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CORRECT ANSWERS ARE LOCATED IN THE 2ND HALF OF THIS DOC.

TRUE/FALSE - Write 'T' if the statement is true and 'F' if the statement is false.

1) If the penalty for a crime is less than one year, an accused is not entitled to a jury trial.
   - ◎ true
   - ◎ false

2) A defendant can absolutely waive his right to counsel if the judge believes the defendant is knowingly waiving that right.
   - ◎ true
   - ◎ false

3) Six-member juries are permitted in serious crimes cases only if they reach unanimous verdicts.
   - ◎ true
   - ◎ false

4) If the defense's motion for judgment of acquittal is granted, the case is sent for retrial.
   - ◎ true
   - ◎ false

5) Venire is a pool of available jurors sent to a courtroom.
   - ◎ true
   - ◎ false

6) A bench trial is the same as a court trial.
   - ◎ true
   - ◎ false

7) A potential juror may be excused from *voir dire* for no articulable reason.
   - ◎ true
   - ◎ false

8) Alternate jurors deliberate with the jurors on the panel but do not participate in rendering the final verdict.
   - ◎ true
   - ◎ false

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9) When testifying and there is an objection, a witness may answer if the judge overrules the objection.
- ◎ true
- ◎ false

10) Historically, a judge would notify the jury of its power to nullify.
- ◎ true
- ◎ false

11) The judge will ultimately decide whether a witness is credible or not.
- ◎ true
- ◎ false

12) A fine is the only punishment for being held in criminal contempt.
- ◎ true
- ◎ false

13) A judge will decide which criminal charges should be prosecuted and which should not.
- ◎ true
- ◎ false

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14) A prosecutor does not have to present all available physical evidence.
- ◎ true
- ◎ false

15) A *prima facie* case rules out the possibility that anybody other than the defendant committed the crime.
- ◎ true
- ◎ false

16) The same steps that were used in presenting a prosecution's case-in-chief are followed in the defendant's case-in-chief, should the defendant choose to present a case.
- ◎ true
- ◎ false

17) The prosecutor is not at all limited as to the order of witnesses called to testify.
- ◎ true
- ◎ false

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18) Leading questions are usually allowed during cross-examination.
- ◎ true
- ◎ false

19) Any evidence that goes to prove the innocence of an accused is known as inculpatory evidence.
- ◎ true
- ◎ false

20) The prosecutor must prove a majority of the elements of a charged offense beyond a reasonable doubt.
- ◎ true
- ◎ false

21) In a criminal trial, only a preponderance of the evidence must be presented on the part of one side or the other to receive a favorable judgment.
- ◎ true
- ◎ false

22) A judge prepares jury instructions.
- ◎ true
- ◎ false

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23) Juries are rarely sequestered for an entire trial.
- ◎ true
- ◎ false

24) During redirect examination, an attorney may not bring up an issue that has not already been discussed.
- ◎ true
- ◎ false

25) During direct examination, an attorney usually tries to belittle or embarrass the witness, but upon cross-examination, just the opposite is true.
- ◎ true
- ◎ false

26) Rebuttal evidence is presented only by the defense.
- ◎ true
- ◎ false

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27) Evidentiary objection includes the rigorous examination of a witness by opposing counsel in which the questioner seeks to detract from the witness's credibility.
- ◎ true
- ◎ false

28) The jury never imposes a sentence; that job belongs solely to the judge.
- ◎ true
- ◎ false

29) A police officer rarely testifies as a principal witness for the prosecution in cases not involving serious crimes, such as murder.
- ◎ true
- ◎ false

30) An attorney can make a groundless objection.
- ◎ true
- ◎ false

31) If a witness's answer is stricken from the record, the answer does not appear in the court reporter's record.
- ◎ true
- ◎ false

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32) In most states, jurors are selected from lists of registered voters.
- ◎ true
- ◎ false

MULTIPLE CHOICE - Choose the one alternative that best completes the statement or answers the question.

33) The Sixth Amendment to the United States Constitution prescribes
- A) a minimum of twelve jury members.
- B) trial without a jury.
- C) a jury of six for capital crimes.
- D) no set number for a jury.

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34) The process of questioning a panel of prospective jurors to select the final panel is known as_____.
A) *voir dire*
B) *stare decisis*
C) *corpus delicti*
D) *habeas corpus*

35) Proof beyond a reasonable doubt
A) is the highest level of proof required that American law demands in a case.
B) means proof beyond all doubt.
C) means a preponderance of the evidence.
D) equals 50-plus percent of the evidence in one's favor.

