# *Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank*

SKU: 9781266437991-TEST-BANK

Correct answers located at the end of the chapter.

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

1) Legality holds that no one can be punished for an act that was not defined as criminal before the person did the act.
   - ◎ true
   - ◎ false

2) The fundamental structure of the American criminal justice system consists of law enforcement agencies, prosecution and defense attorneys, courts, and correctional institutions and agencies.
   - ◎ true
   - ◎ false

3) The court preparation function of police involves testifying at hearings and trial and presenting the evidence in an effort to convict the perpetrator.
   - ◎ true
   - ◎ false

4) The purpose of a preliminary hearing is for a judge to determine whether there is probable cause for the accused to answer to the crime charged.
   - ◎ true
   - ◎ false

5) There are at least eight bases for a defendant's pretrial motion to dismiss.
   - ◎ true
   - ◎ false

6) Law is a rule of conduct or procedure established by custom, agreement, or authority.
   - ◎ true
   - ◎ false

7) Parole supervision is similar to probation supervision in that both are agencies of the state correctional system rather than the court system.
   - ◎ true
   - ◎ false

8) In the case of a trial by jury, the actual trial process begins with arraignment and plea.
   - ◎ true
   - ◎ false

9) As per the law, all immoral actions are illegal and all illegal actions are immoral.
   - ◎ true
   - ◎ false



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

10) The English common law is the base upon which the United States based its framework of criminal law.
- ◎ true
- ◎ false

11) American statutory law replaced common law to meet citizens' needs and is created through the state and federal legislatures.
- ◎ true
- ◎ false

12) The Model Penal Code (MPC) is a comprehensive recodification of the principles of criminal responsibility and is mandatory in all 50 states.
- ◎ true
- ◎ false

13) In the case of felonies, a law enforcement officer only needs reasonable suspicion to believe that a person has committed a crime before arresting the suspect.
- ◎ true
- ◎ false

14) An information, through which a felony is charged, is a piece of paper filed and signed by the prosecutor.
- ◎ true
- ◎ false

15) According to the double jeopardy protections under the Fifth Amendment, the justice system cannot try a defendant more than once for the same crime.
- ◎ true
- ◎ false

16) As of June 2019, there has been a successful campaign to enact legislation that restricts access to abortions.
- ◎ true
- ◎ false

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

17) Criminal law is distinguished from all other law because
- A) other types of law, such as civil law, seek to regulate acts that are contrary to the community interest of the social or government unit.
- B) criminal law seeks to regulate acts that are contrary to the community interest of the social or government unit.
- C) criminal law seeks to influence and protect the public from obvious and egregious moral wrongs.
- D) other types of law, such as civil law, impose sentences for crimes committed.



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

18) The common law in today's modern criminal justice system
   A) defines nearly all the crimes covered in criminal law statutes in all jurisdictions.
   B) takes precedence over statutory law in many jurisdictions.
   C) is usually preferred since statutory law is overly vague.
   D) is a predecessor of today's statutory criminal law.

19) Many states' modern criminal laws are codifications of the common law crimes, and when there is a question of statutory meaning, the courts
   A) look to the common law definitions to help in understanding the term in question.
   B) revert to the common law definitions and punishments, since they are easier to apply.
   C) revert to the common law punishments, except for those involving the death sentence.
   D) consider the common law definitions only after exhausting all other means.

20) According to the text, the establishment of the American Law Institute (ALI) was a result of
   A) political rivalries and power struggles.
   B) a desire to revive common law.
   C) a quest for a newer, more flexible common law.
   D) general dissatisfaction with the American criminal law.

21) Since the Civil War, federal criminal law has
   A) expanded to overlap areas that previously were within the exclusive province of the states.
   B) shrunk in its influence, leaving states' rights relatively free.
   C) taken over many states' rights, such as the control of state senates.
   D) maintained approximately the same influence as before.

