



The State Bar of California

2023 LEGAL SPECIALIST EXAMINATION Preparation Packet

Examination Date: October 24, 2023

Legal Specialization Area:
CRIMINAL LAW (FEDERAL & STATE)

This packet contains key information you will need to prepare for the 2023 Legal Specialist Examination:

- Examination Action Plan
- Exam specifications listing topics that may be tested
- Free sample essay questions (multiple-choice questions are not released)

For full details, please visit [Exam Information](#).

2023 LEGAL SPECIALIST EXAMINATION ACTION PLAN

A. Start Today:

1. **Register** for the Legal Specialist Examination today in the [Admissions Applicant Portal \(Applicant Portal\)](#). Registration closes on **September 15**.
2. **Review** this packet for an overview and visit [Becoming a Certified Specialist](#) for eligibility requirements, current exam information, and other important dates and deadlines.

B. Know the Exam:

1. **Format:** The Legal Specialist Examination is a single-day exam that consists of eight short essay questions and 75 multiple-choice questions and tests whether an attorney has a proficient understanding of the key laws, rules, and procedures applicable to that area of law.
2. **Exam topics:** See enclosed exam specifications.
3. **Exam practice:** See enclosed sample essay questions. No sample answers are available for the essay questions, and no multiple-choice questions are released for practice.
4. **Ensure that your laptop is ready before exam day:** Applicants should take the two mock exams on the laptop that they will use on exam day **prior** to exam day.
5. **Other certification requirements:** Review the other task, education, and experience requirements in the post-exam application for initial certification. You may have already met many of the requirements, or you can continue to meet them through January 31, 2027.

C. Prepare for Exam Day

1. **Applicants must login into the exam by the posted password release time of 8:00 a.m.** so that you have enough time to verify your identification and start your laptop.
2. **Items allowed in the exam room:**
Please review the [exam bulletin](#) for a list of items that are allowed in the exam room before the exam.

While most applicants will not be allowed to bring reference books into the exam room, those taking the exams in the following four specialty areas have the option to bring in one of the following code books if they wish to do so (annotated or unannotated version):

- **Bankruptcy Law:** Bankruptcy Code and Rules
- **Estate Planning, Trust & Probate Law:** California Probate Code

- **Immigration & Nationality Law:** Immigration & Nationality Act only (NOT regulations)
- **Taxation Law:** Internal Revenue Code only (NOT regulations)

CRIMINAL LAW (STATE OR FEDERAL)
Examination Specifications

Purpose of the Exam: The Criminal Law Legal Specialist Examination consists of a combination of essay and multiple-choice questions. It is designed to verify the applicant's knowledge of and proficiency in the usual legal procedures and substantive law that should be common to specialists in the field as represented by the skills listed below. We recognize that these skills are interrelated, which may require that you apply several skills in responding to a single exam question. Also, the order of the skills does not reflect their relative importance, nor does the skill sequence represent an implied order of their application in practice.

Your answers to the exam questions should reflect your ability to identify and resolve issues, apply criminal law to the facts given, and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other, and their qualifications and limitations. Of primary importance for the essay questions will be the quality of your analysis and explanation.

Knowledge of the following fundamental lawyering skills may be assessed:

Subject Area 1: Professional Responsibility 1.1 Duties to client, opposing counsel, and the Court 1.2 Conflicts of interest 1.3 Dual representation	Subject Area 2: Crimes & Defenses 2.1 DUIs 2.2 Murder/Special Circumstances 2.3 Sex crimes and related consequences 2.4 Tactics/strategies 2.5 Mental health issues and related consequences 2.6 Not guilty by reason of insanity 2.7 Not guilty by reason of insanity hearings on restoration of sanity and extensions of commitment 2.8 Conspiracy 2.9 Crimes against property 2.10 Crimes against person 2.11 Narcotics 2.12 Gang Crimes and enhancements 2.13 Vicarious liability, aiding, and abetting 2.14 "Victimless" Crimes 2.15 Other crimes otherwise not specified in this subject area
Subject Area 3: Trial Court Practice and Procedure 3.1 Arrest and bench warrants, summons/subpoenas 3.2 Arraignment 3.3 Deferred entry of judgment and diversion 3.4 Plea bargaining 3.5 Pleadings, joinder and severance 3.6 Grand Jury proceedings 3.7 Discovery	Subject Area 4: Appeals 4.1 Preserving appellate issues and perfecting the right to appeal 4.2 Misdemeanor appeals 4.3 Felony appeals 4.4 Federal and State Habeas Corpus

