

# TEST BANK

## Multiple Choice

1. A court's authority to hold a trial is
  - a. venire.
  - b. original jurisdiction.
  - c. appellate jurisdiction.
  - d. venue.

ANS: B      REF: 43      LO: 2

2. A court which has only appellate jurisdiction has authority to
  - a. retry a case.
  - b. review the evidence to determine facts.
  - c. review the legal issues of a case.
  - d. review only plain error.

ANS: C      REF: 43-44      LO: 2

3. The structure of the federal court system in order of authority from lowest to highest is
  - a. US Court of Appeals, US District Court, US Supreme Court.
  - b. US District Court, US Superior Court, US Supreme Court.
  - c. US Circuit Court, US District Court, US Supreme Court.
  - d. US District Court, US Court of Appeals, US Supreme Court.

ANS: D      REF: 42-45      LO: 1

4. A court which can try all types of cases has
  - a. limited jurisdiction.
  - b. appellate jurisdiction.
  - c. general jurisdiction.
  - d. *certiorari*.

ANS: C      REF: 43      LO: 2

5. When the US Supreme Court grants a writ of *certiorari*, this means that
  - a. the Court is taking original jurisdiction over the case.
  - b. the Court is obligated to review the case.
  - c. the Court is willing to review a case decided by a lower court.
  - d. the Court is willing to retry the case.

ANS: C      REF: 47      LO: 1

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6. \_\_\_\_\_ occurs when a prosecutor increases the number or severity of charges to penalize a defendant who exercises constitutional or statutory rights.
- Vindictive prosecution
  - Selective prosecution
  - A violation of civil rights
  - Malicious prosecution

ANS: A      REF: 49-50      LO: 5

7. The purpose of the preliminary hearing is
- to try the defendant.
  - to accept the defendant's plea.
  - to determine the existence of probable cause.
  - to make a judgment on motions to suppress evidence.

ANS: C      REF: 56-57      LO: 4

8. Which of the following is a true statement about plea bargaining?
- A plea agreement is not a contract.
  - If the defendant breaches a plea agreement, the prosecution can pursue charges, but cannot pursue more serious charges than originally planned.
  - Very few cases are resolved through plea bargaining.
  - If the prosecution breaches a plea agreement, the defendant may be allowed to withdraw a guilty plea.

ANS: D      REF: 65-66      LO: 6

9. Which of the following best defines the particular county or geographical area in which a court with jurisdiction may hear and determine a case?
- first notice
  - venue
  - arraignment
  - geographic subdivisions

ANS: B      REF: 40-42      LO: 7

10. The only document on the following list which is not based on probable cause is
- indictment.
  - prosecutor's information.
  - a true bill.
  - a subpoena.

ANS: D      REF: 68      LO: 3

11. At which proceeding is the defendant's plea requested?
- indictment
  - preliminary hearing
  - initial appearance
  - arraignment

ANS: D      REF: 61-65      LO: 4

12. What is the limitation that exists on a prosecutor's discretion to file charges and to make a determination about what offense to charge?
- The prosecutor must have an established record of making the same decision in substantively similar cases.
  - The prosecutor must have probable cause to believe the defendant committed the charged offense.
  - The evidence relied on by the prosecution must not be based entirely upon circumstantial evidence.
  - The prosecutor must have reasonable suspicion to believe the defendant committed the charged offense.

ANS: B      REF: 49-50      LO: 5

13. Evidence that may be favorable to the defendant at trial by tending to cast doubt on the defendant's guilt is called:
- error-prone evidence
  - circumstantial evidence
  - exculpatory evidence
  - impeachment material

ANS: C      REF: 67-68      LO: 6

14. The main purpose of the arraignment is to
- indict the defendant.
  - accept a plea from the accused.
  - set bail for the accused.
  - determine probable cause.

ANS: B      REF: 61-65      LO: 4

15. Which is not an acceptable plea in a criminal case?
- Not guilty
  - Guilty
  - Nolo contendere*
  - Innocent

ANS: D      REF: 61-65      LO: 4

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16. Which of the following is **not** one of the modern justifications for assessing a defendant's competence to stand trial?
- a. An incompetent person cannot effectively make decisions about the course and nature of the defense.
  - b. An incompetent person cannot effectively testify on their own behalf.
  - c. An incompetent person is one that does not have the resources to pay for the defense.
  - d. Prosecution of an incompetent person would potentially threaten the dignity of the proceedings.

ANS: C      REF: 69-71      LO: 6

17. Circumstantial evidence is evidence that:
- a. indirectly infers a fact at issue.
  - b. directly establishes a fact at issue.
  - c. can be physical, tangible evidence, but not testimonial evidence.
  - d. can be testimonial evidence, but not physical, tangible evidence.

ANS: A      REF: 71-74      LO: 6

18. The exclusionary rule:
- a. does not exclude evidence that could have been later obtained from an independent source.
  - b. automatically excludes all evidence seized in violation of the U.S. Constitution.
  - c. applies only to federal criminal trials, but not state trials.
  - d. is a rule that is explicitly stated in the Fourth Amendment.

