

Contents

<i>Table of Figures</i>	<i>xv</i>
<i>Preface</i>	<i>xvii</i>
<i>Acknowledgments</i>	<i>xix</i>

Chapter 1	Overview of Constitutional Criminal Procedure	I
------------------	--	----------

PART I. SEARCH AND SEIZURE — THE FRAMEWORK OF THE FOURTH AMENDMENT

Chapter 2	Introduction to the Fourth Amendment	II
------------------	---	-----------

Chapter 3	When Does the Fourth Amendment Apply?	17
------------------	--	-----------

§3.1	Governmental Action — Public Versus Private Search	17
§3.2	Reasonable Expectation of Privacy	22

Chapter 4	What Does the Fourth Amendment Require? — The Doctrine of Justification	45
------------------	--	-----------

§4.1	Probable Cause — The Standard for Search and Arrest	46
§4.2	Reasonable Suspicion — The Standard for Stop and Frisk	70
§4.3	What Constitutes a Stop?	74
§4.4	The Expansion of Terry: Demand for Identification, Vehicle Stops, Detention of Effects, Protective Sweeps, and Plain Feel	78
§4.5	Administrative Searches	103

Chapter 5	Search and Arrest Warrants	121
------------------	-----------------------------------	------------

§5.1	Note on the Warrant Requirement	121
§5.2	The Components of a Valid Search Warrant	122
§5.2.1	Neutral and Detached Magistrate	122

Contents

	§5.2.2	The Probable Cause Showing	123
	§5.2.3	The Particularity Requirement and the Plain View Doctrine	125
	§5.3	Execution of a Search Warrant	135
	§5.4	Administrative Search Warrants	137
	§5.5	Anticipatory Search Warrants	137
	§5.6	The Arrest Warrant Requirement	138
	§5.7	The Components of a Valid Arrest Warrant	139
Chapter 6	Warrantless Searches and Seizures		143
	§6.1	Introduction	143
	§6.2	Exceptions That Require Probable Cause: The Emergency Exception (Exigent Circumstances)	144
	§6.3	Exceptions That Require Probable Cause: Search Incident to Arrest	154
	§6.4	Exceptions That Require Probable Cause: Automobile Search and the Container Doctrine	164
	§6.5	Exceptions That Require Reasonable Suspicion: Stop-and-Frisk and Investigative Detentions	170
	§6.6	Administrative and Inventory Searches	170
	§6.7	Warrantless Intrusion Requiring No Justification: Consent	172
	§6.8	The Plain View Doctrine	184
	§6.9	The Problem of Pretext	191
Chapter 7	The Exclusionary Rule: Rationale, Operation, and Limitations		195
	§7.1	The Rationale of the Exclusionary Rule	195
	§7.2	The Derivative Evidence (Fruit-of-the-Poisonous-Tree) Doctrine	199
	§7.3	Limitations on the Exclusionary Rule	215
	§7.3.1	Standing	216
	§7.3.2	Limitation to Criminal Trial Versus Other Proceedings	227
	§7.3.3	The Good Faith Exception	231
	§7.3.4	The Impeachment Exception	243
	§7.3.5	Harmless Error	244

PART II. INTERROGATION AND CONFESSIONS

Chapter 8	The Voluntariness Standard	249
Chapter 9	The <i>Miranda</i> Approach	261
§9.1	The <i>Miranda</i> Decision	261
§9.2	The Components of <i>Miranda</i>	264
§9.2.1	Custody	264
§9.2.2	Interrogation	274
§9.2.3	The Substance and Adequacy of the Warnings	286
§9.2.4	Waiver of <i>Miranda</i> Rights	291
§9.2.5	Waiver After Invocation of the Right to Silence or to Counsel	303
§9.3	Limitations on the Scope of the <i>Miranda</i> Exclusionary Rule	316
§9.3.1	Use of the Statement for Impeachment	317
§9.3.2	The Public Safety Exception	319
§9.3.3	Suppression of the Fruits of a Statement Obtained in Violation of <i>Miranda</i>	326
§9.4	Summary—What’s Left of <i>Miranda</i> ?	328
Chapter 10	The Sixth Amendment “Right to Counsel” Approach	329
§10.1	The <i>Massiah</i> Doctrine	329
§10.2	The “Deliberately Elicit” Standard	330
§10.3	At What Point Does the <i>Massiah</i> Doctrine Apply?—The Initiation of Judicial Proceedings	332
§10.4	Waiver and Exceptions to the <i>Massiah</i> Doctrine	333
§10.5	Overview of Interrogation and Confessions	338

PART III. OTHER INVESTIGATIVE PROCEDURES

Chapter 11	Other Investigative Procedures — Eyewitness Identification, Bodily Intrusions, Examination of Physical Attributes, Entrapment, and “High-Tech” and Computer Searches	341
§11.1	Eyewitness Identification	341

Contents

§11.2	Bodily Intrusions and Examination of Suspect's Physical Attributes	348
§11.3	Entrapment	354
	§11.3.1 The Common Law Defense	355
	§11.3.2 Due Process	356
§11.4	"High-Tech" Searches	361
	§11.4.1 Electronic Surveillance and Wiretapping	361
	§11.4.2 Searches of Computers	362
Chapter 12	September 11, 2001, and Its Aftermath	367
§12.1	Introduction	367
§12.2	Terrorism and the Fourth Amendment	374
	Checklist and Review Problems	377
	<i>Table of Cases</i>	389
	<i>Index</i>	401