

Chapter 01: CRIME CONTROL IN A CONSTITUTIONAL DEMOCRACY

CRIME CONTROL IN A CONSTITUTIONAL DEMOCRACY

1. In a constitutional democracy:
 - a. the majority could authorize the police to arrest an individual based on the hunch that he/she committed a crime.
 - b. the majority has total power to determine how much authority the police have.
 - c. neither a single dictator nor an overwhelming majority of people have total power.
 - d. the power of police depends on which party won the most recent election.

ANSWER: c

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

2. In a constitutional democracy, when enforcing the criminal law:
 - a. officials are restricted by the law of criminal procedure.
 - b. officials are restricted by the legislature.
 - c. officials are restricted by popular opinion.
 - d. officials have wide latitude to decide what actions to take.

ANSWER: a

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

3. According to legal experts, the primary generators of the rules to regulate the behavior of police, prosecutors, and others involved in the criminal process rests with the:
 - a. legislature.
 - b. President of the United States.
 - c. trial courts.
 - d. U.S. Supreme Court.

ANSWER: d

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.01 - 01

4. The states are free to _____ operating procedures established by the U.S. Supreme Court that apply to the administration of criminal justice.
 - a. lower or reduce the
 - b. ignore the
 - c. raise the minimum
 - d. raise the maximum

ANSWER: c

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.01 - 01

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5. Striking the balance between community security and individual autonomy:
- is generally a straightforward process.
 - is often difficult and the balance that is struck may not satisfy any individual party completely.
 - usually leads to an emphasis on community security.
 - requires the court to find in favor of the individual.

ANSWER: b

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02
CRPR.SAMA.15.01.03 - 03

6. According to the text, a vast majority of citizens never go further than which of the following legs of the criminal procedure road map?
- Public places
 - Police stations
 - Prosecutor's offices
 - Trial courts

ANSWER: a

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.01 - 01

7. The “means” side of the end-means balance:
- is committed towards fairness in dealing with defendants.
 - is devoted to giving government officials as much power possible.
 - is concerned that too many defendants go free on technicalities.
 - fosters the result side of the criminal justice process.

ANSWER: a

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.04 - 04

8. The procedural history of the case refers to the:
- informal procedural steps the case has taken.
 - indictment phase of the case.
 - formal procedural steps the case has taken.
 - appeals portion of the case.

ANSWER: c

REFERENCES: Criminal Procedure Road Map

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9. A _____ opinion is NOT a type of opinion that can be issued by an appellate court, whether federal or state.
- a. concurring
 - b. majority
 - c. plurality
 - d. judgment

ANSWER: d

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

10. The due process revolution in the 1960s:
- a. emphasized the police power of the state to control individuals who were protesting the government's policies.
 - b. tilted the balance between results and means in criminal justice in favor of the state.
 - c. emphasized the needs of crime victims.
 - d. tilted the balance between results and means in criminal justice in favor of process (means) and individual rights.

ANSWER: d

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.04 - 04

11. The trend today in balancing results and means in criminal justice:
- a. continues to be strongly in favor of individual rights by emphasizing process (means).
 - b. has shifted away from process to results.
 - c. is impossible to determine because the Supreme Court has not made it clear.
 - d. is equally poised between process (means) and results.

ANSWER: b

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.03 - 03

12. The balance between society and individual and between ends and means is tested most seriously:
- a. during wartime.
 - b. during depression.
 - c. during natural disasters.
 - d. during civil rights movements.

ANSWER: a

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

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13. Making decisions according to the law of criminal procedure as outlined in the Constitution, judicial opinions, laws and other written sources is called:
- a. formal decision making.
 - b. informal decision making.
 - c. discretionary decision making.
 - d. playing by the rules.

ANSWER: a

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

14. Judgments made by professionals based on their training and experience and unwritten rules are known as:
- a. formal decision making.
 - b. discretionary decision making.
 - c. applying the written rules in a flexible manner.
 - d. official discretion.

ANSWER: b

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

15. Hunches are never sufficient to guide decisions made by agents of crime control. This principle can be described as:
- a. good evidence.
 - b. using the best methods.
 - c. the objective basis requirement.
 - d. discretionary decisions.

