

## Chapter 1: The Nature, Purpose, and Function of Criminal Law

### Test Bank

#### Multiple Choice

1. A \_\_\_\_\_ is whatever the law declares to be a criminal offense and punishes with a penalty.

- a. crime
- b. deviance
- c. felony
- d. misdemeanor

Ans: A

Cognitive Domain: Knowledge

Answer Location: The Nature of Criminal Law

Difficulty Level: Easy

2. Legal action for civil wrongs is brought by individuals rather than \_\_\_\_\_.

- a. magistrates
- b. state prosecutors
- c. defense attorneys
- d. arresting officers

Ans: B

Cognitive Domain: Knowledge

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

3. The branch of the law that protects the individual rather than the public interest is known as \_\_\_\_\_.

- a. criminal law
- b. individual law
- c. lawsuit
- d. civil law

Ans: D

Cognitive Domain: Comprehension

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

4. \_\_\_\_\_ is defined as an injury to a person or to his or her property.

- a. Tort
- b. Misdemeanor
- c. Grievance
- d. Felony

Ans: A

Cognitive Domain: Knowledge

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

5. All of the following are required for most crimes to occur EXCEPT \_\_\_\_\_.

- a. criminal defense
- b. concurrence
- c. criminal act
- d. criminal intent

Ans: A

Cognitive Domain: Application

Answer Location: The Principles of Criminal Law

Difficulty Level: Medium

6. \_\_\_\_\_ involves a study of the legal standards governing the detection, investigation, and prosecution of crime.

- a. Substantive criminal law
- b. Criminal procedure
- c. Substantive criminal procedure
- d. Law school

Ans: B

Cognitive Domain: Knowledge

Answer Location: The Principles of Criminal Law

Difficulty Level: Easy

7. All of the following are considered to be basic principles that comprise the general part of criminal law EXCEPT \_\_\_\_\_.

- a. criminal act

- b. defenses
- c. knowledge of the law
- d. responsibility

Ans: C

Cognitive Domain: Application

Answer Location: The Principles of Criminal Law.

Difficulty Level: Medium

8. A crime punishable by death or imprisonment for more than one year is referred to as a \_\_\_\_\_.

- a. felony
- b. misdemeanor
- c. personal injury
- d. infraction

Ans: A

Cognitive Domain: Knowledge

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

9. Which of the following states that when federal and state laws conflict, federal law is superior?

- a. federal criminal code
- b. preemption doctrine
- c. Tenth Amendment

d. Model Penal Code

Ans: B

Cognitive Domain: Application

Answer Location: Federal Statutes

Difficulty Level: Medium

10. A \_\_\_\_\_ is a crime punishable by less than a year in prison.

a. felony

b. misdemeanor

c. personal injury

d. infraction

Ans: B

Cognitive Domain: Knowledge

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

11. All of the following are considered to be sources of criminal law in the United States EXCEPT \_\_\_\_\_.

a. English and American common law

b. state criminal codes

c. international treaties

d. international tribunal

Ans: D

Cognitive Domain: Application

Answer Location: Sources of Criminal Law

Difficulty Level: Medium

12. The sharing of power between the federal and state governments is referred to as \_\_\_\_\_.

- a. dual sovereignty
- b. independent power
- c. federal state relationship
- d. dual law

Ans: A

Cognitive Domain: Knowledge

Answer Location: Federal Statutes

Difficulty Level: Easy

13. \_\_\_\_\_ are crimes subject to the death penalty or life in prison.

- a. Dangerous felonies
- b. Evil crimes
- c. Capital felonies
- d. Capital misdemeanors

Ans: C

Cognitive Domain: Comprehension

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

14. The term \_\_\_\_\_ is used in some states to refer to crimes subject to between 6 and 12 months in prison.

- a. petty misdemeanor
- b. gross misdemeanor
- c. petty felony
- d. gross felony

Ans: B

Cognitive Domain: Knowledge

Answer Location: Categories of Crime, Felonies and Misdemeanors

Difficulty Level: Easy

15. \_\_\_\_\_ crimes are considered “inherently evil” and would be evil even if not prohibited by law.

- a. Mala in se
- b. Mala prohibita
- c. Mens rea
- d. Moral crimes

Ans: A

Cognitive Domain: Knowledge

Answer Location: Mala in Se and Mala Prohibita

Difficulty Level: Easy

16. \_\_\_\_\_ offenses are not “inherently evil” and only are considered wrong because they are prohibited by a statute.

