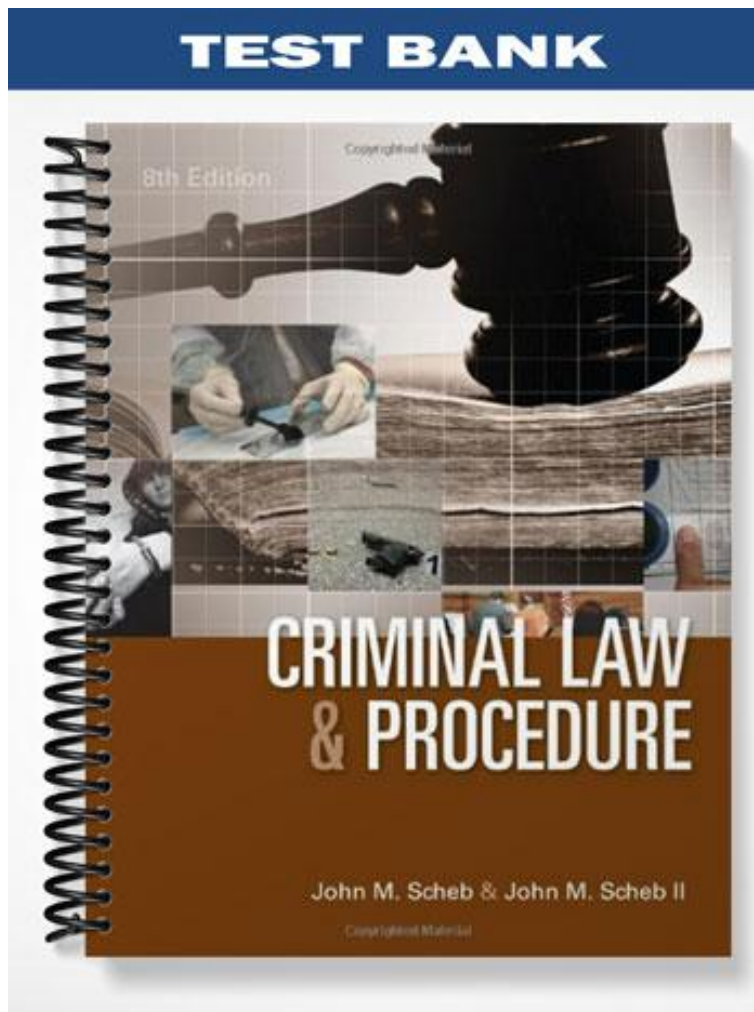


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## CRIMINAL LAW & PROCEDURE

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# **EXAM QUESTIONS**

## **CHAPTER 2: ORGANIZATION OF THE CRIMINAL JUSTICE SYSTEM**

### **TRUE/FALSE:**

1. The Federal Bureau of Investigation is housed within the U.S. Department of Justice.

ANS: T            REF: 31            LO: 2

2. The governmental institution with responsibility for enacting laws is the legislature.

ANS: T            REF: 26            LO: 2

3. Law enforcement agencies are the “gatekeepers” of the criminal justice system.

ANS: T            REF: 32            LO: 2

4. Assistant U.S. Attorneys are appointed by the President, subject to the consent of the Senate.

ANS: F            REF: 33            LO: 5

5. Only those persons accused of felonies have a constitutional right to retain lawyers for their defense.

ANS: F            REF: 34            LO: 5

6. Appellate courts are primarily fact-finding bodies.

ANS: F            REF: 38            LO: 7

7. The intermediate appellate courts in the federal judicial system are the United States District Courts.

ANS: F            REF: 39            LO: 7

8. Each state has its own independent judicial system.

ANS: T            REF: 42            LO: 7

9. According to the authors, state courts handle more than 90% of the criminal prosecutions in the United States.

ANS: T            REF: 42            LO: 7

10. Crimes committed by persons in military service are ordinarily prosecuted in proceedings before courts-martial.

ANS: T            REF: 40            LO: 8

11. Under our system of federalism, the national government and each of the fifty states operates its own system of criminal justice.

ANS: T            REF: 27            LO: 1

12. Because the federal government and the government of each state enacts its own criminal laws and has its own system of courts to interpret those laws, there are significant variations across the states and between the state and federal systems.

