Testbank

Chapter 1

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1) In order for something to be law, it must:

A) make sense.
B) have the approval of the citizens.
C) be obeyed.
D) be created by a government.
E) all of the above

Answer: D
Objective: Explain what law is.
Page number: 1
Level: Basic

2) Law is:

A) a set of rules governing behavior.
B) a set of punishments for those who break society's rules.
C) a set of universal rules that apply to every society in every era.
D) A and C.
E) A and B.

Answer: E
Objective: Explain what law is.
Page number: 1
Level: Basic

3) Common law owes its origination to what nation?

A) United States of America
B) Luxembourg
C) Germany
D) France
E) England

Answer: E
Objective: Explain the concept of Common Law including *stare decisis.*
Page number: 2
Level: Basic

4) Common law was developed so:

A) commoners in England would have laws for themselves.
B) the law would be common to all persons.

C) the law would be common to all areas of the English Empire.
D) B and C.
E) None of the above.

Answer: D
Objective: Explain the concept of Common Law including *stare decisis.*
Page number: 2
Level: Basic

5) Adhering to judicial precedent is known as:

A) *stare decisis*.
B) *quid pro quo*.
C) *caveat emptor*.
D) *quid est timit lupum mallum*.
E) *res ipsa loquitur*.

Answer: A
Objective: Explain the concept of Common Law including *stare decisis.*
Page number: 2
Level: Basic

6) *Stare Decisis* means:

A) to stare at the decision.
B) a decision rendered in the star chamber.
C) to stand by the decision.
D) to look to the stars for wisdom when making a decision.
E) none of the Above.

Answer: C
Objective: Explain the concept of Common Law including *stare decisis.*
Page number: 2
Level: Basic

7) Jurisprudence is:

A) the doctrine that makes lawyers cautious.
B) the study of law.
C) the concept that the Constitution functions to limit government action.
D) the doctrine that requires judges to follow legal precedents.
E) all of the above

Answer: B
Objective: Explain the term Jurisprudence,
Page number: 1
Level: Basic

8) Jurisprudence:

A) provides the rationale for every law ever enacted.
B) contains all the wisdom of the ages.
C) is interpreted by different schools of jurisprudence.
D) is viewed the same way by everyone.
E) all of the above

Answer: C
Objective: Explain the term Jurisprudence.
Page number: 2
Level: Basic

9) Feminist-Critical Legal Theory:

A) argues that women should be given lighter prison sentences than men to reflect that disproportionate amount of discrimination against women in society.
B) argues that laws made by women would lead to fewer incidences of violence, war, and famine.
C) was founded by Gloria Steinem.
D) takes the perspectives of women into account when developing, interpreting, and applying the law.
E) was illegal in the U.S. until the early 20th century.

Answer: D
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 5
Level: Basic

10) The Natural Law School of jurisprudence believes:

A) laws reflect an effort to perpetuate oppression and social inequalities.
B) law is shaped by logic.
C) legal rules are unnecessary.
D) laws are based on standards of what is and is not correct.
E) law is a combination of social transactions.

Answer: D
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 3-4.
Level: Basic

11) The Critical Legal Studies School of jurisprudence believes:

A) law is shaped by logic.
B) laws are based on standards of what is and is not correct.
C) legal rules are unnecessary.
D) laws reflect an effort to perpetuate oppression and social inequalities.
E) law is a combination of social transactions.

Answer: D

Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 5
Level: Basic

12) Which of the following is NOT a school of jurisprudence?

A) The Historical School
B) The Sociological School
C) The Natural Law School
D) The Statistical Analysis School
E) The Analytical School

Answer: D
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 2-5
Level: Intermediate

13) Which theory of jurisprudence fits the American System?

A) The Historical School
B) The Sociological School
C) The Natural Law School
D) The Analytical School
E) Elements of each school of jurisprudence exist in the American System.

