Chapter 1: An Introduction to Criminal Procedure

Test Bank

Multiple Choice

1. Which of the following defines the factual elements of a criminal offense?
   A. substantive criminal law
   B. procedural criminal law
   C. substantive civil law
   D. procedural civil law
   Ans: A
   Cognitive Domain: Application
   Answer Location: Criminal Law and Criminal Procedure
   Difficulty Level: Medium

2. Which of the following is the standard by which the prosecution must prove guilt in a criminal trial?
   A. beyond all doubt
   B. beyond a reasonable doubt
   C. by preponderance of the evidence
   D. beyond reasonable suspicion
   Ans: B
   Cognitive Domain: Application
   Answer Location: Criminal Law and Criminal Procedure
   Difficulty Level: Medium

3. Which of the following objectives of the criminal justice system best describes the idea that the guilty should be convicted and the innocent go free?
   A. accuracy
   B. respect
   C. fairness
   D. equality
   Ans: A
   Cognitive Domain: Application
   Answer Location: The Objectives of Criminal Procedure
   Difficulty Level: Medium

4. Which of the following best describes the criminal justice system objective of equality?
   A. All defendants guilty of the same offense should receive equal punishment.
   B. All defendants should receive the same quality of justice.
   C. All defendants should receive the same quality of attorneys.
D. All defendants should receive equal time in court.
Ans: B
Cognitive Domain: Application
Answer Location: The Objectives of Criminal Procedure
Difficulty Level: Medium

5. Which of the following objectives refers to defendants having the opportunity for representation by lawyers at crucial points in the criminal justice process?
A. equality
B. appeals
C. participation
D. adversarial
Ans: D
Cognitive Domain: Application
Answer Location: The Objectives of Criminal Procedure
Difficulty Level: Medium

6. All of the following were identified as objectives of criminal procedure except ______.
A. participation
B. justice
C. respect
D. loyalty
Ans: D
Cognitive Domain: Application
Answer Location: The Objectives of Criminal Procedure
Difficulty Level: Medium

7. If a police officer decides not to file a charge, they are exercising ______.
A. discretion
B. probable cause
C. fairness
D. loyalty
Ans: A
Cognitive Domain: Application
Answer Location: The Criminal Justice Process
Difficulty Level: Medium

8. All of the following are examples of the use of discretion except ______.
A. a prosecutor not filing a charge
B. police officers not arresting an individual
A. entering a plea bargain
D. a judge advocating for a harsher sentence
Ans: D
Cognitive Domain: Application
Answer Location: The Criminal Justice Process
Difficulty Level: Medium
9. Which of the following involves detecting criminal offenses?
   A. arrest
   B. criminal investigation
   C. trial
   D. sentencing
   Ans: B
   Cognitive Domain: Application
   Answer Location: Criminal Investigation
   Difficulty Level: Medium

10. What level of proof must be established for a police officer to make an arrest?
    A. beyond a reasonable doubt
    B. preponderance of the evidence
    C. probable cause
    D. reasonable suspicion
    Ans: C
    Cognitive Domain: Comprehension
    Answer Location: Arrest
    Difficulty Level: Easy

11. Which of the following phases involves recording information regarding the arrestee and taking a mug shot and fingerprints?
    A. arrest
    B. postarrest
    C. the criminal charge
    D. sentencing
    Ans: B
    Cognitive Domain: Application
    Answer Location: Postarrest
    Difficulty Level: Medium

12. Which actor in the criminal justice system has the responsibility of deciding whether to formally charge a suspect?
    A. the prosecution
    B. the judge
    C. the grand jury
    D. the lead police investigator
    Ans: A
    Cognitive Domain: Knowledge
    Answer Location: The Criminal Charge
    Difficulty Level: Easy

13. A ______ determines whether there was probable cause to arrest and to detain the suspect.
    A. trial de novo
B. precedent  
C. first impression  
D. Gerstein hearing  

Cognitive Domain: Knowledge  
Answer Location: The Criminal Charge  
Difficulty Level: Easy  

