Criminal Law Justice Series 3rd edition Moore Test Bank

SKU: 9780137370214-TEST-BANK

This work is protected by US copyright laws and is for instructors' use only.

Pearson

Instructor's Manual with Case Briefs and Test Bank

for

Criminal Law
Justice Series

Third Edition

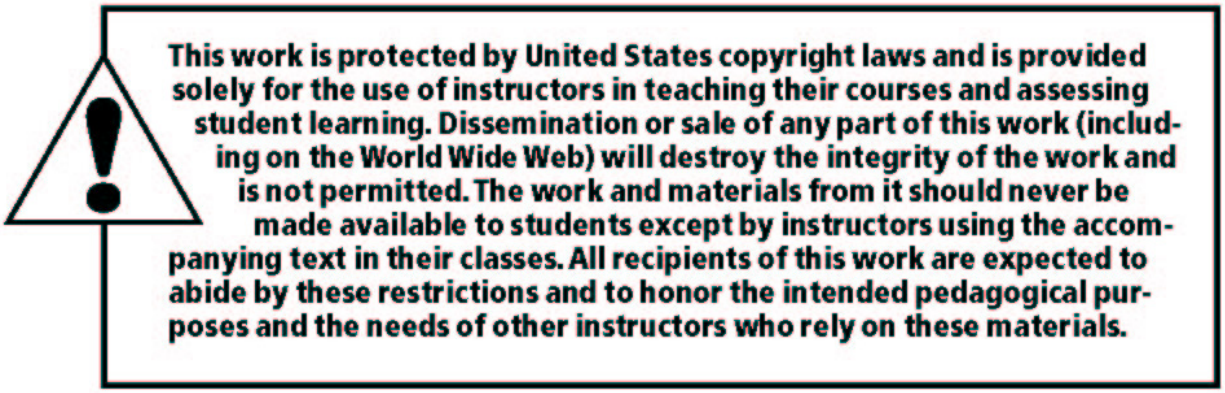
Jennifer L. Moore
DeSales University

John L. Worrall
University of Texas at Dallas

Prentice Hall

Boston Columbus Hoboken Indianapolis New York San Francisco Amsterdam Cape Town Dubai London Madrid Milan Munich Paris Montreal Toronto Delhi Mexico City Sao Paulo Sydney Hong Kong Seoul Singapore Taipei Tokyo

Criminal Law Justice Series 3rd edition Moore Test Bank



Copyright © 2022, 2018, 2015 Pearson Education, Inc. or its affiliates. All rights reserved. Manufactured in the United States of America. This publication is protected by Copyright, and permission should be obtained from the publisher prior to any prohibited reproduction, storage in a retrieval system, or transmission in any form or by any means, electronic, mechanical, photocopying, recording, or likewise. To obtain permission(s) to use material from this work, please submit a written request to Pearson Education, Inc., Permissions Department, 221 River Street, Hoboken, New Jersey 07030.

Many of the designations by manufacturers and seller to distinguish their products are claimed as trademarks. Where those designations appear in this book, and the publisher was aware of a trademark claim, the designations have been printed in initial caps or all caps.

Prentice Hall is an imprint of



ISBN-13: 978-0-13-577752-7

ISBN-10: 0-13-577752-6

www.pearsonhighered.com

Criminal Law Justice Series 3rd edition Moore Test Bank

Table of Contents

To the Instructor v

Sample Course Syllabus vi

Instructor Case Briefs

Chapter 2

Court Decision 2.1: *United States* v. *Virginia*, 518 U.S. 515 (1996). 1

Court Decision 2.2: *Texas* v. *Johnson*, 491 U.S. 397 (1989). 2

Court Decision 2.3: *Glossip* v. *Gross*, 135 S. Ct. 2726 (2015). 3

Chapter 3

Court Decision 3.1: *People of the State of New York* v. *Decina*, 138 N.E.2d 799 (N.Y. App. 1956). 4

Court Decision 3.2: *State of New Mexico* v. *Thomas Harrison*, 846 P.2d 1082 (N.M. App. 1993). 5

Court Decision 3.3: *Tyus* v. *State*, 845 So.3d 318 (Fla. App. 2003). 6

Court Decision 3.4: *People* v. *Lawson*, 155 Cal. Rptr. 3d 236 (Cal. App. 2013). 7

Chapter 4

Court Decision 4.1: *State* v. *James*, 867 So.2d 414 (Fla. App. 2004). 8

Court Decision 4.2: *Commonwealth* v. *Harry W. Leno, Jr., et al.*, 616 N.E.2d 453 (Mass. 1993). 9

Court Decision 4.3: *Helton* v. *State*, 624 N.E.2d 499 (Ill. App. 1993). 10

Chapter 5

Court Decision 5.1: *State* v. *McClenton*, 781 N.W. 2d 181 (Minn. App. 2010). 11

Court Decision 5.2: *State* v. *Guevara*, 155 Wash. App.07 (2010). 12

Court Decision 5.3: *United States* v. *Le*, 2009 WL 2947370 (E.D.Va. 2009). 13

Chapter 6

Court Decision 6.1: *State* v. *Chism*, 436 So. 2d 464 (La. 1983). 14

Court Decision 6.2: *State* v. *Formella*, 960 A.2d 722 (N.H. 2008). 15

Court Decision 6.3: *Commonwealth* v. *Angelo Todesca Corporation,* 446 Mass. 128 (Mass. 2006). 16

