CRIMINAL PROCEDURE
COURSE NO. 4173
SYLLABUS*
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  (See pp. 2 – 5 for a list of all cases on the Web)

** To the Web page: Academics, Current Students, Courses & Exams, Course Materials, Professor Bailey’s Course Materials

(IF claiming a disability, please see page 30 of this Syllabus)
I. FIRST ASSIGNMENT
READ: Every line of infra pages 2 – 11 of this Syllabus.

What is a “search”?

(a) BOYD v. UNITED STATES – Prof. Bailey will lecture - (on the Web)
(b) OLMSTEAD v. UNITED STATES - (on the Web)
(c) KATZ v. U.S. – page 349 cb
(d) U.S. v. WHITE - page 368 cb
(e) OLIVER v. U.S. - (on the Web)
(f) FOOTNOTES FROM OLIVER - (on the Web)
(g) HESTER v. UNITED STATES - (on the Web)
(h) U.S. v. DUNN - (on the Web)
(i) CALIFORNIA v. CIRAOLO - (on the Web)
(j) FLORIDA v. RILEY - (on the Web and page 361 cb)
(k) CALIFORNIA v. GREENWOOD - (on the Web and page 374 cb)
(l) SMITH v. MARYLAND - page 378 cb Note #1
(m) KYLLO v. UNITED STATES - (on the Web and page 387 cb)
(n) UNITED STATES v. KARO - page 379 cb
(o) DOW CHEMICAL v. U.S. - (on the Web)
(p) UNITED STATES v. BOND - (on the Web)
(q) ILLINOIS v. CABALLES - (on the Web)

FIRST CLASS
Be prepared to discuss the cases assigned above. Also, you will be asked to apply the principles, reasoning and language from those cases to (a) a Film Clip and (b) in class hypotheticals.
II. TEXTBOOK, SUPPLEMENTARY READING LIST, AND SYLLABUS

_Criminal Procedure (Investigation and Right to Counsel)_
by: Allen, Hoffman, Livingston and Stuntz 2ND Ed. - [REQUIRED]

_Cases on the Web!! [REQUIRED]_

_Syllabus: By Professor Carlton Bailey [REQUIRED]_
Please collect the Syllabus from Ms. Briggs in Room 183B.

_Supplementary Reading List:_
LaFave and Israel, _Criminal Procedure_ (West) [NOT REQUIRED]
Saltzburg, _American Criminal Procedure_ (West) [NOT REQUIRED]
(Your selection! Whatever works for you!)

III. A GUIDE TO CASE ANALYSIS

After reading each case in the casebook, the following questions should be answered:

1. What are the facts of the case? (Include the procedural facts). What was the court’s holding?

2. What rule(s) may be extracted from the appellate court’s holding? What are the exceptions to that rule?

3. How did the rule develop and why did it develop? What are the vital policy considerations behind the court’s ruling? (What policies are frustrated by the rule?)

4. Are there conflicting policy considerations?

5. Is the rule to be limited to the facts of this case or do the underlying policy considerations permit use or expansion of the rule to other fact situations?

6. Is the rule sound (practical)?
IV. GRADE AND CLASSROOM ATTENDANCE POLICIES*

A. **FINAL GRADE COMPONENTS – A TOTAL OF 500 POINTS**

The final grade in the course will be based on:

1. Final Examination ............................................. 300 Points
   a) Long Fact Pattern ......................................... 175 Points
   b) Multiple Choice ........................................... 125 Points
2. Answer to True/False Query*** ............................. 75 Points
3. Film Clips, Writing Assignments, Responding (or failing to respond) to questions during class ...... 125 Points
4. Ambassadors .................................................... ?
5. Volunteers ....................................................... ?
   Attendance/classroom participation (or lack thereof)
   See E attendance policy, pp. 6-8 of syllabus ............... ?
6. Exceeding the number of times allowed to write
   "I am unprepared today"
   TOTAL ............................................. 500 Points

B. **CLASSROOM PARTICIPATION POLICY**

(Film Clip on first day of class = IV.A.3. 15 points!)

