CRIMINAL PROCEDURE
COURSE NO. 4173

SYLLABUS
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** To the web page: first, home page for the University of Arkansas Law School; second, Young Library link; third, Reserve Materials link; fourth, Electronic Reserve Materials; fifth, Bailey’s Criminal Procedure.
The 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:

"The 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.
A. What is a "Search?"

# U.S. v. White, p. 368 or p. 379 2nd Edition
# Protecting Arkansas Citizens from Unreasonable Searches and Seizures


§. 15. Unreasonable searches and seizures.

The right of the people of this State to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.
I. **FIRST ASSIGNMENT** (See page #8, infra, identifying the required reading materials)
READ: Cases I(a)-(k) below
READ: Every line of infra pages 6-12 of this Syllabus.
WRITE: Special written assignment on page 8 of the Syllabus.

What is a “search”?

(a) **KATZ v. U.S.** — P. 349 cb (1st Ed.) or P. 361 (2nd Ed.)
(b) **U.S. v. WHITE** — P. 368 cb (1st Ed.) or P. 379 (2nd Ed.)
(c) **OLIVER v. U.S.** — (on the Web)
(d) **FOOTNOTES FROM OLIVER** — (on the Web)
(e) **HESTER v. UNITED STATES** — (on the Web)
(f) **U.S. v. DUNN** — (on the Web)
(g) **CALIFORNIA v. CIRAOLO** — (on the Web)
(h) **FLORIDA v. RILEY** — (on the Web and p. 361 cb (1st Ed.)) or P. 372 cb (2nd Ed.)
(i) **CALIFORNIA v. GREENWOOD** — (on the Web and p. 374 cb) or P. 385 cb (2nd Ed.)
(j) **SMITH V. MARYLAND** — P. 378 cb Note #1 (1st Ed.) or P. 389 (2nd Ed.)
(k) **KYLLO v. UNITED STATES** — (on the Web and p. 387 cb (1st Ed.)) or P. 398 cb (2nd Ed.)
(l) **UNITED STATES v. KARO** — P. 379 cb (1st Ed.) or P. 391 cb (2nd Ed.)
(m) **UNITED STATES v. JONES** - (on the Web) and P. 41 2012 Supplement
(n) **DOW CHEMICAL v. U.S.** — (on the Web)
(o) **UNITED STATES v. BOND** — (on the Web)
(p) **ILLINOIS v. CABALLES** - (on the Web)
Hypothetical

Police Chief Marck Jackson (hereafter “Chief Jackson”) of the Fayetteberg Police Department found the following anonymous letter under his office door around 7:30 A.M. on March 8, 2013:

“I am an employee at Wal-Market Super Center on 12th Street in Fayetteberg. You should know that several people on the Wal-Market management staff at this store are selling powdered cocaine to kids at Fayetteberg High School and Romney Jr. High. Two kids at Romney Jr. High died from overdosing on this toxic dope. The street name of this cocaine is “Triple H.”

“By the way, some of these Wal-Market managers are quite well-known in the community. Two of them are named “Bob.” You know them well! They brag on how they’ve made so much money selling drugs and how they hide it through their regular jobs. They sell the cocaine from the employee restrooms at the 12th Street store. They usually sell it as “8 balls” - at $250 per “8 ball.” They also use the employee lockers (sometimes to sell from) to store the drugs. The drugs are sometimes stored in their cars.”

Chief Jackson conducted a search of police files to determine if any students from Romney Jr. High had recently died of toxic drugs. After a two-hour search, he found records of three (3) recent deaths by toxic drugs. Two (2) of these deaths were seventh graders at Canal Jr. High. The other death was an eighth grader at Romney Jr. High. He also had several tips from reliable informants that “Bob” Sample sold drugs in the neighborhood.

After this search, Chief Jackson called the Wal-Market Home Office in Collierville. Chief Jackson identified himself and asked the appropriate personnel to locate the full name and address of the manager, “Jim Bob,” at the 12th Street Super Center. After a 90 minute search, the Home Office confirmed that there were two (2) employee-managers at that store named, “Bob.” “Jim Bob” Sample was not only in his seventh year as a manager, but he was also a popular country-western singer in the Ozarks; and James Robert (“Bob”) Powell was a two-year veteran and a popular thespian in a local theater troupe. “Bob” Powell, however, was on duty at a Wal-Market in China. So, Chief Jackson dispatched six (6) officers to “Bob” Sample’s home at 2342 Dayton Place.

Chief Jackson’s team of six (6) officers was led by Officer Frank Pendleton. Officer Pendleton was a ten (10) year veteran. When Pendleton and his team arrived at 2342 Dayton Place, they discovered a bright red Aston Martin db9 automobile parked in the
driveway. The vanity plates on the Aston Martin read "Bob #1". Officer Pendleton's quick computer search with the Department of Motor Vehicles revealed that the car was registered to "James Robert Sample" of 2342 Dayton Place, Fayetteberg." Immediately after Officer Pendleton confirmed that "Bob" Sample was the registered owner of the db9, a man emerged from the house at 2342 Dayton Place. The man walked briskly toward the parked db9. Officer Pendleton and his fellow officers noted on their surveillance records that the man fit the description of "Bob" Sample. "Bob" Sample entered the car, drove out of the driveway and then north toward town. Officer Pendleton and his team of five officers followed "Bob" at a discreet distance.

Six blocks later, "Bob" drove his red car to the public parking lot of the Wal-Market Store on 12th Street. When "Bob" left the car and entered the Wal-Market Store Officer Pendleton placed an undetectable laser "print" on the car. This invisible laser "print" allowed him to follow the car with a remote control unmanned drone aircraft (about the size of a small kite) that housed a Guardian 811 (Global Positional System ("GPS")) tracking device, this device had a "live track" feature which allowed it to monitor the precise location of the "printed" object ("Bob"'s car) in real time. The "print" on the car also allowed the tracking device to identify the number of people in the car, their sex and part of their conversation. Consequently, the device made regular reports to the remote controller (Officer Pendleton) of the location, speed direction of "Bob's" car, plus any conversations with persons in or near the car. The "print" also captured "Bob" using his cell phone to set-up drug sells at various locations. The "print" reported that the car made five (5) extended stops (3 minutes exactly) at five major intersecting streets in the city.

