Test Bank for Principles of Criminal Law 7th Roberson

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***Principles of Criminal Law, 7e* (Roberson/O'Reilley)**
Chapter 2 Criminal Liability

2.1 Multiple Choice Questions

1) Which amendment prohibits cruel and unusual punishment?
A) The Eighth Amendment.
B) The Fifth Amendment.
C) The Seventh Amendment.
D) The Due Process Clause.
Answer: A
Page Ref: 20
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

2) Which of the following acts are prohibited from being considered crimes under the Eighth Amendment to the Constitution?
A) The selling of drugs.
B) The purchasing of drugs for personal use.
C) The addiction to drugs.
D) Both B and C.
Answer: C
Page Ref: 22
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

3) Jurisdiction is defined as:
A) the power of a court to exercise authority over the subject matter of the dispute.
B) the power of a court to exercise authority over the parties.
C) the power of a court to issue rulings that must be obeyed by all the parties.
D) Both A and B.
Answer: D
Page Ref: 23
Objective: The jurisdictional requirements in criminal law.
Level: Basic

4) In Stanley v. Georgia, the United States Supreme Court held that:
A) possession of obscene material even in the privacy of one's own home is criminal.
B) possession with the intent to sell obscene material from one's own home is criminal.
C) possession of obscene material in the privacy of one's own home cannot be made criminal.
D) possession of obscene material in a store with the intent to sell to the public is a crime.
Answer: C
Page Ref: 26
Objective: The issues involved with the implied right to privacy.
Level: Basic

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5) Which of the following is not an aspect of the principle of legality?
A) To prevent the government from punishing a person for conduct that was lawful when it was performed.
B) The prohibition against bills of attainder.
C) The government must give prior notice of what it considers a crime.
D) Both A and C.
Answer: C
Page Ref: 27
Objective: The issues involved with the implied right to privacy.
Level: Intermediate

6) Suspect classifications may be based upon which of the following?
A) Race.
B) Religion.
C) Gender.
D) All of the above.
Answer: D
Page Ref: 29
Objective: The meaning of the due process limitations in the Constitution.
Level: Basic

7) The purpose behind the prohibition against double jeopardy is:
A) to allow the government a chance to convict the defendant if the evidence is beyond a reasonable doubt.
B) to protect a person from the harassment of multiple trials.
C) to protect a person against self-incrimination.
D) to allow the government to prove the defendant committed the crime.
Answer: B
Page Ref: 29
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

8) Which of the following is not a restriction on governmental conduct as it pertains to the prohibition against double jeopardy?
A) It protects an accused from being prosecuted for the same offense after a conviction.
B) It protects an accused from multiple punishments for the same criminal conduct.
C) It protects the accused's right against self-incrimination.
D) It restricts the state from prosecuting an accused for the same offense after an acquittal.
Answer: C
Page Ref: 29
Objective: The individual protections in the Bill of Rights.
Level: Intermediate

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9) The principle of legality sets limitations on:
A) police power.
B) the formulation, creation, and interpretation of criminal law.
C) judicial power.
D) legislative power.
Answer: B
Page Ref: 27
Objective: The individual protections in the Bill of Rights.
Level: Basic

10) The prohibition against cruel and unusual punishment is contained in the:
A) Fifth Amendment.
B) Eighth Amendment.
C) Tenth Amendment.
D) Fourteenth Amendment.
Answer: B
Page Ref: 21
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

11) Most criminal statutes must necessarily be:
A) mean.
B) unfair.
C) vague.
D) harsh.
Answer: C
Page Ref: 2
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

12) Jurisdiction is the power of a court to exercise power over:
A) the defendant and the victim.
B) the victim and the crime.
C) the crime and the punishment.
D) the defendant and the crime.
Answer: D
Page Ref: 23
Objective: The jurisdictional requirements in criminal law.
Level: Basic

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13) Most federal criminal statutes are based upon:
A) the interstate commerce clause.
B) the Eighth Amendment.
C) the Due Process clause.
D) the Fourteenth Amendment.
Answer: A
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

14) The Constitution recognizes an independent right of privacy that protects citizens from:
A) public figures.
B) socially harmful conduct.
C) undue government encroachment.
D) common law crimes.
Answer: C
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Basic