Students are expected to be fully prepared for each class. A student who is unprepared faces the possibility of a grade reduction. Failing to respond when called on is an example of being unprepared. A student may be excused from Classroom Participation by signing the “not prepared today” sheet before class begins. A limit of two (2) Excuses!

C. ***TRUE / FALSE QUERY***

In Arizona v. Gant, The United States Supreme Court has created an opportunity for the police to conduct a Carroll/Ross search of a citizen’s car pursuant to a search – incident to an arrest.

True ________ or False ________

Then support your selection with an explanation that does not exceed 150 words. Please submit your response to office #183-B, no later than noon, Wednesday October 2, 2013. Remember, your response should not exceed 150 words.

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D. PROFESSOR’S EXPECTATIONS FOR CLASSROOM DISCUSSION

Students may contribute to class discussions and earn classroom participation points by:

1. Providing a statement of essential facts;

2. Identifying issue(s) to be decided by the court;

3. Identifying the test(s), precedent(s), or rule(s) the court used to resolve the issues or the ones the court should have used;

4. Explaining whether that test / precedent / rule was followed specifically, modified slightly, modified a lot – [Is it the same rule?];

5. Identifying any other basic (Black letter law) principles or any other insights gleaned from the opinion;

6. Answering the Professor’s invitation to cogitate on this . . . ;

7. Posing a question to your Professor in the “I still don’t get it” file (available each day in the class);

8. Reading an excerpt from an assigned case and then interpreting the meaning of that passage.

E. PROFESSOR’S RESPONSES TO ANSWERS GIVEN IN CLASS:

1. “KUDOS” – Can’t get much better. (Very insightful – potential to teach own class!);

2. “EXCELLENT” – Accurate, a tad insightful

3. “GOOD OR ABSOLUTELY” – Accurate, a tad insightful;

4. “OK” – Satisfactory;

5. “YOU DON’T MEAN THAT?” – Less than satisfactory;

6. “UNPREPARED OR FAILING TO ANSWER” – See V.B. p. 4.
F. ATTENDANCE POLICY

Students are expected to attend classes regularly. Excessive absenteeism will result in grade reduction. After a **fourth (4\textsuperscript{th})** absence, the Professor may subject the student to a single grade reduction. More than **five (5)** absences may result in a **full letter reduction**. Students who are absent **seven (7)** or more times will receive a **failing grade**. **Excuses** must be submitted to **Ms. Briggs**; Professor Bailey's assistant in **Room 183B no later than 48 hours** after the missed class. **Excuses** are accepted **only** after the **fourth (4\textsuperscript{th})** absence and then only in the Professor's discretion. **[Excuses will not be evaluated until after the final examination.]**
PROFESSOR BAILEY'S GENERAL INFORMATION

Students are encouraged to visit Professor Bailey at any time during the semester to discuss their classroom performances, film clips, or any other aspect of the course. You may also e-mail queries to Professor Bailey. (Try to keep them short!)

OFFICE HOURS: 9:00 – Noon on Wednesday or Friday or whenever you find the Professor in his office #315

OFFICE PHONE: 479-575-4715

E-MAIL ID: cbailey@uark.edu

BEFORE / AFTER CLASS: Students may submit Questions / Comments / Suggestions (See the Query Form on the Web)

“I STILL DON’T GET (??): File folder will be available at Professor Bailey’s assistant desk in room 183B and a folder will be available at each class session.
CRIMINAL PROCEDURE

VII. EXEMPLARY QUERIES OF A CRIMINAL PROCEDURE EXAMINATION

(These queries are based on the newspaper article concerning Cassandra Small, See infra pp. 16 of Syllabus)

PART I – MULTIPLE CHOICE

Brock has asked the court to exclude any references to the Wal-Mart employee’s out-of-court identification and Scooter’s identification or the dog’s apparent reaction to him during the lineup. In determining whether to sustain Brock’s objection and motion to exclude these out-of-court identifications, Judge Storey must consider:

(a) Whether Brock was formally charged;

(b) The effect of both the dog and the Wal-Mart employee making simultaneous identifications;

(c) Whether either had previously identified Brock; or

(d) The nature and gravity of the criminal offense.

