commission was set up to refer any potential cases to the Court of Appeal. • Against the Sentence: There is no automatic right of appeal. This appeal is usually made by the defendant against what they feel is a harsh sentence given by the judge. Permission must be sought from the Court of Appeal or the trial judge. The Court of Appeal can vary the sentence, but cannot increase it. The possibility of appeal against sentence is limited in order to ensure that only those appeals that merit consideration reach the 	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>(maximum 3 marks)</p> <p>3 marks: develops a discussion on one relevant issue.</p> <p>2 marks: identifies one relevant issue with some elaboration.</p> <p>1 mark: identifies a relevant issue or makes any valid point.</p> <p>0 marks: no response or nothing worthy of credit.</p> <p>Credit should be given for both breadth and depth.</p>

Question			Answer	Mark	Guidance
			<p>Court of Appeal. The Court of Appeal will only re-sentence a defendant if they consider that the sentence was 'wrong in principle' (eg, contrary to the law) or 'manifestly excessive'. There is a further possible appeal route to the Supreme Court.</p> <p>Credit any other relevant response for either type of appeal route.</p>		
3	(a)	(i)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • The seriousness of the offence; • Whether the defendant pleaded guilty before or during the trial; • Whether the offence was racially or religiously motivated; • Whether the offence was related to disability or sexual orientation. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each aggravating factor identified.</p> <p>(maximum 3 marks)</p>

Question	Answer	Mark	Guidance
(ii)	<p>Candidates will discuss any two of the following:</p> <ul style="list-style-type: none"> • The seriousness of the offence: the court must look at how much the offender was to blame for the offence. In particular how much harm was caused intentionally or was foreseeable. The court must also look at whether the defendant has any previous convictions, its relevance to the current conviction and the time lapse since the other conviction(s). The court would also need to consider whether the defendant was on bail at the time when the offence was committed; • whether it was a planned offence or failure to respond to previous sentences; • Whether the offence was racially or religiously motivated – the court must consider a more serious sentence if part of the defendant’s motivation in committing the crime was due to the victim’s race or due to the victim’s religion; • Whether the offence was related to disability or sexual orientation – the court must consider a more serious sentence if part of the defendant’s motivation in committing the crime was due to the victim’s disability eg robbing a blind person or due to the victim’s sexual orientation eg the fact that the crime was deliberately against a homosexual. <p>Credit any other relevant response.</p>	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>For each factor discussed:</p> <p>3 marks: develops a discussion on one relevant issue.</p> <p>2 marks: identifies one relevant issue with some elaboration.</p> <p>1 mark: identifies a relevant issue or makes any valid point.</p> <p>0 marks: no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each factor discussed.</p> <p>(Maximum for question: 6 marks)</p> <p>Credit should be given for both breadth and depth.</p>

Question		Answer	Mark	Guidance
3	(b) (i)	<p>Candidates will successfully identify any or all of the following:</p> <p>A = Youth Rehabilitation Order</p> <p>B = Custodial Sentence</p> <p>C = Reparation Order</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct sentence identified.</p> <p>(maximum 3 marks)</p>
	(ii)	<p>Candidates will explain the purpose of each of the following:</p> <ul style="list-style-type: none"> • Young Offender's Institute (YOI): The purpose of this institute is to accommodate 18 to 20 year olds. This is a custodial sentence. They are an alternative to adult prison and the young offender can serve their entire sentence or if they reach 21 years of age whilst serving the sentence must be moved to an adult prison. The minimum sentence is 21 days; • Local Authority Secure Children's Home: The purpose of the Homes are normally used to house young offenders between the ages of 12 to 14, but can house girls up to the age of 16 and 15-16 year old boys who are assessed as being vulnerable. These Homes are run by the local authority social services departments; • Secure Training Unit: The purpose of these custom built centres are to house young offenders up to the age of 17. They are run by private contractors at four centres in England. They house vulnerable young offenders and differ from YOI because they have a higher staff to offender ratio and are smaller in size. Their purpose is to provide an environment in which the offender can be educated. The education runs for 25 hours a week for 50 weeks in the year. 	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>For each explanation:</p> <p>2 marks: for explaining two relevant purposes.</p> <p>1 mark: explains one relevant purpose.</p> <p>0 marks: no response or nothing worthy of credit.</p> <p>Maximum 2 marks for each purpose explained.</p> <p>(Maximum for question: 6 marks)</p>