36) Which of the following is the standard of proof in a criminal case?
A) probable cause
B) preponderance of the evidence
C) reasonable doubt
D) clear and convincing

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37) Who can make a challenge for cause?
A) the judge
B) the prosecution
C) the defense
D) All of the answers are correct.

38) The motion that excludes a prospective juror from the jury panel without specific reason or justification is called_____.
A) a peremptory challenge
B) challenge for cause
C) jury nullification
D) an affirmative defense

39) Jeopardy attaches when
A) the defendant is arrested.
B) the prosecution files a complaint against the defendant.
C) the judge or magistrate finds that there is probable cause for a trial.
D) the jury is sworn.

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40) Which of the following is the proper order of final arguments?
A) prosecution, defense, and prosecution
B) prosecution and defense
C) prosecution, defense, prosecution, and defense
D) defense, prosecution, and defense

41) Identify the type of questioning of a witness by the side who calls that witness.
A) cross-examination
B) redirect examination
C) direct examination
D) re-cross-examination

42) The power of a jury in a criminal case to acquit a defendant for any reason or no reason at all is known as_____.
A) jury swearing
B) jury selection
C) jury deliberation
D) jury nullification

43) Any evidence that tends to prove the innocence of an accused is called_____.
A) exculpatory evidence
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B) inculpatory evidence
C) anecdotal evidence
D) contradictory evidence

44) Which of the following is *not* needed to qualify a witness to testify?
A) personal knowledge of a particular fact or set of facts
B) ability to effectively communicate the fact(s) known
C) comprehension of the oath given before taking the witness stand
D) personal knowledge of the defendant's actions regarding the crime charged

45) Identify a true statement about the entitlements of an accused.
A) Even when incarceration is not possible, an accused is entitled to counsel.
B) An accused is entitled to the assistance of counsel from arrest through trial.
C) An accused is entitled to represent themselves without any legal interference.
D) An accused is entitled to the assistance of counsel once the sentence is imposed.

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46) What is a jury that cannot reach a verdict called?
- A) *voir dire*
- B) impartial jury
- C) venire
- D) hung jury

47) Which of the following *best* describes *corpus delicti?*
- A) the motion that a prospective juror should be excluded because the juror is incapable of being impartial
- B) the power of a court to punish persons for failure to obey court orders or to coerce them into obeying court orders
- C) the portion of a trial that comprises the main evidence for either the prosecution or the defense
- D) the requirement that the prosecution present sufficient evidence to establish that a crime was committed by someone

48) When are jury instructions *not* given?
- A) at the beginning of the trial
- B) before closing arguments
- C) after closing arguments
- D) during jury deliberations

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49) Identify a true statement about witness testimony.
- A) A witness should answer a question before the judge makes a ruling on an objection.
- B) A witness must not answer a question if the judge sustains an objection.
- C) A witness is not allowed to answer a question if the judge overrules an objection.
- D) A witness can use hand gestures while giving testimony or answering a question.

50) Which of the following does the phrase "stricken from the record" mean?
- A) The offending question or answer is removed from the court reporter's record.
- B) The offending question or answer is not acceptable to the court.
- C) The offending question or answer is acceptable even if it is not present in the record.
- D) The offending question or answer is removed from the daily log.

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SHORT ANSWER. Write the word or phrase that best completes each statement or answers the question.

51) What could a witness do that could lead to a mistrial?

52) Describe three reasons why a defense attorney may want to cross-examine a witness.

53) List the duties of a judge in a criminal trial.

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54) State the basic purpose of a trial.

55) Describe the qualifications for being a trial juror.

56) Briefly explain the process of *voir dire.*

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57) List three activities a law enforcement officer will likely engage in prior to the trial.

58) What amount of proof is necessary for a criminal trial and a civil trial?

59) What is the role of an alternate juror?

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60) What is the main function of an opening statement? Contrast it with a closing argument.

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61) Provide an example of jury nullification.

62) In recent cases, the United States Supreme Court has adopted the principle that the Sixth Amendment right to trial by jury requires that certain facts, in addition to the finding of guilt, must be found by the jury, not the judge. Discuss the holding of at least one recent case.

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63) What is the practical effect of the recent United States Supreme Court's decisions such as *Blakely v. Washington* and *United States v. Booker* regarding sentencing guidelines and procedure?