Of these four (4) considerations, the ones most applicable under present law include:

(1) (a) and (d) only

(2) (d) only

(3) (a) and (c) only

(4) None of the alternatives as presented in 1 – 3 above.

PART II – SHORT ANSWER QUERY

What case or cases best inform Judge Storey about whether he should permit the Wal-Mart employee to make an in-court identification? Explain.
1788 - (In the Beginning)

Criminal Defendant

THE ORIGINAL CONSTITUTION

(1) The power of Congress to punish counterfeiting securities (government bonds), current coins, piracies and felonies committed on the high seas, and offenses against the United States (Art. I, Sec. 8, 9);

(2) the preservation of the writ of habeas corpus (Art. I, Sec. 9);

(3) the prohibition against bills of attainder (conviction without trial) and ex post facto laws (making criminal acts retroactive) (Art. I, Sec. 9—repeated in Art. I, Sec. 10 against state powers);

(4) providing for trial by jury and venue (Art. 3, Sec. 2—later strengthened by the 6th Amendment);

(5) the power of Congress to punish treason and the evidentiary requirements (Art. 3, Sec. 3);

(6) the requirement that citizens of each state be afforded all the privileges and immunities by the other states (Art. 4, Sec. 2); and

(7) the extradition provision (Art. 4, Sec. 2).

1789 - (James Madison Bill of Rights)

BILL OF RIGHTS

Contained within the 462-word Bill of Rights are approximately 25 constitutional guarantees; of these, 12 rights directly apply to the criminal process. For your convenience, a list of these guarantees appears below:

(1) no unreasonable searches and seizures (4th Amendment);

(2) grand jury indictments required for capital and infamous (felony) crimes (5th Amendment);

(3) the prohibition against double jeopardy (5th Amendment);

(4) the privilege against self-incrimination (5th Amendment);

(5) the right to a speedy trial (6th Amendment);

(6) the right to a public trial (6th Amendment);

(7) the right to a jury trial (6th Amendment);

(8) the right to confront prosecution witnesses (6th Amendment);

(9) the right to present defense witnesses (6th Amendment);

(10) the right to counsel (6th Amendment);

(11) no excessive bail or fines (8th Amendment);

(12) no cruel or unusual punishments (8th Amendment).

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"... nor shall private property be taken for public use, without just compensation."

The 39th Congress adopted the 14th Amendment in 1866. Section 1 of that Amendment contains three (3) important clauses, chiefly composed by Representative John A. Bingham of Ohio:

"No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States [the privileges and immunity clause]; nor shall any State deprive any person of life, liberty, or property without due process of law [the due process clause]; nor deny to any person within its jurisdiction the equal protection of the laws [the equal protection clause]."
CRIMINAL PROCEDURE

THE SLAUGHTERHOUSE CASES, 16 Wallace 36 (1873)

[Privileges and Immunity Clause]

HURTADO v. CALIFORNIA, 110 U.S. 516 (1884)

5th Amendment requirement of grand jury indictments.
PALKO v. CONNECTICUT, 302 U.S. 319 (1937)

5th Amendment double jeopardy — "... nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb;"

"Implicit in a concept of ordered liberty"

(1) "To abolish [certain rights] is not to violate a 'principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental'." (Text)

(2) "Is that kind of double jeopardy to which the [Conn.] statute has subjected [Palko] a hardship so acute and shocking that our polity will not endure it?" (Text)

(3) "Does [this kind of double jeopardy] violate those 'fundamental' principles of liberty and justice which he at the base of all our civil and political institutions?" (Text)
READING LIST

FOURTH AMENDMENT

The circumstances surrounding the adoption of the Fourth Amendment indicate the nuances in the language used cannot readily be construed as clear evidence of the framer's intent. It appears that the House never consciously agreed to the present form of the Amendment. As proposed by the Committee of eleven, the provision read:

"That right - - - to be secured in their persons, papers, houses, and effects shall not be violated by warrants issuing - - -"

That was corrected to read:

"That right - - - to be secure - - - against unreasonable searches and seizures not be violated by warrants issuing."

