

Our goal is to write the most student-friendly book we can to help teach students about the fascinating area of criminal procedure. Between us, we have over 70 years of experience in teaching in law schools. We have used many different casebooks in teaching criminal procedure and other subjects. We have consistently seen that students strongly prefer a casebook that presents the material in a clear and well-organized fashion and that does not hide the law. That is our goal for this book.

In aspiring to provide such a book, we have made several choices. First, the book focuses on the key cases regarding each issue of criminal procedure. To help students in understanding these cases and provide a context for understanding them, we include brief comments before and after the cases. We recognize that professors have different ways in which they like to discuss these cases. Therefore, rather than providing lengthy notes and questions after each case, we provide suggested discussion questions in our teacher's manual. This method has the benefit of not limiting professors in how they approach the discussion. Also, our experience is that students often find notes filled with rhetorical questions frustrating, and only occasionally do they reflect the questions that the instructor wants to raise.

Second, there are no long passages excerpting the scholarly literature. There is a rich scholarly literature concerning almost every aspect of criminal procedure. At many places, we provide brief essays that describe and cite to this literature. But we have eschewed providing long block quotes of this material and make no pretense of being comprehensive in summarizing the literature. Our goal is to provide a casebook, not a reference tool.

Third, we decided to include “practical” materials in a supplement rather than in the casebook. For example, we think it is useful for students in studying the Fourth Amendment to see a search warrant or in learning about the Fifth Amendment to see an indictment. We considered including these in the casebook but decided for reasons of length to place them in a separate supplement. We recognize that instructors vary as to how they wish to use this material, and having the materials in a supplement was the best solution. We also provide material using other media, such as PowerPoint slides, for professors who wish to use them.

Fourth, the major cases are presented in slightly longer form, with a bit less editing than in many other books. Criminal procedure, of course, is an area of constitutional law, and the law is very much the product of the Supreme Court's decisions. Lawyers practicing criminal law base their arguments on these decisions, and thus we believe that it is desirable to expose students to the cases in their fuller form. Space constraints required more editing than we would have liked, but we have done our best to present the cases in as accurate and full a form as possible.

We do not indicate deletions of material in the cases by ellipses. Our experience is that the necessary frequent use of ellipses is distracting and does not provide useful information to the students. On the other hand, any addition, however small, is indicated by brackets.

Finally, our goal is to be comprehensive on adjudication in criminal procedure. We have organized the book roughly along the chronology of a criminal case. Chapter 1 is an introduction and includes an overview of the stages of the criminal justice system. Subsequent chapters examine each step of criminal proceedings, beginning in Chapter 2 with initiating prosecution and concluding in Chapter 10 with double jeopardy. Prior editions included a chapter on habeas corpus. But because this is generally not covered in Criminal Procedure courses, for space reasons, we have moved this chapter online for any instructor who wishes to use it and make it available to students. We were careful in writing the book to be sure that each chapter is independent so that professors can cover the material in any order and use those chapters that fit their curriculum.

Criminal procedure, of course, is an area in which there are constantly new developments. We are grateful to all who sent us comments on the first two editions. We plan to provide an annual supplement and write new editions of this book about every four years. We, of course, continue to welcome comments and suggestions from faculty and students who use it. Our goal is to provide the best possible teaching tool for criminal procedure, and we very much would appreciate any ideas for how to better accomplish this objective.

Erwin Chemerinsky  
Laurie L. Levenson

December 2021