Chapter 1: Introduction to the Law

Test Bank

# Multiple Choice

1. The definition of federalism is \_\_\_\_\_\_.

A. Congress has to follow the regulations of the Court

B. the Executive Branch is the most important branch

C. the federal government reigns supreme always

D. power sharing between the federal and state governments

Ans: D

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: American Legal History

Difficulty Level: Easy

2. The powers of each branch of government under the U.S. Constitution are \_\_\_\_\_\_.

A. Article I makes law, Article II enforces law, Article III interprets law

B. Article I enforces law, Article II interprets law, Article III makes law

C. Article I enforces law, Article II makes law, Article III interprets law

D. Article I makes law, Article II interprets law, Article III enforces law

Ans: A

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Comprehension

Answer Location: American Legal History

Difficulty Level: Medium

3. Administrative regulations are enacted to \_\_\_\_\_\_.

A. help the Executive Branch wield power

B. assist the courts interpreting the law

C. “fill in the gaps” of statutory authority

D. slow down the function of government

Ans: C

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: American Legal History

Difficulty Level: Easy

4. The result of the *Marbury v. Madison* (1803) case was that the U.S. Supreme Court decided for itself that \_\_\_\_\_\_.

A. the Supreme Court was one of many with limited power

B. the Supreme Court could not invalidate the Judiciary Act of 1789

C. the Supreme Court could invalidate executive and legislative acts

D. the Supreme Court could be in recess 9 months out of the year

Ans: C

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Comprehension

Answer Location: Judicial Review

Difficulty Level: Medium

5. The first Ten Amendments were added to the Constitution to \_\_\_\_\_\_.

A. protect the people against abuse of government power

B. protect the government from the people’s anarchy

C. protect the interests of the landowners and slaves

D. protect those who signed the Constitution from treason

Ans: A

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: The Bill of Rights

Difficulty Level: Easy

6. Common law is derived from \_\_\_\_\_\_.

A. judicial opinions

B. statutory law

C. legislative opinions

D. legislative history

Ans: A

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: The Sources of Law

Difficulty Level: Easy

7. The *holding* of a case is \_\_\_\_\_\_.

A. the facts of the case before the court

B. the reasons behind the court’s decision

C. the concurring and dissenting opinions

D. the decision of the court, precedent

Ans: D

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Easy

8. The U.S. Supreme Court held in *Riley v. California* (2014) that, generally, warrants are required to search cell phones because cell phones are a person’s \_\_\_\_\_\_.

A. closed container

B. social DNA

C. location device

D. personal property

Ans: B

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Comprehension

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

9. The Due Process Clauses are found in \_\_\_\_\_\_.

A. the Eighth and the Fifteenth Amendments

B. the Fifth and Fourteenth Amendments

C. the Fourth and the Fourteenth Amendments

D. the Fifth and Eighth Amendments

Ans: B

Learning Objective: 1-2: You will be able to articulate core legal principles found in criminal law and procedure cases, such as due process and the reasonable person.

Cognitive Domain: Comprehension

Answer Location: Due Process

Difficulty Level: Medium

10. All of the following are situations where a court will examine the “totality of the circumstances” to determine the legality of police action except \_\_\_\_\_\_.

A. a waiver of *Miranda* rights

B. whether probable cause exists

C. whether a person is under arrest

D. whether error occurred at trial

Ans: D

Learning Objective: 1-2: You will be able to articulate core legal principles found in criminal law and procedure cases, such as due process and the reasonable person.

Cognitive Domain: Analysis

Answer Location: Totality of the Circumstances

Difficulty Level: Hard

11. Which of the following theories says the powerful in society use criminal justice against the weak?

A. conflict

B. social control

C. strain

D. social learning

Ans: A

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Knowledge

Answer Location: The Offender

Difficulty Level: Easy

12. The quantum of evidence required for a *Terry* stop is \_\_\_\_\_\_.

A. beyond a reasonable doubt

B. a hunch with suspicion

C. suspicious probable cause

D. reasonable suspicion

Ans: D

Learning Objective: 1-2: You will be able to articulate core legal principles found in criminal law and procedure cases, such as due process and the reasonable person.

