CRIMINAL PROCEDURE 1
Spring Semester, 2013
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Text: Kamisar, Israel, LaFave, King & Kerr, Modern Criminal Procedure: Cases–Comments–Questions, (Thomson West, 13th Ed., 2012) [Hard bound edition, recommended for students planning to take both Criminal Procedure 1 & Criminal Procedure 2. This is cheaper than buying both soft cover volumes.]

OR

Kamisar, Israel, LaFave, King and Kerr, Basic Criminal Procedure, Police Practices (Thomson West, 13th Ed. 2012) (soft cover, recommended for students not planning to take Criminal Procedure 2. The soft cover is identical to the hard cover, but published in two volumes. This volume covers all the materials in Crim. Pro. 1. It is cheaper than the hard cover edition.]

Helpful outside reading (optional): LAFAVE, ISRAEL & KING, PRINCIPLES OF CRIMINAL PROCEDURE (Thomson-West); DRESSLER, UNDERSTANDING CRIMINAL PROCEDURE (Mattew Bender)

Web site materials: supplemental reading materials may be posted throughout the term.

I. Introduction to the Course and Incorporation:

A. An Overview of the Criminal Justice Process, pp. 1-24; (skim this section for basic concepts)

B. The Sources of Criminal Procedure Law

1. Fourteenth Amendment Due Process Clause-Incorporation, pp. 25-27; District of Columbia v. Heller; McDonald v. City of Chicago [Note the historical discussion of the Incorporation Doctrine]

2. Selective Incorporation/Bodily Extractions, pp. 27-32
   Rochin v. California; Schmerber v. California

3. Due Process and Innocence? pp. 32-34
   District Attorney’s Office v. Osborne

4. Federal courts’ “supervisory power” over inferior federal courts, pp. 34-38
   McNabb v. United States;

   Michigan v. Long

6. The War on Terror, pp. 40-48
C. Reflections on Criminal Procedure and its Administration: Race and Innocence, pp. 49-68

II. Police Power

1. Introduction to the exclusionary rule, pp. 222-264
   - Wolf v. Colorado; Mapp v. Ohio; United States v. Leon; Hudson v. Michigan; Herring v. United States

2. Searches, protected areas and interests, pp. 264-292
   - Katz v. United States; California v. Greenwood; Oliver v. United States; Florida v. Riley; Kyllo v. United States; United States v. Place; United States v. Jones; Andresen v. Maryland; Zurcher v. Stanford Daily

3. Probable cause, pp. 292-315
   - Spinelli v. United States [also note the reasoning of the holdings in Aguilar and Draper]; Illinois v. Gates; Maryland v. Pringle

4. Warrants
   a. Issuance of the Warrant, pp. 316-321
      - Coolidge v. New Hampshire; Shadwick v. City of Tampa; Groh v. Ramirez
   b. Execution of the Warrant, pp. 321-29

5. Warrant exceptions–warrantless searches of the person, pp. 332-362
   - United States v. Watson; Atwater v. City of Lago Vista [at 337 and 348]; Tennesee v. Garner; Scott v. Harris; Gerstein v. Pugh; County of Riverside v. McLaughlin; United States v. Robinson; Whren v. United States; Schmerber v. California; Winston v. Lee; Knowles v. Iowa; Cupp v. Murphy

   - Chimel v. California; Maryland v. Buie; Washington v. Chrisman; Kentucky v. King; Vale v. Louisiana; Mincey v. Arizona; Payton v. New York; Welsh v. Wisconsin; Steagald v. United States

7. Warrant exception–Cars and Containers, pp. 383-408
   - California v. Carney; California v. Acevedo [note the rules and policies of the Ross, Chadwick and Sanders cases discussed in Acevedo]; Arizona v. Gant [Note the tension between Belton and Thornton discussed in Gant]; Colorado v. Bertine
8. Warrant exceptions—“Stop and Frisk,” pp. 408-439
   Terry v. Ohio; United States v. Drayton; California v. Hodari; Brendlin v. California; United
   Royer; United States v. Sharpe; Hiibel v. Sixth Judicial District Court; Berkemer v. McCarty;
   Illinois v. Caballes; Ohio v. Robinette; United States v. Place; Arizona v. Johnson; Michigan v.
   Long; Davis v. Mississippi; Dunaway v. New York

   Camara v. Municipal Court; United States v. Ramsey; United States v. Montoya de
   Hernandez; Almeida-Sanchez v. United States; Delaware v. Prouse; New Jersey v. T.L.O.;
   National Treasury Union v. Von Raab; Board of Education v. Earls; Samson v. California;

