**Chapter 1 An Introduction to Criminal Law**

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**Key Terms**

**Administrative law:** Rules and regulations made, through proper procedures, by agencies to which power has been delegated by a state legislature or, in the federal system, by the U.S. Congress. Administrative agencies also investigate and decide cases concerning potential violations of their rules.

**Adversary system:** The Anglo-American system for settling disputes in court. It assumes the defendant is innocent until proven guilty. Prosecuting attorneys, representing the state, and defense attorneys, representing the defendant, try to convince a judge or jury of their version of the case.

**Appeal:** A step in a judicial proceeding petitioning a higher court to review a lower court’s decision.

**Appellant:** The party in a lawsuit who appeals the court’s decision to a higher court, arguing that the lower court made a mistake that prejudiced the appellant, who now deserves a reversal of the conviction (or a change in the sentence if that is the issue). The party against whom this appeal is filed is called the Appellee.

**Appellee:** *See* Appellant.

**Beyond a reasonable doubt:** The standard of proof in criminal cases. Often it is not defined by courts but refers to evidence that is fully satisfactory, entirely convincing, and true to a moral certainty.

**Bill of attainder:** An act by the legislature that condemns a person even though a judicial trial has not occurred. A bill of attainder is forbidden by the U.S. Constitution.

**Burden of proof:** In a legal case, the duty of proving a disputed fact. For example, in a criminal case the state has the burden of proving the defendant guilty beyond a reasonable doubt.

**Case law:** The aggregate of reported judicial decisions, which are legally binding court interpretations of written statutes and previous court decisions or rules made by courts in the absence of written statutes or other sources of law.

**Civil law:** In contrast to criminal law, civil law pertains to rules that are concerned with private or civil rights. The wronged person seeks compensation rather than criminal punishment through state prosecution.

**Codified:** Customs, unwritten laws, and rules reduced to written statutes.

**Common law:** In contrast to written law, common law consists of legally binding rules derived from judicial decisions, customs, and traditions. Broadly defined, it refers to the legal system that began in England and was followed in the United States.

**Crime:** An act of omission or intention that violates criminal case or statutory law and is punishable by law.

**Criminal law:** The statutes that define behavior considered to be a threat to the well-being of society. The accused must be prosecuted by the government.

**Cruel and unusual punishment:** Punishment that is prohibited by the Eighth Amendment of the U.S. Constitution. Examples are torture, excessively long sentences, and the death penalty for rape of an adult woman without homicide. State constitutions may also prohibit cruel and (or) unusual punishment.

**Defense attorney:** The attorney for the defendant in a legal proceeding.

**Deterrence:** A punishment philosophy that assumes that behavior may be controlled and criminal behavior prevented by the threat of punishment. General deterrence strives to discourage criminality by other people by intimidating them with the punishment of an offender. Specific deterrence prevents additional crimes by an offender by punishing that offender.

**Discretion:** Decisions based on one’s judgment rather than legal rules. In criminal justice systems discretion can result in inconsistency but also in actions suitable for individual circumstances.

**Dual court system:** System that characterizes the U.S. court systems, consisting of a federal system and fifty state systems, which pass and enforce their own laws, along with municipal systems that make and enforce their own ordinances.

**Due process:** Constitutional principle that a person cannot be deprived of his or her life, liberty, or property without lawful procedures. The courts interpret what due process requires in specific fact patterns.

**Equal protection:** The constitutional principle guaranteeing that U.S. legal systems shall not deny to any person or class of persons the same treatment granted to other persons or classes of persons in the same or similar situations. Of particular significance are the circumstances of race, ethnicity, religion, and gender.

***Ex post facto* law:** A law that provides punishment for an act that was not defined as a crime when the act was committed or that increases the penalty for a crime committed prior to the enactment of the statute.

**Felony:** A serious offense such as murder, armed robbery, or rape. Punishments for felonies range from one year of imprisonment to death.

**Incapacitation:** A punishment theory and a sentencing goal generally implemented by incarcerating offenders to prevent them from committing further crimes. In earlier times, incapacitation involved such measures as removing the hands of thieves or castrating rapists.

**Inquisitorial system:** A system in which the accused is presumed guilty and must prove his or her innocence.

**Judicial review:** The process that occurs when appellate courts review and interpret the acts that occur in the lower courts. Those issues on review may be upheld, altered, reversed, or remanded. In some cases, appellate courts may also review acts that occur within the legislative and executive branches of government.