At each reported stop, Officer Pendleton dispatched one of his officers to make an arrest of the persons found at the scene. Each arrestee confessed to (moments earlier) buying drugs from "Bob" Sample. And, each arrestee possessed a small gray bag with a large triple H on one side and the red letters "BS" on the other side. Each grey bag contained ten [(10) what is known in the drug vernacular] "8 balls" of powder cocaine. An "8 ball" of cocaine cost $250.00. All the arrestees claimed that each paid "Bob" $2500.

When "Bob" Sample was subsequently arrested, he was carrying $15,000 in cash and several DVD's of child pornography, possessing child pornography is a felony [punishable by 15 - 20 years in prison $100,000 fine!], but the police did not find cocaine on his person or in his car. Moreover, a later search of his house pursuant to a warrant did not reveal any cocaine or cash. Even so, "Bob" Sample's case has been set for an arraignment and other pretrial proceedings for ____________. "Bob" Sample's attorney has given notice that he will move to suppress any and all the information collected at Bob's arrest and reported by the GPS/drone.
Special Written Assignment

(Based on the previous Hypothetical)

II. Each prosecutor* must submit (upon entering the classroom - in the envelope marked “Special Written Assignment”) a statement (available as Appendix A, page 35 of this Syllabus) identifying whether the police use of this tracking device was either (1) a search under the Fourth Amendment; and if so whether the search was reasonable or (2) not a search. Special Note!! As each prosecutor* completes Appendix A, page 35, please consider the following:

A. If as prosecutor you claim that the police use of the device was a search, you must then identify a case (only one!) from the First Assignment reading list (page 3 of the Syllabus) that supports this conclusion. (Enter that name on Appendix A on page 35 of this Syllabus)

Or

B. If as prosecutor you claim that the police use of this devise was not a search, you must identify a case (only one!) from the First Assignment reading list (page 3 of the Syllabus) that supports this conclusion. (Enter that name on Appendix A on page 35 of this Syllabus)

* Students whose last names begin with the letters A - N are prosecutors.
Special Written Assignment

(Based on the previous Hypothetical)

II. **Each defense attorney** must submit (upon entering class in the envelope marked “Special Written Assignment”) a statement (available as Appendix B on page 36 of this Syllabus) identifying whether the police use of this tracking device was either (1) a search under the Fourth Amendment, and if so whether the search was reasonable or (2) not a search. Special note!! As each defense attorney completes Appendix B, page 36, please consider the following:

A. If as the defense attorney you claim that the police use of the device was a search, you must then identify a case (only one!) from the First Assignment reading list (page 3 of the Syllabus) that supports this conclusion. (Enter that name on Appendix B on page 36 of this Syllabus)

Or

B. If as the defense attorney you claim that the police use of this device was not a search, you must identify a case (only one!) from the First Assignment reading list (page 3 of the Syllabus) that supports this conclusion. (Enter that name on Appendix B on page 36 of this Syllabus)

** Students whose last names begin with O-Z are defense attorneys.
TEXTBOOK, SUPPLEMENTARY READING LIST, AND SYLLABUS

*Criminal Procedure (Investigation and Right to Counsel)*
by Allen, Hoffman, Livingston and Stuntz or its 2nd Ed..* [REQUIRED]
Supplement - (2012 Supplement - Allen Criminal Procedure) [Optional]
Using West Law or Lexis-Nexis - not an option!

**Cases on the Web!! [REQUIRED] - or Cases from 2012 Supplement**

**Supplementary Reading List:**
LaFave and Israel, *Criminal Procedure* (West) [NOT REQUIRED]
Saltzburg, *American Criminal Procedure* (West) [NOT REQUIRED]
(Your selection! Whatever works for you!)

**Syllabus:** By Professor Carlton Bailey [REQUIRED]
Please pick up full syllabus from Mrs. Audrey Briggs, room 183B.
(phone 575-5615] email: aabriggs@uark.edu

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)?

* Or the 1st Ed.!
V. **GRADE AND CLASSROOM ATTENDANCE POLICIES***

A. **FINAL GRADE COMPONENTS**
The final grade in the course will be based on:

1. Final Examination---------------------------------------- 300 points
   [Three (3) points of analysis from a short fact pattern]

2. Classroom Participation----------------------------------- 200 points
   (a) 15 points - First Written Assignment
   (b) 15 points - First Film Clip
   (c) Question to Professor (Only one submission for Points!)
   (d) 70 points - Team Collaboration*  
   (e) Answers to other movie Film Clips
   (f) Answering when called on
   (g) Not answering when called on
   (h) Special in-class hypos
   (i) Volunteering
   (j) Reading key sections from assigned cases

* Instructions via email / special handout

3. Attendance (lack thereof).

B. **CLASSROOM PARTICIPATION POLICY**
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 "I am not prepared today" sheet before class begins. (This is a limited option! May only be used two (2) times!)

