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CHAPTER 2 TEST BANK

MULTIPLE CHOICE

1. The earliest examples of conflict resolution can be found in
    a. post-industrial societies.
    b. pre-industrial societies.
    c. post-modern societies.
    d. the Industrial Revolution.

2. Roman law was highly influenced by
    a. Babylonian legal principles.
    b. European legal principles.
    c. Western legal principles.
    d. Asian legal principles.

3. England developed what is known as
    a. civil law.
    b. common law.
    c. Islamic law.
    d. socialist law.

4. In which of the following sources of law is the principle of "eye for an eye" found?
    a. the Code of Hammurabi
    b. the Bible
    c. common law
    d. civil law

5. On what source is American law primarily based?
    a. the Code of Hammurabi
    b. the Bible
    c. common Law
    d. civil Law

6. Common law was developed by which of the following?
    a. statutes
    b. the Constitution
    c. judges
    d. legislators

7. What phrase specifically means "let the decision stand"?
    a. parens patriae
    b. stare decisis
    c. res ipsa loquitur
    d. in loco parentis

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8. The highest court in the state in usually known as the
    a. district court.
    b. circuit court.
    c. state supreme court.
    d. appellate court.

9. Several legal systems exist today. The United States follows what is often referred to as the
    a. civil system.
    b. common law system.
    c. constitutional law system.
    d. socialist law system.

10. The burden of persuasion is commonly referred to as
    a. burden of production.
    b. burden of going forward.
    c. burden of proof.
    d. directed verdict.

11. In criminal trials, the burden of proof is by
    a. preponderance of the evidence.
    b. beyond a reasonable doubt.
    c. mere suspicion.
    d. probable cause.

12. In civil matters, the burden of proof is typically by
    a. preponderance of the evidence.
    b. beyond a reasonable doubt.
    c. mere suspicion.
    d. probable cause.

13. The twelfth-century term “moral certainty” has been equated with
    a. preponderance of the evidence.
    b. probable cause.
    c. clear and convincing evidence.
    d. reasonable doubt.

14. The case that applied the reasonable doubt standard to juvenile adjudication is
    a. *Weeks v. United States.*
    b. *In re Winship.*
    c. *Mapp v. Ohio.*
    d. *Terry v. Ohio.*

15. In most states, when the defense raises an affirmative defense, the burden of proof is
    a. preponderance of the evidence.
    b. probable cause.

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c. clear and convincing evidence.
d. beyond a reasonable doubt.

16. Any evidence obtained by law enforcement officers in violation of the Fourth Amendment guarantee against unreasonable searches and seizures is not admissible in a criminal trial to prove guilt; this rule was applied by the United States Supreme Court to the states in 1961 in
    a. *Mapp v. Ohio.*
    b. *In re Winship.*
    c. *Weeks v. United States.*
    d. *Graham v. Conner.*

17. Evidence seized illegally by state police could be turned over to federal law enforcement officers for use in federal prosecutions because federal law enforcement officers were not directly involved in the illegal seizure. This was known as
    a. thin blue line.
    b. patronage network.
    c. burden of going forward.
    d. silver platter doctrine.

18. The Supreme Court explicitly applied the remedy of the exclusionary rule to the states in
    a. *Elkins v. United States.*
    b. *Weeks v. United States.*
    c. *Mapp v. Ohio.*
    d. *Wolf v. Colorado.*

19. The "inevitable discovery exception" was developed in
    a. *Arizona v. Evans.*
    b. *Mapp v. Ohio.*
    c. *Nix v. Williams.*
    d. *Weeks v. United States.*

20. Self-defense applies to
    a. deadly force.
    b. non-deadly force.
    c. both a and b
    d. none of the above

21. Which of the following is an incorrect element required to plead self-defense?
    a. must be present danger
    b. must not be the initial aggressor
    c. must respond with similar force to the force being threatened by an attacker
    d. a reasonable belief that the force is necessary

22. The doctrine stating that a victim of an attack need not retreat and may use whatever force is necessary to repel an attack, even if a safe retreat was possible, is the
    a. retreat doctrine.

