

INDEX

ABANDONED PROPERTY

Warrantless searches, § 4:25

ACCOMPLICE

Presenting defendant's case and attacks thereon, calling co-defendant or accomplice, § 21:6

Presenting state's case and attacks thereon, witnesses, § 20:13

ACCUSATIONS

Indictments and Accusations, this index

ACQUITTAL

Judicial review, motion for judgment of acquittal, § 28:2

Presenting defendant's case, motion for directed verdict of acquittal, § 21:1

Rebuttal, motion for directed verdict of acquittal, § 22:3

ADMINISTRATIVE REVIEW

Clemency, § 29:2

Parole, § 29:1

ADMISSIBILITY

Confessions, presenting state's case and attacks thereon, § 20:9

Preliminary examinations, admissibility of transcripts in other proceedings, § 11:3

ADMISSIONS

Confession, distinguished, § 5:2

AGE AS DEFENSE

Presenting defendant's case and attacks thereon, § 21:15

AIRPORTS

Warrantless searches, § 4:24

ALCOHOL

Presenting defendant's case and attacks thereon, intoxication as defense, § 21:17

ALIBI DEFENSE

Discovery and motions, bill of particulars by prosecution, § 14:7

Presenting defendant's case and attacks thereon, § 21:14

ALLEN CHARGE

Submitting case to jury, § 24:9

APPEAL AND REVIEW

Generally, §§ 28:1–28:7

Acquittal, motion for judgment of, § 28:2

Administrative Review, this index

Appeals, § 28:5

Arrest of judgment, motion in, § 28:4

Contempt, § 27:4

Federal habeas corpus, § 28:7

General considerations, § 28:1

New trial, motion for, § 28:3

Post-conviction relief, § 28:6

Preliminary examinations, § 11:4

INDEX

ARGUMENT

Generally, §§ 23:1–23:5
General considerations, § 23:1
Reading law and other matters, § 23:3
Remedy for violations, § 23:5
Scope of argument, § 23:4
Time limit on argument, § 23:2

ARIZONA

Confessions and Self-Incrimination, this index

ARRAIGNMENT

Background, § 16:1
Entering guilty plea, § 16:2
Withdrawal of guilty plea, § 16:3

ARREST OF JUDGMENT

Judicial review, motion in arrest of judgment, § 28:4

ARRESTS

Generally, §§ 2:1–2:6
Definition of arrest, § 2:1
Factors to consider, § 2:1
“Fruit of the poisonous tree,” evidence as, § 2:6
General considerations, § 2:1
Illegal arrest, results, § 2:6
Officer without warrant, arrest by, § 2:2
Private citizens, arrest by, § 2:5
Probable cause for arrest, § 2:3
Probation revocation, § 30:3
“Reasonable and trustworthy information,” § 2:3
Warrantless arrest by officer, § 2:2
Warrantless searches, consent incident to arrest, § 4:22
Warrants, §§ 2:1, 2:4

AUTOMOBILES

Warrantless searches. Search and Seizure, this index

BAD CHARACTER

Presenting state’s case and attacks thereon, impeachment of witnesses, § 20:18

BAIL

Bonds, this index

BALLISTICS

Presenting state’s case and attacks thereon, § 20:43

BATSON CHALLENGE

Jury, § 18:8

BEST EVIDENCE

Presenting state’s case and attacks thereon, § 20:37

BILL OF PARTICULARS

Discovery and Motions, §§ 14:6, 14:7

BLOCKBURGER TEST

Double jeopardy, § 14:15

BLOOD EXAMINATIONS

Presenting state’s case and attacks thereon, § 20:40

BLOODHOUNDS

Presenting state’s case and attacks thereon, action of bloodhounds as evidence, § 20:27

BONDS

Generally, §§ 8:1–8:5

INDEX

BONDS—Continued

Bail, factors in settling, § 8:2
Capital offenses, § 8:3
Condition and requisites of bail undertaking, § 8:5
Excessiveness, increase or reduction of bail, § 8:2
Forfeiture of bond, § 8:5
General considerations, § 8:1
Increase of bail, § 8:2
Peace bonds, § 8:1
Post-conviction bail, § 8:4
Reduction of bail, § 8:2
Settling bail, factors, § 8:2

BORDER SEARCHES

Warrantless searches, § 4:29

BRADY MOTION

Discovery and motions, § 14:5

BURDEN OF PROOF

Presenting State's Case and Attacks Thereon, this index

BUSINESS RECORDS

Presenting state's case and attacks thereon, § 20:35

CALL OF JURORS

Jury, § 18:2

CAPITAL CASES

Bonds, § 8:3
Sentencing, § 26:1

CHALLENGES

Objections and Challenges, this index

CHANGE OF VENUE

Discovery and motions, § 14:27

CHARACTER OF DEFENDANT

Presenting Defendant's Case and Attacks Thereon, this index

CHARGE

Submitting Case to Jury, this index

CIRCUMSTANTIAL EVIDENCE

Presenting state's case and attacks thereon, § 20:24

CIVIL ACTIONS IN CONNECTION WITH DEFENSE OF CRIMINAL CASES

Federal court, injunctive relief, § 9:2
State court, injunctive relief, § 9:1

CIVIL DISABILITIES

Condemnations and forfeitures, § 10:6

CLEMENCY

Administrative review, § 29:2

CLIENT–COUNSEL RELATIONSHIP AND PROCEEDINGS PRIOR TO PRELIMINARY EXAMINATION

Bonds, this index
Civil Actions in Connection with Defense of Criminal Cases, this index
Condemnations and Forfeitures, this index
Counsel for Defendant, this index