Chapter 7

Court Decision 7.1: *State* v. *Reid*, 670 S.E.2d 194 (S.C. App. 2009). 17

Court Decision 7.2: *People* v. *Dlugash*, 363 N.E.2d 1155 (N.Y. 1977). 18

Court Decision 7.3: *United States* v. *Soto*, 716 F.2d 989 (2d Cir. 1983). 19

Court Decision 7.4: *United States* v. *Buckalew*, 859 F.2d 1052 (1st Cir. 1988). 20

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Chapter 8

Court Decision 8.1: *Nibert* v. *Florida*, 574 So.2d 1059 (Fla. 1990). 21

Court Decision 8.2: *People* v. *Roe*, 542 N.E.2d 610 (N.Y. App. 1989). 22

Court Decision 8.3: *State* v. *Leech*, 790 P.2d 160 (Wash. 1990). 23

Chapter 9

Court Decision 9.1: *People* v. *Ireland*, 188 Cal. App. 4th 328 (Cal. App. 2010). 24

Court Decision 9.2: *Commonwealth* v. *Fettes*, 835 N.E.2d 639 (Mass. App. 2005). 25

Court Decision 9.3: *People* v. *Arias*, 193 Cal. App. 4th 1428 (2011). 26

Court Decision 9.4: *U.S* v. *Infante*, 782 F. Supp. 2d 815 (D. Ariz. 2010). 27

Chapter 10

Court Decision 10.1: *United States* v. *Monroe*, 178 F.3d 304 (5th Cir. 1999) 28

Court Decision 10.2: *People* v. *Torres*, 184 Misc.2d 429 (2000). 29

Court Decision 10.3: *Ferrara* v. *State*, 19 So.3d 1033 (Fla. App. 2009). 30

Court Decision 10.4: *United States* v. *Phillips*, 477 F.3d 215 (5th Cir. 2007). 31

Chapter 11

Court Decision 11.1: *Foreman* v. *United States*, 988 A.2d 505 (D.C. App. 2010). 32

Court Decision 11.2: *State* v. *Stallings*, 158 S.W.3d 310 (Missouri App. 2005). 33

Court Decision 11.3: *United States* v. *Zuniga-Arteaga*, 681 F.3d 1220 (11th Cir. 2012). 34

Chapter 12

Court Decision 12.1: *Helms* v. *State*, 38 So.3d 182 (Fla. App. 2010) 35

Court Decision 12.2: *United States* v. *Elie*, 2012 WL 383,403 (S.D.N.Y. 2012). 36

Court Decision 12.3: *Murphy* v. *National Collegiate Athletic Association*, 138 S.Ct. 1461 (2018). 37

Court Decision 12.4: *State* v. *Canal*, 773 N.W.2d 528 (Iowa 2009). 38

Court Decision 12.5: *Dobson* v. *McClennen*, 238 Ariz. 389 (2015). 39

Chapter 13

Court Decision 13.1: *Holder* v. *Humanitarian Law Project*, 561 U.S. 1 (2010). 40

Court Decision 13.2: *United States* v. *Abu-Jihaad*, 600 F.Supp.2d 362 (D. Conn. 2009). 41

Court Decision 13.3: *United States* v. *Walli*, 785 F.3d 1080 (6th Cir. 2015). 42

Answers to *Your Decision* Text Exercises 43

Answers to End-of-Chapter Review Questions 49

Testbank 66

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Test Bank

Chapter 1	66	Chapter 8	168
Chapter 2	80	Chapter 9	181
Chapter 3	95	Chapter 10	194
Chapter 4	109	Chapter 11	208
Chapter 5	123	Chapter 12	221
Chapter 6	140	Chapter 13	233
Chapter 7	154		

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

To the Instructor

The case briefs provided in this instructor's manual are one-page summaries of all the Court Decisions in the textbook. Prepared exclusively by one of the authors, these briefs identify the key aspects of each Court Decision in a style typical for summarizing legal opinions. The briefs are a unique tool for instructors to aid in transitioning to the textbook and preparing for daily class. In addition, if the instructor wishes to assign case briefs to their students, the briefs serve as an "answer sheet" for the assignment. Due to the condensed nature of the Court Decision feature in the textbook, the case briefs may occasionally contain additional information not included in the text to aid the instructor in understanding the full background of the case.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Criminal Law

Semester Course Syllabus

Instructor:

Time:

Office:

Telephone:

E-mail:

Office Hours:

Textbook: Moore, Jennifer and Worrall, John, *Justice Series: Criminal Law*, Third Edition

COURSE DESCRIPTION

A study of the principles and doctrines embodied in the criminal law. Topics such as substantive crimes, justification, complicity and liability, causation, and inchoate crimes will be explored and emphasized.

STUDENT LEARNING OUTCOMES

After successful completion of **this course** the student will also demonstrate the following Student Learning Outcomes:

- Testable awareness of the basic legal principles of criminal law.
- Testable knowledge regarding how criminal law integrates with all aspects of the criminal justice system in the United States.
- Proven mastery of basic criminal law vocabulary and terminology.
- Measurably improved ability to think critically and solve problems in criminal law, assessed through class participation and exams.

TESTING & GRADING

There will be three in-class exams given during the semester, and each examination will be worth 20% of the final grade. A **comprehensive** final examination will be given at the end of the course, worth 25% of the final grade. Additional assignments and class participation will constitute 15% of the final grade. Excessive absences will negatively impact a student's class participation grade.