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b. true man doctrine.
c. castle doctrine.
d. non-retreat doctrine.

23. The doctrine stating that people need not retreat and may defend themselves in their own home is the
    a. retreat doctrine.
    b. true man doctrine.
    c. castle doctrine.
    d. stand your ground doctrine.

24. Consent must be
    a. voluntary, knowing, and intelligent.
    b. voluntary, knowing, and accepted.
    c. voluntary, approved, and accepted.
    d. voluntary, imminent, intelligent.

25. The United States Supreme Court held that police use of deadly force to apprehend fleeing criminal suspects is limited by the Fourth Amendment, which requires that all seizures be conducted in a reasonable manner, in
    a. *Mapp v. Ohio.*
    b. *Weeks v. United States.*
    c. *Graham v. Conner.*
    d. *Tennessee v. Garner.*

26. An example of an excuse defense is
    a. self-defense.
    b. insanity.
    c. consent.
    d. defense of others.

27. Which of the following is true of duress?
    a. It is a justification for a crime committed.
    b. It can be used to excuse only serious crimes.
    c. It typically requires imminent threats of bodily harm.
    d. It can be used to excuse murder.

28. Which of the following excuses, if successfully proven, would most likely allow a person to escape criminal liability?
    a. duress
    b. voluntary intoxication
    c. involuntary intoxication
    d. mistake of law

29. At common law there is an irrebuttable presumption that children under what age are considered incompetent?

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a. three
b. seven
c. nine
d. eleven

30. At common law what age group has rebuttable presumption of incompetence in adult criminal court?
    a. children under the age of seven
    b. children between the ages of seven and fourteen
    c. children between fourteen and eighteen
    d. No age group has such a presumption.

31. What age group has a presumption of competence in adult criminal court?
    a. children under the age of seven
    b. children between the ages of seven and fourteen
    c. children between fourteen and eighteen
    d. All age groups are presumed to be competent.

32. The juvenile court was established as an alternate approach to juvenile offenders and was based on
    a. the mens rea doctrine.
    b. the parens patriae doctrine.
    c. in loco parentis.
    d. res ipsa loquitur.

33. Insanity
    a. is a legal term that describes mental illness.
    b. is a medical term.
    c. does not excuse criminal liability by impairing the mens rea of the defendant.
    d. all of the above

34. Which of the following tests for insanity established the right versus wrong standard?
    a. M'Naghten rule
    b. iresistible impulse test
    c. Durham test
    d. substantial capacity test

35. Which of the following tests for insanity required that a defendant essentially lack free will?
    a. M'Naghten rule
    b. irresistible impulse test
    c. Durham test
    d. substantial capacity test

36. Which of the following tests excused criminal liability if it was the product of mental disease or defect?
    a. M'Naghten rule

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b. irresistible impulse test
c. Durham test
d. substantial capacity test

37. Which of the following tests for insanity was established by the American Law Institute?
    a. M'Naghten rule
    b. irresistible impulse test
    c. Durham test
    d. substantial capacity test

38. The _____ test for insanity states that the defendant is not criminally responsible if his or her act was "the product of mental disease or defect."
    a. substantial capacity
    b. product
    c. irresistible impulse
    d. infancy

39. Age has been treated as a defense to criminal liability on the ground that persons below a certain age lack the requisite mental capability to form mens rea or criminal intent. This is known as the
    a. infancy defense.
    b. insanity defense.
    c. intoxication defense.
    d. mistake of fact defense.

40. This doctrine requires that a person must retreat rather than use deadly force if it possible to retreat without incurring harm.
    a. true man doctrine
    b. retreat doctrine
    c. castle doctrine
    d. defense of others

TRUE/FALSE

1. ____ In pre-industrial societies the king/chief acted as an advocate for one side.

2. ____ Roman law was highly influenced by Babylonian legal principles.

3. ____ The Twelve Tables was the first entirely nonsecular written legal code.

