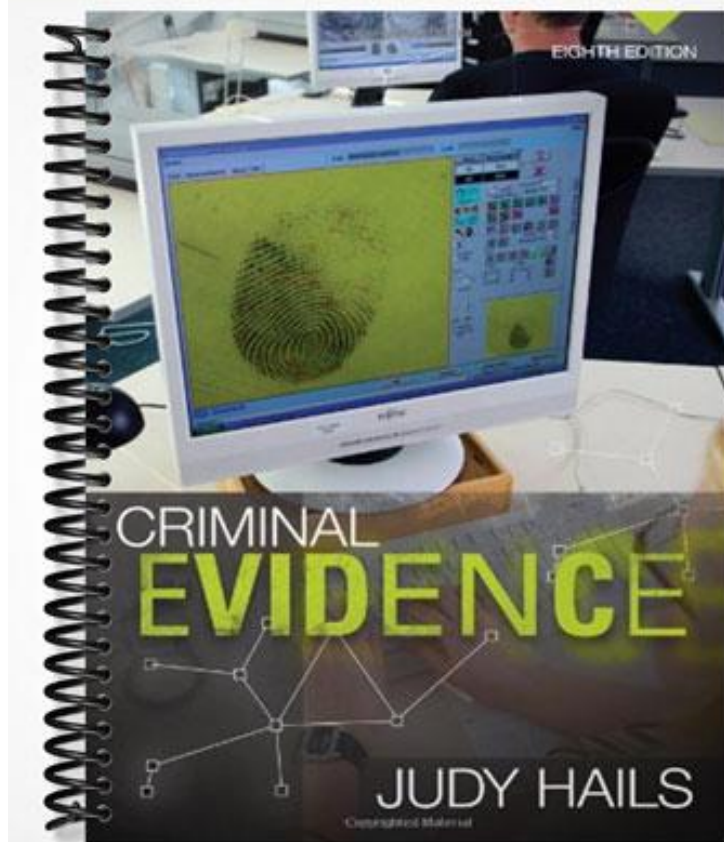


**TEST BANK**



## **CHAPTER 2: The Role of the Courts**

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### **Test Bank**

#### **TRUE/FALSE**

1. A federal judge can be impeached if convicted of a felony.  
ANS: T      REF: Independent Judiciary      LO: 2
2. State court systems have a hierarchical organization.  
ANS: T      REF: Court Organization      LO: 3
3. Geographical jurisdiction of a court in a criminal case is based on the location where the crime was committed.  
ANS: T      REF: Geographical Jurisdiction      LO: 4
4. Newly discovered evidence is not admissible on a direct appeal.  
ANS: T      REF: Function of Various Levels of Courts      LO: 6
5. An appellate court only considers issues raised by the parties in their briefs.  
ANS: T      REF: Function of Various Levels of Courts      LO: 6
6. The U. S. District Court is the trial court in the federal system.  
ANS: T      REF: Function of Various Levels of Courts      LO: 6
7. The U.S. Constitution explicitly gives the U.S. Supreme Court the authority to declare that laws are unconstitutional.  
ANS: F      REF: Function of Various Levels of Courts      LO: 6
8. The sole authority of the U.S. Supreme Court is to rule on constitutional issues.  
ANS: F      REF: Function of Various Levels of Courts      LO: 6
9. State court judges must follow all rulings of the U.S. Supreme Court.  
ANS: F      REF: Impact of Case Law      LO: 7

10. In a non-jury trial, the prosecutor must establish a prima facie case in order to obtain a conviction.

ANS: F            REF: Evidentiary Standards Used by Courts            LO: 8

11. The plaintiff in a civil case establishes the case by a preponderance of the evidence he/she will win the case.

ANS: T            REF: Evidentiary Standards Used by Courts            LO: 8

12. In a criminal case, the jurors are instructed that they must acquit if they have any doubt about the defendant's guilt.

ANS: F            REF: Evidentiary Standards Used by Courts            LO: 8

13. In a criminal case, the judge can set aside the verdict if the jury voted to convict but not if they voted to acquit.

