Criminal Law Today 6th edition Schmalleger Test Bank

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Chapter 2 Criminal Liability and the Essence of Crime

2.1 Multiple Choice Questions

1) Jury instructions are directions given to the jury by the:
A) judge.
B) defense attorney.
C) prosecutor.
D) defendant.
Answer: A
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

2) Criminal liability is the degree of _____ assigned to a defendant by a criminal court.
A) identity
B) motive
C) blameworthiness
D) general intent
Answer: C
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Basic

3) The basic parts or components of a crime are referred to as the _____ of the crime.
A) paragraphs
B) sections
C) subsets
D) elements
Answer: D
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

4) In the criminal law, _____ is considered behavior and the accompanying mental state.
A) motive
B) conduct
C) possession
D) advocacy
Answer: B
Page Ref: 41
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Basic

5) The Latin term for "guilty act" is:
A) *mala prohibita.*
B) *mala in se.*
C) *mens rea.*
D) *actus rea.*
Answer: D
Page Ref: 41
Objective: Explain actus reus and what constitutes a criminal act.
Level: Basic

6) A person who is involved with heroin cannot be arrested for:
A) being a heroin addict.
B) selling heroin.
C) possessing heroin.
D) importing heroin.
Answer: A
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Intermediate

7) At Bob's request, Ray brings a suitcase from Mexico to Chicago for him. Bob tells Ray the suitcase contains Bob's clothes. The suitcase really contains lots of clothes and a small bag of marijuana. Ray never learns of the marijuana. While Ray has the suitcase, he is in _____ possession of the marijuana.
A) minimal
B) constructive
C) mere
D) knowing
Answer: C
Page Ref: 43
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Intermediate

8) The Model Penal Code outline four _____: purposely, knowingly, reckless, and negligent.
A) elements of crime
B) canons of construction
C) states of mind
D) conducts
Answer: C
Page Ref: 46
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

9) Ray insults Bob. Bob then beats Ray up to get revenge. Bob's action is:
A) reckless.
B) scienter.
C) criminal negligence.
D) purposeful.
Answer: D
Page Ref: 49
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Intermediate

10) Knowing behavior is action undertaken with:
A) awareness.
B) a reasonable doubt.
C) negligence.
D) scienter.
Answer: A
Page Ref: 49
Objective: Describe the legal of essence of criminal conduct.
Level: Intermediate

11) The term scienter signifies a defendant's:
A) guilty knowledge.
B) specific intent.
C) guilty act.
D) general intent.
Answer: A
Page Ref: 46
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Basic

12) _____ is not an essential element of a crime.
A) Concurrence
B) The criminal act
C) Motive
D) A culpable mental state
Answer: C
Page Ref: 52
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

13) When Bob gets in his car in the morning, he checks his taillights and sees that they both work. Two hours later, he is pulled over and given a ticket for the taillight that just burned out. Bob has committed a(n) _____ offense.
A) negligent
B) reckless
C) strict liability
D) intentional
Answer: C
Page Ref: 52
Objective: Describe strict liability offense, and explain why some crimes are punished solely on the basis of strict liability.
Level: Intermediate

14) Bob commits a burglary to get money to buy drugs. Getting money to buy drugs is Bob's:
A) *actus rea.*
B) motive.
C) mental state.
D) general intent.
Answer: B
Page Ref: 52
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

15) _____ is the simultaneous coexistence of an act in violation of the law and a culpable state of mind.
A) Constructive intent
B) Motive
C) Concurrence
D) Intent
Answer: C
Page Ref: 57
Objective: Summarize concurrence, and describe how concurrence relates to mens rea and actus reus.
Level: Intermediate

16) Three witnesses testify at Bob's trial that they saw him take a handgun, hold it to Ray's head and pull the trigger. Ray dies. Based on this much evidence the jury:
A) can infer that Bob intended to harm Ray.
B) can determine Bob's motive.
C) cannot conclude that Bob intended to harm Ray.
D) None of the above.
Answer: A
Page Ref: 50
Objective: Explain mens rea and the different types of intent.
Level: Intermediate

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17) Canons of construction are:
A) rules that guide courts in interpreting constitutions, statutes and other laws.
B) guns that in historic time protected the Supreme Court.
C) rules that guide courts in cases dealing with construction disputes.
D) None of the above.
Answer: A
Page Ref: 57
Objective: Describe the legal of essence of criminal conduct.
Level: Difficult