Answer: E
Objective: List and Explain the major theories of law and schools of jurisprudence.
Page number: 5
Level: Basic

14) According to Blackstone, an act is *mala in se* if:

A) the act is inherently evil.
B) the act occurs at sea.
C) society decides the act is wrong.
D) Congress passes a law outlawing the act.
E) a court rules the act to be illegal.

Answer: A
Objective: Explain *mala in se* and *mala prohibita*
Page number: 3
Level: Basic

15) According to Blackstone, an act is *mala prohibita* if:

A) the act is inherently evil.
B) the act occurs at sea
C) society decides the act is wrong.
D) Congress passes a law outlawing the act.

E) a court rules the act to be illegal.

Answer: C
Objective: Explain *mala in se* and *mala prohibita*
Page number: 3
Level: Basic

17) A crime is:

A) a wrong that destroys property.
B) a wrong resulting from a breach of legal duty .
C) a wrong against society.
D) a wrong against an individual.
E) any wrong.

Answer: C
Objective: Explain the difference between civil and criminal law.
Page number: 8
Level: Basic

18) A tort is:

A) a wrong that destroys property.
B) a wrong resulting from a breach of legal duty .
C) a wrong against society.
D) a wrong against an individual.
E) any wrong.

Answer: B
Objective: Explain the difference between civil and criminal law.
Page number: 9
Level: Basic

19) The standard of proof in a criminal trial is:

A) a preponderance of evidence.
B) beyond a reasonable doubt.
C) more likely than not.
D) absolute certainty.
E) none of the above.

Answer: B
Objective: Explain the difference between civil and criminal law.
Page number: 9
Level: Basic

20) The standard of proof in a civil trial is:

A) a preponderance of evidence.
B) beyond a reasonable doubt.

C) more likely than not.
D) absolute certainty.
E) none of the above.

Answer: A
Objective: Explain the difference between civil and criminal law.
Page number: 10
Level: Basic

21) A crime where the penalty is less than a year in prison is most likely:

A) a major crime.
B) a felony.
C) a misdemeanor or summary offense.
D) a misdemeanor or a felony.
E) a capital offense.

Answer: B
Objective: Explain the difference between civil and criminal law.
Page number: 10
Level: Basic

22) Murder, rape and robbery are typically considered:

A) summary offenses.
B) misdemeanors.
C) felonies.
D) serious crimes.
E) a typical night in Las Vegas.

Answer: C
Objective: Explain the difference between civil and criminal law.
Page number: 10.
Level: Basic

23) The following are included in the three branches of the U.S. government, except:

A) the U.S. Congress.
B) the Federal Bureau of Investigation (FBI) .
C) United Nations Security Council.
D) the U.S. Senate.
E) the U.S. Supreme Court.

Answer: C
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.
Page number: 12
Level: Basic

24) Which branch of government has the power to make laws?

A) Legislative
B) Executive
C) Administrative agencies
D) Decisive
E) Judicial

Answer: A
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.
Page number: 12
Level: Basic

25) In the federal government's checks and balances system, what check does the federal court system have on the executive and legislative branches of government?

A) The senate must confirm all judicial nominees.
B) The president has the power to appoint judges to the federal bench.
C) The Supreme Court can impeach the president.
D) The Supreme Court can vote to dissolve Congress.
E) Federal courts can declare laws to be unconstitutional.

Answer: E
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.
Page number: 12-13
Level: Basic

26) Which of the following statements are true about the impeachment process?

A) Federal judges are appointed for life and cannot be removed from office.
B) Federal judges may be removed from office after being convicted of high crimes or misdemeanors.
C) Impeachment charges are brought in the House of Representatives.
D) Impeachment trials take place in the Senate
E) B, C, and D are all true.

Answer: E
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.
Page number: 13
Level: Basic

27) The three levels of the federal judiciary are:

A) tax court, bankruptcy court, and criminal court.
B) the Supreme Court, the U.S. Courts of Appeals, and U. S. District Courts
C) federal courts, state courts and local courts
D) patent courts, admiralty court, and bankruptcy court
E) admiralty court, criminal court and civil court.

Answer: B
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.

