Table of Contents

Volume 14

CHAPTER 1. LAWYER'S ENTRY INTO THE CRIMINAL CASE

A. THE RIGHT TO COUNSEL

§ 1.2 Constitutional provisions
§ 1.3 Colorado state statutes
§ 1.5 Scope of right to counsel—In general
§ 1.9 Scope of right to counsel—Initial appearance, arraignment, and preliminary hearing
§ 1.10 Scope of right to counsel—Trial
§ 1.11 Scope of right to counsel—Sentencing, appeal, postconviction, habeas corpus, and extradition proceedings
§ 1.12 Waiver of right to counsel and the right to self-representation
§ 1.13 Right to retain counsel
§ 1.14 Court-appointed counsel
§ 1.15 Effective assistance of counsel—In general
§ 1.16 Effective assistance of counsel—The *Strickland* standard
§ 1.17 Effective assistance of counsel—Application of the *Strickland* standard

B. COUNSELING CLIENTS IN CUSTODY

§ 1.21 Initial steps to protect the client—Investigation
§ 1.23 Initial steps to protect the client—Lineups and other nontestimonial identification procedures

C. THE DECISION TO ENTER THE CASE

§ 1.33 Court-appointed counsel

E. DEFENSE COUNSEL'S ROLE IN INVESTIGATING THE CASE

§ 1.50 Defense counsel's duty to investigate the case
§ 1.53 Polygraph examinations
§ 1.54 Securing expert witnesses
§ 1.55 Contact with witnesses

F. ETHICAL CONSIDERATIONS

§ 1.60 Ethics—In general

§ 1.61 Defense counsel's duty as counselor and advocate
§ 1.62 The client-lawyer relationship—Client confidences
§ 1.63 Conflicts of interest—In general
§ 1.65 The duties of the public prosecutor

G. WITHDRAWAL OF COUNSEL

§ 1.70 Withdrawal of counsel
§ 1.71 Form—Motion to withdraw

CHAPTER 2. COMMENCEMENT OF CRIMINAL PROCEEDINGS

A. INTRODUCTION

§ 2.1 Commencing prosecution—In general

B. THE CHARGING DOCUMENT

§ 2.10 In general
§ 2.14 Prosecution of multiple counts for the same act
§ 2.15 Variance

C. PROSECUTION BY INFORMATION AND FELONY COMPLAINT

§ 2.21 Felony complaint
§ 2.22 Information
§ 2.27 Amending the information

D. SUMMONS ISSUED UPON FELONY FILING

§ 2.30 In general
§ 2.32 Service and return of summons

E. SIMPLIFIED PROCEDURES FOR MISDEMEANOR PROSECUTIONS

§ 2.40 Initiation of prosecution for misdemeanor

F. GRAND JURY INDICTMENT

§ 2.50 Introduction
§ 2.66 Grand jury witness—In general
§ 2.77 Record of grand jury proceedings and grand jury reports
§ 2.80 Return of indictment—Procedure and designation of venue
§ 2.82 The indictment—In general
§ 2.83 The indictment—Amendment
§ 2.85 Challenging the indictment—Probable cause review

G. JURISDICTION

§ 2.90 In general

§ 2.91 Jurisdiction over the person
§ 2.92 Subject matter jurisdiction
§ 2.93 Waiver of jurisdiction
§ 2.95 Jurisdiction of district court
§ 2.96 Jurisdiction of county court
§ 2.97 Jurisdiction of municipal courts
§ 2.98 Jurisdiction of juvenile court

H. VENUE

§ 2.100 In general
§ 2.101 Special statutory provisions
§ 2.102 Proof of venue
§ 2.103 Transfer of venue
§ 2.104 Waiver of proper venue

I. STATUTE OF LIMITATIONS AND RIGHT TO SPEEDY PROCESS

§ 2.110 In general
§ 2.111 State offenses

J. FORMER JEOPARDY AND RELATED BARS TO PROSECUTION

§ 2.120 In general
§ 2.122 Double jeopardy—When jeopardy attaches
§ 2.123 Double jeopardy—Reprosecution following successful appeal
§ 2.124 Double jeopardy—Reprosecution following successful appeal—Resentencing upon conviction in new trial
§ 2.125 Double jeopardy—Waiver and fraud
§ 2.126 Double jeopardy—Doctrine of dual sovereignty
§ 2.127 Double jeopardy—Same offense test
§ 2.128 Double jeopardy—Multiple punishment for same conduct
§ 2.129 Double jeopardy—Effect of mistrial on reprosecution
§ 2.130 Double jeopardy—Effect of prior acquittal or dismissal of charges
§ 2.131 The doctrine of collateral estoppel
§ 2.132 Compulsory joinder of related offenses

K. THE DECISION TO PROSECUTE

§ 2.140 The discretion of the district attorney to prosecute
§ 2.141 Prosecutorial misconduct in charging process
§ 2.142 Prosecution initiated by judicial order—Special prosecutors
§ 2.144 Dismissal and nolle prosequi

CHAPTER 3. ARREST AND CUSTODY

A. INTRODUCTION

§ 3.5 The exclusionary rule and unlawful seizures

B. POLICE-CITIZEN ENCOUNTERS AND DETENTION SHORT OF ARREST

§ 3.12 Consensual interview
§ 3.13 Investigatory stop
§ 3.14 Investigatory stop—The limited authority to frisk

C. ARREST—IN GENERAL

§ 3.20 Definition of arrest
§ 3.21 The warrant requirement
§ 3.22 The "probable cause" requirement
§ 3.24 The "probable cause" requirement—Information from other police officers
§ 3.25 The "probable cause" requirement—Information from informants and tipsters

D. ARREST WITHOUT WARRANT

§ 3.30 In general
§ 3.32 Authority of police to arrest without a warrant
§ 3.33 By police—Outside home jurisdiction
§ 3.35 By private citizen