22) The utilitarian legal philosopher Jeremy Bentham reorganized the law of crimes according to the
   A) convention of the day.
   B) general will of the people.
   C) views of those in power.
   D) amount of social harm they caused.



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

23) The Model Penal Code (MPC) is a comprehensive recodification of the principles of_____,
   A) civil infractions
   B) criminal responsibility
   C) parole violations
   D) probation infringements

24) _____is one of the four basic police functions.
   A) Pre-sentence reports
   B) Post-investigation
   C) Prevention
   D) Court decorum

25) _____is the power or authority of a court to act with respect to any case before it.
   A) Sentencing
   B) Recognizance
   C) *Habeas corpus*
   D) Jurisdiction

26) Which of the following is a basis for appeal of a criminal conviction on substantive grounds?
   A) The jury was improperly instructed.
   B) Procedural and evidential errors were committed by the trial courts.
   C) The accused was convicted of murder.
   D) All of the necessary elements of the crime were alleged.

27) Most citizens in the United States understand that the concept of law consists of all of the following *except*
   A) the known decisions of the courts of the federal and state governments.
   B) the ability to impose statutes upon those who commit crimes against Americans anywhere.
   C) federal, state, or local enactments of legislative bodies.
   D) rules and regulations proclaimed by administrative bodies.

28) Unlike most cultures,_____ is central to the American culture.
   A) common law
   B) case law
   C) ancient law
   D) religious law

29) All criminal law is_____; that is, crimes are defined by the legislatures of the states and the federal government.
   A) common law
   B) case law
   C) statutory law
   D) discretionary law



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

30) The American criminal law is refined and redefined by the
A) U.S. Congress and state legislatures.
B) attorneys who interpret the U.S. Constitution.
C) President and state senates.
D) executive branch of the government.

31) Although modern criminal law is essentially statutory, the role of the courts is still required because
A) common law is still used for the most frequently committed offenses, so judges must review each of these cases individually.
B) common law takes precedence over statutory law in many jurisdictions, and the two systems often compete.
C) criminal statutes often contain vague or general language that requires courts to interpret a statute's meaning when applied to a particular case.
D) criminal statutes do not include any sentencing guidelines; therefore, a judge is needed to provide the appropriate punishments.

32) Much of the reform of English and American criminal law was influenced by_____.
A) the American Law Institute (ALI)
B) Jeremy Bentham, the utilitarian legal philosopher
C) King George III
D) the U.S. Supreme Court

33) The principle of_____ is a core concept of the American system of criminal justice.
A) culpability
B) individual freedom
C) legality
D) *mens rea*

34) For which of the following subjects would the U.S. Congress use its power to pass legislation by employing clause of Article I, Section 8 of the Constitution?
A) using the mails for defrauding
B) piracy
C) counterfeiting
D) crimes against the law of nations

35) The principal purpose of the criminal law is to
A) prevent and control crime.
B) punish offenders.
C) attract attention toward criminals.
D) enforce peace through strict laws.



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

36) Generally, the criminal law seeks to sanction only those persons who voluntarily commit an unlawful act ( *actus reus*)
A) before or after having an appropriate guilty mental state ( *mens rea*), even with excuse or justification.
B) accompanied by the appropriate guilty mental state ( *mens rea*), even with excuse or justification.
C) accompanied by the appropriate guilty mental state ( *mens rea*) without involving an excuse or a justification.
D) before or after having an appropriate guilty mental state ( *mens rea*) without involving an excuse or a justification.