14. A ______ refers to a lawyer appointed by a district court judge for an 8-year term.  
A. prosecutor  
B. magistrate  
C. bailiff  
D. jury  

Ans: B  
Cognitive Domain: Knowledge  
Answer Location: The Criminal Charge  
Difficulty Level: Easy  

15. When a prosecutor declines to prosecute a criminal defendant, what type of motion will he file?  
A. an indictment  
B. *nolle prosequi*  
C. requests for production  
D. interrogatories  

Ans: B  
Cognitive Domain: Knowledge  
Answer Location: Pretrial  
Difficulty Level: Easy  

16. Which of the following follows the pretrial?  
A. appeal  
B. postconviction  
C. arraignment  
D. pretrial motions  

Ans: C  
Cognitive Domain: Application  
Answer Location: Pretrial  
Difficulty Level: Medium  

17. All of the following are examples of pretrial motions that can be filed by defense attorneys except ______.  
A. a motion to change the location of the trial  
B. a motion to exclude unlawfully seized evidence from the trial  
C. a motion to discuss charges  
D. a motion to speed up the trial  

Ans: D  
Cognitive Domain: Application
18. A jury is generally composed of ______ persons.
   A. 6  
   B. 9  
   C. 12 
   D. 15 
   Ans: C

Cognitive Domain: Knowledge

19. All of the following are standard sentences following a criminal conviction except ______.
   A. incarceration 
   B. probation 
   C. fines 
   D. restitution 
   Ans: D

Cognitive Domain: Application

20. All of the following are sources of law except ______.
   A. tribal law 
   B. judicial decisions 
   C. court rules 
   D. common law 
   Ans: A

Cognitive Domain: Application

21. All of the following Amendments to the U.S. Constitution address issues of criminal procedure except ______.
   A. First 
   B. Sixth 
   C. Eighth 
   D. Fourteenth 
   Ans: A

Cognitive Domain: Application
22. Which organization has the legal authority to interpret and apply the rules established in the U.S. Constitution?
A. the U.S. Congress  
B. the U.S. Supreme Court  
C. the U.S. president  
D. state governors  
Ans: B  
Cognitive Domain: Knowledge  
Answer Location: Judicial Decisions  
Difficulty Level: Easy

23. Where must one look when the U.S. Supreme Court has yet to answer a question regarding the U.S. Constitution?
A. the U.S. Congress  
B. state legislatures  
C. trial court judges  
D. state supreme courts  
Ans: D  
Cognitive Domain: Knowledge  
Answer Location: State Constitutions  
Difficulty Level: Easy

24. Of all of the sources for American procedural law, which is the oldest?
A. the U.S. Constitution  
B. state constitutions  
C. common law  
D. court rules  
Ans: C  
Cognitive Domain: Knowledge  
Answer Location: Common Law  
Difficulty Level: Easy

25. The U.S. Supreme Court derives its authority to create federal rules of criminal procedure from ______.  
A. the president  
B. the U.S. Congress  
C. the U.S. Constitution  
D. common law  
Ans: B  
Cognitive Domain: Comprehension  
Answer Location: Court Rules  
Difficulty Level: Easy

25. According to the text, _____ of states have comprehensive codes drafted by their state supreme courts that regulate criminal procedure.  
A. one quarter
B. one third
C. two third
D. all states
Ans: C
Cognitive Domain: Knowledge
Answer Location: Court Rules
Difficulty Level: Easy

26. Which of the following is the most common repercussion for a law enforcement officer who violates internal police regulations?
A. The officer will face criminal charges.
B. The officer will be sued civilly.
C. The officer will be removed from the agency.
D. The officer will face internal disciplinary measures.
Ans: D
Cognitive Domain: Application
Answer Location: Agency Regulations
Difficulty Level: Medium

27. Which of the following designates which cases are heard by the federal courts and which are heard by the state courts?
A. the U.S. Supreme Court
B. the U.S. Congress
C. the state supreme courts
D. the U.S. Constitution
Ans: D
Cognitive Domain: Application
Answer Location: The Structure of the Federal and State Court Systems
Difficulty Level: Medium