At that point, Mr. Benson objected to the words, "by warrants issuing" as not being sufficient. His proposal that they be altered to read: "and no warrant shall issue" lost by a considerable majority. However, Benson, as Chairman of the Committee appointed to arrange the Amendments, reported his version (the rejected version) of the Amendment. His alteration was never noticed and was subsequently agreed to by the Senate and ratified by the states in that form.

FOURTH AMENDMENT

A. What is a "Search"?

1. Boyd v. United States . . . (Prof. Bailey Lectures) . . . (on the web)
2. Olmstead v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
3. Katz v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . p. 361 cb
4. United States v. White . . . . . . . . . . . . . . . . . . . . . . . . . . . . . p. 379 cb
5. Oliver v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
6. (Footnotes from Oliver) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
7. United States v. Dunn . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
8. Hester v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
9. California v. Ciraolo . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
10. Florida v. Riley . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web & p. 372 cb)
11. California v. Greenwood . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web & p. 385 cb)
12. Smith v. Maryland . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . p. 389 cb Note #1
13. Dow Chemical Co. v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web)
14. Kyllo v. United States . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (on the web & p. 398 cb)
15. United States v. Karo . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . p. 391 cb

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17. Florida v. Jardines ............................................................... (on the web)
18. United States v. Bond .......................................................... (on the web)

B. Probable Cause

21. Draper v. United States ......................................................... (on the web)
22. Aguilar v. Texas ................................................................. (on the web)
23. Spinelli v. United States ....................................................... p. 434 cb & (on the web)
25. Ornelas v. United States ....................................................... (on the web)
26. Maryland v. Pringle ............................................................ (on the web)
27. Massachusetts v. Upton ....................................................... (on the web)
28. Wilson v. Arkansas ............................................................. (on the web)
29. United States v. Banks ......................................................... (on the web)
31. Wilson v. Layne ................................................................. (on the web)
32. United States v. Grubbs ....................................................... (on the web)

C. The Exclusionary Rule –
(What happens if the Fourth Amendment is violated?)

33. General Considerations ...................................................... pp. 337-40 cb
34. Wong Sun v. United States ................................................... p. 685 cb
35. Weeks v. United States ....................................................... (on the web)
36. Wolf v. Colorado ............................................................... (on the web)
37. Mapp v. Ohio ................................................................. p. 340 cb
38. United States v. Leon ........................................................ p. 658 cb
39. Herring v. United States ..................................................... p. 669 of cb
40. Franks v. Delaware .......................................................... (on the web)
41. Hill v. California .............................................................. (on the web)
42. Florence v. Board of Chosen Freeholders ........................... (on the web)

D. Exceptions to the Warrant Requirement – (“Exigent Circumstances”)

43. Maryland Penitentiary v. Hayden ............................. (background facts on the web)
44. Kentucky v. King ................................................................. (on the web)
45. Mincey v. Arizona .......................................................... p. 449 cb & (on the web)
46. Brigham City v. Stuart ....................................................... p. 460 cb
47. Michigan v. Fisher ............................................................ (on the web)
49. Vale v. Louisiana ......................................................... (on the web)
50. Notes on Exigent Circumstances ......................... p. 449 cb Note #3
51. Secura v. United States .............................................. (on the web)
52. Welsh v. Wisconsin ............................................... p. 455 cb
53. Illinois v. McArthur .................................................. (on the web)

E. Exigent Circumstances and the Automobile

54. Carroll v. United States ............................................ (on the web)
55. Chambers v. Maroney ................................................ (on the web)
56. Cardwell v. Lewis .................................................. (on the web)
57. California v. Carney ................................................ (on the web)
58. Wyoming v. Houghton ............................................. p. 488 cb

