Criminal Law 12th edition Samaha Test Bank

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True / False

1. There is no contention surrounding departures from sentencing guidelines.
   a. True
   b. False

ANSWER: False
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

2. *Expost facto* laws are forbidden by the Constitution.
   a. True
   b. False

ANSWER: True
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: Bloom's: Remember

3. Retroactive criminal laws undermine the "central values" of free societies.
   a. True
   b. False

ANSWER: True
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.

4. Barbaric punishments are punishments that are no longer considered acceptable in a civilized society.
   a. True
   b. False

ANSWER: True
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

5. The First Amendment protects only written or spoken words.
   a. True
   b. False

ANSWER: False
REFERENCES: The Bill of Rights and Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

6. Fighting words are not protected by the First Amendment.

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a. True
b. False

ANSWER: True
REFERENCES: The Bill of Rights and Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

7. Laws that are overly broad in their reach might have a chilling effect on the exercise of freedom of expression.
a. True
b. False

ANSWER: True
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

8. There is no Constitutional right to privacy.
a. True
b. False

ANSWER: False
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

9. *District of Columbia v. Heller* (2008) is the first successful Second Amendment challenge in the Court's history.
a. True
b. False

ANSWER: True
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

10. *Apprendi v. New Jersey* (2000) struck down a New Jersey statute authorizing judges to increase a maximum sentence based on facts that the judge found to be true by a preponderance of the evidence, but not proof beyond a reasonable doubt.
a. True
b. False

ANSWER: True
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

11. The ban on retroactive criminal lawmaking prevents officials from punishing conduct they think is wrong but which no existing criminal law prohibits.

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a. True
b. False

ANSWER: True
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: Bloom's: Remember

12. The Eighth Amendment requires that punishments be proportional to the crime.
a. True
b. False

ANSWER: True
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

13. The death penalty is always a violation of the Eighth Amendment.
a. True
b. False

ANSWER: False
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

14. Most state constitutions include a ban on retroactive statutes.
a. True
b. False

ANSWER: True
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: Bloom's: Remember

15. In *Coker v. Georgia* (1977), the Supreme Court allowed the death sentence for the crime of rape of an adult.
a. True
b. False

ANSWER: False
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

16. The Supreme Court has ruled that the death sentence is unconstitutional for the crime of the rape of a child.

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a. True

b. False

ANSWER: True

REFERENCES: The Constitution and Criminal Punishment

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

17. In *Atkins v. Virginia* (2002), the U.S. Supreme Court ruled that executing mentally retarded persons violated the ban on cruel and unusual punishment.

a. True

b. False

ANSWER: True

REFERENCES: The Constitution and Criminal Punishment

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

18. The right to a jury trial also guarantees that no increase in sentencing can occur without the finding of all relevant facts by a jury.

a. True

b. False

ANSWER: True

REFERENCES: The Right to Trial by Jury and Criminal Sentencing

LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.

KEYWORDS: Bloom's: Remember

19. Three-strikes laws have been ruled unconstitutional.

a. True

b. False

ANSWER: False

REFERENCES: The Constitution and Criminal Punishment

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

20. The U.S. Supreme Court has ruled that vague laws do not violate the guarantees of the U.S. Constitution.

a. True

b. False

ANSWER: False

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

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21. *Expost facto* laws are included in Article II of the U.S. Constitution.

a. True

b. False

ANSWER: False

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.

KEYWORDS: Bloom's: Remember

22. The ban on *ex post facto* laws, denial of due process, and equal protection of the laws are broad constitutional limits that cover all of criminal law.

a. True

b. False

ANSWER: True

REFERENCES: The Bill of Rights and Criminal the Law

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

23. The principle of legality is also called "the first principle of criminal law."

a. True

b. False

ANSWER: True

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.

KEYWORDS: Bloom's: Remember

24. Article III of the U.S. Constitution bans *ex post facto* laws.

a. True

b. False

ANSWER: False

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.

