

# CHAPTER 1

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## MULTIPLE CHOICE

1. The rules of evidence
  - a. determine what information will be available to the judge or jury at trial.
  - b. dictate who can be selected for jury duty
  - c. specify the punishment for crimes.
  - d. require that all defendants have access to *habeas corpus*.

ANS: A      LO: 1 | 2      REF: p. 2

2. In England, before the Norman invasion of 1066, guilt or innocence was determined by
  - a. presentment juries.
  - b. oaths and oath-helpers.
  - c. petit juries.
  - d. ordeals.

ANS: D      LO: 1 | 2      REF: p. 3

3. The Magna Carta of 1215 was the first document establishing
  - a. minimum standards for arresting and imprisoning people accused of crimes.
  - b. the divine right of kings.
  - c. that the monarchy was the only source of personal rights.
  - d. the writ of *mandamus*.

ANS: B      LO: 1      REF: p. 5

4. The English common law writ (also adopted in the U.S.) which allowed a person to challenge the legality of their custody or imprisonment was the writ of
  - a. certiorari.
  - b. habeas corpus.
  - c. mandamus.
  - d. pro hac vice.

ANS: B      LO: 2      REF: p. 5

5. The American Declaration of Independence (1776) the government derives its powers from
- divine right.
  - natural law.
  - the people by their consent.
  - the common law.

ANS: C      LO: 2      REF: p. 7

6. Protection of the writ of *habeas corpus* and jury trials are found in the U.S.
- Bill of Rights.
  - Constitution.
  - Declaration of the Rights of Man.
  - Magna Carta.

ANS: B      LO: 2      REF: p. 9

7. The first ten amendments to the U.S. Constitution are known as the
- Habeas Corpus* Act.
  - Bill of Rights.
  - Magna Carta.
  - Declaration of Rights.

ANS: B      LO: 3      REF: p. 11

8. Under American law, the defendant is presumed innocent and the government must prove guilt
- by a preponderance of the evidence.
  - to a moral certainty.
  - beyond a reasonable doubt.
  - by clear and convincing evidence.

ANS: C      LO: 3      REF: p. 13

9. The right to a speedy and public trial is found in the \_\_\_\_\_ Amendment.
- Fourth
  - Fifth
  - Sixth
  - Eighth

ANS: C      LO: 4      REF: p. 13

10. The privilege against self-incrimination (which includes the right of a defendant not to testify) is found in the \_\_\_\_\_ Amendment.
- a. Fourth
  - b. Fifth
  - c. Sixth
  - d. Eighth

ANS: B      LO: 4      REF: p. 18

11. The Confrontation Clause is found in the \_\_\_\_\_ Amendment.
- a. Fourth
  - b. Fifth
  - c. Sixth
  - d. Eighth

ANS: C      LO: 4      REF: p. 18

12. Through operation of the \_\_\_\_\_ Amendment, many provisions of the Bill of Rights now also limit the power of the states.
- a. Tenth
  - b. Thirteenth
  - c. Fourteenth
  - d. Fifteenth

ANS: C      LO: 3      REF: p. 11

13. Under American law, defendants have a right to a \_\_\_\_\_ trial.
- a. perfect (error free)
  - b. fair
  - c. bench
  - d. inquisitorial

ANS: B      LO: 4      REF: p. 14

14. Under the Sixth Amendment, defendants have a right to a/n \_\_\_\_\_ jury.
- a. favorable
  - b. well-informed
  - c. intelligent
  - d. impartial

ANS: D      LO: 4      REF: p. 19

15. Because it is not required by the U.S. Constitution, only about half the states give defendants a right to
- confront and cross-examine witnesses.
  - grand jury review.
  - have notice of the charges.
  - a speedy and public trial.

ANS: B      LO: 3      REF: p. 14

16. The rules of evidence are important not only to safeguard the rights of accused persons in a fair trial but also to ensure
- the interests of the public in the proper functioning of the criminal justice system.
  - that the accused receives a perfect trial.
  - jurors are protected from distressing evidence.
  - there is no chance of an appeal.

