

July 2013 Criminal Procedure & Evidence Comments

1. This question required examinees to demonstrate knowledge of charging instruments and specifically of a complaint. Many examinees did not fully demonstrate such knowledge. Examinees often confused a complaint, an information, and an indictment.
2. This question called upon examinees to demonstrate knowledge of arrests under a warrant and specifically of the requisites of an arrest warrant. Most examinees correctly identified one or more of the requisites. Some examinees confused an affidavit and an arrest warrant.
3. This question called upon examinees to demonstrate knowledge of the procedures governing examining trials and specifically of the magistrate's duty to provide particular warnings to the defendant. Most examinees demonstrated such knowledge.
4. This question required examinees to demonstrate knowledge of the procedures governing bail and particularly of personal bonds and bail bonds. Most examinees correctly identified how a personal bond and a bail bond differ. Fewer examinees correctly defined what a personal bond is.
5. This question called upon examinees to demonstrate knowledge of the rules concerning bail and particularly of the conditions a magistrate is authorized to impose. Most examinees knew whether the condition was authorized, and many examinees knew why.
6. This question required examinees to demonstrate knowledge of an indigent defendant's right to present a defense and particularly of the procedure to obtain the assistance of an expert. Most examinees demonstrated such knowledge.
7. This question called upon examinees to demonstrate knowledge of grand jury proceedings and particularly of the procedures governing the selection of a grand jury. Many examinees correctly identified at least one procedure for selecting a grand jury.
8. This question required examinees to demonstrate knowledge of grand jury proceedings and particularly of the procedures pertaining to the questioning of witnesses. Many examinees demonstrated such knowledge. Common mistakes were responding as if no rules applied in this situation, assuming that the classmate was a prosecuting attorney even though the question contained no such fact, and focusing on the persons who could be present at grand jury proceedings.
9. This question called upon examinees to demonstrate knowledge of discovery and particularly of the procedure for gaining access to evidence in the State's possession. Many examinees knew the procedural step to take to gain access to the computer and identified at least one of the requirements for doing so. Some examinees focused on the State's duties pursuant to Brady even though neither the facts nor the question raised this issue.
10. This question required examinees to demonstrate knowledge of guilty plea proceedings and particularly of the options available to a defendant if the trial court rejects the plea agreement. Nearly all examinees demonstrated such knowledge.

11. This question called upon examinees to demonstrate knowledge of the rules governing community supervision and particularly of the procedure governing a request to have the jury consider imposing it. Most examinees correctly identified at least one requirement for the request. A common mistake was discussing a request for a jury trial on punishment rather than addressing the question asked.

12. This question required examinees to demonstrate knowledge of the rules governing suppression of evidence. Many examinees knew the procedural step to take, but fewer examinees correctly identified the specific grounds underlying it.

13. This question called upon examinees to demonstrate knowledge of the procedures governing an indictment and particularly of the limitations on adding an additional offense to an indictment. Many examinees correctly identified how the court should rule and why. However, a common mistake was failing to focus on the substance of the amendment.

14. This question required examinees to demonstrate knowledge of jury selection and particularly of the use of a challenge for cause versus a peremptory challenge. Most examinees demonstrated such knowledge.

15. This question called for examinees to demonstrate knowledge of the order of proceeding in trial and particularly of the time frame for a defendant's opening statement. Nearly all examinees demonstrated such knowledge.

16. This question required examinees to demonstrate knowledge of the Texas Rules of Evidence and particularly of the rules regarding hearsay. Most examinees demonstrated such knowledge.

17. This question called upon examinees to demonstrate knowledge of Texas Rules of Evidence and particularly of the admissibility of statements made during plea negotiations. Most examinees demonstrated such knowledge.

18. This question required examinees to demonstrate knowledge of the Texas Rules of Evidence and particularly of the criteria that evidence derived from a scientific theory must meet to be reliable. Most examinees did not demonstrate such knowledge. A common mistake was discussing factors that could influence a reliability determination rather than the criteria.

19. This question called upon examinees to demonstrate knowledge of the Texas Rules of Evidence and particularly of the steps necessary to preserve error when the trial court excludes evidence. Many examinees demonstrated familiarity with the proper step to take. Some examinees mistakenly relied on the defendant's objection to preserve error in the Court's exclusion of the prosecutor's evidence.

20. This question called upon examinees to demonstrate knowledge of the procedures governing a defense of insanity and in particular of whether a defendant must give pretrial notice of his intention to raise such a defense at trial. Many examinees demonstrated such knowledge. Some examinees incorrectly relied on the attorney-client privilege or the work-product doctrine.