KEYWORDS: Bloom's: Remember

25. Vague laws violate the Fifth and Fourteenth Amendments to the constitution.

a. True

b. False

ANSWER: True

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

26. Vague laws fail to give fair warning to individuals and law enforcement as to what conduct is lawful.

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a. True
b. False

ANSWER: False
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

27. The word "privacy" is found in the U.S. Constitution.
a. True
b. False

ANSWER: False
REFERENCES: The Right to Privacy
LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.
KEYWORDS: Bloom's: Remember

28. In addition to speech, the First Amendment also includes expressive conduct.
a. True
b. False

ANSWER: True
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

29. According to the U.S. Supreme Court, there are two kinds of cruel and unusual punishments.
a. True
b. False

ANSWER: True
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

30. Other than the fact of prior conviction, any fact that *increases* the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.
a. True
b. False

ANSWER: True
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

Multiple Choice

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31. The authors of the U.S. Constitution were suspicious of

a. the rights of individuals.

b. the rights of large groups of voters.

c. the power of influential leaders.

d. the power in the hands of government officials.

ANSWER: d

REFERENCES: The Right to Trial by Jury and Criminal Sentencing

LEARNING OBJECTIVES: CRLW.SAMA.17.02.01 - To understand and appreciate the reasons for the limits on criminal law and criminal punishment in the U.S. constitutional democracy.

KEYWORDS: Bloom's: Remember

32. What is the standard used by courts of appeal to determine if a sentence is "inside, just outside, or significantly outside the guidelines range?"

a. the constitutional standard

b. the abuse-of-discretion standard

c. the upward departure standard

d. the downward departure standard

ANSWER: b

REFERENCES: The Right to Trial by Jury and Criminal Sentencing

LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.

KEYWORDS: Bloom's: Remember

33. According to what principle must there be a specific law defining a crime and setting out the punishment before a person can be punished for that crime?

a. the principle of legality

b. the principle of comity

c. the principle of proportionality

d. the principle of reciprocity

ANSWER: a

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.

KEYWORDS: Bloom's: Remember

34. What is the name of the law that criminalizes an act that was innocent when it was committed?

a. bill of attainder law

b. forfeiture law

c. *ex post facto* law

d. bill of particulars

ANSWER: c

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.
CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.

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KEYWORDS: Bloom's: Remember

35. What doctrine is concerned with giving individuals fair notice of what is criminal and preventing arbitrary or discriminatory enforcement of laws?

a. proportionality
b. void-for-vagueness
c. obscenity
d. equal protection

ANSWER: b
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

36. Which amendments to the Constitution resulted in the void-for-vagueness doctrine?

a. the Fourth and Fifth Amendments
b. the Fourth and Fourteenth Amendments
c. the Fifth and Fourteenth Amendments
d. the Fifth and Fifteenth Amendments

ANSWER: c
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

37. Which amendment to the Constitution requires that states provide equal protection of the law?

a. the Ninth Amendment
b. the Tenth Amendment
c. the Thirteenth Amendment
d. the Fourteenth Amendment

ANSWER: d
REFERENCES: The Right to Privacy
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

38. Which amendment to the Constitution ensure that people aren't subject to cruel and unusual punishment?

a. the First Amendment
b. the Fourth Amendment
c. the Eighth Amendment
d. the Fourteenth Amendment

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to

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"cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

39. Which of the following rights is a fundamental right but is not named in the Constitution?
    a. the right to bear arms
    b. the right to free speech
    c. the right to freedom of religion
    d. the right to privacy

ANSWER: d

REFERENCES: The Right to Privacy

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

40. What type of laws fail to give fair warning to individuals and law enforcement as to what conduct is unlawful?
    a. *ex post facto* laws
    b. vague laws
    c. misdemeanor laws
    d. felony laws

ANSWER: b

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

41. What rule requires courts to resolve every ambiguity in a criminal statute in favor of the defendant?
    a. the rule of heightened scrutiny
    b. the rule of strict scrutiny
    c. the compelling government interest rule
    d. the rule of lenity

ANSWER: d

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.