C. **POINTS BASED ON FILM CLIPS**

1. Clips may be shown on **Monday** or **Thursday** of each week.

2. If you miss a clip, there will be **no makeups**! However, you may contribute to the class in other ways in order to score points missed in one clip. See V. D. Infra! (P. 10)

3. **Please ask questions** if you do not understand instructions. **Excellent** questions may count toward a student’s classroom participation point total. (See V A. 2(c) above)
D. **PROFESSOR’S EXPECTATIONS FOR CLASSROOM DISCUSSION**

Student 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 (or 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 envelope entitled, “Questions posed to Professor Bailey for points” or in the envelope entitled, “I still don’t get it”;

8. Reading an excerpt from an assigned case and then interpreting the meaning of that passage and answering questions about 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 though not insightful;
4. “OK” - Satisfactory;
5. “YOU DON’T MEAN THAT?” - Less than satisfactory;
6. “UNPREPARED OR FAILING TO ANSWER” - (See V.B. p. 7 of Syllabus)

F. ATTENDANCE POLICY

Each student is automatically allowed three (3) excused absences. That is, a student may miss three (3) classes without 1) being required to submit excuses, or 2) suffering penalties for those absences. Excuses may, however, be submitted for the fourth (4th) absence and those thereafter. An excuse is merely a request. As a result, an excuse may be rejected. In any event, more than four (4) absences may result in a full letter reduction. And, more than six (6) absences will result in a failing grade. Excuses must be submitted to Professor Bailey’s secretary, Mrs. Audrey Briggs (Room 183B) no later than 48 hours after the missed class. [Excuses will not be read or evaluated until after the final examination.]

PROFESSOR BAILEY’S - GENERAL INFORMATION

Students are encouraged to visit Professor Bailey at any time during the summer session 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: Daily: 9:00 a.m. - 1:00 p.m. or whenever you find the Professor is in his office. The Professor encourages each student to visit his office!

OFFICE PHONE: 575-4715 - Professor Bailey  
575-5615 - Mrs. Audrey Briggs

E-MAIL ID:  
chbailey@uark.edu  
aabriggs@uark.edu

BEFORE/AFTER CLASS: Students may submit Questions/Comments/Suggestions

“I STILL DON’T GET (??)”:

Envelope available each day in class. [Please do not submit scraps of paper – use full sheets only!]
VI. **EXAMPLE OF A “SHORT FACT PATTERN” EXAMINATION QUERY**

**TWO TEENS CHARGED IN MULTIPLE SLAYINGS**

Police: Case Involves Sex, Drugs, Money, Decapitation, Dog Bite

by Cassandra Smalls - Reporter at Large
*Arkansas Democrat-Gazette*
Wednesday, December 11, 2013

**FAYETTEVILLE:** Authorities on Tuesday charged a man and a woman, both 19, in a multiple slaying that involved money, gambling, sex, and gang activity in late November of 2013 in Fayetteville, officials said.

Prosecutors likely will seek the death penalty for Carla W. Webb and James A. Brock, who lived in Fayetteville at the time of the November 25 slayings, Deputy Prosecuting Attorney Jim Strickman of Fayetteville said.

Deputies arrested Brock and Webb nearly two weeks after lawmen found the bodies of Lola Brown, 63, and her son, Charles Brown, 46, both of Fayetteville, and his girlfriend, Susan Green, 42, of Tulsa, Oklahoma, and three unidentified white males.

Authorities have said that they believe Brock was angry after finding out about a sexual relationship between Webb and Charles Brown and that that played a role in the deaths.

Police also reportedly believe that Webb and Brock are members of a Northwest Arkansas gang.

Police say they believe Charles Brown was killed at a house he rented and used for gambling and possible drug sales at 1644 Maple. It was common knowledge that Charles Brown often carried large amounts of cash, authorities reported. Also found dead at that location were three unidentified white males.

Webb and Brock were charged with six counts each of being accomplices to capital murder. They are being held in the Washington County Jail without bond, Strickman said. They are scheduled to be arraigned December 16 in Washington County Circuit Court.

Strickman said the investigation, which included officers of the Washington County Sheriff's Office and the Arkansas State Police, may result in more arrests.
Investigators found Lola Brown and Charles Brown's girlfriend, Susan Green, dead in Ms. Brown's backyard. Both had been shot twice in the head and burned beyond recognition, authorities said.

On the morning of November 25, 2013, an anonymous person called the Fayetteville Police Department at approximately 8:30 a.m. and told Sergeant Harold Turner that a man was knocking at the front door of the home of Lola Brown at 1244 Maple Street and that he had a gun and a knife. The caller hung up when the police asked the person for a name and an address. The police department's Enhanced Caller Identification revealed that the person was calling from a public telephone a block away from 1244 Maple.

Based on the information from the anonymous caller, two squad cars went to 1244 Maple. Officer Tim Hoover was the first to arrive at the scene where he found the front door of the house standing open. After searching the rooms, he went to the back door and saw the bodies of Lola Brown and Susan Green lying side by side in the backyard. He further observed severe cut wounds on the victims' heads and bodies. The family dog, Scooter, was found between the bodies, whimpering. Scooter had parts of a light green short sleeve sweater in his mouth.

A neighbor, Brad Bruns, smelled what seemed to him to be burning flesh. He had smelled this odor before when he served in Desert Storm. He directed the second squad car of police to 1250 Maple where he was certain he smelled burning flesh. Sheriff Kearns, from the "second" squad car, went to the house next door, 1250 Maple, pursuant to the information from neighbor Bruns. Officer Kearns pushed open this door and found the two occupants smoking marijuana. Both were arrested. Kearns was suspended with pay for three days after the arrest at 1250 Maple. The department found that he violated police policy by failing to knock and announce himself.

Charles Brown's burned Chevrolet Blazer was found near Springdale and within three miles of where some of Brock's relatives live, Strickman said. "The vehicle was burned to keep law enforcement officers from getting additional evidence in relation to this murder," he said.

Hours later, investigators found Charles' decapitated body at a house, 1644 Maple, a few blocks from where he lived with his aunt, Lola Brown, at 1244 Maple, authorities said. Someone had shot and stabbed him numerous times then cut off his head. The head could not be found. The police also found the dead bodies of three unidentified white males. Each had been shot and stabbed several times.

A prime possible motive for the slayings was robbery, Strickman said.

Authorities believe that Charles Brown was killed at the house he rented to Brock and Webb at 1644 Maple Street, down the street from where he lived with his aunt (Lola). Brock and Webb lived at the 1644 Maple Street house that was used for gambling and possibly drug sales, authorities said.