Question		Answer	Mark	Guidance
		<p>Credit any other relevant comment made.</p> <p>Credit any reference to aims of sentencing where contextualised in light of the relevant institution.</p>		
4	(a)	<p>Candidates will identify any or all three of the following:</p> <ul style="list-style-type: none"> • Anyone who had served any part of a sentence of imprisonment or a sentence of detention in the last ten years; including someone who has been detained in a young offender's centre; • Anyone who had passed on them a suspended sentence of imprisonment in the last ten years; • Anyone who has had a community order or other community type sentence against them in the last ten years. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each reason identified.</p> <p>(maximum 3 marks)</p>
	(b)	<p>Candidates will identify as follows:</p> <p>i = False</p> <p>ii = True</p> <p>iii = True</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct tick.</p> <p>(maximum 3 marks)</p>
	(c)	<p>Candidates will explain one of the following reasons:</p> <ul style="list-style-type: none"> • If a person has served on a jury in the last two years and that period has not ended; • If a person has been excused previously from jury service and that period has not ended; • If a person is a full time member of the Armed Forces and their commanding officer states that their absence would prejudice the efficiency of the service; 	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for identification.</p> <p>1 mark for explanation.</p> <p>1 mark for development.</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance
		<ul style="list-style-type: none"> If a person has a valid medical reason for not sitting on a jury; If a person has a valid personal reason for not sitting on a jury this can also be considered, eg insufficient understanding of English. <p>Credit any other valid response.</p>		
(d)	(i)	<p>Candidates will discuss any two of the following:</p> <ul style="list-style-type: none"> Secrecy: the verdict is decided in the jury room away from the court room and media observation. There is no explanation for the verdict and the jury do not have to give a reason for their decision. This could lead to some questionable decisions; Bias: there is always the potential for bias. Some jurors may feel sympathetic or unsympathetic to a defendant for their own personal reasons and not look at the trial objectively. This could mean that the trial was not fair. This bias could be local or national; Media Influence: some cases will attract a lot of attention from newspapers and the television and as such could potentially influence a juror in making a decision. This is particularly possible in high profile murder cases meaning the defendant may not get a fair trial; Lack of understanding: Jurors have no legal training and may find some of the law or evidence difficult to understand. This could lead to a long trial as everything needs to be explained in simple terms or that jurors could be swayed by a charismatic advocate rather than the facts of the case; 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Credit should be given for both breadth and depth.</p> <p>For each disadvantage discussed: maximum 3 marks.</p> <p>3 marks: develops a discussion on one relevant disadvantage. The response is well organised, structured, with few errors in spelling, punctuation and grammar.</p> <p>2 marks: identifies one relevant disadvantage with some elaboration. The response is adequately organised, structured, with some errors in spelling, punctuation and grammar.</p> <p>1 mark: identifies a relevant disadvantage or makes any valid point. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>0 marks: no response or nothing worthy of credit.</p> <p>(Maximum for question: 6 marks)</p>

Question	Answer	Mark	Guidance
	<ul style="list-style-type: none"><li data-bbox="376 212 1093 411">• Expensive: the jury system is often criticised as being expensive, particularly the administrative burden in organising the trials. Also businesses have to bear the cost of losing an employee for a period of time and this can cause particular problems for the self-employed. <p data-bbox="376 448 786 480">Credit any other valid response.</p>		

Question	Answer	Mark	Guidance
	<p>(ii) Candidates will discuss any one from the following:</p> <ul style="list-style-type: none"> • Trial by judge sitting alone: here a single qualified judge would sit alone in the Crown Court and decide the verdict and sentence of the defendant. This would be similar to that operated in the civil courts. The potential of juror 'nobbling' would be removed; • The use of a panel of judges: here rather than rely simply on a single judge a minimum of three judges would sit in the Crown Court. This would undoubtedly be more expensive than a jury trial; • The use of magistrates sitting with qualified judges without a jury: this would most likely be cheaper than a jury trial, and is used in other criminal trials where a defendant appeals against the verdict or sentence from the Magistrates' court; • The use of expert / professional juries in specific cases: here depending on the crime a panel of expert jurors could sit and hear the case. The evidence would be presented by both parties rather than have to explain the issues at stake since the 'jurors' would not need such explaining; • Trying more serious cases in the Magistrates' court: this would allow cases such as less violent robberies and assaults to be tried without the need to go to the Crown Court. The magistrates would simply hear the case and decide the defendant's fate in the way they currently operate. If the defendant is found guilty they could have their sentencing powers increased or send the case to the Crown Court for sentencing. <p>Credit any other valid response.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>3 marks: develops a discussion on one relevant alternative.</p> <p>2 marks: identifies one relevant alternative with some elaboration.</p> <p>1 mark: identifies a relevant alternative or makes any valid point.</p> <p>0 marks: no response or nothing worthy of credit.</p> <p>(maximum 3 marks)</p>

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