KEYWORDS: Bloom's: Remember

42. Which of the following is the highest level of proof?
    a. preponderance of the evidence
    b. beyond a reasonable doubt
    c. probable cause
    d. reasonable suspicion

ANSWER: b

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.

KEYWORDS: Bloom's: Remember

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43. Which of the following rights is guaranteed by the Fourth Amendment?
    a. the right to freedom from unreasonable search and seizure
    b. the right to bear arms
    c. the right to freedom from cruel and unusual punishment
    d. the right to free speech

ANSWER: a
REFERENCES: The Right to Privacy
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

44. The U.S. Supreme Court took a "hands-off" approach to sentencing procedures until what case?
    a. *Apprendi v. New Jersey* (2000)
    b. *Blakely v. Washington* (2004)
    c. *U.S. v. Booker* (2005)
    d. *Gall v. U.S.* (2007)

ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

45. What name is given to offensive, sexually explicit material that is not protected by the First Amendment?
    a. obscenity
    b. profanity
    c. libel
    d. literature

ANSWER: a
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

46. Three-strikes laws are supposed to make sure that offenders who are convicted of a third felony
    a. get locked up for a very long time.
    b. get locked up for at least 10 years.
    c. receive the treatment they need.
    d. are put to death.

ANSWER: a
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

47. The void-for-overbreadth doctrine invalidates laws that have what effect on protected expression?

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a. an unacceptable chilling effect
b. an unacceptable retracting effect
c. an unacceptable facilitating effect
d. an unacceptable excoriating effect

ANSWER: a
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

48. What are the defenses and justification excuses called?
a. assertive defenses
b. inferential defenses
c. congruent defenses
d. affirmative defenses

ANSWER: d
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.
KEYWORDS: Bloom's: Remember

49. What is the definition of preponderance of the evidence?
a. 50%
b. more than 50%
c. 75%
d. 99%

ANSWER: b
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.
KEYWORDS: Bloom's: Remember

50. According to *Griswold v. Connecticut* (1965), which of the following describes the constitutional right to privacy?
a. a part of the liberty protected by due process
b. a fundamental right
c. required by equal protection
d. protected by the Eight and Fourteenth Amendments

ANSWER: b
REFERENCES: The Right to Privacy
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

51. In *Stanley v. Georgia* (1969), the Supreme Court struck down a statute which made it a crime for an adult to possess what in their own home?

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a. marijuana
b. illegal weapons
c. obscene materials
d. drug paraphernalia

ANSWER: c
REFERENCES: The Right to Privacy
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

52. What rule requires that any fact that *increases* the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt?
a. The *Booker* rule
b. The *Blakely* rule
c. The *Apprendi* rule
d. The *Gall* rule

ANSWER: c
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

53. In what case did the Court apply the *Apprendi* rule to the U.S. Sentencing Guidelines?
a. *Penry v. Lynaugh* (1989)
b. *U.S. v. Booker* (2005)
c. *Roper v. Simmons* (2005)
d. *Atkins v. Virginia* (2002)

ANSWER: b
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

54. Which of the following kind of punishments are prohibited by the Eighth Amendment?
a. contumacious
b. presumptuous
c. barbaric
d. sumptuous

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

55. Which amendment contains the ban on cruel and unusual punishment?
a. the Fifth Amendment

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b. the Sixth Amendment
c. the Eighth Amendment
d. the Fourteenth Amendment

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

56. In what case did the Supreme Court rule that death by electrocution did not violate the cruel and unusual punishment clause?
a. *In re Kemmler* (1890)
b. *Chambers v. Florida* (1940)
c. *Furman v. Georgia* (1972)
d. *Robinson v. California* (1961)

ANSWER: a
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

57. The idea that the punishment must fit the crime is the Eighth Amendment principle of
a. aggregation.
b. proportionality.
c. equivocality.
d. equal protection.

