Test Bank for Essential Criminal Law 3rd Lippman

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Chapter 2: Constitutional Limitations

Test Bank

Multiple Choice

1. The legislature passed a law that prohibits vehicles in any state park. The law defines a vehicle as an object with wheels. Last month, Mike was given a ticket while pushing a baby stroller through the park. If Mike challenges his ticket on constitutional grounds, the most effective legal challenge is based on which argument?
A. The law is void for vagueness.
B. The law is an *ex post facto law*.
C. The law violates the equal protection clause.
D. The law does not satisfy the rational basis test.
Ans: A
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Application
Answer Location: Statutory Clarity
Difficulty Level: Medium

2. A law that makes distinctions based on gender is subject to which type of scrutiny?
A. rational basis
B. intermediate
C. beyond a reasonable doubt
D. clear and convincing
Ans: B
Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Equal Protection
Difficulty Level: Easy

3. Which of the following amendments protects the freedom of speech and the freedom of assembly?
A. First Amendment
B. Seventh Amendment
C. Fifth Amendment
D. Fourteenth Amendment
Ans: A
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: The Bill of Rights
Difficulty Level: Easy

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4. The constitution's prohibition on bills of attainder and *ex post facto* laws and the constitution's requirement of statutory clarity form the basis of what fundamental principle of criminal law?
A. equal protection
B. right to privacy
C. rule of legality
D. prohibition against cruel and unusual punishment
Ans: C
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Knowledge
Answer Location: Rule of Legality
Difficulty Level: Easy

5. Which of the following best characterizes the evolution of the U.S. Supreme Court's interpretation of the Second Amendment?
A. The court has expanded its interpretation of the Second Amendment, holding that gun ownership for self-defense is a legitimate exercise of the right to bear arms.
B. The court has held that any restriction on gun ownership is unconstitutional.
C. The court has reaffirmed that gun ownership must be linked to the preservation of a well-regulated militia.
D. The court has reaffirmed that the Second Amendment protections are limited to weapons that existed at the time that the Second Amendment was drafted.
Ans: A
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Analysis
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

6. A law that requires individuals to be a certain age before obtaining a driver's license is likely subject to what form of scrutiny?
A. strict scrutiny
B. maximum scrutiny
C. rational basis test
D. intermediate scrutiny
Ans: C
Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Analysis
Answer Location: Equal Protection | Three Levels of Scrutiny
Difficulty Level: Medium

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7. Which of the following best characterizes the scope of the individual's rights under the First Amendment?
A. The content of the individual's speech is unrestricted under the First Amendment.
B. Although the freedom of speech is a broadly protected fundamental right, the individual's right to free speech is not unlimited.
C. The only limitation on an individual's freedom of speech is the prohibition against hate speech.
D. An individual may be prohibited from making any form of offensive speech.
Ans: B
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Analysis
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

8. After a year of controversial public debate, the state legislature passed a law last month prohibiting a certain form of conduct. In response, a local prosecutor charged Sam with violating the law based on the conduct Sam committed 6 months ago. What is the appropriate challenge to the prosecution?
A. The prosecution is valid because the public was on notice that the law might be passed.
B. The prosecution is invalid because it violates the prohibition against *ex post facto* laws.
C. The prosecution is valid because it upholds the doctrine of legality.
D. The prosecution is invalid because it violates the prohibition against bills of attainder.
Ans: B
Learning Objective: 2-2: One purpose of statutory clarity is to ensure that individuals know what is prohibited by the criminal law.
Cognitive Domain: Analysis
Answer Location: Bills of Attainder and *Ex Post Facto* Laws
Difficulty Level: Medium

9. Which of the following is not a proper limitation of an individual's rights under the Second Amendment?
A. a ban on possession of a gun by a convicted felon
B. a ban on possession of a gun by a person who is mentally ill
C. a flat ban on carrying a loaded firearm within accessible reach outside the home
D. a law requiring the safe storage of guns
Ans: C
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Comprehension
Answer Location: The Right to Bear Arms
Difficulty Level: Comprehension

