

# TABLE OF CONTENTS

---

## CHAPTER 1. INTRODUCTION

### Sec.

- 1:1 Scope and purpose

## PART I. ARREST AND CRIMINAL INVESTIGATIVE PROCEDURES

### CHAPTER 2. ARRESTS

- 2:1 General considerations  
2:2 Arrest by officer without warrant—General  
2:3 Arrest—Reasonable or probable cause  
2:4 Arrest warrants  
2:5 Arrests by private citizens  
2:6 Results of illegal arrest

### CHAPTER 3. STOP-AND-FRISK

- 3:1 General considerations  
3:2 Facts justifying stop-and-frisk  
3:3 Extent of stop-and-frisk search

### CHAPTER 4. SEARCH AND SEIZURE

- 4:1 Protected areas and interests  
4:2 Searches by private citizens  
4:3 Judicial officers who may issue search warrants  
4:4 Probable cause required for issuance of search warrant—General  
4:5 Probable cause required for issuance of search warrant—Observation of officer, victim or private citizen  
4:6 Probable cause required for issuance of search warrant—Observation of “informant”  
4:7 Probable cause required for issuance of search warrant—Time  
4:8 Probable cause required for issuance of search warrant—Description of place and person to be searched  
4:9 Probable cause required for issuance of search warrant—Reason for searching place  
4:10 Officer to execute warrant—Time for execution  
4:11 Execution of search warrant—Means and force  
4:12 Execution of search warrant—Detention and search of person  
4:13 Execution of search warrant—Property which may be seized  
4:14 Returns by officer  
4:15 Warrantless searches—General

## TABLE OF CONTENTS

<b>Sec.</b>	
4:16	Warrantless searches—Incident to lawful arrest—Person
4:17	Warrantless searches—Incident to lawful arrest—Articles and area around person arrested
4:18	Warrantless searches—Valid stop-and-frisk
4:19	Warrantless searches—Exigent circumstances
4:20	Warrantless searches—Officer in hot pursuit
4:21	Warrantless searches—Valid consent—General
4:22	Warrantless searches—Consent incident to arrest
4:23	Warrantless searches—Valid consent by third person
4:24	Warrantless searches—Airport searches
4:25	Warrantless searches—Abandoned property
4:26	Warrantless searches—Plain view
4:27	Warrantless searches—Open fields
4:28	Warrantless searches—Prisoners, probationers and parolees
4:29	Warrantless searches—Border searches
4:30	Warrantless searches—Vehicle—General
4:31	Warrantless searches—Vehicle—Incident to lawful arrest
4:32	Warrantless searches—Vehicle—Probable cause and exigent cir- cumstances
4:33	Warrantless searches—Vehicle—Inventory search
4:34	Second search
4:35	Results of illegal search

## CHAPTER 5. CONFESSIONS AND SELF-INCRIMINATION

5:1	Confessions—General
5:2	Confessions—Admissions
5:3	Confessions and admissions—Miranda v. Arizona—General
5:4	Confessions and admissions—Miranda v. Arizona—In custody
5:5	Confessions and admissions—Miranda v. Arizona—Interrogation
5:6	Confessions and admissions—Miranda v. Arizona—Waiver
5:7	Confessions and admissions—Miranda v. Arizona—Request for an attorney—Subsequent interrogation
5:8	Confessions and admissions—Miranda v. Arizona—Represented by counsel
5:9	Confessions and admissions—Free and voluntary—Fear or promises
5:10	Confessions and admissions—Miranda v. Arizona—Results of ille- gally induced confession
5:11	Nontestimonial evidence

## CHAPTER 6. LINEUPS AND IDENTIFICATION PROCEDURES

6:1	Background
6:2	Right to counsel at pretrial identification procedures
6:3	Due process—General
6:4	Due process—Lineups and show-ups
6:5	Photographic identification
6:6	Voice identification