*Students will **not** be permitted to make-up any examination or assignment, unless they have a valid excuse approved by the professor.*

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

- **Grading:**

Exam #1:	**20%**
Exam #2:	**20%**
Exam #3:	**20%**
Final Exam:	**25%**
Other Assignments & Participation	**15%**
TOTAL:	**100%**

- **Grading Distribution:**

93–100%	A
90–92%	A–
87–89%	B+
83–86%	B
80–82%	B–
77–79%	C+
73–76%	C
70–72%	C–
67–69%	D+
60–66%	D
Below 60%	F

COURSE REQUIREMENTS

- **Attendance:** Students are expected to attend all classes during the semester and are responsible for all material presented in class. Attendance will be taken at the beginning of each class. Students will not be permitted to make-up an examination or assignment if they are absent unless they have a valid excuse approved by the instructor. A student's absences will also be considered in calculating their class participation grade.
- **Assigned Readings:** Students are expected to read the assigned chapters prior to class. All students should be prepared to discuss the readings in class.
- **Cheating and Plagiarism:** Cheating on examinations, the use of unauthorized aids, assistance or inappropriate resources, and plagiarism, the unattributed use of another's words or ideas, through either direct appropriation or incorrect paraphrasing, are serious breaches of academic standards and will not be permitted.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

COURSE OUTLINE

Week 1	Foundations Chapter 1: The Foundations of Criminal Law
Week 2	Chapter 2: Limitations on the Criminal Law
Week 3	Chapter 3: The Elements of Criminal Liability
Week 4	Review for Exam #1 **Exam #1**
Week 5	Chapter 4: Justification Defenses
Week 6	Chapter 5: Excuse Defenses
Week 7	Chapter 6: Complicity and Vicarious Liability
Week 8	Chapter 7: Inchoate Crimes **Exam #2**
Week 9	Chapter 8: Homicide
Week 10	Chapter 9: Assaultive Offenses
Week 11	Chapter 10: Property Damage, Invasion, and Cybercrime
Week 12	Chapter 11: Theft and Analogous Offenses
Week 13	Review for Exam #3 **Exam #3**
Week 14	Chapter 12: Public Order, Morality, and Vice Crimes
Week 15	Chapter 13: Terrorism and Offenses against the State Review for Final Exam

***This syllabus is subject to change upon notification by the instructor.*

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Court Decision 2.1

United States* v. *Virginia

518 U.S. 515 (1996)

Procedural History: The United States of America sued the Commonwealth of Virginia. The Western District of Virginia ruled in favor of Virginia. The Fourth Circuit Court of Appeals vacated and remanded. On remand, the Western District approved a remedial plan and the Fourth Circuit affirmed. The Supreme Court affirmed in part, reversed in part, and remanded.

Facts: The Virginia Military Institute (VMI), a state college, refused to allow women to attend the school. The United States of America sued the Commonwealth of Virginia alleging constitutional violations.

Issue: Does VMI's failure to admit women constitute a violation of the Equal Protection Clause of the United States constitution?

Holding: Yes. The exclusion of women at VMI is an Equal Protection Clause violation.

Reasoning: Heightened or intermediate scrutiny applies to cases of gender discrimination under the Equal Protection Clause. The test requires that the gender classification serves "important government objectives" and the discrimination is "substantially related to the achievement of those objectives." The exclusion of women at VMI fails to satisfy the requirements of the test.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Court Decision 2.2

Texas* v. *Johnson

491 U.S. 397 (1989)

Procedural History: Johnson was convicted of desecration of a venerated object in the County Criminal Court No. 8, Dallas County. The Dallas Court of Appeals affirmed. The Texas Court of Criminal Appeals reversed and remanded. The United States Supreme Court affirmed.

Facts: Gregory Lee Johnson was part of a political demonstration known as "the Republican War Chest Tour" while the Republican National Convention was taking place in Dallas, Texas. Members of the demonstration vandalized and destroyed property, but Johnson did not participate in these activities. In front of Dallas City Hall, Johnson took an American flag, doused it in kerosene and set it on fire while the crowd chanted "America, the red, white and blue, we spit on you."

Issue: Is the burning of an American flag protected under the First Amendment to the United States Constitution?

Holding: Yes. The burning of an American flag is expressive conduct protected under the First Amendment.

Reasoning: Burning an American flag is a form of symbolic speech protected under the First Amendment. Texas' interests in preserving the peace and safeguarding the flag do not justify the restriction of Johnson's constitutional rights. The Court emphasized that "the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Court Decision 2.3

Glossip* v. *Gross

135 S.Ct. 2726 (2015)

Procedural History: The Western District of Oklahoma denied a motion for a preliminary injunction. The 10th Circuit Court of Appeals affirmed, and the United States Supreme Court also affirmed.

Facts: Several death row inmates in Oklahoma sued various state officials claiming that the cocktail of drugs used in the execution protocol violated the Eighth Amendment. Specifically, they alleged that the first drug, midazolam, posed a substantial risk of severe pain.

Issue: Does Oklahoma's use of the sedative midazolam as the first drug in its execution protocol violate the Eight Amendment's Cruel and Unusual Punishment Clause?

Holding: No. The death row inmates did not establish the likelihood of success on the merits in regards to their claim that midazolam, the first drug in the cocktail, violates the Eighth Amendment.

Reasoning: The inmates did not produce sufficient evidence to establish that midazolam fails to render a person insensate and exposes the recipient to a substantial risk of severe pain. They failed to identify an available alternative for use in execution with a lower risk of pain and did not establish clear error by the district court in reaching its factual conclusions.