F. Containers

59. United States v. Chadwick ....................................... (on the web)
60. Arkansas v. Sanders ................................................ (on the web)
61. United States v. Ross .............................................. (on the web)
63. United States v. Johns .............................................. (on the web)

G. Police Discretion and Profiling

64. Text – “Pre-textual” Search Whren v. United States ........................................ p. 597 cb & 
                ......................................................... (on the web)
65. Chicago v. Morales ................................................ (on the web)
66. State v. Sullivan (I) .............................................. (on the web)
67. Explanation of Sullivan I and Sullivan II ...................... (on the web)

H. “Plainview” Exception

68. Horton v. California ................................................ p. 471 cb
69. Arizona v. Hicks .................................................. p. 466 cb & (on the web)
70. United States v. Jacobsen ......................................... (on the web)

I. Public Arrest and Arrest in Suspect’s Own or 3rd Party’s Home –

72. Atwater v. Lago Vista et al .................................. p. 503 cb & (on the web)
73. Virginia v. Moore ................................................ (on the web)
74. Gerstein v. Pugh ................................................... (on the web)
75. County of Riverside v. McLaughlin ......................... p. 500 cb & (on the web)
77. Corely v. United States ....................... (on the web)
78. United States v. Santana . ......................... (on the web)
79. Steagald v. United States ....................... (on the web)
80. Washington v. Chrisman ....................................... (on the web)

J. Standing ......................................................... pp. 697-98 cb
81. Minnesota v. Olson ..................................... (on the web)
82. Minnesota v. Carter ................................... p. 675 cb
83. Rakas v. Illinois ........................................ (on the web)
84. Simmons v. United States ....................... (on the web)
85. Rawlings v. Kentucky .................................... (on the web)

K. Search Incident to Arrest
86. Chimel v. California ...................... p. 516 cb & (on the web)
87. Maryland v. Buie ....................................... (on the web)
88. United States v. Robinson ............ p. 521 cb & (on the web)
89. Knowles v. Iowa ........................................ (on the web)
90. Gustafson v. Florida ................................. (on the web)
93. Arizona v. Gant ........................................... p. 526 cb

L. Consent Searches
95. Schneckloth v. Bustamonte .................. p. 641 cb
96. Ohio v. Robinette ...................................... (on the web)
97. Florida v. Jimeno ......................................... (on the web)
98. United States v. Matlock .............. (facts of case on the web)
100. Illinois v. Rodriguez ..................... (facts of case on the web)
101. Ornelas v. United States .................. (on the web)

M. “Reasonableness” – Less than Probable Cause to “Stop”
102. Camara v. Municipal Court .................. (on the web)
103. Terry v. Ohio ........................................... p. 539cb
104. Hiibel v. Sixth Judicial District Court of Nev., Humboldt City – ................................. (on the web)
105. Illinois v. Wardlow ................................... (on the web)
106. Adams v. Williams .......................... (on the web)
107. Florida v. JL .................................. p. 578 cb
108. Pennsylvania v. Mimms ....................... (facts of case on the web)
110. Michigan v. Long .............................. (facts of case on the web)
111. Minnesota v. Dickerson ...................... (facts of case on the web)
113. Dunaway v. New York ....................... (on the web)
114. Hayes v. Florida ............................. (on the web)

N. Test for “Articulable Suspicion”

115. United States v. Cortez ........................ (on the web)
116. Alabama v. White ............................ (facts of case on the web)

O. Profiles, Consensual or “Terry” Stops (“Seizure”)

117. United States v. Mendenhall .................. (on the web)
118. United States v. Place ........................ (on the web)
119. Illinois v. Caballes ............................ (on the web)
120. INS v. Delgado ................................ (facts of case on the web)

P. “Seizure” of Person – “Chase” Context

121. Brower v. County of Inyo ...................... (on the web)
122. Michigan v. Chesternut ...................... (on the web)
123. Florida v. Bostick ............................. (on the web)
124. United States v. Drayton ..................... p. 405 cb & (on the web)
125. California v. Hodari D ....................... p. 413 cb & (on the web)
126. Brendlin v. California ....................... (on the web)
128. Scott v. Harris ............................... (on the web)
129. Graham v. Connor ............................ p. 637 cb