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Answer Key

Test name: Chapter 02

1) FALSE
2) TRUE
3) TRUE
4) FALSE
5) TRUE
6) TRUE
7) TRUE
8) FALSE
9) TRUE
10) FALSE
11) FALSE
12) FALSE
13) FALSE
14) TRUE
15) FALSE
16) TRUE
17) TRUE
18) TRUE
19) FALSE
20) FALSE
21) FALSE
22) FALSE
23) TRUE
24) TRUE
25) FALSE
26) FALSE
27) FALSE
28) FALSE
29) FALSE
30) TRUE
31) FALSE
32) TRUE
33) D
34) A
35) A
36) C
37) D

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38) A
39) D
40) A
41) C
42) D
43) A
44) D
45) B
46) D
47) D
48) D
49) B
50) B
51) Short Answer
If a witness inadvertently answers a question before the judge can make the ruling and the objection is sustained, or if the sustained objection is made after the witness has already answered, the judge will order the answer stricken from the record and admonish the jury to disregard the answer. The law expects the jury to do so. However, it is practically impossible to erase a thought completely once it has been planted in the minds of jurors. Thus, if the information that the jury heard is too damaging or too prejudicial to the defendant, the judge may declare a mistrial.

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52) Short Answer
After direct examination is completed, the opposing attorney may, as desired, cross-examine the witness. In most instances, the attorney will cross-examine for several reasons. First, the cross-examiner may hope to shake the witness's story and thereby cause the jury to give the testimony less weight. Second, the cross-examiner may try to show that the witness is prejudiced and consequently may have testified incorrectly or untruthfully. Third, the cross-examiner may try to show that the witness has made prior inconsistent statements and thus should not be believed by the jury.

53) Short Answer

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The duties include:

1. Deciding what law applies to the case
2. Interpreting the law of the case for the jury
3. Deciding what evidence is and is not admissible
4. Ruling on objections made by the attorneys
5. Determining the qualifications of witnesses
6. Protecting witnesses from overzealous cross-examinations
7. Ensuring that the trial proceeds efficiently and effectively
8. In most states, in most instances, imposing sentence upon the defendant

54) Short Answer
A trial allows competing sides to tell their stories of the facts as they perceive them to be in a way that can be followed by a judge and/or jury so that one side is victorious.

55) Short Answer
Although the qualifications of a trial juror may vary somewhat from state to state, the general qualifications are quite similar. The person must be an adult, meaning 18 years of age or over. The person must be a citizen of the United States and a resident within the jurisdiction of the court involved. The prospective juror must have a sufficient knowledge of the English language to understand the testimony and to be able to communicate during the deliberation. In most states, the person must have use of their natural faculties, meaning the ability to see, hear, and talk, although in some jurisdictions in recent years persons with disabilities have been permitted to sit on juries with assistance. A person with a past felony conviction will be disqualified from jury duty in most states. And, in most states, jurors are selected from lists of registered voters.

56) Short Answer
Voir dire is the process whereby judges and/or attorneys question potential jurors to determine which individuals may be able to act impartially and could serve as an unbiased juror.

57) Short Answer
1. Collect physical evidence
2. Interview witnesses
3. Discuss the case in detail with the prosecuting attorney

58) Short Answer
In a criminal trial, the prosecution must present enough evidence to convince the jury of the defendant's guilt beyond a reasonable doubt. Proof beyond a reasonable doubt is the highest level of proof demanded by American law. In a civil trial, the amount of proof necessary is only a preponderance of the evidence. A preponderance of the evidence is 50 percent plus a feather in one's favor.

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59) Short Answer
An alternate juror sits in the courtroom and hears all the evidence but does not participate in the deliberation process unless a primary juror is excused from jury duty during the trial.

60) Short Answer
An opening statement provides a road map of the case. The attorney and the prosecution in their respective opening statements will explain to the jury how they intend to prove either the guilt or innocence of the defendant and what evidence will be presented to achieve that end. An opening statement is often most effective in the form of a story or narrative. In contrast, a closing argument is a summary of the case and a final opportunity for the lawyers to persuade the jury to their view of the evidence.

61) Short Answer
For example, if a person is on trial for drug possession involving possession of marijuana for personal use, a jury might acquit the person because its members do not believe that possession of such drugs should be illegal even if the prosecution has presented evidence to support all of the elements of the crime.

62) Short Answer
In *Apprendi v. New Jersey*, the Court held that any fact that increases the penalty for a crime beyond the statutory maximum must be submitted to a jury and proved beyond a reasonable doubt. In *Ring v. Arizona*, the Court decided that if the defendant is subject to the death penalty, a jury must determine the presence or absence of aggravating factors required to impose the death penalty. In *Blakely v. Washington*, the Court declared that the sentencing guidelines allowing a trial judge to find the fact necessary to trigger a sentence above the statutory maximum violated the Sixth Amendment principle stated in *Apprendi*.

63) Short Answer
The Supreme Court's decisions indicate that mandatory sentencing systems contemplated by state and federal sentencing guidelines are now seriously impaired, and it remains to be seen how much discretion in sentencing will be restored to trial judges.

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