Criminal Procedure 10th edition Samaha Test Bank

SKU: 9781305969001-TEST-BANK

1. Which amendment to the Constitution forbids a government appeal of a verdict of “not guilty”?

a. the Sixth Amendment
b. the Fourth Amendment
c. the Fifth Amendment
d. the Eighth Amendment

ANSWER: c
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.
KEYWORDS: Remember
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2. What is the purpose of the case citation?

a. The citation identifies the source of materials quoted or relied upon.
b. The citation identifies the winner of the case.
c. The citation identifies the parties in the case.
d. The citation provides the reasoning for the judgment.

ANSWER: a
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.
KEYWORDS: Remember
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3. The ultimate source of American criminal procedure law is:

a. the U.S. Constitution.
b. the federal rules of criminal procedure.
c. the state constitutions.
d. state court opinions.

ANSWER: a
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the

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objective basis or facts and circumstances that back up the government actions.

KEYWORDS: Remember
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4. The judgement in a case may also be called the:

a. incorporation.
b. question.
c. affirmation.
d. *stare decisis*.

ANSWER: c
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.
KEYWORDS: Remember
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5. According to the _____, SCOTUS's interpretation trumps the interpretation of all other courts (federal and local), of Congress, and of all state and local legislatures.

a. judiciary clause
b. principle of judicial review
c. supervisory power clause
d. supreme review clause

ANSWER: b
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.05 - Know and appreciate that all criminal procedures have to answer to the U.S. Constitution, but it is up to the courts to interpret the meaning of the Constitution. Ultimately, the U.S. Supreme Court's interpretation trumps the decisions of all other courts.
KEYWORDS: Remember
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6. The due process revolution occurred:

a. during the sixteenth and seventeenth centuries.
b. between 1781 and 1900.
c. in the new era of crime control, between 1900 and 1960.
d. between 1960 and 1969.

ANSWER: d

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POINTS: 1
REFERENCES: Criminal Procedure History: The Balance Ideal and Due Process
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.07 - Understand and appreciate that the balance between crime control and individual liberty is an ancient controversy. The history of this tension has swung like a pendulum back and forth, between more emphasis on providing the government with enough power to enforce criminal law and guaranteeing individual autonomy and privacy.
KEYWORDS: Remember
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7. Court opinions refer to past cases to back up their reasoning and their decision in the present case. What are these prior decisions called?

a. judicial reviews
b. precedents
c. habeas corpus
d. petitions

ANSWER: b
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS: Remember
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8. SCOTUS has the power to manage how the lower federal courts conduct their business. This is called the Court's:

a. power of judicial review.
b. due process standard.
c. supreme power.
d. supervisory power.

ANSWER: d
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.05 - Know and appreciate that all criminal procedures have to answer to the U.S. Constitution, but it is up to the courts to interpret the meaning of the Constitution. Ultimately, the U.S. Supreme Court's interpretation trumps the decisions of all other courts.
KEYWORDS: Remember
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9. Social science research attempts to assess the effectiveness of crime control practices and their effect on individual liberty and privacy, and:

a. the accuracy with which the criminal justice system sorts the guilty from the innocent.

b. judicial integrity.

c. prosecutor integrity.

d. how well the criminal justice system evaluates evidence.

ANSWER: a
POINTS: 1
REFERENCES: Empirical Evidence: Judicial Decision Making and Academic Debate
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.03 - Understand the importance, prevalence, and shortcomings of social scientific research regarding: (a) the effectiveness of crime control practices and their effect on individual liberty and privacy and; (b) how accurately the criminal justice system sorts the guilty from the innocent.
KEYWORDS: Remember
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10. A law that is above the ordinary law created by legislatures is a called:

a. fundamental law.

b. monarchy law.

c. common law.

d. civil law.

ANSWER: a
POINTS: 1
REFERENCES: SCOTUS: Will of the People or Rule of Law?
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.04 - Know and appreciate that the dualistic, political nature of the U.S. Supreme Court reflects society's commitment to two opposing principles—fundamental law and the will of the people.
KEYWORDS: Remember
DATE CREATED: 1/3/2017 4:56 AM
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11. The term "parallel rights" refers to:

a. rights guaranteed by a state constitution that are similar to the rights guaranteed by the U.S. Constitution.

b. rights guaranteed by a state constitution that include rights not guaranteed by the U.S. Constitution.

c. rights guaranteed by state statute that are similar to the rights included in the state constitution.

d. state rights that have been replaced by federal rights.

