

107年警察人員升官等考試試題

等 級：警正

類 科：各類科

科 目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

考試時間：1 小時

座號：_____

※注意：(一)本試題為單一選擇題，請選出一個正確或最適當的答案，複選作答者，該題不予計分。

(二)本科目共 50 題，每題 2 分，須用 2B 鉛筆 在試卡上依題號清楚劃記，於本試題上作答者，不予計分。

(三)禁止使用電子計算器。

- 1 依司法院釋字第 499 號解釋，下列何者非屬憲法中具有本質重要性而為規範秩序賴以存立基礎之基本原則或規定？
(A)民主共和國原則 (B)第二章保障人民權利之規定
(C)五權分治，平等相維之體制 (D)國民主權原則
- 2 依憲法及司法院大法官解釋，下列何種事項，應先經立法院事前同意或決議後，始得為之？
(A)停止預算之執行 (B)宣布戒嚴 (C)發布緊急命令 (D)任命審計長
- 3 根據司法院大法官解釋意旨，下列有關商業性言論之敘述，何者正確？
(A)廣告以獲取經濟利益為目的，不受言論自由之保障
(B)商品標示旨在提供事實資訊，不受言論自由之保障
(C)化妝品廣告受憲法保障之程度，並不低於政治性言論
(D)藥物廣告事關高度公共利益，不受言論自由之保障
- 4 關於憲法保障財產權之敘述，下列何者錯誤？
(A)財產權之保障主體，不以自然人為限
(B)公務人員退休金請求權屬憲法財產權之保障範圍
(C)土地徵收補償費之發放雖有所延宕，但仍不違反憲法保障人民財產權之精神
(D)大眾捷運系統路線軌道穿越人民土地之下方，形成特別犧牲者，土地所有權人請求主管機關辦理徵收地上權
- 5 依司法院大法官解釋意旨，下列何者不屬於公務人員得主張憲法服公職權之保障內涵？
(A)身分之存續 (B)特定職位之選擇 (C)依法晉敘及陞遷 (D)俸給及退休金之請領
- 6 依司法院大法官解釋意旨，關於人民服兵役之義務，下列敘述何者錯誤？
(A)有關人民服兵役、應召集之事項及其違背義務之制裁手段，應以法律定之
(B)課予後備軍人居住處所遷移之申報義務，涉及其居住遷徙自由之限制
(C)依法僅男子有服兵役之義務，係鑑於男女生理差異及因此所生不同之社會生活功能角色，並未牴觸平等原則
(D)人民無法基於其個人宗教信仰而免除服兵役之義務，並未違反人性尊嚴或動搖憲法價值體系之基礎
- 7 依憲法增修條文規定，關於立法院對行政院之不信任案，下列敘述何者正確？
(A)行政院之施政有明顯違憲時，立法院始得對之提出不信任案
(B)立法院應以記名投票表決不信任案
(C)不信任案如通過，行政院院長應即辭職，由行政院副院長繼任
(D)立法院進行不信任案投票前，行政院院長得呈請總統解散立法院
- 8 關於人身自由保障之規定，下列敘述何者錯誤？
(A)關於限制人身自由應遵守之法定程序，屬憲法保留之事項
(B)行政執行法之管收處分，亦該當憲法第 8 條所稱之拘禁
(C)僅適用於我國國民
(D)行政執行分署之執行員亦屬於憲法第 8 條所稱警察機關之警察
- 9 憲法第 7 條所揭示之平等原則，依司法院釋字第 485 號解釋之意旨，下列敘述何者正確？
(A)平等原則係指絕對、機械之平等
(B)立法機關不得斟酌規範事物性質之差異而為差別待遇
(C)立法者基於社會政策考量，非不得制定法律，將福利資源為限定性之分配
(D)平等原則保障人民在法律上地位之形式平等
- 10 憲法第 13 條保障人民信仰宗教自由，下列敘述何者錯誤？
(A)宗教自由保障人民信仰與不信仰任何宗教
(B)宗教自由保障人民參與或不參與任何宗教活動
(C)國家不得對特定宗教獎勵
(D)國家強制人民服兵役，乃屬妨礙宗教自由，當然違憲
- 11 依憲法及增修條文規定，總統應先經行政院院會之決議，始得行使下列何種職權？
(A)行使大赦權 (B)解散立法院 (C)決定國家安全大政方針 (D)任命內政部部长