15) Equal protection of the law ensures people:
A) are treated substantially equal.
B) are treated exactly equal.
C) are treated equal based upon their sex and race.
D) are treated equal based upon their sex, race, and age.
Answer: A
Page Ref: 29
Objective: The jurisdictional requirements in criminal law.
Level: Basic

16) What was the holding in Robinson v. California?
A) Drug addiction was comparable to a disease and therefore was not a crime.
B) The California statute prohibiting the addiction to narcotics was constitutional.
C) Because illegal narcotic use or purchase was required for addiction, addiction is a criminal act.
D) Robinson's only criminally punishable offense, according to the Eighth Amendment, was the sale of illegal narcotics.
Answer: A
Page Ref: 23
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

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17) What is the limitation on law vagueness?
A) When protection of law-abiding persons is difficult.
B) When reasonable people must guess at the meaning of the law.
C) When the defendant believes it is vague.
D) When the court rules it is vague.
Answer: B
Page Ref: 28
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

18) The majority of criminal laws in the United States are made by whom?
A) Congress.
B) The Supreme Court.
C) State Legislatures.
D) Cities, counties, and local authorities.
Answer: C
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

19) The Constitution prohibits *ex post facto* laws. This means what?
A) Charges brought against those who are medically unfit for trial.
B) Laws which are retroactive.
C) A law which, by its nature, violates the Eighth Amendment.
D) A law which is unspecific.
Answer: B
Page Ref: 27
Objective: The jurisdictional requirements in criminal law.
Level: Basic

20) Protection from double jeopardy is contained in the:
A) Fourteenth Amendment.
B) Tenth Amendment.
C) Eighth Amendment.
D) Fifth Amendment.
Answer: D
Page Ref: 29
Objective: The jurisdictional requirements in criminal law.
Level: Basic

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2.2 True/False Questions

1) The Supreme Court has limited the amount and type of punishment that may be inflicted as well as limiting the legislature's ability to make certain conduct criminal.
Answer: TRUE
Page Ref: 21
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

2) The Supreme Court has upheld the right of a state to charge an addict with the crime of being addicted to drugs.
Answer: FALSE
Page Ref: 22
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

3) Jurisdiction over the subject matter refers to the power of the court to decide matters pertaining to the defendant.
Answer: FALSE
Page Ref: 23
Objective: The jurisdictional requirements in criminal law.
Level: Basic

4) Under the principles set forth in Stanley v. Georgia, while it may not be a crime to possess obscene matters in your own home, the state can make it a crime to possess such material with the intent to sell it to the general public.
Answer: TRUE
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Basic

5) One of the aspects of the principles of legality is to allow the government to punish a person for conduct that was lawful when it was performed but is now criminal.
Answer: FALSE
Page Ref: 27
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

6) The Bill of Rights protects the people from their government.
Answer: TRUE
Page Ref: 19
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

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7) The Due Process Clause of the Fourteenth Amendment protects citizens from actions by state governments.
Answer: TRUE
Page Ref: 21
Objective: State or federal jurisdiction.
Level: Basic

8) Jurisdiction addresses the issue of power over the defendant and the crime.
Answer: TRUE
Page Ref: 23
Objective: The jurisdictional requirements in criminal law.
Level: Basic

9) Venue addresses the issue of the defendant's trial by jury.
Answer: FALSE
Page Ref: 24
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

10) Most of the criminal laws in the United States are federal criminal laws.
Answer: FALSE
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

11) A social harm is a necessary element for a criminal act.
Answer: FALSE
Page Ref: 25
Objective: The relationship between social harm and criminal liability.
Level: Basic

12) An ex post facto law is a special law that declares a specific person to be guilty of a specific crime, without a trial.
Answer: FALSE
Page Ref: 27
Objective: The jurisdictional requirements in criminal law.
Level: Basic

13) Equal protection of the law means all persons must be treated the same.
Answer: FALSE
Page Ref: 29
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

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14) Double jeopardy prevents a person from being convicted after being acquitted.
Answer: TRUE
Page Ref: 29
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

15) The right to privacy is an essential element of the Constitution.
Answer: FALSE
Page Ref: 26
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

16) The right to privacy applies to all citizens, including "public figures."
Answer: FALSE
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Basic

17) The Constitutional right to privacy allows for criminal conduct inside a person's residence.
Answer: FALSE
Page Ref: 26
Objective: The individual protections in the Bill of Rights.
Level: Basic