Dissent: Justice Breyer argued that the constitutionality of the death penalty, in general, should be reexamined. He suggests that the death penalty is unconstitutional, due in part to its unreliability and arbitrary application.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Court Decision 3.1

People of the State of New York* v. *Decina

138 N.E.2d 799 (N.Y. App. 1956)

Procedural History: Decina was convicted of criminal negligence in operating an automobile in the Supreme Court of Erie County and appealed. The Supreme Court of New York granted a new trial and both Decina and the prosecution appealed. The Court of Appeals (New York's highest court) affirmed.

Facts: Decina was epileptic and suffered a seizure on March 14, 1955, while driving alone in his Buick. His car swerved several times and eventually hit six schoolgirls walking on the sidewalk. Four of the minors were killed. His car continued and crashed through the brick wall of a grocery store injuring one customer. Decina resisted arrest and attempted to flee from the scene.

Issue: Can a person who suffers from a known medical condition while driving be criminally liable?

Holding: Decina's challenge to the indictment is rejected. A person can be criminally responsible for crimes committed while suffering from a known medical condition.

Reasoning: Decina was aware he was subject to epileptic seizures and that an uncontrolled vehicle is dangerous on public highways. Despite this awareness, he deliberately chose to drive his car with a disregard for the potential consequences. The Court also notes that an "unexpected" medical attack without prior knowledge would be a different legal situation.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Answers to *Your Decision* Text Exercises

Chapter 1

- **1.1:** The family would likely pursue **a civil case** because it is the family members (as opposed to a prosecutor) who feels George should be held accountable. In all likelihood, they would sue George for wrongful death. Their civil suit could be pursued regardless of whether criminal charges are ever filed against George.
- **1.2:** You should look primarily at the state criminal code. Pennsylvania's criminal code will spell out in detail the nature and elements of the offense of extortion. After locating the code, you can review Pennsylvania court cases that interpret the meaning of the statute.
- **1.3:** Jodie could use a **challenge for cause** to excuse Juror 2. Because he was the defense attorney's roommate, he may be inclined to favor the defense. Juror 6 and Juror 12 can be excused using a **peremptory challenge**.
- **1.4:** If you find Amy not guilty, you are indeed engaging in jury nullification. The criminal law excuses homicide in very limited circumstances—and Amy's case is not one of them, despite the terrible suffering she was forced to endure.
- **1.5:** James will appeal to **a state intermediate appellate court**. Had he been tried in federal court, however, he would appeal to the appropriate **U.S. Court of Appeals**.

Chapter 2

- **2.1:** The statute is not enforceable under the **principle of legality**. The statute fails to specifically outline the possible punishment for the crime and notes only that offenders are "punished to the full extent of the law."
- **2.2:** The Michigan statute is unconstitutional because it violates the Equal Protection Clause of the Fourteenth Amendment, which prohibits discrimination without adequate state justification. Since it does not involve race, gender or a fundamental right, the **rational basis test** should be used to evaluate the legality of the statute.
- **2.3:** Jose is raising a challenge under the **void for vagueness doctrine**. Since the statute lacks a definition regarding what constitutes a member of "a criminal street gang," the statute is most likely unconstitutional. See *Chicago* v. *Morales*, 527 U.S. 41 (1991).
- **2.4:** There is no Double Jeopardy violation. This is an issue under the multi-punishment prohibition of Double Jeopardy. In *United States* v. *Ursery*, 116 S.Ct. 2135 (1996), the U.S. Supreme Court held that civil forfeitures generally do not constitute "punishment."

Chapter 3

- **3.1:** The statute describes a **result crime** because it requires that the property suffers physical damage in order for the crime of trespassing to occur.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Answers to End-of-Chapter Review Questions

Chapter 1 Review Questions

1.1:

1. A crime is anything the criminal law defines as illegal. Crimes are behaviors that lawmakers, who in the United States are our elective representatives, make illegal. Crimes need to be distinguished from civil wrongs or torts. Civil wrongs are between two private parties. One type of civil wrong is a tort, which is a private wrong or injury. Tort actions are brought by victims to compensate them for their injuries, generally through monetary damages. In contrast, the government prosecutes criminal cases for purpose of punishing wrongdoers.

2. Criminal law specifies what kinds of behavior are illegal, what punishments are available for dealing with offenders, and what defenses can be invoked by individuals who break it. Criminal procedure is a vast system of laws and guidelines that detail how suspected and accused criminals are to be processed and handled by the criminal justice system.

3. The three primary goals of criminal law are offender punishment, community protection and offender protection.

4. Student should choose from the answers in question 3 and explain their position.

5. Crimes are classified as either felonies or misdemeanors, based on the potential punishment. Crimes are also classified as *malum in se* and *malum prohibitum*.

1.2:

1. Early Legal Codes, Common Law, Modern Statues, Modern Penal Code and Constitutional Sources.

2. These early codes are important because the signaled the emergence of formalized law.

3. Common law is also known as case law or judge-made law. The common law developed in early England by judges who wrote down their decisions and circulated them to other judges. Judges represented the community and applied the community's law, thereby maintaining its age-old customs and values.

4. They exist at different levels of government and come in several different forms. The

United States Code contains federal laws, and violations of its provisions can lead to federal prosecution. States have their respective codes. Other units of government, such as counties and cities, often have their own ordinances. These legal codes exist in several varieties.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

5. While the federal Constitution receives the most attention due to its status as the supreme law of the United States, it is important to note that each state has its own constitution.