E. ARREST WARRANTS

§ 3.40 Issuance
§ 3.43 Defects
§ 3.44 Execution of warrant

F. PROCEDURES FOLLOWING ARREST

§ 3.51 Booking procedure following arrest
§ 3.52 Procedure following arrest—Juvenile

G. MISCELLANEOUS

§ 3.62 Use of force to make an arrest—Civil remedy for unlawful arrest
§ 3.65 Civil protective custody

CHAPTER 4. FIRST APPEARANCE

A. FIRST APPEARANCE AND ADVISEMENT OF RIGHTS

§ 4.1 In general

B. ARRAIGNMENT AND ENTRY OF PLEA

§ 4.10 In general
§ 4.11 Presence of defendant or appearance by counsel
§ 4.14 Arraignment—Speedy trial rights
§ 4.15 Arraignment—Preliminary hearing

§ 4.16 Arraignment—Jury trial request
§ 4.17 Arraignment—Motions raising defenses and objections based on defects in prosecution

CHAPTER 5. COMPETENCY, INSANITY AND IMPAIRED MENTAL CONDITION

A. COMPETENCY

§ 5.1 In general
§ 5.2 Statutory standard of incompetence
§ 5.3 Due process standard of incompetence
§ 5.4 Incompetency distinguished from insanity
§ 5.5 General procedure for raising the issue of competency
§ 5.6 Duty to raise issue of competency
§ 5.7 Effect of raising issue of competency
§ 5.8 Mandatory advisement to defendant
§ 5.9 Right to bond
§ 5.10 Determination of competency
§ 5.11 Preliminary competency determination by court
§ 5.12 Competency examination
§ 5.13 Competency hearing
§ 5.14 Final determination of competency by court
§ 5.15 Appealability of final competency determination
§ 5.16 General procedures after determination of competency
§ 5.18 Effect of a defendant's incompetency
§ 5.19 Term of confinement
§ 5.20 Permanent incompetence
§ 5.22 Restoration to competency
§ 5.23 Competency of persons to be executed

B. INSANITY

§ 5.31 Insanity defined
§ 5.32 Pleading not guilty by reason of insanity
§ 5.34 Court-ordered psychiatric examinations and reports
§ 5.35 Unitary trial for determination of issues raised by plea of not guilty and not guilty by reason of insanity
§ 5.36 Jury trial for sanity determination—Presumption of sanity and burden of proof
§ 5.38 Disposition after a verdict of not guilty by reason of insanity
§ 5.40 Post-verdict release proceedings
§ 5.41 Conditional release from commitment

C. IMPAIRED MENTAL CONDITION (IMC)

§ 5.50 In general
§ 5.51 Impaired mental condition (IMC) defined
§ 5.53 Impaired mental condition (IMC) distinguished from defense based on lack of culpable mental state
§ 5.54 Asserting the affirmative defense of impaired mental condition

§ 5.55 Court-ordered examination after raising impaired mental condition defense

D. MISCELLANEOUS

§ 5.60 Privilege against self-incrimination and waiver of statutory privileges
§ 5.62 Evidence—Opinion testimony of lay witnesses
§ 5.63 Evidence—Opinion testimony of expert witnesses
§ 5.64 Limited use of evidence obtained from court-ordered examination and from compelled waiver of privilege
§ 5.68 Forced administration of antipsychotic drugs
§ 5.69 Discovery procedures
§ 5.70 Asserting a mental condition defense to offenses occurring on or after July 1, 1999
§ 5.71 Consequences of the defense endorsing a psychiatric expert on the issue of the defendant's mental condition

CHAPTER 6. PRETRIAL RELEASE

A. INTRODUCTION

§ 6.2 Definitions
§ 6.3 Constitutional and statutory provisions

B. BAIL BEFORE CONVICTION

§ 6.11 Right to bail—In general
§ 6.13 Misdemeanor cases
§ 6.14 Preventive detention
§ 6.16 Miscellaneous situations
§ 6.17 Duration of bond
§ 6.18 Modification and revocation of bond—In general
§ 6.19 Modification and revocation of bond—Speedy trial right
§ 6.20 Bond forfeiture
§ 6.21 Unjust enrichment
§ 6.22 Exoneration from bond liability

C. SETTING THE AMOUNT OF BAIL

§ 6.30 Presumptive bail
§ 6.31 Bond criteria
§ 6.32 Hearing to set bond
§ 6.33 Remedy for excessive bail
§ 6.34 Motion to reduce bond
§ 6.35 Appellate review
§ 6.36 Form—Motion for reduction of bail

D. TYPES OF BOND

§ 6.40 In general
§ 6.41 Personal recognizance bond
§ 6.42 Personal recognizance bond with co-signer

§ 6.43 Secured bonds—In general
§ 6.44 Secured bonds—Cash, stocks and bonds, or surety
§ 6.45 Secured bonds—Property
§ 6.46 Conditions attached to bonds

CHAPTER 7. PRELIMINARY HEARINGS

A. INTRODUCTION

§ 7.1 In general
§ 7.2 Purpose and scope of preliminary hearing
§ 7.3 Procedure for requesting preliminary hearing
§ 7.4 Waiver of preliminary hearing
§ 7.5 Defendant's discovery rights prior to preliminary hearing

B. CONDUCT OF PRELIMINARY HEARING

§ 7.10 Defendant's rights at preliminary hearing—In general
§ 7.11 Conduct of preliminary hearing and evidentiary proof
§ 7.12 Effect of dismissal of charges
§ 7.13 Bind over of charges for trial
§ 7.14 Duty of prosecutor to file charges in district court
§ 7.19 Defects in proceedings and appeal

