

Chapter 2 Administration of Criminal Justice and The Role of the Paralegal

TRUE/FALSE

1. An indictment is an appearance before the judge where the charges are read and the plea is entered.

ANS: F PTS: 1

2. The FBI is the largest law enforcement agency in the federal system and is an arm of the Department of Justice.

ANS: T PTS: 1

3. In the federal system judges and justices are required to run for office every six years and may not serve more than two terms.

ANS: F PTS: 1

4. One reason why society needs criminal laws is to provide clear guidelines for police to avoid uneven and unfair enforcement of the law.

ANS: T PTS: 1

5. Prosecutor Bob is engaged to Mary and has been assigned to prosecute Tony, Mary's brother, for possession of cocaine. Bob should ask his boss to reassign this case to another prosecutor as Bob has a conflict of interest.

ANS: T PTS: 1

6. At the preliminary hearing, the state must show probable cause that the defendant committed the crime as charged.

ANS: T PTS: 1

7. The goal of the adversary system is to provide motivation to find the truth.

ANS: T PTS: 1

8. It is unethical for a defense attorney to represent a client zealously when the client has admitted guilt.

ANS: F PTS: 1

9. Defense attorneys should not accept so many cases that they cannot give each client effective representation.

ANS: T PTS: 1

10. Guilt is determined by a grand jury.

ANS: F PTS: 1

11. Attorney General opinions do not take precedent over U.S. Supreme Court decisions.

ANS: F PTS: 1

12. The circuit court has original trial jurisdiction over federal crimes.

ANS: F PTS: 1

13. There are no ethical objections to attorneys' making contributions to judicial election campaigns.

ANS: T PTS: 1

14. A prosecutor may ethically use cross examination to discredit a witness he/she knows is telling the truth.

ANS: F PTS: 1

15. The information and the indictment are both documents that formally charge the defendant with a crime.

ANS: T PTS: 1

MULTIPLE CHOICE

1. When an inmate has served a substantial portion of a sentence, he/she is eligible for early release. This early release is called
- probation
 - parole
 - post-conviction release
 - priority release

ANS: B PTS: 1

2. A document preventing incarceration without justification requires law enforcement to present the individual before a judge to determine whether the person has been fairly convicted and incarcerated. This document is called a
- writ of mandamus
 - writ of certiorari
 - writ of habeas corpus
 - writ of completion

ANS: C PTS: 1

3. The quantum of evidence required in order to arrest a suspect, justify a search, or bind a defendant over for trial is
- guilty beyond a reasonable doubt

- b. clear and convincing evidence
- c. reasonable suspicion
- d. probable cause

ANS: D PTS: 1

4. Police departments are included in
- a. the executive branch of government
 - b. the judicial branch of government
 - c. the state's correction agency
 - d. an independent branch of government

ANS: A PTS: 1

5. Federal law enforcement agencies include all except the
- a. Federal Bureau of Investigation
 - b. Bureau of Alcohol, Tobacco, Firearms & Explosives
 - c. Bureau of Postal Inspection
 - d. Federal Emergency Management Agency

ANS: D PTS: 1

6. U.S. Border and Transportation Security is administered by the
- a. Department of Transportation
 - b. Senate Committee on Security
 - c. Department of Justice
 - d. Department of Homeland Security

ANS: D PTS: 1

7. High-tech police searches for personal information have been said to threaten
- a. the court structure
 - b. individual privacy
 - c. the paralegal profession
 - d. attorney work product

ANS: B PTS: 1

8. Prosecutors represent the
- a. legislature
 - b. police
 - c. people
 - d. accused

ANS: C PTS: 1

9. Ethical rules for legal professionals are found in the
- a. Assimilative Crimes Act
 - b. Attorney General opinions
 - c. Model Rules of Professional Responsibility
 - d. Model Penal Code & Commentaries

ANS: C PTS: 1

10. An attorney may breach client confidentiality
- a. never; it is never acceptable
 - b. to prevent reasonably certain death
 - c. to disclose a conflict of interest
 - d. upon motion by the opposing party

ANS: B PTS: 1

11. *Pro bono* work is
- a. done for insurance companies
 - b. done to advise police agencies
 - c. done outside the rules of ethics
 - d. done for the public for free

ANS: D PTS: 1

12. Because of the responsibility to represent the client zealously, a defense attorney should
- a. use all means to uncover evidence
 - b. tell witnesses not to talk to the prosecutor
 - c. not accept a case when a conflict of interest will affect it
 - d. offer misleading evidence during discovery

ANS: C PTS: 1

13. The prosecutor may
- a. influence the opinion of an expert witness
 - b. use the office to gain personal publicity
 - c. pay the expenses of a witness
 - d. avoid investigating leads that will favor the accused

ANS: C PTS: 1

14. Defense counsel may attempt to undermine the testimony of a witness who the attorney believes is telling the truth
- a. in all situations
 - b. if it is for the purpose of putting the state to its proof
 - c. if the prosecution appears to be winning
 - d. if the prosecution has undermined the testimony of a defense witness

ANS: B PTS: 1

15. The prosecutor has no duty to
- a. enforce the rights of the public
 - b. convict the guilty
 - c. guard the rights of the accused
 - d. seek the severest penalty

ANS: D PTS: 1

16. Public defenders are appointed

- a. only in death penalty cases
- b. when cases involve public policy
- c. for indigent defendants
- d. at the court's discretion

ANS: C PTS: 1

17. Jails are the responsibility of

- a. local courts
- b. counties
- c. states
- d. federal government

ANS: B PTS: 1

18. Prisons are the responsibility of

- a. municipalities
- b. counties
- c. states
- d. supreme courts

ANS: C PTS: 1

19. Electronic access to case files

- a. has made the practice of criminal law easier
- b. violates rules of confidentiality
- c. is allowed in federal cases
- d. has not yet been developed

ANS: A PTS: 1

20. Judges should

- a. take community opinion into consideration when rendering decisions
- b. investigate witnesses if counsel fails to do so
- c. provide the court with dignity, fairness and efficiency
- d. never recuse themselves

ANS: C PTS: 1

COMPLETION

1. Nonbinding advisory opinions handed down by the state's highest ranking prosecutor are called _____.

ANS: Attorney General opinions

PTS: 1

2. _____ is the physical or implied seizure or taking into custody of a person by police.

