Test Bank for Fundamentals of Criminal Procedure 1st Hall

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Fundamentals of Criminal Procedure (1st)

ISBN 9781071848791 | Chapter 1: Overview of Criminal Procedure

Total Questions: 100

Easy

Multiple Choice (26)

Q1. *[Multiple Choice]*

In which type of law is the state the plaintiff?

a) civil
b) tort
c) private
d) criminal ✓ correct

Q2. *[Multiple Choice]*

Who is credited with creating the Crime Control and Due Process Models?

a) William the Conqueror
b) Herbert Packer ✓ correct
c) Ruth Ginsberg
d) the Founding Fathers

Q3. *[Multiple Choice]*

Which model emphasizes community protection from people who engage in illegal activity?

a) adversarial
b) due process
c) inquisitorial
d) crime control ✓ correct

Q4. *[Multiple Choice]*

The early English term shire reeves refers to _____.

a) judges
b) probation officers
c) sheriffs ✓ correct
d) police officers

Q5. *[Multiple Choice]*

What was the United States' first constitution?

a) U.S. Constitution
b) Articles of Confederation ✓ correct
c) Bill of Rights
d) Emancipation Proclamation

Q6. *[Multiple Choice]*

The United States has an overarching national government under which there are separate state governments. This system is called _____.

a) federalism ✓ correct
b) checks and balances
c) separation of power
d) absolute power

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Q7. *[Multiple Choice]*

_____ allows Congress to create whatever laws are needed for the federal government to operate.

a) Civil law
b) Constitutional law
c) An executive order
d) The Necessary and Proper Clause ✓ correct

Q8. *[Multiple Choice]*

_____ states that federal law is superior to state law in areas that are in the realm of the federal government.

a) Criminal law
b) The Commerce Clause
c) The Necessary and Proper Clause
d) The Supremacy Clause ✓ correct

Q9. *[Multiple Choice]*

Which crime does the U.S. Constitution recognize as a crime?

a) treason ✓ correct
b) homicide
c) terrorism
d) prostitution

Q10. *[Multiple Choice]*

_____ empowers legal parties to further their own theories and evidence related to a case rather than to rely on judges.

a) The Supremacy Clause
b) The adversarial system ✓ correct
c) The inquisitorial system
d) Civil law

Q11. *[Multiple Choice]*

A(n) _____ is a direct vote by the electorate on a proposal, law, or political issue.

a) tort
b) ordinance
c) statute
d) referendum ✓ correct

Q12. *[Multiple Choice]*

Who signs an executive order into effect?

a) President ✓ correct
b) Congress
c) U.S. Supreme Court
d) police chiefs

Q13. *[Multiple Choice]*

What gives courts the authority to review detentions?

a) ex post facto laws
b) habeas corpus ✓ correct
c) bills of attainder
d) Articles of Confederation

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Q14. *[Multiple Choice]*

_____ subject people to punishment for committing an act that was not against the law at the time they engaged in the act.

a) Ex post facto laws ✓ correct
b) Habeas corpus laws
c) Bills of attainder
d) Criminal laws

Q15. *[Multiple Choice]*

What are the first ten amendments to the U.S. Constitution called?

a) bills of attainder
b) Bill of Rights ✓ correct
c) Articles of Confederation
d) ex post facto laws

Q16. *[Multiple Choice]*

Which amendment is considered the most important amendment to criminal law?

a) First
b) Fourth
c) Fifth
d) Fourteenth ✓ correct

Q17. *[Multiple Choice]*

Which doctrine states that the Bill of Rights automatically applies in state courts?

a) Independent Meaning
b) Total Incorporation ✓ correct
c) Fundamental Fairness
d) Selective Incorporation

Q18. *[Multiple Choice]*

Because of the _____ Doctrine, the Court has held on a case-by-case basis that many of the provisions of the Bill of Rights limit state government action.

a) Independent Meaning
b) Total Incorporation
c) Fundamental Fairness
d) Selective Incorporation ✓ correct