- 12 下列關於總統、副總統罷免程序之敘述，何者錯誤？
(A)總統、副總統之罷免，應聯名同案罷免，不得分別罷免
(B)總統、副總統之罷免案，應經立法院之提議、提出程序
(C)總統、副總統之罷免公告及投票，由中央選舉委員會辦理
(D)總統、副總統罷免案通過後，總統、副總統自罷免投票結果公告之日起，解除職務
- 13 依行政院組織法之規定，下列何者係行政院所屬機關？
(A)國史館 (B)銓敘部 (C)海洋委員會 (D)中央研究院
- 14 依司法院釋字第 392 號解釋，下列敘述何者正確？
(A)廣義法院係指組織法意義上之法院 (B)廣義法院與法官同義
(C)廣義法院指從事審判權而具司法獨立之內涵者 (D)廣義法院係指訴訟法意義上之法院
- 15 司法院釋字第 572 號解釋認為，法官如確信其審理之原因案件所擬適用之系爭法律違憲，顯然於該案件之裁判結果有影響，得聲請解釋憲法。此之「於該案件之裁判結果有影響」係指下列何者？
(A)管轄問題 (B)先決問題 (C)合法性問題 (D)目的性問題
- 16 下列何者非屬法律解釋之方法？
(A)擴張解釋 (B)實質解釋 (C)限縮解釋 (D)反面解釋
- 17 下列關於法律規範之敘述，何者正確？
(A)支配人類思想、活動與無理性之自然界定律 (B)係關於人類生活之規範
(C)凡屬於善惡判斷之規範，即為法律 (D)審美規範亦屬法律規範
- 18 依著作權法規定，下列關於製版權之敘述，何者錯誤？
(A)係針對無著作財產權或著作財產權消滅之文字著述或美術著作
(B)採登記主義
(C)保護期間係自製版完成起 20 年
(D)製版人就其版面，專有以影印、印刷或類似方式重製之權利
- 19 有關家庭暴力防治法中，對於犯家庭暴力罪或違反保護令罪而受緩刑之宣告，下列何者錯誤？
(A)犯家庭暴力罪或違反保護令罪而受緩刑之宣告者，在緩刑期內應付保護管束
(B)法院為緩刑宣告時，應即通知加害人及其住居所在地之警察機關
(C)法院為犯家庭暴力罪或違反保護令罪加害人緩刑宣告時，可以命被告於付緩刑保護管束期間內，完成加害人處遇計畫
(D)法院命被告完成加害人處遇計畫前，得準用第 14 條第 3 項之規定
- 20 租賃物為房屋，無押租金之給付下，其租金約定於每期開始時支付，則出租人在下列何種情況下，得終止租賃契約？
(A)承租人支付租金有遲延時
(B)承租人遲付租金之總額，達 2 個月租額時
(C)承租人遲付租金之總額，達 2 個月租額，且遲延給付逾 2 個月時
(D)承租人遲付租金之總額，達 2 個月租額，且遲延給付逾 2 個月，經出租人定期催告，承租人仍不為支付時
- 21 下列法律概念或法律思想，何者並非從西方法制繼受而來？
(A)契約自由 (B)卑親屬故意傷害尊親屬加重刑罰
(C)所有權神聖 (D)個人主義
- 22 中央法規標準法第 6 條規定「應以法律規定之事項，不得以命令定之」，係關於下列何種基本原則之規定？
(A)法律優位原則 (B)法律保留原則 (C)法律明確性原則 (D)法律授權明確性原則
- 23 有關法律優位原則之敘述，下列何者錯誤？
(A)法律優位原則要求一切行政活動必須有法律之明文依據
(B)法律優位原則要求不違背法律之規定
(C)法律優位原則要求行政應受一般法律原則之拘束
(D)法律優位原則要求行政應受法律之拘束
- 24 關於依法行政原則之敘述，下列何者錯誤？
(A)法治國原則之內容 (B)支配行政權行使之原則
(C)又可細分為法律優位原則與法律保留原則 (D)共和國原則之具體化
- 25 主管機關查獲業者違法排放廢水，除處以罰鍰外，並命其限期改善。主管機關於期限屆滿前，針對同一污染行為再次處以罰鍰，後罰鍰處分違反下列何種原則？
(A)比例原則 (B)誠實信用原則 (C)信賴保護原則 (D)不當聯結禁止原則

