

Texas Board of Law Examiners

[Main Menu](#)

February 2010 Criminal Procedure and Evidence Comments

1. This question called upon examinees to demonstrate knowledge of the statute of limitations. Most examinees knew that the prosecution was not barred. Some examinees also knew the applicable limitations period.
2. This question required examinees to demonstrate knowledge of the procedure to prove a defendant's incompetence to stand trial. Most examinees knew what was required to demonstrate a defendant's incompetence. The most common problem was a lack of knowledge about the correct burden of proof. A few examinees appeared to confuse incompetence to stand trial with insanity.
3. This question called upon examinees to demonstrate knowledge of bail, bail bonds, and personal bonds, which many examinees did not fully do.
4. This question required examinees to demonstrate knowledge of charging instruments. Most examinees knew what an indictment is and identified at least one difference between an indictment and an information. The most common problem was not identifying two ways in which an indictment differs from an information.
5. This question called upon examinees to demonstrate knowledge of the defendant's options if the court does not accept the plea agreement, which many examinees did. A common mistake was responding as if the question was about the admonishments required at a guilty plea proceeding or about the court taking a guilty plea under advisement.
6. This question required examinees to demonstrate knowledge of the legal effect of a plea of nolo contendere and a plea of guilty, which most examinees did.

7. This question called upon examinees to demonstrate knowledge of how to challenge an indictment that fails to state all elements of the charged offense. Although many examinees did not know the correct type of motion to file, most knew the correct time frame in which to make the challenge.
8. This question required examinees to demonstrate knowledge of discovery and the work product doctrine, which many examinees did. The most common mistake was stating that the report contained exculpatory information, even though that fact was not part of the question, and concluding that the report was discoverable based on that incorrectly presumed fact.
9. This question called upon examinees to demonstrate knowledge of the procedures used to request jury sentencing and to allow the jury to consider community supervision. Although many examinees knew the time frame for filing an election for jury sentencing and a motion for community supervision, most examinees neglected to state the required content and form of a motion for community supervision. A common problem was not responding to all parts of the question or not knowing the time frame for filing such requests.
10. This question called upon examinees to demonstrate knowledge of the procedure by which to request notice of the State's intent to introduce evidence of other crimes or acts. Most examinees did not know the correct procedural step to obtain such notice. The most common mistake was naming procedures aimed at excluding evidence at trial, rather than obtaining notice pretrial.
11. This question called upon examinees to demonstrate knowledge of Texas procedure concerning confessions. Most examinees knew to file a motion to suppress. Fewer examinees demonstrated knowledge of the procedural rules concerning oral statements that are not electronically recorded or written. The most common mistake was stating grounds for exclusion that were not raised by, or were contrary to, the facts stated in the question.
12. This question called upon examinees to demonstrate knowledge of the requirement of custodial interrogation for the suppression of a defendant's statements, which most examinees did not do. The most common mistake was responding that Lenny's remarks were inadmissible for evidentiary reasons.
13. This question called upon examinees to demonstrate knowledge about the use of peremptory challenges, which most examinees did. However, many examinees did not know the number of peremptory challenges to which each party is entitled.
14. This question required examinees to demonstrate knowledge about the number of jurors required to return a verdict in a trial of a felony. Although most examinees knew that a mistrial was not required, only some examinees knew whether the trial could proceed with eleven jurors. Very few examinees demonstrated knowledge of the required form of the verdict in these circumstances. The most common mistake was stating that a mistrial was required.
15. This question called upon examinees to demonstrate knowledge of the procedure to challenge an expert outside of the jury's presence, which most examinees did. The most common mistakes involved discussing challenging an expert during cross-examination or a deposition.
16. This question required examinees to demonstrate knowledge of the spousal privilege, which most

examinees did. Some examinees incorrectly applied the marital communication privilege even though the facts did not raise it.

17. This question called upon examinees to demonstrate knowledge of the defendant's right to be present at his trial. Many examinees knew that a defendant has the right to be personally present at trial. Fewer examinees knew when a trial can proceed in the defendant's absence, and this was one of the most common mistakes. Another common mistake was not answering both questions.
18. This question required examinees to demonstrate knowledge of the proper content of jury instructions. Many examinees knew that the court's ruling was correct, but fewer knew the correct reason for that answer. Common mistakes were stating that all or part of the instruction was correct or treating the instruction as a jury argument by counsel rather than an instruction by the trial court.
19. This question called upon examinees to demonstrate knowledge about the roles of the judge and jury when the jury recommends community supervision. Some examinees fully understood the jury's role and the effect of its recommendation of community supervision. The most common mistake, which many examinees made, was minimizing the jury's role and effect of its recommendation and maximizing the discretion of the judge to impose sentence in these circumstances.
20. This question required examinees to demonstrate knowledge of how to perfect an appeal. Most examinees knew the time limit within which to appeal, but did not know the document that had to be filed.

Hit Counter since May 10, 2010

Last modified 05/10/10 01:28 PM

Original web design by Parachute Computer.

Questions about the bar admission process should be directed to information@ble.state.tx.us