

QUESTIONS & ANSWERS:  
CRIMINAL PROCEDURE —  
PROSECUTION AND ADJUDICATION



# QUESTIONS & ANSWERS: CRIMINAL PROCEDURE — PROSECUTION AND ADJUDICATION

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## *Multiple Choice and Short Answer Questions and Answers*

*Third Edition*

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**Michael J. Benza** received his Bachelor of Arts (1986) and law degree (1992) from Case Western Reserve University. He also received a Master of Arts degree in Clinical Psychology (1988) from Pepperdine University. He was the 1992 Biskind Fellow from CWRU School of Law and spent a year working for the Legal Resources Centre, a civil and human rights law firm in South Africa. Upon returning to the States, he spent four years in the Capital Defense Unit at the Office of the Ohio Public Defender. He was assistant counsel at the Cleveland Bar Association working with the Certified Grievance Committee as well as other committees. Professor Benza teaches Criminal Law, Criminal Procedure I and II, Death Penalty Issues, the Death Penalty Lab, Federal Prisoner Rights, International Perspectives on the Death Penalty, as well as coaching the International Criminal Court moot court team and he previously coached the Mock Trial team. The Student Bar Association selected Professor Benza as the Professor of the Year in 2007, 2008, 2009, 2010, 2011, 2013, and 2014. In 2009, Professor Benza was elected as an alumni member to the Society of Benchers. Professor Benza continues to represent death row inmates in state courts and federal *habeas* proceedings. He has litigated capital cases in state trial courts, state appellate and post-conviction courts, and federal courts including arguing *Smith v. Spisak*, 558 U.S. 139 (2010), before the Supreme Court of the United States.

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# PREFACE

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This book will assist your learning and exam preparation for the criminal procedure prosecution-adjudication course and for the bar exam. The subject matter of the book extends to all major subjects covered in this course. The book contains both multiple choice questions and answers, and short essay questions and answers.

As the following Table of Contents reflects, the book covers discretion to prosecute, bail, complaint, initial appearance, preliminary hearing, grand jury, indictments and informations, plea bargaining, joinder and severance, motion practice, discovery, time limitations, jurisdiction and venue, the jury trial, double jeopardy, sentencing (including death penalty), and post-conviction remedies.

We suggest that you answer the question before consulting our answer. This approach will aid your learning by alerting you to areas in which you need to improve your understanding.

The “short essays” in this book are likely longer than you will find in other volumes in this series. The reason is that the type of question that will best prepare you for an exam is rarely susceptible to a one-paragraph answer.

We have tried to balance brevity with the need to provide realistic, useful questions. Our practice has been to err on the side of usefulness, resulting in some longer discussions. While the answers to our short essay questions vary in length, none is more than three paragraphs. And, unless otherwise indicated, the question can at times be answered in one paragraph (perhaps as long as 12 sentences). But do not fret if your answer comes in slightly longer or shorter than our answer. As long as the substance is adequate, your answer is just fine. If your answer is longer, you may want to consider whether you could have given a shorter response. On some law school exams, where time is limited, brevity may be a valuable asset.

