

# SKILLS & VALUES: CRIMINAL PROCEDURE

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MATTHEW  BENDER

# DEDICATION

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To Professor Don Hall: My teacher, my mentor, my colleague and my friend; with appreciation and affection. S.L.K.

To Melinda, Jessica, and Adam: Thank you for your support, suggestions, and help. W. C.



# *INTRODUCTION*

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This book is part of the Skills and Values series. As such, it is a group of exercises that can be used to enhance your course in Criminal Procedure. We anticipate that this book will be used in conjunction with a traditional casebook, but will give you the opportunity to experience and become more familiar with the doctrine that you are learning in class. Through the exercises in this book, you will learn how many of the ideas you are studying into real life law practice. In the exercises, you will be in the role of lawyer, judge, and police officer, making the kinds of decisions and judgments that those individuals make on a daily basis.

We have chosen to utilize one fact pattern that unfolds throughout the sixteen chapters of the book. We felt that it would be useful to have you immerse yourselves in the facts of this one case, and to become familiar with the various characters and situations. Notwithstanding this choice, each of the chapters can stand on its own and your professor may choose to assign any combination or sequence of the exercises depending on how he or she designs the criminal procedure course. We have provided a general description of the case at the beginning of the book, and each chapter contains the remainder of the information necessary to complete the exercise.

We are very grateful to the Franklin, Tennessee, police department whose officers (and cars) appear in several of the videos. We are also grateful to our many friends and former students who also appear in the videos. Their willingness to assist us, and their enthusiasm for the project, were key to its completion. We especially appreciate the technical assistance provided by those police officers and federal agents who read our scripts and helped us make them more realistic. And special thanks go to our videographer extraordinaire, B.C. Hatchett, who is responsible for shooting, editing and formatting the videos that appear on the webcourse.





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## *LEARNING OBJECTIVES*

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- Analyzing a set of facts;
- Applying case law to the facts; determining whether an individual has consented to a search
- Determining whether probable cause to arrest exists;
- Determining whether reasonable suspicion to stop an individual exists;
- Determining whether an individual has authority to consent to search;
- Determining whether an individual has consented to a search;
- Drafting a search warrant;
- Determining whether a law enforcement officer has properly given *Miranda* warnings to a defendant;
- Determining what constitutes a non-suggestive photo spread;
- Judging whether litigants have met the burden of proof;
- Applying statutes to the facts;
- Determining whether to cross-examine a witness, and if so, developing a strategy for cross-examination;
- Devising a position on pretrial release for a defendant charged with armed bank robbery;
- Determining whether exercises of the right against self-incrimination were correct, and if not, what action should be taken;
- Preparing a charging document;
- Application of the federal discovery rule and Supreme Court precedent to the facts;
- Determining what evidence, statements, and other items in the government's possession must be disclosed to the defense;
- Determining breadth of a search warrant;
- Drafting a motion;
- Negotiation;
- Application of the federal sentencing guidelines;
- Determining what sentence should be imposed;



## *STATEMENT OF FACTS*

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Bedford Falls is a town of about 45,000 people located in the southwest corner of the State of Atlantis. It is bordered on the east by the city of Franklin, which has approximately 150,000 inhabitants. Bedford Falls is primarily a residential community for blue and white collar workers but is also home to a number of mortgage and lending companies. Several banks have branches in Bedford Falls, most of which are located in the downtown area.

At 3:00 p.m. on August 3, 2010, four people entered the Bedford Falls branch of the Second City Commerce Bank as the bank was closing for the day. Each of the four was wearing latex gloves and a full-face ski mask, and each carried a loaded handgun. One of the four, the leader of the group, announced that the bank was being robbed and ordered the tellers and customers to lie face down on the floor. He also told the tellers not to activate any of the bank's alarms. Another robber relieved the security guard of her handgun and ordered her to lie on the floor next to the others. While that robber stood guard, two of the other robbers went to the tellers' stations and took money from the tellers' windows, making sure not to take any dye packs (stacks of currency containing devices that explode and release a colored dye) or bait bills (currency for which the bank has recorded the serial numbers). At the same time, the leader pointed a gun at the bank manager and ordered the manager to open the bank's vault, which the manager did. The leader then entered the vault and took money the bank was storing there, also making sure not to take any dye packs or bait bills. The robbers put all of the money in large garbage bags and fled the bank. As he left, the leader wished the employees and customers a nice day, and told them not to move for five minutes.

The bank manager waited five minutes and then dialed 911, reporting that the bank had been robbed. Bedford Falls police officers responded to the bank. Police officers were told that all four robbers wore latex gloves and ski masks that fully covered their faces. General descriptions of the height, weight, and clothing worn by two of the robbers were also obtained. One of the customers had lifted her head as the robbers fled, and was able to furnish a description of the getaway vehicle they used, a dark blue Chevrolet Suburban. The Bedford Falls Police Department issued a BOLO (Be On the Lookout Order) for the robbers, containing the descriptions of the robbers and of the getaway vehicle. The BOLO was broadcast to police officers in Bedford Falls and to the headquarters of neighboring police departments, including the Franklin Police Department. Special Agents of the Federal Bureau of Investigation (FBI) also responded to the bank.

Crime scene technicians processed the scene of the bank robbery, but no evidence of value was recovered. Copies of the bank's surveillance tapes were taken, as was a copy of the bank's certificate of insurance from the Federal Deposit Insurance Corporation. Bank officials conducted an audit of the tellers' windows and the vault and determined that \$125,000 had been taken during the robbery.

