

### Exam 3 CJE3110 Chapters 6+7 and statutes

1. Why are the police sometimes called the gatekeepers to the criminal justice process?
  - a. Because it is their decision to arrest a person and then triggering the criminal justice process. Officer then prepares an affidavit for the court which outlines the details surrounding the criminal event and the officer tells the court what info they used to formulate probable cause.
2. Explain how corpus delicti, mens rea, and actus rea relate
  - a. Corpus delicti- body of a crime, 2 parts (mens rea, and actus rea).
  - b. Mens rea- "guilty mind" mental state of subject.
  - c. Actus rea- pertains to the elements or physical acts that define a particular crime.
  - d. These three relate because they are what criminal acts consist of.
3. Give some examples of a lack of mens rea
  - a. A person with a mental disability may not understand the consequences of their actions.
  - b. Children usually around 7-10 do not have the ability to form criminal intent.
  - c. Someone suffering from a psychological disorder might not know what they're doing.
  - d. An elderly person who is senile can fall in this category.
  - e. An officer may put them into protective custody for safety reasons if they're dangerous to themselves, others, or property.
4. What is the difference between a felony and a misdemeanor?
  - a. Felony- a serious crime punishable by more than one year imprisonment
  - b. Misdemeanor- minor crime that carries a maximum confinement of up to one year.
  - c. Different penalties for different states. Example: One state a bike valued at \$250 stolen could be a felony while another state it wouldn't.
5. Define homicide
  - a. The killing of one human being by another.
6. What does a justifiable homicide mean?
  - a. The use of lethal force to prevent serious injury or death to another or to oneself.
    - i. Example: Police officer responds to robbery and sees a man with mask running out of jewelry store shooting his gun inside at people and police officer kills him.
7. To what does an excusable homicide refer?
  - a. Refers to a death which results from an accident or sheer misfortune.
    - i. Example: construction worker fixing a window high up, puts a sign on the ground warning passers and his hammer slips and falls and strikes a pedestrian and killed them.
8. What constitutes murder?

- a. It is committed purposely or knowingly; or it is committed recklessly under circumstances manifesting extreme indifference to the value of human life.
9. What is first-degree murder?
  - a. Murder that involves malice aforethought, deliberation, and premeditation.
10. Define malice aforethought, deliberation, and premeditation
  - a. Malice aforethought- intent to commit a felony or to cause death or serious harm.
  - b. Deliberation- the person has thought over the consequences and has still decided to kill the victim.
  - c. Premeditation- implies that the person planned to carry out the killing.
11. What is included under manslaughter?
  - a. An unlawful murder characterized by a lack of premeditation. Voluntary manslaughter or involuntary. "An intermediate crime which lies half-way between the more serious crime of murder, at the one extreme, and, at the other extreme, justifiable or excusable homicide.
12. What four conditions make up "heat of passion?"
  - a. Provocation must be reasonable.
  - b. Death must take place during the heat of passion.
  - c. There must not be a chance for a "cooling-off period" during the time lapse between the provocation and the killing.
  - d. Suspect must have acted in the heat of passion.
13. Explain the standard "reaction of a reasonable person."
  - a. There must be some act of physical force, such as an assault, a battery, or mutual combat.
14. Contrast voluntary from involuntary manslaughter
  - a. Voluntary: A death occurs during some extraordinary set of circumstances and where the deceased has provoked the offender.
    - i. Aggressor intends to hurt the other party, but is not trying to kill them.
  - b. Involuntary manslaughter- Negligence or recklessness can produce this type of homicide
    - i. Negligence and recklessness: behavior that exposes others unnecessarily to the risk of death or serious bodily injury.
15. What is the felony-murder rule?
  - a. If a person dies during the course of a felony that is dangerous to life (robbery, burglary, sexual battery, arson, kidnapping), the suspect is responsible for that death. **Falls into the first-degree murder category.**
16. Compare simple assault, simple battery, aggravated assault, and aggravated battery
  - a. Assault is when one person threatens another person. Battery is an assault taken out, striking a person against their will.
  - b. Simple assault- Simple assault is a misdemeanor, absence of a deadly weapon. (Slaps someone)

- c. Aggravated assault- Felony, presence of a deadly weapon is there. (Hammer)
  - d. Simple battery- Does not involve a weapon
  - e. Aggravated battery- Uses a weapon or an item as a weapon.
17. What is the difference between rape and sexual battery?
- a. Rape was male could only be offenders, only forced sexual intercourse, punishable by death (capital crime).
18. What are the elements of sexual battery?
- a. Sexual battery is any oral, anal, vaginal penetration, or union by the sexual organ of another or with any object, must be non-consensual. The use of force or the threat of force makes the victim submit.
19. What is spousal immunity?
- a. Common law does not recognize a husband as being capable of raping his own wife.
20. What are the elements of robbery?
- a. Unlawful taking of money or property from a person through force, violence, or fear of harm. Involves a theft directly from a person, coupled with either an assault or a battery.
  - b. Most important part: Victim is present at the time of the taking.**
21. Contrast armed robbery with strong-armed robbery
- a. Armed robbery: Crook uses a firearm or some other weapon to carry out the crime.
  - b. Strong-armed robbery- robber uses physical but does not brandish a weapon.
22. Compare and contrast kidnapping with false imprisonment
- a. Kidnapping- involves the unlawful restriction of a person's ability to move about freely and **relocate to another place.**
  - b. False imprisonment- Suspect forcibly detains the victim against their will, but **does not** relocate the victim to another spot.
23. What is the difference between petty and grand theft?
- a. Petty theft- involves taking property valued at less than some statutorily predetermined amount
  - b. Grand theft- is the taking of property over that set figure.
    - i. Florida the amount is \$300, varies state to state.
24. What is embezzlement?
- a. Fraudulent conversion of someone else's property
25. What other types of behavior does larceny-theft cover?
- a. Passing worthless or bad checks, identity theft, mail fraud, securities violations, confidence games, trickery, forgery (signing someone else's name to a document), uttering (passing a forged instrument).
26. What is the difference between burglary and breaking and entering?
- a. Burglary- involves a trespass along with the intent to commit another crime (usually being theft).
  - b. Breaking and entering- "breaking" implies a forcible entry.
27. What does the term curtilage mean?
- a. The immediate living area surrounding a dwelling.