37) The_____ distinguishes criminal law from other law.
A) use of plaintiffs instead of prosecutors
B) imposition of punishment for its violation
C) emphasis on private concerns between individuals
D) lack of appropriate legal safeguards for defendants

38) The term_____ refers to a promise to appear in court.
A) bail
B) parole
C) bond
D) recognizance

39) Some of the colonies established in America adopted England's_____.
A) reform movement
B) common law
C) system of torts
D) Napoleonic law

40) The criminal process most often begins with a(n)_____.
A) arrest
B) indictment
C) conviction
D) acquittal

41) Beginning in the 1960s and as refined in recent years, the U.S. Constitution requires that a defendant who is actually incarcerated in jail or prison is entitled to_____.
A) an immediate hearing
B) monetary assistance
C) an attorney
D) bail

42) Which of the following is a post-conviction procedure?
A) investigation
B) recognizance
C) sentencing
D) plea bargaining



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

43) Identify a true statement about plea bargaining.
A) In this process, a jury decides whether there is probable cause to prosecute the accused.
B) It is a procedure where the defendant appears in court to respond formally to the charges against him or her.
C) It is a process that helps expedite the justice system by enabling the courts to avoid a lengthy trial.
D) In this procedure the defendant challenges the validity of an indictment by moving to dismiss the charges.

44) Which of the following statements is true of *habeas corpus* as a post-conviction relief procedure?
A) The *habeas corpus* petition is a legal recourse that is part of a criminal case.
B) This petition is brought by a person in prison who has exhausted all of the usual appellate remedies.
C) A person in state prison is prohibited from obtaining such relief in a federal district court.
D) Only a single *habeas corpus* petition can be filed, even if a defendant raises new grounds.

45) When a grand jury charges a person with a crime, it does so by issuing a(n)_____.
A) bond
B) sentence
C) information
D) indictment

46) Which of these agencies are *not* a part of the department of Homeland Security?
A) the Central Intelligence Agency
B) the Secret Service
C) Immigrations and Customs Enforcement (ICE)
D) the Federal Emergency Management Agency (FEMA)

47) Generally, a person in state prison is only allowed to file one *habeas corpus* petition; in what situation can a petitioner file a second one or successive petitions?
A) when the Supreme Court revokes a precedent
B) when there is newly discovered evidence in the case
C) when the person in prison has a new argument they desire to make
D) at any time since Congress enacted the Anti-Terrorism and Effective Death Penalty Act (AEDPA)



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

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

48) What are the historical roots of American common law?

49) Explain the principle of legality.

50) Give a detailed description of the Model Penal Code (MPC).

51) What distinguishes criminal law from all other law?

52) List and describe the four basic police functions.



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

# Answer Key

Test name: Chapter 01

1) TRUE
2) TRUE
3) TRUE
4) TRUE
5) FALSE
6) TRUE
7) FALSE
8) FALSE
9) FALSE
10) TRUE
11) TRUE
12) FALSE
13) FALSE
14) TRUE
15) TRUE
16) TRUE
17) B
18) D
19) A
20) D
21) A
22) D
23) B
24) C
25) D
26) A
27) B
28) D
29) C
30) A
31) C
32) B
33) C
34) A
35) A
36) C
37) B
38) D
39) B
40) A
41) C
42) C
43) C
44) B
45) D
46) A
47) B
48) Short Answer
49) Short Answer
50) Short Answer
51) Short Answer
52) Short Answer



Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

# Chapter 1
# Nature, Origins, Purposes, Structure, and Operation of the Criminal Justice System

## Chapter Objectives

After reading and studying this chapter, students should be able to:

1. State a basic definition of law.
2. Explain what distinguishes the criminal law from other law.
3. Define the common law.
4. State the principle of legality.
5. Explain what the MPC is.
6. Describe the fundamental structure of the American criminal justice system.
7. Name the four basic police functions.
8. State what is required for a law enforcement officer to arrest a suspect.
9. State the purpose of a preliminary hearing.
10. Describe the two alternative methods for charging serious crimes.
11. List the three possible bases for a defendant's pretrial motion to dismiss.
12. State the four possible grounds for appeal of a criminal conviction.
13. State when a defendant is entitled to an attorney at trial.

## Chapter Outline

### I. The Nature and Origins of Law

In the United States today, most citizens understand the concept of **law** to consist of:

- The federal, state, or local enactments of legislative bodies.
- The known decisions of the courts of the federal and state governments.
- Rules and regulations proclaimed by administrative bodies.
- Proclamations by executives of the federal, state, or local government.