ANSWER: b
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

58. What principle holds that the punishment should fit the crime?
a. the principle of legality
b. the principle of comity
c. the principle of proportionality
d. the principle of reciprocity

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

59. For what crime did the Supreme Court ban the use of the death penalty in *Coker v. Georgia* (1977)?

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a. espionage
b. treason
c. rape of an adult female
d. murder

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

60. After *U.S. v. Booker* (2005), sentencing guidelines became
a. advisory.
b. mandatory.
c. unconstitutional.
d. applicable.

ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

61. In which case did the Supreme Court rule that it violates the Constitution to execute a mentally retarded criminal defendant?
a. *Penry v. Lynaugh* (1989)
b. *Coker v. Georgia* (1977)
c. *Roper v. Simmons* (2005)
d. *Atkins v. Virginia* (2002)

ANSWER: d
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

62. When U.S. Courts of Appeal review sentences, they have to consider whether a sentence is "unreasonable" in light of the guidelines and
a. the general purposes of sentencing under federal law.
b. the Eighth Amendment.
c. the special purposes of sentencing under federal law.
d. public opinion.

ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

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63. In *Roper v. Simmons* (2005), the Supreme Court held that the Eighth Amendment forbids the execution of
    a. rapists.
    b. the mentally ill.
    c. offenders who committed their crimes when they were under the age of 18.
    d. drug dealers.

ANSWER: c
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

64. What article of the U.S. Constitution bans *ex post facto* laws?
    a. Article One
    b. Article Two
    c. Article Three
    d. The U.S. Constitution does not ban *ex post facto* laws

ANSWER: a
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: KEY: Bloom's: Remember

65. According to the U.S. Supreme Court, California's three-strikes law
    a. does not violate the Eighth Amendment.
    b. violates the Eighth Amendment.
    c. is constitutional only if applied to defendants who commit very serious felonies.
    d. is unconstitutional because it is disproportionate.

ANSWER: a
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: : Bloom's: Remember

66. Which amendment to the Constitution guarantees the right to bear arms?
    a. the Second Amendment
    b. the First Amendment
    c. the Fourth Amendment
    d. the Eighth Amendment

ANSWER: a
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

67. A ban on *ex post facto* laws seeks to accomplish two major purposes. These purposes include which of the following?

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a. protection and prevention
b. prohibition and promiscuity
c. proportion and legality
d. specificity and proportion

ANSWER: a
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: Bloom's: Remember

68. What two evils does the void-for-vagueness doctrine address?
a. lack of fair warning and arbitrary and discriminatory law enforcement
b. cruel and unusual punishment
c. retroactive and arbitrary punishment
d. unfair and unequal punishment

ANSWER: c
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

69. There are numerous capital crimes where no one is killed. Which of the following is not one of those crimes?
a. rape
b. treason
c. espionage
d. kidnapping

ANSWER: a
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

70. The American Association on Intellectual and Developmental Disabilities includes three elements in its definition of mental retardation. Which one of the following is not one of those elements?
a. the person has substantial intellectual impairment.
b. the impairment of the person impacts their everyday life of the mental retarded individual.
c. retardation is present at birth or during childhood.
d. the person has an IQ below 80.

ANSWER: d
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

71. Which of the following categories of expression is not protected by the First Amendment?

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a. obscenity
b. libel
c. fighting words
d. none of these

ANSWER: a
REFERENCES: The Bill of Rights and the Criminal Law
LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
KEYWORDS: Bloom's: Remember

72. Most of the debate regarding three-strikes law centers on:
a. deterrence
b. incapacitation
c. rehabilitation
d. none of these answers is correct

ANSWER: a
REFERENCES: The Constitution and Criminal Punishment
LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."
KEYWORDS: Bloom's: Remember

73. The *Apprendi* rule addresses
a. any fact that increases the penalty for a crime beyond the prescribed statutory maximum.
b. any fact that decreases the penalty for a crime beyond the prescribed statutory maximum.
c. any fact that involves the penalty for a crime beyond the prescribed statutory maximum.
d. any fact that prioritizes the penalty for a crime beyond the prescribed statutory maximum.

ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

74. What is the name of "an appellate court's standard for reviewing a decision that is asserted to be grossly unsound, unreasonable, illegal, or unsupported by the evidence?"
a. abuse-of-discretion standard
b. clear and present danger standard
c. *Apprendi* standard
d. void-for-vagueness standard

ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Remember

75. What rule ensures criminality is not subject to the passions of rulers, democratic or otherwise?
a. the rule of law

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b. the rule of comity
c. the rule of *Apprendi*
d. the rule of censure

ANSWER: a
REFERENCES: The Principle of Legality
LEARNING OBJECTIVES: CRLW.SAMA.17.02.01 - To understand and appreciate the reasons for the limits on criminal law and criminal punishment in the U.S. constitutional democracy.
KEYWORDS: Bloom's: Remember

Case 2.1
Julie has been drinking at a bar for several hours. As she is driving home she runs off the road and hits a pregnant woman, killing the fetus but not the woman. Julie is charged with homicide. The homicide law where Julie lives does not include the unborn in its homicide statute.

76. Julie is not convicted because to convict her would violate
a. the principle of legality.
b. the principle of fairness.
c. the principle of due process.
d. the principle of proactive lawmaking.

ANSWER: a
REFERENCES: The Principle of Legality
PREFACE NAME: Case 2.1
LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.
KEYWORDS: Bloom's: Apply

77. If Julie was convicted the court would have violated the ban on
a. *ex post facto* laws.
b. *habeas corpus* laws.
c. void-for-vagueness laws.
d. equal protection laws.

ANSWER: a
REFERENCES: The Principle of Legality
PREFACE NAME: Case 2.1
LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.
KEYWORDS: Bloom's: Remember

Case 2.2
Steve fired a gun into a family's home in his neighborhood. Steve was later arrested and admitted to the shooting. Following his conviction, the judge sentenced him to 10 years in prison based on facts not determined to be true beyond a reasonable doubt. The sentence exceeded the statutory maximum by two years.

78. The sentence imposed on Steve violates
a. the *Apprendi* rule.
b. the Eighth Amendment.
c. the Fourth Amendment.
d. the ban on ex-post facto laws.

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ANSWER: a
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
PREFACE NAME: Case 2.2
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.
KEYWORDS: Bloom's: Apply

79. The increase in sentence by two years based on facts not determined beyond a reasonable doubt violates what amendment to the Constitution?
a. the Fourth Amendment
b. the Fifth Amendment
c. the Sixth Amendment
d. the Eighth Amendment

ANSWER: c
REFERENCES: The Right to Trial by Jury and Criminal Sentencing
PREFACE NAME: Case 2.2
LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.

Case 2.3
Tammy is an unemployed probationer. Her probation officer has noted several times that she has been seen in the company of three girlfriends at a local park. She has a long record of convictions for various misdemeanor and felony crimes. Tammy is sentenced to three years in prison based on the following statute: "Any person not engaged in any lawful occupation, known to be a member of any gang consisting of two or more persons, who has been convicted at least three times of being a disorderly person, or who has been convicted of any crime, in this or in any other State, is declared to be a gangster…."

80. Tammy's conviction is overturned based on the
a. *ex post facto* doctrine.
b. void-for-vagueness doctrine.
c. *habeas* doctrine.
d. felony failure doctrine.

ANSWER: b
REFERENCES: The Principle of Legality
PREFACE NAME: Case 2.3
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.
KEYWORDS: Bloom's: Remember

81. One of the issues with Tammy's conviction involves
a. fair warning.
b. cruel punishment.
c. unusual punishment.
d. right privacy.

