

Chapter 01: An Introduction to Criminal Procedure

Test Bank

MULTIPLE CHOICE

1. Which of the following defines the factual elements of a criminal offense?

A) Substantive criminal law
B) Procedural criminal law
C) Substantive civil law
D) Procedural civil law

ANS: A PTS: 1 OBJ: 1.1

2. Which of the following is the standard by which the prosecution must prove guilt in a criminal trial?

A) Beyond all doubt
B) Beyond a reasonable doubt
C) By preponderance of the evidence
D) Beyond reasonable suspicion

ANS: B PTS: 1 OBJ: 1.2

3. Which of the following objectives of the criminal justice system best describes the idea that the guilty should be convicted and the innocent go free?

A) Accuracy
B) Respect
C) Fairness
D) Equality

ANS: A PTS: 1 OBJ: 1.3

4. Which of the following best describes the criminal justice system objective of equality?

A) All defendants guilty of the same offense should receive equal punishment.
B) All defendants should receive the same quality of justice.
C) All defendants should receive the same quality of attorneys.
D) All defendants should receive equal time in court.

ANS: B PTS: 1 OBJ: 1.3

5. What level of proof must be established for a police officer to make an arrest?

A) Beyond a reasonable doubt
B) Preponderance of the evidence
C) Probable cause
D) Reasonable suspicion

ANS: C PTS: 1 OBJ: 1.2

6. Warrants are obtained for all but which of the following purposes?

A) To search an area
B) To seize an item
C) To seize a person

D) To press charges

ANS: D PTS: 1 OBJ: 1.2

7. Which actor in the criminal justice system has the responsibility of deciding whether to formally charge a suspect?
- A) The prosecution
 - B) The judge
 - C) The grand jury
 - D) The lead police investigator

ANS: A PTS: 1 OBJ: 1.2

8. Which of the following is not a standard sentence following a criminal conviction?
- A) Incarceration
 - B) Probation
 - C) Fines
 - D) Restitution

ANS: D PTS: 1 OBJ: 1.4

9. Which of the following amendments to the U.S. Constitution do not address issues of criminal procedure?
- A) First
 - B) Sixth
 - C) Eighth
 - D) Fourteenth

ANS: A PTS: 1 OBJ: 1.4

10. Which organization has the legal authority to interpret and apply the rules established in the U.S. Constitution?
- A) The U.S. Congress
 - B) The U.S. Supreme Court
 - C) The U.S. president
 - D) State governors

ANS: B PTS: 1 OBJ: 1.4

11. Where must one look when the U.S. Supreme Court has yet to answer a question regarding the U.S. Constitution?
- A) The U.S. Congress
 - B) State legislatures
 - C) Trial court judges
 - D) State supreme courts

ANS: D PTS: 1 OBJ: 1.4

12. Of all of the sources for American procedural law, which is the oldest?
- A) The U.S. Constitution
 - B) State constitutions
 - C) Common law
 - D) Court rules

ANS: C PTS: 1 OBJ: 1.4

13. The U.S. Supreme Court derives its authority to create federal rules of criminal procedure from _____.
A) the president
B) the U.S. Congress
C) the U.S. Constitution
D) common law

ANS: B PTS: 1 OBJ: 1.4

14. Which of the following is the most common repercussion for a law enforcement officer who violates internal police regulations?
A) The officer will face criminal charges.
B) The officer will be sued civilly.
C) The officer will be removed from the agency.
D) The officer will face internal disciplinary measures.

ANS: D PTS: 1 OBJ: 1.4

15. Which of the following designates which cases are heard by the federal courts and which are heard by the state courts?
A) The U.S. Supreme Court
B) The U.S. Congress
C) The state supreme courts
D) The U.S. Constitution

ANS: D PTS: 1 OBJ: 1.4

16. The federal judicial system is best represented by a _____.
A) cube
B) sphere
C) hourglass
D) pyramid

ANS: D PTS: 1 OBJ: 1.4

17. Including the Federal Circuit Court of Appeals in Washington, D.C., there are _____ circuit courts in the United States.
A) Seven
B) Nine
C) Twelve
D) Thirteen

ANS: D PTS: 1 OBJ: 1.4

18. The concept of precedent, central to Supreme Court decision making, is based on which legal principle?
A) *Ex post facto*
B) *Ad hoc facto*
C) *Deus ex machina*
D) *Stare decisis*

ANS: D

PTS: 1

OBJ: 1.5

19. If the U.S. Supreme Court were to receive 5,000 petitions for certiorari, given past behavior of the Court, roughly how many cases would the Court be expected to hear?
- A) 5,000
 - B) 2,500
 - C) 1,000
 - D) 100

ANS: D

PTS: 1

OBJ: 1.5

20. A criminal trial not held before a jury is known as a/an _____.
A) petty trial
B) statutory trial
C) bench trial
D) unconstitutional trial

ANS: C

PTS: 1

OBJ: 1.5

21. Which of the following is not a standard method by which state court judges are selected?
- A) Partisan popular elections
 - B) Nonpartisan popular elections
 - C) Election by the legislature
 - D) Election by judges