Lawmakers distinguish between two types of rules: (1) religious and moral values and (2) rules created by government to protect individuals and promote social welfare. People recognize that some actions may be immoral even though they are not illegal. In addition, people generally believe that they should be able to live according to their religious principles, as long as their actions do not violate the law.

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

### A. Emergence of Written Law

From time immemorial, humankind has sought to minimize turmoil and chaos by the imposition of some set of rules by which to live. From the edicts of kings and conquerors to the U.S. Constitution, rules of conduct for society have been proclaimed and enforced.

- Ancient Law: Although human societies have always had rules of conduct, the first known written laws are believed to be those found on clay tablets in Ur, one of the city-states of Sumeria. They were created about 5,000 years ago.
- English and American Common Law: Every ancient nation eventually developed formal legal codes, and the American legal code derives primarily from that of England.
    - After William of Normandy conquered England in 1066, he established the *eyre*—that is, a court with judges who traveled throughout the kingdom once every seven years to hear cases as representatives of the king.
    - The decisions of these judges and of other members of the central judiciary created by the Normans to administer the law formed a large part of England's **common law**.
- Emergence of Modern Criminal Law: When the 13 colonies were established in America, they adopted England's common law.
    - As the colonies developed and the United States was formed, the law of the United States developed separately from the English common law tradition. Eventually, **statutory law** replaced common law to meet citizens' needs.

### B. Civil Law versus Criminal Law

Today, the U.S. judicial system provides for criminal law violations, also called *crimes*, and civil law violations, also called *torts*.

- **Criminal law** is different from other types of law, and from civil law in particular, because it involves a violation of public rights and duties, which create a *social harm*.
- **Civil law** deals with matters that are considered to be private concerns between individuals. It includes laws dealing with personal injury, contracts, and property, as well as administrative law. A violation of civil law is called a **tort**.

## II. Criminal Law in the United States

The American and French revolutions stimulated a legislative movement in the area of criminal law. Of special concern was the severity of the criminal law: By 1800, more than 200 different kinds of offenses were punishable by death under English law.

### A. Purpose of the Criminal Law

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

The underlying purpose of the criminal law is to prevent and control crime.

- Substantive criminal law consists of those laws, mostly statutory, that define what constitutes criminal conduct subject to prosecution by the state and set forth the punishment for such criminal acts.
    - Procedural criminal law dictates the methods and the means by which the state proceeds, through the police, public administrators, and the courts, to enforce rights or duties of the substantive law.
- A crime has been committed when the following elements are present:
    - A willful unlawful act, the ***actus reus***.
    - A guilty mind, the ***mens rea***. The guilty mind element does not require intent to violate the law, but rather the intent to commit the act that the law prohibits.
    - A concurrence of act and intent.
    - The occurrence of harm to a person, property, or society.
    - A causal relationship between the criminal act and the harm.

**B. Statutory Criminal Law**

The development of the common law of crimes that began in eleventh-century England continues to a smaller degree today, because some nonstatutory crimes are still recognized in some jurisdictions. Otherwise, the criminal law develops and is redefined by legislative enactment, often in response to societal pressures.

**C. The Principle of Legality**

Another reason for the decline of judicially created criminal law definitions is the principle of **legality**, which is a core concept of the American system of criminal justice. Under this principle, no one can be punished for an act that was not defined as criminal before the person did the act.

**D. Contemporary Applications of Common Law**

Many states have abolished common law crimes, relying exclusively on statutory or code definitions. Even though the common law is but an antecedent to today's modern statutory criminal law in most jurisdictions, the common law definitions of crimes continue to play a role in understanding the criminal law.