10. Which of the following punishments has not been held unconstitutional?

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A. carrying out the death penalty via crucifixion
B. sentencing a person to death who was 17 years old at the time of the offense
C. sentencing a juvenile to life imprisonment without parole for a nonhomicide offense
D. sentencing a person to death who was 18 years old at the time of the offense
Ans: D
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.
Cognitive Domain: Comprehension
Answer Location: Cruel and Unusual Punishment
Difficulty Level: Medium

11. A _____ is a legislative act in which an individual or group of persons are punished without the benefit of a trial.
A. rule of legality
B. bill of attainder
C. *ex post facto* law
D. scrutiny test
Ans: B
Learning Objective: 2-2: One purpose of statutory clarity is to ensure that individuals know what is prohibited by the criminal law.
Cognitive Domain: Knowledge
Answer Location: Bills of Attainder
Difficulty Level: Easy

12. The courts have adopted a level of _____ for gender classification.
A. rational basis
B. intermediate scrutiny
C. strict scrutiny
D. rule of legality
Ans: B

Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Three Levels of Scrutiny
Difficulty Level: Easy

13. Which of the following categories of speech is NOT protected by the First Amendment?
A. fighting words
B. incitement to violent action
C. obscenity
D. protest speech
Ans: D
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Application

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Answer Location: Freedom of Speech
Difficulty Level: Medium

14. Which of the following is defined as speech that denigrates, humiliates, and attacks individuals on account of race, religion, ethnicity, nationality, gender, sexual preference, or other personal characteristics and preferences?
A. hate speech
B. libel
C. threat
D. obscenity
Ans: A
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: Hate Speech
Difficulty Level: Easy

15. The doctrine of legality is not reflected in which of following constitutional principles?
A. bill of attainder
B. *ex post facto* laws
C. statutory clarity
D. scrutiny tests
Ans: D
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Application
Answer Location: Rule of Legality
Difficulty Level: Medium

16. What case was the first to recognize the right to privacy?
A. *Carey v. Population Services International*
B. *Lawrence v. Texas*
C. *State v. Stanko*
D. *Griswold v. Connecticut*
Ans: D
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Application
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Medium

17. Which concept is not a core concern protected by the right to privacy?
A. sanctity of the home
B. public portrayal
C. illegal activities
D. intimate activities
Ans: C

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Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Application
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Medium

18. Jackson is arrested for possessing a firearm in his vehicle, despite believing that he is within his rights. What defense might he rely on?
A. the First Amendment
B. the Second Amendment
C. the Ninth Amendment
D. the Tenth Amendment
Ans: B
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Application
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

19. Which of the following is the system of government in which governmental power is limited by the constitution?
A. tyranny
B. republic
C. democracy
D. constitutional democracy
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Ans: D
Cognitive Domain: Comprehension
Answer Location: Introduction
Difficulty Level: Easy

20. A statute that punishes crime against nature is likely _____.
A. a violation of equal protection
B. barred by the first amendment
C. a well-drafted statute
D. void for vagueness
Ans: D
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Comprehension
Answer Location: Statutory Clarity
Difficulty Level: Easy

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21. Which constitutional constraint was referred to by Justice Oliver Wendell Holmes Jr. as “the last resort of constitutional argument”?
A. equal protection clause
B. void for vagueness
C. freedom of speech
D. *ex post facto* laws
Ans: A

Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Application
Answer Location: Equal Protection
Difficulty Level: Medium

22. Under the constitution, all categories of speech not protected by the First Amendment are criminal in nature?
A. Yes, all speech not protected may be prosecuted.
B. No, libel is a civil proceeding.
C. Yes, anything can be criminalized.
D. Not if it is unintentional.
Ans: B
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Comprehension
Answer Location: Freedom of Speech
Difficulty Level: Medium

23. Does the right to privacy extend to encompass a woman’s decision whether or not to terminate her pregnancy.
A. never
B. always
C. when presented with compelling circumstances
D. when the balance of harm tips in favor of termination only
Ans: B
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals’ right to keep firearms outside the home.
Cognitive Domain: Comprehension
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Medium

24. In what court case, the U.S. Supreme Court held that the Second Amendment protects the right of individuals to possess firearms?
A. *McDonald v. Chicago*
B. *Kachalsky v. County of Westchester*
C. *Moore v. Madigan*
D. *District of Columbia v. Heller*
Ans: D