ANS: T            REF: Evidentiary Standards Used by Courts            LO: 8

14. The judge is allowed to consider newly discovered evidence when ruling on a motion to set aside a verdict.

ANS: T            REF: Evidentiary Standards Used by Courts            LO: 8

15. If a defendant waits for 1 year after being convicted to file a direct appeal the appeal will be dismissed.

ANS: T            REF: Direct Appeal            LO: 9

16. A direct appeal of a conviction in a criminal case is restricted to issues that were raised at trial.

ANS: T            REF: Direct Appeal            LO: 9

17. The reporter's transcript is a verbatim record of what was said at the trial court.

ANS: T            REF: Direct Appeal            LO: 9

18. The U.S. Supreme Court will not consider a habeas corpus case filed by a state inmate on a Fourth Amendment issue if a state court has provided a full and fair hearing on the claim.

ANS: T            REF: Appeals to United States Supreme Court            LO: 10

Test Bank

19. Section 1985 (Civil Rights Act) applies to anyone who deprives a person of his/her constitutional rights.

ANS: T            REF: Civil Rights Act            LO: 12

20. Prosecutors do not have absolute immunity in Civil Rights Act cases if they maliciously file criminal charges against a person they know is innocent.

ANS: F            REF: Civil Rights Act            LO: 12

**MULTIPLE CHOICE**

1. An independent judiciary means:
- a. judges are free to decide cases based on their own interpretation of the law.
  - b. judges cannot be removed by the president that appointed them.
  - c. judges cannot be impeached.
  - d. all of these

ANS: B            REF: Independent Judiciary            LO: 2

2. The geographical jurisdiction of an intermediate level state appellate court is:
- a. the geographical area assigned by the legislature.
  - b. the entire state.
  - c. the geographical area assigned by Congress.
  - d. determined by the state governor.

ANS: A            REF: Geographical Jurisdiction            LO: 4

3. The statute of limitations applies to the time elapsed between:
- a. commission of crime and filing criminal charges.
  - b. commission of crime and beginning of trial.
  - c. filing charges and beginning of trial.
  - d. conviction and final decision by appellate courts.

ANS: A            REF: Statute of Limitations            LO: 5

4. The largest portion of the workload of the trial courts is related to:
- a. processing warrants.
  - b. pre-trial events.
  - c. trials.
  - d. sentencing.

ANS: B            REF: Functions of Various Levels of Courts            LO: 6

5. Appellate courts decide which issues to address based on:
- brief filed by the defendant.
  - brief filed by the prosecution.
  - brief filed by trial court judge.
  - summary of facts prepared by staff attorneys.

ANS: A            REF: Functions of Various Levels of Courts            LO: 6

6. *Marbury v. Madison* is important historically because:
- it was the first case decided by the U.S. Supreme Court.
  - it is the first case where the U.S. Supreme Court ruled that it has the authority to declare legislation enacted by Congress unconstitutional.
  - it was the first case to hold that the Executive Branch must obey laws enacted by Congress.
  - none of these

ANS: B            REF: Functions of Various Levels of Courts            LO: 7

7. A decision of the U.S. Court of Appeals for the Second Circuit about a constitutional issue is binding on:
- only U.S. District Courts in the Second Circuit.
  - state and federal trial courts in the Second Circuit.
  - U. S. District Courts in all circuits.
  - state and federal trial courts in the entire United States.

ANS: B            REF: Function of Various Levels of Courts            LO: 7

8. Proof beyond a reasonable doubt is required by Due Process in:
- criminal trials.
  - civil trials.
  - both criminal and civil trials.
  - neither criminal nor civil trials.

ANS: A            REF: Evidentiary Standards Used by Courts            LO: 8

9. Which of the following is a valid reason for a judge to set aside a verdict?
- judge made erroneous rulings on admission of prosecution evidence at trial
  - material evidence introduced by prosecution at trial was false
  - newly discovered evidence casts serious doubt on defendant's guilt
  - all of these

ANS: D            REF: Evidentiary Standards Used by Courts            LO: 7

Test Bank

10. The prosecution rarely files direct appeals because:
- they are prohibited by law from doing so except in extraordinary circumstances.
  - double jeopardy prevents an appellate court from reversing an acquittal.
  - prosecuting agencies do not hire appellate attorneys.
  - criminal cases rarely go to trial.

ANS: B            REF: Direct Appeal            LO: 9

11. If an appellate court reverses a case based on insufficient evidence, the prosecutor:
- can re-file the case based on his/her own discretion.
  - can re-file the case if it has evidence that was not admitted at the first trial.
  - can re-file the case as long as the new filing is based on lesser charges than the original case.
  - cannot re-file the case or file lesser included offenses.