18) A criminal act must be considered as immoral and harmful conduct.
Answer: FALSE
Page Ref: 27
Objective: The jurisdictional requirements in criminal law.
Level: Basic

19) Unless the legislature makes a certain conduct a crime, none has been committed.
Answer: TRUE
Page Ref: 27
Objective: The jurisdictional requirements in criminal law.
Level: Basic

20) A statute which treats males and females differently is always a violation of the equal protection clause.
Answer: FALSE
Page Ref: 29
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

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2.3 Short Answer Questions

1) The first _____ amendments of the U.S. Constitution contain protections for individuals.
Answer: nine
Page Ref: 19
Objective: The meaning of the due process limitations in the Constitution.
Level: Intermediate

2) The Supreme Court has used the Due Process Clause of the _____ Amendment to apply to the states most of the Bill of Rights limitations on governmental actions.
Answer: Fourteenth
Page Ref: 19
Objective: The jurisdictional requirements in criminal law.
Level: Basic

3) Most criminal trials take place in _____ courts.
Answer: state
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

4) The Papachristou v. City of Jacksonville held that a statute is void if it is _____.
Answer: vague
Page Ref: 28
Objective: The individual protections in the Bill of Rights.
Level: Intermediate

5) Social harm involves the proposition that, before an act may be declared a crime, there must be some harm to _____ resulting from the commission of the act.
Answer: society
Page Ref: 25
Objective: The relationship between social harm and criminal liability.
Level: Intermediate

6) Stanley v. Georgia addressed the issue of the constitutional right to _____.
Answer: privacy
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Basic

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7) In Robinson v. California, the Supreme Court held that the prohibition in the _____ Amendment against cruel and unusual punishment not only limits the amount and types of punishment that may be inflicted, it also limits the legislative authority to make some conduct criminal.
Answer: Eighth
Page Ref: 22
Objective: The constitutional limitations on criminal liability.
Level: Basic

8) For _____ jeopardy to apply, the prosecution must be for the same offense as that involved in the earlier proceeding.
Answer: double
Page Ref: 29-30
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Basic

9) The power of a court to exercise its authority over the subject matter or person is known as the court's _____.
Answer: jurisdiction
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

10) The "right to privacy" is not explicitly guaranteed by the U.S. _____.
Answer: Constitution
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Intermediate

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2.4 Matching Questions

Match words with associated meaning, concepts, issues or principles

A) double jeopardy
B) bill of attainder
C) social harm
D) Right to privacy
E) venue
F) ex post facto
G) equal rights protection
H) Jessica's law
I) Bill of Rights
J) Fifth Amendment

1) No person may be tried twice for the same offense.
Page Ref: 29
Level: Basic

2) A constitutional right that is not explicitly guaranteed by the U.S. Constitution.
Page Ref: 26
Level: Basic

3) A term that refers to the geographic location where a trial should be held.
Page Ref: 24
Level: Basic

4) The proposition that, before an act may be declared a crime, there must be some harm to society resulting from the commission of the act.
Page Ref: 25
Level: Basic

5) The Constitution prohibits laws that would retroactively criminalize actions that were innocent when they were done.
Page Ref: 27
Level: Basic

6) A special law that declares a specific person to be guilty of a crime and thus subject to punishment without a trial or conviction
Page Ref: 27
Level: Basic

7) First ten amendments to the U.S. Constitution
Page Ref: 19
Level: Basic

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8) A law that punishes continuous sexual abuse of a young child.
Page Ref: 23
Level: Basic

9) Federal due process restrictions.
Page Ref: 20
Level: Basic

10) Right that prohibits discrimination based on race.
Page Ref: 29
Level: Basic

Answers: 1) A 2) D 3) E 4) C 5) F 6) B 7) I 8) J 9) H 10) G

2.5 Essay Questions

1) Discuss the Eighth Amendment prohibition against cruel and unusual punishment as it relates to the ability of states to make certain conduct criminal.
Answer: The prohibition in the Eighth Amendment against cruel and unusual punishment not only limits the amount and types of punishment that may be inflicted, it also limits the legislative authority to make some conduct criminal. For example, while the state may make it a crime to possess or use drugs, the state may not make it a crime to be addicted to drugs or to be afflicted with a disease because being addicted to drugs or alcohol is a person's status and not an act.
Page Ref: 22
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Intermediate