ANSWER: a
POINTS: 1
REFERENCES: State Constitutions and State Courts
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False

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LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.

KEYWORDS: Remember

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12. From colonial times until the Civil War, criminal justice was solely the responsibility of:
    a. sheriffs.
    b. citizens.
    c. legislatures.
    d. local governments.

ANSWER: d

POINTS: 1

REFERENCES: Due Process of Law

QUESTION TYPE: Multiple Choice

HAS VARIABLES: False

LEARNING OBJECTIVES: CRPR.SAMA.18.02.08 - Understand and appreciate that the difficulty to define due process is historically rooted in the controversial issues of states' rights and equal rights for all citizens. Gradually, the U.S. Supreme Court expanded the meaning of criminal procedure rights within the federal system and ruled that most of these rights apply to state and local criminal justice, too.

KEYWORDS: Remember

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13. Which of the following amendments provides a defendant with the right to due process?
    a. the Fourteenth Amendment
    b. the Fourth Amendment
    c. the Sixth Amendment
    d. the Eighth Amendment

ANSWER: a

POINTS: 1

REFERENCES: Due Process of Law

QUESTION TYPE: Multiple Choice

HAS VARIABLES: False

LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.

KEYWORDS: Remember

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14. The term "due process revolution" refers to the:
    a. Supreme Court's expansion of individual rights in the 1960s.

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b. civil unrest that swept the United States in the 1960s.

c. passage of the Fourteenth Amendment.

d. adoption of the fundamental fairness doctrine by the Court in the 1930s.

ANSWER: a
POINTS: 1
REFERENCES: Criminal Procedure History: The Balance Ideal and Due Process
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.07 - Understand and appreciate that the balance between crime control and individual liberty is an ancient controversy. The history of this tension has swung like a pendulum back and forth, between more emphasis on providing the government with enough power to enforce criminal law and guaranteeing individual autonomy and privacy.
KEYWORDS: Remember
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15. There are two main petitions a defendant can use to ask a higher court to review a decision made by a lower court: *habeas corpus* and:

a. suppression.

b. certiorari.

c. precedent.

d. affirmation.

ANSWER: b
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS: Remember
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16. If an appellate court upholds the decision of a lower court, then the decision has been:

a. remanded.

b. reversed.

c. rescinded.

d. affirmed.

ANSWER: d
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.

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KEYWORDS: Remember
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17. The two landmark cases that began the federal government's gradual entry into state criminal justice were *Powell v. Alabama* (1932) and:
    a. *Miranda v. Arizona* (1966).
    b. *U.S. v. Armstrong* (1996).
    c. *Rochin v. California* (1952).
    d. *Brown v. Mississippi* (1936).

ANSWER: d
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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18. The cases of *Powell v. Alabama* (1932) and *Brown v. Mississippi* (1936) established what came to be known as:
    a. the criminal procedure doctrine.
    b. the due process doctrine.
    c. the distinguishing case doctrine.
    d. the fundamental fairness doctrine.

ANSWER: d
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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19. The fundamental fairness doctrine of due process requires states to provide:
    a. notice to defendants of the charges against them, an attorney at state expense if they cannot afford one, and a hearing on the facts before conviction and punishment.
    b. notice to defendants of the charges against them and a hearing on the facts before conviction and punishment.

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c. a grand jury proceeding only.

d. notice to defendants of the charges against them, a grand jury proceeding, and a hearing on the facts before conviction and punishment.

ANSWER: b
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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20. State courts are a source of criminal law procedure in which of the following types of cases?

a. those involving two different states

b. those involving state officials

c. those involving border disputes

d. those involving the U.S. Constitution that SCOTUS hasn't decided yet

ANSWER: d
POINTS: 1
REFERENCES: State Constitutions and State Courts
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.
KEYWORDS: Remember
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21. *Marbury v. Madison* (1803) established what principle?

a. due process

b. *stare decisis*

c. freedom from self-incrimination

d. judicial review

ANSWER: d
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.05 - Know and appreciate that all criminal procedures have to answer to the U.S. Constitution, but it is up to the courts to interpret the meaning of the Constitution.

