

Exam

Name \_\_\_\_\_

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

- 1) The U.S. Constitution divides governmental authority into three branches. Which one is NOT a branch of the U.S. government? 1) \_\_\_\_\_
- A) Judicial. B) Executive. C) Jurisdictional. D) Legislative.
- 2) A system of government where power is constitutionally divided between a central governing body and various constituent units is known as: 2) \_\_\_\_\_
- A) Principle of Legality. B) Confederation.  
C) Principle of Leniency. D) Federalism.
- 3) Which Amendment states "no state shall deny to any person within its jurisdiction the equal protection of the laws"? 3) \_\_\_\_\_
- A) Second. B) Fourteenth. C) Eighth. D) Fifth.
- 4) The \_\_\_\_\_ test states the law must be "narrowly tailored" to serve a "compelling" government interest. 4) \_\_\_\_\_
- A) Strict Scrutiny. B) Intermediate Scrutiny.  
C) Rational Basis. D) Balanced Basis.
- 5) This test is used under the Equal Protection Clause of the Fourteenth Amendment for classifications based on race. 5) \_\_\_\_\_
- A) Strict Scrutiny. B) Intermediate Scrutiny.  
C) Rational Basis. D) Balanced Basis.
- 6) This test is used under the Equal Protection Clause of the Fourteenth Amendment for classifications based on gender. 6) \_\_\_\_\_
- A) Strict Scrutiny. B) Intermediate Scrutiny.  
C) Rational Basis. D) Balanced Basis.
- 7) This test is used under the Equal Protection Clause of the Fourteenth Amendment for classifications which are not based on race or gender. 7) \_\_\_\_\_
- A) Strict Scrutiny. B) Intermediate Scrutiny.  
C) Rational Basis. D) Balanced Basis.
- 8) Assume that a state decides to define a juvenile as someone under the age of 16, not the usual 18. Assume further that a 17-year-old committed robbery before the change. To suddenly try him or her as an adult could constitute a (n) \_\_\_\_\_ violation. 8) \_\_\_\_\_
- A) *Stare decisis*. B) *Ex post facto*.  
C) *Malum prohibitum*. D) *Malum in se*.

- 9) This Supreme Court case raises the issue of whether an *ex post facto* violation occurs when the punishment scheme for

an offense is altered after its commission. 9) \_\_\_\_\_

- A) *Garner v. Jones.* B) *Lynce v. Matthis.*  
C) *Keeler v. Superior Court.* D) *Winters v. New York.*

10) A law will be \_\_\_\_\_ if it prohibits action that is protected by the Constitution. 10) \_\_\_\_\_

- A) Void for equal protection. B) Void for nebulousness.  
C) Void for overbreadth. D) Void for vagueness.

11) Overbreadth cases frequently involve the \_\_\_\_\_ Amendment, which protects the freedom of religion, assembly, and speech. 11) \_\_\_\_\_

- A) Eighth. B) Second. C) First. D) Fifth.

12) \_\_\_\_\_ is defamation by the written or printed word. 12) \_\_\_\_\_

- A) Seditious Speech. B) Slander.  
C) Group Libel. D) Libel.

13) \_\_\_\_\_ is defamation by the spoken word. 13) \_\_\_\_\_

- A) Group Libel. B) Libel.  
C) Seditious Speech. D) Slander.

14) \_\_\_\_\_ is an attack on the good reputation of another. 14) \_\_\_\_\_

- A) Defamation. B) Slander. C) Group Libel. D) Libel.

15) \_\_\_\_\_ advocates rebellion against the government. 15) \_\_\_\_\_

- A) Group Libel. B) Seditious Speech.  
C) Slander. D) Libel.

