#### **MEMO JUNE EXAM 2014**

## TAKE NOTE: The memo serves only as a guideline.

#### **QUESTION 1 14 MARKS**

Conduct that complies with the 5 elements of a crime namely legality, conduct, unlawfulness, criminal capacity and fault.

#### 1.2

Conduct – a human voluntary conduct and depending on whether conduct or consequence crime, causation

- Consequence crime consequence is prohibited 1 mark
- Consequence crimes differ from conduct crimes in respect of the <u>conduct element</u>: must comply with 4 elements: human, voluntary conduct where there is a link/<u>causation</u> between conduct and consequence 1 mark

#### 1.3.1 E (2)

D is a police official and YES, had a legal duty which arose from his office.

Relevant case: Euwels (assault of a person in the presence of a police official) (Not Gaba police official where withheld information or Bazdow where police did not protect woman).

## 1.3.1 F (1)

NO legal duty Legal duty arose from office – Euwels – person assaulted

#### 1.43 marks

I mark for yes or no to causation and for the reason.

1.4.1 (1) S v Mokgethi – no causation between bank robbery and death of bank teller – the victim did not take properly care of himself in accordance with the doctor's instructions and that broke the link between the robbery (conduct) and death (consequence).

1.4.2 (1) S v Tembani – yes, causation between shooting and death of girlfriend – the hospital negligent treatment did not break the link between shooting and death.

1.4.3 (1) Sv Closte - no causation because the state did not prove causation between the conduct of the accused (dragging) and death and it was not shown/proven by the state that the link had not been broken by the conduct of the people who assaulted the deceased - it is possible that the link had been broken.

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