**Jurisdiction:** The lawful exercise of authority and the geographic area in which authority may be exercised. For instance, city police have legal authority only within the city limits. Courts may only hear cases for which they have jurisdiction (such as civil or criminal cases, misdemeanor or felony cases, probate, drug cases, and so on).

**Jury nullification:** The power of juries to ignore the evidence and acquit, even in the face of strong evidence supporting a conviction.

***Mala in se:*** Acts that are considered by most people to be morally wrong in themselves, such as rape, murder, or robbery.

***Mala prohibit:*** Acts that are wrong because they are prohibited by legislation, although they may not be recognized by most people as morally wrong.

**Mercy killing** A term applied to the act of killing someone, often at that person’s request, because of a terminal illness, considerable pain, or a debilitating handicap.

**Misdemeanor:** A crime that is less serious than a felony and that is punishable by a fine, probation, or short confinement in a jail.

**Mistrial:** A trial declared invalid for one of a number of reasons, such as the inability of a jury to reach a verdict, the death of a juror or counsel, or improper behavior by a juror or others involved in the trial.

**Model Penal Code (MPC):** The American Law Institute’s systemized statement of criminal law proposed in 1962. Its provisions are suggested as models for state criminal law revisions.

**Procedural law:** The body of law that provides the legal methods and procedures by which substantive law is to be enforced.

**Prosecutor or prosecuting attorney:** A government official whose duty is to initiate and maintain criminal proceedings on behalf of the government against persons accused of committing crimes.

**Rehabilitation:** Punishment philosophy that attempts to reform the offender through education, work, or other appropriate treatment modalities.

**Retribution:** The philosophy that offenders should receive the punishment they deserve in light of the crimes they committed.

**Sanction:** A penalty or punishment imposed on a person in order to enforce the law.

***Stare decisis:*** Literally, “let the decision stand.” *Stare decisis* means that although the law must be flexible and change with the times, it must also be stable and predictable, and courts are reluctant to make changes.

**Statutory law:** Law that originates with the legislature in a written enactment.

**Substantive law:** Law that defines crimes and their punishments. *See also* Procedural law (Chapter 10).

**Treason:** An attempt to overthrow the government of which one is a member, or a betrayal of that government to a foreign power. Treason was thought to be such a serious offense that it was included within the U.S. Constitution, the only crime specified in that document. Under English common law the betrayal or killing of the sovereign or king was referred to as high treason. *See also* Petit treason (Chapter 10).

**Chapter Overview**

* Criminal law has come to dominate modern discourse as a result of the horrific attacks by terrorists on 11 September 2001; the sniper scare in the Washington, DC, area in 2002; the shootings at Columbine High School; and other events.
* Law is a method of formal social control, which should be distinguished from informal social control methods.
* Criminal law is distinct from civil law, although it is possible that an event such as an assault can carry both criminal law implications (arrest and jail) and civil law implications (being sued for damages arising from the assault).
* Punishment is the basis of criminal law. There are several theoretical justifications for exacting punishment, some of which expect to elicit a change in behavior, others of which are merely to inflict revenge. Over the course of the evolution of the U.S. justice system, the focus from one justification to another has shifted considerably for political reasons.

* Some criminal acts have always been considered crimes (*mala in se,* or evil in themselves, such as murder), while others are criminal acts only because in our current era things once legal have become illegal (*mala prohibita,* or evil only because the law says so, such as drug possession).
* In the United States, three important documents contain the basic rights and freedoms that are to be extended to all: the Declaration of Independence, the U.S. Constitution, and the Bill of Rights.
* While all three branches of government are important, the emphasis of this text is on the judicial branch, which has the power to try cases and the power of judicial review. The dual court system, made up of state and federal courts, hears criminal trials and appeals.
* The lawful right of a government entity to exercise official authority in a case is called jurisdiction. Jurisdiction may be limited by geographical locations, subject matter, or crime categories. Original jurisdiction, concurrent jurisdiction, and appellate jurisdiction look to what stage a case is at to determine whether a court has the power to hear the case.
* The Model Penal Code has had great impact on states that have revised their criminal statutes during the last forty years.
* The roots of our criminal law can be found in the English common law. Many of our civil and criminal laws are derived from it.
* There are various sources of criminal law. Most criminal law derives from statutes, as opposed to common law, although the latter is employed to interpret the meaning of some statutes.
* Law is derived from four sources: statutes, constitutions, judicial decisions, and administrative regulations.
* The primary distinction in types of law is that between substantive law (elements, rights, and responsibilities of law; for example, the crime of assault) and procedural law (the methods by which substantive law is enforced; for example, processes defining how to conduct a jury trial).
* The discretion available to most actors in the criminal justice system is a major concern in understanding the use and application of the criminal law.