Q19. *[Multiple Choice]*

Which Amendment deals with punishment?

a) First
b) Fifth
c) Eighth ✓ correct
d) Fourteenth

Q20. *[Multiple Choice]*

What authorizes the police to make an arrest or conduct a search?

a) trial
b) criminal procedure
c) administrative law
d) warrant ✓ correct

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Q21. *[Multiple Choice]*

Who decides if there is enough evidence to prosecute someone accused of a crime?

a) police officer
b) prosecutor ✓ correct
c) judge
d) jury

Q22. *[Multiple Choice]*

What is the ultimate factual question?

a) Did the police follow procedure?
b) Is the defendant guilty or not? ✓ correct
c) What is the defendant's sentence?
d) Were the defendant's rights infringed upon?

Q23. *[Multiple Choice]*

Who is responsible for enforcing the law, controlling crime, and protecting people?

a) police ✓ correct
b) prosecutors
c) judges
d) defense attorneys

Q24. *[Multiple Choice]*

What type of agency are most police departments in the United States?

a) tribal
b) state
c) federal
d) local ✓ correct

Q25. *[Multiple Choice]*

In the courtroom, the prosecutor represents the interests of the _____.

a) accused
b) victim
c) government ✓ correct
d) police

Q26. *[Multiple Choice]*

What document is prepared by a person to inform the court how the crime affected them?

a) presentence investigation
b) bills of attainder
c) warrant
d) victim impact statement ✓ correct

True/False (12)

Q27. *[True/False]*

Law dealing with the relationship between people and the government is private law.

a) True
b) False ✓ correct

Correct answer: False

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Q28. *[True/False]*

The new law in England following the Norman Conquest was called the Common Law.

a) True ✓ correct
b) False

Correct answer: True

Q29. *[True/False]*

Police power is the state government's authority to regulate the welfare, security, and health of the people.

a) True ✓ correct
b) False

Correct answer: True

Q30. *[True/False]*

The Adversarial System is confrontational.

a) True ✓ correct
b) False

Correct answer: True

Q31. *[True/False]*

Statutory law declares acts as crimes.

a) True ✓ correct
b) False

Correct answer: True

Q32. *[True/False]*

The Anti-Federalists wanted to create a strong federal government.

a) True
b) False ✓ correct

Correct answer: False

Q33. *[True/False]*

Through the incorporation doctrine, the Bill of Rights are made applicable to the states through the Due Process clause of the Fourteenth Amendment.

a) True ✓ correct
b) False

Correct answer: True

Q34. *[True/False]*

The Sixth Amendment guarantees the right to an impartial jury.

a) True ✓ correct
b) False

Correct answer: True

Q35. *[True/False]*

In the pretrial phase of a criminal case, the parties collect evidence and develop their strategies.

a) True ✓ correct
b) False

Correct answer: True

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Q36. *[True/False]*

Prosecutors are required to follow the U.S. Constitution.

a) True ✓ correct
b) False

Correct answer: True

Q37. *[True/False]*

If a prosecutor engages in misconduct, they can be disbarred.

a) True ✓ correct
b) False

Correct answer: True

Q38. *[True/False]*

Defense attorneys can tell the prosecutor if their client told them they were guilty.

a) True
b) False ✓ correct

Correct answer: False

Medium

Multiple Choice (18)

Q39. *[Multiple Choice]*

Which of the following is an example of public law?

a) tort
b) injury
c) administrative ✓ correct
d) civil

Q40. *[Multiple Choice]*

In contrast to criminal law, in civil law, the objective is to _____.

a) punish the person who offended
b) deter people from committing crime
c) compensate individuals ✓ correct
d) incapacitate the person who offended

Q41. *[Multiple Choice]*

What was the significance of*United States v. Morrison*?

a) A law prohibiting the killing of a “human being” did not include the “murder of a fetus.”
b) Sections of the Violence Against Women Act were unconstitutional under the Commerce Clause. ✓ correct
c) Congress lacked authority to prevent physicians from prescribing lethal drugs to terminally ill patients.
d) The Court held that double prosecution related to dual sovereignty does not constitute double jeopardy.

