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Book Information

Criminal Law and Procedure

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Exam Topics

I. CRIMINAL LAW.

• Introduction to the Legal System of the United States. Federalism.
  o Separation of Powers.
  o The Structure of the Court System.
  o Duties and Powers of the Judicial Branch.
  o Comparing Civil Law and Criminal Law.
  o The Authority of Government to Regulate Behavior.
  o The Purposes of Punishing Criminal Law Violators.
  o Specific and General Deterrence.
  o Incapacitation. Rehabilitation.
  o Retribution.

• Introduction to Criminal Law.
  o The Distinction between Criminal Law and Criminal Procedure.
  o Sources of Criminal Law.
  o The Common Law.
  o Administrative Law.
  o Court Rules.
  o The Model Penal Code.
  o Constitutional Law.
• The Two Essential Elements.
  o Mens Rea.
  o Mens Rea and the Common Law.
  o Strict Liability.
  o Vicarious Liability.
  o Current Approaches to Mens Rea.
  o Proving Mens Rea.
  o Motive.
  o Actus Reus.
  o Voluntariness.
  o Thoughts and Statements as Acts.
  o Personal Status as an Act.
  o Possession as an Act.
  o Omissions as Acts.
  o Causation.

• Crimes Against the Person.
  o Homicide and the Common Law.
  o Statutory Approaches to Homicide. Manslaughter.
  o The Model Penal Code Approach to Homicide.
  o Life, Death, and Homicide.
  o Suicide.
  o Corpus Delicti.
  o Assault and Battery.
  o Aggravated Assault and Battery.
  o Mayhem.
  o Sex Crimes.
  o Rape. Nonforcible Rape.
  o Sodomy.
  o Rape Shield Laws.
  o Incest.
  o Sex Offenses Against Children.
  o Megan's Laws, Commitment, and Castration.
  o Kidnapping and False Imprisonment.
  o Kidnapping.
  o Parental Kidnapping.
  o False Imprisonment.
  o Stalking.
  o Civil Rights and Hate Crimes.

• Crimes Against Property and Habitation.
  o Arson.
  o Burglary.
The Crime of Theft:
- Theft Crimes.
  - Introduction to Theft Crimes.
  - Larceny.
  - Embezzlement.
  - False Pretenses.
  - Receiving Stolen Property.
  - Robbery.
  - Extortion.
  - Consolidated Theft Statutes.
  - Identity Theft.
  - The Model Penal Code Consolidation.
  - Destruction of Property.
  - Computer Crimes.

Crimes Against the Public:
- Crimes Against the Public.
  - Defining a "Crime Against the Public."
  - Crimes Against Public Morality.
  - Prostitution and Solicitation.
  - Deviate Sexual Conduct.
  - Indecent Exposure and Lewdness.
  - Obscenity.
  - Regulating the Internet.
  - Crimes Against the Public Order.
  - Riot and Unlawful Assembly.
  - Disturbing the Peace.
  - Incitement/Advocacy of Unlawful Conduct.
  - Threats.
  - Vagrancy and Panhandling.
  - Crimes Involving Firearms.
  - Drug and Alcohol Crimes.
  - Crimes Against the Administration of Government.
  - Perjury.
  - Bribery.
  - Tax Crimes.
  - Obstruction of Justice. Contempt.
  - Crimes Against Sovereignty and Security.
  - Treason.
  - Sedition and Espionage.
  - Terrorism.
  - Crimes Against the Environment.
  - Clean Water Act.
  - Clean Air Act.
- Occupational Safety and Health Act.
- Toxic Substances Control Act.
- Emergency Planning and Community Right-to-Know Act.
- Endangered Species Act.
- Marine Mammal Protection Act.

- Parties and Inchoate Offenses.
  - Parties to Crimes.
  - Inchoate Crimes.
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  - Conspiracy.
  - Solicitation.

- Factual and Statutory Defenses.
  - "Defense" Defined.
  - Affirmative Defenses.
  - Insanity.
  - M'Naghten.
  - Irresistible Impulse.
  - Durham.
  - The Model Penal Code Test.
  - Guilty But Mentally Ill.
  - Procedures of the Insanity Defense.
  - Disposition of the Criminally Insane.
  - Insanity at the Time of Trial.
  - Duress and Necessity.
  - Use-of-Force Defenses.
  - Self-Defense.
  - Defense of Others.
  - Defense of Property and Habitation.
  - Imperfect Self-Defense.
  - Arrests.
  - Infancy.
  - Intoxication.
  - Mistake.
  - Entrapment.
  - Alibi and Consent.
  - Statutes of Limitation.

