Legal Terminology 7th edition Kauffman Test Bank

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Chapter 2 Criminal Trial Procedure

2.1 Multiple Choice Questions

1) Who can issue an arrest warrant?
   A) Judge of an appellate court
   B) Commanding law enforcement officer
   C) Justice of the U.S. Supreme Court
   D) Judge of a trial court
   Answer: D
   Objective: Explain what probable cause is and its relation to an arrest
   Level: Intermediate

2) What term describes a reasonable belief based on the facts known at the time that an offense has been committed?
   A) Possible cause
   B) Probable cause
   C) Criminal offense
   D) Criminal action
   Answer: B
   Objective: Explain what probable cause is and its relation to an arrest
   Level: Basic

3) What is the legal basis for the police search of the arrested person or the arrested person's property?
   A) Valid search warrant
   B) Permissible exception
   C) All of the above
   D) None of the above
   Answer: C
   Objective: Explain what probable cause is and its relation to an arrest
   Level: Basic

4) The Miranda warning includes a right of an arrested suspect to consult with what person?
   A) Trial judge
   B) Human rights advocate
   C) Lawyer
   D) Law enforcement officer
   Answer: C
   Objective: Explain the Miranda Warning

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Level: Basic

5) What rights of arrested suspects are included in the Miranda warning?
A) Universal human rights
B) Constitutional rights
C) Citizen rights
D) Legal rights
Answer: B
Objective: Explain the Miranda Warning
Level: Basic

6) According to the Miranda warning, what statements made by arrested defendants may be used against them to gain conviction?
A) Any statement
B) Any incriminating statement
C) Any statement made in the presence of a lawyer
D) Any statement made under oath
Answer: A
Objective: Explain the Miranda Warning
Level: Basic

7) What term describes a written statement of the essential facts making up the offense charged?
A) Prosecutor's complaint
B) Preliminary complaint
C) Official complaint
D) Criminal complaint
Answer: D
Objective: Explain the purpose of a preliminary hearing
Level: Basic

8) Where does a preliminary hearing take place**?**
A) Sheriff's office
B) Trial court
C) Appellate court
D) Town hall
Answer: B
Objective: Explain the purpose of a preliminary hearing
Level: Basic

9) If a preliminary hearing results in the judge's finding of probable cause, what is a possible outcome for the defendant?
A) Be kept in jail

B) Be released on bail
C) Be released on personal recognizance
D) All of the above
Answer: D
Objective: Explain the purpose of a preliminary hearing
Level: Basic

10) In felony cases, what are ways to bring formal charges against the defendant?
A) Criminal complaint
B) Indictment
C) Information
D) Both B and C
Answer: D
Objective: Contrast an information with an indictment
Level: Basic

11) In felony cases, who brings formal charges by an information?
A) Grand jury
B) Trial judge
C) Prosecutor
D) Sheriff
Answer: C
Objective: Contrast an information with an indictment
Level: Basic

12) After listening to the evidence presented by the prosecutor, what must a grand jury decide?
A) Whether or not the defendant has committed a crime
B) Whether or not there is enough evidence to charge the defendant with the commission of a crime
C) Whether or not the defendant may be released on bail
D) Whether or not there is probable cause
Answer: B
Objective: Contrast an information with an indictment
Level: Basic

13) How may a defendant plead?
A) Guilty
B) Not guilty
C) Nolo contendere
D) All of the above
Answer: D
Objective: Explain the process and purpose of an arraignment

Level: Basic

14) Why would a defendant agree to enter a plea bargain?
A) To plead guilty to a lesser offense in exchange for a lighter sentence
B) To be released on bail
C) To be released on personal recognizance
D) None of the above
Answer: A
Objective: Explain the process and purpose of an arraignment
Level: Basic

15) In what situation is the date set for a trial?
A) Defendant enters a plea bargain
B) Defendant pleads "guilty"
C) Defendant pleads "not guilty"
D) Defendant pleads "nolo contendere"
Answer: C
Objective: Explain the process and purpose of an arraignment
Level: Basic

