Objectives

• While studying this chapter, the student will learn to:

• 1. Explore the interrelationship of the Constitution and criminal justice.

• 2. Obtain an understanding of the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments within the context of criminal justice.
Constitution and Criminal Justice

• The thrust of the Fourth, Fifth, Sixth and Eight Amendments involves the relationship of a person to the criminal justice system… “Arriving at the truth is a fundamental goal of our legal system. But various Constitutional rules contained in these amendments limit the means by which government may conduct this search for the truth in order to promote other values embraced by the Framers of the Constitution and cherished throughout our Nation’s history.” *James v. Illinois*, 493 U.S. 307. 311 (1990).
Constitution and Criminal Justice

• for example the search for the truth is hampered when the government obtains evidence illegally because the court has to exclude the evidence. **Exclusionary Rule.**

• Why does the court use the exclusionary rule?
• Because “Crime is Contagious. If the Government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself…” the ends should not justify the means; government should not “commit crimes in order to secure the convictions of a private criminal.” **Justice Brandeis, Olmstead v. United States.**
Constitution and Criminal Justice

• when the court makes a decision to exclude the evidence, how does it come to that decision?
• The court balances the interest of the government against the constitutional rights of the individual.
  • Privacy
  • Right not to incriminate self
  • Right to counsel
  • Due process of law
The Presumption of Innocence

• Where do you find the presumption of innocence and the right of the defendant to be proven guilty beyond a reasonable doubt?

• DUE PROCESS.
Criminal Justice and Separation of Powers

• The Padilla case?
• Give me the facts.
• Bush deemed Padilla an enemy combatant.
• Padilla was an American citizen
• Kept in jail without the protection of the constitution
• The issue in court was whether Bush could hold an American citizen without giving him his constitutional rights.
Criminal Justice and Separation of Powers

- This was an issue of separation of powers
- Separation of powers between which branches?
- The president relied on a case in 1942. Quirin
- Which gave the president the power to classify a non soldier as an enemy combatant
- But in that case the combatants were not U.S. citizens.
- Bush also relied on a joint resolution by congress, which gave the president power to stop terrorism.
Criminal Justice and Separation of Powers

• But the congress also passed the Non-Detention Act years before.
• It prohibits the detention of American citizens without congressional authorization.
• Bush said that the AUMF was authorization.
Criminal Justice and Separation of Powers

• The court relied on the Steel Seizure case and said that the president’s conduct was contrary to the express wishes of congress contained in the act.

• Bush did not have his hat as commander in chief and congress had not authorized the detention of Padilla.

• What did the Supreme Court do?

• They Punted!!!!!
Criminal Justice and Separation of Powers

- The Courts have now allowed persons classified as enemy combatants to plead their status before a neutral arbiter. Hamdi v. Rumsfeld.
Criminal Justice and Federalism

• How does criminal justice and federalism interact?

• Can not conflict but the state criminal statute can enhance.
The Fourth Amendment

- The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrant shall issue, but upon probable cause by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

- This amendment as you know is incorporated to the states by the due process clause of the 14th amendment.

- This is the Privacy amendment
The Fourth Amendment

- What is not covered by the 4th amendment?
- Private persons
- Plain view
- Open fields
- What are these things?
- What is a warrant?
- How does a police officer obtain a warrant?
- How does the court enforce the 4th amendment?
The Fourth Amendment

- Exclusionary Rule
- Mapp v. Ohio to deter police misconduct!
- Standing what is that?
- Fruit of the poisonous tree?
- Any evidence that was obtained illegally and other evidence stemming from that evidence will be excluded!
- Of course there are exceptions
The Fourth Amendment

- If the derivative evidence is seen as being untainted by lapse of time;
- The evidence could have been obtained through an independent source;
- If the evidence would have been discovered anyway (inevitable discovery);
- There are also good faith exception to the rule;
- What is it?
The Fourth Amendment

- Impeachment of the defendant at trial
- Can the prosecution impeach a defendant at trial with illegally obtained evidence?
- Yes, why?
- The 4th amendment does not apply to:
  - Grand jury proceedings;
  - Parole hearings
  - Civil deportation proceedings
  - Habeas Corpus
The Fourth Amendment

- Arrests (seizures) of persons, when is a person arrested?
- If a person is arrested illegally the search is not valid and if the search is not valid all evidence found in that search is not admissible.
- A person is arrested for purposes of the 4th amendment only when if in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.
- The court determines that by the facts of the incident.
The Fourth Amendment

• Probable Cause

• More likely than not that a crime has been committed

• There are exceptions to the warrant requirement:

• Plain view
The Fourth Amendment

• Search incident to a lawful arrest
• Hot pursuit
• Stop and frisk (a Terry stop) Terry v. Ohio (whether the police officer has a reasonable suspicion that a crime is happening or is about to happen, and the P.O. can articulate his suspicion by facts)
• Automobile exceptions. Why?
The Fourth Amendment

- Inventory searches
- Administrative searches
- Consent searches
- Search and bodily invasions (does it shock the conscious)
- Students and public employees
Fifth Amendment

• The right no to be a witness against self.
• Does this right apply to physical evidence?
• No, only to verbal communication.
• Miranda warnings what are they?
Fifth Amendment

- Remember you can waive every single right you have under the constitution.
- In order to waive them the waiver must be knowingly, intelligently and voluntarily.
- Lawyer only during questioning!
- Once you invoke that right to an atty the questioning has to stop and they cannot start again by reading you Miranda and you waiving.
Fifth Amendment

• Miranda only comes into play if you are going to be questioned!!
• If you volunteer evidence without questioning the fifth amendment does not apply unless you are coerced.
Sixth Amendment

• In “all criminal prosecutions the accused shall…have the assistance of Counsel for his defense.”

• What does this mean to you?

• This does not mean that you are entitled to a court appointed lawyer.

• When are you entitled to a court appointed lawyer?

• If you reject a lawyer either private or appointed
Sixth Amendment

• The court must do what before it allows you to represent yourself?
• Why?
• Because the Supreme court has through incorporation made this a fundamental right that applies to the states through the 14th amendment.
• But the defendant does not only have the right to counsel they have the right to effective assistance of counsel!!
Sixth Amendment

• You are not entitled to an atty all the time, there are exceptions:
  • Lineups
  • Show ups
  • Photo ids
  • Why?
• Because you have not been formally charged with the crime. But if you had, you are entitled to have counsel.
Sixth Amendment

• Under the 6th amendment you also have the right to:
• A public and speedy trial;
• Right to confront the witnesses against you (the confrontation clause).
• The full breath of the 6th amendment has been incorporated to the states!!!!!
Eight Amendment

• “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”
• The right against cruel and unusual punishment has been incorporated to the states.
• The punishment must fit the crime.
• The death penalty is not unconstitutional.
Eight Amendment

• The method may be?
• Setting someone on fire during an electrocution is cruel and unusual.
• You can not execute an insane person or mentally retarded (we want to make sure you know that you are going to die)
• The jury is the one who determines the death penalty by aggravating and mitigating circumstances.
THE END