CO–DEFENDANT

Presenting defendant's case and attacks thereon, calling co-defendant or accomplice, § 21:6

INDEX

COLLATERAL ESTOPPEL

Double jeopardy, § 14:16

COMPETENCY TO STAND TRIAL

Discovery and motions, § 14:34

CONCURRENT SENTENCES

Generally, § 26:8

CONDEMNATIONS AND FORFEITURES

Generally, §§ 10:1–10:6

Background, § 10:1

Bonds, § 8:5

Civil disabilities, § 10:6

Definitions

Forfeiture, § 10:1

Gambling device, § 10:5

Double jeopardy, forfeiture of property, § 14:20

Drugs, forfeiture relating to, § 10:4

Gambling, forfeiture relating to, § 10:5

Statutes providing for condemnation, forfeiture and confiscation, § 10:2

Weapons, forfeiture of, § 10:3

CONFESSIONS AND SELF-INCRIMINATION

Generally, §§ 5:1–5:11

Admission, distinguished, § 5:2

Arizona. *Miranda v. Arizona*, below

Definition of confession, § 5:1

Duress, voidance of confession, § 5:9

Emotional distress, voluntariness of confession, § 5:9

Fear or promises, free and voluntary confession, § 5:9

Free and voluntary, fear or promises, § 5:9

Illegal arrest, voidance of confession resulting from, § 5:9

Illegally induced confession, *Miranda v. Arizona*, § 5:10

Illiteracy, waiver of *Miranda* rights, § 5:6

Interrogation, *Miranda v. Arizona*, § 5:5

Mental retardation, waiver of *Miranda* rights, § 5:6

Miranda v. Arizona

Generally, §§ 5:3–5:8

Illegally induced confession, results of, § 5:10

In custody, § 5:4

Interrogation, § 5:5

Represented by counsel, § 5:8

Request for attorney, subsequent interrogation, § 5:7

Results of illegally induced confession, § 5:10

Waiver, § 5:6

Misleading information, voidance of confession, § 5:9

Nontestimonial evidence, § 5:11

Physical injury, voluntariness of confession, § 5:9

Presenting defendant's case and attacks thereon, § 21:3

Presenting state's case and attacks thereon, hearings as to admissibility of confessions,
§ 20:9

Threats or duress, voidance of confession, § 5:9

Waiver, *Miranda v. Arizona*, § 5:6

CONFISCATION

Statutes providing for condemnation, forfeiture and confiscation, § 10:2

CONSECUTIVE SENTENCES

Generally, § 26:8

CONSPIRACY

Presenting state's case and attacks thereon, § 20:32

INDEX

CONTEMPT

Generally, §§ 27:1–27:4
Appeals, § 27:4
Constructive contempt, §§ 27:1, 27:3
Criminal contempt, §§ 27:1, 27:3
Direct contempt, §§ 27:1, 27:3
General considerations, § 27:1
Procedure, § 27:3
What constitutes contempt, § 27:2

CONTINUANCES

Trial, this index

CORPUS DELICTI

Presenting state's case and attacks thereon, § 20:5

COUNSEL FOR DEFENDANT

Generally, §§ 7:1–7:4
Expert assistance, representing indigents, § 7:4
Financial assistance in representing indigents, § 7:4
General considerations, § 7:1
Initial interview, § 7:2
Multiple defendants, representing, § 7:3

CREDIBILITY OF WITNESS

Rape complainant, evidence attacking credibility of, § 21:8

CRIMINAL INVESTIGATIVE PROCEDURES

Arrests, this index
Confessions and Self-Incrimination, this index
Lineups and Identification Procedures, this index
Search and Seizure, this index
Stop and Frisk, this index

CROSBY PLEA

Discovery and motions, § 14:1

DANGEROUS CHARACTER

Victim, § 21:12

DEATH PENALTY

Capital Cases, this index

DEFENDANT'S COUNSEL

Counsel for Defendant, this index

DEFINITIONS

Arrest, § 2:1
Confession, § 5:1
Forfeiture, § 10:1
Gambling device, § 10:5

DELAY DOCKET

Preliminary matters and general requirements, § 17:7

DEMONSTRATIVE, REAL OR TANGIBLE EVIDENCE

Presenting state's case and attacks thereon, § 20:38

DIRECTED VERDICT

Presenting defendant's case and attacks thereon, motion for directed verdict of acquittal,
§ 21:1
Rebuttal, motion for directed verdict of acquittal, § 22:3

DISCOVERY AND MOTIONS

Generally, §§ 14:1–14:34
Alibi defense, bill of particulars by prosecution, § 14:7
Bill of particulars

INDEX

DISCOVERY AND MOTIONS—Continued

- Bill of particulars—Continued
 - Generally, § 14:6
 - By prosecution, § 14:7
- Brady motion, § 14:5
- Change of venue, motion for, § 14:27
- Competency to stand trial, § 14:34
- Crosby plea, § 14:1
- Defendant, discovery by, § 14:3
- Discovery, generally, § 14:2
- Double Jeopardy, this index
- Federal court, motion to transfer to, § 14:33
- General considerations, § 14:1
- Impeachment, discovery by defendant, § 14:3
- Information not subject to discovery by defendant, § 14:4
- Judge, motion for change of, § 14:28
- Limitation of actions, prosecution, § 14:22
- Limitations on commencement of trial, § 14:23
- Motion to quash
 - Generally, § 14:8
 - Grounds, § 14:9
 - Time to file, § 14:10
- Motion to sever
 - Offenses, § 14:26
 - Parties, § 14:25
- New trial, limitation on commencement of, § 14:23
- “Open file” discovery, § 14:3
- Quash. Motion to quash, above
- Sever. Motion to sever, above
- Speedy trial, right to, § 14:24
- Statutes of limitation for prosecution, § 14:22
- Suppress, motion to
 - Generally, § 14:29
 - Hearing on motion, § 14:32
 - Illegally obtained tangible evidence standing, § 14:30
 - Requirements of the motion, § 14:31
 - Standing, illegally obtained tangible evidence, § 14:30
- Timeliness of disclosure, § 14:3
- Venue, motion to change, § 14:27

