

# **ADMINISTRATION OF JUSTICE**

## **THE PROCESS OF AMERICAN JUSTICE**

### **EXAM STUDY GUIDE**

1. The criminal justice system has three major components: the police, the various courts, and correctional institutions.
2. Six major processes in the criminal justice system are: deciding what constitutes a crime, detection of crimes and arresting a suspect, determining whether the accused will go to trial, determining guilt or innocence in a trial, deciding on a punishment for the convicted, and carrying out the sentence (punishment).
3. Guidelines for determining who and what behaviors are acceptable or unacceptable are established by our legislative bodies and enforced by the criminal justice system.
4. The prosecuting attorney reviews the charges filed by the police and the supporting evidence collected and decides if formal charges will be filed.
5. Jurisdiction is the courts inherent right to try a case and render a decision based on the type of criminal offense.
6. Venue is the geographical location in which a case is tried.
7. When charges are filed that may result in a prison sentence, the judge determines if the person has sufficient funds to obtain legal counsel.
8. The first appearance is concerned with due process and securing the rights of the accused, and it may take only a few minutes to complete the entire process.
9. Bail is a promise, usually backed by a monetary guarantee, that the accused will return for further proceedings in the criminal justice system.
10. Following charges being filed against the person at the first appearance, a preliminary hearing (sometimes referred to as a "probable cause" hearing) is held.
11. The major difference between a grand jury and a trial is that: defendants are not present at the sitting of the grand jury, defendants cannot have an attorney represent them at the grand jury proceedings, and they may not even be informed that they are subjects of the grand jury's attention.
12. The grand jury will determine if there is probable cause to support the charges that the prosecution alleges.
13. An indictment is a formal, written legal document forwarded to the court that: asserts that probable cause exists to believe the defendant committed an offense, and authorizes the court to issue an arrest warrant for the defendant.
14. At the arraignment, the defendant appears before the court with their attorney to hear the formal charges that the prosecution alleges.
15. At the arraignment, after charges are read, the judge asks the defendant for a plea.
16. A number of motions may be made at the arraignment.
17. Most cases do not go to trial because they are expensive, involve considerable criminal justice personnel, and are unpredictable.
18. A court trial is presided over by a judge with no jury. The judge decides guilt or innocence.
19. The accused right to have a jury trial is found in the Sixth Amendment.
20. Potential jurors are called and are questioned first by the court and then by the attorneys. This process is called "voir dire."
21. Both attorneys are then given a limited number of "peremptory challenges" (no cause or reason need be given) which they may use in order to achieve the jury composition they desire.
22. The age qualification for jury service is they must be 18 years of age.
23. An employer must allow an employee time off for jury duty.
24. Employers cannot discharge an employee called for jury service as long as the employee gives reasonable notice of the summons.
25. Employers are not required by law to pay employees on jury service.
26. Opening Statements - "First Step" of trial - After jury selection, both attorneys are permitted to make opening statements.
27. The purpose of these statements is to inform the jury of evidence which will be presented by their side in the case.
28. The defense attorney often waits until the completion of the state's "case-in-chief" before giving his opening statement.
29. The State's Case case-in-chief is presented after opening statements.
30. Direct Examination - questioning the witness by the side that calls him. (First step in the state's case).
31. A subpoena is the legal document which compels a witness to appear in court.

32. On direct examination attorneys may not ask "leading" questions, (ones asked in a way which suggests the answer).
33. Objections to witness questions posed by the attorneys: If sustained they do not have to answer. If not sustained they do have to answer.
34. Explain the purpose of cross-examination: It is either to bolster the defense case by eliciting additional information, or to "impeach" the witness by attacking his credibility, knowledge or recollection, by bringing out inconsistencies, showing bias, a motive to lie, etc.
35. After the prosecutor has completed ("rested") his case, the defense attorney may call witnesses to testify for the defendant.
36. Instructions to the jury from the judge - the judge will instruct the jury on its duties. The judge will tell the jury what law applies to the facts.
37. After discussing the case, the jury returns a verdict of guilty (unanimous), not guilty (unanimous), or "hung" (all cannot agree).
38. It is the responsibility of the judge to determine the appropriate punishment for offense committed.
39. The judge is guided by the law and information received from a presentence investigation report when deciding on which punishment the defendant is to receive.
40. A defendant convicted in a state court can appeal as high as the state supreme court and in some cases as high as the United States Supreme Court.
41. The purpose of having an appeal process is to correct judicial errors that might have occurred.
42. After the defense attorney has presented his case, the prosecutor may call a witness back to the witness stand to disagree with prior testimony of another witness. This process is called rebuttal.
43. The right to a trial by jury is the privilege of every person in the United States, whether that person is a citizen or an alien.