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Ultimately, the U.S. Supreme Court's interpretation trumps the decisions of all other courts.

KEYWORDS: Remember
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22. In which of the following cases did the court say (regarding selective enforcement of drug laws) that the majority of elevated penalties fall on Black users while the majority of users were White?

a. *Miranda v. Arizona*
b. *Terry v. Ohio*
c. *U.S. v. Armstrong*
d. *U.S. v. Weeks*

ANSWER: c
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
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23. Equal protection claims based on selective prosecution are difficult to prove, because claimants have to prove that the prosecutor had a discriminatory purpose and that the prosecution had:

a. a negative effect.
b. an exclusionary effect.
c. a discriminatory effect.
d. a disruptive effect.

ANSWER: c
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
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24. The power of a court to hear and decide cases in a specific geographical area or to deal with a specific subject is called:

a. jurisdiction.
b. judicial review.
c. appellate authority.
d. *stare decisis*.

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ANSWER: a
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS: Remember
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25. A proceeding that addresses a motion to throw out evidence in a trial is called:
    a. an evidentiary hearing.
    b. a suppression hearing.
    c. an appellate hearing.
    d. a review hearing.

ANSWER: b
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS: Remember
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26. One interpretation of selective incorporation is that:
    a. the state legislatures can select which provisions in the Bill of Rights to incorporate.
    b. only some of the Bill of Rights provisions are incorporated into the due process clause of the Fourteenth Amendment.
    c. only the Fourth and Fifth Amendments are incorporated into the due process clause of the Fourteenth Amendment.
    d. state supreme courts shall decide which provisions in the Bill of Rights their states should incorporate.

ANSWER: b
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember

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27. In *Palko v. Connecticut* (1937), what procedural issue is referenced by Justice Cardozo in his opinion concerning the applicability of the Bill of Rights to the states?

a. excessive bail
b. double jeopardy
c. fundamental fairness
d. ineffective counsel

ANSWER: b
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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28. The total incorporation doctrine:

a. leaves the states more freedom to determine their own procedures than the fundamental fairness doctrine.
b. means that the equal protection clause only incorporates the provisions in all of the Bill of Rights relating to criminal procedure in some very specific cases.
c. would incorporate, in total, those rights in the Bill of Rights that are “implicit in the concept of ordered liberty.”
d. means that the due process clause of the Fourteenth Amendment incorporates the provisions in all of the Bill of Rights relating to criminal procedure.

ANSWER: d
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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29. Criticism of the incorporation doctrine is that it targets all criminal justice agencies, but perhaps nothing generates more controversy than whether uniform standards ought to apply to:

a. local police.

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b. local prosecutors.

c. state supreme courts.

d. federal law enforcement agencies.

ANSWER: a
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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30. What presumption assumes that the government is acting lawfully unless there is clear evidence to the contrary? What presumption assumes that the government is acting lawfully unless there is clear evidence to the contrary?

a. the presumption of regularity

b. the presumption of infallibility

c. the presumption of enforceability

d. the presumption of innocence

ANSWER: a
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
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31. In order to claim a violation of the equal protection clause, a claimant must prove that:

a. the official government action had a discriminatory effect.

b. the officials intended to discriminate.

c. the government action had a discriminatory effect and a discriminatory purpose.

d. the government action treated the claimant differently than other people.

ANSWER: c
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving

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claims that government officials denied equal protection falls on the individual.

KEYWORDS: Remember
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32. The “presumption of regularity” posits that:
    a. most people who claim a violation of the equal protection clause have been discriminated against.
    b. most people who allege due process violations have been harmed.
    c. there is a set of due process requirements that apply in regular criminal cases.
    d. government actions are presumed lawful unless there is clear evidence to the contrary.

