Briefs of Leading Cases in Law Enforcement
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Eighth Edition

Rolando V. del Carmen

Jeffery T. Walker
The Eighth Edition is dedicated to
Josefa “Josie” Flores del Carmen,
January 16, 1935–February 27, 2011
Preface to the Eighth Edition

This Eighth Edition of the book contains one of the most extensive rewrites in several editions. This was accomplished thanks to the extensive review of Judge James W. Bachman at Bowling Green State University. Almost no case was untouched by his comments, and the book is much stronger in legal accuracy for it.

As with all versions of the book, this edition adds the significant cases that were decided by the Supreme Court since the last printing. The cutoff date for this edition is March 15, 2011. Cases decided after that date will be included in the next edition.

Eight new cases were added to this edition. Classified according to the chapters, these cases are:

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The original decisions of the United States Supreme Court in these cases are readily available in various ways, particularly on the Internet. To find these cases, go to the Supreme Court’s Web site at www.supremecourtus.gov and click on “Opinions,” then the year of the decision. If more research is desired on a case, use the LexisNexis Web site or conduct Internet searches for the desired cases. Any in-depth research should also include examining articles and comments from law review journals.

As in the past, the authors welcome suggestions and comments for improvement.

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List of top ten cases in day-to-day policing

There are so many cases in policing, the question often arises regarding which are the most important. If a person could only choose 10 cases to examine, which would those be? Included in this edition is a list of what we consider to be the top 10 cases most influencing day-to-day policing in the United States. They are listed in reverse order, along with their holding.

   Under the *Miranda* rule, interrogations can be “actual” (as when questions are asked) or the “functional equivalent” thereof.

   The two-pronged test for probable cause established in previous cases is abandoned in favor of the “totality of circumstances” test.

   When making a valid search of a car, the police may search the entire car and open the trunk and any packages or luggage found therein that could reasonably contain the items for which they have probable cause to search.

   Some searches are so “shocking to the conscience” that they require exclusion of the evidence seized based on due process.

   The police may not use deadly force to prevent the escape of a suspect unless it is necessary and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or to others.

   After an arrest, police may search the area within a person’s immediate control.

   The warrantless search of an automobile is valid if probable cause is present.

   A stop and frisk based on reasonable suspicion is valid.

   The exclusionary rule applies to all state criminal proceedings.

   Evidence obtained by the police during custodial interrogation of a suspect is not admissible in court to prove guilt unless the suspect was given the *Miranda* warnings and there is a valid waiver.
List of cases with principle (capsule) of law

Chapter 1: Probable Cause

Draper v. United States, 358 U.S. 307 (1959)
The information from an informant that is corroborated by an officer may be sufficient to provide probable cause for an arrest even if such information is hearsay.

Spinelli v. United States, 393 U.S. 410 (1969)
To establish probable cause, an affidavit must meet the two-pronged test in Aguilar v. Texas. Failure to do so means that the warrant issued is invalid.

The two-pronged test for probable cause established in previous cases is abandoned in favor of the “totality of circumstances” test.

The totality of circumstances in this case established a reasonable suspicion that the suspect was transporting illegal drugs; hence, the investigative stop without a warrant was valid.

The Fourth Amendment does not require the offense establishing probable cause for an arrest to be “closely related” to and based on the same conduct as the offense identified by the officer during the initial encounter.

Chapter 2: The Exclusionary Rule

Weeks v. United States, 232 U.S. 383 (1914)
Evidence seized by federal law enforcement officers in violation of the Fourth Amendment is not admissible in a federal criminal prosecution.

Rochin v. California, 342 U.S. 165 (1952)
Some searches are so “shocking to the conscience” that they require exclusion of the evidence seized based on due process.

The exclusionary rule applies to all state criminal proceedings.

Wong Sun v. United States, 371 U.S. 471 (1963)
Evidence obtained as a result of illegal acts by the police must be excluded. In addition, the “fruit of the poisonous tree” of that illegal act must also be excluded. Evidence that has been purged of the primary taint, however, is admissible.
Illegally obtained evidence may be admissible if the police can prove that they would have discovered the evidence anyway through lawful means.

