

## February 2011 Criminal Procedure and Evidence Exam

- 1 This question called upon examinees to demonstrate knowledge of arrest warrants and their execution and, in particular, of the geographic scope of an arrest warrant. Most examinees demonstrated such knowledge.
- 2 This question required examinees to demonstrate knowledge of the requirements for an arrest warrant. Most examinees were able to identify at least two requirements.
- 3 This question called upon examinees to demonstrate knowledge of the time frame for taking an arrestee before a magistrate. Most examinees demonstrated such knowledge.
- 4 This question required examinees to demonstrate knowledge of the applicable rules at an examining trial and, in particular, whether the rules of evidence apply. Many examinees demonstrated such knowledge. The most common problem for other examinees was a misunderstanding about whether the rules applied based on their view of the purpose of an examining trial.
- 5 This question called upon examinees to demonstrate knowledge of the factors to be considered in fixing bail. Most examinees correctly identified two or three of the considerations for fixing bail.
- 6 This question required examinees to demonstrate knowledge of grand jury proceedings and the grand jury's and prosecutor's roles. Some examinees demonstrated knowledge of the prosecutor's role in advising the grand jury in these proceedings. Common problems were the misconception that the grand jury could not talk to anyone at all or had to submit all questions to a judge.
- 7 This question called upon examinees to demonstrate knowledge of indictments and specifically of whether two people can be charged in the same indictment. Many examinees knew whether two or more people can be charged in the same indictment when they committed the same crime.
- 8 This question required examinees to demonstrate knowledge of the rules pertaining to the amendment of an indictment and particularly an amendment, over objection, to charge an additional or different offense. Many examinees demonstrated such knowledge. Common mistakes were a failure to recognize whether such an amendment was improper and a mistaken reliance on the premise that the offenses occurred in the same transaction.
- 9 This question called upon examinees to demonstrate knowledge of the rules concerning search and seizure of property, particularly when an arrestee is being booked into jail. Most examinees correctly responded that the motion to suppress should be denied and that the search was lawful. Only a few examinees mentioned the fact that Viggo was being booked into jail.
- 10 This question called upon examinees to demonstrate knowledge of the scope of the judge's authority to consider community supervision for certain offenses, including aggravated robbery. Most examinees did not demonstrate knowledge that a judge cannot assess community supervision for certain offenses, while a jury can.

- 11 This question called upon examinees to demonstrate knowledge of the procedural steps necessary to have a jury assess punishment. Most examinees knew that a written election must be filed. The most common mistake was not knowing the deadline for filing the election.
- 12 This question required examinees to demonstrate knowledge of the procedures applicable to deferred adjudication. Many examinees understood the judge's role in placing a defendant on deferred adjudication, but many others did not. Common mistakes were treating deferred adjudication the same as regular community supervision and discussing the availability of deferred adjudication for the offense of aggravated robbery.
- 13 This question called upon examinees to demonstrate knowledge of the role of the Court in assessing punishment, even when the sentence is recommended by the prosecutor as part of a plea agreement. Most examinees demonstrated such knowledge.
- 14 This question required examinees to demonstrate knowledge of the number of peremptory challenges available if a defendant is tried alone and if codefendants are tried together. Many examinees knew the number of peremptory challenges available in a single-defendant trial. However, most examinees did not correctly state the number of peremptory challenges available to each codefendant and to the prosecutor if two defendants are tried together.
- 15 This question called upon examinees to demonstrate knowledge of challenges for cause. Most examinees correctly identified two or three grounds to challenge a prospective juror for cause.
- 16 This question required examinees to demonstrate knowledge of the accomplice-witness rule. Some examinees demonstrated such knowledge, but many did not. The most common mistake was not recognizing the applicability of the accomplice-witness rule to the facts presented.
- 17 This question called upon examinees to demonstrate knowledge of the predicate required in order to introduce a business record into evidence. Most examinees identified at least two components of the predicate.
- 18 This question required examinees to demonstrate knowledge of the rules of evidence and particularly of the rules governing the admissibility of co-conspirator statements. Only a few examinees demonstrated such knowledge.
- 19 This question called upon examinees to demonstrate knowledge of sentencing procedure and, in particular, of when a presentence investigation report is required. Most examinees were unable to correctly identify situations in which the judge would not be required to direct the probation officer to prepare such a report.
- 20 This question required examinees to demonstrate knowledge of sentencing procedure and particularly of the procedure and timing for a victim to appear in person and make a statement. Many examinees recognized the correct time for such an appearance and statement.