DISTINCT FACT TEST

- Double jeopardy, § 14:15

DNA EVIDENCE

- Presenting state’s case and attacks thereon, § 20:41

DOUBLE JEOPARDY

- Generally, §§ 14:11–14:21
- Blockburger test, § 14:15
- Collateral estoppel, § 14:16
- Distinct fact test, § 14:15
- Dual sovereignty, § 14:18
- Forfeiture of property, § 14:20
- Inferior court, trial in, § 14:19
- Mistrial, § 14:17
- Necessity to plead, § 14:12
- New trial, § 14:17
- Requirements of motion, § 14:13
- Retrial, § 14:20
- “Same evidence” test, § 14:15
- Same offense, § 14:15
- “Same transaction” test, § 14:15
- Sentencing, § 14:21

INDEX

DOUBLE JEOPARDY—Continued

When jeopardy attaches, § 14:14

DRUGS

Forfeiture relating to drugs, § 10:4

Stop and frisk, drug trafficking, § 3:2

DUAL SOVEREIGNTY

Double jeopardy, § 14:18

DUE PROCESS

Lineups and identification procedures, §§ 6:3, 6:4

DURESS

Confession, voidance of, § 5:9

DYING DECLARATION

Presenting state's case and attacks thereon, hearsay evidence, § 20:33

ENTRAPMENT

Presenting defendant's case and attacks thereon, § 21:18

EVIDENCE

Admissibility, this index

Best evidence, § 20:37

Circumstantial evidence, § 20:24

Confessions and self-incrimination, nontestimonial evidence, § 5:11

Defendant's case. Presenting Defendant's Case and Attacks Thereon, this index

Demonstrative, real or tangible evidence, § 20:38

DNA evidence, § 20:41

Double jeopardy, "same evidence" test, § 14:15

"Fruit of the poisonous tree," § 2:6

Grand jury, witnesses and evidence before, § 12:11

Hearsay evidence. Presenting State's Case and Attacks Thereon, this index

Illegally obtained tangible evidence, motion to suppress, § 14:30

Inflammatory evidence, § 20:23

Nontestimonial evidence, § 5:11

Presenting Defendant's Case and Attacks Thereon, this index

Presenting State's Case and Attacks Thereon, this index

Rape complainant, evidence attacking credibility of, § 21:8

"Same evidence" test, double jeopardy, § 14:15

State's case. Presenting State's Case and Attacks Thereon, this index

Submitting case to jury, sending indictment and evidence to jury room, § 24:6

Witnesses, this index

EXCITED UTTERANCE

Presenting state's case and attacks thereon, hearsay evidence, § 20:31

EXIGENT CIRCUMSTANCES

Warrantless search of vehicles, § 4:32

EXPERIMENTS

Presenting state's case and attacks thereon, evidence, § 20:49

EXPERT ASSISTANCE

Indigents, representation of, § 7:4

EXPERT WITNESSES

Presenting state's case and attacks thereon, § 20:12

EXTENDED BORDER SEARCH

Warrantless searches, § 4:29

FEDERAL COURT

Civil actions in connection with defense of criminal cases, injunctive relief, § 9:2

Motion to transfer to federal court, § 14:33

INDEX

FEDERAL HABEAS CORPUS

Judicial review, § 28:7

FINANCIAL ASSISTANCE

Indigents, financial assistance in representing, § 7:4

FINES

Sentencing, § 26:5

FINGERPRINTS, HANDPRINTS, AND FOOTPRINTS

Presenting state's case and attacks thereon, § 20:42

FIREARMS

Weapons, this index

FIRST OFFENDER TREATMENT

Sentencing, § 26:6

FOOTPRINTS

Presenting state's case and attacks thereon, § 20:42

FORFEITURES

Condemnations and Forfeitures, this index

FORMER JEOPARDY

Double Jeopardy, this index

FRISK

Stop-and-Frisk, this index

"FRUIT OF THE POISONOUS TREE"

Arrests and evidence, § 2:6

GAMBLING

Forfeiture relating to gambling, § 10:5

GENETIC IDENTIFICATION

Presenting state's case and attacks thereon, DNA, § 20:41

GOOD FAITH

Search and seizure, good faith exception to probable cause requirement, § 4:4

GRAND JURY

Generally, §§ 12:1–12:15

Challenges. Objections and challenges, below

Composition, § 12:3

Disqualification of jurors, § 12:3

Grand jury list, making up, § 12:4

Handling indictment, § 12:14

Historical background, § 12:2

Immunity of witnesses, §§ 12:12, 12:13

Indictment, handling, § 12:14

Objections and challenges

Representative cross-section of community, failure to have, § 12:9

Timing of objections to grand jury and challenges to the array, § 12:8

Types, § 12:7

Organizing grand jury, § 12:6

Physical infirmity, eligibility to serve, § 12:3

Representing witnesses subpoenaed to testify before grand jury, § 12:15

Secrecy, § 12:10

Selection, § 12:5

Subpoena, representing witnesses subpoenaed to testify before grand jury, § 12:15

