

Mastering Criminal Procedure

Volume 1

CAROLINA ACADEMIC PRESS MASTERING SERIES

RUSSELL WEAVER, SERIES EDITOR

Mastering Administrative Law

William R. Andersen

Mastering Alternative Dispute Resolution

Kelly M. Feeley, James A. Sheehan

Mastering American Indian Law

Angelique Townsend EagleWoman, Stacy L. Leeds

Mastering Appellate Advocacy and Process

Donna C. Looper, George W. Kuney

Mastering Art Law

Herbert Lazerow

Mastering Bankruptcy

George W. Kuney

Mastering Civil Procedure 2d e

David Charles Hricik

Mastering Constitutional Law 2d e

John C. Knechtle, Christopher J. Roederer

Mastering Contract Law

Irma S. Russell, Barbara K. Bucholtz

Mastering Corporate Tax

Reginald Mombrun, Gail Levin Richmond, Felicia Branch

Mastering Corporations and Other Business Entities

Lee Harris

Mastering Criminal Law

Ellen S. Podgor, Peter J. Henning, Neil P. Cohen

Mastering Criminal Procedure, Volume 1: The Investigative Stage 2d e

Peter J. Henning, Andrew Taslitz, Margaret L. Paris,

Cynthia E. Jones, Ellen S. Podgor

Mastering Criminal Procedure, Volume 2: The Adjudicatory Stage 2d e

Peter J. Henning, Andrew Taslitz, Margaret L. Paris,

Cynthia E. Jones, Ellen S. Podgor

Mastering Elder Law 2d e

Ralph C. Brashier

Mastering Employment Discrimination Law

Paul M. Secunda, Jeffrey M. Hirsch

Mastering Evidence

Ronald W. Eades

Mastering Family Law

Janet Leach Richards

Mastering Income Tax

Christopher M. Pietruszkiewicz, Gail Levin Richmond

Mastering Intellectual Property

George W. Kuney, Donna C. Looper

Mastering Labor Law

Paul M. Secunda, Anne Marie Lofaso, Joseph E. Slater, Jeffrey M. Hirsch

Mastering Legal Analysis and Communication

David T. Ritchie

Mastering Legal Analysis and Drafting

George W. Kuney, Donna C. Looper

**Mastering Negotiable Instruments (UCC Articles 3 and 4)
and Other Payment Systems**

Michael D. Floyd

Mastering Partnership Taxation

Stuart Lazar

Mastering Products Liability

Ronald W. Eades

Mastering Professional Responsibility 2d e

Grace M. Giesel

Mastering Property Law

Darryl C. Wilson, Cynthia H. DeBose

Mastering Secured Transactions (UCC Article 9) 2d e

Richard H. Nowka

Mastering Statutory Interpretation 2d e

Linda D. Jellum

Mastering Tort Law

Russell L. Weaver, Edward C. Martin, Andrew R. Klein,
Paul J. Zwier II, Ronald W. Eades, John H. Bauman

Mastering Trademark and Unfair Competition Law

Lars S. Smith, Llewellyn Joseph Gibbons

Mastering Criminal Procedure

Volume 1: The Investigative Stage

Second Edition

Peter J. Henning

PROFESSOR OF LAW
WAYNE STATE UNIVERSITY LAW SCHOOL

Andrew Taslitz

PROFESSOR OF LAW
LATE OF AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW

Margaret L. Paris

PROFESSOR OF LAW
UNIVERSITY OF OREGON SCHOOL OF LAW

Cynthia E. Jones

PROFESSOR OF LAW
AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW

Ellen S. Podgor

GARY R. TROMBLEY FAMILY WHITE-COLLAR CRIME RESEARCH PROFESSOR
PROFESSOR OF LAW
STETSON UNIVERSITY COLLEGE OF LAW



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2015
Carolina Academic Press
All Rights Reserved.

Library of Congress Cataloging-in-Publication Data

Mastering criminal procedure / Peter J. Henning, Andrew Taslitz, Margaret L. Paris, Cynthia E. Jones, and Ellen S. Podgor.

2 volumes cm. -- (Carolina academic press mastering series)

Includes bibliographical references and index.

Contents: volume 1. The investigative stage -- volume 2. The adjudicatory stage.

ISBN 978-1-61163-550-8 (volume 1) -- ISBN 978-1-61163-551-5 (volume 2)

1. Criminal procedure--United States. I. Henning, Peter J., author.

KF9619.85.M378 2014

345.73'05--dc23

2014037524

Carolina Academic Press
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

To Ruth and Durstan McDonald.

Peter J. Henning

*To my wife, Patty, who makes life worthwhile;
my sister, Ellen, who taught me to read and write in the first place;
and my students, who give me more than I can ever say.*

Andrew Taslitz

To Shel, who makes everything possible.

Margaret L. Paris

*To the memory of my wonderful mother, Ernestine C. Jones (1932–2004),
who continues to motivate and inspire me.*

Cynthia E. Jones

To all my students.

Ellen S. Podgor

Contents

| | |
|---|----------|
| Table of Cases | xxi |
| Series Editor's Foreword | xxxii |
| Preface | xxxiii |
| Chapter 1 · Introduction | 3 |
| Roadmap | 3 |
| I. Federal Constitutional Provisions on Criminal Procedure | 4 |
| A. The Fourth Amendment | 4 |
| B. The Fifth Amendment | 4 |
| C. The Sixth Amendment | 5 |
| D. The Eighth Amendment | 5 |
| E. The Fourteenth Amendment | 5 |
| II. Stages of the Criminal Adjudication Process | 5 |
| A. Initial Pre-Arrest Investigation | 5 |
| B. Arrest | 7 |
| C. Booking | 8 |
| D. Initial Court Appearance | 8 |
| E. Preliminary Hearing | 10 |
| F. Grand Jury | 10 |
| G. Arraignment | 11 |
| H. Pretrial Litigation | 12 |
| I. Trial | 12 |
| J. Sentencing | 13 |
| K. Appeals | 14 |
| L. Post-Conviction Remedies | 15 |
| III. A Brief Word on the Process of Constitutional Interpretation | 15 |
| A. Text | 16 |
| B. Intent of the Framers, Ratifiers, and the "People" | 16 |
| C. Constitutional Structure | 18 |
| D. Precedent | 19 |