28. Which of the following courts has exclusive jurisdiction over causes such as piracy?
A. local
B. state
C. federal
D. tribal
Ans: C
Cognitive Domain: Application
Answer Location: The Structure of the Federal and State Court Systems
Difficulty Level: Medium

29. The federal judicial system is best represented by a ______.
A. cube
B. sphere
C. hourglass
D. pyramid
Ans: D
30. Including the Federal Circuit Court of Appeals in Washington, DC, there are ______ circuit courts in the United States.
A. 7
B. 9
C. 12
D. 13
Ans: D

31. The concept of precedent, central to Supreme Court decision making, is based on which legal principle?
A. *ex post facto*
B. *ad hoc facto*
C. *deus ex machina*
D. *stare decisis*
Ans: D

32. If the U.S. Supreme Court were to receive 7,000 petitions for certiorari, given past behavior of the Court, roughly how many cases would the Court be expected to hear?
A. 5,000
B. 2,500
C. 1,000
D. 150
Ans: D

33. Which type of judicial opinion expresses a disagreement with the majority opinion?
A. *per curiam* decision
B. plurality opinion
C. concurring opinion
D. dissenting opinion
Ans: A
34. Magistrates may only conduct trials for misdemeanors when ______.
A. the defendant approves  
B. the prosecution approves  
C. the misdemeanor is Class 1 or 2  
D. the magistrate has advanced training in the subject matter at hand  
Ans: B  
Cognitive Domain: Comprehension  
Answer Location: The Federal Judicial System  
Difficulty Level: Easy

35. *Stare decisis* literally means which of the following?  
A. to stare into the sun  
B. to stand decided with one’s fellow judges  
C. to stand by precedent and to stand by settled points  
D. to look to the points of the North Star for judicial guidance  
Ans: C  
Cognitive Domain: Comprehension  
Answer Location: The Federal Judicial System  
Difficulty Level: Easy

36. The lowest level federal courts are ______.  
A. trial courts  
B. appeals courts  
C. supreme courts  
D. district courts  
Ans: D  
Cognitive Domain: Knowledge  
Answer Location: The Federal Judicial System  
Difficulty Level: Easy

37. ______ are the workhorse of the federal system and are the venue for prosecutions of federal crimes.  
A. Appeals courts  
B. The U.S. Supreme Court  
C. District courts  
D. Trial courts  
Ans: C  
Cognitive Domain: Knowledge  
Answer Location: The Federal Judicial System  
Difficulty Level: Easy

38. Which of the following courts sits at the top of the hierarchy?  
A. the Ninth Circuit  
B. the Supreme Court  
C. the First Circuit
39. Which of the following was identified as a primary way for a case to reach the Supreme Court?
A. stare decisis
B. writ of certiorari
C. en banc
D. per curiam
Ans: B
Cognitive Domain: Application
Answer Location: The Federal Judicial System
Difficulty Level: Easy

40. A decision that will constitute a legal precedent is referred to as ______.
A. concurring opinion
B. plurality opinion
C. majority opinion
D. dissenting opinion
Ans: C
Cognitive Domain: Knowledge
Answer Location: The Federal Judicial System
Difficulty Level: Easy

41. A criminal trial not held before a jury is known as a/an ______.
A. petty trial
B. statutory trial
C. bench trial
D. unconstitutional trial
Ans: C
Cognitive Domain: Knowledge
Answer Location: State Judicial Systems
Difficulty Level: Easy

42. All of the following are standard methods by which state court judges are selected except ______.
A. partisan popular elections
B. nonpartisan popular elections
C. election by the legislature
D. election by judges
Ans: D
Cognitive Domain: Application
Answer Location: State Judicial System
43. In states that lack intermediate appellate courts, appeals are directed to the ______.
A. state supreme courts
B. district courts
C. circuit courts
D. U.S. Supreme Court
Ans: A
Cognitive Domain: Comprehension
Answer Location: State Judicial System
Difficulty Level: Easy

44. Courts of general jurisdiction are commonly referred to as all of the following except ______.
A. circuit courts
B. district courts
C. courts of common pleas
D. appeals courts
Ans: D
Cognitive Domain: Application
Answer Location: State Judicial System
Difficulty Level: Medium