- a. Mala in se

b. Mala prohibita

c. Mens rea

d. Moral crimes

Ans: B

Cognitive Domain: Comprehension

Answer Location: Mala in Se and Mala Prohibita

Difficulty Level: Easy

17. The \_\_\_\_\_ is/are the foundation of American criminal law.

a. state criminal code

b. federal criminal code

c. international treaties

d. English common law

Ans: D

Cognitive Domain: Knowledge

Answer Location: The Common Law

Difficulty Level: Easy

18. Some states remain \_\_\_\_\_, meaning that the common law may be applied where the state legislature has not adopted a law in a particular area.

a. English law states

b. federal state statutes

c. common law states

d. federal law states



Ans: C

Cognitive Domain: Knowledge

Answer Location: Sources of Criminal Law, State Criminal Codes

Difficulty Level: Easy

19. The \_\_\_\_\_ compiles the criminal laws adopted by the United States Congress.

- a. Constitution
- b. state criminal code
- c. federal criminal code
- d. Supremacy Clause

Ans: C

Cognitive Domain: Knowledge

Answer Location: Federal Statutes

Difficulty Level: Easy

20. The \_\_\_\_\_ of the United States Constitution provides that the federal law is superior to a state law within those areas that are preserved for the federal government.

- a. Constitution
- b. state criminal code
- c. federal criminal code
- d. Supremacy Clause

Ans: D

Cognitive Domain: Knowledge

Answer Location: Federal Statutes

Difficulty Level: Easy

21. What is the foundation of the criminal justice system?

- a. the criminal law
- b. the administrative law
- c. the common law
- d. the constitutional law

Ans: A

Cognitive Domain: Knowledge

Answer Location: Introduction

Difficulty Level: Easy

22. The study of \_\_\_\_\_ involves the analysis of the definition of specific crimes and of the general principles that apply to all crimes.

- a. substantive criminal law
- b. criminal procedure
- c. substantive criminal procedure
- d. law school

Ans: A

Cognitive Domain: Comprehension

Answer Location: The Principles of Criminal Law

Difficulty Level: Easy

23. The \_\_\_\_\_ is a standardized set of laws established to encourage states to adopt a uniform codes and corresponding definitions.

- a. common law
- b. Model Penal Code
- c. state criminal codes
- d. international treaties

Ans: B

Cognitive Domain: Knowledge

Answer Location: The Model Penal Code

Difficulty Level: Easy

24. Which of the following includes the duty to protect the well-being and tranquility of a community and prohibit acts that may bring harm to its people?

- a. municipal ordinances
- b. English acts of Parliament
- c. crimes against public order
- d. state police power

Ans: D

Cognitive Domain: Application

Answer Location: State Police Power

Difficulty Level: Medium

25. Minor criminal acts with no imprisonment term because they cause modest social harm are referred to as \_\_\_\_\_.

- a. gross misdemeanors

- b. petty misdemeanors
- c. crimes against public morals
- d. violations or infractions

Ans: D

Cognitive Domain: Knowledge

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

26. Fiona wants to be a criminologist. She hopes to focus her studies on prosecutorial misconduct and the administration of justice. Her interests are examples of \_\_\_\_\_.

- a. substantive criminal law
- b. criminal procedure
- c. defenses
- d. due process

Ans: B

Cognitive Domain: Application

Answer Location: The Principles of Criminal Law

Difficulty Level: Medium

27. Ian is a new attorney who has begun his own law practice. His first client comes seeking advice. The client recounts a series of events in which an altercation broke out last night at the local tavern. He asks Ian what possible charges he may face for his role in the barroom brawl. What he is asking for requires an understanding of \_\_\_\_\_.

- a. criminal procedure
- b. due process

- c. substantive criminal law
- d. criminal intent

Ans: C

Cognitive Domain: Application

Answer Location: The Principles of Criminal Law

Difficulty Level: Medium

28. Eric was driving his vehicle excessively fast in order to get to ComicCon on time. He was driving 79 in a 65 mph zone. He is pulled over by a stealthy police officer and written a ticket that carries a large fine. His behavior would likely be classified as a \_\_\_\_\_.