These often mirror the federal Constitution, but they often go into much more detail. In any case, constitutions work together with legal codes, administrative regulations, and the common law to provide an interesting basis for criminal justice as we know it. State constitutions can be more restrictive than the U.S. Constitution, but no state can relax protections spelled out in the U.S. Constitution.

6. Select from answers for question 1. Support your answer.

1.3:

1. An adversarial justice system is a system of justice that pits two parties against each other in pursuit of the truth, such as in the United States. An inquisitorial system is the opposite of an adversarial system. The accused does not enjoy the same legal protections and decision-making authority is placed in the hands of one or very few individuals. In addition, juries are the exception in an inquisitorial system the judge takes a more prominent role in fact finding.

2. In a criminal trial, the burden is proof beyond a reasonable doubt. In a civil case, the burden is preponderance of the evidence.

3. A presumption is a fact assumed to be true under the law, such as the presumption of innocence. Presumptions are essential to the smooth operation of criminal justice. They serve, basically, as substitutes for evidence. Without them, every minute issue that could possibly be disputed would come up during trials. Without presumptions, the process would be slowed down considerably because every minor event, no matter how likely, would have to be proven in court.

4. The prosecutor represents the government in a criminal case and presents his/her case through presentation of evidence. The defense attorney represents the criminal defendant and challenges the prosecution’s case in an effort to create reasonable doubt.

5. The judge presides over the court proceedings, from pre-trial matters until a verdict or sentencing. The judge resolves questions of law. Judges are required to remain neutral and detached throughout the proceedings.

6. Think of jury selection as a three-stage process: A list of potential jurors must be compiled, potential jurors are selected from that list, and only then is the jury itself chosen from the potential jurors who are selected. Potential jurors are questioned during a process called *voir dire*, where the judge and lawyers ask questions. During *voir dire*, both the defense and the prosecution have an unlimited number of so-called challenges for cause, which are used to exclude potential jurors from service on the jury because of bias or a similar reason. In addition, each attorney is afforded a certain number of peremptory challenges. This calls for the removal of potential jurors without any type specific reason.

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

1.4:

1. The United States court system has both federal and state courts.

2. Dual federalism is a system in which the only powers of the federal government are those explicitly listed, with the rest being left to the states. Cooperative federalism is a system of federalism in which the lines between federal and state power are blurred.

3. Both the state and federal court systems have a distinct hierarchy. Courts are obligated to follow the decisions of courts above them in the hierarchy. The United States Supreme Court is the highest court in the country and its decisions are binding on all state and federal courts.

4. There are four common levels of state courts. The courts of limited jurisdiction are the lowest state court with jurisdiction over relatively minor infractions and offenses (e.g., traffic court). The court of general jurisdiction is a state trial court with jurisdiction over a wide range of offenses. These are often called superior courts. Verdicts from the courts of general jurisdiction can be appealed to the state intermediate appellate courts. The state supreme court is the highest court in the state. The federal court consists of three specific types of courts. The lowest courts at the federal level are the so-called district courts. At the next level in the federal hierarchy are the U.S. Courts of Appeals. Finally, the U.S. Supreme Court is the highest court in the federal system.

5. The higher appellate courts provide precedent to the lower courts. Ideally, this provides consistency and predictability in the law. In reality, a case can move between the various court levels for many years before reaching final resolution.

Chapter 2 Review Questions

2.1:

1. The U.S. Constitution divides governmental authority into three branches: executive, legislative, and judicial. In general, the legislative branch makes the laws, the executive branch enforces the laws, and the judicial branch interprets the laws. Federalism is a system of government where power is constitutionally divided between a central governing body (the federal government, for example) and various constituent units (the states). In a federalist system, laws are made by the central governing authority and by the constituent units. This is obviously the case in the United States. The federal government makes law, but federalism also gives the states the power to make their own laws. Ours is a system of dual federalism, where the only powers vested with the federal government are those explicitly named in the Constitution—the rest is left to the states.

2. The principle of legality is a legal principle stating that a defendant cannot be convicted of a crime unless there is specific legislation making it illegal and defining the potential punishment.

3. The principle of lenity is a legal principle requiring that any ambiguity in a statute should benefit the defendant, not the government. Many statutes are not completely clear in their wording, which means that there is plenty of room for interpretation in the

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

TEST BANK

***Criminal Law (Justice Series), 3e* (Moore/Worrall)**

Chapter 1 The Foundations of Criminal Law

1.1 Multiple Choice Questions

1) If a state government brings charges against an individual for burglary, this is a _____ case.
   A) Civil
   B) Criminal
   C) Model Penal Code
   D) Administrative
   Answer: B
   Page Ref: 2
   Objective: Explain basic criminal law terminology.
   Level: Basic

2) Which of the following is a goal of criminal law?
   A) Legalization of marijuana
   B) Tort-feasor
   C) Community protection
   D) *Malum in se*
   Answer: C
   Page Ref: 4
   Objective: Explain basic criminal law terminology.
   Level: Basic

3) _____ specifies what kinds of behavior are illegal, what punishments are available for dealing with offenders, and what defenses can be invoked by individuals who find themselves on the wrong side of the law.
   A) Criminal law
   B) Torts
   C) Criminal procedure
   D) Punishments
   Answer: A
   Page Ref: 2
   Objective: Explain basic criminal law terminology.
   Level: Basic