45. A decision is made by the State Supreme Court of New York, located in New York City. The precedent established by that court applies to ______.
A. New York City
B. New York state
C. the circuit in which New York is located
D. the entire country
Ans: B
Cognitive Domain: Application
Answer Location: Precedent
Difficulty Level: Medium

46. The U.S. Supreme Court eras are typically named after ______.
A. the chief justice of that Court
B. the president(s) in office
C. the Court’s political leaning
D. famous cases decided by that Court
Ans: A
Cognitive Domain: Knowledge
Answer Location: Judicial Philosophy
Difficulty Level: Easy
47. Some U.S. Supreme Court justices have said that even though they personally oppose abortion and would overturn *Roe v. Wade* if given the opportunity, they would not outlaw abortion but leave that decision up to the states. This point of view is an example of ______.
A. judicial activism
B. judicial authority
C. judicial philosophy
D. judicial restraint
Ans: D
Cognitive Domain: Application
Answer Location: Judicial Philosophy
Difficulty Level: Medium

48. Judges who believe in contextualism argue ______.
A. that the Constitution is a living document that should be interpreted to meet the needs of society
B. that the context of a crime should be excluded from a criminal trial so as to ensure uniformity
C. that the intent of the framers of the documents should guide our decision-making today
D. that judicial restraint is always favored over judicial activism
Ans: D
Cognitive Domain: Comprehension
Answer Location: Judicial Philosophy
Difficulty Level: Medium

49. Which of the following areas of disagreement among Supreme Court justices focuses on the issues concerning states’ rights?
A. precedent
B. Bright-line rules
C. federalism
D. consensus
Ans: C
Cognitive Domain: Application
Answer Location: Judicial Philosophy
Difficulty Level: Medium

50. Justices who favor a judiciary that intervenes to set public policy and to combat social problems are categorized as favoring ______.
A. judicial review
B. judicial restraint
C. judicial activism
D. judicial discretion
Ans: C
Cognitive Domain: Comprehension
Answer Location: Judicial Philosophy
True/False

1. At trial, for the vast majority of crimes, the prosecution must prove both criminal action and criminal intent.
   Ans: T
   Cognitive Domain: Comprehension
   Answer Location: Criminal Law and Criminal Procedure
   Difficulty Level: Medium

2. Criminal procedure addresses the procedures involved in the investigation, detection, and prosecution of criminal offenses.
   Ans: T
   Cognitive Domain: Comprehension
   Answer Location: Criminal Law and Criminal Procedure
   Difficulty Level: Medium

3. It is important that both citizens and defendants alike should view the criminal justice process as fair and equitable.
   Ans: T
   Cognitive Domain: Comprehension
   Answer Location: The Objectives of Criminal Procedure
   Difficulty Level: Easy

4. The ability granted to police officers, prosecutors, judges, and juries to make independent decisions regarding the social interest in keeping a person in the criminal justice process is known as discretion.
   Ans: T
   Cognitive Domain: Knowledge
   Answer Location: The Criminal Justice Process
   Difficulty Level: Easy

5. It is the responsibility of the chief prosecutor to inform defendants of the charges against them and their rights of silence and council.
   Ans: F
   Cognitive Domain: Knowledge
   Answer Location: The Criminal Charge
   Difficulty Level: Easy

6. The prosecutor presents witnesses who may be cross-examined by the defense.
   Ans: T
   Cognitive Domain: Knowledge
   Answer Location: Pretrial
   Difficulty Level: Easy
7. Plea bargain negotiations become heated during the pretrial investigation stage.
   Ans: F  
   Cognitive Domain: Knowledge  
   Answer Location: Pretrial  
   Difficulty Level: Easy

8. Changing the location is an example of a pretrial motion that is issued by defense attorneys.
   Ans: T  
   Cognitive Domain: Knowledge  
   Answer Location: Pretrial Motions  
   Difficulty Level: Easy