<ul style="list-style-type: none"> 3.8 Preliminary hearings 3.9 Pre-trial and trial publicity 3.10 Right to speedy trial 3.11 Line-ups and identification 3.12 Search and seizure 3.13 Informants 3.14 Pre-trial motion practice 3.15 Confessions and admissions 3.16 Trial motions 3.17 Evidence 3.18 Expert witnesses 3.19 Jury selection 3.20 Jury instructions 3.21 Misdemeanor sentencing 3.22 Preserving appellate issues 3.23 Felony sentencing <ul style="list-style-type: none"> 3.23.1 California Rules of Court 3.23.2 Prior convictions 3.23.3 Enhancements 3.23.4 Probation 3.23.5 Proposition 36 3.23.6 Three Strikes 3.23.7 Expungements and similar relief 3.23.8 Immigration consequences 3.23.9 Duties after judgment 3.23.10 Writs 3.24 Present and future collateral consequences and disabilities 3.25 Sexually Violent Predator proceedings 3.26 Mentally Disordered Offender proceedings 3.27 Credit for time served and related provisions 3.28 Bail and other forms of release from custody pending finality of judgment 3.29 Present competency proceedings 	
Subject Area 5: State Juvenile <ul style="list-style-type: none"> 5.1 W&I 707/ Prop 21 5.2 W&I 602 5.3 Disposition 5.4 Detention hearings 5.5 Age/competency 5.6 Records 	Subject Area 6: Federal Sentencing <ul style="list-style-type: none"> 6.1 Guidelines 6.2 Mandatory minimum/maximum 6.3 Violations of probation and supervised release 6.4 Bureau of Prisons Issues 6.5 Criminal Forfeiture 6.6 Detention

CRIMINAL LAW (STATE OR FEDERAL)
Sample Essay Questions

Below are actual questions from past examinations. These questions were designed to be read and answered within 45 minutes, though current examination questions are designed to be read and answered in 30 minutes.

Sample Legal Specialist Examination Question #1 (STATE)

Attorney was appointed to represent Defendant who was charged with multiple non-capital felonies. At the calendar department's status conference, District Attorney offered Attorney a deal which would have resulted in Defendant doing one tenth of his maximum exposure time in state prison. The calendar judge was willing to go along with the offer.

Attorney communicated this offer to Defendant and strongly advised him to accept it. Defendant rejected the offer and the case was assigned to a trial judge. In the trial court, Defendant wanted to fire Attorney. The judge cleared the courtroom and conducted a hearing. Defendant claimed that Attorney was incompetent, unprepared, and that Attorney was selling him out. Defendant further wanted to represent himself. The judge heard Defendant's claims, took evidence and then denied everything Defendant requested. The judge ordered that the total record of the proceedings be sealed and marked confidential.

Defendant then asked if he could take the original deal on a no contest plea. District Attorney agreed and the judge was willing to accept the plea for the sentence indicated. In due course, judgment was pronounced and Defendant was sentenced to state prison. Within 10 days, Defendant wrote to the court from state prison saying he wanted to appeal his conviction. The trial judge re-appointed Attorney only to advise the Defendant how to proceed.

- A. What are Attorney's obligations under this appointment to the court and to Defendant? Discuss.**
- B. What must Defendant do to perfect his appeal? Discuss.**
- C. What should be included in the record?**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #2 (STATE)

Police was called by Firefighter who detained Defendant near a suspicious fire at an elementary school. Defendant was originally detained by Passerby who turned him over to Firefighter. Passerby left before Police arrived. When Police arrived, the fire was out and they took custody of Defendant. Police got permission from Defendant to search him. A lighter was recovered from his pocket. Police Mirandized him, he agreed to talk, and he gave incriminating answers to the police questions. At trial, Defendant objected to the admission of the lighter and the statements.

What arguments could Defendant make in a motion to suppress the statements and the lighter? Discuss.

END OF QUESTION

Sample Legal Specialist Examination Essay Question #3 (STATE)

Defendant, a 22-year-old male, engaged in several acts of sexual intercourse and oral copulation with a 15-year-old female during a month-long period while he was a guest in her parent's home. He claims all acts were consensual. She never claimed any force or fear was involved. She did state, however, that she had been drinking by herself before, and was very sleepy during, the first two times she had sex with Defendant.

- A. What are the potential criminal charges Defendant faces? Discuss.**
- B. What would be the potential defenses to those charges, and the justification for those charges? Discuss.**
- C. If convicted, what are the potential penalties Defendant could receive? Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #4 (STATE)

Wife and Husband were charged with Penal Code §273(d), corporal injury to Child. Child was removed from their custody by social services. When visiting Child at the foster home, Wife and Husband videotaped their visit. Interactions with Child and the couple's conversations were recorded on the videotape. Wife gave the videotape to Attorney. Attorney decided it was incriminating and elected not to use the tape in trial. The prosecution heard that the tape was made and issued a subpoena *duces tecum* for the tape to be produced in court.

