# Test Bank for Criminal Evidence 1st Lippman

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1. A criminal case is initiated by the filing of a complaint by which of the following?

@ Cognitive Domain: Comprehension**;** Answer Location: p. 28**;** Question Type: MS

*a. A police officer, prosecutor, or private citizen

b. A police officer or prosecutor only

c. A police officer or private citizen

d. None of the above are correct

2. A complaint is a legal document that includes:

@ Cognitive Domain: Comprehension; Answer Location: p. 28; Question Type: MS

*a. A list of the charges, the legal elements of a crime, supporting facts against the individual, and possible penalties

b. A list of the charges, the legal elements of a crime, and supporting facts against the individual but not possible penalties

c. Only a list of the charges and possible penalties

d. Only the list of charges

3. Officer Smith wants to obtain an arrest warrant to arrest John Jones. Which of the following is *not* something Officer Smith will need to do in order to obtain the arrest warrant?

@ Cognitive Domain: Comprehension; Answer Location: p. 28; Question Type: MS

a. Establish probable cause

*b. Identify the witnesses that support a finding of probable cause

c. Submit the proper paperwork to a judge

d. Swear an affidavit under oath

4. David has been arrested and been advised that he is being taken before the judge for his *first appearance*. What events can David expect to occur?

@ Learning Objective: 1; Cognitive Domain: Application; Answer Location: p. 30; Question Type: MS

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a. He will be advised of the charges against him.

b. He will enter a plea to the charges.

c. He will be appointed an attorney if he cannot afford one.

*d. Both a and c are correct.

5. Which stage(s) of the criminal justice process occur before a preliminary hearing?

@ Learning Objective: 1; Cognitive Domain: Analysis; Answer Location: p. 30 ; Question Type: MS

*a. Booking

b. Arraignment

c. Grand jury

d. Preliminary hearing

6. Probable Cause is established at:

@ Learning Objective: 1; Cognitive Domain: Application; Answer Location: pp. 30–31; Question Type: MS

a. Arrest

*b. The preliminary hearing

c. Arraignment

d. Both a and b are correct.

7. At his arraignment, when asked to enter a plea, Bob entered a plea that translates to “I do not want to contest the criminal charge.” In legal jargon, this is a plea of:

@ Learning Objective: 1; Cognitive Domain: Application; Answer Location: p. 31; Question Type: MS

a. Guilty

b. Guilty by reason of insanity

*c. *Nolo contendere*

d. Not guilty

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8. If charged by the grand jury, the charging document is:

@ Learning Objective: 2; Cognitive Domain: Comprehension; Answer Location: p. 31; Question Type: MS

a. An information.

b. An indictment.

c. A true bill.

*d. Both b and c are correct.

9. The following is(are) true about a motion to suppress hearing:

@ Learning Objective: 3; Cognitive Domain: Analysis; Answer Location: p. 32; Question Type: MS

a. The rules of evidence apply.

b. Both sides call witnesses and present evidence.

*c. The defendant can testify.

d. All of the above are true.

10. Which of the following apply to a motion in limine?

@ Learning Objective: 3; Cognitive Domain: Comprehension; Answer Location: p. 32; Question Type: MS

a. It is filed in the pretrial stages.

b. It is filed to request that the court exclude evidence from the trial.

c. It is filed to obtain permission to introduce an item of evidence into a trial.

*d. All of the above

11. When would a motion to suppress be filed?

@ Learning Objective: 3; Cognitive Domain: Comprehension; Answer Location: p. 32; Question Type: MS

a. At initial appearance

b. At any time after the initial appearance

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*c. After the preliminary hearing

d. During the preliminary hearing.

12. Co-defendants are typically tried together. What legal action would be taken to ask the court to try each one separately?

