

TEST BANK

GARDNER AND ANDERSON



Eighth Edition

CRIMINAL EVIDENCE

PRINCIPLES AND CASES



CHAPTER 2

MULTIPLE CHOICE

1. The concept of federalism means that government power is shared between
 - a. the legislative, executive, and judicial branches.
 - b. state and federal governments.
 - c. the federal government and the United Nations.
 - d. state and local governments.

ANS: B LO: 1 REF: p. 26

2. In 1975, Congress enacted the _____, which had great influence on state rules of evidence.
 - a. National Standards of Evidence
 - b. Federal Code of Criminal Evidence
 - c. National Rules of Evidence
 - d. Federal Rules of Evidence

ANS: D LO: 2 REF: p. 26

3. Most crimes committed in the U.S. are
 - a. state crimes.
 - b. federal crimes.
 - c. both state and federal crimes.
 - d. both federal and international crimes.

ANS: A LO: 3 REF: p. 27

4. In our adversary system of justice, the defense and prosecution
 - a. cooperate to see that justice is done.
 - b. readily share evidence and information.
 - c. present their best case and challenge the opponent's case.
 - d. rarely challenge the admissibility of the opponent's evidence.

ANS: C LO: 7 REF: p. 33

5. Competent evidence is reliable, relevant evidence that
 - a. is not excluded by additional rules of evidence.
 - b. is subject to the exclusionary rule.
 - c. cannot be heard by the jury.
 - d. is offered to impeach a witness.

ANS: A LO: 4 REF: p. 37

Chapter 2: Important Aspects of the American Criminal Justice System

6. In the American _____ system of criminal prosecution, the government must prove its case by evidence freely and independently secured and may not coerce the defendant to provide evidence.
- fact finding
 - accusatorial
 - inquisitorial
 - peremptory

ANS: B LO: 4 | 5 REF: p. 39

7. Under the _____ rule, the prosecution must disclose exculpatory evidence to the defense.
- DeAngelis*
 - Powell*
 - Curtain*
 - Brady*

ANS: D LO: 6 REF: p. 41

8. If the prosecution destroys evidence important to the defense, this violates a defendant's rights only if the prosecution acted
- in bad faith.
 - negligently.
 - with carelessness.
 - in violation of a court order.

ANS: A LO: 7 REF: p. 42

9. The Constitution allows, and certain states require, that defendants
- reveal incriminating evidence.
 - answer questions posed by the police.
 - give notice that they intend to use an alibi or insanity defense.
 - waive their privilege against self-incrimination.

ANS: C LO: 2 REF: p. 41

10. The United States, as compared to other industrial democracies,
- makes more use of the exclusionary rule.
 - gives prosecutors less discretion.
 - has shorter trials.
 - relies less on plea bargaining.

ANS: A LO: 7 REF: p. 38

Test Bank

11. Reliable evidence is defined as evidence that is likely to be
- true or accurate.
 - prejudicial to one side or the other.
 - subject to the exclusionary rule.
 - exculpatory.

ANS: A LO: 4 | 6 REF: p. 36

12. Evidence is not relevant (irrelevant) if it is
- not related to any fact or issue in the case.
 - subject to a privilege.
 - recognized by judicial notice.
 - exculpatory.

ANS: A LO: 4 REF: p. 36

13. If reliable, relevant evidence is otherwise excludable (e.g. it is privileged or was obtained in violation of the Constitution), such evidence is said to be
- precluded.
 - incompetent.
 - inconsequential.
 - indefatigable.

ANS: B LO: 4 REF: p. 37

14. To validly enact federal statutes, Congress must be acting within
- powers granted by the Constitution.
 - authority granted by the United Nations.
 - the scope of consent granted by the States.
 - the bounds of international law.

ANS: A LO: 2 REF: p. 26

15. The states and federal government
- all use the same rules of evidence.
 - all have created the same crimes.
 - use the same court system.
 - have established 51 different legal systems.

ANS: D LO: 1 REF: p. 26

Chapter 2: Important Aspects of the American Criminal Justice System

16. The Tenth Amendment to the U.S. Constitution states that powers not delegated to the United States are
- reserved to the States or the people.
 - automatically delegated to the federal government.
 - under joint jurisdiction by federal and state governments.
 - ruled by common law.