ANS: D            REF: Direct Appeal            LO: 9

12. An indigent defendant who has been convicted of a felony has the right to appointed counsel for:
- all appeals of the conviction.
  - all appeals of conviction in state court but not federal court.
  - only for first post-conviction appeal.
  - only for appeals filed by the prosecution.

ANS: C            REF: Direct Appeal            LO: 9

13. The Harmless Error Rule used by appellate courts results in the reversal of a conviction:
- if there were any errors at trial.
  - only if the errors at trial were procedural.
  - only if there were constitutional errors.
  - only if the errors at trial affected the outcome of the case.

ANS: D            REF: Direct Appeal            LO: 9

14. In the United States, Double Jeopardy applies to cases that are reversed on appeal:
- case can never be filed again
  - case can be re-filed except when the conviction was reversed due to insufficient evidence
  - case can be filed again only if prosecutor has new evidence of defendant's guilt
  - refiling the criminal charges is solely within the discretion of the prosecutor

ANS: B            REF: Direct Appeal            LO: 9

15. Discretionary appeals in criminal cases:
- must allege that the initial appellate court abused its discretion in deciding the case.
  - can only be used to seek the reversal of a conviction.
  - are heard only if the justices of the higher court agree to consider the case.
  - are automatically filed after the direct appeal.

ANS: C            REF: Discretionary Appeals – State Court            LO: 9

16. The document used to ask the U.S. Supreme Court to hear a case is called:
- Petition for Writ of Certiorari.
  - Petition to Proceed *in Forma Pauperis*.
  - Petition for Writ of Habeas Corpus.
  - Petition for Hearing.

ANS: A            REF: Appeals to U. S. Supreme Court            LO: 9

17. A Petition for Writ of *Habeas Corpus* should be filed:
- with the court in jurisdiction where conviction was entered.
  - with the court in jurisdiction where person is currently confined.
  - with the appellate court in state where conviction was entered.
  - with the U. S. Supreme Court.

ANS: B            REF: Habeas Corpus            LO: 11

18. The Antiterrorism and Effective Death Penalty Act of 1996:
- abolished the right of inmates convicted in state court to file *habeas corpus* in federal courts.
  - abolished the right to file federal *habeas corpus* in death penalty cases.
  - requires that individuals convicted in state court file federal *habeas corpus* petitions within one year of the exhaustion of their state court remedies.
  - has no bearing on *habeas corpus* proceedings.

ANS: C            REF: Habeas Corpus            LO: 11

19. Section 1983 allows a person to sue a local government employee in federal court for a violation of:
- Fourth Amendment.
  - Due Process.
  - Equal Protection.
  - All of these

ANS: D            REF: Civil Rights Act            LO: 11

20. Police officers have qualified immunity from suit under the Civil Rights Act of 1871:
- for all actions done in the line of duty.
  - only for actions mandated by state law.
  - for all actions done in good faith.
  - they do not have qualified immunity.

ANS: C

REF: Civil Rights Act

LO: 12

## CRITICAL THINKING

Earle is a state court judge in a small town in Kansas. The mayor is outraged by some of Earle's rulings. Earle does not like local politics so he has decided he would rather be a judge in a federal court. He thinks this may be difficult because Kansas only has one U. S. District Court.

1. Which of the following would violate the principle of independent judiciary?
- Earle was voted out of office by the local population after the mayor ran a publicity campaign about Earle's most unpopular rulings.
  - Earle was impeached because he accepted a bribe.
  - Earle was removed from office by the governor at the request of the mayor.
  - Earle lost his judgeship because the court boundaries were changed to favor larger cities.

ANS: C

REF: Independent Judiciary

LO: 2

2. Earle wants to pursue his dream of being a U. S. District Court judge. Which of the following is most likely to help?
- Ask the Kansas State Judicial Council to nominate him
  - Ask one of the U. S. Senators from Kansas to submit his name to the president
  - Run ads on TV in Washington, D.C.
  - File appropriate papers to run for a judgeship in the U. S. District Court in Kansas at the next election

ANS: B

REF: Independent Judiciary

LO: 2

3. Assuming Earle becomes a judge for the U. S. District Court for the District of Kansas, what will be the geographical jurisdiction for his court?
- Any cases arising in the state of Kansas
  - Only cases in which the U. S. government or any of its agencies are parties
  - Only federal case based on event occurring within 150 miles of the U. S. District Courthouse in Topeka, Kansas
  - All federal crimes committed in the state of Kansas

ANS: D

REF: Geographical Jurisdiction

LO: 4



Frank is a judge in the Los Angeles County Superior Court. He has been a judge for 10 years and has served in both civil and criminal courts. The governor has informed Frank that he is being appointed to the California Court of Appeals. He will be in the Second District which covers Los Angeles, Ventura, Santa Barbara and San Luis Obispo counties. Frank has some questions about his new job.