@ Cognitive Domain: Application; Answer Location: p. 33; Question Type: MS

a. Change of venue

*b. Motion for severance

c. Motion for dismissal

d. Motion to suppress

13. Which of the following statements represents evidence that is discoverable under the Federal Rules of Evidence?

@ Cognitive Domain: Comprehension; Answer Location: p. 33; Question Type: MS

*a. Defendant's statements, defendant's criminal record, reports of medical exams

b. Defendant's statements, defendant's criminal record, victim's criminal record

c. Defendant's criminal record, names and addresses of witnesses, witness statements

d. Documents and tangible evidence, names and addresses of witnesses, defendant's statements

14. Which of the following is *not o*ne of the basic guidelines for selection of the jury venire?

@ Cognitive Domain: Comprehension; Answer Location: p. 36; Question Type: MS

a. Selection should be random.

b. Exclusion from service should not be based on certain factors, including those of race, religion, or economic status

*c. Whether or not the individual is a citizen should not be a factor.

d. Those called to serve on a jury should represent a cross section of the community.

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15. Bob's attorney wants to remove Prospective Juror 37 from the jury pool based on his belief that the juror cannot be fair to the defendant. What legal action can Bob's attorney take to remove this Juror?

@ Learning Objective: 4; Cognitive Domain: Application; Answer Location: p. 37; Question Type: MS

*a. Challenge for cause

b. Peremptory challenge

c. *Habeas corpus*

d. Motion to dismiss

16. The intentional exclusion of jurors because of their race, ethnicity, gender, or religion is prohibited by:

@ Learning Objective: 4; Cognitive Domain: Comprehension; Answer Location: p. 37; Question Type: MS

a. The Due Process Clause of the Fourteenth Amendment

b. The Sixth Amendment right to a jury trial

*c. The Equal Protection Clause of the Fourteenth Amendment

d. None of the above

17. Mary's attorney challenged a juror *for cause* during jury selection at Mary's trial. Possible reasons for this challenge could include all *except:*

@ Learning Objective: 4; Cognitive Domain: Analysis; Answer Location: p. 36; Question Type: MS

a. The juror challenged sat on the grand jury.

b. The juror knows the victim in the case.

*c. The juror is female.

d. The juror is related to the defense attorney.

18. Which of the following persons, based on the provided descriptions, would not be exempt from serving as a juror on a petit jury?

@ Learning Objective: 4; Cognitive Domain: Analysis; Answer Location: p. 36; Question Type: MS

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a. Bob is 17 years old.

b. Marty can only write in Italian.

c. Betty has served time in prison for drug possession.

*d. Ann lives in the same county as the defendant.

19. *Voir dire*:

@ Learning Objective: 4; Cognitive Domain: Comprehension; Answer Location: p. 36; Question Type: MS

a. Translates to “to speak the truth”

b. is the questioning of individuals to determine who will serve on a jury

c. Is the questioning of witnesses under oath during a trial

*d. Only a and b are correct

20. Which of the following *is true* about an opening statement?

@ Learning Objective: 5; Cognitive Domain: Application; Answer Location: p. 39; Question Type: MS

*a. Evidence is presented during an opening statement.

b. The defendant has the option of making an opening statement.

c. The prosecutor gives his or her opening statement before the defense attorney delivers his or hers.

d. The opening statement provides a roadmap of an attorney’s case.

21. A defense attorney may delay making his or her opening statement until after the prosecution has presented its case because:

@ Learning Objective: 5; Cognitive Domain: Comprehension; Answer Location: p. 40; Question Type: MS

a. It is required by the rules of court.

b. It allows the defense to tailor its argument to the prosecution’s case.

c. It allows the defense to delay revealing its defenses to the charges.

*d. Only b and c are correct.

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22. In what case did the U.S. Supreme Court uphold the constitutionality of plea bargaining?

@ Learning Objective: 6; Cognitive Domain: Comprehension; Answer Location: p. 35; Question Type: MS

a. *Santobello v. New York*

b. *Brady v. United States*

*c. Both a and b

d. Neither a nor b

23. In order for a court to accept a guilty plea, which of the following events must occur?

@ Learning Objective: 6; Cognitive Domain: Comprehension; Answer Location: p. 35; Question Type: MS

a. The judge must explain to the defendant the charges that he or she is pleading guilty to.

b. The judge must address the defendant in open court.

c. The judge must ensure that the defendant understands the consequences of the plea.

