

July 2009 Criminal Procedure and Evidence Exam

1. This question called upon examinees to demonstrate knowledge of the availability of a combined search and arrest warrant. Most examinees knew that Detective Don was not required to obtain two separate warrants to search and arrest in these circumstances. However, the majority of those examinees overlooked that Detective Don already had obtained a search warrant additionally authorizing Ike's arrest and answered the question as if the detective had made a warrantless arrest of Ike while executing the search warrant. Other examinees erroneously responded that a search warrant and a separate arrest warrant were required.
2. This question required examinees to demonstrate knowledge of the authorized means of effecting an arrest in a felony case. Many examinees knew that an officer is authorized to break down the door if he is refused admittance, but did not expressly mention the purpose of making an arrest in a case that involves a felony. Most examinees assumed or discussed facts not included in the question, such as destruction of evidence or flight, and then answered a question different from the one asked.
3. This question called upon examinees to demonstrate knowledge of the writ of habeas corpus, which some examinees did. Many examinees did not correctly state what such a writ is, which courts can grant the writ, and/or to whom it is directed.
4. This question called upon examinees to demonstrate knowledge of the jurisdiction of district courts and county courts. Many examinees demonstrated such knowledge. The most common problem was a lack of knowledge concerning the jurisdiction of county courts and of what courts have jurisdiction over certain types of misdemeanor cases.
5. This question called upon examinees to demonstrate knowledge of the methods used to select grand jurors. Most examinees did not know who selects the people who will serve on the grand jury, and the most common error was naming persons who are not authorized to make the selection. Other examinees focused on the qualifications of grand jurors and their terms of service, although the question does not call for such information.
6. This question required examinees to demonstrate knowledge of the deadline for filing motions when a pretrial hearing has been set and of the consequence of missing the deadline. Although many examinees knew the deadline, fewer examinees were able to state the consequences of missing it.
7. This question called upon examinees to demonstrate knowledge of the prosecution's duty to disclose exculpatory information, and most examinees demonstrated such knowledge. The most common mistake among other examinees was responding that the information in the police report constituted protected work product in these circumstances.
8. This question required examinees to demonstrate knowledge of the parameters of discovery available to the State and particularly with regard to disclosure of the identity of defense witnesses. Many examinees knew that the rules authorize disclosure of expert witnesses, but mistakenly thought that they require disclosure of lay witnesses.
9. This question called upon examinees to demonstrate knowledge of the requisites of a valid search warrant, including the sufficiency of the description of the place to be searched and the procedural step to challenge any inadequacy in that regard. Most examinees demonstrated such knowledge.
10. This question called upon examinees to demonstrate knowledge of guilty pleas and particularly of the admonishments required before the trial court accepts a guilty plea. Most examinees correctly named two or three of the required admonishments.

11. This question called upon examinees to demonstrate knowledge of the prerequisites for community supervision. Most examinees correctly named one or two prerequisites. The most common mistake was discussing matters that the jury might consider in determining whether to recommend community supervision rather than focusing on the statutory prerequisites for eligibility.

12. This question required examinees to demonstrate knowledge of challenges for cause, which nearly all examinees did.

13. This question called upon examinees to demonstrate knowledge of the order of proceeding in trial and specifically of the appropriate time for the defense to make its opening statement, which nearly all examinees did. Some examinees erroneously responded by discussing the trial court's discretion.

14. This question required examinees to demonstrate knowledge of the rule governing the production of statements of witnesses in a criminal case. Many examinees were unfamiliar with the rule and superimposed their own requirements for production of the grand jury transcript.

15. This question required examinees to demonstrate knowledge of impeachment to show a witness's bias or interest, which some examinees did. Many examinees focused on impeachment using the prior criminal conviction and did not discuss using probation to show a bias in favor of the State, even though the question specifically focused on the use of probation in cross-examination.

16. This question called upon examinees to demonstrate knowledge of the evidentiary rule barring the admission of character evidence to prove an act in conformity therewith, which many examinees did. Many examinees who stated the correct ground for objecting then erroneously concluded that the trial court should overrule the objection based on facts not stated in the question.

17. This question required examinees to demonstrate knowledge of the application paragraph in a jury charge. Many examinees knew that the trial court erred in denying the requested instruction, but discussed matters not stated in the question or raised by the facts. Other examinees erroneously discussed global rules concerning the trial court's discretion or lack of discretion.

18. This question required examinees to demonstrate knowledge of the appropriate areas for jury argument, which many examinees did. The most common mistake was recognizing only one of the improper arguments presented by the facts.

19. This question required examinees to demonstrate knowledge of the requirements for conviction in a criminal case and of the failure to meet those requirements. Most examinees demonstrated such knowledge. The most common errors were not knowing whether a unanimous verdict is required and the result of a less than unanimous verdict.

20. This question required examinees to demonstrate knowledge of post-trial challenges to a conviction. Most examinees correctly discussed a motion for new trial and the deadline for filing such a motion. The most common mistakes were failing to recognize the correct statutory basis for the motion and discussing the wrong procedural step to take post-trial.