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Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Application
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

25. What activities would not be protected by the right to privacy?
A. planting a garden within a fenced backyard
B. a telephone conversation taking place between people in their own homes
C. taking the trash out to the dumpster in an alleyway planting a garden within a fenced backyard
D. doing dishes in a kitchen near an open window
Ans: C
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Application
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Medium

26. Which of the following are three different tests under the Equal Protection Clause in order from least restrictive to most restrictive?
A. rational basis, severe scrutiny, and intermediate basis
B. rational basis, intermediate scrutiny, and strict scrutiny
C. rational basis, strict scrutiny, and intermediate scrutiny
D. intermediate scrutiny, strict scrutiny, and severe scrutiny
Ans: B

Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Comprehension
Answer Location: Three Levels of Scrutiny
Difficulty Level: Easy

27. Out of the Supreme Court case *District of Columbia v. Heller*, the Second Amendment _____.
A. protects those affiliated with the militia and their right to bear arms
B. protects the rights of individuals to possess firearms
C. is up to the state to legislate and enforce as they deem appropriate
D. is limited to those affiliated with the militia and those acting in self-defense only
Ans: B
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Comprehension
Answer Location: The Right to Bear Arms

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Difficulty Level: Medium

28. Which of the following constitutional principles does not reflect the doctrine of legality?
A. bill of attainder
B. *ex post facto* laws
C. statutory clarity
D. scrutiny tests
Ans: D
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Application
Answer Location: Rule of Legality
Difficulty Level: Medium

29. Which constitutional provision(s) includes the self-incrimination clause?
A. First Amendment
B. Third Amendment
C. Fifth Amendment
D. Ninth Amendment
Ans: C
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Application
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Medium

30. Which of the following amendments prohibit a state from depriving individuals of "life, liberty, or property without due process of the law"?
A. First Amendment
B. Fourteenth Amendment
C. Nineteenth Amendment
D. Twentieth Amendment
Ans: B
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Application
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

31. The first 10 amendments to the U.S. Constitution create rights against the federal government and are called the _____?
A. Bill of Rights
B. preamble
C. rules of legality

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D. bills of attainder
Ans: B
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

32. The rule of _____ has commonly been considered as “the first principle of the American criminal law and jurisprudence.”
A. judiciary
B. democracy
C. clarity
D. legality
Ans: D
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Knowledge
Answer Location: Rule of Legality
Difficulty Level: Easy

33. The _____ doctrine intended to ensure that statutes clearly inform citizens of prohibited acts while simultaneously providing definite standards for the enforcement of the law.
A. void for vagueness
B. *ex post facto*
C. bill of attainder
D. statutory clarity
Ans: A
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Comprehension
Answer Location: Statutory Clarity
Difficulty Level: Easy

34. The first 10 amendments to the U.S. Constitution that create rights against the federal government are called the _____.
A. preamble
B. rules of legality
C. Bill of Rights
D. bills of attainder
Ans: C
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: The Bill of Rights
Difficulty Level: Easy

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35. Which type of speech is considered to be one of the fundamental challenges encompassed by the First Amendment?
A. religious speech
B. political speech
C. symbolic speech
D. hate speech
Ans: D
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Application
Answer Location: Hate Speech
Difficulty Level: Medium

36. According to gun rights activists, the second amendment is _____.
A. not limited to members of the militia because gun ownership is essential to the preservation of individual liberty
B. not limited to members of the militia because gun ownership is an individual choice
C. limited only to members of the militia and national guard as outlined in the constitution
D. limited only to those employed by the armed forces and hunters
Ans: A
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Comprehension
Answer Location: The Right to Bear Arms
Difficulty Level: Easy

37. In which of the following cases did the Supreme Court observe that there are “well-recognized categories of speech which may be permissibly limited under the First Amendment?”
A. *West Virginia v. Barnette*
B. *Chaplinsky v. New Hampshire*
C. *New York v. Ferber*
D. *R.A.V. v. St. Paul*
Ans: B
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Application
Answer Location: Freedom of Speech
Difficulty Level: Medium

38. Which of the following is not deemed a requirement of due process?
A. Individuals must receive notice of criminal conduct.
B. Police must have definite standards to ensure uniformity of enforcement.
C. clarity of criminal statutes
D. Individuals will have the freedom of speech.