Q42. *[Multiple Choice]*

The inquisitorial system is _____.

a) used throughout courts in the United States
b) highly structured compared to the adversarial system
c) less formal than the adversarial system ✓ correct
d) more formal than the adversarial system

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Q43. *[Multiple Choice]*

Who bears the burden of proving a case in an adversarial system?

a) prosecutor ✓ correct
b) defense attorney
c) judge
d) jury

Q44. *[Multiple Choice]*

Which of the following is an example of constitutional law?

a) teens not driving after dark
b) regulation of air emissions
c) freedom of religion ✓ correct
d) gay marriage

Q45. *[Multiple Choice]*

Which amendment requires that police officers obtain a warrant before conducting a search?

a) Second
b) Fourth ✓ correct
c) Eighth
d) Fourteenth

Q46. *[Multiple Choice]*

_____ expanded the protection of the people through state constitutions.

a) Due process
b) New Judicial Federalism ✓ correct
c) The Fundamental Fairness Doctrine
d) The Fifth Amendment

Q47. *[Multiple Choice]*

The U.S. Attorney General is the head of the Department of _____.

a) State
b) Defense
c) Justice ✓ correct
d) Homeland Security

Q48. *[Multiple Choice]*

The decision to file charges against a person lies with the _____.

a) prosecutor ✓ correct
b) arresting officer
c) judge
d) victim

Q49. *[Multiple Choice]*

The defense attorney is responsible for _____.

a) ensuring that their client is acquitted or found not guilty
b) determining whether or not their client is guilty
c) telling the defendant which plea to enter in court
d) ensuring the constitutional rights of the defendant are protected ✓ correct

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Q50. *[Multiple Choice]*

Who decides how a defendant should plead?

a) prosecutor
b) defense attorney
c) judge
d) defendant ✓ correct

Q51. *[Multiple Choice]*

How has the criminal justice system evolved to be more inclusive and supportive of victims over the past few decades?

a) It now excludes victims from providing input in plea-bargain negotiations.
b) It guarantees victims that they can obtain any information about the convicted person.
c) It guarantees victims more rights to be protected from the convicted person. ✓ correct
d) It prevents victims from attending public proceedings to ensure their safety.

Q52. *[Multiple Choice]*

What was the significance of*Booth v. Maryland*?

a) Victim impact statements can be read in death penalty cases.
b) Victim impact statements cannot be read in death penalty cases. ✓ correct
c) Courts can allow victim impact statements to be read at sentencing.
d) Courts cannot allow victim impact statements to be read at sentencing.

Q53. *[Multiple Choice]*

Currently, victims can use victim impact statements to _____.

a) voice the sentence the convicted person should receive
b) comment on the crime that the convicted person committed
c) discuss prejudicial evidence not admitted at trial
d) tell the court the harm they personally experienced ✓ correct

Q54. *[Multiple Choice]*

Most states have created statutes that give victims the right to apply for _____.

a) housing
b) counseling
c) food stamps
d) compensation ✓ correct

Q55. *[Multiple Choice]*

What is the primary goal of restorative justice?

a) treating people’s addictions
b) punishing people
c) addressing the harms of a crime ✓ correct
d) preventing future crime

Q56. *[Multiple Choice]*

What is the burden of proof in civil cases?

a) beyond a reasonable doubt
b) reasonable suspicion
c) probable cause
d) preponderance of the evidence ✓ correct

True/False (13)

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Q57. *[True/False]*

The remedy in civil cases is money.

a) True ✓ correct

b) False

Correct answer: True

Q58. *[True/False]*

The due process model stresses that police officers must obtain warrants whenever possible.

a) True ✓ correct

b) False

Correct answer: True

Q59. *[True/False]*

The federal government was superior to the state governments in the Articles of Federation.