The “good faith” exception to the exclusionary rule allows the use of evidence obtained by officers who are acting in reasonable reliance on a search warrant that is later declared invalid.

Evidence obtained as a result of a search in which the police acted in “good faith” reliance on a search warrant the court subsequently declared invalid because of a magistrate error is admissible as an exception to the exclusionary rule.

The “independent source” exception to the exclusionary rule allows the use of evidence obtained by officers who act in reasonable reliance on a search warrant that is based on information that was not obtained illegally.

A warrantless nonconsensual entry of a residence by police to arrest an overnight guest violates the Fourth Amendment.

The “good faith exception” to the exclusionary rule does not require suppression of evidence seized in violation of the Fourth Amendment where the erroneous information resulted from clerical errors of court employees.

“Police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury.”

“Statements are nontestimonial [and therefore not admissible in court] when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of interrogation is to enable police assistance to meet an ongoing emergency.”

The good faith exception for police applies to errors made by non-judicial personnel. A search incident to an arrest based on the erroneous information is also valid.

A stop and frisk based on reasonable suspicion is valid.
Adams v. Williams, 407 U.S. 143 (1972) 29
A stop and frisk may be based on information provided by another individual.

United States v. Hensley, 469 U.S. 221 (1985) 30
Reasonable suspicion based on a “wanted poster” is sufficient for a valid stop.

There is no rigid time limit for the length of an investigatory stop; instead, specific circumstances should be taken into account.

Alabama v. White, 496 U.S. 325 (1990) 32
Reasonable suspicion is a less demanding standard than probable cause, and can be based on an anonymous tip corroborated by independent police work.

A frisk that goes beyond that allowed in Terry is invalid.

Presence in a high-crime area, combined with unprovoked flight upon observing police officers, gives officers sufficient grounds to investigate further to determine if criminal activity is about to take place.

“An anonymous tip that a person is carrying a gun is not, without more, sufficient to justify a police officer’s stop and frisk of that person.”

“In making reasonable-suspicion determinations, reviewing courts must look at the totality of the circumstances of each case to see whether the detaining officer has a particularized and objective basis for suspecting legal wrongdoing.”

Hiibel v. Sixth Judicial District Court of Nevada et al., 542 U.S. 177 (2004) 39
The Fourth Amendment allows officers, pursuant to a stop and frisk, to require a person to provide his or her name. The person may be arrested for refusing to comply.

Officers may order passengers out of a lawfully stopped vehicle, and pat them down if there is reasonable suspicion they may be armed and dangerous.

Chapter 4: Arrests and Other Seizures of Persons

Frisbie v. Collins, 342 U.S. 519 (1952) 44
An unlawful arrest does not deprive the court of jurisdiction to try a criminal case.
A warrantless arrest that begins in a public place is valid even if the suspect retreats to a private place and is arrested there.

An arrest without a warrant in a public place is valid as long as there is probable cause, even if there is time to obtain a warrant.

Probable cause is needed for the stationhouse detention of a suspect if such detention is accompanied by an interrogation.

The police may not validly enter a private home to make a routine, warrantless felony arrest, unless justified by exigent circumstances.

The warrantless nighttime entry of a suspect’s home to effect an arrest for a non-jailable offense violates the Fourth Amendment.

The test to determine whether a seizure of a person occurs is whether a reasonable person, viewing the police conduct and surrounding circumstances, would conclude that the police had restrained the person’s liberty so that he or she is not free to leave.

Brower v. County of Inyo, 489 U.S. 593 (1989) 52
The seizure of a person occurs when there is a “governmental termination of freedom of movement through means intentionally applied.”

No seizure of a person occurs when an officer seeks to arrest a suspect through a show of authority, but applies no physical force, and the subject does not willingly submit.

