

July 2012 Criminal Procedure & Evidence Comments

1. This question required examinees to demonstrate knowledge of a peace officer's authority to arrest and particularly when an offense is committed within the officer's view. Many examinees demonstrated such knowledge. Other examinees lacked knowledge of the applicable rule or focused on whether the offense was a felony.
2. This question called upon examinees to demonstrate knowledge of a peace officer's authority to make a warrantless arrest and particularly when the officer is informed that an offense was committed. Many examinees correctly named at least one requirement for a legal arrest in these circumstances.
3. This question called upon examinees to demonstrate knowledge of the rules governing venue and particularly of the rules governing venue for kidnapping and similar offenses. Many examinees demonstrated such knowledge. A common mistake was not considering more than one venue.
4. This question required examinees to demonstrate knowledge of the procedures governing an examining trial and particularly of the rule governing a defendant's presence at an examining trial. Many examinees demonstrated such knowledge.
5. This question called upon examinees to demonstrate knowledge of the procedures governing an examining trial and particularly of the rule governing a defendant's statement at an examining trial. Only some examinees demonstrated such knowledge. Other examinees lacked knowledge of the applicable rule.
6. This question required examinees to demonstrate knowledge of the procedures governing grand juries and particularly of the available procedural steps to take, and the time to take them, when grand jurors have been improperly summoned. Some examinees demonstrated partial knowledge. A common mistake was not knowing the time frame for taking such action.
7. This question called upon examinees to demonstrate knowledge of whether there is any procedural step that can be taken pretrial to seek dismissal of an indictment based on insufficient evidence to convict. Most examinees did not demonstrate such knowledge. Many examinees discussed steps that exist only in civil proceedings.
8. This question required examinees to demonstrate knowledge of the procedures governing guilty plea proceedings and particularly of whether a court will ask a prosecutor if a victim has been notified of the plea agreement. Most examinees did not demonstrate such knowledge. A common mistake was focusing on the victim's rights even though the question asked what the court would learn during the guilty plea proceeding.
9. This question called upon examinees to demonstrate knowledge of the procedures governing a severance and particularly when a codefendant has a previous admissible conviction. Many examinees demonstrated such knowledge. A common mistake was overlooking that the court had already ruled that the codefendant's prior conviction was admissible at a joint trial of the defendants.
10. This question required examinees to demonstrate knowledge of the rules governing community supervision and particularly of the limitations on the trial judge's ability to grant community supervision

for certain types of offenses. Many examinees correctly responded that Bobby should choose to have a jury assess punishment, but only some of those examinees knew why he should do so.

11. This question called upon examinees to demonstrate knowledge of the rules governing searches and particularly after a person is arrested. While many examinees demonstrated such knowledge, many others did not. One common mistake was applying rules applicable before an arrest even though the facts stated that the search occurred after an arrest.

12. This question required examinees to demonstrate knowledge of a peace officer's authority to search and particularly of the proper procedural step to take and the grounds to allege to challenge an officer's inventory search. While many examinees knew what procedural step to take, fewer examinees recognized the grounds for the challenge.

13. This question called upon examinees to demonstrate knowledge of a prosecutor's duty concerning evidence favorable to the defense. Most examinees demonstrated such knowledge. A common mistake was relying on rules otherwise applicable to the statements of witnesses.

14. This question required examinees to demonstrate knowledge of how one compels the presence of a witness at trial and particularly of the required contents of an application for a witness subpoena. Most examinees correctly named at least one or two requirements.

15. This question called for examinees to demonstrate knowledge of jury selection procedures and particularly of an attorney's role in them. Most examinees demonstrated such knowledge.

16. This question required examinees to demonstrate knowledge of error preservation and particularly with regard to jury selection and disqualified jurors. Nearly all examinees identified the appropriate action to take, but very few examinees knew by when such action had to be taken.

17. This question called upon examinees to demonstrate knowledge of the Texas Rules of Evidence and particularly with regard to statements made during medical diagnosis or treatment. Many examinees demonstrated such knowledge. A common mistake was not recognizing or misapplying the rule governing such statements.

18. This question required examinees to demonstrate knowledge of the Texas Rules of Evidence and particularly with regard to prior inconsistent statements and impeachment. Most examinees demonstrated such knowledge.

19. This question called upon examinees to demonstrate knowledge of error preservation and particularly of the steps necessary to preserve error in the trial court's denial of a requested jury charge. Many examinees demonstrated familiarity with some, but not all, of the required steps to take.

20. This question called upon examinees to demonstrate knowledge of the procedural step to take, and the time in which to take it, when problems in jury deliberations come to light and particularly when there is an outside influence on the jurors. Many examinees identified the correct procedural step. A common mistake was naming procedural steps that are not available after trial or that exist only in civil cases. Only some examinees knew the deadline for taking the procedural step.