- Constitutional Defenses.
  - Introduction.
  - Double Jeopardy.
  - Self-incrimination and Immunity.
Due Process and Equal Protection.
Vagueness and Overbreadth.
Ex Post Facto and Bills of Attainder.
First Amendment and Religion.
First Amendment and Speech.
Privacy and other Unenumerated Rights.

II. CRIMINAL PROCEDURE.

- Introduction and Participants.
  - Criminal Procedure Defined.
  - A Common-law, Adversarial, and Accusatorial System.
  - The Due Process Model.
  - The Participants.
  - Law Enforcement Officers.
  - Prosecutors. Judges.
  - Defense Attorneys.
  - Victims.
  - Liability of Governments and Their Officials.

- Constitutional Aspects of Criminal Procedure.
  - Introduction.
  - Incorporation.
  - Expansion of Rights.
  - Exclusionary Rule.
  - Fruit of the Poisonous Tree Exceptions.
  - Standing.
  - State Constitutions and the "New Federalism".

- Searches, Seizures, and Arrests.
  - The Fourth Amendment.
  - Privacy.
  - Probable Cause.
  - Searches and Seizures.
  - The Warrant Requirement.
  - Exceptions to the Search Warrant Requirement.
  - Arrest.
  - Defining Arrest.
  - The Warrant Preference.
  - Arrests in Protected Areas.
  - Search Incident to Arrest and the Protective Sweep.
  - Executing Arrest Warrants.
  - Illegal Arrests.
  - Analyzing Fourth Amendment Problems.
• Interrogation and Other Law Enforcement Practices.
  o Interrogations, Confessions, and Admissions.
  o Miranda.
  o Sixth Amendment.
  o Voluntariness Requirement.
  o Electronic Surveillance.
  o Governing Statutes.
  o Wiretaps.
  o Tracking Devices.
  o Stored Communications and Subscriber Records.
  o Pen Registers and Trap Devices.
  o Pretrial Identification Procedures.
  o Lineups and One-Man Showups.
  o The Fairness Right.
  o Photographs. Scientific Identification Procedures.
  o Exclusion of Improper Identifications.

• The Pretrial Process.
  o Introduction.
  o Discovery and Investigation of Criminal Activity.
  o Arrest.
  o The Complaint.
  o Initial Appearance.
  o Pretrial Release and Detention.
  o Types of Release.
  o Eighth Amendment.
  o Detention.
  o Preliminary Hearing.
  o The Formal Charge.
  o Indictment and Grand Jury.
  o Information. Arraignment.
  o Pretrial Activity.
  o Discovery.
  o Motion Practice.
  o Pretrial Conference.
  o Extradition and Detainers.
  o Removal.

• Trial.
  o Trial Rights of Defendants.
  o The Right to a Jury Trial.
  o The Right to a Public Trial.
  o The Right to Confrontation and Cross-Examination.
  o The Presumption of Innocence/Burden of Proof.
The Right to Speedy Trial.
- The Right to Counsel.
- Trial Procedure.
- Voir Dire.
- Preliminary Instructions.
- Opening Statements.
- The Prosecution's Case in Chief.
- The Defense Case.
- Rebuttal.
- Closing Arguments.
- Final Instructions.
- Jury Deliberations and Verdict.
- JNOV/New Trial.

- Sentencing and Appeal.
  - Sentencing.
  - Sentencing Procedure.
  - Forms of Punishment.
  - Habitual Offender Statutes.
  - Postconviction Remedies.
  - Appeal.
  - Habeas Corpus.

Sample Questions
1. The objective of the juvenile justice system is different (reformation) from that of the adult criminal justice system (punishment).
   a. True
   b. False

2. A court of general jurisdiction has the authority to hear
   a. all cases arising under state law, whether civil or criminal.
   b. all criminal cases arising under state law.
   c. all civil cases arising under state law.
   d. all civil cases or all criminal cases arising under state law.

3. Voir dire refers to what stage of trial?
   a. jury selection
   b. opening arguments
   c. direct examination of witnesses
   d. instructions to the jury by the court

4. Distinguish among the terms probable cause, reasonable suspicion, and beyond a reasonable doubt as each applies to criminal law.
5. What is commutation of sentence? Who has the power to commute a sentence? Under what circumstances is commutation of sentence used?