Swearing, § 12:6

Timing of objections to grand jury and challenges to the array, § 12:8

Undue hardship, excusal for, § 12:3

Witnesses

Generally, § 12:11

INDEX

GRAND JURY—Continued

Witnesses—Continued

Immunity, §§ 12:12, 12:13

Representing witnesses subpoenaed to testify before grand jury, § 12:15

HABEAS CORPUS

Judicial review, federal habeas corpus, § 28:7

HABITUAL OFFENDER LAW

Indictments and accusations, § 13:5

Sentencing, § 26:7

HANDPRINTS

Presenting state's case and attacks thereon, § 20:43

HEARSAY EVIDENCE

Presenting State's Case and Attacks Thereon, this index

HYPNOSIS

Presenting state's case and attacks thereon, § 20:47

IDENTIFICATION PROCEDURES

Lineups and Identification Procedures, this index

ILLITERACY

Confessions and self-incrimination, § 5:6

IMMUNITY

Grand jury, witness immunity, §§ 12:12, 12:13

Presenting defendant's case and attacks thereon, § 21:5

Presenting state's case and attacks thereon, immunity and reduction of sentence, § 20:14

IMPEACHING VERDICT

Verdict, § 25:4

IMPEACHMENT OF DEFENDANT

Discovery by defendant, § 14:3

INDICTMENTS AND ACCUSATIONS

Generally, §§ 13:1–13:6

Amendments, contents, § 13:6

Contents

Generally, § 13:3

Amendments, § 13:6

Former convictions, § 13:5

Notice, § 13:4

Former convictions, contents, § 13:5

Grand jury, handling indictment, § 12:14

Habitual offender law, § 13:5

Notice of contents, § 13:4

Scope, § 13:1

Submitting case to jury, sending indictment and evidence to jury room, § 24:6

INDIGENTS

Counsel for defendant, financial assistance in representing indigents, § 7:4

INFERENCES

Presenting State's Case and Attacks Thereon, this index

INFLAMMATORY EVIDENCE

Presenting state's case and attacks thereon, § 20:23

INITIAL INTERVIEW

Counsel for defendant, § 7:2

INJUNCTIVE RELIEF

Civil actions in connection with defense of criminal cases, state or federal court, §§ 9:1, 9:2

INDEX

INNOCENCE, PRESUMPTION OF

Presenting state's case and attacks thereon, § 20:3

INSANITY AS DEFENSE

Presenting defendant's case and attacks thereon, § 21:16

INTERROGATION

Confessions and self-incrimination, *Miranda v. Arizona*, § 5:5

INTOXICATION AS DEFENSE

Presenting defendant's case and attacks thereon, § 21:17

INTOXICATION TESTS

Presenting state's case and attacks thereon, § 20:39

INVENTORY SEARCH

Warrantless searches of vehicles, § 4:33

JUDGE

Motion for change of judge, § 14:28

JUDICIAL OFFICERS

Motion for change of judge, § 14:28

Search warrants, judicial officers who may issue, § 4:3

JUDICIAL REVIEW

Appeal and Review, this index

JURY

Generally, §§ 18:1–18:11

Batson challenge, § 18:8

Call of jurors for particular case, § 18:2

Challenges. Objections and challenges, below

General considerations, § 18:1

Grand Jury, this index

Jury trial versus trial by judge, § 17:5

Method of exercising challenges, § 18:9

Misconduct by jury, submitting case to jury, § 24:7

Oath, preliminary oath, § 18:4

Objections and challenges

Challenges for cause, § 18:7

Jury venire, challenges to, § 18:3

Submitting case to jury, objections to charge, § 24:5

Peremptory challenges, § 18:8

Preliminary oath, § 18:4

Selection of jury, points to consider, § 18:5

Sequestration, § 18:11

Submitting case to jury, this index

Swearing the jury, § 18:10

Venire, challenges to jury venire, § 18:3

Voir dire examination, § 18:6

Voir dire examination, improper restriction of, § 18:6

JURY ROOM

Sending indictment and evidence to jury room, § 24:6

JUSTIFICATION AS DEFENSE

Presenting defendant's case and attacks thereon, § 21:19

LEADING QUESTIONS

Presenting state's case and attacks thereon, § 20:15

LESSER INCLUDED OFFENSES

Submitting case to jury, § 24:4

LIE DETECTORS

Presenting state's case and attacks thereon, § 20:46

INDEX

LIMITATION OF ACTIONS

Prosecution, § 14:22
Statute of Limitations, this index

LINEUPS AND IDENTIFICATION PROCEDURES

Generally, §§ 6:1–6:6
Background, § 6:1
Due process, §§ 6:3, 6:4
Lineups and show-ups, due process, § 6:4
Photographic identification, § 6:5
Photographic lineup, § 6:2
Right to counsel at pretrial identification procedures, § 6:2
Voice identification, § 6:6

“LUSTFUL DISPOSITION”

Presenting state’s case and attacks thereon, motive as evidence, § 20:20

MENTAL RETARDATION

Confessions and self-incrimination, § 5:6

MIRANDA v. ARIZONA

Confessions and Self-Incrimination, this index

MISLEADING INFORMATION

Confessions obtained involving misleading information, § 5:9

MISTAKE OF FACT AS DEFENSE

Presenting defendant’s case and attacks thereon, § 21:13

MISTRIAL

Double jeopardy, § 14:17
Presenting state’s case and attacks thereon, § 20:55

MOTION PICTURES AND VIDEO TAPES

Presenting state’s case and attacks thereon, § 20:53

MOTION TO QUASH

Discovery and Motions, this index

MOTIONS

Discovery and Motions, this index

MOTOR VEHICLES

Warrantless searches. Search and Seizure, this index

MULTIPLE DEFENDANTS

Counsel for defendant representing multiple defendants, § 7:3

NEUTRON ACTIVATION ANALYSIS

Presenting state’s case and attacks thereon, § 20:50

NEW TRIAL

Discovery and motions, limitation on commencement of new trial, § 14:23
Double jeopardy, § 14:17
Judicial review, motion for new trial, § 28:3