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

4) Which of the following is a private wrong or injury, where the victim can initiate a civil lawsuit to compensate for their injuries?
A) Criminal law
B) Tort-feasor
C) Tort
D) Criminal procedure
Answer: C
Page Ref: 3
Objective: Explain basic criminal law terminology.
Level: Basic

5) Which of the following is the act of removing an individual from society so he or she can no longer offend?
A) Restorative justice
B) Deterrence
C) Incapacitation
D) Utilitarian
Answer: C
Page Ref: 4
Objective: Explain basic criminal law terminology.
Level: Intermediate

6) What is an act that is wrong or evil in itself?
A) Felony
B) Misdemeanor
C) *Malum prohibitum*
D) *Malum in se*
Answer: D
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Basic

7) This theory of punishment rests on the foundations of vindictive justice and believes that offenders should be made to suffer for their crimes.
A) Retribution
B) Deterrence
C) Restoration
D) Rehabilitation
Answer: A
Page Ref: 3
Objective: Summarize the sources of criminal law.
Level: Basic

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

8) A _____ is a crime punishable by death or confinement in prison for more than 12 months.
A) Misdemeanor
B) Status offense
C) Capital offense
D) Felony
Answer: D
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Basic

9) A _____ is a crime punishable by a fine or a period of incarceration of less than 12 months.
A) Misdemeanor
B) Status offense
C) Capital offense
D) Felony
Answer: A
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Basic

10) What type of law developed in England by judges who wrote down their decisions and circulated them to other judges?
A) Procedural
B) Special
C) Criminal
D) Common
Answer: D
Page Ref: 6
Objective: Summarize the sources of criminal law.
Level: Intermediate

11) The appellate stage of the criminal process occurs _____ adjudication.
A) Before
B) After
C) Simultaneously with
D) Preceding
Answer: C
Page Ref: 8
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

12) In the criminal law context, the burden of _____ falls on the prosecutor to establish the defendant's guilt beyond a reasonable doubt.

A) Proof
B) Persuasion
C) Production
D) Procedure

Answer: A
Page Ref: 9
Objective: Discuss the process of reaching a verdict.
Level: Basic

13) What type of evidence proves a fact without the need of the jury to infer anything from it?

A) Real
B) Circumstantial
C) Direct
D) Testimonial

Answer: C
Page Ref: 10
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

14) _____ evidence is evidence that is relevant and goes to substantial matters in dispute, or has legitimate influence or bearing on the decision of the case.

A) Material
B) Demonstrative
C) Real
D) Direct

Answer: A
Page Ref: 10
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

15) The _____ Amendment states, in part, that the "accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state."

A) Second
B) Fourth
C) Sixth
D) Eighth

Answer: C
Page Ref: 11
Objective: Discuss the process of reaching a verdict.
Level: Basic

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

16) The process of examining potential jurors for bias is known as _____.
A) *Voir dire*
B) *Stare decisis*
C) *Malum prohibitum*
D) *Malum in se*
Answer: A
Page Ref: 12
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

17) What type of court system is used in the United States?
A) Triple court system
B) Cooperative federalism
C) Dual court system
D) Single court system
Answer: C
Page Ref: 13
Objective: Summarize court organization.
Level: Intermediate

18) Which type of court oversees alleged traffic court violations in a state system?
A) Courts of limited jurisdiction
B) Courts of general jurisdiction
C) Supreme courts
D) District courts
Answer: A
Page Ref: 13
Objective: Summarize court organization.
Level: Intermediate

19) How many federal district courts are in the United States (including territories)?
A) 12
B) 13
C) 52
D) 94
Answer: D
Page Ref: 13
Objective: Summarize court organization.
Level: Intermediate

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

20) What is the highest court in the federal system?
A) U.S. courts of appeals
B) Federal district courts
C) U.S. intermediate appellate courts
D) U.S. Supreme Court
Answer: D
Page Ref: 14
Objective: Summarize court organization.
Level: Basic

21) Which is the party that appeals?
A) Respondent
B) Appellant
C) Appellee
D) Petitioner
Answer: B
Page Ref: 17
Objective: Summarize court organization.
Level: Difficult

22) In the appeals process, what occurs when an appellate court sends a case back to the lower court for further action consistent with its decisions?
A) Affirm
B) Vacate
C) Remand
D) Agree
Answer: C
Page Ref: 17
Objective: Summarize court organization.
Level: Intermediate

1.2 True/False Questions

1) Without the criminal law, there would be no crimes, no criminals, and perhaps no means of controlling undesirable behavior.
Answer: TRUE
Page Ref: 2
Objective: Explain basic criminal law terminology.
Level: Basic

2) Criminal law treats crimes as offenses against individuals, not society.
Answer: FALSE
Page Ref: 3

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Objective: Explain basic criminal law terminology.
Level: Basic

3) Our system of criminal law is built on community protection but not offender protection.
Answer: FALSE
Page Ref: 3
Objective: Explain basic criminal law terminology.
Level: Basic

4) Rehabilitation is the act of removing an individual from society so he or she can no longer offend.
Answer: FALSE
Page Ref: 4
Objective: Explain basic criminal law terminology.
Level: Intermediate

5) A misdemeanor is a crime punishable by a fine or a period of incarceration less than 12 months.
Answer: TRUE
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Basic

6) Death is a criminal sentence reserved for the most serious misdemeanors.
Answer: FALSE
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Basic