Page number: 13-14
Level: Basic

28) Federal courts have exclusive jurisdiction over:

A) patent cases.
B) federal crimes.
C) state crimes.
D) disputes between the states.
E) A, B, and D.

Answer: E
Objective: Explain the Federal Court System, Federalism, & Checks and Balances.
Page number: 14
Level: Basic

29) A police officer who observes a person breaking into a house:

A) must wait for a magistrate to issue a warrant.
B) may shoot the burglar without obtaining any more information.
C) may arrest the burglar without obtaining a warrant.
D) must call for backup.
E) none of the above

Answer: C
Objective: Explain how a criminal case is processed through the justice system.
Page number: 19
Level: Basic

30) In order to persuade a magistrate to issue an arrest warrant, a police officer must:

A) demonstrate there is probable cause to arrest the person.
B) demonstrate the person committed the crime beyond a reasonable doubt.
C) provide physical evidence that points to the person's guilt.
D) A, B, and C.
E) none of the above

Answer: A
Objective: Explain how a criminal case is processed through the justice system
Page number: 19
Level: Basic

31) The possible outcomes of a preliminary arraignment are:

A) the prisoner is sentenced for his crime.
B) the prisoner is released on his or her own recognizance.
C) bail is set.
D) bail is denied.
E) B, C, and D.

Answer: E
Objective: Explain how a criminal case is processed through the justice system
Page number: 20
Level: Basic

32) At a preliminary hearing:

A) the prosecution presents evidence.
B) the prosecution must show probable cause to hold the defendant for trial.
C) the defense may ask to have the charges dropped.
D) A, B, and C.
E) A and B only.

Answer: E
Objective: Explain how a criminal case is processed through the justice system
Page number: 20
Level: Basic

33) Which pair of documents charge a defendant with a crime?

A) An information and an indictment
B) A *nol pros* motion and an indictment
C) An arraignment and an information
D) A plea and an arraignment
E) None of the above.

Answer: A
Objective: Explain how a criminal case is processed through the justice system
Page number: 20-21
Level: Basic

34) Which events occur at an arraignment?

A) The defendant testifies before the grand jury.
B) A representative of the court reads the charges to the defendant.
C) The defense cross-examines prosecution witnesses.
D) The defendant enters a plea to the charges.
E) B and D.

Answer: E
Objective: Explain how a criminal case is processed through the justice system
Page number: 21
Level: Basic

35) Every state in America has the common law as the basis for its legal system except:

A) Pennsylvania
B) Hawaii
C) Louisiana

D) Alaska
E) California

Answer: C
Objective: List and explain the sources of American law
Page number: 28
Level: Basic

36) Which of the following is NOT a source of American law:

A) the U.S. Constitution
B) the Bill of Rights
C) treaties
D) Common Law
E) the European Union Convention on Human Rights.

Answer: E
Objective: List and explain the sources of American law
Page number: 27-31
Level: Basic

37) Which of the following is NOT a goal of the Criminal Justice System:

A) deterrence
B) incapacitation
C) re-education
D) rehabilitation
E) restitution

Answer: E
Objective: Understand the Criminal Justice System's Goals
Page number: 5
Level: Basic

38) In the criminal justice system, incapacitation refers to:

A) how disabled criminals are treated in the system
B) the rights of disabled crime victims
C) the restriction of a person's freedom and liberties
D) the right of a police officer to disable a criminal to prevent crime
E) the inability of the court system to punish certain criminals

Answer: C
Objective: Understand the Criminal Justice System's Goals
Page number: 6
Level: Basic

TRUE/FALSE.

1) Written rules that allow a society to operate are its laws.

Answer: T
Objective: Explain what law is.
Page number: 1
Level: Basic

2) Laws are enforced by all citizens.

Answer: F
Objective: Explain what law is.
Page number: 1
Level: Basic

3) Due to the nature of the Common Law system, the law is inflexible.