County of Riverside v. McLaughlin, 500 U.S. 413 (1991) 55
The warrantless detention of a suspect for 48 hours is presumptively reasonable. If the time-to-hearing is longer, the burden of proof shifts to the police to prove reasonableness of the delay. If the time-to-hearing is shorter, the burden of proof of unreasonable delay shifts to the suspect.

The abduction of a foreigner that is not in violation of a treaty does not deprive a U.S. court of jurisdiction in a criminal trial.

Under exigent circumstances, and where police need to preserve evidence until a warrant can be obtained, they may temporarily restrain a person’s movements (thus temporarily seizing a person) without violating his or her Fourth Amendment right.
“The Fourth Amendment does not forbid a warrantless arrest for a minor criminal offense, such as a misdemeanor seatbelt violation, punishable only by a fine.”

Chapter 5: Seizures of Things

Schmerber v. California, 384 U.S. 757 (1966)  
Drawing blood from a suspect without his or her consent is not a violation of any constitutional right, as long as it is done by medical personnel using accepted medical methods.

Cupp v. Murphy, 412 U.S. 291 (1973)  
The police may make a warrantless seizure of evidence that is likely to disappear before a warrant can be obtained.

Surgery requiring a general anesthetic to remove a bullet from a suspect for use as evidence constitutes an intrusion into the suspect’s privacy and security that violates the Fourth Amendment. It cannot be allowed unless the government demonstrates a compelling need for it.

The due process clause does not require the police to provide the owner of property seized with notice of remedies specified by state law for the property’s return and the information necessary to use those procedures.

A search warrant that does not comply with the requirement that the warrant particularly describe the person or things to be seized is unconstitutional. The fact that the application for the warrant (but not the warrant itself) adequately described the things to be seized does not make the warrant valid.

Detaining occupants of the premises in handcuffs for a certain period of time while executing a search warrant does not by itself violate the Fourth Amendment prohibition against unreasonable searches and seizures.

Chapter 6: Searches — In General

A warrant is valid only if issued by a neutral and detached magistrate.

Searches of places belonging to third parties are permissible as long as probable cause exists to believe that evidence of someone’s guilt or other items subject to seizure will be found.

Mincey v. Arizona, 437 U.S. 385 (1978)  
A warrantless murder scene search, where there is no indication that evidence would be lost, destroyed, or removed during the time required to
obtain a search warrant and there is no suggestion that a warrant could not easily be obtained, is inconsistent with the Fourth Amendment because the situation does not create exigent circumstances of the kind that would justify a warrantless search.

Steagald v. United States, 451 U.S. 204 (1981) 76
An arrest warrant does not authorize entry into another person’s residence where the suspect may be found.

A search warrant carries with it the limited authority to detain the occupants of the premises while the search is conducted.

Maryland v. Garrison, 480 U.S. 79 (1987) 77
A warrant that is overbroad in describing the place to be searched, but is based on a reasonable, although mistaken, belief of the officer, is valid.

A warrantless search and seizure of trash left for collection in an area accessible to the public is valid.

The Fourth Amendment requires officers to knock and announce before entering a dwelling unless there are exigent circumstances.

Richards v. Wisconsin, 520 U.S. 385 (1997) 81
The Fourth Amendment does not permit a blanket exception to the knock-and-announce requirement when executing a felony drug warrant. Exceptions must be decided by the court on a case-by-case basis.

The Fourth Amendment does not impose a higher standard when officers destroy property during a no-knock entry than the requirement that the police have a reasonable suspicion that knocking and announcing would be dangerous or futile, or would inhibit the effective investigation of the crime.

A person who is in a home for a short period, although with the consent of the owner, has no expectation of privacy under the Fourth Amendment.

A warrantless search by an officer of a probationer’s residence supported by reasonable suspicion and authorized by a condition of probation is valid under the Fourth Amendment.

