

Chapter 2

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

1) Examples of omissions that may be crimes include: (Choose all that apply.)

- A) a parent who does not provide needed medical care for a minor child so that the child dies as a result of the lack of medical care.
- B) a doctor who does not stop at the scene of an accident to help an injured motorist.
- C) a motorist who does not stop and wait for help to arrive when he hits a woman crossing the street.
- D) a doctor on duty in the ER who does not attempt to save the life of an ER patient because he knows the patient is a criminal.
- E) All of the above.

Answer: E

Objective: Explain possession, omission, causation and harm.

Page number: 56-57

Level: Basic

2) A man and a woman are joking around near a swift moving creek while on a date. The man, thinking the woman could swim, pushes her into the water. She starts flailing and yelling, "I can't swim." Why does the law require him to try to save her?

- A) If he ever wants to take her out again, he better rescue her.
- B) He owes a duty to attempt to save her because he placed her in peril.
- C) He owes a duty by volunteering because he voluntarily pushed her in the water.
- D) He owes a duty by relationship because they are dating.
- E) All of the above.

Answer: B

Objective: Explain possession, omission, causation and harm.

Page number: 57

Level: Intermediate

3) You are a police officer responding to a report of a person injured by the side of the road. You find a young woman with injuries consistent with being hit by a car. Do you have the necessary elements for a *corpus delicti* of a crime?

- A) Yes, because there is no car around. So it is a hit and run.
- B) No, because she is harmed, but you do not know for certain the harm was caused by a criminal act.
- C) No. Until she tells you she was hit by a car, you don't know for certain that she was.
- D) No, because you don't yet know that the driver of the car committed a crime or whether this was an accident.

E) B, C, and D.

Answer: E

Objective: Explain *corpus dilecti*

Page number: 47

Level: Intermediate

4) The elements of *corpus dilecti* are:

- A) *actus reus*, *mens rea*, and harm.
- B) *mala in se*, *mens rea*, and harm.
- C) *mala prohibita*, *mens rea*, and harm.
- D) harm resulting from a criminal act.
- E) none of the above

Answer: D

Objective: Explain *corpus dilecti*

Page number: 47-48

Level: Intermediate

7) Which is (are) elements of a crime?

- A) Causation
- B) *Actus reus*
- C) *Mens rea*
- D) all of the above

Answer: D

Objective: Explain *mens rea* and how to prove it.

Page number: 49

Level: Basic

8) Which is an example of a status crime?

- A) Being in the country on a student visa
- B) Being in the country after having entered illegally
- C) Being homeless
- D) Carrying a deadly virus
- E) none of the above

Answer: B

Objective: Explain *mens rea* and how to prove it.

Page number: 56

Level: Intermediate

9) Jack and Jill are computer experts who have come up with a way to break into their college registrar's office via the Internet. They discuss which grades they will change once they launch their cyber attack. Jill's stepbrother overhears the conversation and calls a friend at the local police department. Just as Jack and Jill enter the code that will allow them onto the registrar's server from their computer in the family room, police officers storm their quiet suburban home and yell, "Freeze. Drop that mouse." They comply. What are the likely charges?

- A) Breaking and entering
- B) Conspiracy to commit grade inflation
- C) Conspiracy to commit computer crime
- D) none of the above
- E) B and C

Answer: C

Objective: Explain conspiracy and other inchoate crimes.

Page number: 60

Level: Intermediate

- 10) Parents may be responsible for their children's crimes if:
- A) the parent allows the child to take the family car while knowing the child does not have a license to operate the vehicle.
 - B) the parent owns a gun but does not lock it up and the child uses the weapon.
 - C) the parent leaves illegal drugs within easy reach and the child sells the drugs to a classmate.
 - D) Parents are never responsible for their children's criminal acts.
 - E) A, B and C are all correct.

Answer: E

Objective: List and explain the different types of liabilities.

Page number: 51

Level: Basic

- 11) In strict liability crimes:
- A) intent is irrelevant.
 - B) *mens rea* is irrelevant.
 - C) the prosecutor must strictly prove *mens rea* to get a conviction.
 - D) only a wrongful act must occur.
 - E) A, B and D are all correct.

Answer: E

Objective: List and explain the different types of liabilities.