ANS: A      LO: 4      REF: p. 2

17. The \_\_\_\_\_ was the earliest legal procedure by which illegal or improper jailing or detention could be challenged in a court of law.
- Appeal
  - Inquisition
  - Magna Carta
  - Writ of Habeas Corpus

ANS: D      LO: 2      REF: p. 5

18. The Bill of Rights originally applied to the \_\_\_\_\_ government.
- federal
  - states
  - municipal
  - county

ANS: A      LO: 3      REF: p. 11

19. The federal government requires a trial within \_\_\_\_\_ days for a felony unless the requirement for a speedy trial is waived.
- 30
  - 60
  - 70
  - 90

ANS: C      LO: 4      REF: p. 13

20. A suspect arrested without an arrest warrant must have a probable cause hearing before a judge or magistrate "promptly," within \_\_\_\_ hours of the arrest, including weekends and holidays.
- a. 24
  - b. 36
  - c. 48
  - d. 72

ANS: C      LO: 4      REF: p. 12

### TRUE/FALSE

1. After conquering England in 1066, the Norman invaders instituted trial by ordeal.

ANS: F      LO: 1 | 2      REF: p. 2

2. One of the purposes of the rules of evidence is to help assure that defendants get a fair trial.

ANS: T      LO: 1 | 2      REF: p. 2

3. A presentment jury is the same as a trial or petit jury.

ANS: F      LO: 1 | 3      REF: p. 3

4. *Habeas corpus* was established under the Magna Carta.

ANS: F      LO: 2 | 4      REF: p. 5

5. The right of *habeas corpus* is protected by the U.S. Constitution.

ANS: T      LO: 2      REF: p. 5

6. The U.S. Declaration of Independence declares that governments derive their power from consent of the governed.

ANS: T      LO: 2      REF: p. 9

7. The first twelve Amendments to the U.S. Constitution are called the Bill of Rights.

ANS: F      LO: 2      REF: p. 11

8. When originally ratified, the Bill of Rights limited the powers of the federal government, not the powers of the states.

ANS: T      LO: 2      REF: p. 11

9. The defense carries the burden of proving the defendant is not guilty.  
ANS: F LO: 3 REF: p. 13
10. In all states, a defendant has a right to grand jury review of the charges.  
ANS: F LO: 4 REF: p. 14
11. The prosecution is required by law to prove the defendant's guilt beyond a reasonable doubt.  
ANS: T LO: 3 REF: p. 13
12. Under American law, criminal defendants have a right to a perfect (error free) trial.  
ANS: F LO: 4 REF: p. 14
13. The Sixth Amendment contains a right to counsel.  
ANS: T LO: 4 REF: p. 17
14. The Fifth Amendment requires that defendants receive notice of any charges brought against them.  
ANS: F LO: 4 REF: p. 14
15. The Sixth Amendment guarantees a speedy and public trial.  
ANS: T LO: 4 REF: p. 13
16. The prosecution can subpoena that defendants testify at their criminal trials.  
ANS: F LO: 4 REF: p. 18
17. The Eighth Amendment prohibits unreasonable searches and seizures.  
ANS: F LO: 4 REF: p. 18
18. The Sixth Amendment affords defendants a right to confront and cross-examine witnesses.  
ANS: T LO: 4 REF: p. 18
19. Every error at a trial entitles the defendant to a new trial.  
ANS: F LO: 4 REF: p. 14

20. One of the most deeply rooted traditions of modern Anglo-Saxon law is that an accused is innocent until proven guilty beyond a reasonable doubt.