**E. The Model Penal Code**

In 1923, the American Law Institute (ALI), an organization of lawyers, judges, and legal

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

scholars, was founded for the purpose of clarifying and improving the law. In 1931, a proposal for a model penal code was presented, but the Depression prevented funding the project. However, it was not until 1962, after 13 tentative drafts, that the ALI published the Proposed Official Draft of the Model Penal Code. The **Model Penal Code (MPC)** is a comprehensive recodification of the principles of criminal responsibility.

### F. The Growth of Federal Criminal Law

Prior to the Civil War, the power to define and punish crimes in the United States was exercised principally by the states. Since the Civil War, federal criminal law has expanded to overlap areas that previously were within the exclusive province of the states. Thus, there has been an increase in the overlap of federal and state criminal law authority.

## III. Structure of the Criminal Justice System

The criminal justice system can be viewed from at least three perspectives: as a social system, as a body of legal rules, and as an administrative system.

### A. Law Enforcement

Police departments in cities, sheriff's departments in counties, state police, and state bureaus of investigation comprise the largest number of law enforcement officers in the country. The four basic police functions are prevention, investigation, detection, and court preparation.

### B. Prosecution and Defense

The American criminal justice system is an adversarial one. This means that the process by which guilt is determined is competitive, and the prosecution and defense are seen as adversaries, or rivals. In the American criminal justice system, the accused is presumed innocent until proven guilty, and the right to counsel attaches even before he or she is brought to court (at least with respect to an accused's decision whether or not to remain silent).

### C. Courts

The United States has a dual judicial system consisting of the federal and state courts. Federal courts exist throughout the nation, and each state also has its own judicial system. All federal offenses are prosecuted in federal court, and all state offenses are prosecuted in state courts. The **jurisdiction** of a court is the scope of its power or authority to act with respect to any case before it.

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

### D. Corrections

The American correctional system is made up of correctional institutions, such as jails and prisons, and correctional agencies, such as probation and parole offices. In addition, the broad term *community corrections* includes drug rehabilitation centers, halfway houses, community corrections centers, community service programs, and many other services that are available to less serious criminals or those who have shown significant rehabilitation.

## IV. Operation of the Criminal Justice System

The organization of the U.S. government is based on the principle of **federalism**, which states that power resides in the states unless expressly granted to the federal government. For this reason, the criminal justice system operates in 51 arenas. The basic system, however, is similar in each jurisdiction. The fundamental structure of the criminal justice system consists of law enforcement agencies, prosecution and defense attorneys, courts, and correctional institutions and agencies.

### A. Arrest

The criminal process most often begins with an arrest. An officer can arrest only if probable cause exists. **Probable cause** is evidence that there is a fair probability that the suspect committed or is committing a crime. An officer possessing probable cause may arrest the suspect without a warrant, unless the suspect is in his or her home. Alternatively, the officer can obtain a warrant from a court, authorizing arrest of the suspect if there is a sufficient showing of probable cause.

### B. Pretrial Procedures and Issues

After arrest and booking, and before the stage of the justice process at which the defendant may face a trial, the defendant must make several other court appearances. He or she will also most likely confer with his or her lawyer about plea bargaining, since approximately 90 percent of all felony cases are resolved in this manner. The key pretrial procedures and issues are bail, charging the crime, the preliminary hearing, the handling of misdemeanor charges, the use of an indictment or information for felony charges, arraignment and plea, plea bargaining, and (where applicable) dismissing the charges.

**Recognizance** is a promise to appear in court. **Bail** is a deposit of cash, other property, or a bond, guaranteeing that the accused will appear in court. A **bond** is a written promise to pay the bail sum, posted by a financially responsible person, usually a professional bail bond agent. After the prosecutor files the charge, a judge holds a **preliminary hearing** to determine whether probable cause exists.

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

A **grand jury** is a panel of persons chosen through strict court procedures to review criminal investigations and, in some instances, to conduct criminal investigations. When a grand jury charges a person with a crime, it does so by issuing an **indictment**. When the defendant has been arrested on the street in the process of committing a crime, the case can be presented to the grand jury immediately after arrest. In those jurisdictions that do not follow the grand jury procedure, prosecutors file a formal felony charge called an **information**. After the formal charges have been filed against a defendant, either by indictment or by information, the defendant appears in court at a proceeding called an arraignment or **arraignment and plea**.