CHAPTER 8. DISCOVERY AND PROCEDURES AIDING PREPARATION FOR TRIAL

A. INTRODUCTION

§ 8.1 In general
§ 8.2 Due process right to disclosure
§ 8.3 State's duty to collect and preserve evidence
§ 8.6 Pretrial discovery in Colorado—Statutory provisions
§ 8.7 Colorado Criminal Justice Records Act *[New]*

B. PRETRIAL DISCOVERY UNDER CRIM.P.RULE 16—IN GENERAL

§ 8.10 In general
§ 8.12 Compelling disclosure
§ 8.13 Sanctions for failure to disclose
§ 8.14 Protective orders and related matters
§ 8.16 Cost of providing discoverable material and custody of materials

C. CRIM.P.RULE 16—DISCOVERY BY THE DEFENSE

§ 8.21 Prosecution disclosure required by Crim.P.Rule 16
§ 8.22 Matters not subject to disclosure

§ 8.23 Prosecutor's performance of obligations—In general
§ 8.24 Material held by other governmental personnel
§ 8.27 Court-ordered disclosure

D. CRIM.P.RULE 16—DISCOVERY BY THE PROSECUTION

§ 8.40 In general
§ 8.43 Reports of defense experts
§ 8.44 Nature of defenses and names and addresses of witnesses
§ 8.45 Notice of alibi defense

E. NOTICE PLEADINGS

§ 8.51 Notice of alibi
§ 8.52 Notice of defense of mental condition

F. SECURING ATTENDANCE OF WITNESSES AT TRIAL AND SUBPOENA DUCES TECUM

§ 8.64 Subpoenaing out-of-state witnesses
§ 8.65 Subpoena duces tecum

G. DEPOSITIONS

§ 8.80 Depositions—In general
§ 8.81 Procedure

CHAPTER 9. PRETRIAL MOTIONS PRACTICE

A. IN GENERAL

§ 9.4 Use of stipulations
§ 9.5 Procedural requirements—In general
§ 9.6 Timeliness
§ 9.7 Service
§ 9.9 Hearing on motions—Burdens of proof
§ 9.11 Pretrial motions—Interlocutory appeal

B. JOINDER AND SEVERANCE

§ 9.21 Joinder and severance—Terminology
§ 9.22 Relief from prejudicial joinder
§ 9.23 Joinder of offenses
§ 9.24 Severance of offenses
§ 9.26 Severance of defendants—In general
§ 9.28 Severance of defendants—Timeliness and waiver of objection

C. MOTIONS TO DISMISS

§ 9.43 Unconstitutional statute—In general
§ 9.44 Unconstitutional statute—Due process

§ 9.45 Unconstitutional statute—Vagueness and overbreadth
§ 9.46 Unconstitutional statute—Equal protection
§ 9.47 Unconstitutional statute—Ex post facto prohibition
§ 9.49 Statute of limitations and delay in bringing the charge
§ 9.50 Former jeopardy and related grounds
§ 9.53 Discriminatory prosecution
§ 9.55 First Amendment *[New]*

D. MOTION FOR CHANGE OF VENUE

§ 9.60 In general
§ 9.63 Grounds for change of venue—Pretrial publicity

E. MOTION FOR CHANGE OF JUDGE

§ 9.70 In general
§ 9.71 Grounds for recusal of judge
§ 9.72 Motion for change of judge

F. BILL OF PARTICULARS

§ 9.83 Filing requirements

CHAPTER 10. MOTIONS TO EXCLUDE UNLAWFULLY OBTAINED EVIDENCE—IN GENERAL

A. INTRODUCTION

§ 10.2 The exclusionary rule
§ 10.3 The practical effect of suppression motions
§ 10.6 Standing to object to the introduction of unlawfully seized evidence
§ 10.7 Requirement of state action
§ 10.8 "Fruit of the poisonous tree" doctrine
§ 10.9 Exceptions to the exclusionary rule—In general
§ 10.10 Exceptions to the exclusionary rule—Attenuation doctrine
§ 10.11 Exceptions to the exclusionary rule—Independent source rule
§ 10.12 Exceptions to the exclusionary rule—Inevitable discovery doctrine
§ 10.13 Exceptions to the exclusionary rule—Good faith exception
§ 10.14 Exceptions to the exclusionary rule—Medical emergency exception
§ 10.15 Exceptions to the exclusionary rule—Public safety exception
§ 10.17 Using suppressed evidence at trial

B. PROCEDURE

§ 10.20 Timeliness of objection and waiver or forfeiture of issue
§ 10.21 Burdens and standards of proof and persuasion
§ 10.22 Timing and conduct of the suppression hearing
§ 10.24 Interlocutory appeal

§ 10.25 Appellate review

CHAPTER 11. SUPPRESSION OF EVIDENCE SEIZED WITHOUT A SEARCH WARRANT

A. INTRODUCTION

§ 11.2 Protected areas and interests
§ 11.3 Reasonableness of police conduct—In general
§ 11.4 The *Katz* expectation of privacy test
§ 11.5 Standing to object
§ 11.6 The "plain view" doctrine
§ 11.7 The "curtilage" and "open fields" doctrines
§ 11.8 Financial, telephone, and other records
§ 11.9 Electronic surveillance
§ 11.10 Abandonment
§ 11.11 Jailhouse searches

B. EXCEPTIONS TO WARRANT REQUIREMENTS

§ 11.20 In general

C. CONSENT SEARCHES

§ 11.30 In general
§ 11.31 Nature and scope of consent
§ 11.32 Burden of proof
§ 11.33 Test for determining valid consent
§ 11.34 Authority of third party to consent—In general
§ 11.35 Authority of third party to consent—Family members
§ 11.36 Authority of third party to consent—Landlords and co-tenants