Answer: F
Objective: Explain the concept of English Common Law including *stare decisis*.
Page number: 2
Level: Intermediate

4) English Common Law was developed so that the law was common to everyone

Answer: T
Objective: Explain the concept of English Common Law including *stare decisis*.
Page number: 2
Level: Intermediate

5) The philosophy of law is referred to as jurisprudence.

Answer: T
Objective: Explain the term Jurisprudence
Page number: 1
Level: Basic

6) Different theories of law are called jurisprudence derivatives.

Answer: F
Objective: Explain the term Jurisprudence
Page number: 2
Level: Basic

7) The Natural Law School of jurisprudence believes the law is a combination of social traditions and customs.

Answer: F
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 3-4

Level: Basic

8) Durkheim's beliefs form the basis of the Command School.

Answer: F
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 2-3
Level: Basic

9) According to Blackstone, an act that is *mala in se* is bad in and of itself.

Answer: T
Objective: Explain *mala in se* and *mala prohibita*
Page number: 3
Level: Basic

10) According to Blackstone, an act that is *mala prohibita* is prohibited because society has decided to criminalize that behavior.

Answer: T
Objective: Explain *mala in se* and *mala prohibita*
Page number: 3
Level: Basic

11) Rehabilitation is the only goal of the Criminal Justice System.

Answer: F
Objective: Understand the Criminal Justice System's goals.
Page number: 5
Level: Basic

11) The goal of restitution is served when the system issues a proportionate punishment to criminal activity.

Answer: F
Objective: Understand the Criminal Justice System's goals.
Page number: 5
Level: Basic

12) Civil law protects public rights.

Answer: F
Objective: Explain the difference between civil and criminal law.
Page number: 8
Level: Basic

14) The terms tortfeasor and criminal are interchangeable.

Answer: F
Objective: Explain the difference between civil and criminal law.

Page number: 9
Level: Basic

15) Most traffic violations are misdemeanors.

Answer: F
Objective: Explain how a criminal case is processed through the criminal justice system.
Page number: 10
Level: Basic

16) Summary offenses often result in jury trials.

Answer: F
Objective: Explain how a criminal case is processed through the criminal justice system
Page number: 10
Level: Basic

17) The U.S. Supreme Court sits atop the federal judiciary system.

Answer: T
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 12
Level: Basic

18) When the Supreme Court decides to hear a case it grants a *writ of certiorari*.

Answer: T
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 13
Level: Basic

19) The Senate chooses federal judges.

Answer: F
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 13
Level: Basic

20) The Preemption Doctrine holds that federal law takes precedence over state and local laws.

Answer: T
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the government's police power.
Page number: 15
Level: Basic

21) The Supremacy Clause states that the Constitution is the supreme law of the land.

Answer: T
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the

government's police power.
Page number: 15
Level: Basic

22) The Supreme Court cited the Supremacy Clause when it ruled the Civil Rights Act of 1964 was constitutional.

Answer: F
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the government's police power.
Page number: 15
Level: Basic

Level: Basic

23) Police officers may issue arrest warrants.

Answer: F
Objective: Explain how a criminal case is processed through the justice system
Page number: 19
Level: Basic

24) Common law has the same origins as the Napoleonic Code.

Answer: F
Objective: List and explain the sources of American law
Page number: 28
Level: Basic

25) Treaties are not a source of American law.

Answer: F
Objective: List and explain the sources of American law
Page number: 28
Level: Basic

FILL IN THE BLANK.

1) The body of rules of conduct created by government and enforced by governmental authority is _____.

Answer: law
Objective: Explain what law is.
Page number: 1.
Level: Basic

2) English settlers in North America brought with them a well-developed system of justice known as _____.

Answer: Common Law
Objective: Explain the concept of English Common Law including *stare decisis*.
Page number: 2.
Level: Basic

3) *Stare decisis* requires a judge to follow a previous decision using the same or similar facts known as a _____.

Answer: precedent.
Objective: Explain the concept of English Common Law including *stare decisis*.
Page number: 2.
Level: Basic

4) The study of law is known as _____.