* All criminal offenses are subject to a number of classifications, the meaning of which is usually relevant in understanding the severity of the associated punishment (felony, misdemeanor, crime of moral turpitude, juvenile offense, petty offense, and so forth).

* There are many limitations on the use of the criminal law, including jurisdictional issues and a variety of constitutional barriers.
* Guilt is established in our adversarial system (as opposed to the French inquisitorial system) by the state meeting its burden of proof. It must do so in a manner sufficient to convince the trier of fact (judge or jury) beyond a reasonable doubt, without any serious errors occurring that might cause a mistrial.
* Learning to read and interpret a case is an important skill. Knowing the concept of *stare decisis* and understanding terms such as dicta and holding are key to deciphering cases.

**Learning Objectives**

**After studying this chapter the student will:**

1. Be able to distinguish the law as a formal method of social control from the informal methods of social control.
2. Be able to distinguish criminal law from civil law.
3. Be able to name the theories of punishment and discuss each.
4. Be able to discuss and explain the different court systems in the United States.
5. Know the difference between *mala in se* crimes and *mala prohibita* crimes, and give examples of each.
6. Be able to discuss judicial review and explain its importance.
7. Be able to define jurisdiction, and explain what is meant by original, concurrent, appellate, and subject matter jurisdiction.
8. Be able to discuss the origins of our law, that is, the common law.
9. Know the four sources of law and be able to discuss them.
10. Be able to explain the difference between substantive and procedural law.
11. Be able to explain how criminal offenses are classified.
12. Be able to discuss the jurisdictional and constitutional limitations on criminal law.
13. Be able to explain the difference between the adversarial system and inquisitorial system.
14. Know the definition of *stare decisis,* holding, and dicta.

**Review Questions**

1. What distinguishes the criminal law from civil law?
2. What are the four theories of punishment, and what does each mean?
3. What is meant by dual court systems?
4. What is meant by the term *mala in se*?
5. What is an example of a *mala in se* crime?
6. What is meant by the term *mala in prohibita*? Give an example of such an offense.
7. Define and discuss the importance of judicial review.
8. What is meant by original jurisdiction and appellate jurisdiction?
9. What is meant by subject matter jurisdiction?
10. Discuss the importance of the common law tradition to American law.
11. What are the four sources of criminal law in the United States?
12. Explain the difference between substantive and procedural law.
13. Explain the scheme for classifying criminal offenses.
14. What are the jurisdictional and constitutional limitations on criminal law?
15. Explain the difference between an adversarial judicial system and an inquisitorial system.

**Multiple Choice Questions**

1. Even if there are no procedural problems and the evidence proves beyond a reasonable doubt that the defendant is guilty, the jury may refuse to return a guilty verdict. This process is called:

a. a mistrial

b. an acquittal by the jury

c. jury nullification

d. a pardon by the jury

2. Which of the following is a characteristic a statute must have in order to avoid the void-for-vagueness problem?

a. It must state whether the crime is considered a misdemeanor or a felony

b. It must give fair notice or warning to those subject to the statute

c. It must guard against arbitrary and discriminatory enforcement

d. Both b and c are correct

3. A prosecutor must often decide whether or how to:

a. file charges or petitions for adjudication

b. impose sentences

c. punish for disciplinary infractions

d. do all these

4. The burden of proof required in a criminal case for the prosecution to prove its allegations is:

a. preponderance of the evidence

b. beyond a reasonable doubt

c. clear and convincing evidence

d. probable cause

5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is based upon the assumption that behavior is rational and that criminal behavior can be prevented if people are afraid of the penalties.