Brock and Webb had a long and colorful juvenile history. Brock had been charged and convicted of burglary, rape, indecent exposure, assault, and disorderly conduct. Webb had been convicted of theft of property, prostitution, disorderly conduct, and receipt of stolen property.
Both are on probation for recent October 2008 violations of the Arkansas Hot Check Law ($3,000 each), authorities said.

In the bedroom of the house shared by Brock and Webb, 1644 Maple, investigators found "one pair of blue-and-white tennis shoes, which appeared to have blood spatters on them" and in a trash can "one pair of white leather gloves with blood stains, a light green long sleeved shirt with blood stains and a ripped hole in the left sleeve," according to a police affidavit. Brock claimed to own the shoes and the gloves but not the shirt. He could not explain how blood got on them, the affidavit stated.

The affidavit by Washington County investigator Ray Coffman states that he found "a towel that also appeared to have blood stains on it."

Investigators learned about the relationship between Webb and Charles Brown after interviewing two witnesses in the case, the affidavit stated. One witness told officers that "Brock knew Charles Brown was having a sexual relationship with Carla Webb," according to the affidavit.

Another witness told authorities that she "had seen James Brock two days prior to Charles Brown's death in Fayetteville near the U. of A. Administration Building and that he (Brock) was carrying a pistol at that time." The affidavit stated, "She also heard him say that he was going to kill someone."

Another woman told investigators that about three weeks before Charles Brown's death, Brock told her he was going to get even with Charles Brown. At the time, he was wearing a light green long sleeved shirt with no blood stains. "She stated that she thought James Brock had found out about Charles Brown having sex with Carla Webb," the affidavit stated, "She also advised that her daughter told her that Brock was mad at Charles Brown for telling him to keep the grass cut and clean things up" around the house.

A witness told authorities that Brown always kept $7,000 to $13,000 in a zippered bag "either on his person or at his house at all times," the affidavit stated.

One witness, Buster "Little Pookey" Jimerson - a known gangster who frequented Charles Brown's gambling house for over two years, told investigators that he usually sees Webb "counting Charles Brown's money at the gambling house. Each time she finished counting the money she and Charles Brown always went to a back bedroom to play "tie me," "whip me," "do me!" "till I holller!" for a few hours. Webb and Brown repeated this routine at least three times a week for over a year. Pookey went on to say that Brown would always send Webb's stupid boyfriend, Brock, off on some kind of errand during that time.

Brock and Webb have juvenile records and are believed to be members of the Folks Disciples, a gang that operates out of West Fork and Fayetteville, Coffman said.

Investigators arrested Brock at a house in Elkins. He had several cuts and deep scratches on both arms. He wore a white t-shirt and a cashmere V-neck. Webb was arrested at a residence in Madison County, Chief Deputy Mark Flowers said. Webb had $10 in her pocket.
After he was arrested, the police searched Brock and found $3,000 in cash in a money belt he was wearing. The $3,000 was later transferred to a large plastic bag in Officer Duncan's locker. Brock did not speak to the police during the ride from Elkins to the Washington County Jail. However, the two arresting officers, Duncan and Pierce, talked about how the Brown family could not have an open caske: for Charles because it would be too gruesome. They both wondered aloud how a person could decapitate someone and hide the head. Pierce said, "If Jeffrey Dahmer can eat people, I guess this could happen!" Brock told the police that he had heard gangsters from Tulsa used to hide dead bodics in Tyson's chicken refuse area in Springdale. Two hours later the state police found Charles Brown's decomposed head at that site.

Brock and Webb said they left Fayetteville about 11 p.m. November 25, went to Eureka Springs and didn't return to Fayetteville until after 3 a.m. November 26, the affidavit stated.

"The statements were contradicted by phone records, which were obtained from the 1644 Maple Street residence which showed collect phone calls being made from Ohio to that residence at a time after 11 p.m. This is also contradicted by the fact that Brock's vehicle was seen in the Fayetteville area between 1:30 a.m. and 2 a.m. in the early morning hours of November 26, 2013."

Authorities allege that Brock and Webb killed Charles Brown and the three unidentified white males at the Maple Street residence and then went to his house four blocks away to find more money. While ransacking the residence, they killed Lola Brown and Susan Green (Charles Brown's girlfriend), the affidavit stated.

"Honey Drop" (born Sarah Mullins), a prostitute who worked off and on for Charles Brown at his gambling house, will testify that Carla Webb told Charles Brown two weeks before her death that they had to stop doing it so much at the house because Big "B" will find out. Honey quoted Carla to say, "If he does, he'll cancel both our tickets." Honey Drop will admit that she had a two year sexual relationship with Carla.

Two members of "The Heavy Hitters" (Snake Eye and "Little Puke" or "Pukey") are prepared to testify that they overheard Brock telling Charles Brown that he would "cancel his ticket" if he found out that Brown was messing with Carla.

Bruce Strong, a salesman at Wal-Mart's Super Center on Highway 62, is prepared to testify that Brock and Webb stole a machete and a large kitchen knife from that store on November 23, 2012.

Carla Webb attended John Brown University for a year. Her reputation at John Brown was that of a hard working, dependable, smart student. No one there knew of her criminal record.

Brock lived in the Willow Heights Federal Housing Project for two years prior to living at 1644 Maple. His neighbors say that he was quiet, non-violent, soft-spoken, and honest. No one there knew of his criminal record.
Upon arriving at the Washington County Jail, both Brock and Webb were placed in a lineup in Sheriff Whitmill’s office. They were placed in a lineup with one other couple of similar height, etc. The clerk from the Wal-Mart store and Scooter were allowed to identify them. After Scooter began barking loudly and attacked Brock. The store clerk said, “Yes, that's them.”, pointing to Brock and Webb. At this point Brock was asked if he had anything to say. He said, "Yeah, Carla Webb gave me that $3,000!"