| | |
|--|----|
| E. Evidence of American Customs, Traditions, and Practices | 19 |
| F. Contemporary Morality and Attitudes | 20 |
| G. Considerations of Practicality and Prudence | 20 |
| Checkpoints | 22 |
| Chapter 2 · When Does the Fourth Amendment Apply? | 25 |
| Roadmap | 25 |
| I. Introduction | 25 |
| II. The Purpose of the Fourth Amendment | 26 |
| III. The Scope of the Fourth Amendment | 27 |
| A. Government Action | 27 |
| B. The “People” | 27 |
| C. What Government Conduct Constitutes a Fourth Amendment | |
| Search | 28 |
| 1. What Is a “Search”: The <i>Katz</i> Test | 28 |
| 2. The Trespass/Physical Intrusion Test | 31 |
| 3. Invasion of Reasonable Expectations of Privacy | 32 |
| 4. “Non-Search” Investigative Techniques | 35 |
| IV. The Scope of Fourth Amendment Seizures | 42 |
| V. The Reasonableness Requirement | 43 |
| Checkpoints | 44 |
| Chapter 3 · Warrants | 45 |
| Roadmap | 45 |
| I. The Warrant “Requirement” | 45 |
| II. What Is Probable Cause? | 47 |
| A. Background and Definition | 47 |
| 1. An Objective Concept | 47 |
| 2. The Quantitative Component | 51 |
| 3. The Qualitative Component | 51 |
| 4. The Temporal Component | 52 |
| B. Quantitative Requirements Redux | 52 |
| C. Qualitative Requirements | 56 |
| 1. <i>Aguilar-Spinelli</i> | 56 |
| 2. <i>Gates</i> | 58 |
| D. Individualized Justice and Other Normative Concerns | 65 |
| E. Temporal Components | 68 |
| 1. Timing and Two Standards for Probable Cause | 68 |
| 2. Anticipatory Warrants | 69 |
| F. Particularity | 72 |

| | |
|---|------------|
| 1. Particularity's Meaning | 72 |
| 2. Residual Clauses | 73 |
| 3. Affidavit-Warrant Link | 75 |
| III. Executing the Warrant | 77 |
| A. Time, Place, and Manner | 77 |
| B. Knock and Announce | 78 |
| C. Treatment of Individuals during Warrant Executions | 82 |
| Checkpoints | 86 |
| Chapter 4 · Arrests With and Without Warrants | 87 |
| Roadmap | 87 |
| I. The Requirement of Reasonableness | 87 |
| A. Seriousness of Offense | 87 |
| B. Level of Suspicion | 88 |
| C. Warrant Requirement | 89 |
| D. Use of Force | 90 |
| II. The Requirement of Prompt Arraignment | 93 |
| III. <i>Terry</i> Stops and Frisks | 94 |
| A. Differentiating <i>Terry</i> Stops from Arrests | 94 |
| 1. Defining Seizures | 94 |
| 2. A Comparison to Voluntary Encounters | 95 |
| 3. Stops versus Arrests | 98 |
| B. Sufficiency of the Evidence of Reasonable Suspicion | 100 |
| 1. Quantum of Evidence | 100 |
| 2. Quality of Evidence | 102 |
| C. <i>Terry</i> Frisks | 105 |
| Checkpoints | 107 |
| Chapter 5 · Electronic Surveillance | 109 |
| Roadmap | 109 |
| I. Fourth Amendment Oversight of Surveillance | 109 |
| A. Threshold: Determining When the Fourth Amendment Applies | 109 |
| B. The Substance of Fourth Amendment Protections | 111 |
| II. Statutory Regulation of Electronic Surveillance | 111 |
| A. Development of the Federal Statutory Framework | 111 |
| B. Relationship Between Statutes and the Fourth Amendment | 112 |
| III. The Wiretap Act | 113 |
| A. Title I: Highest Level of Protection | 113 |
| 1. Types of Communications Covered by Title I | 113 |

| | |
|---|-----|
| 2. Requirements for Title I Intercept Orders | 114 |
| 3. Remedies for Title I Violations | 116 |
| B. Lower Protection for Stored Electronic Communications | 117 |
| C. Lowest Protection for Pen Registers and Trap and Trace Devices | 117 |
| IV. FISA | 118 |
| V. The Patriot Act | 118 |
| A. Provisions Affecting Fourth Amendment Searches | 118 |
| B. Provisions Expanding Scope of FISA | 119 |
| C. Provisions Affecting Wiretap Act | 119 |
| VI. NSA's Global Surveillance Program | 120 |
| VII. Review Problem | 121 |
| A. Problem | 121 |
| B. Analysis | 122 |
| Checkpoints | 124 |
| Chapter 6 · Searches of Persons | 125 |
| Roadmap | 125 |
| I. Introduction | 125 |
| II. <i>Terry</i> Searches | 126 |
| III. Search Incident to Arrest Exception | 126 |
| A. <i>Chimel v. California</i> : The “Grab-Reach” Rule | 126 |
| B. <i>United States v. Robinson</i> : The Automatic Search Rule | 127 |
| C. The Scope of the Search Incident to Arrest Exception | 128 |
| 1. The Requirement of a Custodial Arrest | 128 |
| 2. Probable Cause to Arrest | 128 |
| 3. Spatial Proximity: The Theoretical “Grab-Reach” Limitation | 129 |
| 4. Temporal Proximity: When Is the Search “Incident to” the Arrest | 130 |
| IV. Searches of Personal “Effects” | 130 |
| A. Search of Personal Effects Incident to Arrest | 130 |
| B. Post-Arrest “Stationhouse” Search | 132 |
| 1. Inventory Search of Personal Belongings | 132 |
| 2. “Identification” Search | 133 |
| Checkpoints | 134 |
| Chapter 7 · Searches of Cars | 135 |
| Roadmap | 135 |
| I. “Non-Search” Investigations of Vehicles | 135 |

| | |
|---|-----|
| II. Automobile Searches during Non-Custodial Traffic Stops | 136 |
| A. <i>Terry</i> Automobile Searches | 136 |
| B. Investigating Unrelated Criminal Activity | 137 |
| C. Pretextual Traffic Stops and Racial Profiling | 138 |
| III. Searches of Automobiles Incident to Custodial Arrest of Motorists | 139 |
| A. Overview | 139 |
| B. <i>New York v. Belton</i> | 140 |
| C. <i>Thornton v. United States</i> | 140 |
| D. <i>Arizona v. Gant</i> | 141 |
| 1. The “Unsecured” Arrestee and the “Possibility of Access” to the Vehicle | 142 |
| 2. “Reason to Believe” | 143 |
| 3. Summary | 143 |
| IV. The Automobile Exception | 144 |
| A. The Automobile Exception versus Search Incident to Arrest | 144 |
| B. A Reduced Expectation of Privacy | 145 |
| C. The End of the “Container Rule” | 145 |
| D. Restrictions on the Automobile Exception | 146 |
| V. Inventory Searches of Impounded Vehicles | 147 |
| A. Purpose of Inventory Searches | 147 |
| B. Requirements for a Valid Inventory Search | 148 |
| 1. Standard Procedure | 148 |
| 2. Good Faith | 149 |
| 3. Limited Scope | 149 |
| Checkpoints | 150 |
| Chapter 8 · Consent Searches | 151 |
| Roadmap | 151 |
| I. Overview | 151 |
| II. The Scope of a Consent Search | 152 |
| III. Objective Reasonableness | 153 |
| IV. What Is Valid Consent? | 153 |
| A. Voluntariness and the “Totality of the Circumstances” Test | 154 |
| 1. Degree of Police Coerciveness | 155 |
| 2. Custodial Status | 155 |
| 3. Characteristics of the Suspect | 156 |
| B. Authority to Consent | 156 |
| 1. Actual Authority | 157 |
| 2. Apparent Authority | 158 |