Cognitive Domain: Comprehension

Answer Location: Quantum of Evidence Required at Various Stages of the Trial Process

Difficulty Level: Medium

13. In *United States v. Brewer* (2013), the elderly couple convicted of fraud was sentenced to \_\_\_\_\_\_.

A. incarceration sentence

B. in deterrence sentence

C. noncustodial sentence

D. community service

Ans: C

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Comprehension

Answer Location: The Offender

Difficulty Level: Medium

14. Juvenile courts are based on the concept of what type of justice?

A. restorative

B. restive

C. remembrance

D. rehabilitative

Ans: A

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Knowledge

Answer Location: Specialty Courts

Difficulty Level: Easy

15. A client has confessed to her lawyer that she committed the murder for which an innocent man was wrongfully convicted. Under the ethical rules that guide attorneys, the defense counsel must \_\_\_\_\_\_.

A. inform the authorities her client committed murder

B. keep the conversation with her client confidential

C. expose the innocent man’s wrongful conviction

D. convince her client to confess the murder to police

Ans: B

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Application

Answer Location: Defense Counsel

Difficulty Level: Medium

16. One factor a prosecutor does not weigh in determining what charges to bring against a suspect is \_\_\_\_\_\_.

A. the suspect’s cooperation

B. the suspect’s criminal history

C. the suspect’s ethnicity

D. the suspect’s role in the crime

Ans: C

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Comprehension

Answer Location: The Prosecutor

Difficulty Level: Medium

17. The two prongs of a successful §1983 claim is for a member of the public to show the criminal justice actor \_\_\_\_\_\_.

A. acted under the color of law and the officer acted reasonably

B. acted reasonably and deprived a constitutional right

C. acted under the color of law and deprived a constitutional right

D. deprived a constitutional right and officer acted reasonably

Ans: C

Learning Objective: 1-4: You will understand how federal law protects citizen’s rights and immunity for criminal justice professionals.

Cognitive Domain: Application

Answer Location: The §1983 Claim

Difficulty Level: Medium

18. To claim qualified immunity under the law, a law enforcement officer must establish that in her encounter with the member of the public she \_\_\_\_\_\_.

A. acted prudently

B. acted reasonably

C. acted rationally

D. acted legally

Ans: B

Learning Objective: 1-4: You will understand how federal law protects citizen’s rights and immunity for criminal justice professionals.

Cognitive Domain: Application

Answer Location: Immunity for Criminal Justice Professionals in §1983 Claims

Difficulty Level: Medium

19. To successfully obtain qualified immunity, the law under which the law enforcement officer acted must not have been \_\_\_\_\_\_.

A. rationally established

B. legally established

C. relatively established

D. clearly established

Ans: D

Learning Objective: 1-4: You will understand how federal law protects citizen’s rights and immunity for criminal justice professionals.

Cognitive Domain: Application

Answer Location: Immunity for Criminal Justice Professionals in §1983 Claims

Difficulty Level: Medium

20. In the *District of Columbia v. Wesby* (2018) case, the court found that the officers were entitled to qualified immunity because \_\_\_\_\_\_.

A. the officers’ actions were unreasonable in arresting the 21 partygoers

B. the officers’ actions were reasonable in arresting the 21 partygoers

C. the 21 partygoers did not have the owner’s consent to drink in the home

D. the woman known as “Peaches” or “Tasty” had rented the party house

Ans: B

Learning Objective: 1-4: You will understand how federal law protects citizen’s rights and immunity for criminal justice professionals.

Cognitive Domain: Comprehension

Answer Location: Immunity for Criminal Justice Professionals in §1983 Claims

Difficulty Level: Medium

21. The Tenth Amendment reserves for the states \_\_\_\_\_\_.

A. all powers not federal and not prohibited by the Constitution

B. all powers the federal government does not want or need presently

C. all powers the Constitution specifically lists for the states to have

D. all powers the states can claim for themselves when the courts agree

Ans: A

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Knowledge

Answer Location: The Tenth Amendment and States’ Rights

Difficulty Level: Easy

22. In the *Murphy v. National Collegiate Athletic Association* (NCAA) (2018) case, the U.S. Supreme Court legalized sports gambling based on the Tenth Amendment’s anticommandeering principle articulated in a precedent resolving the issue of \_\_\_\_\_\_.