NOLLE PROSEQUI

Preliminary matters and general requirements, § 17:8

NONCAPITAL CASES

Sentencing, § 26:2

NONEXPERT OR LAY WITNESSES

Presenting state’s case and attacks thereon, § 20:11

NONTESTIMONIAL EVIDENCE

Confessions and self-incrimination, § 5:11

INDEX

OATH

Jury, preliminary oath, § 18:4

OBJECTIONS AND CHALLENGES

Grand Jury, this index

Jury, this index

Presenting state's case and attacks thereon, § 20:54

OBSCENE MATERIAL

Search and seizure, § 4:13

OFF-DUTY LAW ENFORCEMENT OFFICERS

Search and seizure, § 4:4

OPEN FIELDS

Warrantless searches, § 4:27

“OPEN FILE” DISCOVERY

Generally, § 14:3

OPENING STATEMENTS

Generally, §§ 19:1–19:5

Defendant's opening, § 19:3

General procedural considerations, § 19:1

Sequestration of witnesses, § 19:5

State's opening, § 19:2

PAROLE AND PAROLEES

Administrative review, § 29:1

Warrantless searches, § 4:28

PATDOWN OF OUTER CLOTHING

Stop and frisk, § 3:3

PEACE BONDS

Generally, § 8:1

PEREMPTORY CHALLENGES

Jury, § 18:8

PHOTOGRAPHIC LINEUP

Generally, § 6:2

PHOTOGRAPHS

Identification by photograph, § 6:5

Presenting state's case and attacks thereon, § 20:52

PLAIN VIEW

Warrantless searches, § 4:26

PLEA BARGAINING

Generally, §§ 15:1–15:3

Broken plea bargains, § 15:3

Practical considerations, § 15:2

Withdrawal of plea bargain, § 15:3

POLLING JURY

Verdict, § 25:3

POLYGRAPH

Presenting state's case and attacks thereon, § 20:46

POST-CONVICTION RELIEF

Judicial review, § 28:6

POST-TRIAL REMEDIES AND PROCEEDINGS

Administrative review

Clemency, § 29:2

INDEX

POST-TRIAL REMEDIES AND PROCEEDINGS—Continued

Administrative review—Continued

Parole, § 29:1

Judicial review, this index

Probation revocation. Probation, this index

PRELIMINARY EXAMINATIONS

Generally, §§ 11:1–11:4

Admissibility of transcripts in other proceedings, § 11:3

Bonds, this index

Civil Actions in Connection with Defense of Criminal Cases, this index

Condemnations and Forfeitures, this index

Counsel for Defendant, this index

General considerations, § 11:1

Judicial review, § 11:4

Probable cause, § 11:2

Statutory procedures, § 11:2

PRELIMINARY HEARING

Probation revocation, § 30:4

PRESENTING DEFENDANT'S CASE AND ATTACKS THEREON

Generally, §§ 21:1–21:19

Acquittal, motion for directed verdict of, § 21:1

Age as defense, § 21:15

Alibi as defense, § 21:14

Calling co-defendant or accomplice, § 21:6

Character of defendant

Evidence of defendant's character, § 21:11

Weight and importance of defendant's good character, § 21:9

When state may attack, § 21:10

Dangerous character of victim, § 21:12

Defendant's character, when state may attack, § 21:10

Directed verdict of acquittal, motion for, § 21:1

Entrapment, § 21:18

Evidence

Character of defendant, § 21:11

Credibility of rape complainant, § 21:8

General consideration of defendant's case, § 21:2

Good character of defendant, weight and importance, § 21:9

Immunity, § 21:5

Implicating third parties, § 21:7

Insanity as defense, § 21:16

Intoxication as defense, § 21:17

Justification as defense, § 21:19

Mistake of fact as defense, § 21:13

Motion for directed verdict of acquittal, § 21:1

Self-incrimination, § 21:3

Subpoena, § 21:4

Third parties, implicating, § 21:7

Victim's character, dangerous character, § 21:12

Weight and importance of defendant's good character, § 21:9

PRESENTING STATE'S CASE AND ATTACKS THEREON

Generally, §§ 20:1–20:55

Accomplices, witnesses, § 20:13

Bad character, impeachment of witnesses, § 20:18

Ballistics and firearms, § 20:43

Best evidence, § 20:37

Blood examinations, evidence, § 20:40

Bloodhounds and other dogs, action of, evidence, § 20:27

Burden of proof. Presumptions, below

Business records exception, hearsay, § 20:35

Chain of custody, evidence, § 20:45

INDEX

PRESENTING STATE'S CASE AND ATTACKS THEREON—Continued

- Circumstantial evidence, § 20:24
- Competency and privileges, witnesses, § 20:10
- Conspiracy, hearsay evidence, § 20:32
- Conviction of crime, impeachment of witness, § 20:19
- Corpus delicti, § 20:5
- Demonstrative, real or tangible evidence, § 20:38
- DNA, evidence, § 20:41
- Documents and reports, hearsay evidence, § 20:35
- Dying declaration, hearsay evidence, § 20:33
- Evidence
 - Generally, §§ 20:22–20:53
 - Best evidence, § 20:37
 - Blood examinations, § 20:40
 - Bloodhounds and other dogs, action of, § 20:27
 - Chain of custody, § 20:45
 - Circumstantial, § 20:24
 - Demonstrative, real or tangible evidence, § 20:38
 - Experiments, § 20:49
 - Failure to produce, § 20:36
 - Fingerprints, handprints, and footprints, § 20:42
