

## CJ 1101 Study Guide, Chapters 7 and 9

### Chapter 7:

#### How: 8th Amendment

- Bill of rights: the first 10 amendments in the constitution, lays out the rights of the people, the 14<sup>th</sup> amendment is also included sometimes, considered especially important in protecting criminals.
- Due Process requirements (amendments and significance of each one):
  - 4th – search and seizure
  - 5th – might be not speak against oneself in court, “I plead the 5”
  - 6<sup>th</sup> – speedy and fair trial
  - 14<sup>th</sup> – defined national citizenship and forbid the states to restrict the basic rights of citizens or other persons.
- Exclusionary rule: the understanding that incriminating information must be seized according to constitutional specifications of due process or it will not be allowed as evidence.
  - Weeks v. U.S (Federal) – no warrant was used to take personal items, applied the exclusionary rule at the federal level, case was overturned by the court.
  - Mapp v. Ohio (State) – applied the exclusionary rule at the state level, overturned because no warrant was issued for the other material found in the house that the police took.
- Fruit of poisonous tree doctrine: a legal principle that excludes from introduction at trial any evidence later developed as a result of an illegal search or seizure.
  - Silverthorne Lumber Co v. U.S
    - Silverthorne wasn't paying taxes and the U.S collected these documents, refused to make copies of the documents to use in court but the court said no, court threw it out, established the fruit of the poisonous tree doctrine at a Federal level.
- Search incident to arrest (Warren Court)
  - Chimel v. C.A. – had an arrest warrant and no search warrant, overturned by court because there was no search warrant (police went through entire house), made it unconstitutional when search goes beyond their immediate control area.
- Good faith exception: thought what you did/what you were told was right.
  - U.S v. Leon (1984) – an original affidavit had not been sufficient to establish probable cause, police established sufficient evidence on the basis of good faith, court said it wasn't enough.
- Probable cause: facts and circumstances that would induce a reasonably intelligent and prudent person to believe a particular person has committed a specific crime.
- Plain view: the ready visibility of objects that might be seized as evidence during a search by police in the absence of a search warrant specifying the seizure of those objects.
- Emergency searches of property: search conducted by the police w/o warrant justified on the basis of:
  - Three elements
    - Public safety
    - Possible suspect escape
    - Reasonable destruction of evidence
- Arrest: taking an adult or juvenile into physical custody by authority of law for the purpose of charging the person w/ a criminal offense, a delinquent act, or status offense.
- Search incident to arrest
  - Terry v. Ohio
- Reasonable suspicion: level of suspicion that would justify an officer in making further inquiry conducting further investigations.
- Emergency searches of persons
  - Three elements

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