ANS: T            REF: 42            LO: 1

13. State legislatures have very narrow powers to enact laws to further the public safety, order, health, and welfare.

ANS: F            REF: 29            LO: 3

14. Unlike their medieval forebears, modern law enforcement agencies are largely unconstrained by laws and professional norms.

ANS: F            REF: 30            LO: 4

15. According to the authors, in the modern era the legislative powers of Congress have been exercised and interpreted quite broadly.

ANS: T            REF: 27-28        LO: 3

16. Prosecutors have broad discretion in determining whether to file charges and, if so, what charges to file.

ANS: T            REF: 32            LO: 5

17. In all criminal prosecutions except for petty offenses, indigent defendants are entitled to government-furnished counsel, usually a public defender.

ANS: T            REF: 34            LO: 5

18. Grand juries are like trial juries; they determine guilt or innocence, but only in federal criminal cases.

ANS: F            REF: 36            LO: 6

19. All appellate courts are federal courts.

ANS: F            REF: 38-43            LO: 7

20. Appellate courts correct errors made at the trial level and, where it becomes necessary, fill in the gaps of the statutory law by exercising a lawmaking function.

ANS: T            REF: 42            LO: 7

### **MULTIPLE CHOICE:**

1. At the national level, the \_\_\_\_\_ is the primary agency empowered to investigate violations of federal criminal laws.

- Federal Bureau of Investigation
- Bureau of Alcohol, Tobacco and Firearms
- Secret Service
- Immigration and Naturalization Service

ANS: A            REF: 31            LO: 2

2. In addition to the FBI, federal law enforcement agencies include the \_\_\_\_\_.

- Bureau of Alcohol, Tobacco and Firearms
- the Bureau of Indian Affairs
- the Customs Service
- all of these

ANS: D            REF: 31            LO: 2

3. Federal statutes are published in the \_\_\_\_\_, an annual publication dating from 1789 in which federal statutes are arranged in order of their adoption.

- Federal Register
- Code of Federal Regulations
- Supreme Court Reporter
- United States Statutes at Large

ANS: D            REF: 28            LO: 3

4. The most popular compilation of the federal law used by lawyers, judges, and criminal justice professionals is the \_\_\_\_\_.
- Federal Register
  - Code of Federal Regulations
  - U.S. Code Annotated
  - Compendium of Federal Legislation

ANS: C            REF: 28            LO: 3

5. Congress's legislative power may be divided into two broad categories: enumerated and \_\_\_\_\_ powers.
- concurrent
  - inherent
  - plenary
  - implied

ANS: D            REF: 27            LO: 3

6. When state legislatures adopt statutes, they are published in volumes known as \_\_\_\_\_.
- reporters
  - session laws
  - syllabi
  - digests

ANS: B            REF: 28            LO: 3

7. Because statutes are necessarily written in general language, legislation often requires judicial \_\_\_\_\_.
- extrapolation
  - interpretation
  - modification
  - specification

ANS: B            REF: 29            LO: 3

8. Because legislative bodies have enacted vast numbers of laws defining offenses that are \_\_\_\_\_, statutory interpretation assumes an importance largely unknown to the English common law.
- exogenous
  - esoteric
  - lex non scripta
  - mala prohibita

ANS: D            REF: 29            LO: 4

9. The most frequent maxim applied by courts in determining legislative intent is the \_\_\_\_\_ rule.
- a. original package
  - b. plain meaning
  - c. nolle prosequi
  - d. unit

ANS: B            REF: 29            LO: 4

10. In determining the meaning of the statutory term “\_\_\_\_\_,” a court would ordinarily look to the common law, which defined the term to mean “an enclosed space surrounding a dwelling.”
- a. domicile
  - b. homestead
  - c. cartilage
  - d. residence

ANS: C            REF: 30            LO: 4

11. Defense attorneys perform all of the following functions except \_\_\_\_\_.
- a. courtroom advocacy
  - b. plea negotiation
  - c. testifying on behalf of clients
  - d. protecting defendants’ rights

