

EXAM QUESTIONS

CHAPTER 1: FUNDAMENTALS OF CRIMINAL PROCEDURE

TRUE/FALSE:

1. Our legal system regards crimes as offenses not just against individual victims, but against society as a whole.

ANS: T REF: 7 LO: 5
2. A “tort” is a very serious crime for which one may be incarcerated in a prison for more than one year.

ANS: F REF: 9 LO: 2
3. A misdemeanor is considered more serious than a felony.

ANS: F REF: 5 LO: 2
4. In certain instances, a person may be held criminally responsible regardless of intent.

ANS: T REF: 5 LO: 2
5. In the American legal system, there can be no crime, and no punishment, except as provided by law.

ANS: T REF: 4 LO: 1
6. American criminal law is derived largely from the English common law.

ANS: T REF: 10 LO: 4
7. The federal government has adopted the common law of crimes.

ANS: F REF: 11 LO: 4
8. Appellate courts perform an error correction function, but they do not perform a lawmaking function.

ANS: F REF: 14 LO: 7
9. The most important constitutional principle relative to criminal procedure is “due process of law.”

- ANS: T REF: 15 LO: 9
10. A defendant in a criminal case is presumed innocent and to obtain a conviction the prosecution must establish the defendant's guilt beyond a reasonable doubt.
- ANS: T REF: 16 LO: 9
11. The framers of the Constitution invested Congress with "police power" so that it would have unlimited authority to enact criminal laws.
- ANS: F REF: 12 LO: 7
12. Congress created the Model Penal Code to replace the common law.
- ANS: F REF: 12 LO: 4
13. The Bill of Rights was adopted by Congress prior to the ratification of the Constitution.
- ANS: F REF: 13 LO: 6
14. In *Brandenburg v. Ohio* (1969), the U.S. Supreme Court struck down a state law prohibiting "criminal syndicalism."
- ANS: T REF: 13 LO: 6
15. "Decisional law" is the body of law developed by appellate courts.
- ANS: T REF: 14 LO: 7
16. The presumption of innocence in a criminal case flows from the broader principle of strict liability.
- ANS: F REF: 16 LO: 7
17. The Supreme Court has struck down the practice of plea bargaining because it violates due process of law.
- ANS: F REF: 17 LO: 7
18. All criminal sanctions must be consistent with the 8th Amendment prohibition of cruel and unusual punishments.
- ANS: T REF: 19 LO: 10
19. Community service can never be imposed as a condition of pretrial diversion.
- ANS: F REF: 19 LO: 10

20. Retribution refers to an order that an offender compensate his or her victim financially.

ANS: F REF: 19 LO: 10

MULTIPLE CHOICE:

1. Mala in se offenses include _____.
- a. rape
 - b. arson
 - c. murder
 - d. All of these

ANS: D REF: 9 LO: 2

2. Which of the following crimes is a misdemeanor?
- a. grand theft
 - b. sexual battery
 - c. disorderly conduct
 - d. burglary

ANS: C REF: 6 LO: 2

3. The reasonable doubt standard that applies to criminal prosecutions differs markedly from the _____ standard that applies to civil cases.
- a. preponderance of evidence
 - b. clear and convincing evidence
 - c. totality of circumstances
 - d. compelling interest

ANS: A REF: 16-17 LO: 9

4. Which of the following offenses is an example of a strict liability crime?
- a. robbery
 - b. forgery
 - c. selling alcoholic beverages to a minor
 - d. grand theft

ANS: C REF: 5 LO: 2

5. The procedural criminal law is promulgated both by legislative bodies, through enactment of statutes, and by the courts, both through judicial decisions and the development of _____.
- a. regulations
 - b. consent decrees
 - c. extraordinary writs
 - d. rules of court procedure

ANS: D REF: 12 LO: 3

6. In contrast to Roman law systems, which are based on legal codes, the English common law developed primarily through _____.
- a. judicial decisions
 - b. statutes
 - c. administrative orders
 - d. royal edicts