Page number: 50

Level: Basic

- 12) Scienter:
- A) is a contraction of science center or another name for a crime lab.
 - B) is a necessary element to prove when the offender knew the law was being broken.
 - C) must be proved to establish *mens rea*.
 - D) only a wrongful act must occur.
 - E) A, B and D are all correct.

Answer: E

Objective: Explain *mens rea* and how to prove it.

Page number: 53

Level: Basic

- 13) To prove *mens rea* in a second, third, or fourth degree crime, the prosecution must

prove:

- A) the defendant took an unjustifiable risk.
- B) the defendant purposely committed the crime with intent to accomplish a particular result.
- C) only that the defendant committed the crime.
- D) the defendant took an unreasonable risk.
- E) None of the above.

Answer: A

Objective: Explain *mens rea* and how to prove it.

Page number: 52

Level: Basic

14) Specific intent means that:

- A) an individual committed a crime intending to cause a specific criminal result such as the death of a specific individual.
- B) an individual committed the crime intending to cause one harm, but instead caused another harm such as burning down a house for the insurance money, but in the process also causing the death of a family member.
- C) both A and B
- D) none of the above.

Answer: A

Objective: List and explain the different types of intent.

Page number: 53

Level: Basic

15) Joe Josey has a hot temper and has been drinking heavily at the Circle K bar. He believes that the young man occupying the bar stool next to his is trying to make a pass at the bartender, who happens to be Joe's girlfriend. Joe stands up and tries to punch the young man, but instead stumbles and smacks the little old lady on the next bar stool over. She falls and suffers a concussion. The concept that best explains why Joe may be criminally liable for the harm the old lady suffers is:

- A) *actus reus*.
- B) *mens rea*.
- C) specific intent.
- D) transferred intent.
- E) all of the above

Answer: E

Objective: List and explain the different types of intent.

Page number: 54

Level: Basic

16) Ten years after she was violently assaulted, Judy passes away from a blood infection acquired while receiving follow-up care for pain associated with the assault. Judy also suffered from ovarian cancer and was undergoing chemotherapy for the cancer at the time she died. You represent the original assailant, who has now been charged with murder. What is your best argument for dropping the charges?

- A) Medical malpractice was the proximate cause of Judy's death.

- B) Judy's ovarian cancer was an intervening cause that killed her.
- C) No one could have foreseen that an assault victim would die from follow-up treatment a decade later.
- D) None of the above. Defendants are always responsible for the consequences of their actions, no matter how much time has passed.
- E) A and B

Answer: A

Objective: List and explain the different types of intent.

Page number: 53

Level: Basic

17) You have just purchased a television and a police officer has arrived at your door to explain that the set is stolen. He asks you where you got the television. Which explanation is least likely to land you in legal hot water?

- A) You bought the television from a friend of a friend who claimed he was selling it for his mother who is about to go into a nursing home, and you paid about 50% less than fair market value.
- B) You bought the television on sale from a national retailer and you have the receipt.
- C) You bought the television from a pawnshop.
- D) You bought the set on Ebay and paid \$20 less than the same set sells for at a leading national retailer.
- E) You bought it from a stranger who rang your doorbell and paid about 25% of fair market value.

Answer: B

Objective: Explain possession, omission, causation and harm.

Page number: 47

Level: Intermediate

18) For an act to be a crime, it must:

- A) result in harm resulting from a criminal act.
- B) be due to a criminal act whether anyone was harmed or not.
- C) must result in harm regardless of the nature of the act.
- D) Both A and B.
- E) Both B and C.

Answer: A

Objective: Explain what makes an act a crime.

Page number: 47

Level: Intermediate

19) Which of the following crimes is not tracked in the Uniform Crime Reporting Handbook?

- A) murder
- B) bribery.
- C) aggravated assault.
- D) burglary.
- E) motor vehicle theft.

Answer: B

Objective: Explain the Uniform Crime Reporting Handbook.

Page number: 62

Level: Basic

20) Direct evidence consists of all of the following except:

- A) an eyewitness account of a crime.
- B) an eyewitness account of a person fleeing from crime.
- C) blood evidence gathered at the crime scene.
- D) ballistics evidence gathered at the crime scene.
- E) DNA evidence taken from the crime victim.

Answer: B

Objective: Explain the difference between direct and circumstantial evidence.

Page number: 62

Level: Basic

21) Which of the following would constitute a criminal conspiracy?