- 26 甲、乙、丙、丁、戊共有 A 地，其應有部分為均等。下列敘述何者符合民法關於共有物處分及管理之規定？
 (A) 丁得單獨處分其應有部分
 (B) A 地的管理，應以全體共有人的同意行之
 (C) A 地的處分，得以應有部分合計逾三分之二的共有人之同意行之
 (D) A 地的處分，得以共有人過半數及其應有部分合計過半數之同意行之
- 27 國人甲在日本殺害具有中華民國國籍之女留學生，下列關於依外國裁判服刑之效力敘述，何者正確？
 (A) 甲於日本服刑完畢，基於雙重處罰禁止，回臺不必服刑
 (B) 回臺仍要重新審理，刑期不能抵免
 (C) 我國係採折衷說，原則上仍得依中華民國刑法論處，但在外國已受刑之全部或一部執行者，得免其刑之全部或一部之執行
 (D) 法無明文，屬於法官裁量範圍
- 28 有關共同正犯之敘述，下列何者正確？
 (A) 我國實務界承認過失共同正犯
 (B) 我國實務界承認相續共同正犯
 (C) 我國實務界不承認共謀共同正犯
 (D) 我國實務界承認教唆犯之共同正犯
- 29 依勞動基準法第 23 條之規定，對於工資清冊，雇主應保存期間為多久？
 (A) 應保存 2 年
 (B) 應保存 3 年
 (C) 應保存 5 年
 (D) 應保存 6 年
- 30 法院於訴訟或調解程序中如認為有家庭暴力之情事時，下列何者不得進行和解或調解？
 (A) 其他行和解或調解之人，認為能使被害人免受加害人脅迫之程序
 (B) 加害人及其家屬或關係人有高度之和解或調解之動機與誠意
 (C) 准許被害人選定輔助人參與和解或調解
 (D) 行和解或調解之人曾受家庭暴力防治之訓練，並以確保被害人安全之方式，進行和解或調解
- 31 Sometimes _____ comments or looks exchanged between two guest groups at night clubs or KTVs eventually lead to a brutal fight between them.
 (A) public
 (B) hilarious
 (C) justifiable
 (D) provocative
- 32 Hundreds of acres of forests in California alone are _____ due to the wild fires in summer.
 (A) cautioned
 (B) approached
 (C) retaliated
 (D) ravaged
- 33 Jane said at the job interview that with her excellent background in information science, she had what it takes to _____ to the company.
 (A) contribute
 (B) declare
 (C) register
 (D) translate
- 34 Among the ten competitors for the singing _____, one of them failed to show up because of a traffic jam.
 (A) contact
 (B) context
 (C) content
 (D) contest
- 35 In my family, all members clean the house together during the weekend. My duty is to sweep the floor and my younger brother's _____ is to empty the dishwasher.
 (A) assistant
 (B) chore
 (C) legacy
 (D) track

請依下文回答第 36 題至第 40 題：

Different cultures have traditionally held differing superstitious beliefs, beliefs that are deemed "irrational." Such beliefs go back to ancient cultures such as the Greeks and Romans, 36 believed that natural occurrences were a result of actions of the gods. Such fear of the gods was what the Romans meant by superstition.

In Western cultures, some superstitions actually caused more bad luck such as the belief in England that cats were witches and that they were the cause of the Plague. 37 killing off the cats, the English caused the rat population to flourish, and, thus increase disease. But cats have been part of superstitious beliefs for ages. The black cat crossing one's path 38 bad luck, for example. Cats are also supposed to suck the breath away from babies, killing them.

Many superstitious beliefs are connected to religion. For instance, if one holds out a cross or wears one, the person can ward off evil. Certain talismans worn or hung in houses were to have warded off evil. Saint Gregory I the Great ordered that people say "God Bless You" when someone sneezed 39 ward off disease.

One of the oddest superstitions seems that of wishing someone to "break a leg" when one actually wishes him/her well. It all started a long while back when someone said, "Good luck" and some actor broke a leg. So now people say pretty much the 40 to ward off bad luck. At least this one makes sense when one knows its origin.

- 36 (A) who (B) while (C) whose (D) where
 37 (A) At (B) By (C) Of (D) For
 38 (A) denotes (B) ignores (C) disproves (D) withholds
 39 (A) by means of (B) in honor of (C) in order to (D) in place of
 40 (A) indirect (B) blessing (C) approval (D) opposite

請依下文回答第 41 題至第 45 題：

An endangered animal or plant is a species that is considered in immediate danger of becoming extinct. Its population is very small and it needs active 41 to survive. Extinction has occurred throughout history, but increased dramatically in recent times due to the growth of the human population. The species extinction rate is now one species per day, which will lead to a dramatic decrease in the 42 of life on earth.