4. Will Frank be hearing appeals from criminal cases?
  - a. No, all appeals from trials in the state's trial courts go directly to the state's highest appellate court.
  - b. No, only the federal courts can reverse convictions from state trial courts.
  - c. Yes, if a defendant in a state criminal case who was not sentenced to death appeals, the state court of appeals reviews the record of what transpired at the trial court level.
  - d. Yes, but only for defendant convicted in state trial court who assert that there is newly discovered evidence.

ANS: C            REF: Functions of Various Levels of Courts            LO: 6 | 7

5. How will Frank decide if a case is on direct appeal or discretionary appeal?
  - a. If the presiding justice assigns him to a case, the case should be treated as a direct appeal.
  - b. If he is allowed to vote on whether the Court of Appeals for the Second District should hear the case, it is a direct appeal.
  - c. Direct appeals must be filed before trial, all other cases are discretionary appeals.
  - d. If a statute mandates that the Court of Appeals for the Second District hear the case, it is a direct appeal.

ANS: D            REF: Direct Appeals; Discretionary Appeals            LO: 9

6. Is Frank required to vote to reverse a criminal case if constitutional errors occurred at trial?
  - a. Yes, the defendant's constitutional rights must be protected.
  - b. He should vote to reverse only if he is convinced that error affected the outcome of the case.
  - c. He should not vote to reverse due to constitutional errors because only the federal appellate courts are allowed to consider constitutional issues.
  - d. He should not vote to reverse if the error occurred in a jury trial because appellate judges must respect the jury's determination of guilt.

ANS: B            REF: Direct Appeal            LO: 8

Test Bank

7. Can the United States Supreme Court reverse his rulings?
- Yes. The United States Supreme Court automatically grants a Petition for Certiorari for cases tried in state courts that raise constitutional issues.
  - Maybe. The United States Supreme Court can grant a Petition for Certiorari for any case tried in state courts if 4 justices vote to hear the case.
  - Maybe. The United States Supreme Court can grant a Petition for Certiorari for criminal cases raising constitutional issues if 4 justices vote to hear the case.
  - No. The United States Supreme Court never grants a Petition for Certiorari if the case received a complete review by the state appellate courts.

ANS: C            REF: Appeals to the United States Supreme Court    LO: 10

Gwen was convicted on embezzlement charges in state court and is serving a sentence in a state prison. She is trying to decide how to get out of prison.

8. What would be the advantage of a direct appeal?
- Gwen will have a constitutional right to have an attorney represent her on appeal because she has no money.
  - If the Court of Appeals rules in Gwen's favor she will have Double Jeopardy protections from being tried again.
  - Gwen will be able to present evidence that the judge ruled was inadmissible at her trial.
  - All of these are possible outcomes of filing a direct appeal.

ANS: A            REF: Direct Appeal                            LO: 9

9. Should Gwen file a Petition for Habeas Corpus?
- Yes, if the Petition for Habeas Corpus is granted the court will hold hearing and Gwen will be able to present all her evidence to a new jury.
  - Yes, if she wins the Petition for Habeas Corpus her conviction will be reversed.
  - No, she does not qualify for habeas corpus because she is in prison.
  - No, habeas corpus is used to challenge illegal confinement, not to reverse a conviction.

ANS: D            REF: Habeas Corpus                            LO: 11

10. Should she file a Civil Rights Act case?
- No, a judge in a Civil Rights Act case cannot order anyone released from prison.
  - No, Civil Rights Acts cases can only be filed after a conviction has been reversed by an appellate court.
  - Yes, if she establish that her constitutional right were violated the federal judge in the Civil Rights Act cases will mandate that her conviction be reversed.
  - Yes, if she files a Civil Rights Act case in federal court she will be released on bail pending the outcome of the Civil Rights Act case.