ANS: C            REF: 35            LO: 5

12. The official who heads the U.S. Department of Justice is the \_\_\_\_\_.
- a. Barrister General
  - b. Attorney General
  - c. Solicitor General
  - d. Minister of Justice

ANS: B            REF: 31            LO: 5

13. In \_\_\_\_\_ (1963), the U.S. Supreme Court greatly expanded the right to counsel by requiring states to provide attorneys to indigent defendants charged with felonies.
- a. *Mapp v. Ohio*
  - b. *Miranda v. Arizona*
  - c. *Gideon v. Wainwright*
  - d. *Murphy v. Waterfront Commission*

ANS: C            REF: 34            LO: 5

14. The Constitution provides: “The judicial Power ... shall be vested in one Supreme Court, and in such inferior Courts as the \_\_\_\_\_ may from time to time ordain and establish.”
- Supreme Court
  - President
  - Congress
  - Attorney General

ANS: C            REF: 38            LO: 7

15. Pretrial proceedings in the federal district courts and trials of federal misdemeanors are often handled by \_\_\_\_\_ who are appointed by federal district judges.
- magistrate judges
  - referees
  - special masters
  - barristers

ANS: A            REF: 38            LO: 7

16. The federal government and each of the fifty state governments maintain their own system of courts. These systems include both trial courts and \_\_\_\_\_ courts.
- surrogate
  - appellate
  - superior
  - legislative

ANS: B            REF: 38-39        LO: 7

17. The United States \_\_\_\_\_ Courts are the major trial courts in the federal judiciary.
- Circuit
  - Superior
  - Supreme
  - District

ANS: D            REF: 38            LO: 7

18. The Supreme Court has jurisdiction to review, either on appeal or by writ of \_\_\_\_\_ all the decisions of the lower federal courts and many decisions of the highest state courts.
- mandamus
  - attainder
  - certiorari
  - prohibition

ANS: C            REF: 39            LO: 7

19. Only under conditions of \_\_\_\_\_ do military tribunals have the authority to try civilians.
- war
  - emergency
  - martial law
  - none of these

ANS: C            REF: 41            LO: 8

20. Convictions rendered by courts-martial may be reviewed by \_\_\_\_\_.
- state trial courts
  - the state supreme courts
  - the Joint Chiefs of Staff
  - none of these

ANS: D            REF: 41            LO: 8

21. Crimes committed by persons who are \_\_\_\_\_ are ordinarily prosecuted before courts-martial.
- on Indian reservations
  - on federal reservations
  - in the federal civil service
  - in the military services

ANS: D            REF: 40            LO: 8

22. Decisions of courts-martial are reviewed by military courts of review in each branch of the armed forces and in certain instances appeals are heard by the United States \_\_\_\_\_.
- Court of International Justice
  - Court of Appeals for the Federal Circuit
  - Claims Court
  - Court of Appeals for the Armed Forces

ANS: D            REF: 41            LO: 8

23. The abuses that came to be associated with juvenile courts were addressed by the Supreme Court in the landmark case of \_\_\_\_\_.
- In re Gault* (1967)
  - Gideon v. Wainwright* (1963)
  - Ex Parte Hull* (1979)
  - Mapp v. Ohio* (1961)

ANS: A            REF: 46            LO: 9



24. In *McKeiver v. Pennsylvania* (1971), the Supreme Court refused to extend the right to \_\_\_\_\_ to juvenile proceedings.
- counsel
  - speedy and public trial
  - trial by jury
  - cross-examination

ANS: C          REF: 46          LO: 9

25. Corrections systems include \_\_\_\_\_.
- agencies that supervise probation and parole
  - public defender offices
  - the criminal courts
  - none of these

ANS: A    REF: 49          LO: 10

### COMPLETION:

1. The \_\_\_\_\_ is the oldest unit of federal law enforcement, dating back to 1790.

ANS: U.S. Marshals Service

REF: 31          LO: 2

2. In addition to the regular federal prosecutors, Congress has provided for the appointment of \_\_\_\_\_ in cases involving alleged misconduct by high government officials.