TRIAL IS SET FOR THURSDAY, May 29, 2014 at 9:00 a.m. 
THE ORIGINAl CONSTITUTION

1789 - (In the Beginning)

1. The power of Congress to punish treason and the extraordinary powers (Art. 3, Sec. 3).

2. The power of Congress to punish treason and the extraordinary powers (Art. 4, Sec. 2)

3. The right to a speedy trial (Art. 1, Sec. 8).

4. The right to a trial by jury (Art. 3, Sec. 2).

5. The right to be informed of the charges (Art. 1, Sec. 10).

6. The right to a public trial (Art. 6).

7. The right to confront the witnesses against him (Art. 6).

8. The right to counsel (Art. 6).

9. The right to present evidence in defense (Art. 6).

10. The right to counsel and to cross-examine witnesses (Art. 6).

11. No excessive bail or fine (Art. 6).

12. No cruel or unusual punishments (Art. 8).
BARRON v. BALTIMORE, 7 Peters 247 (1833)

5TH AMENDMENT

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

1866 - (The Fourteenth Amendment)

THE FOURTEENTH AMENDMENT

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]."
Institutions

of liberty and justice which lie at the base of all civil and political
principles [does] this kind of double jeopardy violate those fundamental principles

(2) [Ex]

that kind of double jeopardy to which the [Conn.] statute has subjected

fundamental

rooted in the traditions and conscience of our people as to be ranked as

(1) To abolish [certain rights] is not to violate a principle of justice so

implied in a concept of ordered liberty.

the same offense to be twice put in jeopardy of life or limb.

5th Amendment Double Jeopardy — "... nor shall any person be subject for

NO INCORPORATION

PALAKO V. CONNECTICUT 325 U.S. 319 (1947)
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 framers' 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:

"The 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 .................. (Professor Bailey lectures) -(on the web)
2. Olmstead v. United States .................. (on the web)
5. Oliver v. United States .................. (on the web)
6. (Footnotes from Oliver) .................. (on the web)
7. U.S. v. Dunn .................. (on the web)
8. Hester v. United States .................. (on the web)
10. Florida v. Riley .................. (on the web and p. 361 cb (1st Ed.) or 372 (2nd Ed.)
11. California v. Greenwood .................. (on the web and p. 374 cb (1st Ed.) or 385 (2nd Ed.)
12. Smith v. Maryland .................. p. 387.cb (1st Ed.) Note #1 or p. 389 (2nd Ed.)
13. Dow Chemical Co. v. United States .................. (on the web)
14. Kyllo v. United States .................. (on the web and p. 387 cb (1st Ed.) or 398 (2nd Ed.)
15. United States v. Karo .................. p. 379 cb (1st Ed.) or 391 (2nd Ed.)
17. United States v. Bond .................. (on the web)
B. Probable Cause

20. United States v. Grubbs ................................................................. (on the web)
21. Draper v. United States ................................................................. (on the web)
22. Aguilar v. Texas ................................................................. (on the web)
23. Spinelli v. United States ................................................................. (on the web)
25. Ornelas v. United States ................................................................. p. 437 cb (1st Ed.) or p. 447 (2nd Ed.)
26. Maryland v. Pringle ................................................................. p. 442 cb (1st Ed.) or p. 494 (2nd Ed.) & (on the web)
27. Massachusetts v. Upton ................................................................. (on the web)
29. Wilson v. Arkansas ................................................................. p. 452 cb (1st Ed.), (on the web) or p. 427 (2nd Ed.)
30. United States v. Banks ................................................................. p. 453 cb (1st Ed.) or p. 427 (2nd Ed.)
31. Wilson v. Layne ................................................................. p. 458 cb (1st Ed.) or p. 430 (2nd Ed.)

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

32. General Considerations ............................................................... p. 334 cb
33. Weeks v. United States ................................................................. (on the web)
34. Wong Sun v. United States ........................................................ p. 709 cb (1st Ed.) or p. 685 (2nd Ed.)
35. Wolf v. Colorado ................................................................. (on the web)
36. Mapp v. Ohio ................................................................. p. 336 cb (1st Ed.) or p. 340 (2nd Ed.)
37. United States v. Leon ................................................................. p. 683 cb (1st Ed.) or p. 658 (2nd Ed.)
38. Hudson v. Michigan ................................................................. (on the web) or p. 429 (2nd Ed.)
39. Herring v. United States ....................................................... (on the web) or p. 669 (2nd Ed.)
40. Franks v. Delaware ................................................................. (on the web)
41. Hill v. California ................................................................. (on the web)

D. Exceptions to the Warrant Requirement - ("Exigent Circumstances")

42. Maryland Penitentiary v. Hayden .............................................. (background facts on the web)
44. Mincey v. Arizona ................................................................. p. 463 cb (1st Ed.), p. 449 (2nd Ed.) or (on the web)
45. Michigan v. Fisher ................................................................. (on the web)
46. Brigham v. Stuart ................................................................. p. 460 (2nd Ed.) or (on the web)
48. Vale v. Louisiana ................................................................. (on the web)
49. Segura v. U.S. ................................................................. (on the web)
50. Notes on exigent circumstances ................................................. pp. 465-70 cb (1st Ed.) or pp. 452-55 (2nd Ed.)
51. Welsh v. Wisconsin ................................................................. p. 470 cb (1st Ed.) or p. 455 (2nd Ed.)
52. Illinois v. McArthur ................................................................. p. 475 cb (1st Ed.)