16) This Supreme Court case decided that the death penalty, *as it was being carried out at the time*, was unconstitutional. 16) \_\_\_\_\_

- A) *Coker v. Georgia.* B) *Roper v. Simmons.*  
C) *Atkins v. Virginia.* D) *Furman v. Georgia.*

17) This Supreme Court case determined that the death penalty is not permitted for the rape of an adult. 17) \_\_\_\_\_

- A) *Roper v. Simmons.* B) *Coker v. Georgia.*  
C) *Furman v. Georgia.* D) *Atkins v. Virginia.*

18) This Supreme Court case determined that the death penalty is not permitted for the rape of a juvenile. 18) \_\_\_\_\_

- A) *Atkins v. Virginia.* B) *Kennedy v. Louisiana.*  
C) *Coker v. Georgia.* D) *Gregg v. Georgia.*

19) This Supreme Court case determined that a mentally retarded convicted defendant cannot be executed. 19) \_\_\_\_\_

- A) *Kennedy v. Louisiana.* B) *Roper v. Simmons.*  
C) *Coker v. Georgia.* D) *Atkins v. Virginia.*

20) This Supreme Court case determined that if the defendant is under the age of eighteen when they commit the capital

crime, they cannot be executed. 20) \_\_\_\_\_

- A) *Roper v. Simmons*.      B) *Atkins v. Virginia*.  
C) *Coker v. Georgia*.      D) *Furman v. Georgia*.

21) Which Amendment to the U.S. Constitution addresses the issue of double jeopardy? 21) \_\_\_\_\_

- A) Second.      B) Fifth. C) Eighth.      D) First.

22) For double jeopardy purposes, which is NOT considered a separate sovereign? 22) \_\_\_\_\_

- A) The Federal Government.      B) Counties within the same State.  
C) Each Native American Tribe. D) Each State Government.

23) Early English common law contains the foundations of the modern-day double jeopardy. The rule of \_\_\_\_\_ prohibited the retrial of a defendant who was found not guilty. 23) \_\_\_\_\_

- A) *Autrefois acquit*.      B) *Malum in se*.  
C) *Malum prohibitum*.      D) *Autrefois convict*.

24) There are four main exceptions to the *Blockburger* rule. Which is NOT one of the exceptions? 24) \_\_\_\_\_

- A) Court Case is Dismissed by the Judge but the Defendant is not Acquitted.  
B) Defense Plea Bargains over the Prosecution's Objection.  
C) Conduct Committed after the First Prosecution.  
D) Court Hearing the First Offense Lacks Jurisdiction.

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

25) Indirect protections are more concerned with the criminal law itself than they are with the treatment of individuals. 25) \_\_\_\_\_

26) The courts presume that all laws are constitutional. 26) \_\_\_\_\_

27) The federal government's law-making authority is limited. 27) \_\_\_\_\_

28) The government is not required to treat everyone exactly the same. 28) \_\_\_\_\_

29) First degree murder is fundamentally equivalent to negligent homicide. 29) \_\_\_\_\_

30) It is legal to punish someone for an action that wasn't illegal when it was committed. 30) \_\_\_\_\_

31) Similar to *ex post facto* prohibition, there are specific constitutional provisions that ban overly vague laws. 31) \_\_\_\_\_

32) The equal protection requirement, the ban on *ex post facto* laws, and the ban on overly vague statutes apply to some criminal laws some of the times. 32) \_\_\_\_\_

33) The Supreme Court has sanctioned bans on freedom of speech. 33) \_\_\_\_\_

34) Both the federal government *and* the states are bound by this constitutional limitation of cruel and unusual punishment. 34) \_\_\_\_\_

35) In *Furman v. Georgia*, the Supreme Court held that the death penalty itself constitutes cruel and unusual punishment.

35) \_\_\_\_\_

36) It is unconstitutional to execute a mentally retarded murderer. 36) \_\_\_\_\_

37) The Supreme Court has declared that the Fifth Amendment's protection against double jeopardy is not a fundamental right. 37) \_\_\_\_\_

38) An individual who is acquitted in criminal court cannot be charged in civil court for the same action. 38) \_\_\_\_\_

39) If a defendant successfully appeals a criminal conviction or otherwise succeeds in overturning a conviction, he or she may not be re-prosecuted in a new trial. 39) \_\_\_\_\_

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

40) Procedural protections that hail from the U.S. Constitution are known as \_\_\_\_\_ protections. 40)

\_\_\_\_\_

41) Whenever federal and state laws are at odds, the \_\_\_\_\_ law supersedes. 41) \_\_\_\_\_

42) The rational basis test is used under the Equal Protection Clause of the Fourteenth Amendment for \_\_\_\_\_. 42)

\_\_\_\_\_

43) The *ex post facto* law is a law enacted to \_\_\_\_\_ punish behavior. 43) \_\_\_\_\_

