

MODULE PAPER BASED ON TOPIC “TRIAL: MAIN CONCEPTS”

1. Answer properly to the following questions.

1. Paul, a law enforcement officer, arrests Barney for creating a disturbance at a subway station. While Barney is handcuffed face down on the ground, Paul shoots and kills him. Paul claims that he accidentally grabbed his gun instead of his Taser. Is this an issue of criminal law or criminal procedure?

2. Compare civil and criminal law.

3. *Two Different Trials—Two Different Results*

O. J. Simpson was prosecuted criminally and sued civilly for the murder and wrongful death of victims Ron Goldman and his ex-wife, Nicole Brown Chapter 1 12 Simpson. In the criminal prosecution, which came first, the US Constitution provided O. J. Simpson with the right to a fair trial (due process) and the right to remain silent (privilege against self-incrimination). Thus the burden of proof was beyond a reasonable doubt, and O. J. Simpson did not have to testify. O. J. Simpson was acquitted, or found not guilty, in the criminal trial. 8 In the subsequent civil lawsuit, the burden of proof was preponderance of evidence, which is 51–49 percent, and O. J. Simpson was forced to testify. O. J. Simpson was found liable in the civil lawsuit. The jury awarded \$8.5 million in compensatory damages to Fred Goldman (Ron Goldman’s father) and his ex-wife Sharon Rufo. A few days later, the jury awarded punitive damages of \$25 million to be shared between Nicole Brown Simpson’s children and Fred Goldman.

3. 1. Do you think it is ethical to give criminal defendants more legal protection than civil defendants? Why or why not?

3. 2. Why do you think the criminal trial of O. J. Simpson took place before the civil trial? Check your answers to both questions using the answer key at the end of the chapter.

4. *Jerry, a law enforcement officer, pulls Juanita over for speeding. When Jerry begins writing Juanita’s traffic ticket, she starts to berate him and accuse him of racial profiling. Jerry surreptitiously reaches into his pocket and activates a tape recorder. Juanita later calls the highway patrol where Jerry works and files a false complaint against Jerry. Jerry sues Juanita for \$500 in small claims court for filing the false report. He uses the tape recording as evidence.*

Is this a civil litigation matter or a criminal prosecution? Support your answer with appropriate judgements.

5. Harrison kills Calista and is prosecuted and sentenced to one year in jail. Did Harrison commit a felony or a misdemeanor?

6. Compare the punishment options for felonies, misdemeanors, felony-misdemeanors, and infractions.

7. Compare jail and prison

2. Translate the following passage into Ukrainian.

Crimes can be classified in many ways. Crimes also can be grouped by subject matter. For example, a crime like assault, battery, or rape tends to injure another person’s body, so it can be classified as a “crime against the person.” If a crime tends to injure a person by depriving him or her of property or by damaging property, it can be classified as a “crime against property.” These classifications are basically for convenience and are not imperative to the study of criminal law. More important and substantive is the classification of crimes according to the severity of punishment. This is called grading. Crimes are generally graded into four categories: felonies, misdemeanors, felony- misdemeanors, and infractions. Often the criminal intent element affects a crime’s grading. Malum in se crimes, murder, for example, are evil in their nature and are generally graded higher than malum prohibitum crimes, which are regulatory, like a failure to pay income taxes.

3. Translate the following passage into English.

Стаття 58 Конституції України в ч. 1 вказує, що закони та інші нормативно-правові акти не мають зворотної дії у часі, крім випадків, коли вони пом’якшують або скасовують відповідальність особи, а в ч. 2 наголошує, що ніхто не може відповідати за діяння, які на час їх вчинення не визнавалися законом як правопорушення. Ці конституційні положення знаходять закріплення і розвиток у ч. 2 ст. 4 та ст. 5 КК. У ч. 1 ст. 61 Конституції України зазначається, що ніхто не може бути двічі притягнений до юридичної відповідальності одного виду за одне й те саме правопорушення. Це знайшло відбиття у ч. 3 ст. 2 КК. У ч. 1 ст. 62 Конституції України передбачається, що особа вважається невинуватою у вчиненні злочину і не може бути піддана кримінальному покаранню, доки її вину не буде доведено в законному порядку і встановлено обвинувальним вироком суду.

4. Examples of Victimless and Harmless Crimes.

Steven is angry because his friend Bob broke his skateboard. Steven gets his gun, which has a silencer on it, and puts it in the glove compartment of his car. He then begins driving to Bob’s house. While Steven is driving, he exceeds the speed limit on three different occasions. Steven arrives at Bob’s house and then he hides in the bushes by the mailbox and waits. After an hour, Bob opens the front door and walks to the mailbox. Bob gets his mail, turns around, and begins walking back to the house. Steven shoots at Bob three different times but misses, and the bullets end up landing in the dirt. Bob does not notice the shots because of the silencer.

What 5 types of crimes were committed by Steven?