Answer: jurisprudence.
Objective: Explain the term jurisprudence.
Page number: 1.
Level: Basic

5) According to Blackstone, a behavior that is a crime because society has chosen to criminalize it is _____

Answer: *mala prohibita*
Objective: Explain *mala in se* and *mala prohibita*.
Page number: 3.
Level: Basic

6) The school of jurisprudence that teaches that law is merely the accumulation of a society's traditions is the _____ School.

Answer: Historical.
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 4.
Level: Basic

7) The Criminal Justice System's goal that seeks to inhibit criminal behavior by fear of punishment is _____.

Answer: deterrence.
Objective: Understand the criminal justice system's goals.
Page number: 5.
Level: Basic

8) _____ is the process used to achieve re-entry into society for an individual who has been convicted of a crime.

Answer: rehabilitation.
Objective: Understand the criminal justice system's goals.
Page number: 5.
Level: Basic

9) Criminal law protects _____ rights.

Answer: public.
Objective: Explain the difference between criminal and civil law.
Page number: 8.
Level: Basic

10) _____ are the most serious crimes.

Answer: Felonies.
Objective: Explain how a criminal case is processed through the criminal justice system.
Page number: 10.
Level: Basic

11) A person who wishes to have the Supreme Court hear a case must file a petition for _____.

Answer: *certiorari*.
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 13.
Level: Basic

12) Federal judges including Supreme Court justices may only be removed from office through the process of _____.

Answer: impeachment.
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 9.
Level: Basic

13) The concept that federal law must take precedence over state and local law is called the _____ doctrine.

Answer: preeemption.
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the government's police power.
Page number: 14-15.
Level: Basic

14) The Constitution's Commerce Clause allows the federal government to regulate _____ commerce.

Answer: interstate.
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the government's police power.
Page number: 15.
Level: Basic

15) To issue an arrest warrant, a judge or magistrate must be convinced there is _____ that a crime was committed and the defendant committed it.

Answer: probable cause.
Objective: Explain how a criminal case is processed through the criminal justice system.
Page number: 19.
Level: Basic

16) When Congress passes a law, it often instructs a federal agency or agencies to develop _____ that provide guidance on how the law should be enforced.

Answer: regulations.
Objective: List and explain the sources of American law.
Page number: 30.
Level: Basic

MATCHING.

COLUMN 1	COLUMN 2
1. Law	a. The Study of Law
2. Jurisprudence	b. To stand by that which was decided, rule by which courts decide new cases based on how they decided similar cases before.
3. Common Law	c. The body of rules of conduct created by government and enforced by the authority of the government.
4. *Stare Decisis*	d. The system of jurisprudence originated in England and later applied in the United States, that is based on judicial precedent rather than legislative enactments.
5. Precedent	e. Prior decision that a court must follow when deciding a new, similar case.

Answer: 1. C., 2. A. 3. D. 4. B. 5. E.
Page number: 1-2.
Level: Basic

COLUMN 1	COLUMN 2

1. Consensus Theory	a. The school of jurisprudence thought that believes laws are based on logic.
2. Elite or ruling class Theory	b. The theory that laws develop out of a society's consensus about what is right and wrong.
3. Natural Law School	c. The school of jurisprudential thought that believes the law is an accumulation of societal traditions.
4. Historical School	d. The theory that laws only exist as a means of class oppression.
5. Analytical School	e. The school of jurisprudential thought that teaches that laws are based on morality and ethics, and that people have natural rights.

Answer: 1. d., 2. b. 3. E. 4. C. 5. A.
Objective: List and explain the major theories of law and schools of jurisprudence.
Page number: 2-3.
Level: Basic

COLUMN 1	COLUMN 2
1. deterrence	a. The process by which a criminal offender is held accountable for the financial harm his or her criminal act or acts has caused the victim or victims.
2. incapacitation	b. The restriction of a person's freedom and liberties that they would have ordinarily have in society.
3. rehabilitation	c. The theory of justice that considers proportionate punishment to be the best response to criminal activity.
4. restitution	d. The process used to achieve re-entry into society for an individual who has been convicted of a crime.
5. retribution	e. The inhibition of criminal behavior by fear of imprisonment.