ANS: A      REF: 81-85      LO: 8

19. The exclusionary rule:
- a. applies to evidence seized by both the police and private citizens (who are not working with the police as a state agent).
  - b. was designed to deter police misconduct.
  - c. is a rule that is explicitly stated in the Fourth Amendment.
  - d. has always applied to both state and federal criminal proceedings.

ANS: B      REF: 75      LO: 8

## Chapter 2: Criminal Courts, Pretrial Processes, and the Exclusionary Rule

20. The exclusionary rule
- a. requires exclusion of tainted evidence even if it is relevant.
  - b. requires that the state not prosecute an individual whose constitutional rights have been violated by police.
  - c. excludes testimony by a defendant whose constitutional rights have been violated by police.
  - d. has always applied to both state and federal criminal proceedings.

ANS: A      REF: 74-90      LO: 8

21. The exclusionary rule
- a. requires that the state not prosecute a person if the police violate the accused person's constitutional rights.
  - b. requires that admissible evidence be relevant and trustworthy.
  - c. currently applies only to federal courts and federal officers.
  - d. requires that if police unconstitutionally seize evidence, it not be used in a criminal prosecution against the person whose rights were violated.

ANS: D      REF: 74-90      LO: 8

22. The exclusionary rule
- a. requires that a defendant not be prosecuted if police violate the defendant's rights.
  - b. requires that police be prosecuted if they violate a defendant's rights.
  - c. does not require the exclusion of other evidence that is not connected to the tainted evidence.
  - d. forbids prosecution with poisonous fruits.

ANS: C      REF: 74-90      LO: 8

23. Police interrogate a suspect who tells police where a stash of illegal drugs is hidden which are then seized by the police. The drugs are
- a. primary evidence.
  - b. derivative evidence.
  - c. circumstantial evidence.
  - d. fruit of the poisonous tree.

ANS: B      REF: 71-74      LO: 8

24. Which of the following best describes the “inevitable discovery” exception to the exclusionary rule?
- a. If the government can show that the discovery of the evidence by lawful means was inevitable, the evidence will be admissible, even though it was initially discovered unconstitutionally.
  - b. If the defense can show that the evidence was obtained in violation of the Constitution, that evidence is not admissible, even though the contested evidence would have been discovered by lawful means in the absence of police misconduct.
  - c. The exclusionary rule does not apply if the officer made an illegal search but later obtained a search warrant that particularly described the evidence seized.
  - d. If the inevitable discovery exception is to apply as an exception to the exclusionary rule, the government must show beyond a reasonable doubt that the contested evidence would have been discovered by lawful means.

ANS: A      REF: 81-85      LO: 8

25. Police with probable cause to believe that a warehouse contains marijuana unlawfully enter the warehouse and observe marijuana. The officers leave and obtain a search warrant using their original probable cause, not their unlawful observations. The best chance for the prosecutor to have the evidence be admissible would be under
- a. the attenuation exception.
  - b. the independent source exception.
  - c. the inevitable discovery exception.
  - d. the good faith exception.

ANS: B      REF: 81-85      LO: 8

26. A patrol officer is chasing a suspect fleeing from an armed robbery where the suspect fired a pistol. The suspect flees into his own home where the officer enters and arrests the suspect. An immediate search of the suspect reveals an empty shoulder holster. Without advice of rights the officer asks the suspect the whereabouts of the gun. The suspect states that he threw it into the trash bin as he ran through the house. The weapon is found. Which of the following would be most applicable to making the gun admissible at trial?
- a. Derivative evidence exception
  - b. Good faith exception
  - c. Inevitable discovery exception
  - d. Attenuation exception

ANS: C      REF: 81-85      LO: 8

## Chapter 2: Criminal Courts, Pretrial Processes, and the Exclusionary Rule

27. To invoke the exclusionary rule to challenge the admissibility of evidence, the defendant must have standing, therefore
- the defendant must be competent to stand trial.
  - the defendant must be sane.
  - the defendant must be on trial.
  - the defendant's right to privacy must have been violated.

ANS: D      REF: 88-90      LO: 8

28. Based on the concept of "new federalism":
- the federal law is always given authority over state law, even if the state law grants more freedoms and liberties to the individual.
  - the state law is always given authority over federal law.
  - the federal law is given authority over state law, unless the state law grants more freedoms and liberties to the individual.
  - federal law is given authority over state law, unless the state law grants additional authority to the state government that is not recognized by the U.S. Constitution.

ANS: C      REF: 75-76      LO: 8

29. Civil lawsuits against state agents are one alternative to the exclusionary rule. A problem with relying on section 1983 lawsuits to deter police misconduct is:
- civil rights lawsuits can only be filed by members of certain protected classes.
  - police and other agents of the state are able to claim absolute immunity.
  - police and other agents of the state are able to claim qualified immunity.
  - police and other agents of the state are able to claim transactional immunity.

ANS: C      REF: 76-78      LO: 8

30. The U.S. Supreme Court ruled in *Connick v. Thompson* (2011) that a local municipality is not liable for a *Brady* violation unless:
- the prosecutor violated office policy knowingly.
  - the District Attorney's Office knowingly drafted a policy that violated *Brady*.
  - there the individual defendant was clearly damaged in some way.
  - there was a pattern of violations.

