

ADMINISTRATION OF JUSTICE

GENERAL ASPECTS OF CRIMINAL LAW

EXAM STUDY GUIDE

1. The justice system in the United States has been established by our legislative bodies to establish classifications of crimes based on severity, to distinguish between types of crimes, civil offenses, and moral wrongs.
2. Criminal defendants have many more protections than those who commit civil or moral wrongs, because criminal defendants have considerably more to lose through criminal punishment.
3. Most people informally define a crime as an act that is deeply wrong, that is worthy of strong community disapproval, and that calls for a punitive sanction.
4. What is truly a crime is any act or omission that is forbidden by the law as a violation of the public interest.
5. An important aspect of crime and criminal conduct is punishment. Interpretation of how a law is written. "Letter of the Law" is the exact way the law is written – or what it says.
6. "Spirit of the Law" legislative intent – why was the law written? Police must use common sense approach.
7. Punishment can take many forms, all of which carry one essential characteristic that distinguishes criminal from civil wrongdoing: the condemnation and stigma that accompanies the conviction of a crime.
8. A civil wrong can be classified as a tort, which is a wrongful act that results in an injury or a breach of contract that leaves the injured party entitled to compensation.
9. Criminal and civil law both involve holding individuals accountable for actions that the law deems inappropriate.
10. There are two significant differences between the consequences of criminal liability and civil liability.
First, a crime is committed against the community at large, but a tort is a wrong against specific individuals only.
11. The pursuit of a tort remedy involves no government action being brought against individual defendants.
12. A class action lawsuit involves several people taking legal action against a person or corporation who has wronged them.
13. A party involved in a civil suit does not face the possibility of punishment, such as loss of liberty or life.
14. Punitive damages in a civil action is not considered equivalent to incarceration or the stigma of conviction of a crime.
15. An individual's single act may constitute both a crime and a tort and thus may be punishable under criminal and civil law.
16. Acts, such as failure to pay federal taxes, mail fraud, espionage, and international smuggling, can be prosecuted only in a federal court.
17. A crime is an act that the government forbids and that the government can punish.
18. Almost all crimes require an act, accompanied by a guilty state of mind.
19. The guilty state of mind means that the prohibited act must be done intentionally, knowingly, or willfully.
20. In most cases, mere carelessness is not considered a guilty state of mind.
21. Criminal liability requires a concurrence, or unity, of two general criteria:
 22. First, there needs to be an act or physical element, known as the *actus reus* or the criminal act.
 23. Second, there needs to be a certain mental state or intent, known as the *mens rea*. This mental state is often referred to as criminal intent.
24. A person commits an act based on one of four types of mental states: Acting with purpose, Acting knowingly, Acting recklessly and Acting Negligently.
25. A person acts negligently if they are aware that a substantial and unjustifiable risk exists or will result from the negligent conduct and proceed to act anyway.
26. A person who commits a single act can be held to answer for both a criminal and civil wrong.
27. Motive is the reason why the a person performs the act.
28. Motive usually means the emotion that prompts a person to commit the act.
29. Motive is not an element required to be proven in order to obtain a conviction for a criminal offense.
30. Motive is often important as a matter of proof because it may help to identify the perpetrator of a crime or explain why a suspect may have acted in a certain way.
31. Intent is a person's conscious desire to commit an act and is called "*Mens rea*".
32. *Mens rea* is that state of mind that a person has at the time that he or she does the act or acts that constitute the commission of a crime.
33. *Mens rea* is also referred to as the guilty mind or a person's culpability in committing an act.
34. *Mens rea* or guilty state of mind deals with the level of awareness involved in performing an act.
35. There are three types of intent (state of mind) involved in proving a person's culpability in committing a crime.
36. General intent - also called presumed intent.
37. Specific intent is the mental purpose to accomplish a specific act prohibited by law.
38. Transferred intent holds a person criminally liable even when the consequence of his or her action is not what the individual actually intended.
39. The United States Constitution and the constitutions of individual states require that special rights and protections be afforded to an accused criminal.
40. The Fifth Amendment's protection against self-incrimination and double jeopardy.
41. The Sixth Amendment's rights to a speedy and public trial, trial by jury, the confrontation and cross-examination of witnesses, and counsel.