- a. misdemeanor
- b. felony
- c. capital felony
- d. violation or infraction

Ans: D

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium

29. Monika is the defendant in a criminal trial. After days of jury deliberation she is found guilty. The judge quickly moves into the sentencing phase. Later the same day, she is sentenced to 7 months in prison. She most likely committed \_\_\_\_\_.

- a. felony
- b. second-degree murder

c. gross or petty misdemeanor

d. a violation or infraction

Ans: C

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium

30. Tom works hard throughout the week and very much looks forward to his weekends. He thinks that his hard work earns him as many drinks as he wants. Last night, he went to a party and drank quite a bit and then decided to take a walk in the local park because he knew he was too intoxicated to drive. Despite it being 1 a.m. he was singing at the top of his lungs and local residents called the police to complain about his behavior. If he is found to have committed a crime it would likely be which of the following?

a. mala in se

b. mala prohibita

c. crimes against property

d. crimes against persons

Ans: B

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium

31. Abigail has been having some hard times financially. She recently lost her job and is finding it difficult to make ends meet. She has been considering breaking in to homes in a nice neighborhood to see what she can find to take to the pawn shop. She knows that

stealing is wrong but thinks people may not notice if she takes items they don't need. Abigail is considering committing which type of crime?

- a. mala in se
- b. mala prohibita
- c. due process violations
- d. search and seizure

Ans: A

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium

32. Aiesha is the defendant in a criminal trial. She knows if she is found guilty she will likely face less than 6 months imprisonment. What type of offense has she been charged with?

- a. gross misdemeanor
- b. petty misdemeanor
- c. first-degree felony
- d. minor felony

Ans: B

Cognitive Domain: Application

Answer Location: Categories of Crime, Felonies and Misdemeanors

Difficulty Level: Medium

33. Honorable Judge Casey has sat on the bench for 15 years. He has seen it all. His judicial decisions have impacted thousands in the community. What is the significance of his judicial decisions in criminal law?

- a. All other courts must abide by his decisions.
- b. They serve as precedents for future cases and other legislative issues.
- c. They have no significance outside of the specific case that was decided.
- d. Decisions serve as study guides for students only.

Ans: B

Cognitive Domain: Application

Answer Location: Sources of Criminal Law

Difficulty Level: Medium

34. Isaac has committed a felony. He has not yet gone to trial and is hoping to work out a plea bargain with the prosecution. While he is certain he faces jail time, he is hoping to ensure he does not have to serve more than a year because he has a wife and kids and cannot stand the thought of being away from them. Isaac is hoping to be charged with a \_\_\_\_\_.

- a. misdemeanor
- b. petty felony
- c. violation
- d. capital felony

Ans: A

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium



35. What is the foundation of the criminal justice system?

- a. criminal law
- b. judicial code
- c. state statutes
- d. Model Penal Code

Ans: A

Cognitive Domain: Knowledge

Answer Location: Introduction

Difficulty Level: Easy

36. According to the text, the central point of Hart's definition of crime is that a crime \_\_\_\_\_.

- a. is subject to formal condemnation by a judge and jury
- b. carries a sense of shame and humiliation
- c. is followed with swift punishment
- d. will be placed on a person's record

Ans: A

Cognitive Domain: Comprehension

Answer Location: The Nature of Criminal Law

Difficulty Level: Medium

37. John lives in an apartment in downtown Chicago. While the rent is cheap, it is infested with bugs and inconvenient to get to from the train. His lease is not up for 4 more months but he is thinking about moving out anyway. If he does so and his landlord seeks legal advice to claim the unpaid rent, his remedy likely falls within which realm?

- a. substantive criminal law
- b. criminal procedure
- c. civil law
- d. administrative law

Ans: C

Cognitive Domain: Application

Answer Location: Criminal and Civil Law

Difficulty Level: Medium

38. \_\_\_\_\_ allow a state to incorporate the common law as an unwritten part of the criminal law?

- a. Code jurisdictions
- b. Common law statutes
- c. Reception statutes
- d. Federally mandated incorporations

Ans: C

Cognitive Domain: Comprehension

Answer Location: State Criminal Codes

Difficulty Level: Easy

39. A man who was recently imprisoned for a felony was released just a month ago. As a result of his conviction, he can face all of the following challenges EXCEPT \_\_\_\_\_.