ANS: D

PTS: 1

OBJ: 1.5

22. In states that lack intermediate appellate courts, appeals are directed to the _____.
A) state supreme courts
B) district courts
C) circuit courts
D) U.S. Supreme Court

ANS: A

PTS: 1

OBJ: 1.5

23. A decision is made by the State Supreme Court of New York, located in New York City. The precedent established by that court applies to _____.
- A) New York City
 - B) New York state
 - C) the circuit in which New York is located
 - D) the entire country

ANS: D

PTS: 1

OBJ: 1.5

24. U.S. Supreme Court eras are typically named after _____.
A) the chief justice of that Court
B) the president(s) in office
C) the Court's political leaning
D) famous cases decided by that Court

ANS: A

PTS: 1

OBJ: 1.6

25. Some U.S. Supreme Court justices have said that even though they personally oppose abortion and would overturn *Roe v. Wade* if given the opportunity, they would not outlaw abortion but leave that decision up to the states. This point of view is an example of _____.
A) judicial activism
B) judicial authority
C) judicial philosophy
D) judicial restraint

ANS: D PTS: 1 OBJ: 1.6

26. When a prosecutor declines to prosecute a criminal defendant, what type of motion will he file?
A) An indictment
B) *Nolle prosequi*
C) Requests for production
D) Interrogatories

ANS: B PTS: 1 OBJ: 1.3

27. *Stare decisis* literally means which of the following?
A) To stare into the sun
B) To stand decided with one's fellow judges
C) To stand by precedent and to stand by settled points
D) To look to the points of the North Star for judicial guidance

ANS: C PTS: 1 OBJ: 1.5

28. Judges who believe in contextualism argue:
A) That the Constitution is a living document that should be interpreted to meet the needs of society.
B) That the context of a crime should be excluded from a criminal trial so as to ensure uniformity.
C) That the intent of the framers of the documents should guide our decision making today.
D) That judicial restraint is always favored over judicial activism.

ANS: D PTS: 1 OBJ: 1.6

29. Which type of judicial opinion expresses a disagreement with the majority opinion?
A) *Per curiam* decision
B) Plurality opinion
C) Concurring opinion
D) Dissenting opinion

ANS: A PTS: 1 OBJ: 1.6

30. Magistrates may only conduct trials for misdemeanors when:
A) the defendant approves.
B) the prosecution approves.
C) the misdemeanor is class 1 or 2.
D) the magistrate has advanced training in the subject matter at hand.

ANS: B

PTS: 1

OBJ: 1.6

TRUE/FALSE

31. At trial, for the vast majority of crimes, the prosecution must prove both criminal action and criminal intent.

ANS: T

PTS: 1

OBJ: 1.2

32. It is important that both citizens and defendants alike should view the criminal justice process as fair and equitable.

ANS: T

PTS: 1

OBJ: 1.3

33. The ability granted to police officers, prosecutors, judges, and juries to make independent decisions regarding the social interest in keeping a person in the criminal justice process is known as discretion.

ANS: T

PTS: 1

OBJ: 1.2

34. The defendant's right to a trial by a jury of his/her peers is absolute.

ANS: F

PTS: 1

OBJ: 1.4

35. It is the responsibility of the chief prosecutor to inform defendants of the charges against them and their rights of silence and council.

ANS: F

PTS: 1

OBJ: 1.4

36. The federal courts and all 50 state courts require juries to produce unanimous verdicts.

ANS: F

PTS: 1

OBJ: 1.4

37. As a general rule, only defendants, not the prosecution, have the right to appeal a case to a higher court.

ANS: T

PTS: 1

OBJ: 1.4

38. State constitutions are allowed to provide more rights than are granted by the U.S. Constitution.

ANS: T

PTS: 1

OBJ: 1.4

39. State constitutions are allowed to remove some of the rights granted by the U.S. Constitution.

ANS: F

PTS: 1

OBJ: 1.4

40. Most “common crimes,” such as murder and robbery, are heard in the federal courts.

ANS: F

PTS: 1

OBJ: 1.4

41. The U.S. Supreme Court has the authority to tell any state how to interpret all matters regarding both the U.S. Constitution and the state's constitution.

ANS: F PTS: 1 OBJ: 1.5

42. All cases brought before a circuit court of appeals are heard by three-judge panels, also known as *en banc* hearings.

ANS: F PTS: 1 OBJ: 1.5

43. The U.S. Constitution holds that if a case is brought before the U.S. Supreme Court and no precedent is found to guide the Court's decision, it is to look to rulings on the issue from courts in England, Spain, and France.

ANS: F PTS: 1 OBJ: 1.5

44. If there is no precedent, circuit courts of appeals may look to rulings from other courts for advice in the form of persuasive authority.

ANS: T PTS: 1 OBJ: 1.5

45. It is important that precedent be set properly, for once it has been set, it cannot be overturned.

ANS: F PTS: 1 OBJ: 1.5

COMPLETION

46. Regulations that must be followed by those in the criminal justice system when investigating and prosecuting a case are known as ____.

