

Criminal Procedure Outline

- I. Constitutional Criminal Procedure-themes often found but addressed indirectly
 - A. Central Constitutional Provisions
 1. Search & Seizure (4th Amend.)
 - a. “Right of the ppl. to be secure in their persons, houses, papers, & effects against UNREASONABLE searches and seizures, shall not be violated, AND no warrants shall issue, but upon PC, supported by oath or affirmation & particularly describing the place to be searched , and the persons or things to be seized.”
 2. Compelled/involuntary interrogations and other fundamentally unfair procedures (5th Am.)
 - a. “No person...shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property w/o DP of law.”
 - i. 5th Priv. V. self-incrimination, double jeopardy
 3. Right to counsel
 - a. “The accused shall... have the assistance of counsel for his defense.”
 - i. 6th Am. Right to:
 1. Counsel
 2. Trial (speedy & public)
 3. Confrontation
 4. Impartial jury
 4. Application of the Bill of Rights (1st Am.) and of principles of fundamental fairness to the states (§1 14th Am.)- Incorporation, all but totally incorporated.
 - a. “No state shall make or enforce any law which shall abridge the P & I of citizens of the U.S.; nor shall any state deprive any person of life, liberty, or property w/o DP of law; nor deny to any person w/in its jurisdiction the EP of the laws.”
 - B. Themes in Constitutional Criminal Procedure
 1. Controlling gov’tal discretion: how much is allowed
 - a. POLICE
 - b. Prosecution
 - c. Defense
 2. Criminal Procedure and Evidence law
 - a. Underlying notions of probative value & credibility
 3. Race as a factor
 4. Role of the lawyer
 5. Social science and other disciplines