ANS: A REF: 10 LO: 4

7. In early days of the American republic, _____ became something of a “legal bible.”
- a. Magna Charta
 - b. the Napoleonic Code
 - c. Blackstone’s Commentaries
 - d. the Twelve Tables

ANS: C REF: 11 LO: 2

8. As most new states came into the Union, generally their legislatures adopted _____ incorporating the common law to the extent that it did not conflict with the federal or their respective state constitutions.
- a. reception statutes
 - b. writs of mandamus
 - c. bills of attainder
 - d. precedents

ANS: A REF: 11 LO: 4

9. When authorized by state constitutions or acts of state legislatures, cities and many counties may adopt _____ that define certain criminal violations.
- a. charters
 - b. statutes
 - c. regulations
 - d. ordinances

ANS: D REF: 11 LO: 4

10. The Model Penal Code was published by the _____, an organization of distinguished judges, lawyers, and academics.
- a. Academy of Criminal Justice Sciences
 - b. National Center for State Courts
 - c. American Law Institute
 - d. Federal Judicial Center

ANS: C REF: 12 LO: 4

11. By 1600, the English common-law judges had defined as felonies the crimes of murder, manslaughter, mayhem, robbery, burglary, arson, larceny, rape, suicide, and _____.
- a. stalking
 - b. abortion
 - c. assault
 - d. sodomy

ANS: D REF: 10 LO: 4

12. Article III, Section 3 of the U.S. Constitution defines the crime of _____.
- a. counterfeiting
 - b. piracy
 - c. sedition
 - d. treason

ANS: D REF: 12 LO: 6

13. Article I, Sections 9 and 10 of the United States Constitution prohibit Congress and the state legislatures, respectively, from enacting _____.
- a. laws infringing on the right to keep and bear arms
 - b. laws respecting an establishment of religion
 - c. ex post facto laws
 - d. cruel and unusual punishments

ANS: C REF: 12 LO: 6

14. An overview of the American system of criminal justice suggests fundamental constitutional principles, which include all of the following except _____.
- a. constitutional supremacy
 - b. administrative preemption
 - c. federalism
 - d. separation of powers

ANS: B REF: 4-5 LO: 1

15. The _____ Amendment to the United States Constitution protects individuals against unreasonable searches and seizures.
- a. First
 - b. Second
 - c. Third
 - d. Fourth

ANS: D REF: 13 LO: 6

16. Which of the following statements is INCORRECT?
- a. Virtually all provisions of the Bill of Rights have been held to apply with equal force to the states and to the national government.
 - b. Unlike the state legislatures, Congress does not possess police power, which is the broad authority to enact prohibitions to protect public order, safety, decency, and welfare.
 - c. Congress has used its broad power to regulate interstate commerce to criminalize a wide range of offenses.
 - d. The U.S. Constitution grants Congress unlimited power to define federal crimes.

ANS: D REF: 11 LO: 6

17. The _____ Amendment to the United States Constitution protects individuals from compulsory self-incrimination.
- a. Second
 - b. Fourth
 - c. Fifth
 - d. Sixth

ANS: C REF: 13 LO: 6

18. In rendering interpretations of the law, appellate courts generally follow precedent, in keeping with the common-law doctrine of _____.
- a. stare decisis
 - b. caveat emptor
 - c. amicus curiae
 - d. lex talionis

ANS: A REF: 10 LO: 4

19. States are the primary locus of _____, which is the power to make laws in furtherance of the public health, safety, welfare and morality.
- a. the police power
 - b. sovereignty
 - c. eminent domain
 - d. parens patriae

ANS: A REF: 12 LO: 6

20. Today the principal actors in defining crimes and punishments are _____.
a. the state courts
b. county and municipal governments
c. state legislatures
d. the federal appellate courts

ANS: C REF: 11 LO: 7

21. Most fundamentally, due process requires fair notice and _____.
a. appeal
b. fair hearing
c. swift and certain punishment
d. just compensation