A. the violence against women act

B. no child left behind education

C. firearm background checks

D. marijuana legalization in states

Ans: C

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Analysis

Answer Location: The Tenth Amendment and States’ Rights

Difficulty Level: Hard

23. An essential element of the Supreme Court finding federal jurisdiction is \_\_\_\_\_\_.

A. a nexus (connection) between intra (within) state commercial activity

B. a nexus between the crime and inter (between) state commercial activity

C. a nexus between an idea Congress thinks is worthy of national attention

D. a nexus between the Executive Branch exercise of power and Congress

Ans: B

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Knowledge

Answer Location: Federal Jurisdiction and the Commerce Clause

Difficulty Level: Easy

24. In the *Gonzales v. Raich* (2005) case, the issue before the U.S. Supreme Court to resolve was \_\_\_\_\_\_.

A. whether grown women could grow and smoke marijuana because they were ill

B. whether the federal government could punish California for legalizing marijuana

C. whether the federal government had jurisdiction over marijuana grown in California

D. whether the U.S. Attorney General could advance his antidrug message in California

Ans: C

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Knowledge

Answer Location: Federal Jurisdiction and the Commerce Clause

Difficulty Level: Easy

25. In the *Gonzales v. Raich* (2005) case, in relying on precedent regulating homegrown wheat that never crossed state lines, the U.S. Supreme Court decided Congress had power to regulate marijuana that never left the state of California by reasoning \_\_\_\_\_\_.

A. by analogy

B. with rules and logic

C. with scientific certainty

D. by general acceptance

Ans: A

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Comprehension

Answer Location: Federal Jurisdiction and the Commerce Clause

Difficulty Level: Medium

26. Courts used \_\_\_\_\_\_-based reasoning between the facts of prior cases and the current case.

A. analogy

B. rules

C. precedent

D. impartial

Ans: A

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Analysis

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

27. Courts used \_\_\_\_\_\_-based reasoning between the rule of law of a prior case and the facts of the current case.

A. impartial

B. analogy

C. rules

D. precedent

Ans: C

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Analysis

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

28. In the case citation **134 S.Ct. 2473**, the **134** is the \_\_\_\_\_\_.

A. page number

B. reporter

C. volume number

D. Supreme Court

Ans: C

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Application

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

29. In the case citation **134 S.Ct. 2473**, the **S.Ct.** is the \_\_\_\_\_\_.

A. reporter

B. volume number

C. page number

D. habeas petition

Ans: A

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Application

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

30. In the case citation **134 S.Ct. 2473**, the **2473** is the \_\_\_\_\_\_.

A. Supreme Court

B. reporter

C. volume number

D. page number

Ans: D

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Application

Answer Location: How to Read Statutes and Case Briefs

Difficulty Level: Medium

# True/False

1. The federal government derives its power only from the U.S. Constitution.

Ans: T

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: American Legal History

Difficulty Level: Easy

2. The doctrine of judicial review is stated explicitly in the U.S. Constitution.

Ans: F

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: Judicial Review

Difficulty Level: Easy

3. Statutes are written laws passed by legislators.

Ans: T

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Knowledge

Answer Location: The Sources of Law

Difficulty Level: Easy

4. Harmless error at trial means the defendant, if convicted, gets a new trial.

Ans: F

Learning Objective: 1-2: You will be able to articulate core legal principles found in criminal law and procedure cases, such as due process and the reasonable person.

Cognitive Domain: Comprehension

Answer Location: Error

Difficulty Level: Medium

5. Under the social control theory, people who share strong common bonds are more likely to commit crime.

Ans: F

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Comprehension

Answer Location: Table 1.2 Notable Theories in Criminology

Difficulty Level: Medium

6. Restitution is making the offender pay society back for the harm caused.

Ans: T

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Comprehension

Answer Location: The Offender

Difficulty Level: Medium

7. Specialty courts claim to reduce recidivism among specific types of offenders.

Ans: T

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Knowledge

Answer Location: Specialty Courts

Difficulty Level: Easy

8. To ensure fairness throughout the criminal trial process, a judge cannot have a vested interest in the outcome of the case.