7) A crime is defined as a felony or misdemeanor based on actual, not possible, punishment.
Answer: FALSE
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Intermediate

8) Jury trials are required in all misdemeanor cases.
Answer: FALSE
Page Ref: 5
Objective: Summarize the sources of criminal law.
Level: Difficult

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

9) Most published court decisions hail from the appellate courts.
Answer: TRUE
Page Ref: 8
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

10) An adversarial system of justice and an inquisitional system of justice are indistinguishable from each other.
Answer: FALSE
Page Ref: 8-9
Objective: Discuss the process of reaching a verdict.
Level: Basic

11) The burden of proof in a civil case is higher than the burden of proof in a criminal case.
Answer: FALSE
Page Ref: 9
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

12) A jury can serve as triers of law and fact.
Answer: FALSE
Page Ref: 11
Objective: Discuss the process of reaching a verdict.
Level: Difficult

13) If the Supreme Court agrees to hear a case, it issues a *writ of certiorari*.
Answer: TRUE
Page Ref: 15
Objective: Summarize court organization.
Level: Intermediate

14) Federalism gives the states power to make their own laws.
Answer: TRUE
Page Ref: 13
Objective: Summarize court organization.
Level: Basic

15) There are nine justices on the United States Supreme Court when at full capacity.
Answer: TRUE
Page Ref: 16

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Objective: Summarize court organization.
Level: Basic

1.3 Fill in the Blank Questions

1) Criminal _____ is the bedrock of the American criminal justice system.
Answer: Law
Page Ref: 2
Objective: Explain basic criminal law terminology.
Level: Basic

2) The individual charged with committing the crime is the _____.
Answer: Defendant
Page Ref: 3
Objective: Explain basic criminal law terminology.
Level: Basic

3) Having a formal system of criminal laws helps ensure that the _____ seeks justice, rather than private individuals.
Answer: State
Page Ref: 5
Objective: Explain basic criminal law terminology.
Level: Intermediate

4) The Modern _____ Code is a set of criminal laws adopted by the American Law Institute for states to emulate as they see fit.
Answer: Penal
Page Ref: 7
Objective: Summarize the sources of criminal law.
Level: Intermediate

5) The Bill of Rights consists of the first _____ amendments to the U.S. Constitution.
Answer: Ten
Page Ref: 7
Objective: Summarize the sources of criminal law.
Level: Basic

6) An adversarial justice system pits _____ parties against each other in pursuit of the truth.
Answer: Two
Page Ref: 8-9

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

Objective: Discuss the process of reaching a verdict.
Level: Basic

7) Proof beyond a reasonable doubt is akin to _____ percent certainty that the defendant is guilty.
Answer: 95
Page Ref: 9
Objective: Discuss the process of reaching a verdict.
Level: Basic

8) A system of federalism in which the lines between federal and state power are blurred is known as _____ federalism.
Answer: Cooperative
Page Ref: 13
Objective: Summarize court organization.
Level: Intermediate

9) The general trial courts in the federal court system are referred to as _____ courts.
Answer: District
Page Ref: 13
Objective: Summarize court organization.
Level: Intermediate

10) A minority opinion that disagrees with the majority opinion in an appellate case is known as a(n) _____.
Answer: Dissent
Page Ref: 17
Objective: Summarize court organization.
Level: Intermediate

1.4 Matching Questions

Match the goals of criminal law with their definitions.

A) The act of removing an individual from society so he or she can no longer offend
B) When society expresses its abhorrence of the crime committed
C) The assumption that when would-be offenders see a criminal held accountable, they opt to abide by the law for fear of suffering the same fate
D) The idea that when an offender is locked up, he or she cannot commit out in society

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

E) The practice of having offenders "face up" to the harm they have caused
F) A planned intervention intended to bring about change in an offender

1) Incapacitation
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate
2) Specific Deterrence
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate

3) General Deterrence
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate

4) Rehabilitation
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate

5) Restoration
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate

6) Denunciation
Page Ref: 3-4
Objective: Explain basic criminal law terminology.
Level: Intermediate

Answers: 1) D 2) A 3) C 4) F 5) E 6) B

Match each type of evidence with its description.

A) Most often consists of verbal statements given by someone who is under oath
B) Any tangible item that can be perceived with the five senses
C) Evidence that seeks to demonstrate a certain point
D) Evidence that is relevant and goes to substantial matters in dispute, or has legitimate influence or bearing on the decision of the case

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

7) Real evidence
Page Ref: 10
Objective:
Level: Intermediate
Discuss the process of reaching a verdict.

8) Testimonial evidence
Page Ref: 10
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

9) Demonstrative evidence
Page Ref: 10
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

10) Material evidence
Page Ref: 10
Objective: Discuss the process of reaching a verdict.
Level: Intermediate

Answers: 7) B 8) A 9) C 10) D

1.5 Essay Questions

1) Explain how the law serves to protect offenders.
Answer: One way this occurs is via the prevention of vigilantism. Having a formal system of criminal laws helps ensure that the *state* seeks justice, rather than private individuals seeking justice. The criminal law thus protects offenders from the threat of victims coming after them. The criminal law also protects offenders by ensuring proportionate and non-arbitrary punishment. They also spell out the range of acceptable punishments, ensuring at least *some* protection against wildly differing sentences between offenders. There are still examples of unequal treatment that persist, especially as pertain to racial and ethnic disparities in criminal justice, but the criminal law at least *helps* to ensure a measure of equal treatment. Offenders also benefit from elaborate procedural protections, including the right to counsel, the right to a speedy trial, the right to an impartial jury trial, the right to a public trial, the right to confrontation, the right to compulsory process, and so on. These protections, however, stem more from the rules of criminal procedure–and particularly the U.S. Constitution–than they do from the criminal law.
Page Ref: 4-5
Objective: Explain basic criminal law terminology.
Level: Intermediate

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

2) Identify and define the five sources of the criminal law.