### C. Trial of the Case

In the United States, an accused in a criminal case has a constitutional right to trial by jury for any crime for which the possible sentence is more than six months in jail or prison. The accused, however, can waive that right and have a trial before the judge alone. Before the trial commences, the judge will hear pretrial matters, including motions to exclude evidence.

After the evidence for both the prosecution and defense has been completed—when each side has rested—both sides present closing arguments to the jury or, in a bench trial (a trial without a jury), to the judge. The judge then reads instructions on the law to the jury, after which the jury deliberates until it reaches a verdict.

### D. Post-Conviction Procedures and Issues

If a defendant is acquitted of the charges, he or she will be released from custody. Because of double jeopardy protections under the Fifth Amendment, the justice system cannot try the defendant twice for the same crime. Special exceptions to this exist when a defendant has violated different federal and state laws for the same crime, such as when a drug dealer violates state drug laws and federal organized crime laws simultaneously for the same crime.

If, however, a defendant is convicted, he or she must be sentenced. The defendant has the right to appeal the sentence, although more than 80 percent of appeals do not succeed. ***Habeas corpus***, which literally means, “you have the body,” is a legal action separate from the criminal case. It can be brought only by a prisoner who has exhausted all of the usual appellate remedies.

Generally, a state prisoner is only allowed to file one petition. Every claim that the petitioner wants to raise must be in the petition. In very limited situations, a state prisoner can file a second petition or successive petitions, generally limited to newly discovered evidence situations and claims that involve brand new Supreme Court precedent that has been made retroactive to the state prisoner’s case.

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

## Application Case

1.1: *Keeler v. Superior Court*

## Chapter Summary

1. **State a basic definition of law.**

   Law is a rule of conduct or procedure established by custom, agreement, or authority. Law, in its generic sense, is a body of rules of action or conduct prescribed by controlling authority and having binding legal force.

2. **Explain what distinguishes the criminal law from other law.**

   Criminal law seeks to regulate acts that are contrary to the community interest of the social or government unit—federal, state, or local. Therefore, a criminal act, though usually aimed at a personal victim, is perceived as involving a social harm and is prosecuted on behalf of the public.

3. **Define the common law.**

   The common law means law created by judicial opinion. The United States and England share a common heritage in the common law of England. When the 13 colonies were established in America, and when the United States gained independence, they adopted the common law of England.

4. **State the principle of legality.**

   A core concept of the American criminal justice system, legality holds that no one can be punished for an act that was not defined as criminal before the person did the act. If a court declares conduct criminal that has not previously been defined as criminal, then the principle of legality is violated.

5. **Explain what the MPC is.**

   The MPC (Model Penal Code) is a comprehensive recodification of the principles of criminal responsibility, drafted in reliance upon existing sources of the criminal law including codes, judicial opinions, and scholarly commentary. Though not adopted in any state, it has affected a reform of the criminal law in a majority of states and it stands as a

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

model for the reform of principles of American criminal responsibility.

6. **Describe the fundamental structure of the American criminal justice system.**

   The fundamental structure of the American criminal justice system consists of law enforcement agencies, prosecution and defense attorneys, courts, and correctional institutions and agencies. Moreover, the organization of American government is based on the principle of federalism, which holds that power resides in the states unless expressly granted to the federal government. For this reason, the criminal justice system operates in 51 arenas: the 50 state governments and the federal government (which includes the District of Columbia).

7. **Name the four basic police functions.**

   The four basic police functions are prevention, investigation, detection, and court preparation. The prevention function is carried out by low-ranking officers assigned to cruise an area and watch for criminal activity. The investigation function is carried out at all levels and involves everything from gathering data at the crime scene to presenting suspects to victims during lineups. The detective function is usually performed by specialized squads consisting of older, more experienced, and higher-ranking officers. The court preparation function involves testifying at hearings and trial and presenting the evidence in an effort to convict the perpetrator.