44) A constitutional doctrine based on the Fifth and \_\_\_\_\_ Amendments requiring that the laws be written with sufficient clarity and specificity. 44) \_\_\_\_\_

45) \_\_\_\_\_ speech is that which advocates rebellion against the government. 45) \_\_\_\_\_

46) Guided discretion laws are laws that provide for the death penalty based on weighing aggravating and \_\_\_\_\_ circumstances. 46) \_\_\_\_\_

47) If a defendant is under the age of \_\_\_\_\_ when they commit a capital crime, they cannot be executed. 47)

\_\_\_\_\_

48) Double jeopardy prevents a second \_\_\_\_\_ for the same offense. 48) \_\_\_\_\_

49) Double jeopardy does not apply when the court hearing the first offense lacks \_\_\_\_\_ to try the second offense.

49) \_\_\_\_\_

**MATCHING. Choose the item in column 2 that best matches each item in column 1.**

Match each term related to separation of powers with its definition.

50) Federalism

A) A system of government where power is constitutionally divided between a central governing body and various constituent units. 50) \_\_\_\_\_

51) Confederation

A) A system of government that lacks a strong central authority. 51) \_\_\_\_\_

52)

53)

Principle of Legality

Principle of Lenity

B)

A legal principle stating that a defendant cannot be convicted of a crime unless there is specific legislation making it illegal and defining the potential punishment. 52)

53)

\_\_\_\_\_

\_\_\_\_\_

C) A legal principle requiring that any ambiguity in a statute should benefit the defendant, not the government.

Match each legal term with its explanation.

54)

55)

56)

57)

58)

59)

Equal Protection Clause

*Ex Post Facto* law prohibition

Void for Vagueness Doctrine

Void for Overbreadth Doctrine

Cruel and Unusual Punishment Provision

The Double Jeopardy Prohibition

A)

B)

C)

A constitutional doctrine based on the Fifth and Fourteenth Amendments requiring that the laws be written with sufficient clarity and specificity.

A principle found in the Fifth Amendment that prevents an individual from being charged twice for the same crime.

A clause in the Fourteenth Amendment requiring that the government justify any differential treatment on the basis of race, gender, age, sexual orientation, or other characteristic with a state interest.

54)

55)

56)

57)

58)

59)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

D) A law enacted to in order to retroactively punish behavior.

E) A constitutional principle requiring that laws do not infringe on constitutionally protected behavior.

F) The Eighth Amendment prohibits barbaric punishment and disproportionate sentencing.

**ESSAY. Write your answer in the space provided or on a separate sheet of paper.**

60) Compare and contrast the law of legality and the law of lenity.

- 61) Describe the Fourteenth Amendment's equal protection clause including how the determination is made whether a statute violates the Equal Protection Clause.
- 62) Compare and contrast libel, group libel, slander, defamation, and seditious speech.
- 63) Identify the factors the courts must consider when deciding what length of term is appropriate, in determining whether a long prison term violates the Eighth Amendment. Identify which factors is the most important.
- 64) Define the *Blockburger* rule. Identify and explain the four situations in which double jeopardy protection does not apply.
- 65) The drug trade from Central and South America is causing a dramatic increase in criminal activity in New Mexico. The New Mexico legislature wants to take action. They pass a statute with this language: "Any person found transporting illegal substances, including but not limited to, heroin, cocaine and marijuana, into New Mexico will be punished to the full extent of the law." Is this criminal statute enforceable? Why or why not?
- 66) There are six constitutional limits on the criminal law. Which limit most often applies to obscenity laws and those dealing with loitering and vagrancy statutes? Identify and define the constitutional limit and explain why it best applies.

- 1) C
- 2) D
- 3) B
- 4) A
- 5) A
- 6) B
- 7) C
- 8) B
- 9) B
- 10) C
- 11) C
- 12) D
- 13) D
- 14) A
- 15) B
- 16) D
- 17) B
- 18) B
- 19) D
- 20) A
- 21) B
- 22) B
- 23) A
- 24) A
- 25) TRUE
- 26) TRUE
- 27) TRUE
- 28) TRUE
- 29) FALSE
- 30) FALSE
- 31) FALSE
- 32) FALSE
- 33) TRUE
- 34) TRUE
- 35) FALSE
- 36) TRUE
- 37) FALSE
- 38) FALSE
- 39) FALSE
- 40) Direct
- 41) Federal
- 42) Classifications
- 43) Retroactively
- 44) Fourteenth
- 45) Seditious
- 46) Mitigating
- 47) Eighteen
- 48) Prosecution
- 49) Jurisdiction
  