ANSWER: c

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

16. The graduated objective basis requirement holds that the greater the limits the government places on an individual's autonomy, the:
- a. more discretion the government agent must exercise.
 - b. less discretion the government agent must exercise.
 - c. more facts must back up the government's actions.
 - d. more facts must be close to proving guilt beyond a reasonable doubt.

ANSWER: c

REFERENCES: Empirical Evidence

LEARNING OBJECTIVES: CRPR.SAMA.15.01.06 - 06

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17. The citation of a case includes what information?

- a. The court reporting the case.
- b. The date the case is decided and the court reporting the case.
- c. The date the case is decided, the decision the court reached, the court reporting the case, and the court that the case is appealed from.
- d. The decision the court reached, the court reporting the case, and the court that the case is appealed from.

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

18. A brief description of the steps and judgments made by each court that has heard a case is called the:

- a. courts' judgments.
- b. courts' decisions.
- c. courts' opinions.
- d. procedural history of the case.

ANSWER: d

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

19. How a court disposes of a case is called the:

- a. court's judgment.
- b. court's opinion.
- c. majority opinion.
- d. case holding.

ANSWER: a

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

20. Courts explain the rationale for the case decision in the:

- a. judgment.
- b. opinion.
- c. decision.
- d. facts.

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

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21. The court's holding is:
- also called a judgment.
 - found in the case's procedural history.
 - the legal rule the court applied to the facts of the case.
 - the also called the majority opinion.

ANSWER: c

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

22. If an appellate court case has a majority of the justices agreeing with the result in the case, but they cannot agree on the reasons for the result, the _____ opinion is the opinion with the reasoning agreed to by the largest number of justices.
- dissenting
 - plurality
 - majority
 - concurring

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

23. If a justice agrees with the decision reached in another opinion but writes a separate opinion explaining her own reasons for reaching that decision, she has written a _____ opinion.
- dissenting
 - plurality
 - concurring
 - reasoning

ANSWER: c

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

24. The doctrine of *stare decisis* binds judges to follow the prior decisions of:
- their own court and courts superior to them in their jurisdiction.
 - any court in the same state of equal power.
 - any court in the United States.
 - only the U.S. Supreme Court.

ANSWER: a

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

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25. When a court refers to past cases to back up its reasons and decisions in the case currently before it, the prior decisions are called:
- a. procedural history.
 - b. court opinions.
 - c. precedent.
 - d. majority judgments.

ANSWER: c

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

26. Jurisdiction refers to a court's authority to hear and decide a case:
- a. in a specific geographical area and on a particular subject matter.
 - b. in a specific geographical area.
 - c. on a particular subject matter.
 - d. remanded by an appellate court and in a specific geographical area.

ANSWER: a

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

27. When courts decide cases based on legal precedent, their decisions increase society's sense of:
- a. discretion.
 - b. stability, predictability and fairness.
 - c. stability.
 - d. predictability.

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

28. When a court decides that a prior court decision does not apply to a current case because the facts of the previous case are different, the court is said to:
- a. dispute the holding of the previous decision.
 - b. overturn legal precedent.
 - c. distinguish the previous case.
 - d. reverse the previous case.

ANSWER: c

REFERENCES: The Text-Case Method

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29. The party who is being appealed against is known as the:

- a. appellant.
- b. petitioner.
- c. plaintiff.
- d. appellee.

ANSWER: d

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

30. A petition for a writ of *habeas corpus* is:

- a. a continuation of the original criminal case.
- b. an appeals criminal case.
- c. a civil case that reviews the constitutionality of a petitioner's detention.
- d. another form of appeal.

ANSWER: c

REFERENCES: Empirical Evidence

LEARNING OBJECTIVES: CRPR.SAMA.15.01.06 - 06

31. If a defendant seeks to throw out evidence obtained by law enforcement officers during a search and seizure, and interrogation, or an identification procedure, this motion is hearing in a motion called a(n) _____ hearing.

- a. pretrial
- b. appellate
- c. suppression
- d. habeas corpus

ANSWER: c

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

32. The U.S. Supreme Court decides to review a case on a *writ of certiorari* based on:

- a. the “rule of four.”
- b. a majority vote.
- c. a unanimous vote.
- d. the decision of the Chief Justice.

