

# CONTEMPORARY CRIMINAL PROCEDURE

## COURT DECISIONS FOR LAW ENFORCEMENT

Larry E. Holtz



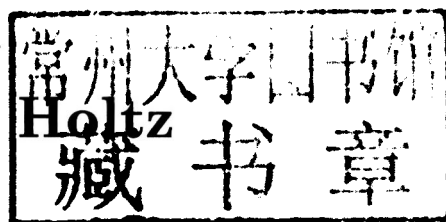
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# ***CONTEMPORARY*** **CRIMINAL PROCEDURE**

## **COURT DECISIONS FOR LAW ENFORCEMENT**

by  
Larry E. Holtz



**11<sup>TH</sup> EDITION**

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## PREFACE

**Contemporary Criminal Procedure: Court Decisions for Law Enforcement** has been created exclusively for the modern law enforcement or criminal justice practitioners operating in either the federal or state system. It presents a new and innovative approach to the study of constitutional criminal procedure and provides a quick reference to the pertinent classical and current judicial decisions which directly affect the day-to-day activity of the professional law enforcement and criminal justice communities.

The majority of cases presented come from the United States Supreme Court and the United States Circuit Courts of Appeal. Additionally, in recognition of the present proclivity of many state courts to depart from the federal rule—relying on their own state constitutions to afford their citizens enhanced protection to their privacy interests—we have identified some key areas where a State might so depart.

This text, therefore, serves two purposes. First, it removes the guesswork in, and tedious search for, “today’s” law. The quick-reference format should prove invaluable not only for officers in the field but also for attorneys in court who need an instant answer (and the case law which supports that answer) to a criminal procedure problem.

This text also has been organized as a college text, offering those who teach criminal procedure, criminal law, or general police science courses, a current, clear and concise approach to the law of arrest, search and seizure, investigative detentions (stop and frisk), motor vehicle stops, and fire-scene procedures. This material constitutes Part I, and includes chapters one through ten. Part II, incorporating chapters eleven and twelve, explores the legal issues surrounding interviews, confessions and *Miranda*, (chapter eleven), and the law related to eyewitness identification (chapter twelve).

Each of the principal cases presented consists of a court decision which has been analyzed, dissected, and restructured into a question and answer format. The **Question** presented, which is the general issue (or one of the issues) in the case, is placed at the beginning of the case, directly under the case name and citation. The **Answer** to the question represents the holding of the case, *i.e.*, the “rule of law,” and immediately follows the question presented. Immediately following the answer is the court’s analysis, or the **Rationale** behind the rule of law. The Notes which follow many of the principal cases further explore the particular subject area, and illustrate classical and current variations of the principal theme.

As we all know, the most well-settled aspect of criminal procedure is its continuous change and development. Therefore, to keep this text truly “contemporary,” updated editions will be available annually.

## THE AUTHOR

Larry E. Holtz received his Bachelor of Arts Degree in Criminal Justice from Temple University, Philadelphia, Pennsylvania, graduating *Summa Cum Laude*. In December of 1988, he received his *Juris Doctorate* from Temple University School of Law, graduating in the top ten percent of his class.

Formerly a Sergeant of Detectives with the Atlantic City Police Department, a Deputy Attorney General and an assistant county prosecutor, Mr. Holtz is presently an attorney specializing in police administrative matters, and the President of Holtz Learning Centers, a professional law enforcement school for continuing legal and criminal justice education and training. He is also a certified police instructor, providing training at numerous police training academies in New Jersey and Pennsylvania, and has served as an Adjunct Professor of Law at Widener University School of Law, Wilmington, Delaware, and an Adjunct Professor of Criminal Justice at Rowan University, Glassboro, New Jersey.

Mr. Holtz is the author of the *New Jersey Law Enforcement Handbook*, the *Pennsylvania Law Enforcement Handbook*, *Criminal Evidence for Law Enforcement Officers*, and *Effective Law Enforcement Report Writing*. He is published in the *Pennsylvania Law Journal-Reporter*, the *Journal of Criminal Law and Criminology*, and the *Dickinson Law Review*. In addition, he is the co-author of the *Texas Law Enforcement Handbook* and the *Supervision of Police Personnel Study Guide*.

Mr. Holtz is a member of the Bar in New Jersey, Pennsylvania, and the District of Columbia.

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As the Executive Director of Police Training for Holtz Learning Centers, Ltd., Mr. Holtz provides a wide variety of basic and advanced training to law enforcement officials in New Jersey and Pennsylvania. His seminars cover such topics as (1) The Laws of Arrest, Search and Seizure (basic and advanced); (2) Criminal and Motor Vehicle Law Updates; (3) Interviews, Confessions and *Miranda*; (4) Kinetic Reading (designed to supercharge one's reading speed, comprehension and memory); (5) Investigative and Operational Report Writing; and (6) Principles of Police Supervision and Management. In addition, Mr. Holtz conducts comprehensive executive development courses designed to prepare law enforcement officials for the move up to sergeant, lieutenant, captain, inspector, deputy chief and chief.