ANSWER: a
REFERENCES: The Principle of Legality
PREFACE NAME: Case 2.3
LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand

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and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

82. Laws such as the one under which Tammy was sentenced violate what constitutional guarantee?

a. due process

b. right to remain silent

c. freedom from unreasonable search and seizure

d. right to free speech

ANSWER: a

REFERENCES: The Principle of Legality

PREFACE NAME: Case 2.3

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

Case 2.4

Tory was fifteen years old when he intentionally pushed another high school student in front of a car, killing him. Tory stated in court that he wanted to kill someone and picked his victim at random. Tory has an extensive record of antisocial behavior and was sentenced to life without possibility of parole. Tory appealed the sentence but the appeal was unsuccessful.

83. Tory's appeal would most likely be based on a violation of what constitutional amendment?

a. the Fourth Amendment

b. the Fifth Amendment

c. the Seventh Amendment

d. the Eighth Amendment

ANSWER: d

REFERENCES: The Constitution and Criminal Punishment

PREFACE NAME: Case 2.4

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.
CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

84. In his appeal, Tory likely argued that his sentence was

a. retroactive.

b. *expost facto*.

c. disproportionate.

d. void-for-vagueness.

ANSWER: c

REFERENCES: The Constitution and Criminal Punishment

PREFACE NAME: Case 2.4

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

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85. Tory's failed appeal is most like what U.S. Supreme Court case?

a. *State v. Ninham* (2011)

b. *Griswold v. Connecticut* (1965)

c. *Apprendi v. New Jersey* (2000)

d. *Gall v. U.S.* (2007)

ANSWER: a

REFERENCES: The Constitution and Criminal Punishment

PREFACE NAME: Case 2.4

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

Completion

86. Under the Eighth Amendment, punishments must be _____ to the offense.

ANSWER: proportionate

REFERENCES: The Constitution and Criminal Punishments

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

87. In a _____ democracy, the majority can't make a crime out of conduct protected by the fundamental rights in the U.S. Constitution.

ANSWER: constitutional

REFERENCES: The Right to Trial by Jury and Criminal Sentencing

LEARNING OBJECTIVES: CRLW.SAMA.17.02.01 - To understand and appreciate the reasons for the limits on criminal law and criminal punishment in the U.S. constitutional democracy.

KEYWORDS: Bloom's: Remember

88. Because they are likely to incite violence, _____ words are not protected by the First Amendment.

ANSWER: fighting

REFERENCES: The Bill of Rights and the Criminal Law

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

89. Defendants in criminal cases enjoy a presumption of _____ .

ANSWER: innocence

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.05 - To understand and appreciate the rights defendants enjoy in criminal proceedings, the burden they have to support their affirmative defenses, and the requirement of the prosecution to prove guilt beyond a reasonable doubt.

KEYWORDS: Bloom's: Remember

90. *Griswold v. Connecticut* (1965) struck down laws (1) making it a crime for married couples to use _____ _____ and (2) to counsel couples on birth control.

ANSWER: contraceptives

REFERENCES: The Right to Privacy

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LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

91. The principle of _____ means that the punishment should fit the crime.

ANSWER: proportionality

REFERENCES: The Constitution and Criminal Punishment

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

92. The Fifth Amendment to the U.S. Constitution guarantees that the *federal* government shall not deny any individual life, liberty, or property without _____ of law.

ANSWER: due process

REFERENCES: The Principal of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

93. Under the Equal Protection Clause, most criminal statutes are subject to only the minimal scrutiny of _____ basis.

ANSWER: rational

REFERENCES: The Right to Privacy

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Remember

94. Cruel and unusual punishment is prohibited by the _____ Amendment.

ANSWER: Eighth

REFERENCES: The Constitution and Criminal Punishments

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Remember

95. The principle of legality establishes: "No crime without _____ , no punishment without ____ ."

ANSWER: law, law

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.