- a. bar you from any and all employment
- b. bar you from being admitted to the armed forces

- c. unable to adopt a child
- d. unable to be licensed in various professions

Ans: A

Cognitive Domain: Application

Answer Location: Mala in Se and Mala Prohibita

Difficulty Level: Medium

40. Which of the following best identifies the basic principles of criminal law?

- a. criminal act, criminal intent, concurrence, causation, responsibility, and defenses
- b. criminal act, criminal intent, concurrence, causation, justification, and defenses
- c. criminal act, criminal intent, concurrence, plea bargain, responsibility, and defenses
- d. criminal act, criminal intent, concurrence, causation, responsibility, and sentencing

Ans: A

Cognitive Domain: Application

Answer Location: The Principles of Criminal Law

Difficulty Level: Medium

41. Which common law crimes had been developed by the year 1600?

- a. arson, burglary, larceny, manslaughter
- b. mayhem, rape, robbery, embezzlement
- c. false pretenses, sedition, solicitation, blasphemy
- d. rape, mayhem, blasphemy, sedition

Ans: A

Cognitive Domain: Knowledge

Answer Location: The Common Law

Difficulty Level: Easy

42. Moral turpitude plays a role in classifying which types of crimes?

- a. felonies and misdemeanors
- b. mala in se and mala prohibita
- c. gross and petty misdemeanors
- d. violations and infractions

Ans: B

Cognitive Domain: Application

Answer Location: Mala in Se and Mala Prohibita

Difficulty Level: Medium

43. A legal action in which one individual receives financial compensation from another individual for physical and emotional injuries was likely the result of \_\_\_\_\_.

- a. the commission of a tort
- b. the commission of a crime
- c. certainty beyond a reasonable doubt
- d. due process

Ans: A

Cognitive Domain: Comprehension

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

44. Krissy is a rebel despite no longer being a teenager. After a recent disagreement with her parents she decides she is going to teach them a lesson. She plans to commit a crime. What classification of crime will result in the lightest sentence if found guilty?

- a. petty misdemeanor
- b. felony
- c. misdemeanor
- d. violation

Ans: D

Cognitive Domain: Application

Answer Location: Felonies and Misdemeanors

Difficulty Level: Medium

### **True/False**

1. The difference between a civil and criminal action is always clear.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

2. The primary purpose or function of criminal law is to help maintain social order and stability.

Ans: T

Cognitive Domain: Comprehension

Answer Location: The Purpose of Criminal Law

Difficulty Level: Easy

3. Criminal procedure is concerned with “what law is enforced.”

Ans: F

Cognitive Domain: Comprehension

Answer Location: The Principles of Criminal Law

Difficulty Level: Easy

4. Whether a conviction is for a felony or misdemeanor is determined by the punishment provided in the statute under which an individual is convicted rather than by the actual punishment imposed.

Ans: T

Cognitive Domain: Comprehension

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

5. The severity of the punishment imposed is not based on the seriousness of the particular offense.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

6. A misdemeanor conviction can prevent you from being licensed to practice various professions and bar you from being admitted into certain federal positions.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

7. The English common law is the foundation of American criminal law.

Ans: T

Cognitive Domain: Knowledge

Answer Location: The Common Law

Difficulty Level: Easy

8. The distinctive characteristic of common law is that this is, for the most part, the product of decisions of juries in actual cases.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Sources of Criminal Law

Difficulty Level: Easy

9. Common law does not continue to play a role in states' laws.

Ans: F

Cognitive Domain: Comprehension

Answer Location: The Common Law

Difficulty Level: Easy

10. The fact that there is a significant degree of agreement in the definition of crimes in state codes, to a larger extent, is due to the Model Penal Code.

Ans: T

Cognitive Domain: Comprehension

Answer Location: State Criminal Codes

Difficulty Level: Easy

11. It is constitutionally permissible to prosecute a defendant for the same act at both the state and federal levels as long as the criminal charges differ slightly.