16) What does reasonable doubt mean?
A) Uncertainty based on feelings and emotions
B) Real doubt based on reason and common sense
C) Cognitive dissonance
D) Personal disbelief in the defendant's guilt
Answer: B
Objective: Explain what reasonable doubt is
Level: Basic

17) What term describes the necessary mental state preceding the criminal act?
A) Criminal intent
B) Criminal mind
C) Illegal intent
D) Criminal inclination
Answer: A
Objective: Explain what reasonable doubt is
Level: Basic

18) In case of reasonable doubt, what must the outcome of the trial be?
A) Case must be retried with a different jury
B) Case must be dismissed
C) Defendant must be released without the exoneration of guilt
D) Defendant must be acquitted

Answer: D
Objective: Explain what reasonable doubt is
Level: Basic

19) What punishment does the court impose on the defendant found guilty in a criminal case?
A) Citation
B) Sentence
C) Extradition
D) Arrest
Answer: B
Objective: Contrast the types of sentences
Level: Basic

20) Who serves the remainder of a sentence outside of prison under specific terms?
A) Convict
B) Malefactor
C) Parolee
D) Defendant
Answer: C
Objective: Contrast the types of sentences
Level: Basic

21) What term describes several sentences imposed on the defendant that must be served at the same time?
A) Concurrent sentences
B) Consecutive sentences
C) Cumulative sentences
D) All of the above
Answer: A
Objective: Contrast the types of sentences
Level: Basic

22) What term describes a conditional release from prison?
A) Bail
B) Parole
C) Personal recognizance
D) Pardon
Answer: B
Objective: Contrast the types of sentences
Level: Basic

23) What group of people is authorized to grant parole?

A) Parole board
B) Parole panel
C) Parole committee
D) Parole agency
Answer: A
Objective: Contrast the types of sentences
Level: Basic

24) An indigent defendant has a right to be represented by what kind of an attorney?
A) Any criminal attorney
B) Attorney acquainted with a judge
C) Attorney appointed by a judge
D) Any attorney chosen by the defendant
Answer: C
Objective: Categorize the constitutional rights criminal defendants have
Level: Intermediate

25) With respect to witnesses, what rights does the defendant have?
A) Summon witnesses
B) Confront witnesses
C) Cross-examine witnesses
D) All of the above
Answer: D
Objective: Categorize the constitutional rights criminal defendants have
Level: Basic

26) The right of the defendant to be presumed innocent until proven guilty is based on what source of law?
A) U.S. Constitution
B) Federal statute
C) State statute
D) Common law
Answer: D
Objective: Categorize the constitutional rights criminal defendants have
Level: Difficult

27) What is a constitutional right of defendants in criminal cases?
A) Remain silent
B) Consult with a lawyer
C) Be represented by a lawyer
D) Have a lawyer present during questioning
Answer: C
Objective: Categorize the constitutional rights criminal defendants have

Level: Intermediate

28) What term describes a trial divided into two parts?

A) Separated
B) Divided
C) Bifurcated
D) Severed

Answer: C
Objective: Distinguish a bifurcated trial from a severance of action
Level: Basic

29) What are characteristics of severance of action?

A) Multiple parties
B) Separation of an initial lawsuit into several independent cases
C) Separate final judgments
D) All of the above

Answer: D
Objective: Distinguish a bifurcated trial from a severance of action
Level: Basic

30) What document(s)give federal judges broad discretion to grant a severance of action?

A) U.S. Constitution
B) State constitutions
C) Federal Rules of Criminal Procedure
D) State codes

Answer: C
Objective: Distinguish a bifurcated trial from a severance of action
Level: Basic

2.2 True/False Questions

1) A prosecution is a criminal action.

Answer: TRUE
Objective: Explain what probable cause is and its relation to an arrest
Level: Basic

2) A prosecution begins with the issuance of a writ of certiorari.

Answer: FALSE
Objective: Explain what probable cause is and its relation to an arrest
Level: Basic

3) To arrest a suspect without an arrest warrant, a law enforcement officer needs probable cause.