ANS: A            REF: Civil Rights Act                            LO: 12

**ESSAY**

1. Explain how the constitutional system of checks and balances impacts the criminal justice system.

ANS: Law enforcement and corrections are part of the executive branch of government. The president may have bills introduced in Congress affecting the creation, organization, and funding for these agencies, but the laws must be passed by Congress before they can go into effect. All of these laws are subject to constitutional review by the federal courts. The president can also veto criminal justice related legislation passed by Congress that he/she deems inappropriate.

The federal courts are an important component of the criminal justice system. The president nominates individuals for federal judgeships but the Senate must confirm them. Congress must pass bills authorizing the budget for the courts and establishes the number of judgeships, but these bills only become law if the president signs them. Congress passes many bills affecting criminal justice: laws defining crimes, establishing criminal justice agencies, and providing funds for them. These bills require the signature of the president. Congress retains the power to override a presidential veto by a two-thirds vote, but it is rare to find sufficient votes to do this. Once a bill becomes law the judicial branch can review it and declare it unconstitutional if Congress exceeded its power.

REF: Checks and Balances

LO: 1

2. Explain how the United States can claim it has an independent judiciary when judges are appointed by politicians.

ANS: While appointment to a federal judgeship must be approved by the political branches of government, once a judge takes office he/she cannot be removed from office for political reasons. The Constitution limits the authority of Congress to impeach federal officials (including judges) to “conviction of treason, bribery, or other high crimes and misdemeanors.” Thus impeachment occurs only after conviction in the courts and has very specific criteria. Absent such proceedings, federal judges serve for life and cannot be removed from office based on the popularity of their judicial actions. Changes in the party in power in Washington do not affect the tenure of federal judges.

REF: Independent Judiciary

LO: 2

3. Explain how geographical jurisdiction and the statute of limitations restrict the power of the trial court in criminal cases.

ANS: The defense can have charges dismissed if the court does not have geographical jurisdiction or if the statute of limitations has run. The role of geographical jurisdiction is to keep criminal proceedings at the local level. The crime must occur within the court’s geographical boundaries. In our electronic age, crimes may stretch across many jurisdictions, but to have the authority to try a case the judicial district must be in some way

involved. The legislature establishes the boundaries and enacts rules for determining where a multi-jurisdictional crime should be tried.

The statute of limitations place a time limit on when charges may be filed. The limits are enacted by the legislature and in most cases are related to the seriousness of the offense. Most states have a few crimes, such as murder, with no statute of limitations, i.e., they can be filed at any time. In effect, the statute of limitations is a policy decision regarding how long charges are allowed to remain pending against a person. The courts cannot make these policies independent of the legislature. Retroactively extending the limitations after they expire is a form of *ex post facto* law and is prohibited by the Constitution.

REF: Geographical Jurisdiction; Statue of Limitations      LO: 4 | 5

4. Explain how the role of appellate courts handling discretionary appeals differs from their role handling direct appeals.

ANS: All states and the federal government have rules that provide for a direct appeal after conviction. The defense drafts the issues to be considered during this process, the prosecution files a responsive brief, and the appellate court rules on each issue. This review is designed to protect the defendant's constitutional rights. Higher courts, whether directly above the initial appellate court or the U. S. Supreme Court, vote on the cases they wish to accept and often select only one issue to review in those cases. At this level the court is considering more than the rights of the individual who filed the appeal. The need to establish precedent, or change existing precedent, is usually the key reason the case is heard. A conflict between lower courts of equal rank is one of the most compelling reasons for granting a hearing.

REF: Direct Appeals; Discretionary Appeals      LO: 9

5. Explain how habeas corpus proceedings differ from direct appeals.

ANS: A direct appeal is based on the record of what occurred at the trial court. The appellate judges have access to the complete transcripts of the case as well as the briefs of appellate counsel for both sides. Nothing outside that record can be considered. *Habeas corpus* proceedings, on the other hand, are initiated at the trial court level. After a review of the documents to verify that the case is appropriate for *habeas corpus*, a hearing is held and each side is entitled to call witnesses. Normal rules for cross examination apply. Unlike the appeal which is bound by the record of what has already happened, *habeas corpus* involves testimony of witnesses and the ability to ask new questions. *Habeas corpus* can also be used for issues relating to confinement, such failure to release inmate after completion of a prison term or continued confinement in a mental hospital after a psychiatric condition has improved, that develop after the trial has been completed.

REF: Habeas Corpus      LO: 11