ANSWER: d
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
DATE CREATED: 1/3/2017 5:23 AM
DATE MODIFIED: 1/6/2017 4:35 AM

33. In *Mapp v. Ohio* (1961), the Court applied which of the following to states?
    a. the right of self-incrimination
    b. the exclusionary rule
    c. the right to assistance of counsel
    d. the right to a speedy trial

ANSWER: b
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
DATE CREATED: 1/3/2017 5:24 AM
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34. Besides notification of charges against the accused, what is the other procedural element that is required to satisfy the definition of a “fair trial” under the fundamental fairness doctrine?
    a. a hearing of the facts before sentencing
    b. the presence of effective defense counsel at trial
    c. timely sentencing upon conviction
    d. the right to appeal if found guilty

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ANSWER: a
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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35. The political, dualistic nature of the Supreme Court refers to its commitment to two conflicting ideals: fundamental law and:
    a. the importance of government ideals.
    b. the will of the government.
    c. the importance of constitutional law.
    d. the will of the people.

ANSWER: d
POINTS: 1
REFERENCES: SCOTUS: Will of the People or Rule of Law?
QUESTION TYPE: Multiple Choice
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.04 - Know and appreciate that the dualistic, political nature of the U.S. Supreme Court reflects society's commitment to two opposing principles—fundamental law and the will of the people.
KEYWORDS: Remember
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36. The Constitution is a different type of document than a statute, because it expresses the will of the people as a whole.
    a. True
    b. False

ANSWER: True
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.
KEYWORDS: Remember
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37. The doctrine of *stare decisis* commands judges to follow precedents.

a. True

b. False

ANSWER:	True
POINTS:	1
REFERENCES:	The Text-Case Method
QUESTION TYPE:	True / False
HAS VARIABLES:	False
LEARNING OBJECTIVES:	CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS:	Remember
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38. Social science researchers agree that the criminal process rarely convicts the innocent and frees the guilty.

a. True

b. False

ANSWER:	False
POINTS:	1
REFERENCES:	Empirical Evidence: Judicial Decision Making and Academic Debate
QUESTION TYPE:	True / False
HAS VARIABLES:	False
LEARNING OBJECTIVES:	CRPR.SAMA.18.02.03 - Understand the importance, prevalence, and shortcomings of social scientific research regarding: (a) the effectiveness of crime control practices and their effect on individual liberty and privacy and; (b) how accurately the criminal justice system sorts the guilty from the innocent.
KEYWORDS:	Remember
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39. Although it is the highest court in the land, SCOTUS depends on local courts and the police to apply its decisions to daily situations.

a. True

b. False

ANSWER:	True
POINTS:	1
REFERENCES:	The U.S. Constitution and the Courts
QUESTION TYPE:	True / False
HAS VARIABLES:	False
LEARNING OBJECTIVES:	CRPR.SAMA.18.02.05 - Know and appreciate that all criminal procedures have to answer to the U.S. Constitution, but it is up to the courts to interpret the meaning of the Constitution. Ultimately, the U.S. Supreme Court's interpretation trumps the decisions of all other courts.
KEYWORDS:	Remember
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40. SCOTUS has no authority to interpret a state constitution, as long as state constitutional provisions and the decisions interpreting them meet the standards set by the United States Constitution.

a. True

b. False

ANSWER: True
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.
KEYWORDS: Remember
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41. Justice William Brennan believed that the incorporation doctrine had virtually no impact on law.

a. True

b. False

ANSWER: False
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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42. Some state constitutions provide rights not mentioned in the U.S. Constitution.

a. True

b. False

ANSWER: True
POINTS: 1
REFERENCES: State Constitutions and State Courts
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.
KEYWORDS: Remember