a) True

b) False ✓ correct

Correct answer: False

Q60. *[True/False]*

Common law uses the Inquisitorial System.

a) True

b) False ✓ correct

Correct answer: False

Q61. *[True/False]*

Federal law uses referendums.

a) True

b) False ✓ correct

Correct answer: False

Q62. *[True/False]*

The legal principle of stare decisis means that judges must respect precedents set in prior cases.

a) True ✓ correct

b) False

Correct answer: True

Q63. *[True/False]*

States are unable to raise the safety net for fairness higher than what the federal government sets.

a) True

b) False ✓ correct

Correct answer: False

Q64. *[True/False]*

A police officer needs reasonable suspicion to conduct a search.

a) True

b) False ✓ correct

Correct answer: False

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Q65. *[True/False]*

Most criminal cases go to trial.

a) True

b) False ✓ correct

Correct answer: False

Q66. *[True/False]*

The expectations and practices of police are the same throughout the U.S.

a) True

b) False ✓ correct

Correct answer: False

Q67. *[True/False]*

Decisions to prosecute which are motivated by improper criteria violate the First Amendment.

a) True

b) False ✓ correct

Correct answer: False

Q68. *[True/False]*

Prosecutions based upon gender are a violation of equal protection.

a) True ✓ correct

b) False

Correct answer: True

Q69. *[True/False]*

A defense attorney must determine if a client is guilty prior to taking the case.

a) True

b) False ✓ correct

Correct answer: False

Essay (13)

Q70. *[Essay]*

Compare and contrast public law and private law.

Suggested answer: *Sample response: Public law refers to the government taking action against someone (e.g., criminal or administrative law). The goal is often to punish the person through correctional means. Private law refers to a private party taking action against another private party, usually for monetary compensation (e.g., civil law).*

Q71. *[Essay]*

Distinguish factual guilt from legal guilt.

Suggested answer: *Sample response: Factual guilt determines if the person actually committed the crime. Legal guilt refers to the person not having their rights infringed upon throughout the criminal process.*

Q72. *[Essay]*

What is Congress's most powerful tool? Why?

Suggested answer: *Sample response: Congress's most powerful tool is the authority to use the Commerce Clause. Congress can use its Commerce power to regulate crime when someone commits a crime in interstate commerce or when they use something that has traveled in interstate commerce to commit their crime.*

Q73. *[Essay]*

What is the burden of proof in criminal cases? Explain why this is important.

Suggested answer: *Sample response: The burden of proof in criminal cases is proof beyond a reasonable doubt. The prosecution must convince the jury that there is no other reasonable explanation that can come from the evidence presented at trial. It is important because the defendant has a lot to lose, mainly their freedom.*

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Q74. *[Essay]*

Explain why the U.S. Constitution is the nation's most influential law.

Suggested answer: *Sample response: The U.S. Constitution is the Supreme Law of the land. Therefore, all federal and state law must be aligned with it. If a law violates the Constitution, it is void.*

Q75. *[Essay]*

Define and compare bills of attainder and ex post facto laws.

Suggested answer: *Sample response: Ex post facto laws subject people to punishment for committing an act that was not against the law at the time they engaged in the act. Bills of attainder are legislative acts that punish someone without a trial.*

Q76. *[Essay]*

Explain what happens during an appeal.

Suggested answer: *Sample response: The last stage of a trial is an appeal. A defendant can only appeal their case if they believe there was a procedural error in the case. For example, if a member of the criminal justice system violated the defendant's due process rights at any point in the process, the individual could appeal.*

Q77. *[Essay]*

Explain what the Police Code of Conduct is and why it is important for police to follow it.

Suggested answer: *Sample response: Police accountability is important, especially in today's world. Police should not discriminate against anyone, they should use the least amount of force to subdue a person, and they should not engage in any form of corruption. Essentially, they should behave in ways that make the public trust and respect them.*

Q78. *[Essay]*

Describe the factors that influence a prosecutor's decision to file charges.