KEYWORDS: Bloom's: Remember

Essay

96. In a constitutional democracy, government power is balanced against the liberty of individuals. What does this mean?

ANSWER: The Constitution allows the government to use its power to protect the people. At the same time, the Constitution protects individuals from governmental abuse of power through the provision of rights. Such rights include freedom of speech, right to privacy, and freedom

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from cruel and punishment, among others.

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.01 - To understand and appreciate the reasons for the limits on criminal law and criminal punishment in the U.S. constitutional democracy.

KEYWORDS: Bloom's: Remember

97. What two concerns are raised by laws that are vague? Provide an example of each concern. Why is some vagueness inevitable in any law?

ANSWER: The two concerns are fair notice to citizens of what is criminal and the potential for discriminatory or arbitrary enforcement. Fair notice means that an ordinary, reasonable person would know that an act was a crime. One example is in the case of *Lanzetta v. New Jersey* (1939). The Supreme Court invalidated a New Jersey law because the definition of gang was so vague that it would be necessary to guess at the meaning and would allow for discriminatory or arbitrary enforcement. Some vagueness in the law is inevitable because human language can never be perfectly clear or cover all possible contingencies.

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Remember

98. What does it mean that the First Amendment protects expressive speech? Discuss Supreme Court cases that have dealt with expressive speech and criminal statutes.

ANSWER: The Constitution does not end with the spoken or written word. It includes expressive conduct that communicates ideas and feelings. An important Supreme Court case about expressive speech is *Texas v. Johnson* (1989).

REFERENCES: The Bill of Rights and the Criminal Law

LEARNING OBJECTIVES: CRLW.SAMA.17.02.01 - To understand and appreciate the reasons for the limits on criminal law and criminal punishment in the U.S. constitutional democracy.

KEYWORDS: Bloom's: Remember

99. Explain how the Constitution protects our right to privacy. Discuss *Griswold v. Connecticut* (1965), *Stanley v. Georgia* (1969), and *Lawrence v. Texas* (2003).

ANSWER: The right to privacy cannot be found in specific language in the Constitution. It is a right that bans governmental invasions into the sanctity of one's home. The Supreme Court has ruled that the right to privacy emanates from six constitutional amendments: the First (freedom of religion, speech, and association), the Third (ban on quartering soldiers in private homes), Fourth (protection against unreasonable searches and seizures), the Ninth (the rights enumerated in the Constitution shall not be construed to deny other rights retained by the people), the Fifth and Fourteenth (due process right to liberty).

REFERENCES: The Right to Privacy

LEARNING OBJECTIVES: CRLW.SAMA.17.02.06 - To know, understand, and appreciate the limits placed on the criminal law and criminal punishment by the specific provisions in the Bill of Rights.

KEYWORDS: Bloom's: Apply

100. Explain the principle of proportionality. Describe how the principle relates to the death penalty and imprisonment.

ANSWER: The principle of proportionality has an ancient history and states that the punishment should fit the crime. The Supreme Court has applied the principle in several cases involving the death penalty: *Coker v. Georgia* (1977), *Atkins v. Virginia* (2002), and *Roper v. Simmons* (2005). It has also recently been addressed with regard to imprisonment in *Ewing v. California* (2003).

REFERENCES: The Constitution and Criminal Punishments

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LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Understand

101. Explain the principle of legality. Why is it important to criminal law and punishment?

ANSWER: The principle of legality means that no one can be convicted of, or punished for, a crime unless the law defined the crime and prescribed the punishment before the person engaged in the behavior that was defined as a crime. The principle of legality is important to criminal law and punishment because retroactive criminal laws harm values important to a free society. Three important concepts are knowing what the law orders makes it possible for individuals to obey the law and avoid punishment; giving this opportunity to individual encourages human autonomy and dignity; and it maintains the rule of law rather than the rule of officials.