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43. Many colonial revolutionaries were committed to both fundamental law and government by the will of the people.
    a. True
    b. False
ANSWER: True
POINTS: 1
REFERENCES: SCOTUS: Will of the People or Rule of Law?
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.04 - Know and appreciate that the dualistic, political nature of the U.S. Supreme Court reflects society's commitment to two opposing principles—fundamental law and the will of the people.
KEYWORDS: Remember
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44. The early Roman republic had virtually no safeguards for individuals against government power in its law of criminal procedure.
    a. True
    b. False
ANSWER: False
POINTS: 1
REFERENCES: Criminal Procedure History: The Balance Ideal and Due Process
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.07 - Understand and appreciate that the balance between crime control and individual liberty is an ancient controversy. The history of this tension has swung like a pendulum back and forth, between more emphasis on providing the government with enough power to enforce criminal law and guaranteeing individual autonomy and privacy.
KEYWORDS: Remember
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45. The Articles of Confederation were written by former British colonists in response to British tyranny.
    a. True
    b. False
ANSWER: True
POINTS: 1
REFERENCES: Criminal Procedure History: The Balance Ideal and Due Process
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.07 - Understand and appreciate that the balance between crime control and individual liberty is an ancient controversy. The history of this tension has swung like a pendulum back and forth, between more emphasis on providing the government with enough power to enforce criminal law and guaranteeing individual autonomy and privacy.

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KEYWORDS: Remember
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46. The conflict over the fundamental fairness doctrine and the incorporation doctrine was clear in *Rochin v. California* (1952).

a. True
b. False

ANSWER: True
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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47. The fundamental fairness doctrine and the total incorporation doctrine are essentially the same.

a. True
b. False

ANSWER: False
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Remember
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48. One of the issues addressed by *Powell v. Alabama* (1932) is due process.

a. True
b. False

ANSWER: True
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: True / False
HAS VARIABLES: False

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LEARNING OBJECTIVES: CRPR.SAMA.18.02.08 - Understand and appreciate that the difficulty to define due process is historically rooted in the controversial issues of states' rights and equal rights for all citizens. Gradually, the U.S. Supreme Court expanded the meaning of criminal procedure rights within the federal system and ruled that most of these rights apply to state and local criminal justice, too.
KEYWORDS: Remember
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49. Equality is deeply embedded in the concept of U.S. constitutionalism.
    a. True
    b. False
ANSWER: True
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
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50. A concurring opinion is one that disagrees with the majority decision.
    a. True
    b. False
ANSWER: False
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: True / False
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a) the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.
KEYWORDS: Remember
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51. Two types of facts are relevant to criminal procedure cases: (1) acts by _____ _____ and (2) the objective basis for those actions.
ANSWER: government officials
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.01 - Understand and differentiate the two components of case facts: (a)

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the government official acts that the defendant claim violated the Constitution, and (b) the objective basis or facts and circumstances that back up the government actions.

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52. In _____ court cases, a lower court has already taken some action in the case, and one of the parties has asked a higher court to review the lower court's action.

ANSWER: appellate
POINTS: 1
REFERENCES: The Text-Case Method
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.02 - Know the importance of prior case decisions (precedent) and understand the obligation to follow prior decisions (stare decisis) in judicial reasoning and decision making.
KEYWORDS: Remember
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53. _____ law is a law that is above the ordinary law created by legislatures.

ANSWER: Fundamental
POINTS: 1
REFERENCES: SCOTUS: Will of the People or Rule of Law?
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.04 - Know and appreciate that the dualistic, political nature of the U.S. Supreme Court reflects society's commitment to two opposing principles—fundamental law and the will of the people.
KEYWORDS: Remember
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54. In place of the _____ _____ doctrine, some on the Court argued for the incorporation doctrine.

ANSWER: fundamental fairness
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
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55. Rights every state guarantees its citizens that are similar to those in the United States Constitution and the Bill of Rights are referred to as _____ rights.

ANSWER: parallel
POINTS: 1
REFERENCES: State Constitutions and State Courts
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.
KEYWORDS: Remember
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56. A state's highest court is the _____ authority in cases based on their own state constitutions and statutes.

ANSWER: final
POINTS: 1
REFERENCES: State Constitutions and State Courts
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.06 - Know that every state constitution guarantees its citizens parallel criminal procedure rights. Understand that state constitutions can increase criminal procedure rights but can't reduce them below the federal minimum standard defined by the U.S. Supreme Court.
KEYWORDS: Remember
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57. The power of courts to declare laws and government actions unconstitutional is called _____ _____.