ANS: B REF: 16 LO: 9

22. Before approving a plea bargain, it is the trial judge's responsibility to determine _____.
a. that the defendant's plea is voluntary
b. that the defendant's plea has been made knowingly
c. that there is a factual basis for the offense charged by the prosecution
d. all of these

ANS: D REF: 19 LO: 9

23. To convict a person of a crime, a court must find that person is guilty _____.
a. by a preponderance of the evidence
b. beyond a reasonable doubt
c. with absolute certainty
d. None of these

ANS: B REF: 16 LO: 9

24. As society becomes more cognizant of the rights of crime victims, courts are increasingly likely to require that persons convicted of crimes _____.
a. make restitution
b. confront their accusers
c. be held in custody while their cases are appealed
d. receive more lenient punishments

ANS: A REF: 19 LO: 10

25. In many states, community service is required as part of a (an) _____ in which first-time nonviolent offenders are offered the opportunity to avoid prosecution.
- plea bargain
 - grant of clemency
 - pretrial diversion program
 - alternative dispute resolution

ANS: C

REF: 19

LO: 10

COMPLETION:

1. _____ does not refer to a person's motive or reason for acting, but merely to his or her having formed a mental purpose to commit a criminal act.

ANS: Mens rea or criminal intent

REF: 5

LO: 2

2. Criminal law distinguishes between serious crimes, known as felonies, and less serious offenses, called _____.

ANS: misdemeanors

REF: 5

LO: 2

3. Our legal system regards crimes as offenses against _____.

ANS: society (or the state)

REF: 7

LO: 2

4. Acts such as murder, rape, robbery, and arson are considered _____ offenses, or inherent wrongs.

ANS: mala in se

REF: 9

LO: 2

5. The _____ criminal law prohibits certain forms of conduct by defining crimes and establishing the parameters of penalties.

ANS: substantive

REF: 4

LO: 3

6. In the sixth century A.D., the Code of _____ was promulgated throughout the Roman Empire.

ANS: Justinian

REF: 10

LO: 4

7. The Napoleonic Code, promulgated in 1804 as a codification of all the civil and criminal laws of France, was based in large part on the _____.

ANS: Roman law

REF: 10 LO: 4

8. The common-law doctrine of following precedent, known as _____, remains an important component of both the English and American legal systems.

ANS: stare decisis

REF: 10 LO: 4

9. Of the fifty states, _____ is the only one whose legal system is not based essentially on the common law. Rather, it is based primarily on the Napoleonic Code.

ANS: Louisiana

REF: 11 LO: 4

10. One method of distinguishing among types of crimes is by reference to the underlying _____ interests that give rise to criminal prohibitions.

ANS: societal

REF: 6 LO: 5

11. The basic principles of the American constitutional system are constitutional supremacy, federalism and _____.

ANS: separation of powers

REF: 4-5 LO: 1

12. A good example of a _____ offense is selling alcoholic beverages to a minor.

ANS: strict liability

REF: 5 LO: 2

13. Most civil wrongs are classified as breaches of contracts or _____.

ANS: torts

REF: 9 LO: 2

14. The authority of state legislatures to enact criminal prohibitions to protect the public health, safety, order and welfare is known as the _____.

ANS: police power

REF: 12 LO: 7

15. The Model Penal Code was developed by the _____.
- ANS: American Law Institute
REF: 12 LO: 4
16. The first ten amendments to the U.S. Constitution are known collectively as the _____.
- ANS: Bill of Rights
REF: 13 LO: 6
17. Trial courts make factual determinations and apply settled law to those facts, while _____ courts interpret and develop the law.
- ANS: appellate
REF: 14 LO: 8
18. Procedural due process contains two basic elements: fair notice and _____.
- ANS: fair hearing
REF: 16 LO: 9
19. One of the most basic tenets of criminal procedure is the presumption of _____.
- ANS: innocence
REF: 16 LO: 9
20. The conditional release of a convicted criminal in lieu of incarceration is known as _____.
- ANS: probation
REF: 19 LO: 10

CRITICAL THINKING:

After drinking a six-pack of beer with friends on Halloween night, Taylor Brady is seen throwing rocks at a car belonging to Carson Pullman, a neighbor with whom Brady has had disagreements in the past. The police are called to the scene and, after questioning Brady and several witnesses, take Brady into custody. At the station house, they administer a blood alcohol test, which indicates that Brady's blood alcohol level is .09%. Taylor is charged with public intoxication.