- A) Five people agree to hold a legal protest outside a public building.
- B) A man plans to rob a bank.
- C) Eleven people agree to work together to rob a casino.
- D) Eleven people agree to work together to pass a piece of legislation.
- E) none of the above

Answer: C

Objective: Define conspiracy

Page number: 59-60

Level: Basic

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

1) A crime is a wrong against society or the public interest.

Answer: T

Objective: Explain what makes an act a crime.

Page number: 47.

Level: Basic

2) *Mens rea* is a wrongful action.

Answer: F

Objective: Explain *mens rea*

Page number: 49.

Level: Basic

3) Vicarious liability refers to the concept that a person can be responsible for another's action.

Answer: T

Objective: List and explain the different types of liabilities

Page number: 50.

Level: Basic

4) *Mens rea* always requires direct proof that the defendant intended the act he or she committed.

Answer: F

Objective: Explain *mens rea* and how to prove it.

Page number: 50.

Level: Basic

5) Duty by relationship refers to the concept that a person can never be held responsible for a crime simply because he has a relationship with another person and did nothing to prevent harm to that person when he could have done so.

Answer: F

Objective: List and explain the different types of liabilities

Page number: 57.

Level: Basic

6) Planning a crime in one's head can be a crime in and of itself because it establishes *mens rea*.

Answer: F

Objective: Explain *mens rea* and how to prove it.

Page number: 52.

Level: Basic

7) One's status (i.e. homelessness, alcoholism) is not a crime.

Answer: T

Objective: Explain *actus reus*

Page number: 56.

Level: Basic

8) A homeless person is sleeping on a park bench after the park is officially closed. The sleeping man may be charged with the crime of homelessness.

Answer: F

Objective: Explain *actus reus*

Page number: 56.

Level: Basic

9) An alcoholic leaves a bar after drinking 5 shots of vodka and 2 pints of beer. She walks down a public street while removing her clothing. An officer arrests her for disturbing the peace and public drunkenness. This is an example of a status crime.

Answer: F

Objective: Explain *actus reus*

Page number: 56.

Level: Basic

- 10) There must always be specific intent to commit a crime or no prosecution is possible.

Answer: F

Objective: Explain *mens rea* and how to prove it.

Page number: 52.

Level: Basic

- 11) *Corpus dilecti* requires both harm and a criminal act.

Answer: T

Objective: Explain *corpus dilecti*

Page number: 47.

Level: Basic

- 12) If a person commits an act with the intent of causing a particular criminal result, the person is said to have general intent.

Answer: F

Objective: List and explain the different types of intent.

Page number: 53.

Level: Basic

- 14) Under the law, a person who acts under the influence of the devil is said to have actual possession.

Answer: F

Objective: Explain possession

Page number: 56.

Level: Basic

- 15) Some acts are crimes even if they cause no harm.

Answer: T

Objective: Explain harm

Page number: 47.

Level: Basic

FILL IN THE BLANK.

- 1) Causation is the link between *actus reus* and _____.

Answer: harm

Objective: Explain possession, omission, causation, and harm.

Page number: 49.

Level: Basic

- 2) Legal professionals track criminal activity and submit the information to the _____ in a process called classifying and storing.

Answer: FBI

Objective: Explain the Uniform Crime Reporting Program

Page number: 61.

Level: Basic

3) _____ evidence is evidence based on first-hand knowledge.

Answer: Direct

Objective: Explain the difference between direct and circumstantial evidence.

Page number: 63.

Level: Basic

4) An omission can occur only when a person has a _____ to do something.

Answer: duty

Objective: Explain possession, omission, causation, and harm.

Page number: 56-57.

Level: Basic

5) A confession unaccompanied by other evidence does not constitute _____.

Answer: *corpus dilecti*

Objective: Explain *corpus dilecti*.

Page number: 48.

Level: Basic

6) *Mens rea* is defined as a _____ mind.

Answer: wrongful

Objective: Explain *mens rea* and how to prove it.

Page number: 50.

Level: Basic

8) _____ liability crimes only require a wrongful act to occur.

Answer: Strict

Objective: List and explain the different types of liabilities

Page number: 50.

Level: Basic

9) Willful acts are _____ -degree offenses.

Answer: first

Objective: Explain *mens rea* and how to prove it.

Page number: 52.

Level: Basic

10) _____ intent is where the individual intended the action only.