 - Firearms and ballistics, § 20:43
 - Genetic identification, DNA, § 20:41
 - Hearsay evidence, below
 - Inflammatory, § 20:23
 - Motion pictures and video tapes, § 20:53
 - Neutron activation analysis, § 20:50
 - Other crimes, § 20:25
 - Photographs, § 20:52
 - Questioned documents, § 20:44
 - Res gestae, acts and statements of participants in the offense, § 20:26
 - Tests of intoxication, § 20:39
 - Truth tests, below
 - View of scene, § 20:51
- Excited utterance, hearsay evidence, § 20:31
- Experiments, evidence, § 20:49
- Expert witnesses, § 20:12
- Explanation of conduct, hearsay evidence, § 20:30
- Eyewitness' identification of defendant, witnesses, § 20:16
- Failure to produce, § 20:36
- Fingerprints, handprints, and footprints as evidence, § 20:42
- Firearms and ballistics, § 20:43
- Footprints as evidence, § 20:42
- Genetic identification, DNA, evidence, § 20:41
- Handprints as evidence, § 20:42
- Hearings as to admissibility of confessions, § 20:9
- Hearsay evidence
 - Generally, §§ 20:28–20:35
 - Business records exception, § 20:35
 - Conspiracy, § 20:32
 - Documents and reports, § 20:35
 - Dying declaration, § 20:33
 - Excited utterance, § 20:31
 - Excited utterance, time as factor, § 20:31
 - Explanation of conduct, § 20:30
 - Prior testimony, § 20:34
 - Public records, § 20:35
 - State of mind and intent, § 20:29
- Hypnosis, § 20:47
- Identification of defendant by eyewitness, witnesses, § 20:16
- Immunity and reduction of sentence, witnesses, § 20:14
- Impeachment of witnesses

INDEX

PRESENTING STATE'S CASE AND ATTACKS THEREON—Continued

- Impeachment of witnesses—Continued
 - Generally, §§ 20:17–10:21
 - Bad character, § 20:18
 - Conviction of crime, § 20:19
 - Interest and bias, § 20:21
 - Prior inconsistent statement, § 20:20
- Inferences. Presumptions, below
- Inflammatory evidence, § 20:23
- Innocence, presumption of, § 20:3
- Intent and state of mind, hearsay evidence, § 20:29
- Interest and bias, impeachment of witnesses, § 20:21
- Intoxication tests, evidence, § 20:39
- Leading questions, witnesses, § 20:15
- “Lustful disposition” as motive, evidence, § 20:20
- Mistrial, § 20:55
- Motion pictures and video tapes, evidence, § 20:53
- Neutron activation analysis, evidence, § 20:50
- Nonexpert or lay witnesses, § 20:11
- Objections, § 20:54
- Other crimes, evidence, § 20:25
- Photographs, evidence, § 20:52
- Polygraph, § 20:46
- Presumptions
 - Generally, §§ 20:1, 20:4
 - Innocence, presumption of, § 20:3
- Prior inconsistent statement, impeachment of witnesses, § 20:20
- Prior testimony, hearsay evidence, § 20:34
- Psychological stress evaluator, § 20:48
- Public records, hearsay, § 20:35
- Questioned documents, evidence, § 20:44
- Real evidence, § 20:38
- Reasonable doubt, § 20:2
- Reduction of sentence and immunity, witnesses, § 20:14
- Reports and documents, hearsay evidence, § 20:35
- Requirements of proof
 - Generally, § 20:7
 - Variance, § 20:8
- Res gestae, acts and statements of participants in the offense, evidence, § 20:26
- State of mind and intent, hearsay evidence, § 20:29
- Subject to leading questions, witnesses, § 20:15
- Tangible evidence, § 20:38
- Tests of intoxication, evidence, § 20:39
- Truth tests
 - Generally, §§ 20:46–20:48
 - Hypnosis, § 20:47
 - Polygraph, § 20:46
 - Psychological stress evaluator, § 20:48
- Variance, requirements of proof, § 20:8
- Venue, § 20:6
- Video tapes, evidence, § 20:53
- View of scene, evidence, § 20:51
- Witnesses
 - Generally, §§ 20:10–20:21
 - Accomplices, § 20:13
 - Bad character, impeachment, § 20:18
 - Competency and privileges, § 20:10
 - Conviction of crime, impeachment, § 20:19
 - Experts, § 20:12
 - Identification of defendant by eyewitness, § 20:16
 - Immunity and reduction of sentence, § 20:14
 - Impeachment of witnesses, above

INDEX

PRESENTING STATE'S CASE AND ATTACKS THEREON—Continued

Witnesses—Continued

- Interest and bias, impeachment, § 20:21
- Nonexpert or lay witnesses, § 20:11
- Prior inconsistent statement, impeachment, § 20:20
- Subject to leading questions, § 20:15

PRESUMPTIONS

- Presenting State's Case and Attacks Thereon, this index

PRE-TRIAL JUDICIAL PROCEEDINGS

- Arraignment, this index
- Discovery and Motions, this index
- Grand Jury, this index
- Indictments and Accusations, this index
- Plea Bargaining, this index
- Preliminary Examination, this index

PRISONERS

- Warrantless searches, § 4:28

PRIVATE CITIZENS

- Arrest by, § 2:5
- Searches by, § 4:2

PROBABLE CAUSE

- Arrest, § 2:3
- Preliminary examinations, § 11:2
- Search and Seizure, this index