ANS: independent counsel; special prosecutors

REF: 33          LO: 6

3. The principal trial court in the federal system is the \_\_\_\_\_.

ANS: United States District Court

REF: 38          LO: 8

4. The U.S. Supreme Court is composed of nine justices who are appointed for life by the President with the consent of the \_\_\_\_\_.

ANS: Senate

REF: 40          LO: 8

5. Trial courts conduct criminal trials and various pretrial and post-trial proceedings, while \_\_\_\_\_ hear legal challenges to the decisions of the trial courts.

ANS: appellate courts

REF: 38          LO: 7

6. The U.S. Supreme Court has jurisdiction to review, either on appeal or by writ of \_\_\_\_\_, the decisions of the lower federal courts and many of the decisions of the highest state courts.

ANS: certiorari

REF: 38      LO: 7

7. A court must have \_\_\_\_\_, over both the subject matter of a case and the parties to a case, before it may proceed to adjudicate that controversy.

ANS: jurisdiction

REF: 38      LO: 7

8. Courts-martial may try all offenses committed by military service persons in violation of the \_\_\_\_\_.

ANS: Uniform Code of Military Justice

REF: 40      LO: 8

9. Special treatment of juvenile offenders has been justified by the concept of \_\_\_\_\_, the power of the state to act to protect the interests of those who cannot protect themselves.

ANS: parens patriae

REF: 45      LO: 9

10. Criminal punishment is limited by the \_\_\_\_\_ Amendment's prohibition of cruel and unusual punishments.

ANS: Eighth

REF: 47      LO: 10

11. State legislatures define offenses and set punishments for their states and authorize local governing bodies to enact \_\_\_\_\_ defining minor offenses and setting penalties.

ANS: ordinances

REF: 33      LO: 2

12. Congress's legislative powers are restricted to constitutionally enumerated and \_\_\_\_\_ powers.

ANS: implied

REF: 27      LO: 3

13. American courts adhere to the doctrine of following precedent, which is known as \_\_\_\_\_.

ANS: stare decisis

REF: 50      LO: 3

14. Defense attorneys assist persons charged with crimes and represent them at trial when they plead \_\_\_\_\_.

ANS: not guilty

REF: 35      LO: 5

15. At the federal level and in many states, grand juries review evidence of criminal activity and determine whether to hand down an \_\_\_\_\_ or presentment.

ANS: indictment

REF: 36      LO: 6

16. At the national level the \_\_\_\_\_ hear routine appeals from decisions of the district courts.

ANS: U.S. Courts of Appeal

REF: 38      LO: 7

17. Military tribunals are empowered to try any offense by military personnel under the \_\_\_\_\_.

ANS: Uniform Code of Military Justice

REF: 40      LO: 8

18. The military has an appellate system consisting of courts of review and a civilian court named the \_\_\_\_\_.

ANS: U.S. Court of Appeals for the Armed Forces.

REF: 41      LO: 8

19. The \_\_\_\_\_ justice system includes specialized courts, law enforcement agencies, social services agencies, and corrections facilities that deal with delinquency as well as child neglect and abuse.

ANS: juvenile

REF: 45      LO: 9

20. Today, the focus of criminal punishment is on \_\_\_\_\_ to prevent commission of further crimes rather than the rehabilitation of offenders.

ANS: incapacitation

EF: 48      LO: 10

## CRITICAL THINKING:

A 2006 law permits a federal district court to order the continued confinement of sexually violent offenders who have completed their prison sentences. The statute was challenged on the ground that Congress lacks constitutional authority to legislate in this area. The government asserted the Necessary and Proper Clause as the constitutional basis for the statute, but the U.S. District Court for the Eastern District of North Carolina and the U.S. Court of Appeals for the Fourth Circuit disagreed and declared the law invalid. *In United States v. Comstock* (2010), the Supreme Court reversed and held that the Necessary and Proper Clause grants Congress authority sufficient to enact the challenged law. In a dissenting opinion, Justice Clarence Thomas observed that the Court's opinion "comes perilously close to transforming the Necessary and Proper Clause into a basis for the federal police power that 'we *always* have rejected'..."