Many marine mammal scientists are now becoming concerned with the drop in numbers of dolphins. River dolphins that live in Asia and the Amazon are 43 due to dam building and habitat destruction. Another concern is the number of dolphins dying in the tuna fisheries of the eastern tropical Pacific. Historically, yellow-fin tuna has been caught by encircling the dolphins that swim above the tuna with purse seine nets. Over 100,000 dolphins per year died in the 1970s and early 1980s after being caught in tuna nets, and several species of dolphins in the eastern tropical Pacific are now considered 44 under the Marine Mammal Protection Act. Efforts of environmental organizations and consumers led to "dolphin-safe" labeling of canned tuna, and a 98% reduction in dolphin 45 since 1990. However, recent changes in US and international laws have reopened this complex issue, and the outcome is in doubt. Fortunately, the major companies have all promised to sell only tuna that is caught without encircling dolphins.

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|----|------------------|-----------------|----------------|----------------|
| 41 | (A) possession | (B) precision | (C) protection | (D) projection |
| 42 | (A) adversity | (B) diversity | (C) necessity | (D) intensity |
| 43 | (A) disappearing | (B) discharging | (C) glowing | (D) growing |
| 44 | (A) overspilt | (B) overflowed | (C) disputed | (D) depleted |
| 45 | (A) mortality | (B) morality | (C) mobility | (D) minimality |

請依下文回答第 46 題至第 50 題：

We all probably know someone who is intelligent, but does surprisingly stupid things. What does it mean to be *smart* or *intelligent*? Our everyday use of the term is meant to describe someone who is knowledgeable and makes wise decisions, but this definition is at odds with how intelligence is traditionally measured. The most widely known measure of intelligence is the *intelligence quotient*, more commonly known as the IQ test, which includes visuospatial puzzles, math problems, pattern recognition, vocabulary questions, and visual searches.

The advantages of being intelligent are undeniable. Intelligent people are more likely to get better grades and go farther in school. They are more likely to be successful at work. And they are less likely to get into trouble (e.g., commit crimes) as adolescents. Given all the advantages of intelligence, though, you may be surprised to learn that it does not predict other life outcomes, such as well-being. You might imagine that doing well in school or at work might lead to greater life satisfaction, but several large scale studies have failed to find evidence that IQ impacts life satisfaction or longevity. Grossman and his colleagues argue that most intelligence tests fail to capture real-world decision-making and our ability to interact well with others. This is, in other words, perhaps why "smart" people, do "dumb" things.

The ability to think critically, on the other hand, has been associated with wellness and longevity. Though often confused with intelligence, critical thinking is not intelligence. Critical thinking is a collection of cognitive skills that allow us to think rationally in a goal-orientated fashion, and a disposition to use those skills when appropriate. Critical thinkers are amiable skeptics. They are flexible thinkers who require evidence to support their beliefs and recognize fallacious attempts to persuade them. Critical thinking means overcoming all sorts of cognitive biases.

- 46 According to the passage, which of the following statements is true about IQ ?
- (A) The traditional IQ test does not accurately measure the degree to which a person can make wise decisions.
 (B) The traditional IQ test includes verbal and mathematical questions but not visual processing tasks.
 (C) The acronym IQ stands for *Intelligent Quotient*; it measures a person's critical thinking.
 (D) A person with a high IQ score is more likely to have a satisfactory life.
- 47 Which of the following is NOT an advantage of being intelligent ?
- (A) Being successful at work. (B) Bringing a gun to school.
 (C) Obtaining a doctoral degree. (D) Getting good grades in school.
- 48 What is the main purpose of the last paragraph ?
- (A) Defining the meaning of critical thinking.
 (B) Explaining why critical thinking is more important than intelligence.
 (C) Giving examples of critical thinking.
 (D) Presenting research findings on the impacts of critical thinking.
- 49 Which of the following is a characteristic of critical thinkers ?
- (A) They are smart but they do dumb things sometimes.
 (B) They tend to be picky on everything and are less satisfied in life.
 (C) They are able to discern invalid reasoning.
 (D) They do not know when to apply their cognitive skills.
- 50 Which of the following best serves as the title of the passage ?
- (A) Smart People Take Advantages of Life.
 (B) Large Scale Studies at Odds with the IQ Test.
 (C) Intelligence Is Not the Same as Critical Thinking.
 (D) Social Abilities Are More Important Than Cognitive Skills.