Suggested answer: *Sample response: There are many factors that influence whether or not to file charges. Prosecutors consider the quality and quantity of evidence, the seriousness of the crime, the odds of winning the case, court resources, the wishes of the victim or family members, and public opinion.*

Q79. *[Essay]*

Explain the concept of Separation of Powers and assess its importance.

Suggested answer: *Sample response: Separation of Powers is laid out in the U.S. Constitution. It refers to the division of power between the executive, legislative, and judicial branches. The executive branch is responsible for enforcing laws, the legislative branch makes laws, and the judicial branch interprets laws. Separation of Powers ensures that no branch becomes too powerful or corrupt.*

Q80. *[Essay]*

Explain the incorporation doctrine's impact on the U.S. Constitution becoming increasingly more important.

Suggested answer: *Sample response: The incorporation doctrine extends the rights in the U.S. Constitution from the federal government to the states through the due process clause. Important rights, such as those in the Bill of Rights, have been incorporated in the states. Prior to the incorporation doctrine, the federal government had to respect the U.S. Constitution, but the states did not. Therefore, there used to be variation in the rights people enjoyed, depending on which state they lived in. However, this changed with the incorporation doctrine.*

Q81. *[Essay]*

Identify the similarities and differences between the Fifth Amendment and the Fourteenth Amendment.

Suggested answer: *Sample response: Both amendments protect due process. However, the Fifth Amendment protects due process at the federal level, while the Fourteenth Amendment ensures that citizens are also granted due process protections at the state level. Furthermore, the Fifth Amendment also protects citizens against double jeopardy and provides the right against self-incrimination.*

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Q82. *[Essay]*

Identify strategies that restorative justice uses to accomplish its goals.

> ***Suggested answer:*** *Sample response: Restorative justice aims to address the harms of prior crimes. It uses different strategies, all of which are holistic, depending on the program and type of crime. Moreover, it usually uses face-to-face meetings that bring together people who have committed offenses, victims, and other people affected by the crime. A trained facilitator holds the meeting, and the main goal is to address the harmed person's needs. Restorative justice has become more prevalent in recent years, as the nation is turning away from retributive strategies.*

Hard

Multiple Choice (16)

Q83. *[Multiple Choice]*

Dwayne and Scott are neighbors. There was a storm that took down a tree from Dwayne's yard, and it landed on Scott's car. Dwayne refused to pay Scott for the damages. In this case, who is responsible for seeking legal action?

a) a prosecutor
b) Dwayne
c) Scott ✓ correct
d) the town

Q84. *[Multiple Choice]*

Shantelle was arrested for shoplifting at the local mall. The arresting officer did not read Shantelle her Miranda rights. Which part of law would this omission fall under?

a) criminal procedure ✓ correct
b) civil law
c) administrative law
d) tort law

Q85. *[Multiple Choice]*

Congress passed a law prohibiting gambling on board ships or boats along a stretch of the Mississippi River. What clause of the constitution allows Congress to do this?

a) Necessary and Proper
b) Commerce ✓ correct
c) Supremacy
d) Due Process

Q86. *[Multiple Choice]*

The French system has an examining judge who conducts investigations into crimes. This judge is responsible for questioning witnesses, interrogating accused persons, and ordering searches. Their role is to gather facts and evidence. If the judge decides there is a case against a person, they go to trial. However, the examining judge does not try the case. What model of justice does France have?

a) inquisitorial ✓ correct
b) adversarial
c) due process
d) crime control

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Q87. *[Multiple Choice]*

Roxy is on trial for grand larceny. She decides not to say anything during her trial and allows the prosecution to do all the work. What allows her to do this?

a) U.S. Constitution
b) presumption of innocence ✓ correct
c) dual sovereignty clause
d) federalism

Q88. *[Multiple Choice]*

A defendant challenged the state's attempt to sentence her to 90 days in jail. The defendant argued that the language of the statute was suggestive rather than mandatory. The court determined that the defendant should have a trial rather than immediately go to jail. What provides this situation for the defendant?

