

ISSUE CHECKLIST - CRIMINAL PROCEDURE

FOURTH AMENDMENT SEARCH AND SEIZURE

- Arrests and other detentions
 - Seizure
 - Arrest
 - Stop and frisk (RS)
 - Automobile stop/Terry stop (RS)
 - Roadblock exception
 - Detaining occupants of a premises
- Evidentiary search and seizure
 - Standing – reasonable expectation of privacy
 - Government conduct
 - Warrant
 - Probable cause
 - Totality of the circumstances test
 - Affidavit
 - Facially valid warrant
 - Use of informers
 - Wiretapping and eavesdropping
 - Exception – no attempt at privacy
 - Execution of warrant
 - Valid warrantless searches
 - Search incident to constitutional arrest (PC - arrest)
 - Automobile stop – search (PC)
 - Plain view
 - Consent
 - Stop and frisk (RS)
 - Exigent circumstances
 - Hot pursuit
 - Immediate danger of evidence destruction
 - Police/public safety
 - Public school searches
 - Reasonable grounds
- Exclusionary rule and Fruit of the Poisonous Tree
 - Cost of excluding evidence vs deterrent effect
 - Exceptions
 - Fruits derived from statements in violation of Miranda
 - Evidence obtained from independent source
 - Remote connection between conduct and evidence
 - Inevitable discovery through lawful means
 - Violation of knock and announce rule
 - Good faith reliance
 - Limitations
 - Inapplicable in grand juries etc.
 - Good faith reliance
 - Impeachment
- Harmless error test
 - Overturning of conviction

FIFTH AMENDMENT PRIVILEGE AGAINST SELF-INCRIMINATION

- Miranda warnings
 - Custody
 - Interrogation
 - Waiver
 - Re-approaching D after invoking rights
 - Right to remain silent
 - Right to speak to an attorney
 - Spontaneous statements
 - Effect of violation
 - Public safety exception
- Privilege against self-incrimination at trial
 - When to assert
 - Method of invoking privilege – D and witnesses
 - Scope of protection – testimonial evidence

SIXTH AMENDMENT RIGHT TO COUNSEL AND RIGHT TO CONFRONTATION

- Right to counsel
 - Pretrial identifications
 - Questioning by government informant/cellmate
 - Waiver and right to defend oneself
 - Offense specific
 - Parole revocation proceedings
- Right to confront witnesses
 - Joint trial – testimony of co-defendant
- Right to effective assistance of counsel
 - Right to discharge attorney and substitute new attorney

DUE PROCESS CLAUSE – 14th AMENDMENT AND 5th AMENDMENT

- Pretrial identifications and confessions

RIGHTS RELATING TO PRETRIAL PROCEDURES AND TRIAL

- Grand juries – 5th Amendment
 - No right to counsel, exclusion of evidence, Miranda warnings, exclusion of minorities
- Pretrial detention/bail – 8th Amendment
- Right to speedy trial – 6th Amendment
- P duty to disclose exculpatory evidence
- Competency to stand trial
- Right to fair trial – 6th and 14th Amendments
- Right to unbiased judge - 6th and 14th Amendments
- Right to trial by jury
- Cruel and unusual punishments – 8th Amendment

FIFTH AMENDMENT DOUBLE JEOPARDY

- When attaches
- Same offense
- Lesser included offenses

ADDITIONAL ISSUES

- Guilty plea – procedural requirements
- Right to separate trial from co-defendant