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Ans: D
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Application
Answer Location: Statutory Clarity
Difficulty Level: Medium

39. A city passed a new ordinance that limits habitation of ethnic minorities on certain streets, in order to preserve culture and heritage. Jeffrey wishes to move to Chinatown to be close to his favorite restaurants, but the ordinance prohibits this. If challenged as an equal protection violation, which standard is appropriate?
A. The ordinance is presumed valid so long as it is rationally related to a constitutionally permissible state interest.
B. The ordinance must be substantially related to an important government objective.
C. The ordinance must be strictly necessary and there must be no alternative approach to advancing a compelling state interest.
D. The ordinance must be logically related to a historic interest beyond a reasonable doubt.
Ans: C
Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Application
Answer Location: Equal Protection
Difficulty Level: Hard

40. The ruling of *Kolender v. Lawson* held that _____.
A. the right to bear arms extends to citizens with no connection to the militia
B. fighting words are not protected by the First Amendment
C. void for vagueness was aimed to inform citizens of prohibited acts and provide definite standards for the enforcement of the law
D. *ex post facto* laws are prohibited
Ans: C
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Comprehension
Answer Location: Definite Standards for Law Enforcement
Difficulty Level: Medium

True/False

1. The right to privacy is limited to the protection of persons and objects.
Ans: F
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.

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Cognitive Domain: Knowledge
Answer Location: The Right to Privacy and the Fourth Amendment
Difficulty Level: Easy

2. The execution of a person who is younger than 18 years of age at the time of a capital offense constitutes cruel and unusual punishment.
Ans: T
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.
Cognitive Domain: Knowledge
Answer Location: Cruel and Unusual Punishment | The Amount of Punishment: The Death Penalty
Difficulty Level: Easy

3. The U.S. Supreme Court has interpreted cross burning as a form of hate speech, regardless of the intent.
Ans: F
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech | Hate Speech
Difficulty Level: Easy

4. An individual's act of incitement to violent action is constitutional unless the incitement is of imminent violence.
Ans: T
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Comprehension
Answer Location: Freedom of Speech
Difficulty Level: Easy

5. The right to privacy is explicitly stated in the U.S. Constitution.
Ans: F
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Knowledge
Answer Location: Privacy | The Constitutional Right to Privacy
Difficulty Level: Easy

6. Law enforcement may place a GPS device on a suspect's car because there is no reasonable expectation of privacy in a vehicle's movement.
Ans: F
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Analysis
Answer Location: The Right to Privacy and the Fourth Amendment
Difficulty Level: Medium

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7. Since 2014, the total number of executions carried out nationwide has declined.
Ans: T
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.
Cognitive Domain: Comprehension
Answer Location: Cruel and Unusual Punishment
Difficulty Level: Medium

8. A student may not be compelled to pledge allegiance to the American flag.
Ans: T
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

9. A law that prohibits providing contraceptives to unmarried individuals is an unconstitutional violation of the Fourth Amendment right to privacy.
Ans: F
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Analysis
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Hard

10. In Virginia, the Supreme Court held that a law prohibiting non-law-enforcement persons from carrying a weapon on the campus of George Mason University is an unconstitutional violation of the Second Amendment.
Ans: F
Learning Objective: 2-7: The Eighth Amendment prohibition on cruel and unusual punishment has been interpreted by courts to prohibit all methods of capital punishment other than lethal injection.
Cognitive Domain: Knowledge
Answer Location: The Right to Bear Arms
Difficulty Level: Easy

11. There are no limits to the freedom of speech.
Ans: F
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Comprehension
Answer Location: Freedom of Speech
Difficulty Level: Easy

12. Individual rights and liberties need to be balanced against the need for social order and stability.
Ans: T

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Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Knowledge
Answer Location: Introduction
Difficulty Level: Easy

13. Due process requires that criminal statutes be drafted in a clear and understandable fashion.
Ans: T
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Knowledge
Answer Location: Statutory Clarity
Difficulty Level: Easy

14. The freedom to make choices concerning personal lifestyle and an individual's body and reproduction are protected by privacy laws.
Ans: T
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Comprehension
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Easy

15. The courts apply an intermediate scrutiny test in examining distinctions based on race and national origin.
Ans: F
Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Three Levels of Scrutiny
Difficulty Level: Easy

16. There is only one constitutional provision creates the right to privacy.
Ans: F
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Comprehension
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Easy

17. The rule of democracy requires that individuals receive notice of certain prohibited acts.
Ans: F
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.

