

February 2012 Criminal Procedure & Evidence Exam

1. This question called upon examinees to demonstrate knowledge regarding warrantless arrests and particularly whether the requirements for a warrantless arrest were satisfied. Most examinees demonstrated such knowledge.
2. This question required examinees to demonstrate knowledge of the procedure for challenging the denial of bail. Most examinees knew what document to file, but fewer knew the requisite components of the document. The most common mistake was giving a nonresponsive answer discussing the factors to be considered in setting the amount of bail.
3. This question called upon examinees to demonstrate knowledge of the difference between insanity and incompetency and particularly of the circumstances under which each becomes an issue. Most examinees demonstrated such knowledge.
4. This question required examinees to demonstrate knowledge of the requisites of an indictment. Most examinees correctly identified at least one or two of the indictment's defects.
5. This question called upon examinees to demonstrate knowledge of the procedure and deadline for challenging a defective indictment. Some examinees demonstrated such knowledge. The most common mistake was a lack of knowledge concerning the deadline for making the challenge.
6. This question required examinees to demonstrate knowledge of the limits of discovery and particularly of the privileged materials that are protected from discovery. Most examinees demonstrated such knowledge.
7. This question called upon examinees to demonstrate knowledge of discovery and particularly of the limitations on a prosecutor's ability to discover the identity of a defendant's trial witnesses. Most examinees demonstrated such knowledge.
8. This question required examinees to demonstrate knowledge of search warrants and particularly of the requirements for an affidavit for an evidentiary search warrant. Many examinees correctly stated that the affidavit was insufficient and correctly identified at least one missing element. Other examinees either incorrectly stated that the affidavit was sufficient or did not correctly identify the defects in the affidavit.
9. This question called upon examinees to demonstrate knowledge of the law governing searches and seizures and particularly of the required relationship between a person challenging a search or seizure and the property that was searched or seized. Although some examinees mentioned the fact of ownership or the lack of it, they did not discuss its legal significance. The most common mistake was discussing the doctrine of inevitable discovery.
10. This question required examinees to demonstrate knowledge of the effect of a guilty plea and particularly of whether a guilty plea has any effect on defendant's right to appeal certain issues if he receives the sentence provided for in his plea agreement. While many examinees recognized Bubba's right to appeal, fewer examinees knew why he could appeal.

11. This question called upon examinees to demonstrate knowledge of recusal and particularly of the procedures and grounds for having a judge recused. While many examinees recognized the legal basis for disqualification, many examinees did not know what type of motion to file and made the common mistake of discussing a motion to change venue.

12. This question called upon examinees to demonstrate knowledge of the procedures and requisite showings for seeking a continuance due to a witness's absence. Most examinees demonstrated such knowledge.

13. This question required examinees to demonstrate knowledge of jury selection and particularly of the grounds to challenge a potential juror for cause. Many examinees knew why Prosecutor's challenge to Juror A should be denied. However, fewer examinees knew whether the challenges to Jurors B and C should be granted or denied. A common mistake was not recognizing that potential jurors can be challenged for cause due to a pending charge for certain offenses as well as a conviction for those offenses.

14. This question called upon examinees to demonstrate knowledge of jury selection and particularly of peremptory challenges. Many examinees demonstrated such knowledge. Common mistakes were not knowing the number of peremptory challenges allotted to each party in a criminal case or not answering each portion of the question.

15. This question required examinees to demonstrate knowledge of the order of proceeding in trial. Most examinees did not demonstrate such knowledge.

16. This question required examinees to demonstrate knowledge of the rules of evidence in a criminal action and particularly of the procedures governing a custodial oral statement and the deadline by which such a statement must be made available to the defense. Only a few examinees demonstrated such knowledge.

17. This question called upon examinees to demonstrate knowledge of the rules of evidence in a criminal action and particularly of the procedure for challenging the admission of a custodial oral statement and of the defects that make a custodial oral statement inadmissible. Most examinees demonstrated such knowledge.

18. This question required examinees to demonstrate knowledge of the rules of evidence and particularly of the rules governing the admissibility of other crimes, wrongs, or acts during the guilt-innocence phase of trial. Most examinees demonstrated such knowledge.

19. This question called upon examinees to demonstrate knowledge of sentencing procedure and particularly of the procedure that determines whether the judge or the jury will assess punishment. Many examinees demonstrated such knowledge.

20. This question required examinees to demonstrate knowledge of double jeopardy. Most examinees knew that double jeopardy did not bar the federal prosecution, but fewer knew why.