D. "STOP AND FRISK" DETENTION

§ 11.50 In general
§ 11.51 Arrest distinguished
§ 11.52 The "stone" doctrine
§ 11.53 Source of information justifying the contact
§ 11.54 Circumstances justifying the "stop"
§ 11.55 Permissible scope of "stop"
§ 11.56 Circumstances justifying "frisk"—In general
§ 11.57 Permissible scope of "frisk"

E. SEARCH INCIDENT TO VALID ARREST

§ 11.71 Arrest must be lawful
§ 11.79 Scope of search
§ 11.80 Search of the person arrested
§ 11.82 Inspections and intrusions into the body
§ 11.83 Search of the person's personal effects
§ 11.85 Search of vehicle following arrest of driver or passenger

F. SEARCH AND SEIZURE OF VEHICLES

§ 11.90 Stopping motor vehicles
§ 11.91 Searches of passengers and driver
§ 11.92 Searches of vehicles and containers therein for evidence of crime
§ 11.93 Impoundment of vehicles

G. ADMINISTRATIVE SEARCHES

§ 11.105 Parolees and probationers
§ 11.106 School children
§ 11.107 Inspections and intrusions into the body

H. EXIGENT CIRCUMSTANCES

§ 11.110 In general
§ 11.111 Destruction or removal of evidence
§ 11.113 To prevent risk of death or bodily harm

I. PLAIN VIEW

§ 11.120 In general

CHAPTER 12. SUPPRESSION OF EVIDENCE SEIZED PURSUANT TO WARRANT

A. INTRODUCTION

§ 12.1 The requirement of probable cause
§ 12.3 The nexus between information and place to be searched
§ 12.4 Requirement that materials be subject to seizure
§ 12.6 Requirement that materials be located in a particular place

B. ESTABLISHING PROBABLE CAUSE

§ 12.10 Objective test standard
§ 12.11 Degree of probability required
§ 12.14 Time of information
§ 12.16 Officer's first hand information as basis for probable cause—"Fellow officer" exception
§ 12.22 Hearsay and confidential information—Credibility of informant
§ 12.26 Procedure for attacking statements in the application for the warrant

C. ISSUANCE OF SEARCH WARRANTS

§ 12.40 Application for warrant—In general
§ 12.41 Preparation of the warrant
§ 12.42 The supporting affidavit
§ 12.43 Timeliness of the application
§ 12.44 Telephonic applications
§ 12.46 Authority to issue warrant—In general

§ 12.48 "Neutral and detached magistrate" requirement
§ 12.49 Finding of probable cause
§ 12.50 Contents and form of warrant—In general
§ 12.51 Contents and form of warrant—Incorporation of affidavit
§ 12.52 Contents and form of warrant—Description of place to be searched
§ 12.53 Contents and form of warrant—Description of persons to be searched
§ 12.54 Contents and form of warrant—Description of things to be seized

D. EXECUTION AND RETURN OF WARRANT

§ 12.61 Persons who may execute a warrant
§ 12.62 Timeliness of execution
§ 12.64 Number of times a search warrant may be executed
§ 12.65 Entry without notice or by force
§ 12.66 Detention and search of persons
§ 12.67 Scope and intensity of search
§ 12.68 What may be seized
§ 12.70 "Good faith" exception

CHAPTER 13. MOTIONS TO SUPPRESS STATEMENTS BY DEFENDANT

A. INTRODUCTION

§ 13.2 An overview
§ 13.4 Adoptive admission by silence
§ 13.6 Statements by juveniles

B. PRETRIAL PROCEDURE

§ 13.10 In general
§ 13.12 Timeliness and waiver of objection
§ 13.13 Hearing on motion to suppress statements
§ 13.15 Ruling on motion to suppress and interlocutory appeal of suppression order
§ 13.18 "Fruit of the poisonous tree doctrine": derivative evidence and exceptions permitting use of tainted statements
§ 13.19 Requirement of state action
§ 13.20 Successive interrogations

C. TRADITIONAL DUE PROCESS "VOLUNTARINESS" DOCTRINE

§ 13.30 In general
§ 13.31 Test for voluntariness
§ 13.32 Characteristics and condition of the defendant
§ 13.33 Circumstances surrounding the statement—In general
§ 13.35 Threats, promises and deceit

D. SIXTH AMENDMENT RIGHT TO COUNSEL

§ 13.51 The Sixth Amendment right and *Miranda* rule distinguished
§ 13.53 Exercise and waiver of Sixth Amendment right to counsel

E. FOURTH AMENDMENT CONSIDERATIONS

§ 13.60 In general
§ 13.62 Intervening events which remove "taint" of unlawful seizure

F. *MIRANDA* REQUIREMENTS UNDER THE FIFTH AMENDMENT

§ 13.70 In general
§ 13.71 The *Miranda* warnings
§ 13.73 Who must give the warnings
§ 13.74 What constitutes "interrogation"
§ 13.75 When interrogation is "custodial"
§ 13.76 Adequacy of the warnings
§ 13.78 Successive interrogations
§ 13.79 Waiver of *Miranda* rights by defendant
§ 13.80 Exercise of *Miranda* rights by defendant
§ 13.81 Burden and standard of proof
§ 13.83 Exceptions to *Miranda* requirements—General on-the-scene questioning, officer and public safety, and booking procedures
§ 13.84 Exceptions to *Miranda* requirements—Volunteered statements

G. MISCELLANEOUS GROUNDS AND ISSUES

§ 13.91 Statements during plea negotiations and court proceedings
§ 13.93 Right to contact consulate

H. TRIAL PROCEDURE

§ 13.101 Introducing a defendant's statements into evidence at trial—In general
§ 13.102 Use at trial of suppressed statements
§ 13.103 Direct and collateral use at trial of defendant's silence or assertion of rights—In general
§ 13.104 Improper comment on exercise of right to silence
§ 13.105 Corpus delicti rule