Answer: 1. e. 2. b. 3. d. 4. a. 5. A.
Objective: Understand the Criminal Justice System's goals.
Page number: 5.
Level: Basic

COLUMN 1	COLUMN 2
1. Burden of Proof	a. The burden of proof the prosecution must meet in a criminal trial.
2. Beyond a reasonable doubt	b. The standard required to prove an allegation with facts.
3. Preponderance of the evidence	c. In a civil case, the person against whom the suit is filed. In a criminal case, the person accused of a crime.
4. Plaintiff	d. Evidence that is more convincing than the opposing evidence.
5. Defendant	e. The party who files a lawsuit

Answer: 1. b., 2. a. 3. d. 4. e. 5. c.
Objective: Explain the difference between criminal and civil law
Page number: 8-9.
Level: Basic

COLUMN 1	COLUMN 2
1. Legislative	a. The branch of government charged with enforcing the law.
2. Executive	b. The branch of government charged with interpreting the law.
3. Judicial	c. The branch of government charged with making the law.

Answer: 1. c., 2. a. 3. b.
Objective: Explain the federal court system, federalism, and checks and balances.
Page number: 12.
Level: Basic

COLUMN 1	COLUMN 2
1. The Supremacy Clause	a. Article I, Section 8, Clause 3 of the U.S. Constitution that gives the federal government the right to regulate interstate commerce.
2. The Commerce Clause	b. The power of a government to enforce the laws and regulate the health, safety, morals and welfare of the population.
3. Police power	c. Article VI, Section 2 of the U.S. Constitution that states that the Constitution, federal law and treaties are the supreme law of the land.

Answer: 1. c., 2. a. 3. b.
Objective: Explain the Constitution's Supremacy Clause, Commerce Clause, and the government's police power.
Page number: 14-15.
Level: Basic

COLUMN 1	COLUMN 2
1. Arrest Warrant	a. An accused's first official notification of the charges against him or her occurring shortly after arrest.
2. Miranda Warning	b. The stage of a criminal case at which the defendant is first formally charged with a specific crime.
3. Preliminary Arraignment	c. Money or other guarantee posted to assure a defendant who is released from custody pending trial or appeal will appear in court.
4. Bail	d. A formal hearing that is the first occasion the government must produce evidence against the defendant.
5. Preliminary Hearing	e. The situation that occurs when the court does not require the defendant to post bail at the preliminary hearing.
6. Released on one's own recognizance	f. A document approved by a magistrate or justice attesting that there is probable cause to believe that someone has committed a specific crime, and authorizing that person's arrest.
7. Arraignment	g. The warning given to suspects that they have the right to remain silent and the right to counsel.

Answer: 1. f., 2. g. 3. a. 4. C. 5. D. 6. E. 7. B.
Objective: Explain how a criminal case is processed through the criminal justice system
Page number: 19-21.
Level: Basic

COLUMN 1	COLUMN 2
1. U. S. Constitution	a. Orders given by the president of governors that have the weight of law within the operation of the federal or state executive branch.
2. English Bill of Rights	b. Laws passed by the U.S. Congress or state legislatures.
3. U.S. Bill of Rights	c. Code that attempts to unify state penal codes.

4. Treaties	d. Precursor to the U.S. Bill of Rights, it guarantees due process and bars cruel and unusual punishments
5. Napoleonic Code	e. Rules issued by a municipal, county, state or federal agency authorized by a statute.
6. Codified Laws	f. The first ten amendments to the U.S. Constitution.
7. Regulations	g. The French System of Laws developed by Napoleon I.
8. Model Penal Code and Commentaries	h. Rulings courts make interpreting codified laws and regulations.
9. Executive Orders	i. Agreements with foreign governments ratified by the U.S. Senate.
10. Judicial Decisions	j. The document upon which the U.S. government is based.

