

Chapter 02

The Forensic Accounting Legal Environment

Multiple Choice Questions

1. In most cases, the penalties of monetary damages or equitable relief are awarded in which type of case?

- A.** Civil.
- b. Criminal.
- c. Grand Jury.
- d. Disposition.

Difficulty: Easy

2. Whom does the burden of proof fall upon?

- a. Defense.
- B.** Plaintiff.
- c. Jury.
- d. Investigators.

Difficulty: Easy

3. The burden of proof must be met to satisfy the judge or jury in which of the following types of trials?

- a. Civil.
- B.** Criminal.
- c. Both a and b.
- d. Trials involving monetary damages.

Difficulty: Moderate

4. State Constitutional laws are considered supreme laws unless:
- a. The burden of proof is not meet.
 - b. There are local laws that are violated.
 - c. The case is a criminal case.
 - D.** The State laws are in conflict with the U.S. Constitution.

Difficulty: Moderate

5. The Bill of Rights are:
- A.** The first 10 Amendments to the U.S. Constitution.
 - b. The Declaration of Independence.
 - c. The 10 Commandments.
 - d. The rules of conduct for the courtroom.

Difficulty: Easy

6. If a decision from a U.S. District Court is to be appealed, it will be heard in the:
- a. U.S. Supreme Court.
 - b. State Supreme Court.
 - C.** U.S. Circuit Courts of Appeal.
 - d. State Circuit Courts of Appeal.

Difficulty: Moderate

7. Who has the sole discretion to bring charges in any case?
- a. Investigator.
 - b. Circuit Court.
 - c. Judge.
 - D.** District Attorney.

Difficulty: Easy

8. During arraignment, the accused must be presented with a written copy of:

- A. The charges.
- b. The evidence against them.
- c. Bail.
- d. The jury.

Difficulty: Moderate

9. If a motion in limine is made, the judge may:

- a. Excuse some jury members.
- B. Exclude some evidence.
- c. Modify bail conditions.
- d. Provide a lawyer to the defendant.

Difficulty: Moderate

10. Hearsay evidence may be used during:

- a. If the defendant is pleading guilty.
- b. During the trial if the defendant waives their right to hearsay evidence.
- c. During a preliminary hearing.
- D. None of the above.

Difficulty: Moderate

11. If a client turns over evidence to their attorney with the purpose of attempting to make it a privileged communication, a judge may:

- A. Allow the evidence into the case.
- b. Never allow the evidence into the case.
- c. Call a mis-trial.
- d. Dismiss the attorney.

Difficulty: Hard

12. Burglary, Embezzlement, Larceny, Robbery, Fraud and Extortion are which types of crimes?

- a. Federal Criminal Acts.
- b. State Criminal Acts.
- c. Constitutional Violations.
- D.** Common Law Crimes.

Difficulty: Moderate

13. The difference between civil and criminal law violations is that criminal cases will involve:

- A.** The violation of a Statute.
- b. The violation of the U.S. Constitution.
- c. The use of an attorney.
- d. Plea agreements.

Difficulty: Easy

14. The U.S. Constitution contains how many amendments?

- a. 12.
- b. 14.
- c. 24.
- D.** 27.

Difficulty: Hard

15. Where are the Federal statutory laws set forth?

- a. U.S. Constitution.
- b. Laws of Government.
- C.** United States Code.
- d. U.S. Circuit Court.

Difficulty: Moderate

16. District Attorneys are also known as:

- A. Prosecutors.
- b. Defendants.
- c. Jury Foremen.
- d. Court Recorders.

Difficulty: Easy

17. If an employee is determined to have been under pressure to commit the crime, had the opportunity to commit the crime and has complete rationalization for committing the crime, then the employee is caught in a(n):

- a. Evidentiary motion.
- b. Sworn statement.
- C. Fraud triangle.
- d. Fruit of the poisonous tree.

Difficulty: Moderate

18. A forensic accountant can become involved in financial crimes investigation by being:

- a. An in-house accountant.
- b. External auditor.
- c. External consultant.
- D. All of the above.

Difficulty: Moderate

19. If you are chosen to serve on a Grand Jury, you will serve:

- a. For one trial.
- B. For a specific period of time.
- c. Until you are released by the judge.
- d. Until you are selected for a trial jury.

Difficulty: Moderate

20. If evidence in a trial is deemed to be gained as a Fruit of a Poisonous Tree, it means that:

- A. The evidence was gained via a defective search warrant.
- b. The evidence was provided by someone who wanted the defendant to be found guilty.
- c. The custody chain for the evidence has been broken.
- d. The evidence was planted.

Difficulty: Moderate

21. To arrest a suspect, law enforcement must have:

- a. Indisputable evidence that the person is guilty.
- b. A search warrant.
- C. Probable cause.
- d. DNA evidence.

Difficulty: Moderate

22. If issued a Citation, a person must:

- a. Report for incarceration.
- B. Submit to the booking procedure within several days after the citation.
- c. Sign a confession.
- d. Provide evidence that they are not guilty.

Difficulty: Easy

23. The RICO provides a basis for which of the following:

- a. Control over organized gambling.
- b. Federal Witness Security Program.
- c. Forfeiture of assets used to commit crimes.
- D. All of the above.

Difficulty: Moderate

24. The Foreign Corrupt Practices Act is applicable to whom?
- a. United States Congressmen.
 - b. U.S. Corporations who do businesses in other country.
 - C.** Any corporation.
 - d. All of the above.

Difficulty: Hard

25. The Sarbanes-Oxley (SOX) Act of 2002 provides detailed updates to and modernization of:
- a. The United States Code.
 - b. The United States Constitution.
 - c. The Federal Communications Commission.
 - D.** The Securities and Exchange Act of 1934.