E. Exigent Circumstances and the Automobile

53. Carroll v. United States ................................................................. (on the web)
54. Chambers v. Maroney ................................................................. (on the web)
55. Cardwell v. Lewis ................................................................. (on the web)
56. California v. Carney ................................................................. (on the web)
F. Containers

58. U.S. v. Chadwick .................................................. (on the web)
59. Arkansas v. Sanders ................................................. (on the web)
60. U.S. v. Ross ........................................................ (on the web)
61. Virginia v. Moore ................................................... (on the web), p. 120 (2010 Supp) or p. 514 (2nd Ed.)
63. U.S. v. Johns ..................................................... (on the web)

G. Police discretion and Profiling

65. Chicago v. Morales .............................................. p. 609 cb (1st Ed.) or p. 586 (2nd Ed.)
66. State v. Sullivan (I) ............................................. (on the web)
67. Explanation of Sullivan I and Sullivan II ....................... (on the web)

H. "Plainview" Exception

70. United States v. Jacobsen ........................................ (on the web)

I. Public Arrest and Arrest in Suspect's Own or 3rd Party's Home .. pp. 509-15 cb (1st Ed.)

71. U.S. v. Watson ..................................................... p. 511 cb (1st Ed.), (on the web) or p. 496 (2nd Ed.)
72. Atwater v. Lago Vista et al* ................................ p. 518 cb (1st Ed.), (on the web) or p. 503 (2nd Ed.)
73. Gerstein v. Pugh ................................................... (on the web)
74. County of Riverside v. McLaughlin ................................ p. 515 cb (1st Ed.), (on the web) or p. 500 (2nd Ed.)
75. Payton v. New York .............................................. (facts of case on the web) or p. 501 (2nd Ed.)
76. Corley v. United States .......................................... (on the web)
77. United States v. Santana ......................................... (on the web)
78. Steagald v. U.S. ................................................... p. 517 cb (1st Ed.) or p. 502 (2nd Ed.) & (on the web)
79. Washington v. Chrisman ........................................ (on the web)

J. Standing .................................................................................................................. p. 697-98 cb

80. Minnesota v. Olson ................................................ p. 698 cb, (on the web) or p. 676 (2nd Ed.)
81. Minnesota v. Carter ................................................. p. 698 cb or p. 675 (2nd Ed.)
82. Rakas v. Illinois ..................................................... p. 698 cb (1st Ed.), (on the web) or p. 674 (2nd Ed.)
83. Simmons v. United States ........................................ (on the web)
84. Rawlings v. Kentucky .............................................. (on the web) or p. 675 (2nd Ed.)

K. Search Incident to Arrest

85. Chimel v. California .............................................. p. 532 cb (1st Ed.), (on the web) or p. 516 (2nd Ed.)
86. Maryland v. Buie ................................................... (on the web) or p. 524 (2nd Ed.)
87. U.S. v. Robinson .................................................... p. 538 cb (1st Ed.) or p. 521 (2nd Ed.) & (on the web)

* See p. - #144 Florence v. Board of Chosen Freeholders
L. Consent Searches

94. Schneckloth v. Bustamonte ................................. p. 668 cb (1st Ed.) or p. 641 (2nd Ed.)
95. Ohio v. Robinette ................................................................. (on the web)
96. Florida v. Jimeno ................................................................. (on the web)
97. United States v. Matlock ................................. (facts of case on the web) or p. 648 (2nd Ed.)
98. George v. Randolph ................................................................. (on the web) or p. 649 (2nd Ed.)

M “Reasonableness” — less than Probable Cause to “Stop”

100. Camara v. Municipal Court .................................................. (on the web)
101. Terry v. Ohio ................................................................. p. 557 cb (1st Ed.) or p. 539 (2nd Ed.)
102. Hibbel v. Sixth Judicial District Court of Nev., Humboldt City ................................................................. (on the web)
or p. 739 (2nd Ed.)
103. Illinois v. Wardlow ................................................................. (on the web)
104. Adams v. Williams ................................................................. (on the web)
105. Florida v. JL ................................................................. p. 578 cb (1st Ed.) or p. 559 (2nd Ed.)
106. Pennsylvania v. Mimms ............................................................. (on the web)
107. United States v. Sharpe ................................................................. (on the web)
108. Michigan v. Long ................................................................. (on the web)
109. Minnesota v. Dickerson ............................................................. (on the web)
110. New York v. Burger ................................................................. (on the web)
111. Dunaway v. New York ................................................................. (on the web)
112. Hayes v. Florida ................................................................. (on the web)

N. Test for “Articulable Suspicion”

113. United States v. Cortez ................................................................. (on the web)
114. Alabama v. White ................................................................. (on the web)

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

115. U.S. v. Mendenhall ................................................................. (on the web) or p. 411 (2nd Ed.)
116. U.S. v. Place ................................................................. p. 366 cb (1st Ed.) or (on the web) or p. 377 (2nd Ed.)
118. Florida v. Royer ................................................................. p. 571 cb (1st Ed.) or pp. 552-53 (2nd Ed.)
119. INS v. Delgado ................................................................. (facts of case on the web) or p. 408 (2nd Ed.)
120. United States v. Sokolow ................................................................. (on the web) or p. 590 cb (1st Ed.) or p. 569 (2nd Ed.)
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<td>144. Florence v. Board of Chosen Freeholders</td>
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T. Road Blocks

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U. Fruit of Poisonous Tree

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<td>149. Wong Sun v. United States</td>
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V. Miscellaneous Cases & Acts

152. Foreign Intelligence Surveillance Act ........................................ (on the web)
153. Protect America Act ................................................................. (on the web)
155. *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

1. Brown v. Walker (dissent) .............. p. 753-54 cb (1st Ed.) or p. 713 (2nd Ed)
2. Counselman v. Hitchcock .............. p. 754 cb (1st Ed.) or p. 714 (2nd Ed)
4. Kastigar v. United States .............. p. 762 cb (1st Ed.) or p. 722 (2nd Ed)
5. Schmerber v. California .............. p. 291 cb (1st Ed.), (on the web) or p. 741 (2nd Ed)
6. Missouri v. McNeely .................. (on the web)
7. New Jersey v. Portash ................ p. 786 cb (1st Ed.) or p. 747 (2nd Ed)
8. United States v. Afflebaum ........... p. 787 cb (1st Ed.) or p. 747 (2nd Ed)
10. Baltimore City Department of Social Services v. Bouknigh .. p. 791 cb (1st Ed.) or p. 757 (2nd Ed)