## **TABLE OF CONTENTS**

### **PART II. CLIENT-COUNSEL RELATIONSHIP AND PROCEEDINGS PRIOR TO PRELIMINARY EXAMINATION**

#### **CHAPTER 7. COUNSEL FOR DEFENDANT**

**Sec.**

- 7:1 General considerations
- 7:2 Initial interview
- 7:3 Representing multiple defendants
- 7:4 Financial assistance in representing indigents

#### **CHAPTER 8. BONDS**

- 8:1 General considerations
- 8:2 Factors in setting bail; excessiveness; increase or reduction of bail
- 8:3 Capital offenses
- 8:4 Bail after conviction
- 8:5 Condition and requisites of bail undertaking

#### **CHAPTER 9. CIVIL ACTIONS IN CONNECTION WITH DEFENSE OF CRIMINAL CASES**

- 9:1 Injunctive relief in state court
- 9:2 Injunctive relief in federal court

#### **CHAPTER 10. CONDEMNATIONS AND FORFEITURES**

- 10:1 Background
- 10:2 Statutes providing for condemnation, forfeiture and confiscation
- 10:3 Forfeiture of weapons
- 10:4 Forfeiture relating to drugs
- 10:5 Forfeiture relating to gambling
- 10:6 Civil disabilities

### **PART III. PRE-TRIAL JUDICIAL PROCEEDINGS**

#### **CHAPTER 11. PRELIMINARY EXAMINATION**

- 11:1 General considerations
- 11:2 Outline of statutory procedures
- 11:3 Admissibility of transcripts in other proceedings
- 11:4 Judicial review

#### **CHAPTER 12. GRAND JURY**

- 12:1 Introduction
- 12:2 Historical background
- 12:3 Composition
- 12:4 Making up grand jury list
- 12:5 Selecting grand jury
- 12:6 Organizing and swearing grand jury
- 12:7 Kinds of objections and challenges to grand jury

## TABLE OF CONTENTS

### Sec.

- 12:8 Timing of objections to grand jury and challenges to the array
- 12:9 Challenge to the array—Failure to have representative cross-section of community
- 12:10 Grand jury secrecy
- 12:11 Witnesses and evidence before grand jury
- 12:12 Witness immunity—Background
- 12:13 Witness immunity—In Louisiana
- 12:14 Handling of indictment
- 12:15 Representing witnesses subpoenaed to testify before grand jury

## CHAPTER 13. INDICTMENTS AND ACCUSATIONS

- 13:1 Scope
- 13:2 General considerations
- 13:3 Contents—General
- 13:4 Contents—Notice
- 13:5 Contents—Former convictions
- 13:6 Amendments

## CHAPTER 14. DISCOVERY, MOTIONS

- 14:1 General considerations
- 14:2 Discovery—General
- 14:3 Discovery—By defendant
- 14:4 Information not subject to discovery by defendant
- 14:5 Brady motion
- 14:6 Bill of particulars
- 14:7 Discovery—By prosecution
- 14:8 Motion to quash—General
- 14:9 Motion to quash—Grounds
- 14:10 Motion to quash—Time to file
- 14:11 Double jeopardy
- 14:12 Double jeopardy—Necessity to plead
- 14:13 Double jeopardy—Requirements of motion
- 14:14 Double jeopardy—When jeopardy attaches
- 14:15 Double jeopardy—Same offense
- 14:16 Double jeopardy—Collateral estoppel
- 14:17 Double jeopardy—Mistrial—New trial
- 14:18 Double jeopardy—Dual sovereignty
- 14:19 Double jeopardy—Trial in inferior court
- 14:20 Double jeopardy—Retrial
- 14:21 Double jeopardy—Sentencing
- 14:22 Limitations of prosecution
- 14:23 Limitations on commencement of trial
- 14:24 Right to speedy trial
- 14:25 Motion to sever—Parties
- 14:26 Motion to sever—Offenses
- 14:27 Motion to change venue
- 14:28 Motion for a change of judge
- 14:29 Motion to suppress—General