Volume 15

CHAPTER 14. MOTIONS TO SUPPRESS IDENTIFICATION EVIDENCE

A. INTRODUCTION

§ 14.3 Admissibility of identification evidence—Constitutional principles

§ 14.4 Impact of unconstitutional pretrial identification upon the trial identification—The independent source doctrine
§ 14.5 Requirement of state action

B. SIXTH AMENDMENT RIGHT TO COUNSEL RULE

§ 14.11 Waiver of right to counsel

C. DUE PROCESS PROTECTIONS

§ 14.20 In general—Due process "totality of the circumstances test"
§ 14.21 Determining when identification procedures are "suggestive"
§ 14.23 Factors determining when suggestive identification procedures are reliable

D. DERIVATIVE EVIDENCE RULE

§ 14.32 Identification as the "fruit" of a Fifth Amendment violation

E. PRETRIAL IDENTIFICATION PROCEDURES

§ 14.40 In general
§ 14.44 Showups and "accidental" encounters
§ 14.45 Photographic lineups
§ 14.48 Requiring defendant to submit to pretrial identification procedures—In general
§ 14.49 Crim.P.Rule 41.1

F. PRETRIAL AND TRIAL PROCEDURE

§ 14.63 Motion to suppress identification evidence—Right to pretrial hearing
§ 14.64 Motion to suppress identification evidence—Burden and standard of proof at pretrial hearing
§ 14.67 Identification evidence at trial—In general
§ 14.70 Use of "mug shots," "fingerprint cards" and evidence of aliases
§ 14.71 Expert testimony
§ 14.72 Jury instructions

CHAPTER 15. GUILTY PLEAS AND DISPOSITION WITHOUT TRIAL

A. INTRODUCTION

§ 15.2 Limiting access to criminal records

B. TYPES OF DISPOSITIONS

§ 15.5 In general
§ 15.6 Diversion *[Retitled]*
§ 15.7 Deferred judgment and sentence

§ 15.8 Collateral relief *[Retitled]*

C. PLEA NEGOTIATIONS

§ 15.12 The plea bargaining process
§ 15.13 Prosecutor's conduct
§ 15.14 Defense counsel's duties
§ 15.15 Trial judge's role
§ 15.16 Admissibility of plea discussions
§ 15.17 Breach of the plea agreement—The "broken bargain"
§ 15.19 District attorney's sentencing recommendations to the court

D. PLEA OF GUILTY

§ 15.30 In general
§ 15.32 Presence of defendant at entry of guilty plea
§ 15.33 Right to counsel at entry of guilty plea
§ 15.35 Rule 11 advisement—Nature of charge
§ 15.36 Rule 11 advisement—Penalty
§ 15.37 Rule 11 advisement—Effect of plea
§ 15.38 Rule 11 advisement—Assuring plea is voluntary
§ 15.39 Rule 11 advisement—Waiver of rights
§ 15.40 Rule 11 advisement—Factual basis for plea
§ 15.41 Rule 11 advisement—Factual basis for plea—Waiver under *Alford* plea
§ 15.42 Judgment and sentence on the guilty plea
§ 15.44 Conditional plea of guilty with reserved right to appeal
§ 15.45 Attacks on guilty pleas
§ 15.46 Nolo contendere plea
§ 15.47 Admissibility of guilty plea and collateral effects

E. WITHDRAWAL OF PLEA

§ 15.50 In general
§ 15.51 Withdrawal of plea—Prior to or at sentencing
§ 15.52 Remedy after sentencing

CHAPTER 16. THE TRIAL FRAMEWORK—A SPEEDY AND PUBLIC TRIAL

A. SPEEDY TRIAL

§ 16.1 In general
§ 16.2 Constitutional provisions
§ 16.3 Statutory and procedural provisions—In general
§ 16.4 Exclusions from and extensions of time for speedy trial
§ 16.5 Retrial following postconviction appeal or mistrial
§ 16.6 Effect of revocation of bail
§ 16.7 Waiver of speedy trial rights
§ 16.8 Pretrial appellate review
§ 16.9 Dismissal, refiling and amendment of charges
§ 16.10 Uniform Mandatory Disposition of Detainers Act

B. CONTINUANCE OF THE TRIAL

§ 16.20 In general
§ 16.21 Insufficient time to prepare for trial
§ 16.22 Absence of material witness

C. PUBLIC TRIAL AND PUBLICITY

§ 16.30 In general
§ 16.31 Defendant's right to a public trial—In general
§ 16.32 Waiver by defendant
§ 16.33 Fair trial, free press and public access
§ 16.34 Exclusion of the public
§ 16.35 Closure orders excluding the press

D. PRESENCE OF DEFENDANT AT TRIAL

§ 16.40 In general
§ 16.41 The right to be present
§ 16.42 Waiver of right to be present
§ 16.43 Disruptive conduct
§ 16.44 Appearance in shackles or prison clothes

CHAPTER 17. THE TRIAL JURY

A. THE RIGHT TO A JURY TRIAL

§ 17.2 Trial to the court distinguished
§ 17.3 Right to jury trial—In general
§ 17.4 Number of jurors
§ 17.5 Waiver of jury trial
§ 17.6 Unanimity of verdict

B. THE JURY PANEL

§ 17.10 Qualifications for juror service
§ 17.13 Juror questionnaires and records
§ 17.14 Challenge to the jury panel
§ 17.15 Length of jury service

C. SELECTING THE JURY—IN GENERAL

§ 17.20 An overview
§ 17.22 Jury voir dire—In general
§ 17.25 Voir dire concerning the defendant's theory of the case
§ 17.26 Voir dire concerning propositions of law
§ 17.27 Nondisclosure of information by jurors and improper responses or comments by jurors, counsel or the court
§ 17.28 Acceptance and swearing of the jury
§ 17.29 Appellate review
§ 17.30 Alternate jurors
§ 17.32 Sample questions concerning basic principles of law applicable to criminal cases