B. Police Interrogation - When Does the Fifth Apply? (The Sixth Amendment Option)

11. Bram v. United States ................. p. 806 cb (1st Ed.) or p. 779 (2nd Ed)
13. Massiah v. United States ............ p. 813 cb (1st Ed.) or p. 767 (2nd Ed)
14. Fellers v. United States ............. (on the web)
15. Escobedo v. Illinois ................. p. 817 cb (1st Ed.) or p. 772 (2nd Ed)

C. Massiah in “Custody” or in Jail

17. Maine v. Moulton ..................... p. 931 cb & (on the web)

D. The Rule and the Familiar Warnings

19. Miranda v. Arizona ................. p. 819 cb (1st Ed.) or p. 773 (2nd Ed)
21. Chavez v. Martinez ................. (on the web) or p.868 cb (2nd Ed)
22. California v. Prysock .............. p. 859 cb (1st Ed.), (facts of case on the web) or p. 870 (2nd Ed)
23. Duckworth v. Eagan ........................................ p. 859 cb (1st Ed.) or p. 870 (2nd Ed)
24. Florida v. Powell ........................................ (on the web) or p. 812 cb (2nd Ed)

E. What is "Interrogation"

25. Rhode Island v. Innis ........................................ p. 845 cb (1st Ed.) or p. 799 (2nd Ed)
27. Pennsylvania v. Muniz ................................. p. 857 cb (1st Ed.), (on the web) or p. 744 (2nd Ed)

F. What is Custody?

28. Orozoco v. Texas ........................................ p. 841 cb (1st Ed.), (on the web) or p. 795 (2nd Ed)
29. Berkemer v. McCarty ........................................ p. 842 cb (1st Ed.), (on the web) or p. 795 (2nd Ed)
30. Minnesota v. Murphy ........................................ p. 843 cb (1st Ed.), (on the web) or p. 797 (2nd Ed)

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

33. Michigan v. Mosley ........................................ p. 861 cb (1st Ed.) or p. 814 (2nd Ed)
34. Edwards v. Arizona ........................................ p. 863 cb (1st Ed.) or p. 816 (2nd Ed)
35. Arizona v. Roberson ........................................ p. 824 (2nd Ed)
36. Minnick v. Mississippi ........................................ p. 870 cb (2nd Ed.)
37. Fare v. Michael C. ........................................ (facts of the case on the web)
38. Oregon v. Bradshaw ........................................ p. 866 cb (1st Ed.) or p. 822 (2nd Ed)
39. Wyrick v. Fields ........................................ (on the web)
40. Davis v. United States ........................................ p. 868 cb (1st Ed.) or p. 819 (2nd Ed)
41. Borghuis v. Thompkins ........................................ (on the web)
42. Salinas v. Texas ........................................ (on the web)
43. Michigan v. Jackson ........................................ p. 932 cb (1st Ed.) or p. 893 (2nd Ed)
44. Montejo v. Louisiana ........................................ (on the web) or p. 894 (2nd Ed)
45. Patterson v. Louisiana ........................................ p. 937 cb (1st Ed.) or (on the web)
47. Texas v. Cobb ........................................ p. 941 cb (1st Ed.), (facts of the case on the web)
48. Blockburger Test ........................................ (on the web)
49. Right to Counsel Equations ........................................ (on the web)

H. Waiving Miranda Rights

or pp. 844-47 (2nd Ed)
51. Moran v. Burbine ........................................ p. 874 cb (1st Ed.) or p. 829 (2nd Ed)
52. Colorado v. Spring ........................................ p. 873 cb (1st Ed.) or p. 840 (2nd Ed)

I. Waiving Massiah Rights

53. Brewer v. Williams ........................................ p. 920 cb (1st Ed.) or p.882 (2nd Ed)
J. **Inevitable Discovery**

54. **Nix v. Williams** .................................................. (on the web)
55. **Murray v. United States** ................................. p. 719 cb (1st Ed.) or p. 694 (2nd Ed)

K. **"Public Safety" Exception to Miranda**

56. **New York v. Quarles** ................................. p. 891 cb (1st Ed), (facts of the case on the web) or p. 860 (2nd Ed)
57. **United States v. Patane** ................................. p. 915 cb (1st Ed), (on the web) or p. 876 (2nd Ed)

L. **Fruit of the Poisonous Tree and Miranda**

58. **Oregon v. Elstad** ................................. p. 892 cb (1st Ed), (facts of the case on the web) or pp. 868-76 (2nd Ed)

M. **Admissibility of a confession while a citizen is under arrest or is “in detention”**

59. **18 USCS Fed.R.Crim.** .................................................. (on the web)
60. **18 USCS §3501** .................................................. (on the web)
61. **Gerstein v. Pugh** .................................................. (on the web)
62. **County of Riverside v. McLaughlin** .................................................. (on the web)
63. **Corley v. United States** .................................................. (on the web)

N. **"Free Will" and Waiver of Miranda Rights**

64. **Colorado v. Connelly** ................................. p. 839 cb (1st Ed), (on the web) or p. 792 (2nd Ed)

O. **"Harmless" Constitutional Error**

65. **Arizona v. Fulminante** .................................................. (on the web)

P. **Impeachment With a Product of a Miranda Violation**

66. **Walder v. United States** .................................................. (on the web)
67. **Harris v. New York** .................................................. (on the web)
68. **Doyle v. Ohio** ................................. p. 905 cb Note #7 (1st Ed), p. 867 Note #7 (2nd Ed)
69. **Jenkins v. Anderson** ................................. p. 905 cb Note #7 (1st Ed), p. 867 Note #7 (2nd Ed)
70. **U.S. v. Havens** .................................................. (on the web) p. 706 (2nd Ed)