## **TABLE OF CONTENTS**

### **Sec.**

- 14:30 Motion to suppress—Illegally obtained tangible evidence—Standing
- 14:31 Motion to suppress—Requirements of the motion
- 14:32 Motion to suppress—Hearing on motion
- 14:33 Motion to transfer to federal court
- 14:34 Competency to stand trial

## **CHAPTER 15. PLEA BARGAINING**

- 15:1 General
- 15:2 Practical considerations
- 15:3 Broken plea bargains

## **CHAPTER 16. ARRAIGNMENT**

- 16:1 Background
- 16:2 Entering a guilty plea
- 16:3 Withdrawal of guilty plea

## **PART IV. THE TRIAL**

### **CHAPTER 17. PRELIMINARY MATTERS AND GENERAL REQUIREMENTS**

- 17:1 General considerations
- 17:2 Court
- 17:3 District attorney
- 17:4 Defendant
- 17:5 Jury trial versus trial by judge
- 17:6 Continuances
- 17:7 Placing case on delay docket
- 17:8 Entering a nolle prosequi

## **CHAPTER 18. JURY**

- 18:1 General considerations
- 18:2 Call of jurors for particular case
- 18:3 Challenges to jury venire
- 18:4 Preliminary oath
- 18:5 Points to consider in jury selection
- 18:6 Voir dire examination
- 18:7 Challenges for cause
- 18:8 Peremptory challenges
- 18:9 Method of exercising challenges
- 18:10 Swearing the jury
- 18:11 Sequestration

## **CHAPTER 19. OPENING STATEMENTS**

- 19:1 General procedural considerations
- 19:2 State's opening

## TABLE OF CONTENTS

### Sec.

- 19:3 Defendant's opening
- 19:4 Practical considerations
- 19:5 Sequestration of witnesses

## CHAPTER 20. PRESENTING STATE'S CASE AND ATTACKS THEREON

- 20:1 Burden of proof
- 20:2 Reasonable doubt
- 20:3 Presumption of innocence
- 20:4 Presumptions and inferences
- 20:5 Corpus delicti
- 20:6 Venue
- 20:7 General requirements of proof
- 20:8 General requirements of proof—Variance
- 20:9 Hearings as to admissibility of confessions
- 20:10 Witnesses—Competency and privileges
- 20:11 Witnesses—Experts
- 20:12 Witnesses—Access to
- 20:13 Witnesses—Accomplices
- 20:14 Witnesses—Immunity and reduction of sentence
- 20:15 Witnesses—Subject to leading questions
- 20:16 Witnesses—Identification of defendant by eyewitness
- 20:17 Witnesses—Impeachment
- 20:18 Witnesses—Impeachment—Bad character
- 20:19 Witnesses—Impeachment—Conviction of crime
- 20:20 Witnesses—Impeachment—Prior inconsistent statement
- 20:21 Witnesses—Impeachment—Interest and bias
- 20:22 Evidence
- 20:23 Evidence—Inflammatory
- 20:24 Evidence—Circumstantial
- 20:25 Evidence—Other crimes
- 20:26 Evidence—Res gestae—Acts and statements of participants in the offense
- 20:27 Evidence—Action of bloodhounds and other dogs
- 20:28 Evidence—Hearsay—General
- 20:29 Evidence—Hearsay—State of mind—Intent
- 20:30 Evidence—Hearsay—Explanation of conduct
- 20:31 Evidence—Hearsay—Excited utterance
- 20:32 Evidence—Hearsay—Conspiracy
- 20:33 Evidence—Hearsay—Dying declaration
- 20:34 Evidence—Hearsay—Prior testimony
- 20:35 Evidence—Hearsay—Documents and reports
- 20:36 Evidence—Failure to produce
- 20:37 Evidence—Best evidence
- 20:38 Evidence—Demonstrative, real or tangible evidence
- 20:39 Evidence—Tests of intoxication
- 20:40 Evidence—Blood examinations
- 20:41 Evidence—Genetic identification—DNA
- 20:42 Evidence—Fingerprints, handprints, and footprints