*d. All of the above

24. When a defendant enters a guilty plea to the charges against him, he waives his right to raise constitutional violations that were committed prior to the entry of the plea including:

@ Learning Objective: 6; Cognitive Domain: Application; Answer Location: p. 36; Question Type: MS

a. Claims of a coerced confession

b. Claims of unlawful search and seizure

c. Violation of his right to a speedy trial

*d. All of the above

25. The doctrine used by courts to evaluate the impact of a prosecutor's remarks is called:

@ Learning Objective: 7; Cognitive Domain: Knowledge; Answer Location: p. 43; Question Type: MS

a. The verdict

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b. The jury instructions

*c. The invited response

d. The jury poll

26. During a sentencing hearing the defendant:

@ Learning Objective: 7; Cognitive Domain: Comprehension; Answer Location: p. 46; Question Type: MS

a. Does not have to speak on his own behalf

b. Has the right to legal counsel

c. Has the opportunity to speak on his own behalf

*d. All of the above

27. The *right of allocution* is:

a. The right of the prosecutor to seek the death penalty

*b. The right of the defendant to make a statement during his sentencing hearing

c. The right of the jury to recommend a sentence to the judge

d. The right of the judge to refuse to accept a defendant's plea

@ Learning Objective: 7
Cognitive Domain: Knowledge
Answer Location: p. 46
Question Type: MS

28. Mike Johnson was sentenced to 4 years in prison after being found guilty of robbery. Under the Sentencing Reform Act, enacted in 1987, possible purposes of this sentence include all of the following *except:*

@ Cognitive Domain: Analysis**;** Answer Location: p. 47**;** Question Type: MS

a. Retribution

b. Deterrence

*c. Rehabilitation

d. Treatment

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29. A defendant asserts his constitutional right to an attorney. This would indicate that he was at which legal proceeding?

@ Cognitive Domain: Application**;** Answer Location: p. 49**;** Question Type: MS

a. Sentencing hearing

b. An appeal as a matter of right

c. A discretionary appeal

*d. Only a and b

30. The _____ is a clear error under existing law that "affects substantial rights" and that "seriously affects the fairness, integrity, or public reputation of judicial proceedings."

@ Learning Objective: 8; Cognitive Domain: Knowledge; Answer Location: p. 50; Question Type: MS

*a. plain error exception

b. harmless error exception

c. automatic reversal rule

d. retroactive judicial decision

31. The _____ is limited to what the Supreme Court has described as "structural defects" that are fundamental to a fair trial.

@ Learning Objective: 8; Cognitive Domain: Knowledge; Answer Location: p. 50; Question Type: MS

a. plain error exception

b. harmless error exception

*c. automatic reversal rule

d. retroactive judicial decision

32. If on appeal a defendant successfully establishes that the judge in his trial was biased, his or her appeal would be successful based on the:

@ Learning Objective: 8; Cognitive Domain: Analysis; Answer Location: p. 50; Question Type: MS

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a. Plain error exception

b. Harmless error standard

*c. Automatic reversal rule

d. Retroactive judicial decision

33. If the appellate court finds that an error occurred at the trial court level, but is not convinced that the error influenced the jury's guilty verdict, the court would declare the error:

@ Learning Objective: 8; Cognitive Domain: Application; Answer Location: p. 50; Question Type: MS

a. a plain error

*b. a harmless error

c. An automatic reversal

d. A retroactive judicial decision

34. When is a collateral remedy available to a defendant?

@ Learning Objective: 9; Cognitive Domain: Comprehension; Answer Location: p. 50; Question Type: MS

a. Following exhaustion of his direct appeals

b. In some instances, following a failure to take advantage of direct appeals

*c. Both a and b are correct.

d. Neither a nor b is correct.

35. Which of the following is *not true* about a writ of *habeas corpus*?

@ Learning Objective: 9; Cognitive Domain: Comprehension; Answer Location: p. 51; Question Type: MS

a. It is an order issued by a judge.

b. It usually is directed to the warden of a correctional institution.

c. It is issued to examine why a person is being detained.

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*d. It is a judge-created right.

36. In the developing law of *habeas corpus*, the Supreme Court has employed a balancing approach, trying to strike a balance between:

@ Learning Objective: 9; Cognitive Domain: Comprehension; Answer Location: p. 52; Question Type: MS

a. The defendant's constitutional rights and the rights of citizens to be free from criminal activity

b. The interest in the finality of judgments and the protection of the rights of the accused

c. The protection of the rights of the accused and the interest in respect to state judges

*d. Both b and c are correct.