ANS: D      REF: 78      LO: 8

### **True/False**

1. If a criminal suspect is arrested without a warrant, the complaint serves as the charging document.

ANS: T      REF: 51-54      LO: 2

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2. In felony cases, the purpose of the initial appearance is to accept the defendant's plea.  
ANS: F      REF: 54-55      LO: 4
3. The purpose of the grand jury is to reach a verdict in a criminal case.  
ANS: F      REF: 58-61      LO: 4
4. A plea of *nolo contendere* is an admission of guilt, but cannot be used against the defendant in a civil action.  
ANS: F      REF: 61-62      LO: 4
5. DNA evidence is in all instances direct evidence.  
ANS: F      REF: 71-74      LO: 6
6. Proof to an absolute certainty is not required in any phase of the judicial process in the United States.  
ANS: T      REF: 71-74      LO: 6
7. The U.S. Supreme Court has not adopted a specific definition for the "beyond a reasonable doubt" standard.  
ANS: T      REF: 71-74      LO: 6
8. The exclusionary rule will not be invoked in instances where a police officer acts in good faith in following what he or she believes to be the law.  
ANS: T      REF: 85-88      LO: 8
9. The exclusionary rule applies to all errors stemming from police negligence in maintaining warrant databases.  
ANS: F      REF: 85-88      LO: 8
10. Competency to stand trial can be raised at any point in the criminal process, even after a conviction.  
ANS: T      REF: 69-71      LO: 6



**Fill-in-the-blank**

1. The lowest level of criminal court in the federal system is \_\_\_\_\_.  
ANS: U.S. District Court                      REF: 45-46                      LO: 1
2. Criminal process against a felony defendant begins formally with the filing of a \_\_\_\_\_.  
ANS: complaint                                      REF: 51-54                      LO: 3
3. An affidavit can be described as a \_\_\_\_\_.  
ANS: sworn statement                              REF: 51-54                      LO: 3
4. The location of the court is referred to as \_\_\_\_\_.  
ANS: venue    REF: 40-42                      LO: 7
5. The main purpose of \_\_\_\_\_ is to accept the defendant's plea.  
ANS: arraignment                                      REF: 61-65                      LO: 4
6. The prosecutor's failure to disclose evidence which would show the defendant to be not guilty is a violation of the \_\_\_\_\_.  
ANS: Brady Rule                                      REF: 67-68                      LO: 6
7. A \_\_\_\_\_ is issued to a person accused of a crime to compel attendance at a criminal proceeding to answer to charges.  
ANS: summons    REF: 58-61                      LO: 2
8. To challenge the admissibility of evidence and potentially have evidence excluded at trial, a defendant must first have \_\_\_\_\_—the ability to raise a legal claim.  
ANS: standing    REF: 88-90                      LO: 8
9. The primary duty of the \_\_\_\_\_ is to receive complaints in criminal cases, hear the evidence put forth by the state, and return an indictment when a majority of the grand jury is satisfied that there is probable cause that the defendant has committed an offense.  
ANS: grand jury    REF: 58-61                      LO: 4

10. Information not contained in the body of the complaint, or that comes from witnesses other than the complainant, may be brought to the court's attention in the form of a(n) \_\_\_\_\_.

ANS: affidavit

REF: 51-54

LO: 3

**Essay**

1. Identify and describe the lowest level of criminal court in your state's system? Describe the types of cases the court typically handles. [Answer will depend on which state students are in.]

ANS: Answers will vary.

REF: 40-49

LO: 1

2. Draw a schematic diagram comparing the federal court system to your state's system. [Answer will depend on which state students are in.] Explain the differences in the diagram of your state system against the diagram (from the text) of the federal court system.

ANS: Answers will vary.

REF: 40-49

LO: 1

3. List and explain the stages of the criminal justice system from arrest through arraignment in proper sequence.

ANS: Answers will vary.

REF: 49-66

LO: 2

4. Explain the difference between direct evidence and circumstantial evidence. Provide an illustration of how a single piece of evidence can be direct evidence in one instance and circumstantial evidence in another instance.

ANS: Answers will vary.

REF: 71-72

LO: 2

5. Explain the notions of burden of persuasion and burden of production.

ANS: Answers will vary.

REF: 72

LO: 2

6. What does the notion of "new federalism" mean? Provide an example of "new federalism" in action.

ANS: Answers will vary.

REF: 75-76

LO: 8

7. What is derivative evidence? Provide an example.

ANS: Answers will vary.

REF: 81

LO: 8

Chapter 2: Criminal Courts, Pretrial Processes, and the Exclusionary Rule

8. Identify and discuss the different exceptions to the exclusionary rule. Provide an example of each exception.

ANS: Answers will vary. REF: 81-88 LO: 8

9. Explain what is meant by the term “demonstrative evidence.”

ANS: Answers will vary. REF: 72 LO: 2

10. Explain the difference between venue and jurisdiction.

ANS: Answers will vary. REF: 40-45 LO: 2