Q. Search and Seizure of Persons – Special Conditions

130. Ybarra v. Illinois ............................. (on the web)
131. Michigan v. Summers ......................... (on the web)
132. Bailey v. United States ...................... (on the web)
134. Safford v. Redding ........................... (on the web)
136. Ferguson v. Charleston ..................... p. 616 cb

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137. Text cb (Other “Special Needs” Cases) .............. pp. 614-616 cb

R. Inventory Searches

141. Cady v. Dombrowski ........................................ (on the web)
142. South Dakota v. Opperman ................................ (on the web)
143. Illinois v. Lafayette .......................................... (on the web)
144. Colorado v. Bertine .......................................... (on the web)
145. Florida v. Wells .............................................. (on the web)
146. Welch v. State ................................................ (on the web)

S. Road Blocks

147. Suspicionless Stops .......................................... p. 598 cb
148. Delaware v. Prouse .......................................... (facts of case on the web)
149. Michigan v. Sitz ............................................. (facts of case on the web)
150. City of Indianapolis v. Edmond .......................... p. 599 cb
151. Illinois v. Lidster ............................................ p. 608 cb

T. Fruit of Poisonous Tree

152. Wong Sun v. United States .............................. p. 685 cb

Miscellaneous Cases & Acts

Foreign Intelligence Surveillance Act
Protect America Act
42 U.S.C. § 1983
Bivens v. Six Unknown

{ on the web
CRIMINAL PROCEDURE

UNITED STATES CONSTITUTION

FIFTH AMENDMENT

No person shall be held to answer for a capital, or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

II.  FIFTH AMENDMENT

A.  Scope of the Fifth Amendment

2.  Counselman v. Hitchcock .............................. p. 714 cb
5.  Schmerber v. California ......................... p. 305 cb & (on the web)

B.  Police Interrogation –

When Does the Fifth Apply? (The Sixth Amendment Option)

12. Massiah v. United States .............................. p. 767 cb
13. Fellers v. United States .............................(on the web)

C.  Massiah in “Custody” or in Jail

15. United States v. Henry ............................ (on the web)
16. Maine v. Moulton ..................................... p. 893 cb
D. The Rule and the Familiar Warnings

20. Chavez v. Martinez ................................................. (on the web)
22. Duckworth v. Eagan ............................................... p. 812 cb
23. Florida v. Powell .................................................. p. 812 cb & (on the web)

E. What is “Interrogation”?

24. Rhode Island v. Innis .............................................. p. 799 cb

F. What is Custody?

27. Orozoco v. Texas .................................................. p. 795 cb & (on the web)
29. Minnesota v. Murphy ............................................. p. 799 cb & (on the web)
30. Howes v. Fields .................................................... (on the web)

G. Invoking Miranda’s Second Level (Silence or Counsel)

32. Edwards v. Arizona .............................................. p. 816 cb
33. Maryland v. Shatzer .............................................. (on the web)
34. Minnick v. Mississippi .......................................... p. 870 cb
35. Fare v. Michael C. ................................................. p. 870 cb & (facts of case on the web)
37. Oregon v. Bradshaw .............................................. p. 822 cb & (on the web)
38. Wyrick v. Fields ................................................... p. 823 cb & (on the web)
39. Davis v. United States .......................................... p. 819 cb
40. Berghuis v. Thompkins .......................................... p. 841 cb & (on the web)
41. Michigan v. Jackson ............................................... p. 893 cb
42. Montecito v. Louisiana .......................................... p. 894 cb & (on the web)
43. Patterson v. Illinois .............................................. (on the web)
44. McNeil v. Wisconsin ............................................. p. 893 cb & (facts of case on the web)
45. Texas v. Cobb ...................................................... p. 893 cb & (facts of case on the web)
H. Waiving Miranda Rights