a. Rehabilitation

b. Incapacitation

c. Retribution

d. Deterrence

6. Which of the following focuses on treating criminals?

a. retribution

b. rehabilitation

c. deterrence

d. revenge

7. The sharing and division of power between the state and federal courts is called the principal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

a. a dual court system

b. jurisdiction

c. discretion

d. due process

8. The court that has the power to hear the case first is said to have \_\_\_\_\_\_\_\_\_\_\_ jurisdiction.

a. appellate

b. concurrent

c. procedural

d. original

9. Much of our civil and criminal laws are derived from the:

a. English common law

b. Model Penal Code

c. inquisitorial system

d. adversarial system

10. A defendant who has an adverse ruling and appeals the trial court decision to a higher court is known as the:

a. appellee

b. plaintiff

c. appellant

d. defendant

11. Laws that come from the decisions of judges are called \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ law.

a. case

b. statutory

c. common

d. procedural

12. A body of regulations and rules that come from administrative agencies is called \_\_\_\_\_\_\_\_\_\_\_\_\_\_ law.

a. substantive

b. procedural

c. case

d. administrative

13. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has broad discretion in deciding the offense (or offenses) with which to charge the accused.

a. judge

b. defense attorney

c. prosecutor

d. jury

14. An act or behavior that gravely violates moral sentiment or accepted moral standards of the community is a:

a. misdemeanor

b. crime of moral turpitude

c. felony

d. petty offense

15. A law that retroactively alters the definition of crimes or increases the punishment for criminal acts is known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

a. common law

b. ex post facto law

c. criminal law

d. bill of attainder

16. A legislative act that inflicts punishment without a judicial trial is a:

a. bill of attainder

b. *ex post facto* law

c. substantive law

d. procedural law

17. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_ was articulated by the U.S. Supreme Court in its 1965 decision, *Griswold v. Connecticut*.

a. cruel and unusual punishment rule

b. right of privacy rule

c. equal protection rule

d. double jeopardy rule

18. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Amendment to the U.S. Constitution prohibits the imposition of cruel and unusual punishment.

a. Sixth

b. Fifth

c. Eighth

d. Fourth

19. Which of the following refers to other constitutional guarantees before, during, and after a criminal trial?

a. due process

b. equal protection

c. cruel and unusual punishment

d. procedural law

20. The United States subscribes to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ system of law.

a. inquisitorial

b. domestic

c. adversary

d. preventive

**Fill-in-the Blank Questions**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The Anglo-American system for settling disputes in court. It assumes the defendant is innocent until proven guilty.

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A trial declared invalid for a variety of reasons such as the inability of a jury to reach a verdict, the death of a juror or counsel, or improper behavior by a juror or others involved in the trial.

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The party in a lawsuit who appeals the court’s decision to a higher court, arguing that the lower court made a mistake that prejudiced the appellant, who now deserves a reversal of the conviction (or a change in the sentence if that is the issue).

4. When a party in a lawsuit appeals the court’s decision to a higher court, the party against whom this appeal is filed is called the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The standard of proof in criminal cases.

6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ An act by the legislature that condemns a person even though a judicial trial has not occurred. It is forbidden by the U.S. Constitution.

7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ In a legal case, the duty of proving a disputed fact.

8. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The aggregate of reported judicial decisions, which are legally binding court interpretations of written statutes and previous court decisions or rules made by courts in the absence of written statutes or other sources of law.

9. In contrast to criminal law, \_\_\_\_\_\_\_\_\_\_\_\_\_ law pertains to rules that are concerned with private rights. The wronged person seeks compensation rather than criminal punishment through state prosecution.

10. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Reducing customs, unwritten laws, and rules to written statutes.

11. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ An act of omission or intention that violates criminal case or statutory law and is punishable by law.

12. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Law that originates with the legislature in a written enactment.

13. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Law that defines crimes and their punishments.

14. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The attorney for the defendant in a legal proceeding.

15. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A punishment philosophy that assumes that behavior may be controlled and criminal behavior prevented by the threat of punishment.

16. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Rules and regulations made through proper procedures by agencies to which power has been delegated by a state legislature or, in the federal system, by the U.S. Congress.

17. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Historically an act performed by a victim to punish an offender.

18. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Decisions based on one’s judgment rather than legal rules. In criminal justice systems it can result in inconsistency but also in actions suitable for individual circumstances.

19. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A doctrine established by the federal constitution and providing that once a defendant has been tried and acquitted of a crime, he or she may not be tried again for the same crime.

20. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ System that characterizes the U.S. court systems, consisting of a federal system and 50 state systems, which pass and enforce their own laws, along with municipal systems that make and enforce their own ordinances.

21. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Constitutional principle that a person’s life, liberty, or property cannot be deprived without lawful procedures.

22. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The constitutional principle guaranteeing that the U.S. legal system shall not deny to any person or class of persons the same treatment as other persons or classes of persons in the same or similar situations. Of particular significance are the circumstances of race, ethnicity, religion, and gender.

23. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A law that provides punishment for an act that was not defined as a crime when the act was committed or that increases the penalty for a crime committed prior to the enactment of the statute.

24. In contrast to written law, \_\_\_\_\_\_\_\_\_\_\_\_law consists of legally binding rules derived from judicial decisions, customs, and traditions. Broadly defined, it refers to the legal system that began in England and was followed in the United States.

25. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A serious offense such as murder, armed robbery, or rape.

26. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A punishment theory and a sentencing goal, generally implemented by incarcerating offenders to prevent them from committing any other crimes.

27. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A system in which the accused is presumed guilty and must prove his or her innocence.

28. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The lawful exercise of authority, and the geographic area in which authority may be exercised.

29. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The power of juries to ignore the evidence and acquit, even in the face of strong evidence supporting a conviction.

30. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Acts morally wrong in themselves, such as rape, murder, or robbery.

31. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Acts that are wrong because they are prohibited by legislation, although they may not be recognized by most people as morally wrong.

32. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ An attempt to overthrow the government of which one is a member, or a betrayal of that government to a foreign power.

33. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A crime that is less serious, punishable by a fine, probation, or a short confinement in a jail.

34. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A step in a judicial proceeding, petitioning a higher court to review a lower court’s decision.

35. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The American Law Institute’s systemized statement of criminal law that was proposed in 1962. Its provisions are suggested as models for state criminal law revisions.

36. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The body of law that provides the legal methods and procedures by which substantive law is to be enforced.

37. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A government official whose duty is to initiate and maintain criminal proceedings on behalf of the government against persons accused of committing crimes.

38. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Punishment that is prohibited by the Eighth Amendment of the U.S. Constitution.

39. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The philosophy that offenders should receive the punishment they deserve in light of the crimes they committed.

40. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ A penalty or punishment that is imposed on a person in order to enforce the law.

41. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Punishment philosophy that attempts to reform the offender through education, work, or other appropriate treatment modalities.

42. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Literally, “let the decision stand.”

43. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The statutes that define behavior considered to be a threat to the well-being of society. The accused must be prosecuted by the government.

44. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Decisions based on one’s judgment rather than legal rules.

45. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ The process that occurs when appellate courts review and interpret the acts that occur in the lower courts.

**Short Answer Questions**

1. Briefly explain the difference between acts that are defined as *mala in se* and acts that are described as *mala prohibita.*
2. Law is derived from four sources. What are they?

a. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

b. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

c. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

d. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Briefly explain the difference between the inquisitorial system and the adversary system.

4. List three differences between civil law and criminal law.

a. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

b. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

c. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Briefly explain the difference between substantive law and procedural law.

**ANSWER KEY**

**Multiple Choice Questions**

1. c

2. d

3. a

4. b

5. d

6. b

7. a

8. d

9. a

10. c

11. a

12. d

13. c

14. b

15. b

16. a

17. b

18. c

19. a

20. c

**Fill-in-the-Blank Questions**

1. adversary system

2. mistrial

3. appellant

4. appellee

5. beyond a reasonable doubt

6. bill of attainder

7. burden of proof

8. case law

9. civil

10. codified

11. crime

12. statutory law

13. substantive law

14. defense attorney

15. deterrence

16. administrative law

17. retribution

18. discretion

19. double jeopardy

20. dual court system

21. due process

22. equal protection

23. *ex post facto* law

24. common

25. felony

26. incapacitation

27. inquisitorial system

28. jurisdiction

29. jury nullification

30. *mala in se*

31. *mala prohibita*

32. treason

33. misdemeanor

34. appeal

35. model penal code

37. prosecutor

38. cruel and unusual punishment

39. retribution

40. sanction

41. rehabilitation

42. *stare decisis*

43. criminal law

44. discretion

45. judicial review