Difficulty: Moderate

26. The first major computer crimes act was:
- a. The Sarbanes-Oxley (SOX) Act of 2002.
 - B.** Computer Fraud and Abuse Act.
 - c. The Cyber Intrusion Detection Act of 1996.
 - d. Computer Detection Infiltration Act.

Difficulty: Hard

27. If two or more people agree to commit a crime, with even the smallest amount of coordination, they have committed a:
- A.** Conspiracy.
 - b. Robbery.
 - c. Burglary.
 - d. Fraud.

Difficulty: Easy

28. Attorney's may ask leading questions:

- a. On direct examination but not cross examination.
- B.** On cross examination but not direct examination.
- c. On both direct and cross examination.
- d. On neither direct nor cross examination.

Difficulty: Hard

29. If a prosecutor and defense attorney are exchanging witness statements and other evidence, they are participating in:

- a. Fraud.
- b. Conspiracy.
- c. Voir dire.
- D.** Discovery.

Difficulty: Moderate

30. Double Jeopardy is when:

- a. You can be tried for the same crime in both Federal and State courts.
- b. You cannot be tried in the same court for the same crime once the trial begins.
- c. You cannot be tried for the same crime in the same court if the judge dismisses the case.
- D.** All of the above are true.

Difficulty: Moderate

True / False Questions

31. Civil crimes always involve police, prosecutors and courts.

FALSE

Difficulty: Moderate

32. The first 10 Amendments are the primary foundation to the United States Code.

FALSE

Difficulty: Easy

33. The most important U.S. Code to Forensic Accountants is Title 18.

TRUE

Difficulty: Moderate

34. The Supreme Court must hear every case of appeal sent from the Circuit Courts.

FALSE

Difficulty: Moderate

35. There are many ways for a forensic accountant to become involved in a financial-crimes investigation, such as in the capacity of in-house accountant, as an external auditor, or as an outside consultant.

TRUE

Difficulty: Easy

36. The three elements of the Fraud Triangle are Pressure, Opportunity, and Rationalization.

TRUE

Difficulty: Easy

37. Search Warrants are the same as Affidavits.

FALSE

Difficulty: Easy

38. Plea Bargains may only take place prior to a trial beginning.

FALSE

Difficulty: Easy

39. A Motions in Limine a request from the defendant to exclude some evidence that may be introduced during the trial.

TRUE

Difficulty: Moderate

40. If a witness's testimony is damaged upon cross examination, the defense may ask for a re-direct examination.

TRUE

Difficulty: Moderate

Essay Questions

41. Describe the differences between a bench trial and a trial by jury?

A bench trial is a trial where the judge decided guilt or innocence. A trial by jury is where 12 members of the jury decide guilt or innocence.

Difficulty: Easy

42. Explain the construction of the United States Constitution and specifically describe the fourth article and the concepts it recognizes?

The U.S. Constitution is consists of 7 articles and 27 amendments. The first 3 articles define the 3 major branches of government: the executive, judicial, and legislative branches. The fourth article defines the concepts of "full faith and credit" and "privileges and immunities". The full faith and credit concept requires that states "recognize" the public acts, records, and judicial proceedings of other states. The privileges and immunities concept more or less requires states to treat the citizens from other states the same as their own. For example, it would be unconstitutional for California to forbid citizens of New York from using its public beaches.

Difficulty: Hard

43. If a trial will be held in the federal court system, and subsequently appealed, explain the types and names of the courts your case will be heard in.

U.S. District Courts, of which there are 100 districts, some with multiple court houses, then the case would be appealed to a U.S. Circuit Court of Appeal, of which there are 11 and two D.C District Courts, then the case would go to the U.S. Supreme Court, which only hears cases that it agrees to review.

Difficulty: Moderate

44. Who are District Attorneys and what is their function within the court system?

District Attorneys are also referred to as Prosecutors. They are the plaintiff in the cases and have sole discession as to charges being made against a defendant or not.

Difficulty: Easy

45. Describe how working papers can be an aid to the forensic accountant?

Forensic accountants can use working papers to help 'lock in' the stories of bookkeepers and accountants within a company that is being investigated and keep a record of what has occurred in the financial systems of that company.

Difficulty: Moderate

46. Prior to a trial, the prosecution and defense may be involved in plea bargains. Explain how this process works?

Prosecution will typically offer a defendant a reduced sentence for pleading guilty or providing evidence toward implicating others in this or other crimes. It is estimated that 90% of all cases are 'pleaded out'.

Difficulty: Moderate

47. Explain the Personal Knowledge Rule and how expert witnesses are exempt from it.

The personal knowledge rule is that witnesses can only testify to things that they personally observe with one or more of their own senses. Expert witnesses are exempt from the personal knowledge rule and are allowed to draw conclusions based upon evidence and facts presented to them.

Difficulty: Moderate

48. When are communications considered privileged?

Privileged communications are typically between professionals and their clients such as attorney-client, spouse-spouse, doctor-patient, psychoanalysts-patient, clergy-congregation, and accountant-client in certain tax matters.

Difficulty: Easy

49. Describe some common law crimes.

Larceny, Burglary, Conspiracy, Embezzlement, Fraud (False Pretenses), Robbery, Extortion, Arson, Solicitation, Aiding and Abetting (and the proper definitions of each of these)

Difficulty: Moderate

50. Compare and contrast 18 USC 96: Racketeer Influenced Corrupt Organizations (RICO), 15 USC 78dd: Foreign Corrupt Practices Act (FCPA) of 1977 and The Sarbanes-Oxley (SOX) Act of 2002.

The answer will contain some basic parameters that the codes/acts contain and describe how each of them is designed to cover illegal activities that occur in differing circumstances or industries.

Difficulty: Hard