Ans: T

Cognitive Domain: Comprehension

Answer Location: Federal Statutes

Difficulty Level: Easy

12. The ability of legislators to enact criminal laws is not limited by public opinion.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Constitutional Limitations

Difficulty Level: Easy

13. A broad variety of acts are defined as crimes.

Ans: T



Cognitive Domain: Knowledge

Answer Location: Chapter Summary

Difficulty Level: Easy

14. Criminal law defines the acts that may lead to an arrest, prosecution, and imprisonment.

Ans: T

Cognitive Domain:

Answer Location: The Purpose of Criminal Law

Difficulty Level: Easy

15. All criminal convictions result in a fine or imprisonment.

Ans: F

Cognitive Domain: Comprehension

Answer Location: Felonies and Misdemeanors

Difficulty Level: Easy

16. The United States does not have a system of dual sovereignty.

Ans: F

Cognitive Domain: Knowledge

Answer Location: Federal Statutes

Difficulty Level: Easy

17. States possess broad police powers to legislate for public health safety and welfare of the residents of the state.

Ans: T

Cognitive Domain: Comprehension

Answer Location: Sources of Criminal Law, State Police Power

Difficulty Level: Easy

18. What is considered a crime in one state will always be considered a crime in a neighboring state.

Ans: F

Cognitive Domain: Comprehension

Answer Location: State Criminal Codes

Difficulty Level: Easy

19. A judge has the discretion to issue a mere warning to a criminal defendant instead of requiring payment of a fine, as in the case of a misdemeanor, or a term of imprisonment, in the case of a felony.

Ans: T

Cognitive Domain: Comprehension

Answer Location: The Nature of Criminal Law

Difficulty Level: Easy

20. Police powers enable the state to create legislation on any matter the police deem necessary.

Ans: F

Cognitive Domain: Comprehension

Answer Location: State Police Power

Difficulty Level: Easy

### **Short Answer and Essay**

1. What is a crime?

Ans: A strong answer will define crime as whatever the law declares to be a criminal offense and punishes with a penalty.

Cognitive Domain: Comprehension

Answer Location: The Nature of Criminal Law

Difficulty Level: Easy

2. What is criminal law?

Ans: A strong answer will define criminal law as a set of legal codes that govern behavior and serves as the foundation of the criminal justice system.

Cognitive Domain: Comprehension

Answer Location: Criminal and Civil Law

Difficulty Level: Easy

3. List five of the seven sources of criminal law in the United States.

Ans: English and American common law, state criminal codes, municipal ordinances, federal criminal code, state and federal constitutions, international treaties, and judicial decisions.

Cognitive Domain: Knowledge

Answer Location: Sources of Criminal Law

Difficulty Level: Easy

4. List the eight classification categories of crime according to their subject matter.

Ans: A strong answer will identify the following: crimes against the state; crimes against the person, homicide; crimes against the person, sexual offenses and other crimes; crimes against habitation; crimes against property; crimes against public order; crimes against the administration of justice; crimes against public morals.

Cognitive Domain: Application

Answer Location: Principles of Criminal Law, Subject Matter

Difficulty Level: Medium

5. What is the purpose of criminal law?

Ans: A strong answer will define the purpose of criminal law as: to maintain social order and stability.

Cognitive Domain: Comprehension

Answer Location: The Purpose of Criminal Law

Difficulty Level: Easy

6. Why is the Model Penal Code significant?

Ans: A strong answer will explain the significance of the Model Penal Code as: it provides a standardized foundation for states when codifying criminal acts. The Model Penal Code also establishes uniform definitions of concepts that may differ from state to state.

Cognitive Domain: Comprehension

Answer Location: The Model Penal Code

Difficulty Level: Easy

7. For each of the subject matter classifications, provide at least one example.

Ans: Answers may vary.

Cognitive Domain: Application

Answer Location: Principles of Criminal Law, Subject Matter

Difficulty Level: Medium

8. What is the difference between criminal law and civil law?

Ans: A strong answer will include the following differences between criminal and civil law:

- Criminal law protects the public interest, requires a burden of proof beyond a reasonable doubt, and any legal action is brought by a prosecutor. Consequences of criminal law may result in permanent loss in freedom, life, or property
- Civil law protects individuals rather than the public interest. Consequences of civil law may result in loss of property, typically in monetary terms.

Cognitive Domain: Analysis

Answer Location: Criminal and Civil Law

Difficulty Level: Medium

9. What is the difference between substantive criminal law and criminal procedure?

Ans: A strong answer will identify the following differences:

- Substantive criminal law answers the question "What law is enforced?" Procedural criminal law, on the other hand, answers the question "How is the law enforced?" Substantive criminal law establishes the definitions of concepts and

principles that apply to all crimes. These include criminal act (actus reus), criminal intent (mens rea), concurrence of actus reus and mens rea, causation, responsibility, and defenses. Procedural criminal law sets the legal standards that govern detection, investigation, and prosecution of crimes. It dictates what is and is not permissible when dealing with the criminal justice system without infringing on the constitutional rights of individuals.