D. SELECTING THE JURY—CHALLENGE FOR CAUSE

§ 17.40 In general
§ 17.41 Grounds to challenge for cause
§ 17.42 Juror's actual bias and prejudice
§ 17.45 Juror's relationship to parties or counsel
§ 17.47 Compensated employee of a public law enforcement agency or a public defender's office
§ 17.49 Waiver
§ 17.50 Review of trial court's ruling
§ 17.51 Capital cases

E. SELECTING THE JURY—PEREMPTORY CHALLENGES

§ 17.60 In general
§ 17.61 Number
§ 17.62 Manner of exercising
§ 17.63 Race, ethnic, and gender-based challenges

CHAPTER 18. THE CRIMINAL TRIAL

B. SEQUESTRATION OF WITNESSES

§ 18.10 The sequestration rule
§ 18.11 Witnesses exempted from sequestration
§ 18.12 Sanctions for violation of sequestration order

C. OPENING STATEMENT

§ 18.22 Prosecution's opening statement—In general
§ 18.24 Prosecutorial misconduct in opening statement
§ 18.25 Defense opening statement

D. THE PROSECUTION'S CASE-IN-CHIEF

§ 18.31 Burden and order of proof—Presentation of evidence
§ 18.32 Stipulations
§ 18.36 Presentation of a prima facie case—Identity
§ 18.37 Proof of the charged offense—In general
§ 18.38 Proof of the charged offense—Culpable mental state
§ 18.39 Proof of the charged offense—Strict liability offense
§ 18.40 Proof of the charged offense—Causation
§ 18.41 Proof of the charged offense—Attempt
§ 18.43 Parties to offense—Complicitors
§ 18.44 Parties to offense—Conspirators
§ 18.45 Parties to offense—Conspirators—Admissibility of acts and declarations of co-conspirator
§ 18.48 Presenting testimony by an accomplice

E. DEFENSE MOTIONS AT CONCLUSION OF PROSECUTION'S CASE-IN-CHIEF AND AT THE CLOSE OF ALL THE EVIDENCE

§ 18.53 Motion for judgment of acquittal—Standard of review by trial judge
§ 18.54 Motion for judgment of acquittal—Grounds
§ 18.55 Motion for judgment of acquittal—Appellate review and double jeopardy
§ 18.56 Motion to compel election

F. THE DEFENSE CASE AND THE DEFENDANT'S DECISION TO TESTIFY

§ 18.60 In general
§ 18.61 The defendant as a witness at trial
§ 18.62 The decision whether to take the stand
§ 18.63 Waiving the right to testify at trial—The *"Curtis"* advisement
§ 18.65 Comment on defendant's not testifying
§ 18.66 Client perjury

G. PRESENTING AFFIRMATIVE AND STATUTORY DEFENSES

§ 18.70 In general
§ 18.71 The burden of pleading, production and persuasion, and jury instructions
§ 18.72 Affirmative defenses—Overview
§ 18.74 Affirmative defenses—Choice of evils
§ 18.75 Affirmative defenses—Consent
§ 18.76 Affirmative defenses—Defense of self, other persons and property, and use of force in special relationships
§ 18.77 Affirmative defenses—Duress
§ 18.78 Affirmative defenses—Entrapment
§ 18.79 Affirmative defenses—Mistake of fact or law
§ 18.80 Affirmative defenses—Independent intervening act
§ 18.81 Affirmative defenses—Insanity and impaired mental condition
§ 18.82 Affirmative defenses—Intoxication
§ 18.87 Miscellaneous statutory defenses
§ 18.88 Affirmative defense of emergency reporting drug or alcohol overdose event *[New]*
§ 18.89 Felony Murder affirmative defense *[New]*

I. MISTRIAL

§ 18.100 In general
§ 18.101 Remedial actions and standard of trial court discretion—"Manifest necessity"
§ 18.103 Motion for mistrial by defendant
§ 18.104 Misconduct of judge
§ 18.105 Misconduct by prosecutor
§ 18.107 Reprosecution after mistrial
§ 18.108 Effect of mistrial on speedy trial rights

J. JURY INSTRUCTIONS

§ 18.110 In general
§ 18.111 Sources of jury instructions—Colorado pattern jury instructions
§ 18.112 Form and content of instructions—In general
§ 18.114 Objections to jury instructions
§ 18.115 Defense perspective
§ 18.116 Instructions—Elements of the offense
§ 18.117 Instructions—Lesser offenses
§ 18.118 Instructions—Affirmative defenses
§ 18.119 Instructions—Theory of defense
§ 18.120 Instructions—Presumptions and inferences
§ 18.121 Instructions—Witnesses
§ 18.122 Requests for instructions—In general
§ 18.123 Instructions on defendant's character
§ 18.125 Supplemental instructions and questions from jurors
§ 18.126 Appellate review of jury instructions

K. CLOSING ARGUMENT

§ 18.130 In general
§ 18.133 Closing argument by prosecutor
§ 18.134 Prosecutor's rebuttal argument
§ 18.138 Appellate review of closing argument

L. JURY SEQUESTRATION, CONDUCT AND DELIBERATIONS

§ 18.140 In general
§ 18.141 Custody of the jury
§ 18.142 Separation of jurors from outside influences
§ 18.143 Jurors notetaking and questioning of witnesses
§ 18.144 Juror notebooks
§ 18.145 Jurors use of exhibits and transcripts during deliberations
§ 18.147 Third party communication with jurors and outside influences
§ 18.148 Communications with the court—Supplemental instructions
§ 18.150 Deadlocked jury—Aiding or urging a verdict
§ 18.151 Discharge of jury without a verdict
§ 18.152 Excusing alternate jurors