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*Dedicated*  
*To the memory of the law enforcement officers*  
*Who made the ultimate sacrifice while*  
*Making our world a safer place.*

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*For Sue*  
*My wife,*  
*My best friend, and*  
*My favorite equestrian!*

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# READING GUIDE

## SAMPLE CASE

1{**MIRANDA v. ARIZONA**  
*Supreme Court of the United States*  
384 U.S. 436, 86 S.Ct. 1602 (1966) }3  
2

**QUESTION:** Are self-incriminating statements elicited from an individual during incommunicado interrogation in a police-dominated atmosphere without full warnings of constitutional rights admissible in evidence? ]-4

**ANSWER: NO.** “[T]he prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination.” *Id.* at 1612. }7 ]-5

**RATIONALE:** In this landmark decision, the United States Supreme Court clarifies its holding in *Escobedo v. Illinois*, 378 U.S. 478, 84 S.Ct. 1758 (1964), and provides “concrete constitutional guidelines for law enforcement agencies and courts to follow.” *Miranda* at 1611. }8 ]-6

Initially, the Court defines “custodial interrogation” to “mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” *Id.* at 1612. As for the procedural safeguards to be employed, the Court requires that:

Prior to any questioning, the person must be warned that he has the right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The *defendant may waive* effectuation of *these rights, provided the waiver is made voluntarily, knowingly, and intelligently*. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him.

\* \* \* }9

*Id.* [Emphasis added.] }10

# READING GUIDE

## EXPLANATION

### 1. NAME OR TITLE OF CASE.

### 2. CASE CITATION:

Number on left = volume of book.

Number on right = page number where case begins.

*If blank, (e.g., \_\_\_ U.S. \_\_\_) the case has not been published as of the printing date of the Handbook.*

### MEANINGS OF ABBREVIATIONS BETWEEN NUMBERS:

#### FEDERAL CASES:

*Texts which report cases from the U.S. Supreme Court:*

U.S. = United States Reports.

S.Ct. = Supreme Court Reporter.

L.Ed.2d = Lawyer's Edition of the U.S. Supreme Court Reports; Second Edition.

U.S.L.W. = United States Law Week

*Texts which report cases from other (lower) federal courts:*

F.Supp. = Federal Supplement.  
(Cases generally from the Federal District Courts)

F.2d = Federal Reporter; Second Edition. (Cases generally from the Federal Circuit Courts of Appeal)

#### STATE CASES:

A.2d = Atlantic Reporter; second edition (Cases from: CT, DE, DC, ME, MD, NH, NJ, PA, RI, VT)

N.E.2d = North Eastern Reporter; second edition (Cases from: IL, IN, MA, NY, OH)

N.W.2d = North Western Reporter; second edition (Cases from: IA, MI, MN, NE, ND, SD, WI)

P.2d = Pacific Reporter; second edition (Cases from: AK, AZ, CA, CO, HI, ID, KS, MT, NV, NM, OK, OR, UT, WA, WY)

So.2d = Southern Reporter; second edition (Cases from: AL, FL, LA, MS)

S.E.2d = South Eastern Reporter; second edition (Cases from GA, NC, SC, VA, WV)

S.W.2d = South Western Reporter; second edition (Cases from: AR, KY, MO, TN, TX)

### 3. DATE CASE WAS DECIDED.

### 4. QUESTION OR ISSUE PRESENTED.

### 5. ANSWER TO THE QUESTION OR ISSUE PRESENTED (Is normally the case "holding" or "rule of law.")

### 6. RATIONALE: The extended explanation for the rule of law.

### 7. "SHORTHAND" CITATION FORMS:

"Id."— used to indicate a reference to a case or authority cited immediately preceding the present use.

NOTE, MODIFICATION OF USE OF *Id.*: Unless otherwise specified, when the use of *Id.* refers the reader back to the CITATION immediately following the CASE TITLE, the reference shall only refer to the text cited immediately before the date. For example, "*Id.* at 1612" refers the reader to page 1612 of volume 86 of the Supreme Court Reporter. (See 1 and 2.)

### 8. OTHER "SHORTHAND" CITATION FORMS:

"*Miranda at 1611*"— Periodically used instead of *Id.* for clarification. Either of these "shorthand" citation forms shall be used when the case speaks of, or refers to, more than one case or authority. The purpose is to clarify exactly which case or authority is being cited.

"*Supra*"—Refers you back to a case or authority already cited in full. For example, "as was held in *Escobedo v. Illinois, supra, ...*"; or more simply, "as was held in *Escobedo, supra, ...*".

"*Infra*"—Used in the same manner as *supra*, but instead of referring you "back," it refers you "ahead."

### 9. OMITTED WORDS:

The ellipsis, " \* \* \* , " is used to indicate that unnecessary words have been omitted.

### 10. BRACKETED MATERIAL:

Consists of material added or changed by the Author. In this sample, the emphasis by italic type in the last paragraph has been added by the Author.

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