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for never letting life get boring.
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Preface

I decided to write this book, Criminal Procedure: From First Contact to Appeal, after I had taught criminal procedure for several years. During each course, my students typically asked a litany of "what if" questions and became curious about the rules of criminal procedure after the police arrest and book a suspect. Students also expressed frustration with the fact that many of the leading books on criminal procedure presupposed a certain degree of familiarity with the criminal process, including an understanding of basic terminology. Students came to loathe these books' excessive use of legalese and obtuse descriptions of criminal procedure topics that had no real-life applications.

In addition, students frequently pointed out, as did I, that there are often significant differences between what the courts require and what happens in the real world of criminal justice. For instance, consider the definition of a seizure for the purposes of the Fourth Amendment. A seizure occurs when a reasonable person would believe he or she is not free to leave. Yet many times, students find this definition wanting and ask, "If a person is not seized according to this definition, is he or she really free to leave?" This question highlights the differences between what this book calls theory and reality. It and countless other similar questions prompted me to write a criminal procedure book of my own, one that takes a comprehensive yet basic approach to criminal procedure and that connects the material to the real world with examples and exercises.

By way of preview, then, this book presents an introduction to criminal procedure, from the point at which an individual first comes into contact with the police all the way through the appeals process. Approximately half of the book is devoted to traditional criminal procedure topics—notably, search-and-seizure as well as interrogation and identification procedures. The remainder of the book moves beyond these topics and discusses the pretrial process; the roles of defense attorneys, prosecutors, and grand juries; plea bargaining and guilty pleas; rights of criminal defendants at trial; and appeals and habeas corpus.

Presentation

The material in Criminal Procedure is covered, in large part, by focusing on the constitutional rights of criminal defendants, as interpreted by the U.S. Supreme Court. To this end, many leading Supreme Court decisions are discussed; however, lengthy excerpts from the actual decisions have been reduced to relevant remarks in order to avoid distracting from the many important concepts introduced. In order to maintain a real-world focus, the book also incorporates many actual legal documents and excerpts from official policy manuals of police departments and other criminal justice agencies around the United States.

Criminal procedure should not be confused with evidence procedure or trial procedure. Evidence procedure concerns the rules for presenting evidence to prove guilt (or the lack thereof); thus, evidence courses cover such topics as types of evidence, rules for presenting witness testimony, hearsay, and the like. This book touches on evidence only tangentially—by discussing witness questioning and the police actions used to secure evidence through search and seizure. But the focus on evidence does not move beyond these two issues. Likewise, this book is not about trial procedure. That is, it does not address the nuances of criminal trials, including the order of events at trial, what objections can be raised, instructions to the jury, and so on. Trial procedure is a topic typically covered in law school.

Instead, this book presents a comprehensive introduction to criminal procedure, thoroughly presenting basic legal concepts and issues in a conversational written style and tone. Given this content coverage and the frequent use of examples from actual legal documents and policy guides, readers who are pursuing careers in criminal justice
will find this book especially useful. Individuals who are already employed in criminal justice will find the book useful as well. Moreover, because the book constitutes more than a general overview of criminal procedure, it should prove beneficial to aspiring law students. But, it should not be over the heads of students with little or no background in criminal justice.

**Features**

Criminal Procedure has a number of pedagogical features that will benefit readers. Each chapter begins with learning objectives and an outline of the topics covered, giving readers an at-a-glance preview of the content. Lists of key terms and key cases are also included at the end of each chapter. Each term is defined in a glossary appearing at the end of the book, and each key case is then highlighted in the margins near where it is discussed in the chapter text. Each chapter ends with a set of Review Questions, which cover the basic content and also ask readers to correlate what they have learned. Summaries are also provided at the end of the chapter, with each heading aligning with learning objectives. Other key features are as follows:

- **Decision-Making Exercises** are scattered throughout each chapter. Each exercise places the reader in the position of judge, asking him or her to decide a case based on the facts presented. The answers to the exercises are available to instructors. They explain what was decided in the actual case on which a given exercise was based or what likely would be decided given precedent in the area.

- **The book** makes extensive use of actual legal forms, calls attention to important rules (such as those spelled out in the Federal Rules of Criminal Procedure), and reprints police department policy manual excerpts. Presented as figures, these materials show how professionals working in the field of criminal justice deal with the concepts and issues covered throughout the book.

- **Web Links and Exercises**. Each chapter concludes with a few Web links and exercises designed to elaborate on and reinforce key issues and points raised in the chapter.

- **Further Exploration**. Each chapter also concludes with an examination of various controversial and unsettled issues in criminal procedure, some that have barely even been conceived of at this point. The objective is to take readers beyond the text and have them entertain ideas that are likely to come up in the not-too-distant future.

In short, this book is intended to move beyond the basic introductory approach to criminal procedure that many of the competing books have taken but not to a level that presupposes any knowledge about the criminal process. Many competing texts focus overwhelmingly on search-and-seizure and on interrogation and confession procedures. This book covers these topics as well, and in great detail, but it also covers many more topics. This is because criminal procedure consists of much more than interactions between the police and criminal suspects.

**New to the Sixth Edition**

The sixth edition has been revised in several ways:

- The design has been updated and added full color to enhance the learner experience.
- Numerous recent Supreme Court decisions are included, through the 2016–2017 term.
- Case law presentations have undergone additional revisions, with more discussion of case facts/details throughout.
- Expanded coverage of the “fruit of the poisonous tree” doctrine appears in Chapter 2.
- Chapter 5 includes a new section on cellular phone searches in light of the 2014 Riley v. California decision.
• The section on vehicle stops in Chapter 6 has been expanded to accommodate recent Supreme Court decisions.