After knocking and announcing their presence and intention to search, 15 to 20 seconds is sufficient time for officers to wait before forcing entry into a home to execute a search warrant for drugs.
There is no constitutional requirement that the person subject to a search be shown the triggering events by police officers for an anticipatory warrant to be valid. Moreover, the fact that the contraband is not yet at the place described in the warrant when it was issued is immaterial as long as there is probable cause to believe it will be there when the warrant is executed.

Violation of the “knock-and-announce” rule does not require exclusion of the seized evidence.

“The Fourth Amendment does not prohibit police officers from conducting a suspicionless search of a parolee.”

Chapter 7: Searches after Arrest

A warrantless search and seizure inside a person’s home is valid if probable cause and exigent circumstances are present. “Mere evidence” may be searched, seized, and admitted in court.

After an arrest, police may search the area within a person’s immediate control.

The warrantless search of a house after an arrest with a warrant, when the arrest does not take place in a house, is justified only in “a few specifically established and well-delineated exceptions.”

A body search is valid when a full custody arrest occurs.

After a lawful arrest and detention, any search conducted at the place of detention, which would have been lawful at the time of the arrest, may be conducted without a warrant, even though a substantial period of time may have elapsed between the arrest and the search.

Searching the personal effects of a person under lawful arrest is valid if it is part of the administrative procedure incident to the booking and jailing of the suspect.

A limited protective sweep during arrest in a home is allowed if justified.
Officers may make a warrantless arrest of a person, even for a misdemeanor
crime, if allowed by the Fourth Amendment but prohibited by state law.

Chapter 8: Searches with Consent

Stoner v. California, 376 U.S. 483 (1964) 104
A hotel clerk cannot give consent to search the room of a hotel guest.

Consent obtained by deception through a claim of lawful authority, which
did not in fact exist, is not voluntary. A search conducted by virtue of a war-
rant cannot later be justified by consent if the warrant turns out to be
invalid.

Schneckloth v. Bustamonte, 412 U.S. 218 (1973) 105
Voluntariness of consent to search is determined from the totality of
circumstances, of which knowledge of the right to refuse consent is a factor
but not a requirement.

Florida v. Royer, 460 U.S. 491 (1983) 106
More serious intrusion of personal liberty than is allowable on mere suspicion
of criminal activity taints the consent and makes the search illegal.

Searches in which the person giving consent has “apparent authority” are
valid.

Consent justifies the warrantless search of a container in a car if it is objec-
tively reasonable for the police to believe that the scope of the suspect’s
consent permitted them to open that container.

Georgia v. Randolph, 547 U.S. 103 (2006) 110
“...a warrantless search of a shared dwelling for evidence over the express
refusal of consent by a physically present resident cannot be justified as rea-
sonable as to him on the basis of consent given to the police by another
resident.”

Chapter 9: Vehicle Stops and Searches

Carroll v. United States, 267 U.S. 132 (1925) 114
The warrantless search of an automobile is valid if there exists probable
cause to believe it contains contraband.

Chambers v. Maroney, 399 U.S. 42 (1969) 115
If probable cause exists that an automobile contains contraband, a warrant-
less search is valid even if the automobile is first moved to a police station.
United States v. Chadwick, 433 U.S. 1 (1977) 116
The warrantless search of a movable container found in a motor vehicle is invalid in the absence of exigent circumstances.

Delaware v. Prouse, 440 U.S. 648 (1979) 117
Stopping an automobile at random and without probable cause is unreasonable under the Fourth Amendment.

The police may conduct a warrantless search of the passenger compartment of a car and of the contents therein if it is incident to a lawful arrest.

In determining reasonable suspicion to make an investigatory stop, the totality of circumstances must be taken into account.

When making a valid search of a car, the police may search the entire car and open the trunk and any packages or luggage found therein that could reasonably contain the items for which they have probable cause to search.

A limited search of an automobile, after a valid stop, is permissible if the officer has a reasonable belief that the suspect is dangerous and might gain immediate control of a weapon.

Motor homes used on public highways are automobiles for purposes of the Fourth Amendment and therefore a warrantless search is valid.