PROBATION

- Revocation
 - Generally, §§ 30:1–30:6
 - Arrest, § 30:3
 - Final revocation hearing, § 30:5
 - Preliminary hearing, § 30:4
 - Results of revocation, § 30:6
 - Violation of conditions, § 30:2
- Sentencing, generally, § 26:4
- Violation of conditions, § 30:2
- Warrantless searches, probationers, § 4:28

PROTECTED AREAS AND INTERESTS

- Search and seizure, § 4:1

PSYCHOLOGICAL STRESS EVALUATOR

- Presenting state's case and attacks thereon, § 20:48

PUBLIC RECORDS

- Presenting state's case and attacks thereon, hearsay, § 20:35

QUASH

- Discovery and Motions, this index

QUESTIONED DOCUMENTS

- Presenting state's case and attacks thereon, § 20:44

RAPE

- Evidence attacking credibility of rape complainant, § 21:8

“REASONABLE AND TRUSTWORTHY INFORMATION”

- Arrests, § 2:3

REASONABLE CAUSE

- Arrest, § 2:3

INDEX

“REASONABLE DESCRIPTION”

Search and seizure, § 4:8

REASONABLE DOUBT

Presenting state’s case and attacks thereon, § 20:2

REBUTTAL

Generally, §§ 22:1–22:4

Directed verdict of acquittal, motion for, § 22:3

Reopening case, § 22:4

State, rebuttal by, § 22:1

Surrebuttal by defendant, § 22:2

RECHARGE

Submitting case to jury, § 24:8

REOPENING CASE

Rebuttal, § 22:4

REPEAT OFFENDERS

Habitual Offender Law, this index

RES GESTAE

Presenting state’s case and attacks thereon, § 20:26

RESENTENCING

Sentencing, § 26:9

RETRIAL

Double jeopardy, § 14:20

“SAME EVIDENCE” TEST

Double jeopardy, § 14:15

“SAME TRANSACTION” TEST

Double jeopardy, § 14:15

SEARCH AND SEIZURE

Generally, §§ 4:1–4:35

Description of place and person to be searched, probable cause for issuance of search warrant, § 4:8

Detention and search of person, execution of search warrant, § 4:12

Execution of search warrant

Generally, §§ 4:11–4:13

Detention and search of person, § 4:12

Means and force, § 4:11

Property which may be seized, § 4:13

Good faith exception to probable cause requirement, § 4:4

Illegal search, results, § 4:35

Incident to lawful arrest. Warrantless Searches, this index

“Informant” observation, probable cause for issuance of search warrant, § 4:6

Judicial officers who may issue search warrants, § 4:3

Means and force, execution of search warrant, § 4:11

Motor vehicles. Warrantless Searches, this index

Obscene material, seizure of, § 4:13

Observation

“Informant,” observation of, § 4:6

Officer, victim, or private citizen, observation of, § 4:5

Off-duty law enforcement officers, search by, § 4:4

Officer

Officer, observation of, § 4:5

Returns by, § 4:14

Time for execution of warrant, § 4:10

Private citizens, searches by, § 4:2

Probable cause for issuance of search warrant

Generally, §§ 4:4–4:9

INDEX

SEARCH AND SEIZURE—Continued

Probable cause for issuance of search warrant—Continued

Description of place and person to be searched, § 4:8

“Informant,” observation of, § 4:6

Officer, victim, or private citizen, observation of, § 4:5

Reason for searching place, § 4:9

Time, § 4:7

Property which may be seized, execution of search warrant, § 4:13

Protected areas and interests, § 4:1

Reason for searching place, probable cause for issuance of search warrant, § 4:9

“Reasonable description” requirement, § 4:8

Redating search warrant, probable cause, § 4:7

Returns by officer, § 4:14

Second search, § 4:34

Seizure of property, execution of search warrant, § 4:13

Time

Officer to execute warrant, time for execution, § 4:10

Probable cause for issuance of search warrant, § 4:7

“Totality of circumstances” test of probable cause, § 4:6

Vehicles. Warrantless Searches, this index

Warrants

Execution of search warrant, above

Judicial officers who may issue search warrants, § 4:3

Officer to execute warrant, time for execution, § 4:10

SECOND SEARCH

Search and seizure, § 4:34

SECURITY

Grand jury, § 12:10

SEIZURE

Search and Seizure, this index

SELECTION OF JURY

Points to consider, § 18:5

SELF-INCRIMINATION

Confessions and Self-Incrimination, this index

SENTENCING

Generally, §§ 26:1–26:9

Aggravating circumstances, § 26:1

Capital cases, § 26:1

Concurrent and consecutive sentences, § 26:8

Double jeopardy, § 14:21

Fines, § 26:5

First offender treatment, § 26:6

Habitual offender law, § 26:7

Mental defect, § 26:1

Mitigating circumstances, §§ 26:1, 26:3

Noncapital cases, procedural, § 26:2

Probation, § 26:4

Resentencing, § 26:9

Restitution or reparation, § 26:4

Sentencing factors, § 26:3

Suspended sentences, § 26:4

SEQUESTRATION

Jury, § 18:11

Opening statements, § 19:5

SEVER, MOTION TO

Discovery and Motions, this index

INDEX

SPEEDY TRIAL

Discovery and motions, § 14:24

STATE COURT

Civil actions in connection with defense of criminal cases, injunctive relief, § 9:1