M. VERDICT AND MOTIONS FOLLOWING VERDICT

§ 18.160 In general
§ 18.163 Form of verdict—Lesser included offenses
§ 18.164 Form of verdict—Inconsistent verdicts
§ 18.166 Form of verdict—Special verdicts
§ 18.168 Impeaching the jury's verdict
§ 18.170 Motion for bail after verdict
§ 18.171 Motion for judgment of acquittal and for judgment notwithstanding the verdict

§ 18.172 Motion in arrest of judgment
§ 18.173 Motion for new trial
§ 18.174 Jury nullification

CHAPTER 19. WITNESS TESTIMONY AND INTRODUCTION OF EVIDENCE

A. INTRODUCTION

§ 19.2 Admissibility—In general
§ 19.3 Objections to evidence
§ 19.4 Making the record and offers of proof

B. WITNESS EXAMINATION—IN GENERAL

§ 19.10 Competency of persons to be witnesses
§ 19.11 Examination of witnesses—In general
§ 19.13 Cross-examination
§ 19.14 Redirect and recross examination
§ 19.15 Witness statements
§ 19.16 Opinion testimony—In general
§ 19.17 Opinion testimony—Lay witness
§ 19.18 Opinion testimony—Expert witness

C. PRIVILEGES AND PRIVILEGED TESTIMONY

§ 19.20 In general
§ 19.21 Privilege against self-incrimination
§ 19.22 Attorney-client privilege
§ 19.25 Patient-physician and patient-therapist privilege
§ 19.26 Psychologist, counselor, therapist or social worker privilege
§ 19.27 Reports of child abuse
§ 19.28 Other privileges

D. CHARACTER EVIDENCE

§ 19.30 In general
§ 19.31 Admissibility
§ 19.32 Methods of proving character
§ 19.33 Witness veracity
§ 19.34 Particular traits

E. IMPEACHMENT

§ 19.40 In general
§ 19.41 Deals in exchange for testimony
§ 19.42 Prior convictions
§ 19.43 Prior bad acts

F. MISCELLANEOUS

§ 19.50 Real and demonstrative evidence
§ 19.51 Collateral criminal activity and similar transaction evidence

§ 19.52 Hearsay evidence and confrontation
§ 19.53 Judicial notice

CHAPTER 20. SENTENCING

A. INTRODUCTION

§ 20.1 In general
§ 20.2 Determinate sentencing for felony convictions—An overview
§ 20.3 Effect of amendatory legislation
§ 20.4 Pleading requirements

B. PENALTIES AND GENERAL PRINCIPLES OF SENTENCING

§ 20.10 In general
§ 20.11 Penalties for misdemeanors and petty offenses
§ 20.12 Presumptive penalties for felony conviction—In general
§ 20.13 Presumptive penalties for felony conviction—Aggravating factors and extraordinary risk crimes
§ 20.14 Enhanced penalty offender—Habitual criminal statute
§ 20.15 Enhanced penalty offender—Statutory crime of violence
§ 20.16 Enhanced penalty offender—Special offenders
§ 20.17 Enhanced penalty offender—Other offenders
§ 20.18 Sentence under Sex Offenders Act of 1968
§ 20.19 Sentence under Sex Offender Lifetime Supervision Act of 1998
§ 20.20 Juvenile offender sentenced as adult
§ 20.21 Imposition of the death penalty
§ 20.22 Concurrent and consecutive sentences
§ 20.23 Proportionality review
§ 20.24 Presentence confinement credit
§ 20.25 Earned time deductions and good time reductions
§ 20.26 Parole—In general
§ 20.27 Parole—Eligibility and criteria for granting parole
§ 20.28 Parole—Revocation proceedings

C. THE SENTENCING HEARING

§ 20.30 In general
§ 20.31 Presentence report
§ 20.33 Role of defense counsel

D. SENTENCING ALTERNATIVES

§ 20.40 In general
§ 20.41 Sentence to incarceration
§ 20.42 Court costs, surcharges, and fees
§ 20.43 Fines
§ 20.44 Restitution
§ 20.45 Probation—In general
§ 20.46 Probation—Criteria for granting or denying probation
§ 20.47 Probation—Revocation proceedings

§ 20.48 Probation—Sentencing following revocation
§ 20.49 Community corrections programs

E. APPELLATE REVIEW OF SENTENCE

§ 20.60 In general
§ 20.61 Scope of review
§ 20.62 Procedure
§ 20.63 Sentencing on remand following successful appeal

F. MISCELLANEOUS

§ 20.70 Judgment of conviction
§ 20.71 Postconviction modification of sentence
§ 20.72 Commutation and pardons
§ 20.73 Sealing of arrest records and convictions *[New]*

CHAPTER 21. POSTCONVICTION REMEDIES AND COLLATERAL ATTACKS ON JUDGMENTS

A. INTRODUCTION

§ 21.1 In general
§ 21.2 The right to counsel and the withdrawal of counsel

B. CORRECTION OF ILLEGAL SENTENCE

§ 21.10 In general
§ 21.11 Trial court jurisdiction

C. REDUCTION OF SENTENCE

§ 21.20 In general
§ 21.21 Trial court jurisdiction to reduce a sentence
§ 21.22 Sentence reductions for crimes of violence and other mandatory sentences
§ 21.23 Appeal

D. CHALLENGES TO JUDGMENTS OF CONVICTION

§ 21.30 In general
§ 21.31 Consequences of a successful challenge to a conviction
§ 21.33 Motions to vacate convictions—In general
§ 21.34 Summary dismissal of the motion
§ 21.35 Right to a hearing and a ruling on the motion
§ 21.37 Grounds to challenge a conviction—Invalid guilty plea
§ 21.38 Grounds to challenge a conviction—Violation of the right to counsel
§ 21.39 Grounds to challenge a conviction—Newly discovered evidence
§ 21.40 Grounds to challenge a conviction—Violation of the right to testify