47. Moran v. Burbine p. 829 cb

I. Waiving Massiah Rights

49. Brewer v. Williams p. 882 cb

J. Inevitable Discovery

50. Nix v. Williams (on the web)
51. Murray v. United States p. 694 cb

K. “Public Safety” Exception to Miranda

52. New York v. Quarles p. 860 cb & (facts of case on the web)
53. United States v. Patane p. 876 cb & (on the web)

L. Fruit of the Poisonous Tree and Miranda


M. Admissibility of a Confession While a Citizen is Under Arrest or is “In Detention”

55. 18 USCS Fed. R. Crim. (on the web)
56. 18 USCS § 3501 (on the web)
57. Gerstein v. Pugh (on the web)
58. County of Riverside v. McLaughlin (on the web)
59. Corley v. United States (on the web)

N. “Free Will” and Waiver of Miranda Rights

60. Colorado v. Connelly p. 792 cb & (on the web)

O. “Harmless” Constitutional Error

61. Arizona v. Fulminante p. 810 cb & (on the web)
P. Impeachment With a product of a Miranda Violation

62. Walder v. United States ................. p. 708 cb & (on the web)
64. Doyle v. Ohio .............................. p. 867 cb Note #7
65. Jenkins v. Anderson ...................... p. 867 cb Note #7

Q. Miranda Revisited

67. Dickerson v. United States .............. p. 878 cb & (on the web)
CRIMINAL PROCEDURE

READING LIST

SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

III. SIXTH AMENDMENT

A. The Right to the Assistance of Counsel – Guilt Determining / Sentencing Revocation Proceedings

1. Powell v. Alabama .................................................. (on the web)
2. Betts v. Brady .................................................. (on the web)
3. Gideon v. Wainwright .............................................. p. 135 cb
4. United States v. Gonzales-Lopez ................................. (on the web)
5. Argenesinger v. Hamlin .............................................. p. 142 cb
7. Baldasar v. Illinois .................................................. p. 146 cb Note #7
9. Nichols v. United States ........................................... p. 147 cb Note #7
10. Coleman v. Ala. .................................................... p. 159 cb
11. Mempa v. Rhay ...................................................... p. 172 cb
12. Hamilton v. Ala. .................................................... p. 159 cb

B. Right to Counsel on Appeal – Appeal of Right

15. Griffin v. Illinois ................................................... p. 184 cb
17. Ross v. Moffitt (Discretionary Appeal) ........................ p. 184 cb
C. Right to Counsel – Where the Penalty is Only a Fine

18. Mayer v. City of Chicago ........................................ p. 197 cb

D. Indigent Defendant's Right to An Expert

19. Ake v. Oklahoma ................................................. p. 199 cb

E. Effective Assistance of Counsel

22. Wiggins v. Smith .................................................... (on the web)
23. Crawford v. Washington ......................................... (on the web)

F. Multiple Representation


G. Pro Se Representation

27. McKaskle v. Wiggins ............................................. p. 267 cb
29. Anders v. California ............................................. p. 269 cb
30. McCoy v. Court of Appeals of Wisconsin ....................... p. 267 cb
31. Pennsylvania v. Finley ......................................... p. 197 cb
32. Penson v. Ohio ..................................................... p. 269 cb
33. Smith v. Robbins ................................................ p. 269 cb

H. The Right to Counsel at Lineups, Showups, and Photographic Arrays

34. Critical Stage Proceedings ....................................... pp. 160-66 cb
35. Stovall v. Denno ................................................. p. 160 cb & (facts of the case on the web)
38. United States v. Ash ............................................. p. 163 cb & (facts of the case on the web)

I. The Due Process Approach – Revisited

43. Manson v. Brathwaite ........................................ p. 165 cb & (facts of the case on the web)
IV. ENTRAPMENT

A. Scope of the Rule – General Analysis ...................... pp. 921-23 cb

1. Jacobson v. United States ................................. p. 923 cb
Students with Disabilities

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