37. Which of the following is *not* true about a writ of *habeas corpus?*

@ Learning Objective: 9; Cognitive Domain: Comprehension; Answer Location: p. 51; Question Type: MS

a. The First Judiciary Act authorized federal courts to grant writs of *habeas corpus* to federal prisoners.

b. The Habeas Corpus Act of 1867 extended federal *habeas* review to state inmates.

*c. The Antiterrorism and Effective Death Penalty Act extended *habeas* review to individuals accused as enemy combatants.

d. All of the above are true.

38. A defendant's right to cross-examine witnesses is extended to the defendant by:

@ Cognitive Domain: Knowledge**;** Answer Location: p. 41**;** Question Type: MS

a. The Fourth Amendment

b. The Fifth Amendment

*c. The Sixth Amendment

d. The U.S. Supreme Court

39. The right of each side to have warning of the evidence that the other side will present at trial is called:

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*a. Discovery

b. Information

c. Probable cause

d. Material

@ Cognitive Domain: Knowledge**;** Answer Location: p. 33**;** Question Type: MS

40. A defendant in a state court has a right, under the U.S. Constitution, to have his or her case presented to a grand jury.

a. True

*b. False

@ Learning Objective: 2; Cognitive Domain: Application; Answer Location: p. 31; Question Type: TF

41. Like all criminal proceedings, grand jury proceedings are open to the public.

@ Learning Objective: 2; Cognitive Domain: Application; Answer Location: p. 31; Question Type: TF

a. True

*b. False

42. A motion to suppress and a *motion in limine* both result in evidence being excluded from trial.

@ Learning Objective: 3; Cognitive Domain: Application; Answer Location: p. 32; Question Type: TF

*a. True

b. False

43. If a juror is challenged for cause, the challenging party must state the reason for the challenge.

@ Learning Objective: 4; Cognitive Domain: Comprehension; Answer Location: p.36; Question Type: TF

*a. True

b. False

44. Contents of an opening statement are considered to be evidence.

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@ Learning Objective: 5; Cognitive Domain: Comprehension; Answer Location: p. 39; Question Type: TF

a. True

*b. False

45. Defendants give up their right to a jury trial if they opt to enter a plea to the charges against them.

@ Learning Objective: 6; Cognitive Domain: Comprehension; Answer Location: p. 34; Question Type: TF

a. True

*b. False

46. The jury's role in the trial process typically includes recommending the sentence of the defendant.

@ Learning Objective: 7; Cognitive Domain: Application; Answer Location: p. 47; Question Type: TF

a. True

*b. False

47. *Habeas corpus* is a criminal process in which the defendant asks the court for a writ on grounds that he or she is being unlawfully detained.

@ Learning Objective: 8; Cognitive Domain: Comprehension; Answer Location: p. 51; Question Type: TF

a. True

*b. False

48. The criminal proceeding often referred to as the prosecutor's "little darling" is the preliminary hearing.

@ Learning Objective: 2; Cognitive Domain: Knowledge; Answer Location: p. 31; Question Type: TF

a. True

*b. False

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49. A motion to suppress should be filed prior to a preliminary hearing.

@ Learning Objective: 3; Cognitive Domain: Comprehension; Answer Location: p. 32; Question Type: TF

a. True

*b. False

50. In order for a plea to be accepted by a judge, the defendant must make an admission of guilt.

@ Learning Objective: 6; Cognitive Domain: Application; Answer Location: p. 31; Question Type: TF

a. True

*b. False

51. The defendant will be asked to enter a plea at the preliminary hearing.

@ Learning Objective: 1; Cognitive Domain: Knowledge; Answer Location: p. 31; Question Type: TF

a. True

*b. False

52. At a preliminary hearing, the judge makes a finding of probable cause.

@ Learning Objective: 1; Cognitive Domain: Knowledge; Answer Location: p. 30; Question Type: TF

*a. True

b. False

53. Bail can be denied if the judge determines that a defendant might flee the jurisdiction of the court if released from custody and therefore be unavailable to answer to the charges brought against him or her.