| | |
|---|-----|
| V. Problems with Consent Searches | 159 |
| VI. State Restrictions on Consent Searches | 161 |
| Checkpoints | 162 |
| Chapter 9 · Exigent Circumstances | 163 |
| Roadmap | 163 |
| I. Introduction | 163 |
| II. Requirements for the Exigent Circumstances Exception | 164 |
| A. Probable Cause | 164 |
| B. Scope of Authority | 164 |
| C. Obtaining Warrant Impractical | 165 |
| D. When Circumstances Are Exigent | 165 |
| 1. Hot Pursuit | 166 |
| 2. Public Safety | 166 |
| 3. Destruction of Evidence | 167 |
| Checkpoints | 171 |
| Chapter 10 · Plain View | 173 |
| Roadmap | 173 |
| I. Introduction | 173 |
| II. Scope of the Plain View Exception | 173 |
| A. Lawful Presence and Access | 174 |
| B. Seizures, Not Searches | 174 |
| C. Probable Cause Standard | 175 |
| III. No “Inadvertence” Requirement | 176 |
| IV. Beyond Plain View: Other “Plain” Sensory Perceptions | 176 |
| Checkpoints | 178 |
| Chapter 11 · Administrative Searches and Special Needs | 179 |
| Roadmap | 179 |
| I. Overview | 179 |
| A. Defining and Analyzing Administrative Search and Seizure Cases | 179 |
| B. Determining Governmental Purpose | 181 |
| C. Balancing | 183 |
| D. Scope of Administrative and Special Needs Searches | 183 |
| II. Administrative Searches | 184 |
| A. Administrative Warrant Requirements | 184 |
| B. Warrantless Searches of Closely Regulated Businesses | 186 |
| C. Other Administrative Searches | 188 |
| D. Motor Vehicle Regulation and Checkpoints | 188 |

| | |
|--|-----|
| E. Welfare Home Visits | 190 |
| F. Airport Screening | 191 |
| III. Border Searches | 191 |
| A. International Borders | 191 |
| B. Detention | 192 |
| C. Roving Border Patrols | 192 |
| D. Fixed Checkpoints | 193 |
| IV. Searches of Vessels | 194 |
| V. Special Needs Searches | 195 |
| A. Public School Students | 195 |
| B. Public Employees | 196 |
| C. Probationers, Parolees, and Arrestees | 198 |
| VI. Drug Testing | 200 |
| A. Public Employees | 200 |
| B. Public School Students | 202 |
| C. Rejected Testing Programs | 203 |
| D. Lower Court Decisions | 204 |
| Checkpoints | 205 |
| Chapter 12 · Remedies for Fourth Amendment Violations | 207 |
| Roadmap | 207 |
| I. Introduction | 207 |
| II. Development of the Exclusionary Rule | 208 |
| A. <i>Weeks</i> : The Exclusionary Rule in Federal Court | 208 |
| B. <i>Mapp</i> : The Exclusionary Rule Extended to States | 208 |
| III. Standing and Procedures for Asserting the Exclusionary Rule | 210 |
| A. Who Can Assert the Exclusionary Rule: The “Standing” Doctrine | 210 |
| B. How to Assert the Exclusionary Rule | 211 |
| IV. Exclusionary Rule Limitations | 213 |
| A. Recent Narrowing of the Exclusionary Rule | 213 |
| B. Limitations on the Exclusionary Rule | 213 |
| 1. The “Good Faith” Exception | 213 |
| 2. The “Knock and Announce” Exception | 217 |
| 3. The “Independent Source” and “Inevitable Discovery” Exceptions | 218 |
| 4. The “Attenuated Taint” Doctrine | 220 |
| 5. The “Criminal Trial” Limitation | 221 |
| 6. The Impeachment Exception | 222 |

| | |
|---|-----|
| 7. Limitation on Federal Habeas Review | 222 |
| V. Other Remedies for Fourth Amendment Violations | 223 |
| A. Section 1983 and <i>Bivens</i> Actions | 223 |
| B. Common Law Tort Remedies | 225 |
| C. The Federal Tort Claims Act | 225 |
| D. RICO | 225 |
| E. Injunctive Relief | 226 |
| F. Administrative Sanctions | 226 |
| G. Criminal Prosecutions | 226 |
| VI. Review Problem | 227 |
| A. Problem | 227 |
| B. Analysis | 228 |
| Checkpoints | 229 |
| Chapter 13 · Due Process Voluntariness | 231 |
| Roadmap | 231 |
| I. Due Process Voluntariness | 231 |
| A. Development of the Doctrine | 232 |
| B. Totality of the Circumstances Test | 232 |
| C. Investigatory Techniques | 233 |
| 1. Physical Techniques | 233 |
| 2. Psychological Techniques | 234 |
| 3. Lies and Deception | 235 |
| 4. Promises of Leniency | 235 |
| II. The Exclusionary Rule for Involuntary Confessions | 235 |
| III. Proving Voluntariness | 236 |
| IV. Review Problem | 236 |
| A. Problem | 236 |
| B. Analysis | 237 |
| Checkpoints | 238 |
| Chapter 14 · <i>Miranda</i> and Confessions | 239 |
| Roadmap | 239 |
| I. Background | 239 |
| II. <i>Miranda</i> | 240 |
| A. <i>Miranda</i> 's First Holding: The Privilege Applies outside the Courtroom | 241 |
| B. <i>Miranda</i> 's Second Holding: Compulsion Is Inherent in " Custodial Interrogation " | 241 |
| C. <i>Miranda</i> 's Third Holding: Overcoming Compulsion | 242 |

| | |
|---|-----|
| D. <i>Miranda</i> 's Constitutional Status | 243 |
| III. Definition of Custody | 244 |
| A. Custody Is an Objective Test | 244 |
| B. A Fourth Amendment Comparison | 245 |
| C. The Relevance of Location | 246 |
| D. The Reasonable Person "Under the Circumstances" | 247 |
| IV. Definition of Interrogation | 247 |
| V. Waiver of Rights and Invocation of Rights | 248 |
| A. Components of a Valid Waiver | 248 |
| B. Invocation and Its Consequences | 250 |
| 1. What Constitutes Invocation? | 250 |
| 2. Resumption of Questioning after Rights Are Invoked | 251 |
| VI. <i>Miranda</i> Limitations: Fruit of the Poisonous Tree and Impeachment | 254 |
| A. Fruit of the Poisonous Tree Limitations | 254 |
| B. Impeachment | 256 |
| VII. <i>Miranda</i> Exceptions | 257 |
| VIII. Undercover Activities | 258 |
| IX. Privilege against Self-Incrimination outside <i>Miranda</i> | 258 |
| A. Thresholds: Compulsion, Incrimination, Testimony | 258 |
| 1. Compulsion | 259 |
| 2. Incrimination | 259 |
| 3. Testimony | 259 |
| B. Pre-Existing Documents | 260 |
| C. The "Required Records" Exception | 261 |
| D. Invoking and Waiving the Privilege | 262 |
| Checkpoints | 263 |
| Chapter 15 · Interrogations and the Sixth Amendment | 265 |
| Roadmap | 265 |
| I. Introduction | 265 |
| II. Development of the Right: <i>Massiah</i> and <i>Escobedo</i> | 266 |
| A. <i>Massiah</i> | 266 |
| B. <i>Escobedo</i> | 267 |
| III. Deliberate Elicitation | 268 |
| A. Interrogation as "Elicitation" | 268 |
| B. Deliberate | 269 |
| C. Elicitation | 270 |
| D. Jailhouse Snitches | 271 |
| IV. Attachment of the Right to Counsel | 272 |