ANSWER: a

REFERENCES: The Text-Case Method

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33. In *habeas corpus* actions the:
- a. petitioner names the state as a party.
 - b. title of the case has names of individual parties and not the state or government.
 - c. court is a party to the petition.
 - d. government sues an incarcerated or detained prisoner.

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

34. In a criminal case, when the appellate court sends a case back to the court from which it came for further action, the disposition is referred to as:
- a. affirmed.
 - b. remanded.
 - c. reversed.
 - d. nullified.

ANSWER: b

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

35. An appellate court _____ a trial court's judgment when it sets it aside.
- a. reverses
 - b. affirms
 - c. remands
 - d. questions

ANSWER: a

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

36. Crime control in a constitutional democracy depends on the balance between searching for the correct result in criminal cases and the commitment to use fair procedures in pursuing criminals.
- a. True
 - b. False

ANSWER: True

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

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37. A case citation is composed of a string of letters and numbers.

- a. True
- b. False

ANSWER: True

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

38. A *habeas corpus* proceeding is not a separate proceeding from a defendant's criminal case.

- a. True
- b. False

ANSWER: False

REFERENCES: Empirical Evidence

LEARNING OBJECTIVES: CRPR.SAMA.15.01.06 - 06

39. A majority of U.S. Supreme Court justices have to vote to review a case before it can be heard.

- a. True
- b. False

ANSWER: False

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

40. According to the interest in fact-finding and the search for truth, the greater the deprivation the decision imposes, the greater the factual foundation required to support it.

- a. True
- b. False

ANSWER: True

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

41. How an appellate court disposes of a case is called its opinion.

- a. True
- b. False

ANSWER: False

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

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42. The balance between result and process never rests at a point that satisfies everyone.

- a. True
- b. False

ANSWER: True

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.03 - 03

43. The greater the limits the government places on an individual's autonomy, the more facts must back up the government's actions.

- a. True
- b. False

ANSWER: True

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.06 - 06

44. The criminal process is a blend of the formal law of criminal procedure and the informal influences that enter the process by way of discretion.

- a. True
- b. False

ANSWER: True

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

45. The objective basis is also referred to as the quantum of proof.

- a. True
- b. False

ANSWER: True

REFERENCES: Empirical Evidence

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

46. The party appealing a lower court ruling or decision to a higher court is called the appellee.

- a. True
- b. False

ANSWER: False

REFERENCES: The Text-Case Method

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47. One of the rules of procedure by which the U.S. Supreme Court operates is the “rule of four.” According to this rule, the Court issues a written decision in a case only if four or more justices think a written opinion is desirable.

- a. True
- b. False

ANSWER: False

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

48. Discretion and formal law making are antagonistic to each other in balancing the interests in criminal procedure.

- a. True
- b. False

ANSWER: False

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

49. The due process revolution increased the power of the police in America.

- a. True
- b. False

ANSWER: False

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.01 - 01

50. When a court distinguishes a case, it decides that precedent does not apply to the current case because the facts of are different.

- a. True
- b. False

ANSWER: True

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

51. Under the Constitution, public officials are required to have enough facts to back up every invasion of privacy, liberty, and property of individuals. This is known as a(n) _____.

ANSWER: objective basis

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

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52. The process of informal decision making by professionals based on their training and experience, rather than written rules, is called _____.

ANSWER: discretionary decision making

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

53. The citation of a case appears after the _____ of the case.

ANSWER: title

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

54. An opinion that agrees with the result of another opinion is a(n) _____ opinion.

ANSWER: concurring

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

55. The doctrine that requires that once courts have decided cases, those prior decisions bind later courts to follow them is _____.

ANSWER: *stare decisis*

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.12.08 - 08

56. Motions to throw out evidence obtained by the government during searches and seizures, interrogation, and identification procedures are heard at a(n) _____.

ANSWER: suppression hearing

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

57. A _____ is a defendant in a noncriminal case.

ANSWER: petitioner

REFERENCES: Criminal Procedure Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

58. The power of a court to hear case in a particular subject or geographical area is its _____.

ANSWER: jurisdiction

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

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59. Evidence that helps prove defendants are guilty is sometimes called _____.