ANS: F      LO: 4      REF: p. 13

### **FILL-IN-THE-BLANK**

1. The first form of jury in English history was the \_\_\_\_\_ jury.

ANS: presentment      LO: 1 | 3      REF: p. 3

2. Prior to the Norman invasion of England, the use of \_\_\_\_\_ was a common method of determining guilt or innocence.

ANS: ordeals      LO: 1 | 2      REF: p. 2

3. The English \_\_\_\_\_ of 1215 was an important step in limiting government power and granting rights.

ANS: Magna Carta      LO: 1      REF: p. 4

4. The writ of \_\_\_\_\_ is a means of challenging the government's authority to detain or imprison people.

ANS: *habeas corpus*      LO: 2 | 4      REF: p. 5

5. The First ten Amendments to the U.S. Constitution are called the \_\_\_\_\_.  
Answer: Bill of Rights

ANS: Bill of Rights      LO: 2      REF: p. 11

6. Under American law, the defendant is entitled to the presumption of \_\_\_\_\_.

ANS: innocence      LO: 4      REF: p. 13

7. The formal charging document issued by a grand jury is called a/n \_\_\_\_\_.

ANS: indictment      LO: 4      REF: p. 14

8. Under American law, the prosecution must prove the defendant's guilty beyond a \_\_\_\_\_ doubt.

ANS: reasonable      LO: 4      REF: p. 13

9. Through operation of the \_\_\_\_\_ Amendment, most of the Bill of Rights' provisions are also applicable against the states.

ANS: Fourteenth

LO: 4

REF: p. 11

10. The \_\_\_\_\_ Amendment gives defendants a right to a speedy and public trial.

ANS: Sixth

LO: 4

REF: p. 13

11. The rules of \_\_\_\_\_ determine what information can be presented to the judge and/or jury.

ANS: evidence

LO: 4

REF: p. 2

12. The \_\_\_\_\_ Amendment gives defendants a right to notice of the charges, a right to counsel, and a right to confront and cross-examine adverse witnesses.

ANS: Sixth

LO: 4

REF: p. 17

13. Extensive listing of individual rights are found in the Fifth and \_\_\_\_\_ Amendments.

ANS: Sixth

LO: 4

REF: p. 11

14. Protection against illegal search and seizure is guaranteed by the \_\_\_\_\_ Amendment.

ANS: Fourth

LO: 4

REF: p. 18

15. The Magna Carta began the development of the concept in law that there had to be \_\_\_\_\_ cause to justify arresting or holding a person in custody.

ANS: probable

LO: 4

REF: p. 5

## ESSAY

1. The Magna Carta greatly influenced the American Declaration of Independence. Discuss, in detail, the ideals incorporated from the Magna Carta into the Declaration.

ANS: The ideals incorporated from the Magna Carta to the American Declaration of Independence include a legal procedure by which illegal or improper jailing or detention could be challenged in a court of law as well as provide a form of review of criminal convictions and sentences in addition to the normal appeal process, and arguably the most important ideal, that a person should not be jailed or held without just cause.

LO: 1

REF: p. 5

2. Discuss how *habeas corpus* defines/limits our judicial process for enemy combatants.

ANS: Congress passed the Military Commissions Act of 2006 [28 U.S.C. § 2241(e)], which contained a clause stating that federal courts had no jurisdiction to hear habeas corpus claims made by alien, enemy combatants detained at military installations. On review the Supreme Court held that enemy combatants detained at military installations had the constitutional right to bring habeas corpus petitions, and as a result section 2241(e) was an unconstitutional violation of the Suspension Clause [Art. I, § 9, cl. 2],

LO: 2 | 4      REF: p. 6

3. List the abuses by the English monarchy and the corrections of those abuses remedied by the U.S. Constitution.

ANS:

- a. **Wrong:** The practice of English kings jailing persons for no good reason, on mere suspicion or on to search anywhere and anything they wished. **Correction:** The Fourth Amendment requires probable cause to arrest and to issue a search warrant. Habeas corpus is cause and search warrants.
- b. **Wrong:** The use of torture and coercion to obtain confessions. **Correction:** The Fifth Amendment contains privilege against self-incrimination, and the Sixth Amendment the right to an attorney.
- c. **Wrong:** The use of general warrants, which gave British officials power to search anywhere and anything they wished. **Correction:** The Fourth Amendment forbids “unreasonable searches and seizures” and requires probable cause and search warrants.
- d. **Wrong:** The practice of English courts of convicting persons on hearsay and written statements or testimony by persons who did not appear in court and who were not identified to the accused. **Correction:** The Sixth Amendment makes it a requirement that “... the accused shall enjoy the right to be confronted with the witnesses against him ...” ARTICLE II, SECTION 3 of the Constitution prohibits conviction for treason except on “the testimony of two witnesses.”
- e. **Wrong:** Charging a person with a trumped-up criminal charge and then putting pressure on the jury to convict the person. **Correction:** Persons charged with crimes have a right to “an impartial jury” (Sixth Amendment) and “due process of law” (fundamental fairness requirement of the Fourteenth Amendment).

LO: 4      REF: p. 10

4. The foundation of the American criminal justice system was developed through the U.S. Constitution. What are the guarantees of the Fifth and Sixth Amendments??

ANS: Under the Fifth Amendment No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a

Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. Under the Sixth Amendment In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have Assistance of Counsel for his defense.

LO: 4      REF: p. 11 | 12

5. In *Uttecht v. Brown*, the U.S. Supreme Court established principles for excusing jurors. Identify these principles and explain each. (LO3, 16)

ANS: The Supreme Court stated that four principles must be used to determine whether a juror has been properly excused for cause in capital cases: first, The defendant has a right to have a jury that is not tilted in favor of capital punishment, which means the prosecution may not challenge for cause any juror who expresses doubt about capital punishment, secondly, The state has a legitimate interest in having jurors who are willing to apply capital punishment where the law so permits, thirdly, unless a juror is "substantially impaired" in his ability to impose the death sentence, his excusal for cause is improper and lastly, the trial judge is entitled to deference in the determination of when a prospective juror is "substantially impaired."

LO: 4      REF: p. 15

6. Defendants in the United States whom are charged with felonies may lose their right to be present at their trial under what situations?

ANS: The two situations are; if the defendant is present at the commencement of a criminal trial but flees during the trial, Rule 43 (c) of the Federal Rules of Criminal Procedure treats the mid-trial flight as "a knowing and voluntary waiver of the right to be present". Crosby, 506 U.S. at 261. The trial may then proceed without the presence of the defendant in such a case; secondly, if a defendant continuously disrupts the criminal trial, a trial judge may rule (after warning the defendant) that the defendant has waived the right to be present in the courtroom. The defendant would then be paced in another room and observe the trial from there.

LO: 4      REF: p. 20

7. The Supreme Court has ruled that there are four guiding principles that should be used when determining whether a juror has been properly excused for cause in capital cases. What are those four principles?

ANS: The four principles are:

- The defendant has a right to have a jury that is not tilted in favor of capital punishment, which means the prosecution may not challenge for cause any juror who expresses doubt about capital punishment.
- The state has a legitimate interest in having jurors who are willing to apply capital punishment where the law so permits.
- Unless a juror is “substantially impaired” in his ability to impose the death sentence, his excusal for cause is improper.
- The trial judge is entitled to deference in the determination of when a prospective juror is “substantially impaired”

LO: 4      REF: p. 19

8. The U.S. Supreme Court holds that a suspect arrested without an arrest warrant must have a probable cause hearing before a judge or magistrate “promptly,” of which is defined as being within 48 hours of the arrest, including weekends and holidays. If this 48 hour rule is violated, what is the burden placed on the prosecution and what may be the consequence of such an unwarranted delay?

ANS: The burden is on the government “to demonstrate the existence of a bona fide emergency or otherwise extraordinary circumstance.” .” If that burden is not met, evidence obtained during the delay may be excluded from any resulting trial, if the delay in some way contributed to obtaining the evidence.

LO: 4      REF: p. 12