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.02 - To understand the principle of legality and the importance of its relationship to the limits of criminal law and punishment.

KEYWORDS: Bloom's: Understand

102. What does an *ex post facto* law do? What are the two major purposes of banning ex post facto laws?

ANSWER: An *ex post facto* law does one of three things: it criminalizes an act that was not a crime when it was committed; increases punishment for a crime after the crime was committed; or takes away a defense that was available to a defendant when the crime was committed. The two major purposes of banning *ex post facto* laws are: protecting private individuals by ensuring that legislatures give them fair warning about what's criminal and that they can rely on that requirement and preventing legislators from passing arbitrary and vindictive laws.

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.03 - To appreciate the nature and importance of retroactive criminal lawmaking.

KEYWORDS: Bloom's: Understand

103. Discuss the importance of the right to a trial by jury as it relates to the process of sentencing convicted offenders. Discuss the impact of *Apprendi v. New Jersey* (2000).

ANSWER: The U.S. Supreme Court has held that an increase in the penalty for a crime beyond the statutory maximum must be based on facts submitted to a jury and proved beyond a reasonable doubt. *Apprendi* struck down a New Jersey statute authorizing judges to increase maximum sentence based on facts judge found to be true by a preponderance of the evidence, but not proof beyond a reasonable doubt and affirmed judge's authority to increase maximum based on prior convictions, or crimes defendants confess to, without jury finding.

REFERENCES: The Right to Trial by Jury and Criminal Sentencing

LEARNING OBJECTIVES: CRLW.SAMA.17.02.08 - To understand the importance of the right to trial by jury in the process of sentencing convicted offenders.

KEYWORDS: Bloom's: Apply

104. Vague laws violate the due process protections of the Fifth and Fourteen Amendments to the U.S. Constitution. Explain how these laws violate due process protections.

ANSWER: Vague laws violate due process protection in the following ways. The Fifth and Fourteenth Amendments to the U.S. Constitution ban both federal and state governments from taking any person's "life, liberty, or property without due process of law." Criminal punishment deprives individuals of life (capital punishment), liberty (imprisonment), or property (fines). Failure to warn private persons of what the law forbids and/or allowing officials the chance

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to define arbitrarily what the law forbids denies individuals their life, liberty, and/or property without due process of law. Vague laws thus fail to give fair warning and allow arbitrary and discriminatory law enforcement.

REFERENCES: The Principle of Legality

LEARNING OBJECTIVES: CRLW.SAMA.17.02.04 - To know the criteria for identifying vague laws and to understand and appreciate their constitutional significance and consequences.

KEYWORDS: Bloom's: Apply

105. The Eighth Amendment prohibits cruel and unusual punishment. Discuss the opinions in the following cases regarding the courts application of the prohibition against cruel and unusual punishment to the death penalty. *Kennedy v. Louisiana* (2008), *Atkins v. Virginia* (2002), *Roper v. Simmons* (2005).

ANSWER: In *Kennedy v. Louisiana* (2008), the court held that imposing the death penalty in the case of a child rape where death of the child did not occur and was not intended is a violation of the Eight Amendment because it is disproportionate. The *Atkins v. Virginia* (2002) case made executing anyone who proved the three elements in the American Association on Mental Retardation (now American Association on Intellectual and Developmental Disabilities) definition applied to them violated the ban on cruel and unusual punishment. In *Roper v. Simmons* (2005), the court held that it is a violation of the Eighth Amendment to execute anyone who was under the age of 18 when they committed their crime.

REFERENCES: The Constitution and Criminal Punishment

LEARNING OBJECTIVES: CRLW.SAMA.17.02.07 - To understand and appreciate the constitutional significance and consequences of the principle of proportionality in criminal punishment and its relation to "cruel and unusual punishment."

KEYWORDS: Bloom's: Apply

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