1. In this case, the Supreme Court exercised the power of:
  - a. stare decisis
  - b. habeas corpus
  - c. judicial review
  - d. mandamus

ANS: C      LO: 7      REF: 39

2. The law being reviewed by the Supreme Court was a:
  - a. procedural rule
  - b. state law
  - c. local ordinance
  - d. federal statute

ANS: D      LO: 2      REF: 27

3. In his dissenting opinion, Justice Thomas argued for a \_\_\_\_\_ interpretation of the Necessary and Proper Clause.
  - a. narrow
  - b. liberal
  - c. broad
  - d. novel

ANS: A      LO: 3      REF: 29

4. In this case, the lower federal courts took a \_\_\_\_\_ view of Congress' legislative powers.
  - a. broad
  - b. restrictive
  - c. novel
  - d. liberal

ANS: B      LO: 3      REF: 29

5. The constitutional clause at issue in this case is found in \_\_\_\_\_ of the Constitution.
- Article II, Section 1
  - the Tenth Amendment
  - Article IV
  - Article I, Section 8

ANS: D            LO: 3            REF: 27

In *Arizona v. United States* (2012), the U.S. Supreme Court struck down the provisions of a state law making illegal entry into the country a state offense, banning undocumented immigrants from working in the state, and allowing warrantless arrests of those suspected of deportable offenses. Noting that the U.S. Constitution grants authority over immigration solely to the federal government, the Court held that these provisions were preempted by federal law. However, the Court refused to strike down the most controversial provision of the bill, which required police to verify immigration status if they had reasonable suspicion that someone is an illegal immigrant. The Court remanded this issue to the federal district court for a hearing on the constitutionality of the measure. The Court thus postponed to a later day a decision on the most controversial element of the Arizona law.

6. The Supreme Court ruled that authority over immigration belongs:
- solely to the federal government
  - solely to the state governments
  - to both to the state and federal governments
  - to neither the state nor the federal governments

ANS: A            LO: 3            REF: 27

7. Which basic constitutional principle is involved in this case?
- checks and balances
  - separation of powers
  - due process of law
  - federalism

ANS: D            LO: 1            REF: 26

8. Congress might have the power to enact a similar law using its:
- police power
  - power to regulate interstate commerce
  - enumerated power over immigration
  - inherent powers

ANS: C            LO: 3            REF: 27

9. The Supreme Court held that states cannot:
- make illegal entry into the country a state offense
  - ban undocumented immigrants from working in the state
  - allow warrantless arrests of those suspected of deportable offenses
  - all of these

ANS: D      LO: 3      REF: 27

10. The most controversial provision of the Arizona law:
- made illegal entry into the country a state offense
  - required police to verify immigration status of suspected illegal immigrants
  - allow warrantless arrests of those suspected of deportable offenses
  - banned undocumented immigrants from working in the state

ANS: B      LO: 3      REF: 27

**ESSAY:**

1. How does federalism affect the administration of criminal justice in the United States?

ANS: Responses will vary      REF: 25-32      LO: 1

2. Explain the scope of Congress's legislative power under the Commerce Clause of the Constitution.

ANS: Responses will vary      REF: 27-28      LO: 3

3. Why is it necessary for courts to interpret statutes? What principles do courts follow in statutory interpretation?

ANS: Responses will vary      REF: 29-30      LO: 3

4. How does modern policing differ from policing as practiced in the early days of the country?

ANS: Responses will vary      REF: 30-32      LO: 5

5. Explain the different functions that a defense attorney serves in the criminal justice system.

ANS: Responses will vary      REF:34-35      LO: 5

6. What is the role of a grand jury? How does it contrast with the functions that a petit jury performs?

ANS: Responses will vary      REF: 36-37      LO: 6

7. What are the principal differences between trial and appellate courts with respect to role, function and procedure?

ANS: Responses will vary      REF: 37-40      LO: 7

8. Why does the U.S. Supreme Court exercise considerable discretion in deciding which cases to review?

ANS: Responses will vary      REF: 39-40      LO: 7

9. What led to the Supreme Court's decision in *In re Gault* (1967) and what impact did it have on the rights of juveniles and on the juvenile court system?

ANS: Responses will vary      REF: 46-47      LO: 9

10. What courts comprise the federal judiciary and what function does each perform?

ANS: Responses will vary      REF: 38-21      LO: 7