ANS: Arrest

PTS: 1

3. A _____ is a body of citizens chosen to hear evidence and determine whether that evidence is sufficient to bring an accused to trial.

ANS: grand jury

PTS: 1

4. The _____ represents the interests of society and is the one who has the power to determine who should be charged and what charges ought to be brought against a defendant.

ANS: prosecutor

PTS: 1

5. When a case involves the prosecution of high government officials, a _____ is appointed in order to avoid conflicts of interest.

ANS: special prosecutor

PTS: 1

SHORT ANSWER

1. The ABA Standards for Criminal Justice have outlined the judge's role and responsibilities in criminal matters. Please write a paragraph briefly outlining the five responsibilities for judges.

ANS:

The judge's responsibilities include:

- a. safeguarding the defendant's rights;
- b. preserving the interests of the public;
- c. avoiding both the reality and appearance of any conflict of interest or bias;
- d. respecting the role of both prosecution and defense;
- e. preserving constitutional standards when reviewing search and arrest warrant applications and important proceedings.

PTS: 10

2. Ben is a paralegal in a private defense firm. He has been given the responsibility to meet with Jamie, a new client, for an initial interview. Ben has carefully prepared for the interview and has gathered all the important information from the client. At the conclusion of the interview Ben asks Jamie if she has any questions. Jamie asks his opinion about how best to try the case and what her chances are of being found not guilty. Ben tells Jamie that he cannot answer those questions as he cannot give legal advice. Is Ben correct? If so, why can't Ben give legal advice?

ANS:

Legal advice is independent professional judgment based on knowledge of the law and given for the benefit of a particular client. It may be offered only by an attorney. Not only is giving legal advice a violation of professional ethics, it is also a criminal violation.

PTS: 10

3. Why is our criminal justice system an adversarial system? Why is this so important?

ANS:

The rationale for an adversarial system stems from the belief that if two opposed sides have much at stake in the outcome of the case, that stake will provide them with motivation to research the law, find witnesses, and present the most persuasive information they can to the decision maker. The decision maker (judge or jury) then has the best possible information submitted by the two opponents on which to decide the matter. If only one side could present evidence or, even worse, if a judge were responsible for both investigating and deciding a case, there might be little motivation to find all the facts.

PTS: 10

4. Assume that you are working for an attorney who seldom takes criminal cases, but who has just been appointed to represent an alleged rapist. At a meeting with the attorney at which you are expecting to get investigation assignments, the attorney tells you that the client confessed, so a guilty plea will be entered and, thus, there is no need for investigation. Knowing the ethical responsibility of a defense attorney, what do you do?

ANS:

It is improper for a lawyer to advise a defendant to plead guilty merely because the defendant has admitted guilt to the lawyer without exploring facts or determining whether the prosecutor can establish guilt (ABA Standard 4-5.1).

PTS: 10

REF: VII, D

5. Assume you are assigned to a young, ambitious prosecutor. At a meeting with the prosecutor on a particularly notorious case, the prosecutor says, "The defense will want to plea bargain, so let's add a few charges and not make it easy for the defense to contact the victim or other witnesses." Having studied the ethical responsibilities of a prosecutor, what specific points should you mention?

ANS:

It is unethical to bring charges that a prosecutor knows are without support of evidence [Model Rule 3.8(1)]. The prosecutor should not use illegal means to obstruct communication between potential witnesses and defense counsel (Model Rule 4.4).

PTS: 10 REF: VII, C

6. What are two criticisms against the adversary system of criminal justice?

ANS:

Criticisms against the adversary system of criminal justice are that it is extremely competitive and stressful, it involves confrontation, its balance can be shifted by irrelevant factors, and it may not be suited to all types of cases. (include two)

PTS: 5 REF: IVII, B

7. List the major steps of a felony case from beginning to end.

ANS:

The major steps of a felony case are arrest, booking, initial appearance, preliminary hearing or grand jury hearing, arraignment, trial, sentencing, appeal, habeas corpus hearing, and punishment.

PTS: 5 REF: VI, C

8. What factors establish jurisdiction?

ANS:

Factors that establish jurisdiction are location of the crime; whether it violates local, state, or federal law; and whether it involves U.S. or state constitutional provisions. (VI. B.)

PTS: 5 REF: VI,B

9. List three kinds of decisions prosecutors must make.

ANS:

The kinds of decisions that prosecutors must make are whom to charge, what crime to charge, what sentence to suggest, and when to offer a plea bargain. (include three)

PTS: 5 REF: III

10. List four occupations paralegals can hold in criminal law.

ANS:

Occupations for paralegals in criminal law include prosecution paralegal, defense paralegal, pretrial release officer, child support officer, prisoner assistance worker, and alternative sentencing officer. (include four)

PTS: 5