1. Taylor Brady also can be charged criminally with:
 - a. sabotage
 - b. vandalism
 - c. antisocial conduct
 - d. civil disobedience

ANS: b LO: 5 REF: 6

2. Taylor may be sued by Carson Pullman for:
 - a. wrongful destruction of property
 - b. disorderly conduct
 - c. reckless endangerment
 - d. public intoxication

ANS: a LO: 2 REF: 9

3. At his first appearance in court, Taylor claims that he was improperly questioned by police because they did not advise him of his right to remain silent. This is a question of:
 - a. substantive criminal law
 - b. common law
 - c. civil law
 - d. procedural criminal law

ANS: d LO: 3 REF: 4

4. In this case, a sentence of probation might involve the condition that Taylor:
 - a. perform specific deterrence
 - b. be incarcerated in the state penitentiary
 - c. make restitution
 - d. engage in plea bargaining

ANS: c LO: 10 REF: 19

5. Carson Pullman's role in the criminal case against Taylor Brady would be that of:
 - a. witness
 - b. plaintiff
 - c. prosecutor
 - d. mediator

ANS: a LO: 2 REF: 8

Congress has passed a law making it a crime for a person who does not have automobile liability insurance to operate a motor vehicle anywhere in the United States. The penalty for violating the statute is a fine of \$1000 and/or a term of incarceration of thirty days. A group of citizens and several state governments have brought suit to challenge the constitutionality of this statute.

6. Federal courts have the authority to rule on the _____ of federal criminal prohibitions.
- a. meaning
 - b. constitutionality
 - c. both meaning and constitutionality
 - d. neither meaning nor constitutionality

ANS: c LO: 1 REF: 4

7. Which constitutional principle is involved in this hypothetical case?
- a. federalism
 - b. separation of powers
 - c. due process of law
 - d. strict liability

ANS: a LO: 1 REF: 5

8. Congress might have the power to enact the challenged law using its:
- a. taxing authority
 - b. police power
 - c. power to regulate interstate commerce
 - d. Model Penal Code

ANS: c LO: 7 REF: 12

9. The criminal law being challenged in this hypothetical case is an example of:
- a. procedural criminal law
 - b. substantive criminal law
 - c. common law
 - d. decisional law

ANS: b LO: 3 REF: 4

10. The crime defined by the statute under review is a:
- a. felony
 - b. common-law offense
 - c. *mala in se* offense
 - d. misdemeanor

ANS: d LO: 2 REF: 5

ESSAY:

1. What are the essential elements of a crime? How does a crime differ from a tort?

ANS: Responses will vary REF: 5 **LO: 2**

2. What is the essential distinction between a felony and a misdemeanor?

ANS: Responses will vary REF: 5-6 LO: 2

3. What is the difference between the substantive and the procedural criminal law?

ANS: Responses will vary REF: 4 LO: 3

4. How was the English common law important in the development of the American system of criminal justice?

ANS: Responses will vary REF: 9-10 LO: 4

5. What is the relationship between criminal law and societal morality?

ANS: Responses will vary REF: 7 LO: 5

6. What is the relevance of the U.S. Constitution to the system of criminal justice?

ANS: Responses will vary REF: 12-13 LO: 6

7. What are the roles of courts and legislatures in the development of the criminal law?

ANS: Responses will vary REF: 10-11, 13-14 LO: 6

8. What are the essential elements of a case brief? Why are students of the law taught to brief cases?

ANS: Responses will vary REF: 16 LO: 8

9. What are the principal stages of a criminal prosecution from arrest to appeal?

ANS: Responses will vary REF: 17-19 **LO: 9**

10. What kinds of punishments are typically imposed on persons convicted of felonies?

ANS: Responses will vary REF: 19 LO: 10