9. The defendant’s right to a trial by a jury of his or her peers is absolute.
   Ans: F  
   Cognitive Domain: Comprehension  
   Answer Location: Trial  
   Difficulty Level: Easy

10. The federal courts and all 50 state courts require juries to produce unanimous verdicts.
    Ans: F  
    Cognitive Domain: Knowledge  
    Answer Location: Trial  
    Difficulty Level: Easy

11. As a general rule, only defendants, not the prosecution, have the right to appeal a case to a higher court.
    Ans: T  
    Cognitive Domain: Comprehension  
    Answer Location: Appeal  
    Difficulty Level: Easy

12. State constitutions are allowed to provide more rights than are granted by the U.S. Constitution.
    Ans: T  
    Cognitive Domain: Knowledge  
    Answer Location: State Constitutions  
    Difficulty Level: Medium

13. State constitutions are allowed to remove some of the rights granted by the U.S. Constitution.
    Ans: F  
    Cognitive Domain: Knowledge  
    Answer Location: State Constitutions  
    Difficulty Level: Medium
14. The U.S. Supreme Court has the authority to tell any state how to interpret all matters regarding both the U.S. Constitution and the state’s constitution.
Ans: F
Cognitive Domain: Comprehension
Answer Location: State Constitutions
Difficulty Level: Medium

15. Most “common crimes,” such as murder and robbery, are heard in the federal courts.
Ans: F
Cognitive Domain: Knowledge
Answer Location: The Structure of the Federal and State Court Systems
Difficulty Level: Easy

16. All cases brought before a circuit court of appeals are heard by three-judge panels, also known as *en banc* hearings.
Ans: F
Cognitive Domain: Knowledge
Answer Location: The Federal Justice System
Difficulty Level: Easy

17. The U.S. Constitution holds that if a case is brought before the U.S. Supreme Court and no precedent is found to guide the Court’s decision, it is to look to rulings on the issue from courts in England, Spain, and France.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Precedent
Difficulty Level: Easy

18. If there is no precedent, circuit courts of appeals may look to rulings from other courts for advice in the form of persuasive authority.
Ans: T
Cognitive Domain: Comprehension
Answer Location: Precedent
Difficulty Level: Medium

19. It is important that precedent be set properly, for once it has been set, it cannot be overturned.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Precedent
Difficulty Level: Medium

20. In interpreting the U.S. Constitution, originalist justices are guided by the intent of the framers of the documents.
Short Answer

1. List and explain some of the objectives of criminal procedure and why they are important.
   Ans: Students should mention at least one of the following: accuracy, efficiency, respect, fairness, equality, adversarial, participation, appeals, and justice.
   Cognitive Domain: Comprehension
   Answer Location: The Objectives of Criminal Procedure
   Difficulty Level: Easy

2. State and describe the various phases of the criminal justice process in chronological order.
   Ans: Students should mention most of the following in the following order: investigation, arrest, postarrest, postarrest investigation, criminal charge, pretrial, pretrial motions, trial, sentencing, and appeal.
   Cognitive Domain: Knowledge
   Answer Location: The Criminal Justice Approach
   Difficulty Level: Easy

3. Identify the various sources of law.
   Ans: Students should identify the following: U.S. Constitution, judicial decisions, state constitutions, common law, legislative statutes, court rules, agency regulations, and model codes.
   Cognitive Domain: Knowledge
   Answer Location: Sources of the Law of Criminal Procedure
   Difficulty Level: Easy

4. Explain how jurisdiction in the United States resembles a pyramid structure.
   Ans: Students should focus on the levels explained in the “Federal Judicial System” section of the text.
   Cognitive Domain: Comprehension
   Answer Location: The Federal Judicial System
   Difficulty Level: Medium

5. Define misdemeanor crimes.
   Ans: Students should define misdemeanors as crimes carrying criminal penalties of less than a year in prison.
   Cognitive Domain: Knowledge
   Answer Location: The Federal Judicial System
   Difficulty Level: Easy
6. Identify the two ways in which a case can reach the Supreme Court.
Ans: Original jurisdiction and writ of certiorari.
Cognitive Domain: Comprehension
Answer Location: The Federal Judicial System
Difficulty Level: Easy