Answer: General

Objective: List and explain the different types of intent.

Page number: 53.

Level: Basic

MATCHING:

COLUMN 1	COLUMN 2
1. Strict liability	a. The liability that those <i>in loco parentis</i> have for their charges.
2. Vicarious liability	b. Liability that one person has for another.
3. Corporate liability	c. Liability for harm even if the person is not at fault or negligent.
4. Parental liability	d. Liability that employees incur for their employers.

Answer: 1. c, 2. b. 3. d. 4. a.

Objective: List and explain the different types of liabilities

Page number: 50-51.

Level: Basic

COLUMN 1	COLUMN 2
1. Subjective intent	a. The concept that some actions are so likely to cause a specific result, that the law treats that result as intended.
2. Objective intent	b. Intent where the person intended the action only and not the result.
3. Specific intent	c. What a reasonable person should have known or thought at the time of the event.
4. General intent	d. The offender's conscious intentions at the time of the crime.
5. Transferred intent	e. The type of intent where the person commits an act designed to cause a specific criminal result.
6. Constructive intent	f. The type of intent where a person intends to harm one person and harms another in the process.

Answer: 1. d, 2. c. 3. e. 4. b. 5. f. 6. a

Objective: List and explain the different types of intent.

Page number: 53.

Level: Basic

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

1) What is a crime?

Answer: Simply put, a crime is a wrong against society or the public interest. Crimes are offenses that are typically punishable by imprisonment, death or a fine or any combination of these. Criminal law seeks to protect the public from the aberrant and harmful acts of some members of society.

Objective: Explain what makes an act a crime.

Level: Difficult

2) Explain *Mens rea* and *actus reus*.

Answer: *Mens rea* and *actus reus* are two of the elements needed to prove that a crime has been committed. The third is harm. *Mens rea* refers to a person's intent while performing a criminal act and is critical to establishing the nature and degree of a crime. *Actus reus* is the actual act that constitutes the crime — such as the act of shooting a person. A person who decides that he will kill another and then carries out that act (thus causing harm) has met all the requirements for having committed a crime.

Objective: Explain *mens rea* and how to prove it.

Objective: Explain *actus reus*.

Level: Difficult

3) A young boy aged five years finds his father's loaded gun on his parents' nightstand and he puts the gun in his kindergarten backpack. During recess, he shows his best friend the gun and pulls the trigger. The bullet misses his friend, but kills a custodian who was emptying a trashcan on the playground. Can the boy be charged with a crime?

Answer: The five year old will most likely not be charged with a crime. He is too young to have formed the *mens rea* required to commit a crime, even though he has committed the *actus reus* (by pulling the trigger) and harm has resulted. All three elements must be met before a crime can be said to have been committed.

Objective: List and explain the different types of intent.

Level: Difficult

4) Given the same facts as the previous question, can the father be charged with a crime?

Answer: It is possible, and even likely, that the father will be charged with a crime. There are several theories a prosecutor could use. First, the prosecutor could argue that the father was responsible for his child's actions because it is foreseeable that a young child might take an unsecured and loaded gun to school and pull the trigger. Second, leaving the gun unlocked might be viewed as a crime of omission if the locality required guns to be locked away from children. Plus, the father may have committed the crime of child neglect by not assuring that the gun was locked away.

Objective: List and explain the different types of liabilities.

Level: Difficult

5) A young girl is disabled, blind and unable to walk. She lives with her father and his paramour and is entirely dependent on their care to live and eat. The paramour runs the child's bath and submerges her, and then realizes the water is too hot when the child cries. She dries the child and puts her to bed after she explains what happened to the father. The child has burns on her body from the water, which the two treat with over-the-counter salves. The father waits eight days before calling an ambulance, but by then she is too ill to survive. Can the father be charged with murder?

Answer: The father most likely will be charged with some form of murder even though there was likely no direct intent to cause the child harm. The father had a clear duty by relationship to protect the child and assure that she received proper medical care. By neglecting that duty, he caused harm. Most likely, he will be charged with one of the lesser degrees of murder, reflecting either a reckless disregard for the child's welfare or a negligent disregard for her welfare. It is unlikely that he would be charged with a first-degree crime, which requires a willful act, or with a second-degree crime, which requires

a knowing act.

Objective: Explain what makes an act a crime.

Level: Difficult