ANS: A LO: 2 REF: p. 26

17. The keystone of American federalism is the _____.
- U.S. Constitution
 - Bill of Rights
 - Magna Carta
 - separation of church and state

ANS: A LO: 1 REF: p. 26

18. The Federal Rules of Evidence and most state rules of evidence apply in _____ trials.
- criminal
 - both civil and criminal
 - civil
 - administrative

ANS: B LO: 2 REF: p. 27

19. At the federal level are the federal law enforcement agencies created by _____ to enforce specific federal laws.
- the President
 - the Legislature
 - the Senate
 - Congress

ANS: D LO: 2 REF: p. 28

20. The main actors at the trial are the judge, the _____, the prosecutor, and the defense attorney.
- investigator
 - victim
 - jury
 - defendant

ANS: C LO: 4 REF: p. 33

TRUE/FALSE

1. The United States was the first country in the world to utilize a federal form of government.
ANS: T LO: 1 REF: p. 26
2. The U.S. Constitution is the supreme law of the land.
ANS: T LO: 1 REF: p. 26
3. The U.S. Constitution provides that state judges are not bound by the U.S. Constitution, but by their state constitution.
ANS: F LO: 1 REF: p. 26
4. The Federal Rules of Evidence must be followed in all state trials.
ANS: F LO: 1 REF: p. 26
5. The American system of justice is basically an adversary system.
ANS: T LO: 1 | 5 REF: p. 33
6. In the adversary system, each side seeks to present evidence that is most favorable to its position.
ANS: T LO: 5 REF: p. 33
7. Nonrelevant evidence is generally admissible.
ANS: F LO: 4 REF: p. 35
8. “Competent evidence” is a catch-all term that included reliable and relevant evidence that is not rendered inadmissible by some other rule.
ANS: T LO: 4 REF: p. 37
9. Most countries other than the U.S. utilize an inquisitorial system of justice.
ANS: T LO: 5 REF: p. 40
10. In an adversary system of justice, each side generally conducts separate investigations and generally does not share advance information with the other side.
ANS: T LO: 5 REF: p. 40

Chapter 2: Important Aspects of the American Criminal Justice System

11. In our adversary system, the prosecution has no obligation to reveal any evidence to the defense.
ANS: F LO: 5 REF: p. 40
12. In the U.S., no state ever requires that the defendant reveal information or possible defenses to the prosecution.
ANS: F LO: 5 REF: p. 40
13. Any time the prosecution loses, displaces, or destroys important evidence in a criminal case, it is automatically a violation of due process.
ANS: F LO: 7 REF: p. 42
14. The *Brady* rule requires that the defense disclose clearly exculpatory evidence to the prosecution.
ANS: F LO: 6 REF: p. 42
15. If the prosecution deliberately uses false evidence or perjured testimony to obtain a conviction, the defendant will get a new trial.
ANS: T LO: 6 REF: p. 43
16. The American criminal justice system is both accusatorial and adversarial in nature.
ANS: F LO: 5 REF: p. 33
17. No jurisdiction requires that defendants reveal anything about their case to the prosecution.
ANS: F LO: 6 REF: p. 41
18. A conviction obtained by the knowing use of false evidence or testimony violates due process and will be reversed.
ANS: T LO: 4 REF: p. 44
19. All jurisdictions in the U.S. utilize the Federal Rules of Evidence.
ANS: F LO: 2 REF: p. 28
20. If the defense loses or misplaces evidence important to the prosecution, it is a violation of due process.
ANS: F LO: 7 REF: p. 42

FILL-IN-THE-BLANK

1. The system in which power is shared between state and federal governments is called _____.
ANS: federalism LO: 1 REF: p.26
2. The U.S. _____ is the supreme law of the land.
ANS: Constitution LO: 2 REF: p. 26
3. In a/n _____ system of justice, a trial is a battle between two opponents.
ANS: adversary LO: 5 REF: p. 33
4. _____ evidence is that which possesses a significant degree of believability.
ANS: Reliable LO: 4 REF: p. 36
5. Relevant, reliable evidence may be inadmissible if it is _____.
ANS: incompetent LO: 4 REF: p. 37
6. The American system of criminal justice is an adversarial one, not a/n _____ one.
ANS: inquisitorial LO: 5 REF: p. 40
7. Under the _____ rule, the prosecution must disclose to the accused any evidence which is favorable to the accused.
ANS: *Brady* LO: 6 REF: p. 41
8. If evidence potentially favorable to the accused is lost, destroyed, or misplaced, this is a violation of due process only if the government acted in _____.
ANS: bad faith LO: 7 REF: p. 42
9. At a trial, the _____ solves questions of law.
ANS: judge LO: 5 REF: p. 34
10. At a jury trial, the _____ determines the facts of the case.
ANS: jury LO: 5 REF: p. 34