Q. **Miranda Revisited**

71. **Dickerson v. United States** ................................. p. 893 cb (1st Ed), (on the web) or p. 862 (2nd Ed)
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. 117 cb (1st Ed) or p. 135 (2nd Ed)
5. Argensinger v. Hamlin ....................................................... p. 142 (2nd Ed) or p. 125 cb
6. Scott v. Illinois ................................................................. p. 129 cb or p. 144 (2nd Ed)
7. Baldasar v. Illinois ........................................................... p. 131 cb (1st Ed) Note #10 or p.146 (2nd Ed)
8. Alabama v. Shelton ........................................................... p. 133 cb or p.148 (2nd Ed)
9. Nichols v. United States ...................................................... p. 132 cb (1st Ed) Note #10 or p. 146 (2nd Ed)
10. Coleman v. Ala. ................................................................. p. 167 cb (1st Ed) or p. 159 (2nd Ed)
11. Mempa v. Rhay ................................................................. p. 167 cb (1st Ed) or p. 172 (2nd Ed)
12. Hamilton v. Ala. ................................................................. p. 168 cb (1st Ed) or p. 159 (2nd Ed)
13. Morissey v. Brewer ........................................................... p. 168 cb (1st Ed) or p. 172 (2nd Ed)
14. Gagnon v. Scarpelli ........................................................... p. 168 cb (1st Ed) or p. 149 (2nd Ed)

B. Right to Counsel on Appeal – Appeal of Right

14. Griffin v. Illinois ................................................................. p. 139 cb (1st Ed) or p. 184 (2nd Ed)
15. Douglass v. California ......................................................... p. 139 cb (1st Ed) or p. 183 (2nd Ed)
16. Ross v. Moffitt (Discretionary Appeal) ............................... p. 140 cb (1st Ed) or p. 183 (2nd Ed)

C. Right to Counsel - Where the Penalty Is Only A Fine

17. Mayer v. City of Chicago ..................................................... p. 158 cb (1st Ed) or p. 197 (2nd Ed)
18. United States v. MacCollom ............................................... p. 159 cb (1st Ed)
20. Tate v. Short ................................................................. p. 161 cb (1st Ed)

D. Indigent Defendant's Right to An Expert

22. Ake v. Oklahoma ............................................................... p. 166 cb (1st Ed) or p. 130 (2nd Ed)
E. Effective Assistance of Counsel

23. Strickland v. Washington ........................................... p. 170 cb (1st Ed) or p. 201 (2nd Ed)
24. Wiggins v. Smith ................................................. p. 186 cb (1st Ed), (on the web) or p. 222 (2nd Ed)
25. Rompilla v. Beard ................................................ p. 216 (2nd Ed)
27. Nix v. Whiteside .................................................. p. 188 cb (1st Ed) or p. 232 (2nd Ed)

F. Multiple Representation

28. Text .............................................................. pp. 196-99 cb (1st Ed) or p. 241 (2nd Ed)
29. Cuyler v. Sullivan ................................................ p. 200 cb (1st Ed) or p. 242 (2nd Ed)
30. Mickens v. Taylor ............................................... p. 52 (2010 Supp) or p. 249 (2d Ed)

G. Pro Se Representation

30. Farella v. California ............................................. p. 215 cb (1st Ed) or p. 257 (2nd Ed)
31. McKaskle v. Wiggins .......................................... p. 231 cb (1st Ed) or p. 267 (2nd Ed)
32. Morris v. Slappy .................................................. p. 238 cb (1st Ed) or p. 286 (2nd Ed)
33. Anders v. California ............................................ p. 238 cb (1st Ed) or p. 269 (2nd Ed)
34. McCoy v. Court of Appeals of Wisconsin ............... p. 238 cb (1st Ed) or p. 269 (2nd Ed)
35. Pennsylvania v. Finley ........................................ p. 239 cb (1st Ed) or p. 270 (2nd Ed)
36. Penson v. Ohio .................................................... p. 238 cb (1st Ed) or p. 289 (2nd Ed)

H. Implications of Forfeiture Statutes

37. Caplin & Drysdale Chartered v. United States .............. p. 241 cb (1st Ed) or p. 286 (2nd Ed)

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

38. Critical Stage Proceedings ......................... pp. 239-240 (1st Ed) or pp. 154-60 (2nd Ed)
39. Stovall v. Denno .............................................. p. 257 cb (1st Ed), (facts of the case on the web) or p. 160 (2nd Ed)
40. United States v. Wade .................................... p. 255 cb (1st Ed), (facts of the case on the web) or p. 160 (2nd Ed)
41. Kirby v. Illinois .............................................. p. 258 cb (1st Ed), (facts of the case on the web) or p. 157 (2nd Ed)
42. United States v. Ash ........................................ p. 262 cb (1st Ed), (facts of the case on the web) or p. 165 (2nd Ed)
43. Moore v. Illinois .............................................. p. 163 (2nd Ed)

J. The Due Process Approach - Revisited

44. Manson v. Brathwaite ........................................ p. 267 cb (1st Ed), (facts of the case on the web) or p. 165 (2nd Ed)

IV. ENTRAPMENT

A. Scope of the Rule

1. Jacobson v. United States .................................... p. 972 cb (1st Ed) or p. 923 (2nd Ed)
2. United States v. Russell ..................................... p. 983 cb (2nd Ed)
3. Sorrells v. United States .................................... p. 923 cb (2nd Ed)
If you claim **any disability** that you believe will preclude you from complying with the requirements of this course, please see Associate Dean for students, James Miller (575-5618).
APPENDIX “A”

(Prosecutor)

Tuesday, May 27, 2014

First Written Assignment
(check the appropriate space)

1. (a) Yes, this was a search under the Fourth Amendment ________.

(b) Yes, the search was reasonable ________.

Or

(c) No, the search was not reasonable ________.

(d) Case from the reading list: ________________________________.

2. No, this was not a search ________.

Case from the reading list: ________________________________.
APPENDIX "B"

(Defense Attorney)

Tuesday, May 27, 2014

First Written Assignment
(check the appropriate space)

1. (a) Yes, this was a search under the Fourth Amendment ________.

(b) Yes, the search was reasonable ________.

Or

(c) No, the search was not reasonable ________.

(d) Case from the reading list: ________________________________.

2. No, this was not a search ________.

Case from the reading list: ________________________________.