Answer: 1. j., 2. d. 3. f. 4. i. 5. g. 6. b. 7. e. 8. C. 9. A. 10. H.
Objective: List and explain the sources of American law.
Page number: 27-31.
Level: Basic

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

1) Explain some of the functions of the law.

Answer: The concept of law is quite broad. Although a precise definition is difficult, it is generally agreed that law is that which should be obeyed and followed, and the disobedience of which is subject to sanction. The law is often described by the function it serves within a society. The primary functions served by the law in this country are: 1) to keep the peace, which includes making certain activities crimes; 2) to shape moral standards; which includes prohibiting certain activities that society considers inappropriate or wrong; 3) to promote social justice, such as enacting laws that prohibit wrongful discrimination; 4) to maintain the status quo, which includes passing laws preventing the forceful overthrow of the government; 5) to facilitate orderly change, such as passing statutes only after considerable public debate and input; 6) to facilitate planning, such as creating commercial laws that allow businesses to plan their activities and allocate their productive resources; 7) to provide a basis for compromise, since over 90 percent of lawsuits are settled prior to trial; and 8) to maximize individual freedom, which is evidenced by the Bill of Rights.

Objective: Explain what law is.

Level: Difficult

2) What are the sources of law in the United States?

Answer: The foundational source of law in the United States is the U.S. Constitution, which establishes the federal government and enumerates its powers. Powers not given to the federal government are reserved to the states or the people. State constitutions establish state governments and enumerate their powers. Treaties are international agreements entered into with other countries, and are negotiated by the president (or his/her representatives), but must be ratified by the Senate. Statutes and ordinances are known as codified law, and are created by legislative bodies. Codified law establishes courses of conduct that must be followed by covered parties. Administrative rules and regulations come from bureaucracies, which are created by the legislative and executive branches of government. Executive orders are issued by the president and state governors, and regulate the conduct of those on whom the executive orders are focused. Judicial decisions are created by appellate courts that resolve legal controversies. In so doing, an appellate court issues decisions that state the holding of the case, and the rationale used by the court in reaching that decision.

Objective: List and explain the sources of American law.
Level: Difficult

3) Explain the main differences between civil and criminal law.

Answer: While civil law is concerned with compensation for wrongs committed against the individual, criminal law is concerned with vindicating the rights of society as a whole. Therefore, crimes are prosecuted by a representative of the people, while torts are brought by attorneys representing the injured individual. Likewise, the punishment for crimes can include imprisonment or death and payment of a fine for the benefit of the people, while in a civil suit any monetary award goes directly to the injured individual. Finally, in a criminal case, because the stakes for the accused are higher, the burden of proof is "beyond a reasonable doubt." In a civil case, the burden of proof is a preponderance of the evidence, a lower burden.

Objective: Explain the difference between criminal and civil law
Level: intermediate

4) In what ways is the judiciary restrained by the legislative and executive branches? What power does the judiciary have to restrain the other branches?

Answer: The legislative and executive branches have the power to pass laws that contradict judicial ruling or even, in conjunction with state legislatures, amend the Constitution to overriding previous decisions of the U.S. Supreme Court. Alternately, through the federal system of checks and balances, the judicial branch is able to exercise power over the other two branches of government by declaring their acts unconstitutional, effectively voiding their actions.

Objective: Explain checks and balances.

Level: difficult

5) Explain the decision of the Supreme Court in the case *Heart of Atlanta Motel v. U.S.* and why did they make that decision?

Answer: Responses to this essay should summarize the facts of the case and analyze the Commerce Clause found in the U.S. Constitution. It should also explain how the concept of commerce was applied in a case essentially involving people moving across state lines, and explain that while people are not commerce, they do move in commerce. The best answers will explain how the refusal of a local business to rent rooms or serve food to African Americans effectively curtained their ability to travel from point A to point B, and therefore had an impact on commerce far beyond Georgia's state borders.

Objective: Explain the Commerce Clause

Level: difficult