§ 21.42 The collateral attack statutes—In general
§ 21.43 The collateral attack statutes—Definition of a collateral attack
§ 21.44 The collateral attack statutes—Justifiable excuse or excusable neglect
§ 21.45 The collateral attack statutes—Date of conviction
§ 21.47 The collateral attack statutes—The effect of a prior direct appeal
§ 21.48 The collateral attack statutes—Constitutional challenges
§ 21.50 Laches
§ 21.51 Collateral estoppels and res judicata
§ 21.52 Successive postconviction challenges to a judgment
§ 21.53 Appeal
§ 21.54 Form—Motion for postconviction relief pursuant to Crim. P. Rule 35(c)

E. OTHER POSTCONVICTION REMEDIES

§ 21.60 Changes in law and amendatory legislation
§ 21.63 Correction of a clerical error
§ 21.64 Postconviction testing of DNA
§ 21.65 Compensation for certain exonerated persons *[New]*

CHAPTER 22. APPELLATE PROCEDURE

A. PREPARATION FOR APPEAL

§ 22.1 In general
§ 22.2 Motion for new trial
§ 22.3 Requirement of final judgment
§ 22.5 Waiver of appeal
§ 22.6 Duties of counsel regarding appeal
§ 22.7 Bail pending appeal

B. COLORADO APPELLATE PRACTICE

§ 22.20 Composition of appellate courts
§ 22.21 Types of review
§ 22.22 Original proceedings
§ 22.23 Rule 106 actions
§ 22.24 Court of appeals review
§ 22.25 Interlocutory appeal
§ 22.26 Notice of appeal
§ 22.27 Designation of record
§ 22.28 Briefs
§ 22.29 Motions
§ 22.30 Oral argument
§ 22.31 Issuance of decision
§ 22.32 Petition for rehearing
§ 22.33 Petition for writ of certiorari
§ 22.34 Issuance of mandate
§ 22.35 Dismissal of appeal
§ 22.36 Standards of review

§ 22.37 Error doctrines
§ 22.38 Stay of execution of sentence
§ 22.39 Application of overruling decision
§ 22.40 Appeal from county court
§ 22.41 Appeal from municipal court
§ 22.42 Checklist—County court to district court appeal
§ 22.43 Checklist—District court to court of appeals appeal

C. COLORADO APPELLATE FORMS

§ 22.57 Form—Request for oral argument
§ 22.58 Form—Motion to withdraw

D. CERTIORARI TO THE UNITED STATES SUPREME COURT

§ 22.71 Filing and contents of petition for writ of certiorari

CHAPTER 23. EXTRADITION AND INTERSTATE DETAINERS

A. INTRODUCTION

§ 23.7 Related statutes

B. EXTRADITION TO COLORADO FROM ANOTHER STATE

§ 23.10 Basic procedures for obtaining extradition to Colorado from another state
§ 23.21 Payment of costs incident to extradition

C. EXTRADITION FROM COLORADO

§ 23.30 Defense representation of a fugitive in Colorado
§ 23.31 Arrest in Colorado on the "fugitive warrant" and proceedings prior to requisition
§ 23.32 Waiver of extradition
§ 23.36 Documentation from demanding state—Time limit
§ 23.39 Rights of the accused—Initial advisement and right to counsel
§ 23.40 Right to bail
§ 23.49 Costs of extradition proceedings

D. INTERSTATE DETAINERS

§ 23.60 In general
§ 23.61 Application of interstate agreement on detainers (IAD)
§ 23.63 Request by inmate for disposition of interstate detainer
§ 23.64 Speedy trial provisions

CHAPTER 24. MISCELLANEOUS PROCEEDINGS

A. HABEAS CORPUS

§ 24.1 In general
§ 24.3 Applicability of the writ of habeas corpus in criminal proceedings
§ 24.4 Petitioning for a writ of habeas corpus

B. JUVENILE TRANSFER PROCEEDINGS AND DIRECT FILING PROCEDURE

§ 24.20 In general
§ 24.21 Juvenile court jurisdiction in transfer proceeding
§ 24.22 Eligibility for transfer for trial as an adult
§ 24.23 Initiation of juvenile transfer proceedings
§ 24.24 Conduct of juvenile transfer hearing—In general
§ 24.25 Conduct of juvenile transfer hearing—Rights of the juvenile
§ 24.26 Transfer findings and effect
§ 24.28 Direct filing of information in District Court
§ 24.30 Criteria for direct filing *[New]*
§ 24.31 Sentencing options in a direct filing *[New]*

C. CONTEMPT PROCEEDINGS

§ 24.40 In general
§ 24.43 Contemptuous behavior of lawyers, witnesses and spectators
§ 24.44 Appellate review of contempt citation

D. CRIME VICTIMS' RIGHTS IN COLORADO

§ 24.50 In general
§ 24.52 Colorado Crime Victim Compensation Act—Victim and witness rights at "critical stages of the criminal justice process"

E. FORFEITURE ACTIONS

§ 24.60 In general
§ 24.64 Public Nuisance Abatement Act—Procedure
§ 24.65 Public Nuisance Abatement Act—Judgment

F. BASIC RULES OF STATUTORY CONSTRUCTION

§ 24.70 In general
§ 24.71 Basic limitations on criminal legislation
§ 24.72 Rules for construing criminal statutes
§ 24.73 General rules of statutory construction

G. COMPENSATION FOR CERTAIN EXONERATED PERSONS *[New]*

§ 24.80 In general

§§ 24.81 to 25.0 *[Reserved]*

Index to Appendix

APPENDIX I. Table of Rule Changes and Selected Laws Passed by the Seventy-First General Assembly at its Second Regular Session *[New]*

Table of Laws and Rules

Table of Cases

Index