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Answer: TRUE
Objective: Explain what probable cause is and its relation to an arrest
Level: Basic

4) According to the Miranda warning, lawyers will be provided without cost for all defendants.
Answer: FALSE
Objective: Explain the Miranda Warning
Level: Basic

5) Any statement made by a suspect in the presence of law enforcement officers can be used as evidence in court.
Answer: FALSE
Objective: Explain the Miranda Warning
Level: Intermediate

6) Arrested suspects may be informed at any time about their constitutional rights.
Answer: FALSE
Objective: Explain the Miranda Warning
Level: Basic

7) A preliminary hearing is also known as a probable cause hearing.
Answer: TRUE
Objective: Explain the purpose of a preliminary hearing
Level: Basic

8) The purpose of a preliminary hearing is to determine whether a suspect has committed a crime.
Answer: FALSE
Objective: Explain the purpose of a preliminary hearing
Level: Basic

9) An information is a formal written charge of crime made by a grand jury.
Answer: FALSE
Objective: Contrast an information with an indictment
Level: Basic

10) In the federal system, a grand jury is a jury consisting of between 16 and 23 persons.
Answer: TRUE
Objective: Contrast an information with an indictment
Level: Basic

11) The defendant's plea of "nolo contendere" means the admission of the charges.
Answer: FALSE
Objective: Explain the process and purpose of an arraignment
Level: Basic

12) After a plea bargaining, a date is set for a trial.
Answer: FALSE
Objective: Explain the process and purpose of an arraignment
Level: Intermediate

13) In a nonjury trial, the judge is a fact finder.
Answer: TRUE
Objective: Explain what reasonable doubt is
Level: Basic

14) Beyond reasonable doubt means absolute certainty.
Answer: FALSE
Objective: Explain what reasonable doubt is
Level: Basic

15) A victim's impact statement is a statement to the court relating the impact that the crime had on the public at large.
Answer: FALSE
Objective: Contrast the types of sentences
Level: Basic

16) In federal cases, the President of the United States has the power for a commutation of sentence.
Answer: TRUE
Objective: Contrast the types of sentences
Level: Basic

17) The defendant has the right to be free from any search and seizure.
Answer: FALSE
Objective: Categorize the constitutional rights criminal defendants have
Level: Intermediate

18) Under the Sixth Amendment, defendants in criminal cases have a right to require attendance of witnesses.
Answer: TRUE
Objective: Categorize the constitutional rights criminal defendants have
Level: Basic

19) Criminal trials are sometimes divided into separate parts.
Answer: TRUE
Objective: Distinguish a bifurcated trial from a severance of action
Level: Basic

20) A bifurcated trial is always a criminal trial.
Answer: FALSE

Objective: Distinguish a bifurcated trial from a severance of action
Level: Intermediate

2.3 Fill in the Blank Questions

1) All seizures of evidence of criminality by the police must be based on a valid search warrant or on a(n) _____ exception.
Answer: permissible
Objective: Explain what probable cause is and its relation to an arrest
Level: Basic

2) A process known as _____ permits the return of fugitives to states where they are accused of having committed a crime.
Answer: extradition
Objective: Explain what probable cause is and its relation to an arrest
Level: Basic

3) According to the Miranda warning, arrested suspects have a right to remain _____.
Answer: silent
Objective: Explain the Miranda Warning
Level: Basic

4) Suspects' statements that were obtained in violation of the Miranda warning are _____.
Answer: inadmissible
Objective: Explain the Miranda Warning
Level: Basic

5) When a suspect is released on _____, money or property is left with the court to guarantee that this person will return to stand trial.
Answer: bail
Objective: Explain the purpose of a preliminary hearing
Level: Basic

6) When suspects are released on personal _____, they have a personal obligation to return to stand trial.
Answer: recognizance
Objective: Explain the purpose of a preliminary hearing
Level: Basic

7) A formal written charge of crime made by a grand jury is a(n) _____.
Answer: indictment
Objective: Contrast an information with an indictment
Level: Basic

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8) At the state level, a jury consisting of between 5 and 23 persons is called a(n) _____ jury.
Answer: grand
Objective: Contrast an information with an indictment
Level: Basic