10. Consent, pp. 454-469
    Schneckloth v. Bustamonte; Bumper v. N. Carolina; Florida v. Jimeno; Illinois v. Rodriguez;
    Georgia v. Randolph

11. Undercover investigations: Secret Agents, pp. 469-479
    Hoffa v. United States; United States v. White;

12. Entrapment, pp. 479-500
    Sorrells v. United States; Sherman v. United States; United States v. Gendron; United States v.
    Russell; Jacobson v. United States

    United States v. Warshank; Ex Parte Jackson; Olmstead v. United States; Berger v. United
    States; United States v. King; Smith v. Maryland

14. Wiretaps: -pp. 520-542
    United States v. Turk; Dalia v. United States; Bartnicki v. Vopper; Deal v. Spears; The Wiretap
    Act (Title III), The Pen Register Statute, and the Stored Communications Act

IV. Police Interrogation and Confessions

   Brown v. Mississippi, Ashcraft v. Tennessee; Watts v. Indiana; McNabb v. United States;
   Mallory v. United States; Cicenia v. LaGay; Spano v. New York

2. Fifth and Sixth Amendment Limits on Interrogation: Massiah, Escobedo and Miranda, pp. 557-608
   Massiah v. United States; Escobedo v. Illinois; Malloy v. Hogan; Miranda v. Arizona; State v.
   McKnight; Duckworth v. Eagan;
   a. Warning, pp. 599-602
      Colorado v. Spring; Beckwith v. United States
   b. Custody, pp. 603-608
      J.D.B. v. North Carolina
c. Interrogation, pp. 608-615
   *Rhode Island v. Innis, Arizona v. Mauro*

d. Jailhouse informants, pp. 615-617
   *Illinois v. Perkins;*

e. Routine booking questions, pp. 617-621
   *Pennsylvania v. Muniz; Hiibel v. Sixth Judicial Court*

f. The “Public Safety” Exception, pp. 621-625
   *New York v. Quarles*

4. Assertion of Fifth and Sixth Amendment Rights, 635-672
   *Michigan v. Mosley; Edwards v. Arizona; Arizona v. Roberson; Maryland v. Shatzer; Oregon v. Bradshaw; Davis v. United States; Berguis v. Thompkins; Montejo v. Louisiana; McNeil v. Wisconsin; Moran v. Burbine; Estelle v. Smith*

5. The future of *Miranda*, pp. 676-690
   *Dickerson v. United States*

6. When does the Fifth/Sixth/Fourteenth Amendment violation occur? pp. 690-697
   *Chavez v. Martinez;*

7. Fruit of the Poisonous Tree and “Second Confessions,” pp. 697-709
   *Oregon v. Elstadt; United States v. Patane; Missouri v. Siebert*

8. Voluntariness Revisited: Police Trickery and Impaired Suspects, pp. 717-738
   *Miller v. Fenton; United States v. LeBrun; Arizona v. Fulminante; Colorado v. Connelly*

9. *Massiah* and *Miranda* compared and contrasted, pp. 738-59
   *Brewer v. Williams; Patterson v. Illinois; Maine v. Moulton; United States v. Henry; Kuhlmann v. Wilson; Texas v. Cobb*

V. Identification procedures, pp. 744-773

1. Constitutional Concerns About the Dangers of Misidentification, pp. 760-769
   *United States v. Wade; Gilbert v. California; Stovall v. Denno;*

2. The Court Retreats, pp. 769-786
   *Kirby v. Illinois; United States v. Ash; Manson v. Braithwaite; Perry v. New Hampshire*

3. Social Science Research and the Need for Reform, pp. 786-790
VI. The scope of the Exclusionary Rules

1. Standing, pp. 879-893
   Rakas v. Illinois; Brendlin v. California; Minnesota v. Carter

2. “Fruit of the Poisonous Tree,” pp. 893-903
   Silverthorn Lumber Co. v. United States; Wong Sun v. United States; Brown v. Illinois;
   Dunaway v. New York; New York v. Harris; Segura v. United States; Murray v. United States

3. Inevitable Discovery, pp. 903-910
   Nix v. Williams; Hudson v. Michigan; United States v. Patane; Missouri v. Siebert

4. Impeachment, pp. 910-922
   Ohio; Jenkins v. Anderson; Wainwright v. Greenfield

VII. Review