STATE'S CASE

Presenting State's Case and Attacks Thereon, this index

STATUTE OF LIMITATIONS

Discovery and motions, prosecution, § 14:22

STOP-AND-FRISK

Generally, §§ 3:1–3:3

Drug trafficking, § 3:2

Extent of stop-and-frisk search, § 3:3

Facts justifying stop-and-frisk, § 3:2

General considerations, § 3:1

Length of detention or stop, § 3:3

Patdown of outer clothing, § 3:3

“Plainly feel,” drug paraphernalia or packaging, § 3:3

Reasonableness standards, § 3:2

Search and seizure, warrantless searches, § 4:18

SUBMITTING CASE TO JURY

Generally, §§ 24:1–24:9

Allen charge, § 24:9

Charge

Generally, §§ 24:1–24:59

Lesser included offenses, § 24:4

Matters that cannot be charged, § 24:3

Matters that must be charged, § 24:2

Objections, § 24:5

Lesser included offenses, charge, § 24:4

Misconduct involving jury, § 24:7

Objections to charge, § 24:5

Recharge, § 24:8

Sending indictment and evidence to jury room, § 24:6

SUBPOENA

Grand jury, representing witnesses subpoenaed to testify before grand jury, § 12:15

Presenting defendant's case and attacks thereon, § 21:4

SUPPRESS, MOTION TO

Discovery and Motions, this index

SURREBUTTAL

By defendant, § 22:2

SUSPENDED SENTENCES

Generally, § 26:4

SWEARING THE JURY

Generally, § 18:10

TANGIBLE EVIDENCE

Presenting state's case and attacks thereon, § 20:38

Suppression motion for illegally obtained tangible evidence, § 14:30

THIRD PARTIES

Presenting defendant's case and attacks thereon, implicating a third party, § 21:7

Search and seizure, consent to warrantless search, § 4:23

THREATS

Confession, voidance of, § 5:9

INDEX

TIME LIMIT

Argument, § 23:2

“TOTALITY OF CIRCUMSTANCES” TEST

Search and seizure, probable cause, § 4:6

TRANSCRIPTS

Preliminary examinations, admissibility of transcripts in other proceedings, § 11:3

TRIAL

Argument, this index

Contempt, this index

Continuances

 Change of lawyers midtrial, § 17:6

 Illness and inability to appear, § 17:6

 Witness' failure to appear, § 17:6

Delay docket, placing case on, § 17:7

District attorney, §§ 17:3, 17:4

Jury, this index

Nolle prosequi, entering, § 17:8

Opening statements, this index

Preliminary matters and general requirements

 Generally, §§ 17:1–17:8

 Change of lawyers midtrial, continuances, § 17:6

 Continuances, above

 Court, § 17:2

 Defendant, § 17:4

 Delay docket, placing case on, § 17:7

 District attorney, §§ 17:3, 17:4

 Jury trial versus trial by judge, § 17:5

 Nolle prosequi, entering, § 17:8

 Presence of accused, § 17:4

 Shackling defendant at trial, § 17:4

Presenting Defendant's Case and Attacks Thereon, this index

Presenting State's Case and Attacks Thereon, this index

Rebuttal, this index

Sentencing, this index

Shackling defendant at trial, § 17:4

Submitting Case to Jury, this index

Verdict, this index

TRUTH TESTS

Presenting State's Case and Attacks Thereon, this index

UNDUE HARDSHIP

Grand jury, excusal, § 12:3

VARIANCE

Presenting state's case and attacks thereon, requirements of proof, § 20:8

VEHICLES

Warrantless Searches, this index

VENIRE

Jury venire, challenges to, § 18:3

VENUE

Discovery and motions, motion to change venue, § 14:27

Presenting state's case and attacks thereon, § 20:6

VERDICT

 Generally, §§ 25:1–25:4

Directed Verdict, this index

General considerations, § 25:1

Impeaching verdict, § 25:4

Mechanics related to verdicts, § 25:2

INDEX

VERDICT—Continued

Polling jury, § 25:3

Presenting defendant's case and attacks thereon, motion for directed verdict of acquittal,
§ 21:1

VIDEO TAPES

Presenting state's case and attacks thereon, § 20:53

VIEW OF SCENE

Presenting state's case and attacks thereon, § 20:51

VOICE IDENTIFICATION

Lineups and identification procedures, § 6:6

VOIR DIRE EXAMINATION

Jury, § 18:6

WAIVER

Confessions and self-incrimination, *Miranda v. Arizona*, § 5:6

WARRANTLESS ARREST

Officer, § 2:2

WARRANTLESS SEARCHES

Generally, §§ 4:15–4:33

Abandoned property, § 4:25

Airport searches, § 4:24

Border searches, § 4:29

Consent incident to arrest, § 4:22

Exceptions, § 4:15

Exigent circumstances, §§ 4:19, 4:32

Extended border search, § 4:29

Hot pursuit, officer in, § 4:20

Incident to lawful arrest

Articles and area around person arrested, § 4:17

Person, § 4:16

Inventory search, vehicles, § 4:33

Motor vehicles. Vehicles, below

Open fields, § 4:27

“Plain feel” doctrine, § 4:26

Plain view, § 4:26

Prisoners, probationers and parolees, § 4:28

Probable cause and exigent circumstances, vehicles, § 4:32

Search and Seizure, this index

Third party, consent by, § 4:23

Valid consent, §§ 4:21, 4:23

Valid stop-and-frisk, § 4:18

Vehicles

Generally, §§ 4:19, 4:29–4:33

Incident to lawful arrest, § 4:31

Inventory search, § 4:33

Probable cause and exigent circumstances, § 4:32

WEAPONS

Forfeiture of weapons, § 10:3

Presenting state's case and attacks thereon, § 20:43

WITHDRAWAL

Plea bargain, § 15:3

WITNESSES

Credibility of witness, rape complainant, § 21:8

Grand Jury, this index

Opening statements, sequestration of witnesses, § 19:5

Presenting State's Case and Attacks Thereon, this index

INDEX

WITNESSES—Continued
Subpoena, this index

†