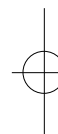
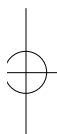
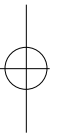


**NEW YORK CRIMINAL
PROCEDURE**





NEW YORK CRIMINAL PROCEDURE

**An Analytical Approach to Statutory,
Constitutional and Case Law for
Criminal Justice Professionals**

Christopher J. Morse

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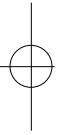
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Preface

A review of the literature indicates many books on constitutional criminal procedure but virtually no comprehensive work on statutory criminal procedure. This book is designed to stimulate and enable students and criminal justice professionals to critically analyze and understand statutory criminal procedure law. This body of law contains precise procedural rules that must be followed in order to insure the constitutional rights of defendants and other players in the criminal process are not violated.

The provisions of the United States Constitution relating to criminal procedure are embodied in its fourth, fifth, sixth and eighth amendments. These amendments contain such well known rights as those against unreasonable search and seizure, the right not to be compelled to be a witness against oneself, the right to the assistance of counsel, the right to a speedy, public, jury trial and the due process clause; however, these are rights not procedure. These provisions, as written, at one and the same time, are ambiguous and the supreme law of the land. Their meaning is set forth in the decisions of the United States Supreme Court and lower courts of the federal and state governments. The due process clause requires criminal procedure to be fair, in order to enable a defendant to be able to defend against criminal charges. However, these court decisions do not translate directly to a comprehensive set of criminal procedure rules designed to insure fairness in the criminal procedure process as required by the due process clause.

The legislative bodies of the United States and each individual state have enacted statutes that constitute the criminal procedure law of that jurisdiction. These statutory schemes are similar since they are based upon the same constitutional principles as set forth above. Statutes are by their very nature ambiguous or if precisely drawn, create difficulties in application to the varying factual situations to which they must be applied. When the meaning or intent of a criminal procedure statutory provision is brought into question, the courts must decide its meaning or how it should be appropriately applied. There is a myriad of such decisions.

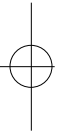
In order to stimulate students and criminal justice professionals into thinking critically about the criminal procedure process, we must look first to the criminal procedure statute, then to the court decisions interpreting them and then to the applicable constitutional provisions. It is difficult, if not impossible, for students and criminal justice professionals, who have little or no formal education in constitutional law or methods of constitutional interpretation, to acquire a reasonable understanding of the criminal procedure process. This book is designed to enable these constituencies to overcome these problems. The analysis is of the Criminal Procedure Law of New York State; however, since the criminal procedure law is similar in each jurisdiction due to its constitutional underpinnings, this book may be used in any jurisdiction in order to provoke readers into thinking critically and understanding criminal procedure law.

Absent this book, teachers in an academic environment or training facility for criminal justice professionals would be required to use the statute as a primary text which,

from a pedagogical view is wholly inadequate. The statute itself is not comprehensive and is at times misleading when viewed alone. This book takes one through the criminal procedure statute in its entirety, from arrest, arraignment, hearings, motions, discovery, evidence, trial and appeal to special procedures such as immunity, jurisdiction, wiretapping, death penalty and extradition. This work analyzes and integrates the statute with court decisions and constitutional considerations, presenting the reader with a comprehensible, thought provoking, understandable knowledge of the criminal procedure process. In addition, it contains over eighty edited, illustrative cases for analysis on various aspects of the criminal procedure process such as stop and frisk, search warrants, no knock entry, grand jury proceedings, plea bargaining, bail, admission at trial of previous statements of witnesses, bodily intrusions, DNA testing, suppression of evidence, jury trial, sentencing and sex offender registration.

The exposure of students, criminal justice professionals and the public at large to the criminal procedure process has increased significantly due to the plethora of criminal procedure news, television dramas, and the live televising of criminal actions and trials. This book will assist members of these constituencies to more fully analyze and understand the criminal procedure process they are experiencing.

The overriding aspiration of this book is that students and criminal justice professionals will be provoked into thinking critically about criminal procedure law; then armed with the tools and insights learned, be inspired to pursue their own study of criminal procedure in greater depth.



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Non scholae, sed vitae.