| | |
|---|-----|
| A. Triggering the Right | 272 |
| B. Other Charges | 272 |
| C. Offense Specific | 273 |
| D. Same Offense Test | 273 |
| V. Waiver | 274 |
| A. Requirements | 274 |
| B. Interrogation after Assertion of Right | 275 |
| C. Interrogation with No Prior Assertion of Right | 277 |
| VI. Subsequent Use of the Statement | 278 |
| A. Impeachment | 278 |
| B. Fruit of the Poisonous Tree | 279 |
| VII. Review Problem | 279 |
| A. Problem | 279 |
| B. Analysis | 280 |
| Checkpoints | 282 |
| Chapter 16 · Eyewitness Identification | 283 |
| Roadmap | 283 |
| I. Introduction | 283 |
| II. The Science of Eyewitness Identifications | 285 |
| A. Sources of Error | 285 |
| B. Proposed Solutions | 286 |
| 1. Use Double-Blind Lineups and Photospreads | 287 |
| 2. Sequential versus Simultaneous Lineups | 287 |
| 3. Lineup Size | 288 |
| 4. Lineup Instructions | 288 |
| 5. Showups | 289 |
| 6. Sketches | 289 |
| III. The Right to Counsel | 289 |
| A. Overview | 289 |
| B. <i>United States v. Wade</i> and Uncounseled Out-of-Court Identifications | 291 |
| C. The In-Court Identification in <i>Wade</i> | 294 |
| D. <i>Wade</i> 's Modern Implications | 295 |
| IV. Due Process | 297 |
| A. Overview | 297 |
| B. Defining “Unnecessary Suggestiveness” | 297 |
| C. The Likelihood of Misidentification | 300 |
| V. Other Constitutional Issues | 301 |
| A. Fifth Amendment | 301 |

| | |
|--|------------|
| B. Fourth Amendment | 301 |
| Checkpoints | 303 |
| Chapter 17 · Entrapment | 305 |
| Roadmap | 305 |
| I. Introduction | 305 |
| II. Subjective Approach | 306 |
| III. Objective Approach | 308 |
| IV. Entrapment-by-Estoppel | 309 |
| V. Sentencing Entrapment | 309 |
| VI. Outrageous Government Conduct | 310 |
| Checkpoints | 311 |
| Mastering Criminal Procedure, Volume 1: The Investigative Stage | |
| Master Checklist | 313 |
| Scope of the Fourth Amendment | 313 |
| Warrants | 313 |
| Arrests and Seizures of the Person | 314 |
| Warrantless Searches | 314 |
| The Exclusionary Rule | 316 |
| Interrogation: Due Process, <i>Miranda</i> and the Sixth Amendment | 316 |
| Identifications | 317 |
| Entrapment | 317 |
| Index | 319 |

Table of Cases

- Adams v. Williams, 407 U.S. 143 (1972), 103
- Alabama v. White, 496 U.S. 325 (1990), 102
- Almeida-Sanchez v. United States, 413 U.S. 266 (1973), 192–193
- Aguilar v. Texas, 378 U.S. 108 (1964), 56
- Andresen v. Maryland, 427 U.S. 463 (1976), 73–74
- Arizona v. Evans, 514 U.S. 1 (1995), 215, 216
- Arizona v. Fulminante, 499 U.S. 279 (1991), 233–235
- Arizona v. Gant, 556 U.S. 332 (2009), 129, 139, 141–144
- Arizona v. Hicks, 480 U.S. 321 (1987), 35, 174–176
- Arizona v. Johnson, 555 U.S. 323 (2009), 136
- Arizona v. Mauro, 481 U.S. 520 (1987), 248
- Arizona v. Roberson, 486 U.S. 675 (1988), 253
- Atwater v. City of Lago Vista, 532 U.S. 318 (2001), 88, 129
- Bailey v. United States, 133 S. Ct. 1013 (2013), 83
- Beck v. Ohio, 379 U.S. 89 (1964), 47
- Bellis v. United States, 417 U.S. 85 (1974), 262
- Berger v. New York, 388 U.S. 41 (1967), 74
- Berkemer v. McCarty, 468 U.S. 420 (1984), 99, 137, 245, 257
- Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), 224, 225
- Blackburn v. Alabama, 361 U.S. 199 (1960), 232
- Blockburger v. United States, 284 U.S. 299 (1932), 273
- Board of Education of Independent School District No. 92 of Potawatowmie County v. Earls, 536 U.S. 822 (2002), 202
- Bond v. United States, 529 U.S. 334 (2000), 34, 177
- Brendlin v. California, 551 U.S. 249 (2007), 136
- Brewer v. Williams, 430 U.S. 387 (1977), 268, 270, 275, 279, 280
- Brigham City v. Stuart, 547 U.S. 398 (2006), 166
- Brower v. County of Inyo, 489 U.S. 593 (1989), 95
- Brown v. Illinois, 422 U.S. 590 (1975), 221
- Brown v. Texas, 443 U.S. 47 (1979), 101

