



CALIFORNIA BAR EXAMINATION CONTENT MAP CRIMINAL LAW AND PROCEDURE

The topics listed below are illustrative of those covered in Criminal Law and Procedure, but are not exhaustive.

CRIMINAL LAW

I. General principles

- A. Sources of criminal law
- B. Theories of punishment
- C. Constitutional limitations
- D. Actus reus
 - 1. Voluntariness
 - 2. Physical act or speech
 - 3. Failure to act
 - 4. Concurrence of act and intent
- E. Mens rea
 - 1. Specific intent
 - 2. Malice
 - 3. General intent
 - 4. Transferred intent
 - 5. Strict liability
 - 6. Vicarious liability
- F. Model Penal Code
 - 1. Levels of culpability
- G. Causation
 - 1. Actual cause
 - 2. Proximate cause
- H. Merger
- I. Parties to crime
 - 1. Principals
 - 2. Accomplices
 - 3. Accessories
 - 4. Scope of liability
- J. Withdrawal and abandonment

II. Criminal Responsibility

- A. Insanity
 - 1. M'Naghten rule
 - 2. Irresistible impulse
 - 3. Durham test
 - 4. Model Penal Code test
- B. Infancy
- C. Intoxication
 - 1. Voluntary intoxication
 - 2. Involuntary intoxication

III. Inchoate offenses

- A. Solicitation
- B. Conspiracy
 - 1. Liability of co-conspirators/*Pinkerton* Rule
 - 2. Overt act
 - 3. *Wharton* rule
 - 4. Agreement with person in protected class
 - 5. Unilateral conspiracy
- C. Attempt
 - 1. Specific intent
 - 2. Overt act in furtherance of intent beyond mere preparation

IV. Crimes

- A. Homicide
 - 1. Murder
 - a. Intent to kill
 - b. Intent to inflict serious bodily harm
 - c. Depraved heart
 - d. Felony murder
 - e. First degree murder
 - f. Second degree murder
 - 2. Voluntary manslaughter
 - 3. Involuntary manslaughter
- B. Property offenses
 - 1. Larceny
 - 2. Larceny by trick
 - 3. False pretenses
 - 4. Robbery
 - 5. Receipt of stolen property
 - 6. Burglary
 - a. Common law
 - b. Statutory
 - 7. Arson
 - a. Common law
 - b. Statutory

8. Embezzlement
 9. Extortion
 10. Forgery
 11. Possession offenses
- C. Offenses against the person
1. Assault
 2. Battery
 3. Kidnapping
 4. False Imprisonment
 5. Robbery

V. Exculpation

- A. General principles
1. Justification and excuse
 2. Mistake of fact
 3. Mistake of law
 4. Impossibility
- B. Self-Defense
1. Deadly force
 2. Nondeadly force
 3. Unreasonable self-defense
 4. Right of aggressor
 5. Retreat
- C. Defense of others
- D. Defense of dwelling
- E. Defense of property
- F. Crime prevention
- G. Duress
- H. Necessity
- I. Entrapment
- J. Consent
- K. Unconsciousness
- L. Intoxication
- M. Diminished capacity or responsibility

CRIMINAL PROCEDURE

I. Fourth Amendment

- A. Requirement that searches and seizures be reasonable
- B. Reasonable expectation of privacy
- C. Detention
1. Permissible bases
 2. *Terry* stop
 3. Pretext stops

- D. Arrest
 - 1. Standards for warrantless arrest
 - 2. Home arrests
- E. Searches
 - 1. Warrant requirement
 - a. Probable cause
 - b. Particularity
 - c. Execution of warrant
 - d. Establishing invalidity of warrant
 - 2. Exceptions to warrant requirement
 - a. Consent
 - b. Plain view
 - c. Search incident to arrest
 - d. Exigent circumstances
 - e. Automobile exception
 - f. Hot pursuit
 - g. Stop and frisk
 - h. Administrative searches
 - i. School searches
 - j. Border searches
 - k. Inventory searches
- F. Exclusionary rule
 - 1. Fruit of the poisonous tree
 - a. Exceptions
 - (1) Independent source
 - (2) Intervening act of free will
 - (3) Inevitable discovery
 - 2. Impeachment use of fruit of illegal search
 - 3. Good faith exception

II. Fifth Amendment

- A. Privilege against compulsory self-incrimination
 - 1. *Miranda* rights for custodial interrogation
 - a. Invocation of right to counsel
 - b. Invocation of right to silence
 - c. Breaks in interrogation
 - 2. Public safety exception to *Miranda* requirement
 - 3. Waiver of *Miranda* rights
 - 4. Use of statements taken in violation of *Miranda*
 - a. Impeachment use of voluntary confession
 - 5. Invocation of privilege at trial
 - 6. Scope of protection
- B. Right against double jeopardy

III. Sixth Amendment

- A. Right to effective assistance of counsel
 - 1. Custodial interrogation
 - 2. Post-charge lineup or showup
 - 3. Post-indictment interrogation
 - 4. Preliminary hearing
 - 5. Plea, trial, sentencing, appeal
- B. Right to confrontation
 - 1. "Testimonial" and "non-testimonial" statements
 - 2. Use of co-defendant's confession
 - 3. Use of prior testimonial statement of unavailable witness
 - a. Statements made for prosecution purposes
 - b. Statements made to aid in emergency
 - c. Reports of forensic analyses
- C. Right to jury trial
- D. Right to public trial

IV. Eighth Amendment

- A. Prohibition against excessive bail
- B. Prohibition against excessive fines
- C. Prohibition against cruel and unusual punishments

V. Fourteenth Amendment

- A. Competency to stand trial
- B. Presumption of innocence
- C. Burden on the state to prove each element of offense