Warrantless inventory searches of the person and possessions of arrested individuals are permissible under the Fourth Amendment.

Florida v. Wells, 495 U.S. 1 (1989) 124
Evidence obtained from closed containers during inventory searches is not admissible in court unless authorized by departmental policy.

Probable cause to believe that a container in an automobile holds contraband or seizable evidence justifies a warrantless search of that container even in the absence of probable cause to search the vehicle.

There is no need for a warrant in vehicle searches if the vehicle is readily mobile, even if there is time to obtain a warrant.
**Knowles v. Iowa**, 525 U.S. 113 (1998)  **128**
Officers may search a vehicle incident to an arrest, but a search incident to the issuance of a traffic citation, absent consent or probable cause, violates the Fourth Amendment.

Police officers with probable cause to search a car may inspect passengers’ belongings found in the car that are capable of concealing the object of the search.

**Bond v. United States**, 529 U.S. 334 (2000)  **130**
A traveler’s luggage is an “effect” and is under the protection of the Fourth Amendment. Officers may not physically manipulate (squeeze) the luggage to inspect it without a warrant or probable cause.

An officer arrest and occupant of a vehicle based on probable cause that a crime has been committed (or is being committed) in the vehicle and it is not clear who committed it, as long as there is a reasonable inference from the circumstances that the person arrested could have committed the crime.

“The Government’s authority to conduct suspicionless inspections at the border includes the authority to remove, disassemble, and reassemble a vehicle’s fuel tank.”

Officers may search the passenger compartment of a vehicle after a lawful arrest even if the suspect was not in the vehicle when arrested.

A dog examination conducted during a lawful traffic stop that reveals no information other than the location of an illegal substance that no individual has any right to possess does not violate the Fourth Amendment.

“Police may search a vehicle incident to a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest.”

**Chapter 10: Searches of People in Vehicles**

The test to determine whether a police/citizen encounter on a bus is a seizure is whether, taking into account all the circumstances, a reasonable passenger would feel free to decline the officers’ requests or otherwise terminate the encounter.
Whren v. United States, 517 U.S. 806 (1996) 141
The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.

Maryland v. Wilson, 519 U.S. 408 (1997) 142
“...an officer making a traffic stop may order passengers to get out of the car pending completion of the stop.”

Ohio v. Robinette, 519 U.S. 33 (1996) 144
The Fourth Amendment does not require police officers to inform motorists who are lawfully stopped for traffic violations that the legal detention has concluded before any subsequent interrogation or search will be found to be consensual.

The Fourth Amendment permits police officers to approach bus passengers, to ask questions, and to request their consent to search, provided that a reasonable person would understand that he or she is free to refuse. There is no requirement in the Fourth Amendment for officers to advise the persons of their right to refuse to cooperate.

Brendlin v. California, 551 U.S. 1 (2007) 147
Like the driver, the passenger of a vehicle is seized within the meaning of the Fourth Amendment during a traffic stop.

Chapter 11: Roadblocks

Michigan Department of State Police v. Sitz, 496 U.S. 444 (1990) 149
Sobriety checkpoints are constitutional.

Highway checkpoints whose primary purpose is to detect evidence of ordinary criminal wrongdoing violate the Fourth Amendment.

Police checkpoints set up for the purpose of obtaining information from motorists about a hit-and-run accident are valid under the Fourth Amendment.

Chapter 12: Electronic Surveillance

Olmstead v. United States, 277 U.S. 438 (1928) 156
Wiretapping does not violate the Fourth Amendment unless there is a trespass into a “constitutionally protected area.” (This case was overruled by Katz v. United States, 389 U.S. 347 [1967].)
On Lee v. United States, 343 U.S. 747 (1952)  
Evidence obtained as a result of permission given by a “friend” who allowed the police to listen in on a conversation is admissible in court.

The use of electronic devices to capture a conversation constitutes a search under the Fourth Amendment; and statutes must include constitutional safeguards to be valid.