Cognitive Domain: Analysis

Answer Location: Principles of Criminal Law

Difficulty Level: Hard

10. What is the difference between mala in se and mala prohibita crimes? Provide one example for each.

Ans: Answers may vary.

- Mala in se crimes are those crimes that are considered to be inherently evil and would be condemned by society even without any legislative policies that prohibit it.
- Mala prohibita crimes are those crimes that are not necessarily considered inherently evil, but are still punishable because a statute prohibits it.

Cognitive Domain: Application

Answer Location: Mala in Se and Mala Prohibitia

Difficulty Level: Medium

11. Professors Jerome Hall and Wayne R. LaFave identify the basic principles that comprise the general part of criminal law. List and describe these parts of criminal law and explain their importance.

Ans: An individual must commit a criminal act (actus reus) and concurrently possess a criminal intent (mens rea) to specifically commit that crime. Typically, these two are required to occur at the same time because having the intent to commit a crime without actually committing a crime cannot be justifiably punished. Likewise, committing a crime

without any intention of committing that crime may also pose problems in prosecution. For instance, an individual holding the jacket of a friend who is participating in an illegal fight may not be liable as an accomplice simply by providing slight assistance because there might not be specific intent to assist. There is also the concept of causation wherein the criminal act must have directly caused the harm to the victim. It is unjust to punish a would-be murderer for the death of another when the victim died from an unforeseeable lightning storm. Furthermore, while ignorance of the law is not a defense, society must be able to access statutes where criminal acts and intents are clearly stated so individuals may choose to either follow or violate the law. Finally, defenses are the justifications and excuses for committing an act that is typically considered a crime. It is important to differentiate between truly criminal acts and acts that are committed in self-defense, for instance.

Cognitive Domain: Analysis

Answer Location: The Principles of Criminal Law

Difficulty Level: Hard

12. Describe the origins and development of the English common law and its eventual transportation to the American colonies.

Ans: Students should briefly discuss the historical facts surrounding the development of English common law (William the Conqueror wanting to establish legal uniformity) and provide examples of common law crimes. It is important to discuss that common law is based on the decisions made by judges. Students should also discuss its transportation to the American colonies and the gradual adoption of common law by the colonies.

Cognitive Domain: Analysis

Answer Location: The Common Law

Difficulty Level: Medium

13. What is dual sovereignty? How can a defendant be prosecuted for the same act at both the state and federal levels? Use the Rodney King case to develop support for your answer.

Ans: A strong answer will define dual sovereignty as the sharing of power between state and federal governments; however, a preemption doctrine exists where federal criminal laws are constitutionally superior to state laws. A defendant can be prosecuted for the same act at both the state and federal levels if the criminal charges slightly differ. Students must recognize the significance of the preemption doctrine when discussing the concept of dual sovereignty. When providing an argument for prosecution at state and federal levels, the student must provide specific charges given at the state level (assault with a deadly weapon and excessive use of force by a police officer) and federal level (violation of constitutional rights under color of law). Finally, the students must provide the holdings from two trials, any sanctions, and discuss the concept of double jeopardy (or debate whether this is actually double jeopardy).

Cognitive Domain: Analysis

Answer Location: Sources of Criminal Law, Federal Statutes

Difficulty Level: Hard

14. Discuss the limitations that the U.S. Constitution places on criminal law.

Ans: Students must list the four limitations: (a) a state or local law may not regulate an area that is reserved to the federal government, (b) a law may only infringe upon civil and political rights in compelling circumstances, (c) a law must be clearly written and citizens and police must be given notice, (d) a law must not impose cruel and unusual punishment and a law may not be retroactive. Student must also explain the significance of each limitation and the various implications they pose if violated.

Cognitive Domain: Analysis

Answer Location: Sources of Criminal Law, Constitutional Limitations

Difficulty Level: Hard

15. Explain why the U.S. Constitution states that federal laws may not encroach upon state powers.

Ans: Students must discuss the concept of dual sovereignty, preemption doctrine, supremacy clause, and interstate commerce clause. They may discuss and provide



examples of why the interstate commerce clause provides a thin line for federal laws to take over state.

Cognitive Domain: Analysis

Answer Location: Sources of Criminal Law, Federal Statutes

Difficulty Level: Medium