8. **State what is required for a law enforcement officer to arrest a suspect.**

   In the case of felonies, a law enforcement officer must have probable cause to believe that a person has committed a crime before he or she may arrest the suspect. In the case of misdemeanors, an officer can arrest only for offenses committed in the officer's presence.

9. **State the purpose of a preliminary hearing.**

   The purpose of a preliminary hearing is for a judge to determine whether there is probable cause for the accused to answer to the crime charged. Since many cases do not go to trial because of plea bargaining, this is often the only chance that officers have to offer testimony and present evidence against the accused.

10. **Describe the two alternative methods for charging serious crimes.**

    Felonies are charged by either an indictment or an information. An indictment is issued by a grand jury, which is a panel of citizens that decides whether to charge crimes in the cases

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

presented to them (or investigated by them). An information, which is a piece of paper on which the charge appears, is filed and signed by the prosecutor.

11. **List the three possible bases for a defendant's pretrial motion to dismiss.**

    The three possible bases for a defendant's pretrial motion to dismiss are:
    - The crime charged is not a violation of the jurisdiction's law.
    - The facts asserted in the indictment or information, even if true, do not constitute the crime charged.
    - No reasonable jury could find the facts alleged on the basis of the evidence given at the preliminary hearing.

12. **State the four possible grounds for appeal of a criminal conviction.**

    The four possible grounds for appeal of a criminal conviction are:
    - The charge on which the accused was convicted is not a crime, either because the legislature did not proscribe the conduct or because the proscription is unconstitutional.
    - The evidence was insufficient to support a finding of fact on all the elements of the crime beyond a reasonable doubt.
    - Not all of the necessary elements of the crime were alleged.
    - The jury was improperly instructed.

13. **State when a defendant is entitled to an attorney at trial.**

    A defendant who may be sentenced to more than six months in jail or prison is entitled to an attorney whether or not he or she can afford one. (Those who cannot afford an attorney will have one appointed by the court.)

## Homework Assignments

1. **Prosecution**

   You are a prosecutor closing a case against a man charged with murdering his wife. Although the defendant claims to be a recovered alcoholic, you have the option of bringing in character witnesses who can testify to his violent behavior while he drank. You believe that this evidence will guarantee a conviction. You know that the defense will protest this evidence as irrelevant, but you also know that your personal friendship with the judge will cause him to allow it. Answer the following questions:
   a. How does such evidence affect the jury's understanding that the defendant

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank

committed the crime “beyond a reasonable doubt”? Why?

b. Is it ethical to bring in such character evidence? Why or why not?

2. **Defense Attorney**

You are a criminal defense attorney who typically defends low-income adults accused of drug offenses and other nonviolent crimes; your success rate is well known in your community. You receive a visit from the girlfriend of a man who is facing trial for a particularly brutal and heinous robbery-homicide. The victim was a seven-year-old child who was sexually assaulted and tortured before being murdered. The evidence against the accused is overwhelming, including a voluntary confession given to the arresting officer. It is clear that the confession was given without any prompting and that all procedures were followed. Nonetheless, the defendant has had a change of heart and is going to trial to zealously fight a conviction. The girlfriend offers you an enormous sum of money as a retainer and makes it clear that you can name your price for defending this person. Answer the following questions:

a. Would you defend this person? Why or why not?
b. What if you were offered a sum that was the equivalent of five times your regular annual salary? Why or why not?
c. What ethical issues could you face as the defense counsel for such a person?
d. Is the case winnable? Why or why not? If it is not winnable, do you have anything to lose?

© McGraw Hill LLC. All rights reserved. No reproduction or distribution without the prior written consent of McGraw Hill LLC.

Criminal Law for the Criminal Justice Professional 2024 Release 1st edition Garland Test Bank