ANSWER: judicial review
POINTS: 1
REFERENCES: The U.S. Constitution and the Courts
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.05 - Know and appreciate that all criminal procedures have to answer to the U.S. Constitution, but it is up to the courts to interpret the meaning of the Constitution. Ultimately, the U.S. Supreme Court's interpretation trumps the decisions of all other courts.
KEYWORDS: Remember
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58. Justice _____ was Chief Justice of the Supreme Court during the due process revolution.

ANSWER: Warren
POINTS: 1
REFERENCES: Criminal Procedure History: The Balance Ideal and Due Process

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QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.07 - Understand and appreciate that the balance between crime control and individual liberty is an ancient controversy. The history of this tension has swung like a pendulum back and forth, between more emphasis on providing the government with enough power to enforce criminal law and guaranteeing individual autonomy and privacy.
KEYWORDS: Remember
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59. The drafters of the Fourteenth Amendment left the definitions of due process and _____ _____.
ANSWER: equal protection
POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.08 - Understand and appreciate that the difficulty to define due process is historically rooted in the controversial issues of states' rights and equal rights for all citizens. Gradually, the U.S. Supreme Court expanded the meaning of criminal procedure rights within the federal system and ruled that most of these rights apply to state and local criminal justice, too.
KEYWORDS: Remember
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60. Constitutional democracy couldn't survive without protecting our right to fair procedures, as guaranteed by _____ _____ of law.
ANSWER: due process
POINTS: 1
REFERENCES: Equal Protection of the Law
QUESTION TYPE: Completion
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.
KEYWORDS: Remember
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61. Explain the impact of empirical evidence on judicial decision making.
ANSWER: The new generation of criminal procedure calls for accurate, reliable, impartial empirical and social scientific evidence primarily aimed at answering two questions: (1) How effective are crime-controlling practices? and (2) What is their effect on individual liberty and privacy? As a compelling example, DNA exonerations conclusively demonstrate that our criminal justice system has wrongfully convicted innocent citizens. DNA exonerations we know about may only be the "tip of the iceberg," so we must not only remember the innocents, but also be aware of any possible shortcomings in the data presented to us.
POINTS: 1

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REFERENCES: Empirical Evidence: Judicial Decision Making and Academic Debate
QUESTION TYPE: Essay
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.03 - Understand the importance, prevalence, and shortcomings of social scientific research regarding: (a) the effectiveness of crime control practices and their effect on individual liberty and privacy and; (b) how accurately the criminal justice system sorts the guilty from the innocent.
KEYWORDS: Apply
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62. Briefly trace the history of due process, from the adoption of the U.S. Constitution to the present.

ANSWER: From the passage of the Constitution to the Civil War, criminal justice was considered a local affair. The Bill of Rights extends protection against only the federal, not the state, government. The Fourteenth Amendment's due process clause changed that.

Courts, however, defined due process differently. Some decisions emphasized procedural due process, contending that due process guarantees fair procedures for deciding cases. The question then became which fair procedures are guaranteed. The Bill of Rights lists several. Are they due process guarantees?

Experts differed. Some claimed that the Bill of Rights codifies a specific list of procedures to protect people against governmental excesses and the Fourteenth Amendment requires that all these procedures apply to the states.

Others claimed that if due process is shorthand for the Bill of Rights, the Fourteenth Amendment due process clause is wasted language, because the Fifth Amendment already includes a due process clause. They thought the meaning of due process should evolve to meet the needs of an ever-changing society.

Until the 1930s, SCOTUS refused to apply the Fourteenth Amendment due process clause to state criminal proceedings. After World War I came the rise of totalitarian governments in the late 1920s and 1930s, which gave rise to American suspicions of arbitrary government. In 1932, SCOTUS ruled, in *Powell v. Alabama*, that the state of Alabama had denied the defendant's due process during the trial. In *Brown v. Mississippi* (1936), the Court ruled the defendants were denied due process when confessions obtained by brutality and torture were used against them.

These two cases established the fundamental fairness doctrine. According to this doctrine, due process commands the states to provide the basics of a fair trial. These include (1) giving defendants notice of the charges against them and (2) assuring a full hearing before conviction. However, even after these two cases, SCOTUS refused to hold that the Bill of Rights now automatically applied to state criminal justice.