42. The Eighth Amendment's protection against excessive bail, excessive fines, and cruel and unusual punishment.
43. The Fourteenth Amendment's right to due process of law applies to both the federal and state governments.
44. The most common way to classify crimes is according to their punishment.
45. Crimes can be broken into three major categories: felonies, misdemeanors, and petty offenses.
46. A felony is any serious crime that is punishable by more than a year of imprisonment in a penitentiary or by death.
47. Felonies include, but are not limited to, various degrees of homicide, rape, robbery, possession or distribution of illegal narcotics, and auto theft.
48. A crime does not have to be violent or even be perpetrated against a specific individual victim to constitute a felony.
49. Modern law defines a misdemeanor as a crime that is less serious than a felony and is usually punishable by fines, penalties, or incarceration of less than one year.
50. Misdemeanors include offenses like shoplifting and disorderly conduct.
51. A person who is convicted of a misdemeanor and incarcerated usually serves his or her sentence in a local or county jail up to one year. Punishment may also include in-patient drug rehabilitation programs.
52. Some factors that a prosecutor may consider in deciding whether to charge an offense as a felony or a misdemeanor can include: Prior offenses committed by the accused. Seriousness of the offense. The number of victims involved. The age of the perpetrator.
53. In addition to proving any guilty state of mind required, the prosecutor must prove beyond a reasonable doubt that every element of the crime was committed.
54. The *actus reus* is the physical action that a person must take toward the completion of the crime in order to be responsible for a criminal offense.
55. *Actus reus* usually consists of a voluntary action.
56. If a person has acted voluntarily and later regrets the act, he or she is still held responsible.
57. Conditions such as mental illness or extreme youth can diminish a person's criminal responsibility.
58. To fully understand *actus reus*, it is important to understand the difference between voluntary actions and mere thoughts.
59. Omissions are legally viewed as actions that can lead to criminal liability, usually in one of two situations.
The first situation occurs where the definition of a crime specifically designates an omission as punishable.
The second situation occurs where a person has an affirmative duty to act in some way but fails to do so, and such failure causes a criminal result.
60. A legal duty to act can arise from a relationship. There are legal duties in relationships between a parent and a child or between a doctor and a patient.
61. Even though most people would feel obligated to act if someone's life were in danger, there are numerous judicial decisions holding that there was no criminal liability when a person stood by and did nothing to help someone else in jeopardy.
62. Under certain circumstances, mere words can constitute the *actus reus* of a criminal act.
63. Such words are so offensive that they can constitute a threat or cause further physical actions that society views as a social harm.
64. All jurisdictions have statutes for possessory offenses, which criminalize the possession of certain items or substances.
65. A person can be guilty of a crime requiring possession without any further act than possession of the prohibited article.
66. Actual possession is usually required to prove a possessory offense, the prosecutor must prove that the accused person knowingly possessed the illegal item.
67. Solicitation: A number of states make it a crime for a person to solicit (that is, ask, command, urge, or advise) another person to commit a crime.
68. To be guilty of the crime of attempt, the accused must have both intended to commit a crime and taken some substantial step toward committing the crime.
69. Conspiracy: A conspiracy is an agreement between two or more persons to commit a crime.
70. The designation of conspiracy as a crime is meant to prevent other crimes and to strike against criminal activity by groups.
71. The person who actually commits a crime is called the principal. All principals are equally guilty of the offense.
72. Aid means to assist and it can be done innocently without any implication of guilt knowledge or felonious intent.
73. Abet means assistance accompanied by knowledge of the wrongful purpose of the committing the crime.
74. Not being present at the time of the crime but, advising and encouraging the commission of the crime.
75. Anyone who helps the principal complete the crime may be charged as an accomplice.
76. An accomplice is anyone who is liable to prosecution for the identical offense charged against the defendant.
77. A person could be an accomplice to a crime through many actions that help or promote the crime's commission, including offering words of encouragement.
78. Every person who, after a crime has been committed, harbors, conceals, or aids a principal in such crime with intent that said principal may avoid or escape arrest, conviction or punishment, having knowledge that said principal has committed such crime or has been charged with such crime or convicted thereof, is an accessory to such crime.
79. An accessory after the fact has nothing to do with the actual commission of the crime itself.