- A. What motion can the defense make to prevent the prosecution from getting the tape? Discuss.**
- B. What are the best arguments in support of the motion? Discuss.**
- C. What arguments should the prosecution make in support of obtaining the tape? Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #1 (FEDERAL)

Defendant, a single mom, aged 43, dated Boyfriend since 1995. Boyfriend was a con artist, who bilked people out of money for years, fraudulently posing as a lender of venture capital funds. Boyfriend advertised that, for a fee of \$50,000, he would obtain loans for up to \$1,000,000. Defendant was a lawful permanent resident of the United States, having immigrated to the U.S. from a foreign country in 1994. She worked a few hours when she can and was a recipient of Supplemental Security Income (SSI) and food stamps. She had two children, both under the age of five. One of her children was severely disabled and required her continual presence throughout the night in order to be able to sleep.

While Defendant and Boyfriend dated, she was aware of his occupation but had never done any work for him. All that changed on May 4, 2001. Boyfriend asked Defendant if she would come answer telephones for him at his office for two weeks. He told her to urge people to send money to get loans. He also told Defendant that he had not funded any loans and that he had spent all the fee money to gamble.

Defendant worked for Boyfriend for two weeks. Knowing that Boyfriend was not funding loans, she nonetheless encouraged people to send in money. During the time she worked for Boyfriend, Boyfriend's company obtained \$250,000 in fees, all from out of state. Shortly after Defendant finished working for Boyfriend, a federal grand jury returned an Indictment against Boyfriend, charging him with a scheme to defraud that netted more than \$10,000,000 and had victims nationwide. Included in the fraud charges were the fees that had arrived while Defendant worked for Boyfriend and had made false assertions. The U.S. Attorney's office has sent Defendant a target letter, advising her that a Superseding Indictment is about to be sought adding Defendant to the charges. Defendant has contacted Attorney and told him that she wanted to settle the case with a written plea agreement and disposition hearing.

- A. As Defendant's attorney, what concessions must he seek from the Government as part of a plea agreement? Would he agree to the Superseding Indictment? Why or why not?**
- B. What concessions would Attorney expect the Government to seek as part of the plea agreement?**
- C. Prior to the disposition hearing, what will Attorney tell Defendant the judge could ask her about during the plea colloquy?**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #2 (FEDERAL)

Defendant was homeless for a number of years and lived in shelters or on the streets. His Sister, owner of a bed and breakfast, lived in Hawaii. Occasionally, he did some shoplifting and was on probation until August 1, 2001. He believed that voices told him to do bad things. One day, a real voice, belonging to Man A, spoke to him at the shelter. Man A told Defendant that if Defendant drove a car into the United States from Mexico, he would pay Defendant \$500. This was more money than Defendant had seen in his entire life, so he jumped at the opportunity.

On June 1, 2001, Defendant took the trolley down to the U.S. Mexican border. He met Man A at a parking lot just south of the Port of Entry. Man A handed him the keys to a battered van that was parked in the lot. Man A told Defendant to drive very carefully because there was “precious cargo” in the van. Defendant also heard the voices in his head telling him to drive the van into the U.S. Man A told Defendant that he, Man A, would be following Defendant in another car and not to worry.

As Defendant approached the Port of Entry, a customs inspector asked him if he had anything to declare. He advised that he did not. He displayed no nervousness, and a roving narcotics detector dog walked past the van without alerting. Still, the customs inspector thought Defendant “looked funny” and referred him to secondary inspection. At secondary, an inspector observed one screw to be a little shinier than the rest near the gas tank. The inspectors punched a 6-inch hole in the trunk and saw nothing. The gas tank was removed and inspected. Inside the gas tank were packages containing more than 20 kilograms of cocaine. Defendant was placed into custody.

After more than 20 hours in custody, Defendant was advised of his rights and agreed to speak with investigating agents. He told them about Man A, but also mentioned the voices in his head telling him to do bad things.

Defendant was charged by a complaint in federal court with Importation of Controlled Substance in violation of Title 21, United States Code, Sections 952 and 960. At his initial appearance, an attorney was appointed as his counsel. The Government moved to detain Defendant pending trial.