9) The act of calling a prisoner before the court to answer the indictment or information is called a(n) _____.
Answer: arraignment
Objective: Explain the process and purpose of an arraignment
Level: Basic

10) A real doubt based on reason and common sense is _____ doubt.
Answer: reasonable
Objective: Explain what reasonable doubt is
Level: Basic

11) A disregard of the punishment by a government official is a(n) _____.
Answer: pardon
Objective: Contrast the types of sentences
Level: Basic

12) The shortest amount of time served by a prisoner before this person is released or placed on parole is a(n) _____ sentence.
Answer: minimum
Objective: Contrast the types of sentences
Level: Basic

13) The defendant has the right to plead not _____.
Answer: guilty
Objective: Categorize the constitutional rights criminal defendants have
Level: Basic

14) Under the Sixth Amendment, the defendant has the right to a speedy trial by a(n) _____.
Answer: jury
Objective: Categorize the constitutional rights criminal defendants have
Level: Basic

15) Separation of lawsuits involving multiple parties into independent cases resulting in separate final judgments is called _____ of actions.
Answer: severance
Objective: Distinguish a bifurcated trial from a severance of action
Level: Basic

2.4 Matching Questions

Choose the item in column 2 that best matches each item in column 1.

A) Defendant pleads guilty to a lesser offense in exchange for a lighter sentence
B) Plea of admission to having committed the crime
C) Trial divided into two parts, providing separate evidence presentations and fact-findings for different issues in the same lawsuit
D) Given formally and not actually served sentences that are tied to certain conditions
E) Right to a court-appointed attorney if the defendant cannot afford one
F) Real doubt based on reason and common sense
G) To proceed against a person criminally
H) Power of a government official to disregard the punishment without the exoneration of guilt
I) Group of people listening to evidence presented by the prosecutor and deciding whether or not the evidence is sufficient to charge a suspect with the commission of a crime
J) Informing arrested suspects about their constitutional rights
K) Cannot be received
L) Reasonable belief based on facts that a crime has been committed
M) Money or property left with the court to guarantee that the suspect will return to stand trial

1) Suspended sentences
Level: Basic

2) Grand jury
Level: Basic

3) Reasonable doubt
Level: Basic

4) Prosecute
Level: Basic

5) Bifurcated trial
Level: Basic

6) Probable cause
Level: Basic

7) Plea bargain
Level: Basic

8) Inadmissible
Level: Basic

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9) *Gideon v. Wainwright*
Level: Basic

10) Guilty
Level: Basic

11) The Miranda warning
Level: Basic

12) Pardon
Level: Basic

13) Bail
Level: Basic

Answers: 1) D 2) I 3) F 4) G 5) C 6) L 7) A 8) K 9) E 10) B 11) J 12) H 13) M

2.5 Essay Questions

1) Discuss the beginning of a prosecution, an arrest, probable cause, and the importance of an arrest warrant for searches of a suspect by the police and for seizures of evidence of criminality.

Answer: [key points to be made]

Prosecution: begins with the issuance of an arrest warrant by a trial court judge. An arrest warrant is a written order of the court commanding law enforcement officers to arrest a person and bring him or her before the court.

To arrest: to deprive a person of his or her liberty by taking this person into custody.

Probable cause: a reasonable belief based on the facts known at the time that an offense has been committed. Probable cause gives the police the right for a suspect's arrest without an arrest warrant.

A valid arrest warrant is needed to search a suspect or this person's property. A permissible exception allows the police to make searches without a valid arrest warrant. An example of a permissible exception is a search of a suspect immediately after the arrest.

All seizures of evidence of criminality must be based on a valid search warrant or on a permissible exception

Objective: Explain what probable cause is and its relation to an arrest

Level: Basic

2) Define the Miranda warning and identify its four components.

Answer: [key points to be made]

Definition: The Miranda warning is constitutional rights of arrested suspects that must be told before suspects' questioning by the police.

The Miranda warning includes the following rights of arrested suspects:

They have the right to remain silent.

Any statements made by them may be used against them to gain conviction.

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They have the right to consult with a lawyer and to have a lawyer present during questioning.