## **TABLE OF CONTENTS**

<b>Sec.</b>	
20:43	Evidence—Firearms and ballistics
20:44	Evidence—Questioned documents
20:45	Evidence—Chain of custody
20:46	Evidence—Truth tests—Polygraph
20:47	Evidence—Truth tests—Hypnosis
20:48	Evidence—Truth tests—Psychological stress evaluator
20:49	Evidence—Experiments
20:50	Evidence—Neutron activation analysis
20:51	Evidence—View of scene
20:52	Evidence—Photographs
20:53	Evidence—Motion pictures and video tapes
20:54	Objections
20:55	Mistrial

### **CHAPTER 21. PRESENTING DEFENDANT'S CASE AND ATTACKS THEREON**

21:1	Motion for directed verdict of acquittal
21:2	General consideration of defendant's case
21:3	Self-incrimination
21:4	Subpoenas
21:5	Immunity
21:6	Calling co-defendant or accomplice
21:7	Implicating a third party
21:8	Evidence attacking credibility of rape complainant
21:9	Defendant's good character—Weight and importance
21:10	Defendant's character—When state may attack
21:11	Evidence of defendant's character
21:12	Character of victim—Dangerous character
21:13	Mistake of fact as defense
21:14	Alibi as defense
21:15	Age as defense
21:16	Insanity as defense
21:17	Intoxication as defense
21:18	Entrapment
21:19	Justification as defense

### **CHAPTER 22. REBUTTAL**

22:1	Rebuttal by state
22:2	Surrebuttal by defendant
22:3	Motion for directed verdict of acquittal
22:4	Reopening case

### **CHAPTER 23. ARGUMENT**

23:1	General considerations
23:2	Time limit on argument
23:3	Reading law and other matters
23:4	Scope of argument

## **TABLE OF CONTENTS**

<b>Sec.</b>	
23:5	Remedy for violations

### **CHAPTER 24. SUBMITTING CASE TO JURY**

24:1	Charge—General
24:2	Charge—Matters that must be charged
24:3	Charge—Matters that cannot be charged
24:4	Charge—Lesser included offenses
24:5	Charge—Objections
24:6	Sending the indictment and evidence to jury room
24:7	Misconduct involving jury
24:8	Recharge
24:9	Allen charge

### **CHAPTER 25. VERDICT**

25:1	General considerations
25:2	Mechanics related to verdicts
25:3	Polling jury
25:4	Impeaching verdict

### **CHAPTER 26. SENTENCING**

26:1	Capital cases
26:2	Noncapital cases—Procedural
26:3	Sentencing factors
26:4	Probation and suspended sentences
26:5	Fines
26:6	First offender treatment
26:7	Habitual Offender Law
26:8	Concurrent and consecutive sentences
26:9	Resentencing

### **CHAPTER 27. CONTEMPT**

27:1	General considerations
27:2	What constitutes contempt
27:3	Procedure
27:4	Appeals

## **PART V. POST-TRIAL REMEDIES AND PROCEEDINGS**

### **CHAPTER 28. JUDICIAL REVIEW**

28:1	General considerations
28:2	Motion for judgment of acquittal
28:3	Motion for new trial
28:4	Motion in arrest of judgment
28:5	Appeals
28:6	Post-conviction relief

## TABLE OF CONTENTS

### **Sec.**

28:7 Federal habeas corpus

## **CHAPTER 29. ADMINISTRATIVE REVIEW**

29:1 Parole

29:2 Clemency

## **CHAPTER 30. PROBATION REVOCATION**

30:1 General considerations

30:2 Violation of conditions

30:3 Arrest

30:4 Preliminary hearing

30:5 Final revocation hearing

30:6 Results of revocation

**Table of Laws and Rules**

**Table of Cases**

**Index**