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Cognitive Domain: Comprehension
Answer Location: Statutory Clarity
Difficulty Level: Easy

18. The government may neither require nor substantially interfere with individual expression.
Ans: T
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Comprehension
Answer Location: Freedom of Speech
Difficulty Level: Easy

19. Originally, the U.S. Constitution did not provide for the equal protection of the law.
Ans: T
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Knowledge
Answer Location: Equal Protection
Difficulty Level: Easy

20. Due process ensures clarity in criminal statutes.
Ans: T
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Comprehension
Answer Location: Statutory Clarity
Difficulty Level: Easy

Short Answer

1. Do you believe the government should be able to punish citizens for breaking *ex post facto* laws? Explain your reasoning and defend your answer.
Ans: Varies. Students may first define *ex post facto* laws. They must analyze the implications of *ex post facto* laws, perhaps by providing the advantages and disadvantages of allowing prosecution of individuals who break these laws.
Learning Objective: 2-2: One purpose of statutory clarity is to ensure that individuals know what is prohibited by the criminal law.
Cognitive Domain: Analysis
Answer Location: *Ex Post Facto* Laws
Difficulty Level: Hard

2. Explain the difference between hate speech and hate crimes. To defend your answer, provide examples from media portrayals, personal experiences, or situations you may

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have witnessed. What are some ways society can combat hate speech and hate crimes?
Ans: Varies. Students must thoroughly define hate speech and hate crime and discuss each of their significance through given examples by providing specifics such as who committed the acts and who it was directed against. Students must also discuss ways of combating hate speech and hate crimes through constructive means such as legislative actions, media campaigns, local projects, and so on.
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Analysis
Answer Location: Hate Speech
Difficulty Level: Hard

3. What are the four functions that are central to democracy performed by freedom of expression under the First Amendment as identified by Thomas I. Emerson?
Ans: Freedom of expression contributes to individual self-fulfillment by encouraging individuals to express their ideas and creativity, ensures a vigorous “marketplace of ideas,” promotes social stability, and ensures that there is a steady stream of innovative ideas and enables the government to identify and address newly arising issues. Students may briefly discuss each of the functions or provide examples.
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Application
Answer Location: Freedom of Speech
Difficulty Level: Medium

4. What is the rule of legality?
Ans: A strong answer will define the rule of legality as the first principle of American criminal law and jurisprudence and is reflected in two constitutional principles: Bills of attainder and *ex post facto* laws and the constitutional requirement for statutory clarity. Students must briefly describe each of these concepts and may provide examples.
Learning Objective: 2-1: Bills of attainder prohibit punishing an individual for an act that was not a crime at the time it was committed.
Cognitive Domain: Comprehension
Answer Location: Rule of Legality
Difficulty Level: Easy

5. What are the common characteristics of speech that are absent from First Amendment protection?
Ans: A strong answer will discuss the following: the expressions lack social value, directly cause social harm or injury, and are narrowly defined in order to avoid discouraging and deterring individuals from engaging in free and open debate.
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Analysis
Answer Location: Freedom of Speech
Difficulty Level: Medium

6. What main categories of speech are not protected by the First Amendment?

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Ans: A strong answer will identify the following: fighting words, incitement to violent action, threat (true threats), obscenity, and libel. Students may briefly describe each of these categories.
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Application
Answer Location: Freedom of Speech
Difficulty Level: Easy

7. Why does the right to privacy lack a clear meaning?
Ans: The right to privacy lacks a clear meaning because it is not explicitly mentioned in the U.S. Constitution, but it is argued that privacy is implied. There are also difficulties in determining just how much privacy an individual is entitled to especially when acts are committed within the privacy of the home.
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Analysis
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Hard