- Brown v. Mississippi*, 297 U.S. 278 (1936), 232
- Bumper v. North Carolina*, 391 U.S. 543 (1968), 92, 155, 160, 212
- Burdeau v. McDowell*, 256 U.S. 465 (1921), 27
- California v. Acevedo*, 500 U.S. 565 (1991), 146
- California v. Byers*, 402 U.S. 424 (1971), 261
- California v. Carney*, 471 U.S. 386 (1985), 33, 145
- California v. Ciraolo*, 476 U.S. 207 (1986), 35
- California v. Greenwood*, 486 U.S. 35 (1988), 36
- California v. Hodari D.*, 499 U.S. 621 (1991), 94
- Camara v. Municipal Court*, 387 U.S. 523 (1967), 184–186, 193
- Care v. United States*, 231 F.2d 22 (10th Cir. 1956), 36
- Carroll v. United States*, 267 U.S. 132 (1925), 145, 194
- Chambers v. Maroney*, 399 U.S. 42 (1970), 145
- Chandler v. Miller*, 520 U.S. 305 (1997), 203
- Chapman v. United States*, 365 U.S. 610 (1961), 33, 157
- Chimel v. California*, 395 U.S. 752 (1969), 126, 127, 129, 139, 142
- City of Indianapolis v. Edmond*, 531 U.S. 32 (2000), 189
- City of Los Angeles v. Lyons*, 461 U.S. 95 (1983), 226
- Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970), 186, 187
- Colorado v. Bertine*, 479 U.S. 367 (1987), 147
- Colorado v. Connelly*, 479 U.S. 157 (1986), 236, 248
- Commonwealth v. Hatcher*, 199 S.W.3d 124 (Ky. 2006), 177
- Commonwealth v. Martinelli*, 729 A.2d 628 (Pa. 1999), 80
- Connecticut v. Barrett*, 479 U.S. 523 (1987), 249
- Coolidge v. New Hampshire*, 403 U.S. 443 (1971), 173, 175
- County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), 93, 94, 129
- County of Sacramento v. Lewis*, 523 U.S. 833 (1998), 95
- Crane v. Kentucky*, 476 U.S. 683 (1986), 236
- Cross v. State*, 560 So. 2d 228 (Fla. 1990), 153
- Cupp v. Murphy*, 412 U.S. 291 (1973), 34
- Davis v. Mississippi*, 394 U.S. 721 (1969), 90, 301
- Davis v. United States*, 512 U.S. 452 (1994), 250
- Delaware v. Prouse*, 440 U.S. 648 (1979), 188–190, 194
- Devenpeck v. Alford*, 543 U.S. 146 (2004), 49
- Dickerson v. United States*, 530 U.S. 428 (2000), 176, 177, 244, 254, 255
- Donovan v. Dewey*, 452 U.S. 594 (1981), 188

- Dorman v. United States, 435
F.2d 385 (D.C. Cir. 1970),
165
- Doyle v. Ohio, 462 U.S. 610
(1976), 256
- Dunaway v. New York, 442 U.S.
200 (1979), 99
- Edwards v. Arizona, 451 U.S. 477
(1981), 252, 253, 275, 276
- Eisman v. Superior Court, 98 Cal.
Rptr. 342 (Cal. Ct. App.
1971), 175
- Escobedo v. Illinois, 378 U.S. 478
(1964), 266, 267
- Ferguson v. City of Charleston,
532 U.S. 67 (2001), 182, 203
- Fernandez v. California, 134 S.
Ct. 1126 (2014), 158
- Fields v. State, 382 So.2d 1098
(Miss. 1980), 149
- Fisher v. United States, 425 U.S.
391 (1976), 167, 260, 262
- Flagg Bros., Inc. v. Brooks, 436
U.S. 149 (1978), 262
- Florence v. Board of Chosen
Freeholders, 132 S. Ct. 1510
(2012), 132
- Florida v. Bostick, 501 U.S. 429
(1991), 42, 96, 97, 155, 159
- Florida v. Harris, 133 S. Ct. 1050
(2013), 41
- Florida v. Jimeno, 500 U.S. 248
(1991), 153
- Florida v. J.L., 529 U.S. 266
(2000), 103
- Florida v. Jardines, 133 S. Ct.
1409 (2013), 32, 41
- Florida v. Riley, 488 U.S. 445
(1989), 35
- Florida v. Royer, 460 U.S. 491
(1983), 96, 99
- Florida v. Wells, 495 U.S. 1
(1990), 148, 149
- Florida v. White, 526 U.S. 559
(1999), 89
- Frazier v. Cupp, 394 U.S. 731
(1969), 235
- Garcetti v. Ceballos, 547 U.S. 410
(2006), 64
- Gaudlin v. State, 683 S.W.2d 411
(Tex. Crim. App. 1984), 141
- Georgia v. Randolph, 547 U.S.
103 (2006), 157
- Gerstein v. Pugh, 420 U.S. 103
(1975), 93, 107
- Gideon v. Wainwright, 372 U.S.
335 (1963), 265
- Gilbert v. California, 388 U.S.
263 (1967), 259, 293
- Giordenello v. United States, 357
U.S. 480 (1958), 63
- Graham v. Connor, 490 U.S. 386
(1989), 84
- Greer v. Miller, 483 U.S. 756
(1987), 257
- Griffin v. Wisconsin, 483 U.S.
868 (1987), 198, 204
- Groh v. Ramirez, 540 U.S. 551
(2004), 75, 76, 216
- Grosso v. United States, 390 U.S.
62 (1968), 261
- Hale v. Henkel, 201 U.S. 43
(1906), 262
- Hampton v. United States, 425
U.S. 484 (1976), 310
- Harris v. New York, 401 U.S. 222
(1971), 222

- Hayes v. Florida, 470 U.S. 811 (1985), 89
- Herring v. United States, 555 U.S. 135 (2009), 144, 213, 216
- Hester v. United States, 265 U.S. 57 (1924), 36
- Hiibel v. Sixth Judicial District Court of Nevada Humboldt County, 542 U.S. 177 (2004), 99, 100
- Hoffa v. United States, 385 U.S. 293 (1966), 37
- Holt v. United States, 218 U.S. 245 (1910), 259
- Horton v. California, 496 U.S. 128 (1990), 174, 176
- Howes v. Fields, 132 S. Ct. 1181 (2012), 246
- Hudson v. Michigan, 547 U.S. 586 (2006), 82
- Hudson v. Palmer, 468 U.S. 517 (1984), 33, 198
- Huff v. State, 452 So.2d 1352 (Ala. Crim. App. 1984), 260
- Hulse v. State, 961 P.2d 75 (Mont. 1988), 34
- Illinois v. Caballes, 543 U.S. 405 (2005), 40, 41, 137
- Illinois v. Gates, 462 U.S. 213 (1983), 45, 50, 51, 53, 54, 56, 58–60, 62, 63, 77, 86
- Illinois v. Krull, 480 U.S. 340 (1987), 215, 217
- Illinois v. Lafayette, 462 U.S. 640 (1983), 132, 133, 147
- Illinois v. Lidster, 540 U.S. 419 (2004), 179, 190
- Illinois v. McArthur, 531 U.S. 326 (2001), 42, 168
- Illinois v. Perkins, 496 U.S. 292 (1990), 258
- Illinois v. Rodriguez, 497 U.S. 177 (1990), 158
- Illinois v. Wardlow, 528 U.S. 119 (2000), 100, 102
- In re Doe v. United States, 801 F.2d 1164 (9th Cir. 1986), 261
- Jacobsen v. United States, 503 U.S. 540 (1992), 27, 42
- James v. Illinois, 493 U.S. 307 (1990), 222
- J.D.B. v. North Carolina, 131 S. Ct. 2394 (2011), 247
- Johnson v. State, 137 P.3d 903 (Wyo. 2006), 149
- Johnson v. Zerbst, 304 U.S. 458 (1938), 274
- Kansas v. Ventris, 556 U.S. 586 (2009), 271, 278
- Kastigar v. United States, 406 U.S. 441 (1972), 259
- Katz v. United States, 389 U.S. 347 (1967), 25, 28, 29, 31, 32, 39, 41, 110, 111
- Kaupp v. Texas, 538 U.S. 626 (2003), 89, 99
- Kentucky v. King, 131 S. Ct. 1849 (2011), 168
- Kirby v. Illinois, 406 U.S. 682 (1972), 268, 290
- Knowles v. Iowa, 525 U.S. 113 (1998), 128
- Kuhlman v. Wilson, 477 U.S. 436 (1986), 271
- Kyllo v. United States, 533 U.S. 27 (2001), 40