18) The record of debates, committee reports and meetings, statements of legislators, and other evidence of what the legislature intended when it enacted a particular statute is known as the:
A) legislative motive.
B) general intent of the legislature.
C) specific intent of the legislature.
D) legislative history.
Answer: D
Page Ref: 57
Objective: Describe the legal of essence of criminal conduct.
Level: Intermediate

19) Insanity is a _____ defense.
A) inference
B) *actus rea*
C) *mens rea*
D) scienter
Answer: C
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Basic

20) Bob drives 50 miles per hour on a street in a residential neighborhood with a speed limit of 30 miles per hour. Bob's behavior is reckless because:
A) Bob should have known better.
B) it increases the risk of harm.
C) it is in violation of the law.
D) he is doing it purposefully.
Answer: B
Page Ref: 49
Objective: Describe the legal of essence of criminal conduct.
Level: Intermediate

2.2 True/False Questions

1) In some states, a person can be arrested for mere thoughts.
Answer: FALSE
Page Ref: 42
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Basic

2) Bob hides his heroin in the basement of his home and goes to work. While Bob is at work, he is considered in possession of the heroin.
Answer: TRUE
Page Ref: 43
Objective: Describe the legal of essence of criminal conduct.
Level: Intermediate

3) An omission to act cannot ever be criminal.
Answer: FALSE
Page Ref: 44
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

4) If a defendant intended to act, but did not intend the consequence, then general intent is present.
Answer: TRUE
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Intermediate

5) General intent is a thoughtful, conscious intention to perform a specific act in order to achieve a particular result.
Answer: FALSE
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Basic

6) The Latin term for motive is *mens rea.*
Answer: FALSE
Page Ref: 52
Objective: Describe the legal of essence of criminal conduct. Explain mens rea and the different types of intent.
Level: Basic

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7) Strict liability crimes do not require *mens rea.*
Answer: TRUE
Page Ref: 52
Objective: Describe strict liability offense, and explain why some crimes are punished solely on the basis of strict liability.
Level: Basic

8) Bob purposefully takes a shot at Ray, hoping to kill him. Mary steps in between them and the shot hits and kills her. Bob can be charged with purposefully killing Mary.
Answer: TRUE
Page Ref: 49
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Intermediate

9) Activity that increases the risk of harm is referred to as knowing behavior.
Answer: FALSE
Page Ref: 49
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

10) Bob has a gun he believes is unloaded. He takes the gun, holds it to Ray's head and pulls the trigger. Bob was mistaken, the gun was loaded, Ray dies. Bob's behavior amounts to criminal negligence.
Answer: TRUE
Page Ref: 50
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Intermediate

11) Possession in which one may or may not be aware of what he or she possess is known as actual possession.
Answer: FALSE
Page Ref: 43
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Basic

12) General intent refers to an individual's conduct.
Answer: TRUE
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Basic

13) A motive refers to an individual's reason for committing crime.
Answer: TRUE
Page Ref: 52
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Basic

14) *Mens rea* is the simultaneous coexistence of (1) an act in violation of the law and (2) a culpable mental state.
Answer: FALSE
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Intermediate

15) The two basic elements of all crimes are the criminal mind (*mens rea)* and criminal act (*actus reus*).
Answer: TRUE
Page Ref: 41, 46
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Basic

2.3 Matching Questions

Match the following.

A) possession in which one may or may not be aware of what he or she possesses
B) possession with awareness of what one possesses
C) the ability to exercise control over property or objects; even though they are not in one's physical custody
D) possession in which one has direct physical control over the object or objects in question

1) knowing possession
Level: Basic

2) mere possession
Level: Basic

3) actual possession
Level: Basic

4) constructive possession
Level: Basic

Answers: 1) B 2) A 3) D 4) C

2.4 Short Answer Questions

1) When attorneys refer to conduct, they are referring to both the behavior and the _____ state that were present at the time of the behavior.
Answer: mental
Page Ref: 41
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Basic

2) Strict liability is based on the presumption that causing harm is in itself blameworthy, regardless of the person's _____.
Answer: intent
Page Ref: 46
Objective: Describe strict liability offense, and explain why some crimes are punished solely on the basis of strict liability.
Level: Basic

3) Bob accidentally hits Ray with his car and kills Ray. When Bob gets out of the car and sees that it is Ray he has killed, he is glad because he intended to kill Ray the next day. Bob is not guilty of a crime because his act and his culpable mental state lack _____.
Answer: concurrence
Page Ref: 57
Objective: Summarize concurrence, and describe how concurrence relates to mens rea and actus reus.
Level: Intermediate

