

Preface

CRIMINAL PROCEDURE is a captivating area of the law. In broad terms, the rules and principles that comprise criminal procedure law define the respective powers and rights of government and citizens as they concern law enforcement officials' investigation of crimes, the prosecution of accused offenders, and pretrial, trial, and postconviction judicial proceedings. Although many rules of criminal procedure are statutory, the foundational principles, which are the primary focus of this book, are embedded in the United States Constitution and analogous state constitutional provisions.

The court decisions that give substance to criminal procedure law frequently take on the classical qualities of drama. Good is pitted against evil. The protagonists, whose imperfections are a testament to their humanity, are confronted with decisions that are as difficult as they are momentous and often replete with ethical dilemmas. Presiding judges give voice to poignant subthemes. Their decisive narratives work an uneasy and often unsettling resolution of the crises that sustain the plot. Yet their case decisions are quintessentially nonfiction. Painful life experiences and important principles of government underlie the jurisprudence of criminal procedure.

On the one hand are persons suspected of committing heinous crimes: murder, rape, burglary, robbery, assaults, serious drug offenses, and others. These are crimes that cause untold suffering and undermine the shared values of organized society. On the other hand are the fundamental liberties and procedural safeguards that protect citizens—both innocent and guilty—against governmental overreaching. A society dedicated exclusively to uncovering evidence of crimes and punishing law violators would be intolerably oppressive to a people who cherish individual freedoms.

This book offers an introduction to criminal procedure law. We believe that you will find the issues to be as intriguing conceptually as they are important practically.

The readings consist primarily of edited judicial decisions. We make use of the case method of study as a tool to help students develop and sharpen the analytical skills necessary to understand the origins, content, and continuing evolution of the law. The study of law involves considerably more than acquiring familiarity with black-letter rules or summaries of case holdings. Although knowledge of substantive rules of law is important, we believe that gaining an appreciation for the methods of law—for understanding the legal process as a principled way of analyzing questions, building on precedent, and drawing distinctions and analogies between changing fact patterns to resolve novel issues—is even more important. There is no substitute for carefully studying judicial decisions to hone analytical skills and to acquire an understanding of the values and principles that animate the law's development over time and its application to different case circumstances.

We concentrate on United States Supreme Court decisions interpreting the federal Constitution, which form the backbone of criminal procedure law. Yet we additionally recognize that state constitutions are an important source of judicial authority. United States Supreme Court rulings establish the minimum constitutional obligations that must be observed by the federal government and the states. State courts occasionally confer additional rights to persons within their jurisdiction through the interpretation of state constitutional provisions. State constitutions frequently are worded differently from the United States Constitution, and the rights they afford

may reflect the unique traditions or history of a state. Where appropriate, state courts have not been reluctant to interpret their state constitutions to confer rights that exceed those provided by the United States Constitution. State constitutional decisions thus are sprinkled throughout this book to illustrate this important dimension of criminal procedure law and to heighten students' awareness about this aspect of American federalism.

This book's design reflects a few basic assumptions that we readily make about undergraduate students and their aptitude for studying legal materials. It is our unwavering belief, based on several years of experience with these and other assigned readings, that undergraduates can and will rise to the challenge of analyzing case decisions. We are convinced that college students, properly motivated, are fully capable of participating in a dialogue exploring the reasoning and implications of judicial decisions and that their individual and collective learning experiences are immeasurably richer as a result of this process. We do not subscribe to the view that case analysis should be the exclusive province of lawyers and law students and that others must be satisfied with reading narrative accounts "about" the law. To the contrary, we have found that students readily adapt to case analysis and that class hours consequently are enriched by their lively debate and informed discussion. We hope and believe that the case method of study offers students practice using analytical skills that will serve them far beyond the classroom experience. In short, we wholeheartedly support using the case method to teach law in undergraduate classrooms, and we could neither justify nor enjoy doing otherwise.

Based on feedback we have received from our students and colleagues, a number of substantive and pedagogical changes have been made to the third edition. Substantive changes from previous editions include:

- Addition of case law decided since the publication of the second edition, with inclusion of cases decided through June 2011;
- Inclusion throughout the book of case law associated with homeland security and criminal procedure;
- Several chapters have been reorganized and shortened to provide sharper focus on key issues;
- Postcase notes and questions have been updated to include relevant case law and academic scholarship.

Beyond these substantive changes, a number of pedagogical changes have been made for the third edition.

- Each chapter in the new edition includes review questions, key terms linked to a glossary, and Internet links to the Supreme Court oral arguments for court cases included in the chapter;
- A companion site includes flashcards, glossary, crossword puzzles, practice quizzes, and weblinks to relevant material. The URL is criminaljustice.jbpub.com/CrimProcedure3e.
- New, expanded test banks and PowerPoint presentations are available on the website or via electronic delivery.

Instructors should find enough in these pages to give students a comprehensive introduction to criminal procedure law. Although we had to make some difficult choices about subject and case coverage, we have tried not to short-change important topics at the expense of others. Instructors teaching semester-long classes may

not be able to assign all materials in this book. We deemed it preferable to be all-inclusive to give faculty choices about what areas to cover in detail and what to skim or skip rather than to err on the side of exclusion. We would appreciate hearing from instructors who adopt this book to let us know if we have neglected to include issues or cases that they would like to have had addressed. We will try to be responsive in future editions.

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