- Lewis v. United States, 385 U.S. 206 (1966), 37
- Leyra v. Denno, 347 U.S. 556 (1954), 234
- Lopez v. United States, 373 U.S. 427 (1963), 38
- Los Angeles County v. Rettele, 550 U.S. 609 (2007), 84
- Lynnum v. Illinois, 372 U.S. 528 (1963), 235
- Maine v. Moulton, 474 U.S. 159 (1985), 270, 272
- Manson v. Braithwaite, 433 U.S. 98 (1977), 297, 300
- Mapp v. Ohio, 367 U.S. 643 (1961), 208, 209, 213, 218
- Marchetti v. United States, 390 U.S. 39 (1968), 262
- Marshall v. Barlows, Inc., 436 U.S. 307 (1978), 185, 186
- Maryland v. Buie, 494 U.S. 325 (1990), 83
- Maryland v. Garrison, 480 U.S. 79 (1987), 72
- Maryland v. King, 133 S. Ct. 1958 (2013), 34, 133, 182, 199
- Maryland v. Pringle, 540 U.S. 366 (2003), 53–56, 66, 67
- Maryland v. Wilson, 519 U.S. 408 (1997), 99, 136
- Massachusetts v. Sheppard, 468 U.S. 981 (1984), 213, 215, 216
- Massiah v. United States, 377 U.S. 201 (1964), 266, 267, 269, 270
- Mathews v. United States, 485 U.S. 58 (1988), 308
- Mayfield v. United States, 504 F. Supp. 2d 1023 (D.Or. 2007), 119
- McNeil v. Wisconsin, 501 U.S. 171 (1991), 273, 276
- Michigan Department of State Police v. Sitz, 496 U.S. 444 (1990), 182, 189, 190
- Michigan v. Clifford, 464 U.S. 287 (1984), 165
- Michigan v. Harvey, 494 U.S. 344 (1990), 278, 280
- Michigan v. Jackson, 475 U.S. 625 (1986), 275
- Michigan v. Long, 463 U.S. 1032 (1983), 137
- Michigan v. Mosley, 432 U.S. 96 (1975), 251
- Michigan v. Summers, 452 U.S. 692 (1981), 83
- Michigan v. Tucker, 417 U.S. 433 (1974), 254
- Michigan v. Tyler, 436 U.S. 499 (1978), 164
- Mincey v. Arizona, 437 U.S. 385 (1978), 167, 168, 235
- Minnesota v. Carter, 525 U.S. 83 (1998), 33
- Minnesota v. Dickerson, 508 U.S. 366 (1993), 176
- Minnesota v. Murphy, 465 U.S. 420 (1984), 246
- Minnesota v. Olson, 495 U.S. 91 (1990), 33, 89, 90, 167
- Miranda v. Arizona, 384 U.S. 436 (1966), 154, 221, 231, 234, 236, 239–263, 265, 268, 269, 273, 275, 276, 278, 282, 290, 295, 316, 317

- Missouri v. McNeely, 133 S. Ct. 1552 (2013), 34, 132, 169
- Missouri v. Seibert, 542 U.S. 600 (2004), 255, 256
- Montejo v. Louisiana, 556 U.S. 778 (2009), 275
- Moran v. Burbine, 475 U.S. 412 (1986), 249
- Muehler v. Mena, 544 U.S. 93 (2005), 84
- Murray v. United States, 487 U.S. 533 (1988), 218
- National Treasury Employees Union v. Von Raab, 489 U.S. 656 (1989), 200, 202, 204
- Neil v. Biggers, 409 U.S. 188, 198 (1972), 297, 299
- New Jersey v. T.L.O., 469 U.S. 325 (1985), 27, 180, 195–197, 202, 204
- New York v. Belton, 453 U.S. 454 (1981), 139–145
- New York v. Burger, 482 U.S. 691 (1987), 187, 188
- New York v. Quarles, 467 U.S. 649 (1984), 257
- Nix v. Williams, 467 U.S. 431 (1984), 219, 279
- North Carolina v. Butler, 441 U.S. 369 (1979), 249
- O'Connor v. Ortega, 480 U.S. 709 (1987), 35, 63, 196, 197
- Ohio v. Robinette, 519 U.S. 33 (1996), 138, 156
- Oliver v. United States, 466 U.S. 170 (1984), 33, 36
- Olivera v. State, 315 So.2d 487 (Fla. Dist. Ct. App. 1975), 33
- Olmstead v. United States, 277 U.S. 438 (1928), 31, 109–111
- Oregon v. Bradshaw, 462 U.S. 1039 (1983), 253
- Oregon v. Elstad, 470 U.S. 298 (1985), 236, 254, 255
- Oregon v. Mathiason, 429 U.S. 492 (1977), 246
- Orozco v. Texas, 394 U.S. 324 (1969), 246
- Overton v. Ohio, 534 U.S. 982 (2001), 63
- Patterson v. Illinois, 487 U.S. 285 (1988), 277
- Payne v. Arkansas, 356 U.S. 560 (1958), 234
- Payton v. New York, 445 U.S. 573 (1980), 89, 166
- Pennsylvania v. Mimms, 434 U.S. 106 (1977), 98, 136
- Pennsylvania v. Muniz, 496 U.S. 582 (1990), 248, 257, 301
- People v. Barraza, 591 P.2d 947 (Cal. 1979), 308
- People v. Boff, 766 P.2d 646 (Colo. 1988), 130
- People v. Hopkins, 870 P.2d 478 (Colo. 1994), 159
- Perry v. New Hampshire, 132 S. Ct. 716 (2012), 297
- Powell v. Alabama, 287 U.S. 45 (1932), 266
- Powell v. Nevada, 511 U.S. 79 (1994), 93
- Preston v. United States, 376 U.S. 364 (1964), 130
- Rakas v. Illinois, 439 U.S. 128 (1978), 210, 211