4) The Latin term *actus* _____ means an act in violation of the law; a guilty act.
Answer: *reus*
Page Ref: 46
Objective: Explain actus reus and what constitutes a criminal act.
Level: Basic

5) Bob takes a bag of marijuana and puts it in his pocket. As long as it is in his pocket he has _____ possession of the marijuana.
Answer: actual
Page Ref: 43
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Basic

6) The two basic _____ of all crimes are the criminal mind and the criminal act.
Answer: elements
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

7) *Actus reus* is an act in violation of the _____.
Answer: law
Page Ref: 46
Objective: Explain actus reus and what constitutes a criminal act.
Level: Basic

8) Constructive _____ means that, at a given time, an individual may not have actual physical custody of the material in question, but he or she is still able to control or influence it.
Answer: possession
Page Ref: 43
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Intermediate

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9) Failure to file a tax return is an example of an _____ to act.
Answer: omission
Page Ref: 44
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act.
Level: Basic

10) *Mens rea*, which means _____ mind, refers to the specific mental state that an individual must to possess to be legally culpable.
Answer: guilty
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Basic

11) General intent refers to an individual's _____ conduct.
Answer: physical
Page Ref: 46
Objective: Explain mens rea and the different types of intent.
Level: Basic

12) A violation of law for which one may incur criminal liability without fault or intention is known as _____ liability.
Answer: strict
Page Ref: 52
Objective: Describe strict liability offense, and explain why some crimes are punished solely on the basis of strict liability.
Level: Intermediate

13) The degree of _____ assigned to a defendant by a criminal court is known as criminal liability.
Answer: blameworthiness
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct.
Level: Basic

14) The term _____ entails both the behavior and the mental state that were present at the same time of the behavior.
Answer: conduct
Page Ref: 41
Objective: Describe the legal of essence of criminal conduct. Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Intermediate

15) The laws of most jurisdictions specify that a person's actions must be _____ for them to carry criminal liability.
Answer: voluntary
Page Ref: 42
Objective: Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Intermediate

2.5 Essay Questions

1) Explain the four elements that qualify and act as involuntary rather than voluntary.
Answer: The following must be in the answer:
a. Reflexes and convulsions
b. Bodily movements during unconsciousness or sleep
c. Conduct during hypnosis or resulting from hypnotic suggestion
d. Movements caused by another person.
Page Ref: 42
Objective: Describe the legal of essence of criminal conduct.
Level: Difficult

2) Explain the difference between knowing possession, mere possession, and actual possession.
Answer: The following must be in the answer:
a. Knowing possession—possession with awareness of what one possess
b. Mere possession—possession in which one may or may not be aware of what he or she possesses
c. Actual possession—possession in which one has direct physical control over the object or objects in question.
Page Ref: 43
Objective: Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Intermediate

3) Describe the three elements of criminal negligence.
Answer: The following must be in the answer:
a. Behavior in which a person fails to reasonably perceive substantial and unjustifiable risks of dangerous consequences
b. Negligence of such a nature and to such a degree that it is punishable as a crime
c. Flagrant and reckless disregard for the safety of others, or willful indifference to the safety and welfare of others.
Page Ref: 50
Objective: Describe the legal of essence of criminal conduct.
Level: Difficult

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2.6 Critical Thinking

1) Explain in detail the legal essence of a criminal act.
Answer: The two basic elements of crime are the criminal mind (*actus rea*) and the criminal act (*actus reus*) Also known as the *actus reus*, the crime must be the result of a voluntary act. Speech as an act. Although the Framers used the term speech, the Supreme Court has found that they intended to protect all forms of expression—verbal or otherwise State of mind. The term literally means "guilty mind" and refers to the specific mental state that an individual must possess to be legally culpable. Be sure to discuss the three types of intent: specific, general, and transferred.
Page Ref: 40
Objective: Describe the legal of essence of criminal conduct.
Level: Difficult

2) Discuss the types of acts that may be included, and those that are omitted from being a criminal act (evil thoughts).
Answer: The criminal act may be an act of commission, or an act of omission. However, a failure to act can only form the basis of a crime if there is a legal duty which exists. Give examples of this based upon relationship, law, contract, and those where the actor caused the peril. Voluntary acts. The laws of most jurisdictions specify that a person's actions must be voluntary for them to carry criminal liability. Possession. The ability to exercise control over property or objects, even though they are not in one's physical custody Failure to act. An omission to act, or a failure to act may be criminal when the person in question is required by law to do something, that is, when the law specifies a duty to act.
Page Ref: 3
Objective: Explain actus reus and what constitutes a criminal act. Explain mens rea and the different types of intent.
Level: Difficult

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