2) Define jurisdiction.
Answer: Jurisdiction is the power of a court to exercise its authority over the subject matter or person. If the court has no jurisdiction over either the defendant or the subject matter of the proceeding, the court is without power to act in the matter.
Page Ref: 23
Objective: The jurisdictional requirements in criminal law.
Level: Basic

3) What is jurisdiction over the subject matter?
Answer: Jurisdiction over the subject matter refers to the power of the court to decide matters pertaining to that subject matter.
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

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4) Explain the holding in Stanley v. Georgia.
Answer: The mere possession of obscene pictures cannot constitutionally be made a crime. When this obscene matter is located in the privacy of one's own home, the "right of privacy" takes on an added dimension. Even though the states are free to regulate or even ban obscene matter, "that power simply does not extend to mere possession by an individual in the privacy of his own home."
Page Ref: 26
Objective: The issues involved with the right to privacy.
Level: Intermediate

5) List and discuss the three aspects of the principle of legality.
Answer: First, there is no crime unless the legislature makes the conduct a crime. The second aspect of this principle is that government must give prior notice of what conduct it considers a crime. The third aspect of the legality principle is the prohibition against bills of attainder.
Page Ref: 27
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Intermediate

6) Define suspect classification as used in the equal protection clause.
Answer: Suspect classifications (those that appear to be illegal) are usually based on race or religion.
Page Ref: 29
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Intermediate

7) List and discuss the three separate restrictions on governmental conduct as it pertains to the prohibition against double jeopardy.
Answer: First, the accused is protected from prosecution for the same offense after an acquittal. Second, the accused is protected from prosecution for the same offense after a conviction. Third, the accused is protected from multiple punishments for the same criminal conduct.
Page Ref: 29
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Intermediate

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8) Explain the right to privacy as it relates to perceived socially harmful conduct.
Answer: The precise contours of the right to privacy have not been fully outlined by the courts. At one time, the right was perceived as a limitation on the authority of a legislature to prohibit socially harmful conduct. Recent court decisions, however, have indicated that this right has limited viability. In Stanley v. Georgia, the Court discussed the right of Americans "to be free, except in very limited circumstances, from unwanted governmental intrusions into one's privacy." The Stanley case indicated that we have a right to possess obscene material in our homes without fear of governmental intrusion. If it is not illegal to possess obscene material, is it permissible to possess illegal drugs in the privacy of our homes? As of this date, no court has held that we have such a right. The Stanley case may be limited only to obscene material.
Page Ref: 25
Objective: The meaning of the due process limitations in the Constitution.
Level: Difficult

9) Explain the "void for vagueness" principle.
Answer: A statute must be worded in a manner that a person can understand what conduct is prohibited. If the statute is vague, a person would not be able to distinguish the act as criminal.
Page Ref: 21 & 28
Objective: The meaning of the Due Process Clause in the Fourteenth Amendment to the U.S. Constitution.
Level: Basic

10) Why can't a federal criminal court try an individual for violation of a state statute?
Answer: The crime is a state crime and the federal court would not have jurisdiction to try a person for an act that is not a federal crime.
Page Ref: 24
Objective: The jurisdictional requirements in criminal law.
Level: Basic

2.6 Critical Thinking Questions

1) Jerry is tried and convicted of having a sexually transmitted disease. As his attorney, what constitutional issue would you raise on appeal?
Answer: A sexually transmitted disease is not an act but a condition and is prohibited by the Supreme Court case of California v. Robinson. In the Robinson case, the court held that a person may not be convicted because he or she has a certain condition.
Page Ref: 22
Objective: The jurisdictional requirements in criminal law.
Level: Difficult

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2) Michael was tried and acquitted of robbing a federal bank in a state criminal case. The U.S. Attorney would like to try him for robbing the bank since it was federally insured. What argument should the U.S. Attorney use to overcome the rule against double jeopardy?
Answer: When Michael robbed a federally insured bank, he committed both a state crime and a federal crime. Accordingly, the defense of double jeopardy does not apply because it is a different crime and a different jurisdiction prosecuting him.
Page Ref: 24-25
Objective: The protections against "cruel and unusual" punishments and "double jeopardy".
Level: Difficult

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