- Rawlings v. Kentucky, 448 U.S. 98 (1980), 128
- Reid v. Georgia, 448 U.S. 438 (1980), 104
- Rhode Island v. Innis, 446 U.S. 291 (1980), 247, 248, 269
- Richards v. Wisconsin, 520 U.S. 385 (1997), 78
- Riley v. California, 134 S. Ct. 2473 (2014), 131, 170
- Rothgery v. Gillespie County, 554 U.S. 191 (2008), 272
- Safford Unified School District #1 v. Redding, 557 U.S. 364 (2009), 196
- Salinas v. Texas, 133 S. Ct. 2174 (2013), 246
- Samson v. California, 547 U.S. 843 (2006), 199
- Schmerber v. California, 384 U.S. 757 (1966), 169, 170, 259
- Schneckloth v. Bustamonte, 412 U.S. 218 (1973), 154–156
- Scott v. Harris, 550 U.S. 372 (2007), 92
- See v. City of Seattle, 387 U.S. 541 (1967), 184
- Segura v. United States, 468 U.S. 796 (1984), 218
- Sherman v. United States, 356 U.S. 369 (1958), 306
- Simmons v. United States, 390 U.S. 377 (1968), 212, 298
- Skinner v. Railway Labor Executives' Association, 489 U.S. 602 (1989), 34, 200, 202, 204
- Smith v. Maryland, 442 U.S. 735 (1979), 31, 37
- Soldal v. Cook County, 506 U.S. 56 (1992), 42
- Sorrells v. United, 287 U.S. 435 (1932), 306
- South Dakota v. Neville, 459 U.S. 553 (1983), 260
- South Dakota v. Opperman, 428 U.S. 364 (1976), 147, 149
- Spano v. New York, 360 U.S. 315 (1959), 234
- Spinelli v. United States, 393 U.S. 410 (1969), 56
- Stanley v. Georgia, 394 U.S. 557 (1969), 175
- Stansbury v. California, 511 U.S. 318 (1994), 244, 245
- Stanton v. Simms, 134 S. Ct. 3 (2013), 165
- State v. Carty, 790 A.2d 903 (N.J. 2002), 161
- State v. Cordova, 784 P.2d 30 (N.M. 1989), 62
- State v. Curtin, 332 S.E.2d 619 (W.Va. 1985), 38
- State v. Dean, 76 P.3d 429 (Ariz. 2003), 141
- State v. Fort, 660 N.W.2d 415 (Minn. 2003), 161
- State v. Gubitosi, 886 A.2d 1029 (N.H. 2005), 37
- State v. Hardy, 577 N.W.2d 212 (Minn. 1998), 34
- State v. Huddleston, 924 S.W.2d 666 (Tenn. 1996), 94
- State v. McCleary, 568 P.2d 1142 (Ariz. Ct. App. 1977), 167
- State v. Wells, 539 So.2d 464 (Fla. 1989), 153

- Steagald v. United States, 451 U.S. 204 (1981), 89
- Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994), 112
- Stigile v. Clinton, 110 F.3d 801 (D.C. Cir. 1997), 204
- Stone v. Powell, 428 U.S. 465 (1976), 223
- Stoner v. California, 376 U.S. 483 (1964), 33, 157
- Stovall v. Denno, 388 U.S. 293 (1967), 298
- Tennessee v. Garner, 471 U.S. 1 (1985), 13, 38, 43, 91
- Terry v. Ohio, 392 U.S. 1 (1968), 34, 46, 82, 87, 94, 98–100, 102, 103, 105–107, 125, 126, 134, 136, 137, 177, 189, 192, 314, 315
- Texas v. Cobb, 532 U.S. 162 (2001), 273
- Thompson v. Louisiana, 469 U.S. 17 (1984), 165, 167
- Thornton v. United States, 541 U.S. 615 (2004), 139
- United States v. Achter, 52 F.3d 753 (8th Cir. 1995), 309
- United States v. Alvarado, 440 F.3d 191 (4th Cir. 2006), 274
- United States v. Arvizu, 534 U.S. 266 (2002), 81, 101
- United States v. Ash, 413 U.S. 300 (1973), 296
- United States v. Aukai, 497 F.3d 955 (9th Cir. 2007), 188
- United States v. Avants, 278 F.3d 510 (5th Cir. 2002), 274
- United States v. Banks, 540 U.S. 31 (2003), 80
- United States v. Biswell, 406 U.S. 311 (1972), 186, 187
- United States v. Booker, 496 F.3d 717 (D.C. Cir. 2007), 141
- United States v. Brignoni-Ponce, 422 U.S. 873 (1975), 193, 194
- United States v. Carter, 378 F.3d 584 (6th Cir. 2004), 174
- United States v. Christian, 187 F.3d 663 (D.C. Cir. 1999), 137
- United States v. Coker, 433 F.3d 39 (1st Cir. 2005), 274
- United States v. Crews, 445 U.S. 463 (1980), 301, 302
- United States v. Di Re, 22 U.S. 581 (1948), 67
- United States v. Diaz, 519 F.3d 56 (1st Cir. 2008), 137
- United States v. Dion, 762 F.2d 674 (8th Cir. 1985), 307
- United States v. Dionisio, 410 U.S. 1 (1973), 30
- United States v. Donovan, 429 U.S. 413 (1977), 117, 188
- United States v. Drayton, 536 U.S. 194 (2002), 97, 152, 155
- United States v. Dunn, 480 U.S. 294 (1987), 33
- United States v. Flores-Montano, 541 U.S. 149 (2004), 191
- United States v. Forrester, 512 F.3d 500 (9th Cir. 2008), 37
- United States v. Freeman, 482 F.3d 829 (5th Cir. 2007), 159

- United States v. Gamble, 737 F.2d 853 (10th Cir. 1984), 310
- United States v. Garner, 907 F.2d 60 (8th Cir. 1990), 38
- United States v. Grubbs, 547 U.S. 90 (2006), 69
- United States v. Henry, 447 U.S. 264 (1980), 269–271
- United States v. Holland, 438 F.2d 887 (6th Cir. 1971), 29
- United States v. Hollingsworth, 27 F.3d 1197 (7th Cir. 1994), 307
- United States v. Jacobsen, 466 U.S. 109 (1984), 27, 42
- United States v. Jones, 132 S. Ct. 945 (2012), 31, 39
- United States v. Karo, 468 U.S. 705 (1984), 39
- United States v. Knights, 534 U.S. 112 (2001), 198
- United States v. Knotts, 460 U.S. 276 (1983), 38, 39
- United States v. Knox, 112 F.3d 802 (5th Cir. 1997), 307
- United States v. Lee, 274 U.S. 559 (1972), 38
- United States v. Lefkowitz, 285 U.S. 452 (1932), 128
- United States v. Leon, 468 U.S. 897 (1984), 213–215, 217
- United States v. Looney, 481 F.2d 31 (5th Cir. 1973), 175
- United States v. Mara, 410 U.S. 19 (1973), 29–30
- United States v. Martinez-Fuerte, 428 U.S. 543 (1976), 193
- United States v. Matlock, 415 U.S. 164 (1974), 157, 160
- United States v. McLaughlin, 170 F.3d 889 (9th Cir. 1999), 129
- United States v. McCarty, 648 F.3d 820 (9th Cir. 2011), 191
- United States v. McNeal, 955 F.2d 1067 (6th Cir. 1992), 89
- United States v. Mendenhall, 446 U.S. 544 (1980), 42, 95, 96, 99
- United States v. Miller, 425 U.S. 435 (1976), 37
- United States v. Mills, 412 F.3d 325 (2nd Cir. 2005), 274
- United States v. Montoya de Hernandez, 473 U.S. 531 (1985), 192
- United States v. Morales, 923 F.2d 621 (8th Cir. 1991), 130
- United States v. Passaro, 624 F.2d 938 (9th Cir. 1980), 130
- United States v. Patane, 542 U.S. 630 (2004), 255, 256
- United States v. Perez, 440 F.Supp 272 (N.D. Ohio 1977), 167
- United States v. Place, 462 U.S. 696 (1983), 98
- United States v. Queen, 847 F.2d 346 (7th Cir. 1988), 129
- United States v. Rabinowitz, 339 U.S. 56 (1950), 126
- United States v. Ramirez, 523 U.S. 65 (1998), 79
- United States v. Ramirez, 676 F.3d 755 (8th Cir. 2012), 169
- United States v. Ramsey, 431 U.S. 606 (1977), 191
- United States v. Richardson, 515 F.3d 74 (1st Cir. 2008), 149