A lawyer will be provided without cost for indigent defendants.

The Miranda warning is based on the U.S. Supreme Court's decision in *Miranda v. Arizona*.

Objective: Explain the Miranda Warning

Level: Basic

3) Define an arraignment. Discuss the meaning and outcomes of defendants' possible pleas.

Answer: [key points to be made]

Definition: An arraignment is the act of calling an arrested suspect before the court to answer the indictment or information.

During an arraignment, the charge is read to the suspect, and he or she is asked to plead.

There are three possible pleas for the defendant:

"guilty" (a plea of admission to having committed the crime)

"not guilty"

"nolo contendere" (a plea in which the defendant neither admits nor denies the charges). The plea of "nolo contendere" is not permitted by some courts.

When the defendant pleads guilty or nolo contendere, he or she is sentenced by the court. When the defendant pleads "not guilty," the date is set for a trial.

Objective: Explain the process and purpose of an arraignment

Level: Basic

4) Define a sentence and discuss different types of sentences.

Answer: [key points to be made]

Definition: A sentence is the judgment of the court imposing punishment when the defendant is found guilty in a criminal case.

There are the following types of sentences:

Consecutive or cumulative sentences: imposed on a defendant two or more sentences that have to be served one after the other.

Concurrent sentences: imposed on a defendant two or more sentences that have to be served at the same time.

Suspended sentence: one given formally, but not actually served.

Suspended sentences are sometimes given to first-time defendants and tied to certain conditions (e.g., completing community service).

Mandatory sentence: a fixed sentence that must be imposed, with no room for discretion.

Minimum sentence: the shortest amount of time that a prisoner must serve before being released or placed on parole.

Objective: Contrast the types of sentences

Level: Basic

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5) Identify constitutional rights of defendants in criminal cases.

Answer: [key points to be made]

In addition to the rights included in the Miranda warning, defendants in criminal cases have the following constitutional rights:

The right to be free from any unreasonable search and seizure. (U.S. Constitution, Fourth Amendment)

The right to a speedy trial. (U.S. Constitution, Sixth Amendment)

The right to plead not guilty. (inherent in the U.S. Constitution, the Bill of Rights)

The right to be represented by an attorney. (U.S. Constitution, Sixth Amendment)

The right to a court-appointed attorney if the defendant cannot afford one. (*Gideon v. Wainwright*)

The right to summon witnesses and require their attendance. (U.S. Constitution, Sixth Amendment)

The right to confront and cross-examine witnesses. (U.S. Constitution, Sixth Amendment)

The right to be presumed innocent until proven guilty, by a judge or jury, beyond a reasonable doubt. (*Taylor v. Kentucky*)

Objective: Categorize the constitutional rights criminal defendants have

Level: Basic

2.6 Critical Thinking Questions

1) Why is a procedure called the Miranda warning important for arrested suspects and for the prosecution? Explain.

Answer: [key points to be made]

The importance of the Miranda warning for arrested suspects: they are told about their constitutional rights. Although some suspects may choose not to take advantage of their constitutional rights (e.g., to have a lawyer present during questioning), it is important for suspects to have knowledge about these rights.

The importance of the Miranda warning for the prosecution: all suspects' statements that were obtained in violation of the Miranda warning are inadmissible as evidence in court. Therefore, it is important for the prosecution that, before questioning of suspects, the police give them the Miranda warnings.

Objective: Explain the Miranda Warning

Level: Basic

2) What are advantages and disadvantages of plea bargaining for the defendant and for the prosecution?

Answer: [key points to be made]

Advantages

For the defendant: he or she pleads guilty to a lesser offense in exchange for a lighter sentence.

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For the prosecution: there will be no trial, and the court will sentence the defendant. The workload of the prosecutor will be reduced.

Disadvantages

For the defendant: this person gives up his or her constitutional right for a speedy trial by jury and the chance of being acquitted.

For the prosecution: since a part of a plea bargain is a lighter sentence for the defendant, the public may consider a plea bargaining as an easy way for a criminal to escape a punishment that he or she deserves.

Objective: Explain the process and purpose of an arraignment

Level: Intermediate

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