11. The legal and ethical obligation of the prosecutor is to seek _____.
ANS: justice LO: 5 REF: p. 34
12. If the judge or jury is not allowed to see or hear the evidence, the evidence is said to be _____.
ANS: inadmissible LO: 4 REF: p. 35
13. The scope of federal criminal jurisdiction under the _____ Clause is contentious.
ANS: Commerce LO: 3 REF: p. 28
14. In the adversarial system, evidence that a third party committed the crime is likely to be challenged by the _____.
ANS: prosecutor LO: 4 | 5 REF: p. 33
15. Emergency procedures permit a law enforcement officer or a physician to place a person in a mental health facility who exhibits signs of a mental illness for an initial period of no longer than _____ hours.
ANS: 48 LO: 5 REF: p. 45

ESSAY

1. Define and describe an adversary system of justice. What role do the rules of evidence play in such a system? Be sure to provide examples.

ANS: In the American adversary system, the prosecutor and the defense attorney assume adversarial roles; that is, they do not seek to establish the facts in cooperation with each other, but in opposition. Each side has two goals: to present the facts most advantageous to their position, and to seek to prevent and make it difficult for their opponent to do the same.

LO: 4 | 5 Ref: p. 33

2. What is the *Brady* rule? Provide an example of a violation of this rule. What are the consequences of a violation of the *Brady* rule?

ANS: The Brady rule requires that a prosecutor has a duty to disclose evidence favorable to an accused upon request, where the evidence is material to guilt or innocence. Where such evidence is in the exclusive possession of the prosecution, it must be disclosed even when there is no request for disclosure by the defense if such evidence is "clearly supportive of a claim of innocence." An example of a violation of the Brady rule would

be where the prosecution failed to notify the defense that a key witness was a paid informant. If a *Brady* violation occurs, the penalty often will be more severe, and could be a new trial or even a complete dismissal of the criminal charges.

LO: 6 REF: p. 41

3. The jurisdiction of the federal government in interstate commerce issues is often challenged. Use *Gonzales v. Rich* as a foundation for your discussion. Discuss the situations in which you believe the federal government should become involved. Do you agree with the *Gonzales* decision? Why or why not? (LO2, 23)

ANS: Examples may include where there is a perceived conflict between state and federal law, typically this would be in situations where state law was deemed to be more lenient or permissive of behaviors/actions that would be in violation of federal law.

LO: 3 REF: p. 28

4. Delineate and discuss the duties of law enforcement agencies at the local, state and federal levels.

ANS: Local law enforcement agencies such as police and sheriff departments enforce city and county ordinances in addition to the criminal laws of their state. They bring their cases to city attorneys and state attorneys (district attorneys) for charging and prosecution. Municipal police officers often spend more time in municipal courts on ordinance violations than they spend in state courts appearing in criminal cases. Federal law enforcement officers work in the many federal law agencies created by Congress. They enforce specific federal laws assigned to their agencies and take most of their cases to federal prosecutors for trial in the federal court system.

LO: 1 | 2 | 5 REF: p. 30

5. Why are some states' rules of evidence different from the federal rules of evidence?

ANS: Most states have adopted rules of evidence almost identical to the Federal Rules, however, each state retains the power to interpret and modify those rules of evidence. Thus, the meaning and application of the Federal Rules of Evidence can vary between federal courts and state courts and between the states.

LO: 4 REF: p. 26

6. What is the main function of a jury? Why is this duty imposed on the jury?

ANS: The determination of truth is the function of the jury. Because the jury must determine truth based only on the often-conflicting versions presented by the adversaries, however, the system has elaborate rules to control how those versions of the truth are

presented. The purpose of the rules of evidence is to ensure each adversary's version of the truth is put before the jury by relevant, reliable, and competent evidence.

LO: 4 REF: p. 33

7. What is an alibi defense, and if used by a defendant, what rules of evidence must be followed?

ANS: In using the alibi defense, a defendant is alleging that he or she physically could not have committed the crime that is charged because the defendant was at another place at the time the crime was committed. Because an alibi can easily be fabricated, it must be carefully investigated. Most states have notice of alibi statutes that require defendants who plan to use an alibi defense to serve notice on the prosecutor before trial.

LO: 4 | 5 REF: p. 40

8. In terms of lost, misplaced, or destroyed evidence, the Supreme Court has held that a violation of due process has not occurred unless the following is shown:

ANS: *Bad faith on the part of the police or other law enforcement official:* The Court held that "unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law." *The evidence also would be of likely significance to the defendant's defense:* The Court held that "[the] evidence must both possess an exculpatory value that was apparent before the evidence was destroyed, and be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means."

LO: 7 REF: p. 42