- United States v. Robinson, 414 U.S. 218 (1973), 34, 127
- United States v. Ross, 456 U.S. 798 (1982), 146
- United States v. Russell, 411 U.S. 423 (1973), 310
- United States v. Sanders, 196 F.3d 910 (8th Cir. 1999), 29
- United States v. Santana, 427 U.S. 38 (1976), 166
- United States v. Sharpe, 470 U.S. 675 (1985), 98
- United States v. Sokolow, 490 U.S. 1 (1989), 100, 104, 105
- United States v. Strahan, 565 F.3d 1047 (7th Cir. 2009), 309
- United States v. Strickland, 902 F.2d 937 (11th Cir. 1990), 153
- United States v. Stuart, 923 F.2d 607 (8th Cir. 1991), 309
- United States v. Talvolacci, 895 F.2d 1423 (D.C. Cir. 1990), 130
- United States v. Thomas, 864 F.2d 843 (D.C. Cir. 1989), 29
- United States v. Twigg, 588 F.2d 373 (3d Cir. 1978), 310
- United States v. Verdugo-Urquidez, 494 U.S. 259 (1990), 27
- United States v. Villamonte-Marquez, 462 U.S. 579 (1983), 195
- United States v. Wade, 388 U.S. 218 (1967), 259, 290–297, 301, 303, 304
- United States v. Walther, 652 F.2d 788 (9th Cir. 1981), 27
- United States v. Washington, 431 U.S. 181 (1977), 259
- United States v. Watson, 423 U.S. 411 (1976), 156, 166
- United States v. White, 401 U.S. 745 (1971), 37
- United States v. Wilson, 36 F.3d 205 (1st Cir. 1994), 29
- Vernonia School District 47J v. Acton, 515 U.S. 646 (1995), 202, 204
- Virginia v. Moore, 553 U.S. 164 (2008), 88, 128
- Walder v. United States, 347 U.S. 62 (1954), 256
- Warden v. Hayden, 387 U.S. 294 (1967), 90, 164
- Wayman v. James, 400 U.S. 309 (1971), 190
- Weeks v. United States, 232 U.S. 383 (1914), 10, 165, 208, 267
- Welsh v. Wisconsin, 466 U.S. 740 (1984), 165, 166
- Whiteley v. Warden, 401 U.S. 560 (1971), 48
- Whren v. United States, 517 U.S. 806 (1996), 50, 138, 139, 161, 176
- Wilson v. Arkansas, 514 U.S. 927 (1995), 78, 217
- Wolf v. Colorado, 338 U.S. 25 (1949), 208
- Wong Sun v. United States, 371 U.S. 471 (1963), 220, 221, 229
- Ybarra v. Illinois, 444 U.S. 85 (1979), 66, 82, 83

Series Editor's Foreword

The Carolina Academic Press Mastering Series is designed to provide you with a tool that will enable you to easily and efficiently “master” the substance and content of law school courses. Throughout the series, the focus is on quality writing that makes legal concepts understandable. As a result, the series is designed to be easy to read and is not unduly cluttered with footnotes or cites to secondary sources.

In order to facilitate student mastery of topics, the Mastering Series includes a number of pedagogical features designed to improve learning and retention. At the beginning of each chapter, you will find a “Roadmap” that tells you about the chapter and provides you with a sense of the material that you will cover. A “Checkpoint” at the end of each chapter encourages you to stop and review the key concepts, reiterating what you have learned. Throughout the book, key terms are explained and emphasized. Finally, a “Master Checklist” at the end of each book reinforces what you have learned and helps you identify any areas that need review or further study.

We hope that you will enjoy studying with, and learning from, the Mastering Series.

Russell L. Weaver
Professor of Law & Distinguished University Scholar
University of Louisville, Louis D. Brandeis School of Law

Preface

It is difficult to synthesize all of criminal procedure in two volumes. One finds state and federal differences in procedure, and systems that constantly change as a result of new statutes, rules, and court interpretations. The authors hope that this overview of criminal procedure will offer students an accessible study guide in understanding this important subject. The book, however, is not intended to serve as a guide for resolving a specific problem or case.

This Volume covers the major issues in criminal procedure that relate to the Fourth, Fifth, and Sixth Amendment rights provided in the U.S. Constitution and also covers entrapment. Volume Two examines procedure issues from the bail through the jail process and also considers post-conviction matters. Because the law is not stagnant, it is important to note in using the Mastering Criminal Procedure volumes that one needs to look to recent cases and legislative developments that may modify the existing law.

As we were preparing the second edition, we lost our friend and colleague, Andy Taslitz. His prodigious knowledge of criminal procedure continues to suffuse this book, and he remains as a co-author.

There are many to thank:

- Professor Peter J. Henning thanks his assistant, Olive Hyman, who makes it all work, the research assistance of Allison Bars (Wayne State University Law School Class of 2014) and Pamela Wall (Wayne State University Law School Class of 2015), and co-authors who made this a pleasure.
- Professor Andrew Taslitz (from the first edition) thanks his wife, Patricia V. Sun, Esq., and his dogs, Odo and B'lanna, for their support, patience, love, and feedback on early drafts of several chapters (trust me — the dogs can give you a look that says, “Oh, come on! You can do better than that!”); his research assistants, Melissa Bancroft, Jasmine Modoor, Jeanne Laurenceau, Natasha Williams, and Cassandra Thomas, for their excellent work; his secretary, Gay Kirsch, for her outstanding production skills; and his co-authors, criminal procedure geeks all, albeit with warm hearts and an instinctive way of knowing just how to make me smile.

- Professor Margaret L. Paris thanks her co-authors, who always inspire.
- Professor Cynthia E. Jones thanks her wonderful deans fellows, Caitlin Marchand and Paul Turkevich for their research assistance, and her Criminal Procedure students—past, present and future—at the American University Washington College of Law.
- Professor Ellen S. Podgor thanks Gordon J. Kirsch, Shannon Mullins, Scott Tolliver, Giovanni P. Giarratana, Stetson University College of Law, and her incredible co-authors.

Peter J. Henning
Margaret L. Paris
Cynthia E. Jones
Ellen S. Podgor
July 2014