March 2016

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# TABLE OF CONTENTS

QUESTIONS .....	1
TOPIC 1	ORDER OF PROCEEDINGS (FEDERAL COURT) ..... 3
TOPIC 2	PROSECUTORIAL DISCRETION ..... 5
TOPIC 3	COMPLAINT ..... 7
TOPIC 4	INITIAL APPEARANCE ..... 9
TOPIC 5	CUSTODY AND RELEASE PENDING TRIAL ..... 11
TOPIC 6	PRELIMINARY HEARING (RULE 5.1) ..... 15
TOPIC 7	GRAND JURY ..... 17
TOPIC 8	INDICTMENT ..... 21
TOPIC 9	MOTION PRACTICE ..... 25
TOPIC 10	SUBPOENA ..... 31
TOPIC 11	DISABILITY OF JUDGE (RULE 25) ..... 33
TOPIC 12	PLEAS AND PLEA BARGAINING ..... 35
TOPIC 13	NOTICE RULES ..... 45
TOPIC 14	DISCOVERY ..... 47
TOPIC 15	INFORMANT'S PRIVILEGE ..... 53
TOPIC 16	JURISDICTION AND VENUE ..... 55
TOPIC 17	JOINDER AND SEVERANCE ..... 57
TOPIC 18	JURY TRIAL AND THE JURY ..... 61
TOPIC 19	DEFENDANT'S RIGHT TO ATTEND TRIAL AND RELATED PROCEEDINGS ..... 65
TOPIC 20	RIGHT TO A PUBLIC TRIAL ..... 67
TOPIC 21	RIGHT TO TESTIFY ..... 69
TOPIC 22	RIGHT NOT TO TESTIFY ..... 71
TOPIC 23	BURDEN OF PROOF ..... 73
TOPIC 24	CLOSING ARGUMENT ..... 75
TOPIC 25	JURY INSTRUCTIONS ..... 77
TOPIC 26	JURY VERDICT ..... 79
TOPIC 27	JURY NULLIFICATION ..... 81
TOPIC 28	DEADLOCKED JURY ..... 83
TOPIC 29	SPEEDY TRIAL ..... 85
TOPIC 30	STATUTE OF LIMITATIONS ..... 89
TOPIC 31	DOUBLE JEOPARDY ..... 91
TOPIC 32	DEATH PENALTY ..... 97
TOPIC 33	SENTENCING ..... 99
TOPIC 34	POST-CONVICTION REMEDIES ..... 101
PRACTICE FINAL EXAM: QUESTIONS .....	105
MULTIPLE CHOICE QUESTIONS .....	107
SHORT ESSAY QUESTIONS .....	115
ANSWERS .....	119
TOPIC 1	ORDER OF PROCEEDINGS (FEDERAL COURT) ..... 121
TOPIC 2	PROSECUTORIAL DISCRETION ..... 123
TOPIC 3	COMPLAINT ..... 125
TOPIC 4	INITIAL APPEARANCE ..... 127
TOPIC 5	CUSTODY AND RELEASE PENDING TRIAL ..... 129
TOPIC 6	PRELIMINARY HEARING (RULE 5.1) ..... 133
TOPIC 7	GRAND JURY ..... 135
TOPIC 8	INDICTMENT ..... 137
TOPIC 9	MOTION PRACTICE ..... 139
TOPIC 10	SUBPOENA ..... 143
TOPIC 11	DISABILITY OF JUDGE (RULE 25) ..... 145
TOPIC 12	PLEAS AND PLEA BARGAINING ..... 147

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## TABLE OF CONTENTS

TOPIC 13	NOTICE RULES	155
TOPIC 14	DISCOVERY	157
TOPIC 15	INFORMANT'S PRIVILEGE	161
TOPIC 16	JURISDICTION AND VENUE	163
TOPIC 17	JOINDER AND SEVERANCE	165
TOPIC 18	JURY TRIAL AND THE JURY	169
TOPIC 19	DEFENDANT'S RIGHT TO ATTEND TRIAL AND RELATED PROCEEDINGS	175
TOPIC 20	RIGHT TO A PUBLIC TRIAL	177
TOPIC 21	RIGHT TO TESTIFY	179
TOPIC 22	RIGHT NOT TO TESTIFY	181
TOPIC 23	BURDEN OF PROOF	183
TOPIC 24	CLOSING ARGUMENT	185
TOPIC 25	JURY INSTRUCTIONS	187
TOPIC 26	JURY VERDICT	189
TOPIC 27	JURY NULLIFICATION	191
TOPIC 28	DEADLOCKED JURY	193
TOPIC 29	SPEEDY TRIAL	195
TOPIC 30	STATUTE OF LIMITATIONS	199
TOPIC 31	DOUBLE JEOPARDY	201
TOPIC 32	DEATH PENALTY	207
TOPIC 33	SENTENCING	209
TOPIC 34	POST-CONVICTION REMEDIES	211
	PRACTICE FINAL EXAM: ANSWERS	215
MULTIPLE CHOICE	ANSWERS	217
SHORT ESSAY	ANSWERS	223
	INDEX	225