ANSWER: “good” evidence

REFERENCES: Empirical Evidence

LEARNING OBJECTIVES: CRPR.SAMA.15.01.06 - 06

60. The _____ court opinion is considered the law.

ANSWER: majority

REFERENCES: The Text-Case Method

LEARNING OBJECTIVES: CRPR.SAMA.15.01.07 - 07

61. Identify and describe the balance of values at the heart of our constitutional democracy and explain how and why that balance is flexible.

ANSWER: In a constitutional democracy, two values make life in a free society worth living. First, there is community security, which focuses on making people as a community safe. This is balanced against the value of individual autonomy, where a person alone controls his/her life. However, that individual control does not allow a person to commit crimes that would violate the community’s safety or the rights of other individuals.

The balance between crime control and individual rights is a flexible one. It shifts depending upon the circumstances. Rather than being a fixed point on a spectrum between total control and total freedom, the right balance falls within a zone. This zone is a choice between order and liberty. During certain times individual liberty may be sacrificed for increased order, while at other times the opposite may occur.

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.02 - 02

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62. Who are the various actors and their roles in the "criminal justice road map?"

ANSWER:

Criminal procedure is a journey, and hardly anyone ever goes further than the first leg (public places). The stages/steps in this journey are: (1) public places; (2) police stations; (3) prosecutors' offices; (4) trial courts; and (5) appeals.

In public places, police officers investigate suspicious behaviors. Officers may arrest some individuals and take them to the second leg of the criminal justice road map. At the police station, individuals are detained, identified, interrogated, and investigated. If the police believe arrested suspects should be charged, they are referred to the prosecutor. While arrested suspects wait in jail or they are free on bail, the action moves to the prosecutors' office. Evidence is reviewed and prosecutors decide whether to charge suspects or divert them to other social services. If a suspect is charged, the case continues to the next destination, the courthouse. At court, the charges are read against the suspect and their constitutional rights are explained. A plea is given, bail may be granted, and a lawyer may be appointed. 5-10 out of 100 defendants have a public trial. After conviction, sentencing occurs. In the final step of the criminal justice road map, appeal, a court reviews the trial court decision.

REFERENCES:

Criminal Justice Road Map

LEARNING OBJECTIVES: CRPR.SAMA.15.01.01 - 01

63. Describe the history of criminal procedure, and explain why it is described as a pendulum swing.

ANSWER:

The history of criminal procedure is described as a pendulum swing between the extremes of trying to balance the conflicting interests of society and those of the individual. No system has found a perfect balance between the power of the government to enforce its interest in crime control and the rights of the individuals in fair procedures to control crime. During different times in Western Civilization, the balance has swung towards one extreme or another.

In the 1960s, an increase in police power spawned a reaction called the due process revolution. This revolution tilted the balance of power towards process in individual rights in the criminal justice system. Since the early 1970s, the pendulum has swung back towards the ends-result part of the balance. Presidential candidates promised to appoint judges who were tough on crime.

REFERENCES:

Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.03 - 03

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64. Describe the difference between formal and informal criminal procedure, and explain why both are essential to crime control in our constitutional democracy.

ANSWER:

Formal criminal procedure focuses on decision making according to written rules spelled out in constitutions, laws, judicial opinions and other sources. Discretionary decision making involves judgments by professionals based on unwritten rules, their training, and their experience.

Justice, fairness, and predictability require the certainty and protection against abuse provided by written rules. These same goals also require discretion to soften the rigidity of written rules. This discretion must exist because it's impossible for those people who promulgate the written rules to predict all the ramifications of the rules they enact. Enforcing written rules to the "letter" could in some circumstances lead to unfair results.

REFERENCES: Crime Control in U.S. Constitutional Democracy

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05

65. Explain why "hunches aren't enough" in criminal procedure.

ANSWER:

Although crime control professionals have discretion, they are not free to do whatever they please. According to the objective basis requirement, the government cannot intrude on the lives of individuals whenever it wishes. The government has to back up with facts every officially triggered restraint on the rights of individuals to be left alone by the government. Mere hunches are not enough. Likewise, the greater the governmental intrusion, the more objective factual basis is required to back it up.

REFERENCES: Discretion

LEARNING OBJECTIVES: CRPR.SAMA.15.01.05 - 05