- 50) A



- 51) A
- 52) B
- 53) C

- 54) C
- 55) D
- 56) A
- 57) E
- 58) F
- 59) B

60) The law of legality is a legal principle stating that a defendant cannot be convicted of a crime unless there is specific legislation making it illegal and defining the potential punishment. The advantage of the legality principle is that a criminal code provides prior notice to the people of what behavior is illegal. The principle of legality prevents governmental abuse. Yet its downside is flexibility. The criminal law has a hard time keeping pace with new actions, that although harmful, are not yet considered criminal. The principle of lenity is a legal principle requiring that any ambiguity in a statute should benefit the defendant, not the government. When statutes are overly vague, for example, that vagueness should be resolved in favor of the defendant. The potential downside of lenity is that there is plenty of room for interpretation in the language of criminal law. As such, when taken to the extreme, the rule of lenity can be used to interpret a statute in a manner that is at odds with legislative intent. For this reason, many states have abolished the rule of lenity.

61) The Equal Protection Law is a clause in the Fourteenth Amendment of the U.S. Constitution requiring that the government justify any differential treatment on the basis of race, gender, age, sexual orientation, or any characteristic with a state interest. In order to determine whether a statute violates the equal protection clause, the courts now apply one of three tests depending on the classification in question. If a law classifies people based on race or national origin than the strict scrutiny test is applied. If a law classifies people based on gender than the intermediate scrutiny test is applied. Finally, a law that classifies people on any other basis is subjected to the rational basis test.

62) Libel is defamation by the printed word. Group libel is speech that defames a certain group or class of people or is "libelous" towards a specific group. Slander is defamation by the spoken word. Defamation is written or spoken words that damage the reputation of the object of the speech. Seditious speech is speech that advocates rebellion against the government.

63) (1) the gravity of the offense compared to the sentence, (2) the penalties imposed on other offenders in the same state for the same offense, (3) the penalties imposed in other states for the same offense, and (4) the defendant's recidivism. Courts are not required to consider all these criteria, however. To this day, there is some uncertainty as to which (if any) combination is important.

64) An offense is considered the "same offense" for purposes of double jeopardy if two separate statutes that define the offense both contain the same elements. Conduct Committed after the First Prosecution: Double jeopardy does not apply if the second prosecution is based on conduct committed after the first prosecution; Defendant Responsible for the Second Prosecution: If the defendant is responsible for the second prosecution, double jeopardy does not apply; Court Hearing the First Offense Lacks Jurisdiction: Double jeopardy does not apply when the court hearing the first offense lacks jurisdiction to try the second offense; Defense Plea Bargains over the Prosecution's Objection: If the defense plea bargains over the prosecution's objection, double jeopardy protections do not apply.

65) The principle of legality is a legal principle stating that the defendant cannot be convicted of a crime unless there is specific legislation making it illegal and defining the potential punishment. The statute proposed by the New Mexico legislature indicates that certain illegal substances (such as heroin, cocaine and marijuana) are already illegal and that existing legislation exists defining these substances as illegal and defining the potential punishment. The proposed statute does not enhance existing legislation and does not meet the principle of legality as it does not define the potential punishment. This specific statute does not appear to be enforceable, rather, the possession of an illegal substance may be enforceable under existing laws within New Mexico. It is not known whether New Mexico has a rule of lenity but the ambiguity in the statute could benefit the defendant, not the government.

66) The void for vagueness doctrine is a constitutional doctrine based on the Fifth and Fourteenth Amendments to the U.S. Constitution requiring that laws be written with sufficient clarity and specificity. Void for vagueness cases have

historically fallen into two categories—those dealing with obscenity laws and those dealing with loitering and vagrancy statutes. Several cases, including *Winters v. New York* and *State v. Metzger* address void for vagueness specific to obscenity laws. In both cases the courts declared the laws were too vague. Several cases have also dealt with the meaning of loitering and vagrancy statutes. Students can cite examples such as *Kolender v. Lawson* and *Papachristou v. City of Jacksonville*.