4. ____ The Code of Hammurabi expressed a retributive "eye for an eye" philosophy.

5. ____ Common law was created by legislatures.

6. ____ Under common law, every final decision creates a precedent.

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7. ____ Stare decisis means “guilty mind.”

8. ____ Precedent is permanent.

9. ____ Higher-level appeals courts are bound by the judgments of lower courts.

10. ____ The court system is a form of conflict resolution.

11. ____ A prima facie showing means enough evidence to justify submission of the matter to the jury if unchallenged by the other side.

12. ____ The defendant is under no obligation to introduce evidence that he or she is innocent.

13. ____ The burden of persuasion is the burden placed upon the party to convince the jury with regard to a particular issue. It is more commonly referred to as the “burden of production.”

14. ____ The burden of proof *beyond a reasonable doubt* means that the facts asserted are probably more true than false.

15. ____ Proof by clear and convincing evidence lies somewhere between proof by a preponderance of the evidence and proof beyond a reasonable doubt.

16. ____ Very few states today have case law, which provides some definition of reasonable doubt.

17. ____ The Supreme Court has never upheld a definition of reasonable doubt.

18. ____ The exclusionary rule is a legislatively created remedy for violations of the Fourth Amendment.

19. ____ The primary purpose of the exclusionary rule is to deter judicial misconduct.

20. ____ Because the *Weeks* decision applied only against the federal government, state law enforcement officers were still free to seize evidence illegally without fear of exclusion in state criminal proceedings.

21. ____ In 1949, in *Wolf v. Colorado*, the Supreme Court applied the Fourth Amendment to the states, incorporating it into the due process clause of the Fourteenth Amendment. However, the Court refused to apply the remedy of the exclusionary rule to the states.

22. ____ The Supreme Court in *Mapp* stated that the exclusionary rule serves at least two purposes: the deterrence of police misconduct and the protection of individual rights.

23. ____ By “good faith,” the Court meant the police were unaware that the warrant was invalid.

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24. ____ The good faith exception applies to errors made by the police even if the errors were entirely inadvertent.

25. ____ A defense is a response made by the defendant to a charge in a criminal trial.

26. ____ Justification and excuse defenses are referred to as “affirmative defenses.”

27. ____ Texas allows the use of deadly force to protect certain types of property, such as natural gas.

28. ____ One can consent after the fact to injuries already received.

29. ____ One can consent to serious injury.

30. ____ With an excuse defense the defendant admits what he or she did was wrong but argues that under the circumstances he or she is not responsible for the improper conduct.

31. ____ Voluntary intoxication provides a complete defense.

32. ____ Youth has been treated as a defense to criminal liability on the ground that persons below a certain age lack the requisite mental capability to form actus rea.

33. ____ Today the parens patriae doctrine of the juvenile court is slowly giving way to an increased desire to treat juveniles similarly to adult offenders.

34. ____ There are several legal tests for insanity. These tests focus on the reason and willpower of the defendant.

35. ____ The M’Naghten test is also known as the “right versus wrong test.”

SHORT ANSWERS

1. **In the United States the criminal courts utilize the adversary system to establish the guilt of a criminal defendant. What is the rationale behind an adversary system?**
   In theory the adversary system is intended to ensure that all relevant evidence will be brought out and that each side will have an opportunity to fully and adequately present its case.

2. **What does a prima facie showing mean?**
   That there is enough evidence to justify submission of the matter to the jury if unchallenged by the other side.

3. **What is the typical burden of proof in a civil trial? What does this burden of proof mean?**
   The burden of proof is typically proof by a preponderance of the evidence. This means that the facts asserted are probably more true than false.

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4. **What is the burden of proof in a criminal trial? What does this burden of proof mean?**
   The burden of proof in a criminal trial is proof beyond a reasonable doubt. This means that the facts asserted are highly probable.

5. **What is the inevitable discovery exception to the exclusionary rule?**
   This exception permits the use at trial of evidence illegally obtained by the police if they can demonstrate that they would have discovered the evidence anyway by legal means.

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