

July 2011 Criminal Procedure and Evidence Exam

1. This question called upon examinees to demonstrate knowledge of the duties of a magistrate when a person is arrested and particularly of the rights about which a magistrate should advise an arrestee. Most examinees were able to correctly identify two or three of these rights.
2. This question required examinees to demonstrate knowledge of the duties of appointed counsel and particularly of the time frame during which appointed counsel must contact a defendant and the consequences of not making timely contact. Most examinees knew the latter. The most common mistake for some examinees was not knowing the time period within which a defendant should be contacted.
3. This question called upon examinees to demonstrate knowledge of the rules concerning bail and particularly of the rules allowing a district judge to deny bail based on an accused's prior criminal record. Many examinees correctly identified at least one of the rules. A common mistake was listing considerations for setting the amount of bail.
4. This question required examinees to demonstrate knowledge of the availability and purpose of an examining trial. Most examinees demonstrated such knowledge. The most common mistake was discussing the process for having a grand jury indict Sally.
5. This question called upon examinees to demonstrate knowledge of the requisites for a search warrant under the Texas Code of Criminal Procedure. Most examinees correctly identified at least three requirements. A common mistake was discussing aspects of an officer's affidavit rather than the requisites of a search warrant.
6. This question required examinees to demonstrate knowledge of the rules governing grand jury proceedings and particularly of the process by which grand juries issue indictments. Some examinees demonstrated such knowledge. Common mistakes included a lack of knowledge regarding the number of grand jurors needed to indict and regarding who drafts the indictment.
7. This question called upon examinees to demonstrate knowledge of the function of a capias. While many examinees demonstrated such knowledge, many others did not.
8. This question required examinees to demonstrate knowledge of the deadline for filing pretrial motions and the consequence of failing to timely file such motions. While most examinees knew the consequence of failing to timely file a pretrial motion, many examinees stated an incorrect filing deadline. Some examinees recognized that an untimely motion could be considered by the court if the defendant made a particular showing.
9. This question called upon examinees to demonstrate knowledge of guilty plea and punishment procedures and particularly of the availability of a jury to assess punishment following a plea of guilty. While many examinees knew whether a defendant who enters a guilty plea is allowed to have a jury assess punishment, many others did not. A few examinees mentioned the term commonly used for a proceeding of this type.
10. This question required examinees to demonstrate knowledge of the procedures regarding discovery and particularly of the procedure and requirements for gaining access to evidence in the State's possession. Most examinees knew the procedural step to take to gain access to the credit card reader. Many examinees correctly identified one or more of the requirements that a defendant must meet to gain access.

11. This question called upon examinees to demonstrate knowledge of a district court's jurisdiction and particularly of its jurisdiction over lesser-included offenses. Many examinees demonstrated such knowledge. Some examinees were unaware of the applicable rule.
12. This question required examinees to demonstrate knowledge of the rules governing community supervision and particularly concerning eligibility for probation and the procedure for requesting a jury to consider probation. While many examinees demonstrated knowledge about eligibility for probation, many others did not. Many examinees knew most of the steps a defendant must take in order to request probation. Common mistakes were not recognizing the significance of a felony conviction, not knowing when to request for probation, or not knowing the form of the application.
13. This question called upon examinees to demonstrate knowledge of jury selection procedures and in particular the purpose and timing of a jury shuffle. Nearly all examinees demonstrated such knowledge. A few examinees discussed using peremptory challenges and challenges for cause, even though the question asked about changing the seating of the prospective jurors.
14. This question required examinees to demonstrate knowledge of the procedures governing voir dire and particularly of the propriety or impropriety of asking certain questions. Many examinees knew that the State's question was improper, but did not further identify the precise problem, while many other examinees failed to recognize the impropriety of the question.
15. This question required examinees to demonstrate knowledge of the constitutional and evidentiary problems raised when a declarant does not testify but has given a confession that the State seeks to introduce into evidence to implicate a defendant. Many examinees discussed objections based on hearsay or the Confrontation Clause, although most examinees did not articulate both grounds of objection. A few examinees mentioned the remedy of redaction. Common mistakes included focusing on whether Wendy's rights were violated or whether a hearsay exception would apply. Some examinees mistakenly focused on Sally as the declarant.
16. This question required examinees to demonstrate knowledge of the constitutional and evidentiary grounds for cross-examination of a witness to show bias. Nearly all examinees demonstrated such knowledge.
17. This question called upon examinees to demonstrate knowledge of the permissible scope of lay witness testimony and particularly with regard to opinion testimony. Most examinees demonstrated such knowledge.
18. This question required examinees to demonstrate knowledge of the rules governing impeachment and particularly of the proper way in which the credibility of a witness may be attacked, other than by evidence of a conviction of a crime. Many examinees demonstrated some level of familiarity with the applicable rule. However, many other examinees did not exhibit such knowledge.
19. This question called upon examinees to demonstrate knowledge of procedures concerning jury deliberations and particularly of the procedure by which jurors may resolve a disagreement concerning the testimony of a witness. Some examinees demonstrated such knowledge. Other examinees stated incorrect solutions for the problem.
20. This question required examinees to demonstrate knowledge of the legal sufficiency of the evidence to support a conviction, which only a few examinees did.