@ Learning Objective: 1; Cognitive Domain: Application; Answer Location: p. 30; Question Type: TF

*a. True

b. False

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54. In states that do not use a grand jury, the charging document is an *information* filed by the prosecutor.

@ Learning Objective: 2; Cognitive Domain: Knowledge; Answer Location: p. 31; Question Type: TF

*a. True

b. False

55. It is unconstitutional to bar a person who cannot read, write, understand, or speak English from serving on a petit jury.

@ Cognitive Domain: Application**;** Answer Location: p. 36**;** Question Type: TF

a. True

*b. False

56. In jury selection for a capital offense case, prospective jurors who state that they are unwilling to impose the death penalty can be excluded for cause.

@ Learning Objective: 7; Cognitive Domain: Application; Answer Location: p. 37; Question Type: TF

*a. True

b. False

57. In the criminal trial process, the opening arguments provide a road map of the parties' cases.

@ Cognitive Domain: Knowledge**;** Answer Location: p. 39**;** Question Type: TF

a. True

*b. False

58. The process of asking each juror whether he or she agrees with the verdict is called *jury polling.*

@ Cognitive Domain: Knowledge**;** Answer Location: p. 45**;** Question Type: TF

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*a. True

b. False

59. The *final judgment rule* provides that a defendant ordinarily may appeal only following a guilty verdict and sentencing.

@ Cognitive Domain: Knowledge; Answer Location: p. 49; Question Type: TF

*a. True

b. False

Type: E

60. A criminal case is initiated by the filing of a _____ by a police officer, prosecutor, or private citizen

*a. complaint

Cognitive Domain: Knowledge; Answer Location: p. 28; Question Type: SA

Type: E

61. What is the purpose of a *preliminary hearing*?

*a. For the judge to determine if there is probable cause that an offense was committed and that the defendant committed the crime.

Learning Objective: 1; Cognitive Domain: Knowledge; Answer Location: p. 30; Question Type: SA

Type: E

62. Jody has been selected to serve on the criminal grand jury. Identify and briefly discuss the two functions of the grand jury.

*a. Student should identify and discuss: the charging function and the investigation duties.

Learning Objective: 2; Cognitive Domain: Comprehension ; Answer Location: p. 31; Question Type: SA

Type: E

63. Explain why a motion to suppress wouldn't be filed until after the preliminary hearing.

*a. Students' response should demonstrate an understanding that the case may be dismissed at the preliminary hearing rendering a motion to suppress unnecessary.

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@ Learning Objective: 3
Cognitive Domain: Analysis
Answer Location: p. 32
Question Type: SA

Type: E

64. Explain the differences between plain error and harmless error and the impact a finding of each would have on the case outcome.

*a. Students' response should include the definition of each and a statement of the outcome if found by the appellate court.

Learning Objective: 8; Cognitive Domain: Comprehension; Answer Location: p. 50; Question Type: SA

Type: E

65. Discuss what occurs at a grand jury proceeding and why is it referred to as the "prosecutor's little darling?"

*a. Student responses should include the following information: the prosecutor is the only party to present evidence; the suspect has no right to attend, testify, or present evidence; the grand jury can question witnesses and request certain witnesses testify; and the prosecutor dominates the proceedings and, according to defense attorneys, "the prosecutor could get a grand jury to indict a ham sandwich."

Cognitive Domain: 2; Answer Location: Analysis; Question Type: ESS

Type: E

66. Identify and discuss the key arguments for and against plea bargaining. Which position do you find more favorable and why?

*a. Student should identify and discuss the following issues against plea bargaining: disparity in sentencing, the risk of innocent people entering guilty pleas, and administrative convenience.

Students should identify and discuss the following issues in favor of plea bargaining: taking responsibility, flexibility in sentencing, victim impact, and cooperation with police of prosecutors.

Learning Objective: 6; Cognitive Domain: Analysis; Answer Location: pp. 34–35; Question Type: ESS

67. Identify and discuss four constitutional violations that *habeas corpus* may be relied on to remedy.

*a. Students' responses should include issues addressing: evidence at trial, confessions, ineffective assistance of counsel, jury instructions, prosecutorial misconduct, and actual innocence.

Learning Objective: 9; Cognitive Domain: Comprehension; Answer Location: p. 52; Question Type: ESS

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