7. What are the various types of judicial opinions that can be issued and that establish legal precedent?
Ans: Majority opinion (constitutes precedent), concurring opinion, plurality opinion, dissenting opinion, per curiam.
Cognitive Domain: Comprehension
Answer Location: The Federal Judicial System
Difficulty Level: Easy

8. Identify the various areas of disagreement between Supreme Court justices.
Ans: Federalism, precedent, bright-line rules, police power, and state of mind, interpretation, separation of powers, consensus, and psychology.
Cognitive Domain: Comprehension
Answer Location: Judicial Philosophy
Difficulty Level: Medium

9. What is the difference between judicial activism and judicial restraint?
Ans: Justices who favor a judiciary that intervenes to set public policy and to combat social problems are categorized as favoring judicial activism. In contrast, justices who believe that the courts should play a limited role and who believe that public policy decisions are to be made by elected officials are viewed as favoring judicial restraint.
Cognitive Domain: Comprehension
Answer Location: Judicial Philosophy
Difficulty Level: Medium

10. Give three examples of differences between law in action and law on the books.
Ans: Defendants may choose to plead guilty, waive their constitutional right to challenge an unlawful search, or waive their right to be tried before a jury. Defense attorneys may not vigorously defend their clients. Prosecutors may choose to charge some defendants with criminal offenses while dropping the charges against other defendants charged with the same crime.
Cognitive Domain: Application
Answer Location: Law in Action and Law on the Books
Difficulty Level: Easy

**Essay**

1. Explain why it is important to balance security with individual rights in the criminal justice system.
Ans: Varies. Of course, a system of criminal procedure that places too many legal barriers in the way of the police and prosecutors will frustrate the arrest and conviction of the guilty, while a system that places too few barriers in the way of the police may lead to coerced confessions, unwarranted searches, and false convictions. In the United States, there is an effort to create a system of criminal procedure that strikes a balance between the interests of society in investigating and detecting crime and in convicting criminals on one hand and the interest in protecting the right of individuals to be free from intrusions into their privacy and liberty on the other hand.

Cognitive Domain: Analysis
Answer Location: Balancing Security and Rights
Difficulty Level: Hard

2. Precedent is central to the functioning of the court system. Explain how precedent is applied when used by state supreme courts, circuit courts of appeals, and the U.S. Supreme Court. Also explain why precedent is so important to the operation of the courts.
Ans: Varies. The U.S. Supreme Court decisions set precedent for all other courts, state supreme courts set precedent for all other courts in that state, and circuit courts of appeals establish precedent within their jurisdictions.
Cognitive Domain: Comprehension
Answer Location: Precedent
Difficulty Level: Medium

3. Explain the differences in judicial philosophy and how these differences may account for disparity.
Ans: Varies. A liberal justice who believes in individual liberty also may be tough on crime, and a conservative justice who opposes abortion also may be an absolutist when it comes to freedom of speech. There are other issues where a justice’s point of view is not easily categorized as either liberal or conservative. History also has demonstrated that justices have changed their philosophy while serving on the Court.
Cognitive Domain: Analysis
Answer Location: Judicial Philosophy
Difficulty Level: Hard

4. Explain the difference between law in action and law on the books.
Ans: Varies. Students should focus on the “Law in Action and Law on the Books” section in the text to answer this question.
Cognitive Domain: Comprehension
Answer Location: Law in Action and Law on the Books
Difficulty Level: Hard

5. The criminal justice process is lengthy and, some may argue, arduous. Conceptually explain why this is so and why it is important.
Ans: Students should mention some of the following: an effort to create a system of criminal procedure that strikes a balance between the interests of society in investigating and detecting crime and in convicting criminals on one hand and the
interest in protecting the right of individuals to be free from intrusions into their privacy and liberty on the other hand. Criminal procedure also seeks to achieve a range of other objectives, including accuracy, efficiency, public respect, fairness, and equality, all of which together promote the ultimate goal, which is to ensure justice.
Cognitive Domain: Analysis
Answer Location: Various
Difficulty Level: Hard