- A. What are the ways in which the Government may obtain a probable cause determination in order to proceed with the case? What is the most common way for the Government to obtain a probable cause determination?**
- B. What are the bases the Government may use to seek detention of Defendant? Describe the burden of proof the Government must sustain as to each basis for detention, and list the evidence the Government would adduce under each basis.**
- C. As Defendant’s attorney, what, if any, bail recommendations must he make? List the facts he should use to support his recommendation.**

- D. As Defendant's case progresses through the system, what, if any, motions should Defendant's attorney make on his behalf? Briefly list the facts he should use to support your motions.**
- E. If Defendant is released from custody, he wants to move to Arizona and start life anew. Can Defendant resolve his case living somewhere other than where the crime was committed? If so, how?**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #3 (FEDERAL)

Defendant was charged with Co-Defendant in an indictment alleging they were part of a conspiracy to distribute narcotics. The specific narcotics charged were methamphetamine and cocaine base.

The prosecutor had tape-recordings of Co-Defendant reaching agreement to sell Rat 100 grams of methamphetamine at 10% purity and 50 grams of cocaine base. Co-Defendant recruited Defendant to deliver 50 grams of cocaine base to Rat. As he was delivering the cocaine base to Rat, Defendant was arrested by DEA agents. Defendant confessed completely and told the agents where Co-Defendant was located. Defendant made his statements without signing any cooperation agreement with the prosecutor. Based on this information, the agents arrested Co-Defendant.

Defendant, who was 23 years old, had one prior conviction involving petty theft where he was sentenced to probation. He successfully completed probation before being arrested for the delivery of cocaine base. Defendant used and became addicted to cocaine base given to him by Co-Defendant, but Defendant had never previously been involved in distributing narcotics. Defendant agreed to deliver the drugs for Co-Defendant because they used to be part of the same gang. The gang members were required to help each other or suffer retribution. While Defendant knew that was involved in criminal activity, Defendant did not know that Co-Defendant was involved in selling drugs until Co-Defendant asked him to deliver drugs to Rat. Further, Defendant did not know the nature or the amount of drugs.

Defendant grew up in a broken home. His father sexually abused him repeatedly when he was seven years old and left him when he was eight years old. His mother was busy working so he never received any parental guidance. He joined a gang for a year but dropped out. At the time of the arrest, Defendant lived at home where he was the sole provider for his disabled grandmother and three children.

Without a plea agreement, Defendant pled guilty to the charge of being part of a conspiracy to distribute narcotics. The factual basis of the plea includes Defendant's knowledge that he was delivering narcotics given to him by Co-Defendant. The factual basis does not contain any facts pertaining to Defendant's knowledge that he was delivering cocaine base or to his knowledge as to the amount of drugs. The factual basis does not contain any facts that Defendant knew that Co-Defendant was negotiating other drug deals.

- A. Discuss the mandatory maximum sentence. Explain the analysis.**
- B. Discuss any mandatory minimum sentence that may apply. Explain the analysis.**
- C. Explain how to calculate the appropriate guideline range.**
- D. Discuss any downward adjustments and/or departures that may apply.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #4 (FEDERAL)

Defendant was charged with bank robbery in federal court. From the discovery materials, Attorney learned the following.

At the date and time of the robbery, an individual entered a federally insured bank, approached Teller and said, "Your money or your life." Teller gave the individual money from her cash drawer and the individual ran out of the bank. Teller gave the police the following general description of the robber: a Caucasian man, in his mid-thirties, between five foot eight inches and five foot ten inches tall, wearing blue jeans and a white short sleeve shirt. Manager, who claimed to have witnessed the robbery, confirmed this description. About 10 minutes after the robbery, Police Officer, who was in his patrol car about one mile from the bank, received the report of the robbery and the description of the robber over his police radio. Just after Police Officer received this information, he saw Defendant, who matched the general description of the robber, running down the sidewalk away from the direction of the bank. Thinking that this man may be the robber, Police Officer pulled over and ordered Defendant to stop. Defendant stopped, and Police Officer did not find weapons when he frisked Defendant. Police Officer then radioed Sergeant and told him what happened. Sergeant instructed Police Officer to hold Defendant until Sergeant could bring bank witnesses to the scene to make an identification.

About forty-five minutes later, Sergeant arrived at the scene with Teller and Manager in his police car. Teller, prior to receiving the field identification admonition, immediately identified Defendant as the man who robbed her. After hearing Teller's identification, Manager hesitated, but also identified Defendant as the robber.

- A. What identification evidence should the government attempt to introduce at trial?**
- B. What arguments can Attorney make in seeking to suppress this evidence?**
- C. What arguments can the government make in response to Attorney's suppression arguments?**
- D. What rulings is the district court likely to make on Attorney's suppression arguments and why?**

END OF QUESTION