8. What does due process require?
Ans: A strong answer will discuss the following:
Due process requires that criminal statutes should be drafted in a clear and understandable fashion.
Due process requires that individuals receive notice of criminal conduct.
Due process requires that the police, prosecutors, judges, and jurors are provided with a reasonably clear statement of prohibited behavior so as to ensure uniform and nondiscriminatory enforcement of the law.
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Comprehension
Answer Location: Statutory Clarity
Difficulty Level: Easy

9. What are the categories of *ex post facto* laws as established in *Calder* v. *Bull*?
Ans: A strong answer will identify the following:
Every law that makes an action, done before the passing of the law, and was innocent when done, criminal; and punishes such action.
Every law that aggravates a crime, or makes it greater than it was, when committed.
Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed.
Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender.
Learning Objective: 2-2: One purpose of statutory clarity is to ensure that individuals know what is prohibited by the criminal law.
Cognitive Domain: Application

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Answer Location: *Ex Post Facto* Laws
Difficulty Level: Easy

10. Does the right to privacy lack a clear meaning and why or why not?
Ans: The right to privacy lacks a clear meaning because it is not explicitly mentioned in the U.S. Constitution, but it is argued that privacy is implied. There are also difficulties in determining just how much privacy an individual is entitled to especially when acts are committed within the privacy of the home.
Learning Objective: 2-6: The Second Amendment right to bear arms does not protect individuals' right to keep firearms outside the home.
Cognitive Domain: Analysis
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Hard

Essay

1. Define and distinguish the three types of scrutiny under the Equal Protection Clause.
Ans: (1) Rational basis test: the minimum level of scrutiny which will apply to most laws. (2) Intermediate scrutiny: the middle level of scrutiny has applied to classifications based on gender. (3) Strict scrutiny: the highest level of scrutiny has been applied to classifications based on race and national origin. Although a law may appear neutral, it may nonetheless be deemed to constitute an unconstitutional classification.
Learning Objective: 2-4: The courts do not recognize any limitations on expression under the First Amendment.
Cognitive Domain: Comprehension
Answer Location: Equal Protection | Three Levels of Scrutiny
Difficulty Level: Medium

2. What are the three main differences between a bill of attainder and *ex post facto* laws?
Ans: (1) A bill of attainder punishes a specific individual or specific individuals. An *ex post facto* law criminalizes an act that was legal at the time the act was committed. (2) A bill of attainder is not limited to criminal punishment and may involve any disadvantage imposed on an individual; *ex post facto* laws are limited to criminal punishment. (3) A bill of attainder imposes punishment on an individual without trial. An *ex post facto* law is enforced in a criminal trial.
Learning Objective: 2-2: One purpose of statutory clarity is to ensure that individuals know what is prohibited by the criminal law.
Cognitive Domain: Analysis
Answer Location: Bills of Attainder and *Ex Post Facto* Laws
Difficulty Level: Easy

3. What are the four functions central to democracy performed by freedom of expression under the First Amendment as identified by Thomas I. Emerson?

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Ans: Freedom of expression contributes to individual self-fulfillment by encouraging individuals to express their ideas and creativity, ensures a vigorous “marketplace of ideas,” promotes social stability, and ensures that there is a steady stream of innovative ideas and enables the government to identify and address newly arising issues.
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

4. What does due process require with respect to criminal law? Why is due process important?
Ans: Due process requires that criminal statutes should be drafted in a clear and understandable fashion. Statutes that fail to meet this standard are considered unconstitutional. Due process requires that individuals receive notice of criminal conduct and that the police, prosecutors, judges, and jurors are provided with a reasonably clear statement of prohibited behavior so as to ensure uniform and nondiscriminatory enforcement of the law. Due process protections in this context are important because they ensure that individuals are not punished for innocent conduct or conduct that they could not reasonably know was illegal.
Learning Objective: 2-3: Laws that distinguish between individuals based on age, race, or gender in most instances are held to be constitutional by courts.
Cognitive Domain: Application
Answer Location: Statutory Clarity
Difficulty Level: Easy

5. What are the main categories of speech whose content is not protected by the First Amendment?
Ans: Fighting words, incitement to violent action, threat (true threats), obscenity, and libel. (Students may briefly describe each of these categories.)
Learning Objective: 2-5: The U.S. Constitution explicitly provides for a right to privacy.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

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