Answer: Early Legal Codes, Common Law, Modern Statues; Modern Penal Code and Constitutional Sources. Early Legal Codes include the Code of Hammurabi and the Twelve Tables. They both contained a strong element of retributive justice. These early codes are important because the signaled the emergence of formalized law; Common Law is also known as case law or judge-made law. The common law developed in early England by judges who wrote down their decisions and circulated them to other judges; Modern Statues differ from early legal codes because they exist at different levels in several different forms. The United States Code contains federal laws, and violations of its provisions can lead to federal prosecution. States have their own respective codes; The Modern Penal Code is a model set of criminal laws adopted by the American Law Institute for states to emulate as they see fit; Constitutional Sources are perhaps the most significant source of law. Unlike penal codes, constitutions generally do not prohibit actions on the part of private citizens. Rather, constitutions generally place limits on government authority. They define, in broad terms, government structure and organization; they also spell out various rights that people enjoy, how government officials will be selected, and what roles various government branches will take on.

Page Ref: 6-7

Objective: Summarize the sources of criminal law.

Level: Intermediate

3) Identify and define the six forms of evidence used in criminal trials.

Answer: Direct Evidence, Circumstantial Evidence, Real Evidence, Testimonial Evidence, Demonstrative Evidence and Material Evidence. Direct evidence is evidence that proves a fact without the need for the juror to infer anything from it. Circumstantial evidence is evidence that indirectly proves a fact. Real evidence is any tangible item that can be perceived within the five senses. Testimonial evidence consists of verbal statements given by someone who is under oath. Demonstrative evidence is evidence that seeks to demonstrate a certain point (e.g., drawings and illustrations). Material evidence is evidence that is relevant and goes to substantial matters in dispute, or has legitimate influence or bearings on the decision of the case.

Page Ref: 10

Objective: Discuss the process of reaching a verdict.

Level: Intermediate

4) Identify and explain the hierarchy of the federal court system.

Answer: The federal court structure consists specifically of three courts. Federal courts try cases involving federal law. The lowest courts at the federal level are so-called district courts. District courts conduct most of the initial proceedings in criminal cases, conduct trials of certain criminal misdemeanor cases, and conduct trials of civil cases with the consent of the parties. At the next level are the U.S. courts of appeals. Each is charged with hearing appeals from several of the district courts that fall within the circuit. Finally, the U.S. Supreme Court is the highest court in the federal system.

Page Ref: 13-14

Objective: Summarize court organization.

Level: Intermediate

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank

1.6 Critical Thinking Questions

1) Identify and describe the steps of the *voir dire* process. Consider the upcoming trial consists of a Hispanic defendant. A total of twelve challenges for cause have already been used by the defense when a potential juror illustrates racial prejudice against individuals of Hispanic descent. Can the defense excuse this person from serving on the jury? Why or why not? If so, how?

   Answer: There are three main steps in the *voir dire* process. *Voir dire* usually begins with the judge asking questions concerning potential jurors' familiarity with the case, attitudes toward one or the other party to the case, demographic information, and so on. This is often done to guide the attorneys in their *voir dire* questioning. Next, during *voir dire*, both the defense and the prosecution have an unlimited number of so-called challenges for cause, which are used to exclude potential jurors from service on the jury because of bias or a similar reason. Next, each attorney is afforded a certain number of peremptory challenges. These call for the removal of potential jurors without any type of argument for any reason whatsoever. If a potential juror illustrates racial prejudice against the defendant the defense can ask for the juror to be excused for cause. More than likely a challenge for cause would succeed and the potential juror would be excused. Challenges for causes are unlimited. If the challenge for cause was unsuccessful the defense could request the potential juror be removed through a peremptory challenge if all challenges have not been used.

   Page Ref: 12

   Objective: Discuss the process of reaching a verdict.

   Level: Intermediate

2) James Garfalo was arrested for selling 10 grams of cocaine to an undercover police officer. At his jury trial in the state trial court, James was convicted and sentenced to two years in prison. James believes his constitutional rights were violated during the trial and wishes to appeal. What court will hear James's appeal? Assume instead that James's trial happened in a federal district court. What federal court would hear his appeal?

   Answer: James is convicted within the state court and sentenced to two years in prison. His appeal, on the grounds of a constitutional rights violation, would be heard by the state intermediate appellate court, where verdicts from courts of general jurisdiction are appealed. If his case was affirmed within the intermediate appellate court, it is possible he could appeal to the state supreme court. If his case is again affirmed within the state supreme court it is possible he could appeal to the U.S. Supreme Court. If his conviction instead occurred within the federal district court, his appeal would be heard by the appropriate U.S. Court of Appeals, which is the federal appellate court. If his case is affirmed by the U.S. Court of Appeals, it is possible he could appeal to the U.S. Supreme Court.

   Page Ref: 13-15

   Objective: Summarize court organization.

   Level: Intermediate

Copyright © 2021 Pearson Education, Inc.

Criminal Law Justice Series 3rd edition Moore Test Bank