Any form of electronic surveillance, including wiretapping, that violates a reasonable expectation of privacy, constitutes a search under the Fourth Amendment. No physical trespass is required. (This case expressly overruled Olmstead v. United States, 277 U.S. 438 [1928].)

The warrantless monitoring of a beeper (homing device) in a private residence violates the Fourth Amendment.

Kyllo v. United States, 533 U.S. 27 (2001)  
Using a technological device to explore details of a home that would previously have been unknowable without physical intrusion is a search and is presumptively unreasonable without a warrant.

Chapter 13: Plain View and Open Fields Searches

“Certain knowledge” that evidence seen is incriminating is not necessary under the plain view doctrine. Probable cause suffices.

“No Trespassing” signs do not effectively bar the public from viewing open fields; therefore, the expectation of privacy by the owner of an open field does not exist. The police may enter and investigate unoccupied or undeveloped areas outside the curtilage without either a warrant or probable cause.

The naked-eye observation by the police of a suspect’s backyard, which is part of the curtilage, does not violate the Fourth Amendment.

The warrantless observation of a barn that is not part of the curtilage is valid. Four factors determine whether an area is considered part of the curtilage.

Probable cause to believe that items seen are contraband or evidence of criminal activity is required for the items to be seized under the “plain view” doctrine.
Horton v. California, 496 U.S. 128 (1990) 170
“Inadvertent discovery” of evidence is no longer a necessary element of the plain view doctrine.

Chapter 14: Lineups and Other Pretrial Identification Procedures

An accused who has been formally charged with a crime has the right to have a lawyer present during a police lineup.

Foster v. California, 394 U.S. 440 (1969) 175
Lineups that are so suggestive as to make the resulting identification virtually inevitable violate a suspect’s constitutional right to due process.

Kirby v. Illinois, 406 U.S. 682 (1972) 176
There is no right to counsel at police lineups or identification procedures if the suspect has not been formally charged with a crime.

United States v. Dionisio, 410 U.S. 1 (1973) 176
Any person may be required against his or her will to appear before a grand jury or to give a voice exemplar without violating the Fourth or Fifth Amendments.

Manson v. Brathwaite, 432 U.S. 98 (1977) 178
The admission of testimony concerning a suggestive and unnecessary identification procedure does not violate due process as long as the identification possesses sufficient aspects of reliability.

A pretrial identification is illegal if the arrest is illegal; however, an in-court identification is admissible if the victim’s recollections are independent of the police misconduct.

Chapter 15: Use of Force

The police may not use deadly force to prevent the escape of a suspect unless it is necessary and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or to others.

Police officers may be held liable under the Constitution for using excessive force. The test for liability is “objective reasonableness” rather than “substantive due process.”

“A police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth
Amendment, even when it places the fleeing motorist at risk of serious injury or death.”

Chapter 16: Confessions and Admissions: Cases Affirming *Miranda*

*Brown v. Mississippi*, 297 U.S. 278 (1936) 188
Confessions obtained as a result of coercion and brutality are not admissible in court.

Evidence obtained by the police during custodial interrogation of a suspect is not admissible in court to prove guilt unless the suspect was given the *Miranda* warnings and there is a valid waiver.

An accused who, after having been given the *Miranda* warnings, invokes the right to remain silent and to have a lawyer present, cannot be interrogated further by the police until a lawyer is made available.

The *Miranda* rule applies to misdemeanor offenses. It does not apply to the roadside questioning of a motorist detained pursuant to a routine traffic stop.

The police should not initiate an interrogation after the defendant has asserted his or her right to counsel at arraignment or similar proceedings.

An accused who has invoked the right to counsel may not be subjected to a police-initiated interrogation even if the interrogation concerns a different crime.

Once a suspect requests a lawyer, the interrogation must stop — whether the suspect confers with the lawyer or not.

The “harmless error” doctrine applies to cases involving the admissibility of involuntary confessions.

