

Chapter 1

Essay Questions

1. What is the advantage to using law as a form of social control as opposed to informal methods of social control?
2. There are approximately five factors that distinguish tort law from criminal law. State the differences, and explain each.
3. There are several justifications for exacting punishment in the criminal law. What factors cause a shift from one justification to another, and what justification do we use today?
4. Explain with an example the concept of concurrent jurisdiction of a crime that violates both a federal and a state statute.
5. Explain what is meant by judicial review and its importance in our jurisprudence.
6. How do we limit jurisdiction of courts geographically? Explain, and give examples.
7. Explain the development and impact of the Model Penal Code.
8. When we refer to the common law, what do we mean, and where and how was it developed?
9. What are the constitutionally mandated limits on criminal statutes in the United States?
10. Discuss and give examples of the constitutional limitations on criminal statutes.
11. Explain the history of crimes of moral turpitude, and give an example of a crime of moral turpitude.
12. What is the burden of proof in a criminal case, and who bears that burden?
13. Discuss the difference between beyond a reasonable doubt, clear and convincing proof, and preponderance of the evidence. Give an example of the usage of each.
14. Explain how *stare decisis* differs from precedent.
15. Compare and contrast the ideologies (i.e., theories) of punishment: retribution, incapacitation, deterrence, and rehabilitation. Which do you believe is the most utilized within the modern American criminal justice system?
16. How is criminal law different from civil law?
17. List the four sources of criminal law and describe their origins in detail. Which of the four sources is most commonly seen today?
18. Discuss the provisions of the Eighth Amendment and how the criminal justice system applies these concepts to limiting criminal sanctions. How would you define cruel and unusual punishment?