During the 1940s and 1950s, all the Justices agreed that the Bill of Rights imposes limits on state criminal procedures, but they disagreed about what those limits are. This view was opposed by Justices who believed in the total incorporation doctrine. They believed that all the provisions of the Bill of Rights should be incorporated through the due process clause of the Fourteenth Amendment and applied to state criminal justice proceedings. A third approach, selective incorporation, took a middle ground. Under this doctrine, some rights in the Bill of Rights would be incorporated through the Fourteenth Amendment and others would not. This doctrine was adopted by the Court in the 1960s in a series of decisions called the "due process revolution," and the pendulum swung in favor of individuals' procedural rights.

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POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Essay
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.08 - Understand and appreciate that the difficulty to define due process is historically rooted in the controversial issues of states' rights and equal rights for all citizens. Gradually, the U.S. Supreme Court expanded the meaning of criminal procedure rights within the federal system and ruled that most of these rights apply to state and local criminal justice, too.
KEYWORDS: Apply
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63. Summarize the differences among the fundamental fairness, total incorporation, and selective incorporation doctrines as they influence state criminal procedures.
ANSWER: Below is an example of a correct answer to this question. There are other ways to answer the question that may also be correct.

The fundamental fairness doctrine focused on general fairness. Under this doctrine states could largely define their own criminal procedures, as long as they did not offend fundamental rights.

Under the total incorporation doctrine, all provisions of the Bill of Rights were considered incorporated into the Fourteenth Amendment due process clause and thus applicable to the states. Under this doctrine, states in a criminal justice system would have to follow identically all those rights guaranteed to the accused in federal criminal proceedings.

Finally, the selective incorporation doctrine argued that some provisions of the Bill of Rights were incorporated into the notion of due process and thus applicable against the states, and some were not. When a right was considered so fundamental as to be incorporated into the due process clause and applied to the states, the states would have to apply that right exactly as it was in a federal criminal proceeding.

POINTS: 1
REFERENCES: Due Process of Law
QUESTION TYPE: Essay
HAS VARIABLES: False
LEARNING OBJECTIVES: CRPR.SAMA.18.02.09 - Know, understand, and appreciate that after a decades-long struggle, a Supreme Court majority came to agree that "due process" requires the incorporation of the specific criminal procedure provisions in the U.S. Bill of Rights and that incorporation changed day-to-day criminal procedure by expanding its intervention from the courtroom to public spaces and not-so-public police stations.
KEYWORDS: Apply
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64. Explain the concepts of fundamental law and government by the will of the people. Why are these two ideas contradictory? How does SCOTUS uphold these two contradictory ideas?
ANSWER: The political, dualistic nature of SCOTUS refers not to partisan gain, but to its commitment to two conflicting ideals: fundamental law and the will of the people. The will of the people refers to the power of the people to create laws, while the ancient concept of fundamental law places limits on that power. To uphold these contradictory ideas, SCOTUS must shape its

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decisions with the public good in mind.

POINTS: 1

REFERENCES: SCOTUS: Will of the People or Rule of Law?

QUESTION TYPE: Essay

HAS VARIABLES: False

LEARNING OBJECTIVES: CRPR.SAMA.18.02.04 - Know and appreciate that the dualistic, political nature of the U.S. Supreme Court reflects society's commitment to two opposing principles—fundamental law and the will of the people.

KEYWORDS: Apply

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65. Identify the two elements individuals must prove to succeed in a claim that government denied them equal protection of the law.

ANSWER:

The two facts that must be shown to prove a claim of denial of equal protection of the law are:
(1) some official act had a discriminatory effect—this usually means proving race or some other illegal group characteristic is the reason for the official decision.
(2) officials intended to discriminate against a specific claimant because of race or some other illegal criteria.

POINTS: 1

REFERENCES: Equal Protection of the Law

QUESTION TYPE: Essay

HAS VARIABLES: False

LEARNING OBJECTIVES: CRPR.SAMA.18.02.10 - Understand that equality is a fundamental principle and a constitutional command in our constitutional democracy, but the heavy burden of proving claims that government officials denied equal protection falls on the individual.

KEYWORDS: Apply

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