Ans: T

Learning Objective: 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Comprehension

Answer Location: The Judge

Difficulty Level: Medium

9. To claim qualified immunity, a criminal justice professional must have acted unreasonably.

Ans: F

Learning Objective: 1-4: You will understand how federal law protects citizen’s rights and immunity for criminal justice professionals.

Cognitive Domain: Analysis

Answer Location: Immunity for Criminal Justice Professionals in §1983 Claims

Difficulty Level: Hard

10. The federal government can commandeer a state’s police power without violating the Tenth Amendment.

Ans: F

Learning Objective: 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Analysis

Answer Location: The Tenth Amendment and States’ Rights

Difficulty Level: Hard

# Essay

1. Is the U.S. Constitution’s requirement that presidential appointments be confirmed only on the “advice and consent” of the Senate meant to be a political check and balance on presidential powers? In February 2016, Associate Supreme Court Justice Antonin Scalia died and the controlling political party in the Senate refused to hold confirmation hearings for President Obama’s nominee, Merrick Garland. Justice Scalia’s seat on the high Court remained vacant for days until president Trump’s nominee Neil Gorsuch was confirmed in 2017. Discuss the problems, if any, of interpreting the Constitution to bend to political will.

Ans: Varies. This question asks student to analyze critically the system of checks and balances by three, seemingly independent branches of government: Congress, the President, and the Judicial Branch. Did the Founding Father’s envision a political game of cat and mouse by one branch over the others, or is the checks and balances system working to keep American democracy alive?

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions.

Cognitive Domain: Analysis

Answer Location: American Legal History

Difficulty Level: Hard

2. How does the government guarantee the competing interests of the U.S. Constitution’s Bill of Rights to protect an offender throughout the criminal trial process and the Victim Bill of Rights?

Ans: Varies. Students are asked to articulate the Founding Father’s act of amending the Constitution to protect the public against the awesome power of one, central federal government that has the power to deprive people of life and liberty and contrast the victim’s rights movement as a political backlash to the perceived “special treatment” of offenders by protecting their rights throughout the investigation and trial process with the often overlooked and ignored crime victims’ procedural justice needs.

Learning Objective: 1-2: You will be able to articulate core legal principles found in criminal law and procedure cases, such as due process and the reasonable person. | 1-3: You will know the actors in the criminal justice system and the purposes of punishment.

Cognitive Domain: Analysis

Answer Location: The Bill of Rights | The Victim

Difficulty Level: Hard

3. Many states enact restrictive laws to challenge the legality of abortion decided by U.S. Supreme Court precedent *Roe v. Wade* (1973). Discuss the relationship between state rights pursuant to the Tenth Amendment and the U.S. Supreme Court precedent pursuant to the Supremacy Clause in state attempts to return abortion to the criminal codes.[[1]](#footnote-1)

Ans: Varies. The U.S. Supreme Court has interpreted the Constitution’s Supremacy Clause to mean when the high Court speaks, it is the final word in all the land. The Tenth Amendment allows states to fashion their own laws pursuant to state police power, but where there is a conflict with federal precedent, state law must yield. The legality of *Roe v. Wade* (1973) has been consistently challenged by states seeking to elevate an unborn child to personhood status with equal rights to those born alive in an attempt to return abortion to the criminal codes, pre-1973. Most state efforts to restrict abortion or make a fetus a person have failed because of the *Roe* precedent, but there have been cases where states are trying different tactics to criminalize a woman’s behavior when it affects her pregnancy.[[2]](#footnote-2)

Learning Objective: 1-1: You will understand the sources of law, where to find the law, and how precedent controls future court decisions. | 1-5: You will be able to explain the role of federalism in controlling state criminal justice decisions.

Cognitive Domain: Analysis

Answer Location: How to Read Statutes and Case Briefs | Federalism and States’ Rights

Difficulty Level: Hard

1. Federal judge strikes down Mississippi’s controversial 15-week abortion law <https://www.nbcnews.com/news/us-news/federal-judge-strikes-down-mississippi-s-controversial-15-week-abortion-n938721> [↑](#footnote-ref-1)
2. When Prosecutors Jail a Mother for a Miscarriage <https://www.nytimes.com/interactive/2018/12/28/opinion/abortion-pregnancy-pro-life.html> [↑](#footnote-ref-2)