ANS:
criminal procedure
procedural due process

PTS: 1 OBJ: 1.1

47. The American criminal trial process, in which two opposing sides argue against one another, is known as a/an ____ process.

ANS: adversarial

PTS: 1 OBJ: 1.1

48. Defense attorneys regularly file a motion for ____, which requires the prosecution to turn over relevant evidence for an upcoming trial.

ANS: discovery

PTS: 1 OBJ: 1.2

49. The motion for postconviction relief, requesting information on why a person is being held in incarceration, is known as _____.

ANS: *habeas corpus*

PTS: 1 OBJ: 1.2

50. The lowest level of the federal court system is made up of 94 _____.

ANS: district courts

PTS: 1 OBJ: 1.4

51. The U.S. Supreme Court has original jurisdiction over cases involving disputes between _____ and _____.

ANS:

the federal government, a state

a state government, the federal government

federal government, a state government

federal, a state government

The federal, state government

one state, another state

PTS: 1 OBJ: 1.4

ESSAY

52. Explain the importance behind the concept of a criminal system in which those in power are required to follow the law rather than those in power having the ability to act as they see fit.

ANS:

Students should mention something about the unfortunate fact that the police and other criminal justice professionals may abuse their authority and discriminate against minorities, women, or young people or may fail to abide by the letter of the law.

PTS: 1 OBJ: 1.7

53. The criminal justice process is lengthy and, some may argue, arduous. Conceptually explain why this is so and why it is important.

ANS:

Students should mention some of the following: an effort to create a system of criminal procedure that strikes a balance between the interests of society in investigating and detecting crime and in convicting criminals on one hand and the interest in protecting the right of individuals to be free from intrusions into their privacy and liberty on the other hand. Criminal procedure also seeks to achieve a range of other objectives, including accuracy, efficiency, public respect, fairness, and equality, all of which together promote the ultimate goal, which is to ensure justice.

PTS: 1

OBJ: 1.7

54. Precedent is central to the functioning of the court system. Explain how precedent is applied when used by state supreme courts, circuit courts of appeals, and the U.S. Supreme Court. Also explain why precedent is so important to the operation of the courts.

ANS:

U.S. Supreme Court decisions set precedent for all other courts, state supreme courts set precedent for all other courts in that state, and circuit courts of appeals establish precedent within their jurisdictions.

PTS: 1

OBJ: 1.5

55. Explain the differences in judicial philosophy and how these differences may account for disparity.

ANS:

A liberal justice who believes in individual liberty also may be tough on crime, and a conservative justice who opposes abortion also may be an absolutist when it comes to freedom of speech. There are other issues where a justice's point of view is not easily categorized as either liberal or conservative. History also has demonstrated that justices have changed their philosophy while serving on the Court.

PTS: 1

OBJ: 1.6

56. Explain why it is important to balance security with individual rights in the criminal justice system.

ANS:

Of course, a system of criminal procedure that places too many legal barriers in the way of the police and prosecutors will frustrate the arrest and conviction of the guilty, while a system that places too few barriers in the way of the police may lead to coerced confessions, unwarranted searches, and false convictions. In the United States, there is an effort to create a system of criminal procedure that strikes a balance between the interests of society in investigating and detecting crime and in convicting criminals on one hand and the interest in protecting the right of individuals to be free from intrusions into their privacy and liberty on the other hand.

PTS: 1

OBJ: 1.2

57. State and describe the various phases of the criminal justice process in chronological order.

ANS:

Students should mention most of the following in the following order: Investigation, arrest, postarrest, postarrest investigation, criminal charge, pretrial, pretrial motions, trial, sentencing, and appeal.

PTS: 1

OBJ: 1.3

58. What are the various types of judicial opinions that can be issued and that establish legal precedent?

ANS:

Majority opinion (constitutes precedent), concurring opinion, plurality opinion, dissenting opinion, *per curiam*.

PTS: 1

OBJ: 1.5

59. Give three examples of differences between law in action and law on the books.

ANS:

Defendants may choose to plead guilty, waive their constitutional right to challenge an unlawful search, or waive their right to be tried before a jury. Defense attorneys may not vigorously defend their clients. Prosecutors may choose to charge some defendants with criminal offenses while dropping the charges against other defendants charged with the same crime.

PTS: 1

OBJ: 1.7

60. Explain how jurisdiction in the United States resembles a pyramid structure.

ANS:

At the lowest level are 94 district courts. District courts are the workhorses of the federal system and are the venue for prosecutions of federal crimes. The 94 district courts, in turn, are organized into 11 regional circuits. There is also a United States Court of Appeals for the District of Columbia. A thirteenth U.S. court of appeals is the Federal Circuit in Washington, D.C. Appeals may be taken from district courts to the court of appeals in each circuit. The U.S. Supreme Court sits at the top of the hierarchy of federal courts and may grant certiorari and hear discretionary appeals from circuit courts.

PTS: 1

OBJ: 1.4

61. List and explain some of the objectives of criminal procedure and why they are important.

ANS:

Students should mention at least one of the following: accuracy, efficiency, respect, fairness, equality, adversarial, participation, appeals, and justice.

PTS: 1

OBJ: 1.3