The case of *Miranda v. Arizona* governs the admissibility in federal and state courts of confessions and admissions given during custodial interrogation by the police. Any law passed by Congress that seeks to overturn the *Miranda* decision is unconstitutional.

A confession must be suppressed if obtained during a detention where officers did not have probable cause for an arrest and where the detention amounted to the functional equivalent of an arrest.
**Fellers v. United States, 540 U.S. 519 (2004)** 204
The proper standard to be used when determining whether statements made by a defendant after an indictment are admissible in court is the Sixth Amendment right to counsel, not the Fifth Amendment privilege against self-incrimination.

**Missouri v. Seibert, 542 U.S. 600 (2004)** 205
Giving the *Miranda* warnings after the police purposefully obtain an unwarned confession violates the *Miranda* rule; therefore, statements made even after the *Miranda* warnings are given are not admissible in court in this instance even if they repeat those given before the *Miranda* warnings.

**Maryland v. Shatzer, 559 U.S. ___; No. 08-680 (2010)** 208
Once a suspect invokes his or her Miranda rights, a break in custody of more than 14 days overcomes the Edwards rule and allows officers to re-contact the suspect for interrogation.

**Berghuis v. Thompkins, 560 U.S. ___; No. 08-1470 (2010)** 209
After being read the *Miranda* warnings, a suspect must make an unambiguous invocation of the right to remain silent; otherwise, statements made will be considered voluntary and a waiver of the right.

**Chapter 17: Confessions and Admissions: Cases Weakening *Miranda***

The admission into evidence of a suspect’s refusal to submit to a blood-alcohol test does not violate the suspect’s privilege against self-incrimination.

Concern for public safety represents an exception to the *Miranda* rule.

A confession made after proper *Miranda* warnings and waiver of rights is admissible even if the police obtained an earlier voluntary but unwarned admission from the suspect.

**Colorado v. Connelly, 479 U.S. 157 (1986)** 217
Statements made when the mental state of the defendant interfered with his “rational intellect” and “free will” are not automatically excludable. Their admissibility is governed by state rules of evidence.

**Colorado v. Spring, 479 U.S. 564 (1987)** 218
The waiver of *Miranda* rights is valid even if the suspect believes that the interrogation will focus on minor crimes but the police later shift the questioning to cover a different and more serious crime.

A suspect’s oral confession is admissible even if the suspect tells the police that he or she will not make a written statement without a lawyer present.
A valid waiver after the Miranda warnings constitutes a waiver of the right to counsel as well as the privilege against self-incrimination.

The Miranda warnings need not be given in the exact form as worded in Miranda v. Arizona; what is needed is that they simply convey to the suspect his or her rights.

Pennsylvania v. Muniz, 496 U.S. 582 (1990) 223
The police may validly ask routine questions of persons suspected of driving while intoxicated and videotape their responses without giving them the Miranda warnings.

An accused's request for a lawyer at a bail hearing after being charged with an offense does not constitute an invocation of the Fifth Amendment right to counsel under Miranda for other offenses for which the accused has not yet been charged.

Davis v. United States, 512 U.S. 452 (1994) 227
After a knowing and voluntary waiver of Miranda rights, law enforcement officers may continue questioning until and unless the suspect clearly requests an attorney.

Failure to give a suspect the Miranda warnings does not require suppression of the physical fruits of the suspect's unwarned but voluntary statements.

Chapter 18: What Constitutes Interrogation for Miranda Purposes?

Under the Miranda rule, interrogations can be “actual” (as when questions are asked) or the “functional equivalent” thereof.

Rhode Island v. Innis, 446 U.S. 291 (1980) 233
The conversation in this case was merely a dialogue between police officers and did not constitute the “functional equivalent” of an interrogation, hence no Miranda warnings were needed.

A conversation between a suspect and his wife, which was recorded in the presence of an officer, did not constitute the “functional equivalent” of an interrogation.