• A new section dealing with DNA-based identification appears in Chapter 9.

• The section on impartial judges in Chapter 13 has been revised and expanded in light of recent cases.

• Several additional sentencing cases have been added to Chapter 15.

• End-of-chapter Web links have been updated and revised.

Organization

Criminal Procedure continues to be divided into five parts: (1) Introduction; (2) Search and Seizure; (3) Interrogations, Confessions, and Identification Procedures; (4) The Beginnings of Formal Proceedings; and (5) Trial, Conviction, and Beyond. The latter two topics are rarely covered in conventional criminal procedure books, particularly at the level of detail found in this text. In contrast, the traditional approach to criminal procedure rarely moves beyond the material covered in the first three parts of this text.

Part 1 contains two chapters. Chapter 1 is introductory and provides readers with the information necessary to begin studying criminal procedure. In particular, it defines criminal procedure; highlights the due process/crime control dilemma, which is at the heart of all controversies in criminal procedure; discusses the relationship among the courts, including a brief section on how to do legal research; and introduces several issues and trends in criminal procedure. Chapter 1 ends with a detailed overview of the text. Chapter 2 begins by discussing the exclusionary rule, then it considers criminal, civil, and nonjudicial remedies. Remedies are presented early in the text so readers will become aware of how people's rights can be enforced in the U.S. courts.

Part 2 covers standard search-and-seizure topics. Chapter 3 provides a framework for studying the Fourth Amendment; specifically, it defines Fourth Amendment terminology and specifies when searches and seizures occur. This chapter also covers the doctrine of justification, focusing on the definitions of probable cause, reasonable suspicion, and what this book calls administrative justification. Chapters 4 and 5 go on to cover searches and seizures with warrants and without warrants, respectively. Chapter 6 covers actions based on reasonable suspicion, including stops and frisks and investigative detentions, and Chapter 7 covers actions based on administrative justification and consent, including inventories, inspections, checkpoints, school and office searches, drug and alcohol testing, and the like.

Part 3 covers interrogations, confessions, and identification procedures. To this end, Chapter 8 focuses heavily on the Fifth Amendment’s self-incrimination clause and then summarizes the proper procedures for conducting interrogations and obtaining valid confessions. Further, it also examines how the Sixth and Fourteenth Amendments govern interrogations and confessions. Chapter 9 discusses identification procedures, including the guidelines for proper pretrial identifications, and also introduces identification procedures used during trial, including the proper questioning of witnesses to assist in valid in-court identifications.

The information in Part 4 is pretrial in nature. Chapter 10 begins by discussing booking, the initial appearance, the probable cause hearing, pretrial release, the preliminary hearing, and the arraignment. This chapter also introduces the rules surrounding discovery. While discovery can occur well into a trial, most often discovery is pretrial in nature; thus, it is appropriate to discuss discovery in this context. Chapter 11 covers prosecutors, grand juries, and defense attorneys, including the constitutional guidelines by which each must abide. Of course, the actions of prosecutors, defense attorneys, and even grand juries matter outside the pretrial context, but readers should be familiar with these important actors before moving into the adjudication section. Finally, Chapter 12 covers plea bargaining and guilty pleas. Again, both can occur well into a trial, but most plea bargains and guilty pleas are undertaken in an effort to avoid trial.

Part 5 is titled “Trial, Conviction, and Beyond.” Chapter 13, the first of two chapters about the defendant’s rights at trial, examines the right to a speedy trial and the right to
an impartial judge and jury. Chapter 14 continues the focus on rights at trial, discussing openness, confrontation, compulsory process, double jeopardy, and entrapment. Lastly, Chapter 15 covers important topics in sentencing as well as appeals and habeas corpus.

As noted earlier, most texts on criminal procedure give only limited coverage to the topics in Parts 4 and 5, so readers should benefit from the material presented. Once again, the purpose of this book is to present a comprehensive look at criminal procedure, demonstrating that the Constitution affects much more than the actions of law enforcement personnel.

Supplements

The 6th edition of *Criminal Procedure* is supported by a complete package of instructor and student resources:

▶ **Instructor’s Manual with Test Bank.** Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.

▶ **TestGen.** This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question into a test you are creating, and printing sleek, formatted tests in a variety of layouts. Select test items from test banks included with TestGen for quick test creation, or write your own questions from scratch. TestGen’s random generator provides the option to display different text or calculated number values each time questions are used.

▶ **PowerPoint Presentations.** Our presentations offer clear, straightforward outlines and notes to use for class lectures or study materials. Photos, illustrations, charts, and tables from the book are included in the presentations when applicable.

To access supplementary materials online, instructors need to request an instructor access code. Go to [www.pearsonhighered.com/irc](http://www.pearsonhighered.com/irc), where you can register for an instructor access code. Within 48 hours after registering, you will receive a confirming email, including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use.

Alternate Versions

▶ **eBooks.** This text is also available in multiple eBook formats. These are an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With an eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, visit your favorite online eBook reseller or visit [www.mypearsonstore.com](http://www.mypearsonstore.com).
REVEL for Criminal Procedure, Sixth Edition
by John L. Worrall

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