

ADMINISTRATION OF JUSTICE

CRIMES AGAINST PUBLIC ORDER AND MORALITY

EXAM STUDY GUIDE

1. Public order and safety laws are intended to protect the general public by dealing with behavior not necessarily considered morally wrong; however, it affects the peace and safety of the community.
2. These laws have developed as a result of common law crimes aimed at keeping the peace and evolved during the industrial revolution.
3. These offenses are considered to be acts that are not inherently bad, but are considered crimes only because the law designates them to be for various reasons.
4. Public order and safety offenses are usually strict liability offenses, which means that if the defendant committed the elements of the crime, his or her intent to cause harm is irrelevant.
5. Breach of the peace offenses include unlawful assembly, rout, riot, and disorderly conduct.
Unlawful assembly, in most jurisdictions, may occur under either of the following circumstances:
 6. When two or more people gather together with the common intent to commit an unlawful act.
 7. When two or more people gather together with a lawful purpose but in a violent, boisterous, or tumultuous manner.
8. Any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot.
9. Modern disorderly conduct laws include behavior that disturbs the safety, health, or morals of others, or that are intended only to annoy another person.
10. Disorderly conduct includes any person who unlawfully fights in a public place or challenges another person in a public place to fight.
11. A "public place" has been defined in case law as any place which is open to public view, hence a person may be arrested for this offense on property that is private.
12. Disorderly conduct includes any person who maliciously and willfully disturbs another person by loud and unreasonable noise.
13. Disorderly conduct includes any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.
14. Every person who willfully resists, delays, or obstructs, any public officer, peace officer, fireman, or EMT, in the discharge or attempt to discharge an official duty, is guilty of a criminal offense.
15. A nuisance encompasses anything that endangers life or health, gives offense to the senses, violates laws of decency, or obstructs the reasonable and comfortable use of property.
16. It is unlawful to maintain, permit, or allow a public nuisance to exist.
17. Criminal prosecution is one remedy for a nuisance; however, the most common approach is by a civil action on behalf of the community.
18. Nuisance statutes have also been used to close crack houses and other establishments used for drug use.
19. Some public morality offenses, such as prostitution and gambling, are geographically restricted to certain areas of the United States.
20. There is considerable public debate about whether some of these offenses, such as gambling, and prostitution, are victimless crimes and thus should be decriminalized.
21. The term pornography refers to sexually explicit material that is generally protected by First Amendment guarantees of freedom of speech and freedom of the press.
22. The term obscenity refers to the legal definition of certain materials that are not protected under the First Amendment.
23. The Customs Law of 1842 barred the importation of indecent and obscene prints, paintings, lithographs, engravings, and transparencies.
24. The Federal Comstock Act of 1873, named after the anti-vice crusader Anthony Comstock, prohibited the use of the mail to convey obscene material.
25. In 1973, the United States Supreme Court established the test that is used today in determining whether material is obscene. The court provided these guidelines:
 26. Whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to prurient interest
 27. Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law
 28. Whether the work taken as a whole, lacks serious literary, artistic, political, or scientific value

29. Regulating indecent material on the Internet has proven a very difficult task.
30. There is concern over how to prevent children from encountering sexually explicit materials and discussions through their computers.
31. The Telecommunications Act of 1996, act bans the transmission of obscene materials to minors under the age of 18 via broadcast media, including the Internet.
32. Child pornography is a highly organized, multi-million dollar industry.
33. The Sexual Exploitation Act prohibited the production of any sexually explicit material using a child under the age of 16 if such material was destined for, or has already traveled in, interstate commerce.
34. The Child Protection Act of 1984, which was enacted to extend criminal sanctions for child pornography eliminated the requirement that child pornography distribution be undertaken for commerce, and criminalized distribution for any reason.
35. Current federal law prohibits employing, using, persuading, inducing, enticing, or coercing a minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct.
36. It is unlawful to knowingly transmit or receive by computer any visual depictions involving the use of a minor engaged in sexually explicit conduct.

Indecent exposure and related crimes are covered under a multitude of statutes and given widely varying titles, such as:

37. lewd and lascivious behavior,
38. public lewdness,
39. and even appearing on the highway in bathing garb.
40. Public exposure may occur on a street, building, beach, or even within a private location, provided that the exposure may be viewed from another public or private place.
41. Exhibitionism is the repeated intentional act of exposing one's genitals to an unsuspecting stranger or strangers.
42. Exposure is for the purpose of achieving sexual excitement.
43. Exhibitionists are intentional in what they do, and do not include people who occasionally and accidentally expose themselves.
44. Prostitution is committed when one person agrees to engage in sexual or deviate sexual intercourse in return for something of value, usually money.
45. Prostitution is often referred to as the world's oldest profession and is described in history's earliest written records.
46. The offense of prostitution does not consist of the sexual act itself; rather, it is the agreement to participate in sexual activity for compensation.
47. Members of either sex may be convicted of prostitution.
48. A person is guilty of solicitation when he or she offers to pay another (as a customer) or to receive payment from another (as a prostitute) for sex.
49. The purpose of statutes forbidding soliciting is to prevent prostitutes from standing in public places, trying to entice passersby into paying for sex.
50. Since the crime of prostitution punishes both actors, the patron who solicits a prostitute may be found guilty under these laws.
51. Most prostitution cases that go to court today involve police decoys that use solicitation as the basis of the criminal charge.
52. Patronizing a prostitute occurs when the prospective patron agrees to purchase sexual favors.
53. Most jurisdictions punish the offense of patronizing a prostitute to the same extent as prostitution.
54. The real force behind prostitution is not the prostitute, but the person who promotes prostitution.
55. These promoters of prostitution are commonly known as pimps, and their activity is called pimping.
56. Pimps live off of the earnings of prostitutes, and the prostitute works for the pimp.
57. Financial gains of prostitution give pimps a motive to encourage and coerce young persons into prostitution.
58. Pandering consists of either procuring a female for a place of prostitution or procuring a place for a prostitute in which she can pursue her trade.
59. The principal difference between pimping and pandering is that a pimp solicits patrons for the prostitute and lives off her earnings while a panderer recruits prostitutes and sets them up in business.
60. Gambling usually involves an agreement that a person will win something based on a certain outcome of events.
61. A person engages in gambling when he or she stakes or risks something of value on the outcome of a contest of chance.
62. Betting and wagering are used interchangeably, and they apply only to forms of gambling that are not lotteries.
63. Betting or wagering is a promise to give something of value upon the determination of an uncertain event, whether or not skill is involved. A common example is horse racing.