“Statements compelled by police interrogation may not be used against a defendant in a criminal case, but it is not until such use that the Self-Incrimination Clause is violated.”
Chapter 19: Right to Counsel Related to Policing

*Powell v. Alabama*, 287 U.S. 45 (1932) 240

The trial in state court of nine youths for a capital offense without a defense attorney violated their right to due process.

*Gideon v. Wainwright*, 372 U.S. 335 (1963) 241

A lawyer must be appointed for an indigent who is charged with a felony offense in state court.


A suspect in a serious offense is entitled to a lawyer during interrogation at a police station.

*Massiah v. United States*, 377 U.S. 201 (1964) 243

Incriminating statements are not admissible in court if the defendant was questioned by a government informant without an attorney present after the defendant was formally charged with a crime and had obtained an attorney.


A defendant’s right to counsel is violated if the police intentionally create a situation that is likely to elicit incriminating statements.

*Kansas v. Ventris*, 556 U.S. ___; No. 08-1470 (2009) 245

An informant testimony is admissible to impeach a defendant’s statements, even if elicited in violation of the Sixth Amendment protection right to counsel.


Statements made to police in the context of an ongoing emergency may be admitted into court even when there is no possibility to cross-examine a witness.

Chapter 20: Entrapment

*Sherman v. United States*, 356 U.S. 369 (1958) 250

Entrapment occurs when the government induces a person to commit a crime that he or she would not have otherwise committed or had no predisposition to commit.

*United States v. Russell*, 411 U.S. 423 (1973) 251

Supplying one of the necessary ingredients for the manufacture of a prohibited drug does not constitute entrapment.


There is no entrapment when a government informant supplies heroin to a suspect who is predisposed to commit the crime.
The entrapment defense may be raised even if the defendant denies one or more elements of the crime charged.

Government entrapment exists if government agents originate a criminal design, implant in an innocent person’s mind the disposition to commit a criminal act, and then induce the commission of the crime so that the government can prosecute.

Chapter 21: Legal Liabilities

A municipality may be held liable in a § 1983 lawsuit and cannot claim the good faith defense.

Briscoe v. LaHue, 460 U.S. 325 (1983) 259
In a Section 1983 civil action, police officers are entitled to absolute immunity from civil liability when testifying, even if the testimony is perjured.

In a Section 1983 civil action, police officers are entitled only to qualified immunity, not to absolute immunity, when acting in an objectively reasonable manner in obtaining a search warrant that is ultimately found defective.

City of Canton v. Harris, 489 U.S. 378 (1989) 261
Inadequate police training may serve as the basis for municipal liability under Title 42 § 1983, but only if it amounts to “deliberate indifference.”

Will v. Michigan Department of State Police, 491 U.S. 58 (1989) 262
Neither the state nor state officials, acting in their official capacity, may be sued under § 1983 in state court.

State officials sued in their individual capacity are liable for civil rights violations.

A city’s failure to warn or train its employees about known hazards in the workplace does not violate the due process clause of the Fourteenth Amendment.

Board of the County Commissioners of Bryan County, Oklahoma v. Brown, 520 U.S. 397 (1997) 266
A county cannot be held liable under § 1983 for a single hiring decision made by a county official.
Whether a sheriff is an agent of the county or of the state is determined by the state’s constitution, laws, or other regulations. In this case, Alabama law indicates that sheriffs are agents of the state and not of the county.

County of Sacramento v. Lewis, 523 U.S. 833 (1998) 268
In high-speed vehicle pursuit cases, liability in § 1983 cases ensues only if the conduct of the officer “shocks the conscience.” The lower standard of “deliberate indifference” does not apply.

A ruling on qualified immunity is not intertwined with a ruling on the violation of a constitutional right and should be made early in the proceedings so that, if established, the cost and expense of trial are avoided.

The wrongful failure by the police to arrest a husband who violated a restraining order does not amount to a violation of a constitutional due process right under the Fourteenth Amendment and therefore does not result in civil liability under federal law (Section 1983).
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