a) due process
b) presumption of innocence
c) dual sovereignty
d) Rule of Lenity ✓ correct

Q89. *[Multiple Choice]*

A police officer pulls you over, and you are given a citation for violating the speed limit. You have broken a vehicle and traffic law established by the legislature. What type of law is this?

a) statutory ✓ correct
b) constitutional
c) civil
d) criminal

Q90. *[Multiple Choice]*

A New York City law that outdoor vendors must dress appropriately is an example of a(n) _____.

a) referendum
b) statute
c) administrative law
d) ordinance ✓ correct

Q91. *[Multiple Choice]*

Compliance with Environmental Protection Agency (EPA) regulations falls under what type of law?

a) administrative ✓ correct
b) civil
c) constitutional
d) criminal

Q92. *[Multiple Choice]*

In*Brown v. Board of Education*, the U.S. Supreme Court ruled that segregation in schools was unconstitutional. Future cases were held to this decision. What is this an example of?

a) constitutional law
b) administrative law
c) precedent
d) criminal procedure ✓ correct

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Q93. *[Multiple Choice]*

The right to travel is not stated in the U.S. Constitution, yet the Court defends this right. What type of right would this be considered?

a) civil
b) public
c) enumerated ✓ correct
d) administrative

Q94. *[Multiple Choice]*

In a recent case,*Mahanoy Area School District v. B.L.*(2021), the Court ruled that high school officials did not have the authority to discipline a student for an off-campus Snapchat post she made after not making the cheerleading squad. The student's _____ Amendment rights were violated.

a) First ✓ correct
b) Fourth
c) Fifth
d) Fourteenth

Q95. *[Multiple Choice]*

A jury convicted Julie of armed robbery, and she is awaiting to see what will happen to her next. During what part of the criminal case will she learn this information?

a) plea bargain
b) appeal
c) sentencing ✓ correct
d) investigation

Q96. *[Multiple Choice]*

Officer Williams needs a search warrant to enter someone's home who is suspected to have a meth lab. She has enough probable cause that the lab and drugs are at a certain address, and she is writing an affidavit with a summary of the information. Who should she bring the affidavit to?

a) prosecutor
b) judge ✓ correct
c) police chief
d) defense attorney

Q97. *[Multiple Choice]*

According to the federal government's victims' rights statute, the victim of a federal crime must be notified when the accused _____.

a) escapes from custody ✓ correct
b) is transferred to another prison
c) dies while in prison
d) has their security level lowered

Q98. *[Multiple Choice]*

The state brought a case against Carter for beating his ex-wife, Shirleigh. However, Carter was found "not guilty" through a criminal trial. Can Shirleigh sue Carter for damages?

a) No, because he was found "not guilty."
b) No, because there is no evidence he beat her.
c) Yes, because she would be taking him to civil court. ✓ correct
d) Yes, because it would be for the same crime.

Essay (2)

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Q99. *[Essay]*

Define new judicial federalism and provide an example of it.

Suggested answer: *Sample response: New judicial federalism refers to states stepping in to protect people's rights if the U.S. Constitution does not. In 2020, the Court ruled that LGBTQ+ individuals have protections in the workplace guaranteed by the Civil Rights Act. Prior to that, states decided if they wanted to grant LGBTQ+ individuals protections in the workplace.*

Q100. *[Essay]*

Explain some of the ways in which prosecutors use discretion in a negative way.

Suggested answer: *Sample response: Prosecutors are the most powerful actors in the criminal justice system. One way in which their discretion can be used negatively is that they may engage in misconduct to get a conviction. For example, they might communicate with defendants without a defense attorney, fail to disclose evidence in discovery, or allow false witness testimony. They may also make mistakes that allow innocent people to be convicted. We do not see this as much anymore, but in the past prosecutors could fail to provide exculpatory evidence, like DNA.*

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