

Contents

Table of Cases

xi

PART ONE THE CRIMINAL PROCESS

Chapter 2	The Idea of Due Process	3
B.	Incorporation	3
C.	The Residual Due Process Clause	3

PART THREE THE RIGHT TO BE LET ALONE — AN EXAMINATION OF THE FOURTH AND FIFTH AMENDMENTS AND RELATED AREAS

Chapter 7	The Fifth Amendment	7
D.	Police Interrogation	7

THE FEDERAL RULES OF CRIMINAL PROCEDURE AND SELECTED STATUTES

Federal Rules of Criminal Procedure	11
TITLE I. APPLICABILITY	13
1. Scope; Definitions.	13
2. Interpretation.	15
TITLE II. PRELIMINARY PROCEEDINGS	16
3. The Complaint.	16
4. Arrest Warrant or Summons on a Complaint.	16
4.1. Complaint, Warrant, or Summons by Telephone or Other Reliable Electronic Means.	18
5. Initial Appearance.	20
5.1. Preliminary Hearing.	23

TITLE III. THE GRAND JURY, THE INDICTMENT, AND THE INFORMATION	24
6. The Grand Jury.	24
7. The Indictment and the Information.	30
8. Joinder of Offenses or Defendants.	31
9. Arrest Warrant or Summons on an Indictment or Information.	31
TITLE IV. ARRAIGNMENT AND PREPARATION FOR TRIAL	32
10. Arraignment.	32
11. Pleas.	33
12. Pleadings and Pretrial Motions.	37
12.1. Notice of an Alibi Defense.	39
12.2. Notice of an Insanity Defense; Mental Examination.	41
12.3. Notice of a Public-Authority Defense.	43
12.4. Disclosure Statement.	45
13. Joint Trial of Separate Cases.	45
14. Relief from Prejudicial Joinder.	46
15. Depositions.	46
16. Discovery and Inspection.	48
16.1. Pretrial Discovery Conference; Request for Court Action.	54
17. Subpoena.	54
17.1. Pretrial Conference.	56
TITLE V. VENUE	56
18. Place of Prosecution and Trial.	56
19. (Reserved).	57
20. Transfer for Plea and Sentence.	57
21. Transfer for Trial.	58
22. (Transferred).	59
TITLE VI. TRIAL	59
23. Jury or Nonjury Trial.	59
24. Trial Jurors.	60
25. Judge's Disability.	61
26. Taking Testimony.	62
26.1. Foreign Law Determination.	62
26.2. Producing a Witness's Statement.	62
26.3. Mistrial.	63

Contents	ix
27. Proving an Official Record.	64
28. Interpreters.	64
29. Motion for a Judgment of Acquittal.	64
29.1. Closing Argument.	65
30. Jury Instructions.	66
31. Jury Verdict.	66
TITLE VII. POST-CONVICTION PROCEDURES	67
32. Sentencing and Judgment.	67
32.1. Revoking or Modifying Probation or Supervised Release.	72
32.2. Criminal Forfeiture.	74
33. New Trial.	79
34. Arresting Judgment.	79
35. Correcting or Reducing a Sentence.	80
36. Clerical Error.	81
37. Indicative Ruling on a Motion for Relief That Is Barred by a Pending Appeal.	81
38. Staying a Sentence or a Disability.	81
39. (Reserved).	83
TITLE VIII. SUPPLEMENTARY AND SPECIAL PROCEEDINGS	83
40. Arrest for Failing to Appear in Another District or for Violating Conditions of Release Set in Another District.	83
41. Search and Seizure.	84
TITLE IX. GENERAL PROVISIONS	89
43. Defendant's Presence.	89
44. Right to and Appointment of Counsel.	90
45. Computing and Extending Time.	91
46. Release from Custody; Supervising Detention.	92
47. Motions and Supporting Affidavits.	94
48. Dismissal.	95
49. Serving and Filing Papers.	95
49.1. Privacy Protection For Filings Made with the Court.	98
50. Prompt Disposition.	99
51. Preserving Claimed Error.	99
52. Harmless and Plain Error.	100

53.	Courtroom Photographing and Broadcasting Prohibited.	100
54.	(Transferred).	100
55.	Records.	100
56.	When Court Is Open.	101
57.	District Court Rules.	101
58.	Petty Offenses and Other Misdemeanors.	102
59.	Matters Before a Magistrate Judge.	106
60.	Victim's Rights.	107
61.	Title.	108
62.	Criminal Rules Emergency.	108

Selected Statutes 113

Wire and Electronic Communications Interception and Interception of Oral Communications Act	113
18 U.S.C. §§2510-2511, 2515	113
Bail Reform Act of 1984 (as amended)	123
18 U.S.C. §§3141-3150	123
Speedy Trial Act of 1974 (as amended)	137
18 U.S.C. §§3161-3162, 3164, 3173	137
Jencks Act	145
18 U.S.C. §3500	145
Criminal Appeals Act of 1970 (as amended)	146
18 U.S.C. §3731	146
Crime Victims' Rights Act	147
18 U.S.C. §3771	147
Habeas Corpus Act of 1867 (as amended by Antiterrorism and Effective Death Penalty Act of 1996)	151
28 U.S.C. §§2241-2244, 2253-2254	151
Collateral Review for Federal Prisoners	158
28 U.S.C. §2255	158
Foreign Intelligence Surveillance Act	160
50 U.S.C. §§1801-1802, 1862	160