CHAPTER 1

Introduction to Criminal Procedure
Chapter Agenda

- Identify two key themes running throughout criminal procedure.
- Summarize the constitutional basis for criminal procedure.
- Explain the importance of precedent.

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Chapter Agenda

• Describe the public order (crime-control) and individual rights (due process) perspectives of criminal justice and how criminal procedure balances the two.

• Outline the structure of the court system, including the responsibilities and jurisdictions of each level.

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Chapter Agenda

- Understand the parts of a court case.
- Summarize the criminal process.
Learning Objective

Identify two key themes running throughout criminal procedure.
A concern with the constitutional rights of accused persons, as interpreted by the courts

- Interpreted through the U.S. Supreme Court with regard to the treatment of criminal suspects

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• The role of precedent, or past decisions by the courts
  - Contains an important historical dimension, one that defers regularly to how sensitive legal issues have been approached in the past
Learning Objective

Summarize the constitutional basis for criminal procedure.
What is Criminal Procedure?

- A vast set of rules and guidelines that describe how suspected and accused criminals are to be handled and processed by the justice system.
- Begins when the police first contact a person, and ends well after his or her conviction.

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What is Criminal Procedure?

• Arms the police with the knowledge necessary to preserve the rights of individuals who are seized, searched, arrested, and otherwise inconvenienced by law enforcement officials

• It also arms judges, prosecutors, and defense attorneys with the necessary information to preserve the rights of individuals accused of criminal activity
Source of Rights

• The U.S. Constitution
• Court decisions
• Statutory law
• State constitutions
Rights of Relevance in Criminal Procedure

- Fourth Amendment
  - Secure in their persons, houses, papers, and effects, against unreasonable searches

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Rights of Relevance in Criminal Procedure

- Fifth Amendment
  - Grand Jury
  - Double Jeopardy
  - No witness against yourself
  - Due process of law
  - Just compensation

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Rights of Relevance in Criminal Procedure

• Sixth Amendment
  ▪ Speedy and public trial
  ▪ Informed of the nature and cause of the accusation
  ▪ Face witnesses
  ▪ Call witnesses in his favor, and assistance of counsel

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Rights of Relevance in Criminal Procedure

- Eighth Amendment
  - Prohibition of excessive bail and cruel and unusual punishment
The Fourteenth Amendment

• Three leading views on incorporation
  ▪ The total incorporation perspective
    • All protections specified in the Bill of Rights should be binding on the states

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The Fourteenth Amendment

- Three leading views on incorporation
  - The selective incorporation or fundamental rights perspective
    - Favors certain protections not all of them
    - Certain rights are more critical than others
  - The total incorporation plus
    - Incorporates the whole Bill of Rights as well as additional unspecified rights
Learning Objective

Explain the importance of precedent.
Precedent

• A rule of case law that is binding on all lower courts and the court that issued it.
  ▪ The doctrine of *stare decisis*
Precedent

• When a previous decision does not apply to the current facts, a court will distinguish the case.
  - *Terry v. Ohio*
  - *Miranda v. Arizona*
  - *Malloy v. Hogan*
  - *Mapp v. Ohio*
  - *Gideon v. Wainwright*
Learning Objective

Describe the public order (crime control) and individual rights (due process) perspectives of criminal justice and how the criminal justice system balances the two.
Individual Rights vs. Public Order

- Individual rights
  - Rights that protect personal freedoms within the process of criminal justice
- Public order
  - Prevention of future crimes and the reduction of harm caused by criminal activity
Crime Control Model vs. Due Process Model

- Crime control
  - Controlling crime
    - May be to the detriment of civil liberties
- Due process
  - People’s rights and liberties
  - Human freedom
Learning Objective

Outline the structure of the court system, including the responsibilities and jurisdictions of each level.
Structure of the Court System

• Courts of limited jurisdiction
  ▪ Municipal court

• Courts of general jurisdiction
  ▪ Trial courts

• Superior courts
  ▪ State-level courts of general jurisdiction

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Structure of the Court System

- Intermediate appellate courts
  - State level appeal of verdicts from courts of general jurisdiction
- Supreme courts
  - The highest courts at the state or federal level
FIGURE 1–12  How Cases Arrive at the Supreme Court.
Learning Objective

Understand the parts of a court case.
Where to Find Court Cases

- U.S. Reports
- Pacific Reporter
- North Western Reporter
- Atlantic Reporter

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Where to Find Court Cases

- Legaldockets.com
- Findlaw.com
- Local courthouse
- Southern Reporter
Understanding Parts of a Criminal Case

• How did the case get there?
• Where was the trial?
• Understanding legal jargon
• What happened in the case?

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Understanding Parts of a Criminal Case

- Components of a published decision
- Where was the appeal heard?
Learning Objective

Summarize the criminal process.
Criminal Justice Process

- Booking
- First appearance
- Preliminary hearing
- Information/indictment

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Criminal Justice Process

- Arraignment
- Trial
- Sentencing
- Corrections