

Criminal Investigation

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

BASIC CRIMINAL INVESTIGATIONS

1820-31410

CASE PREPARATION & PRESENTATION

I. Transition to Detective Assignment

A. Handling a Case Load vs. Shift Work

1. Difference between day-to-day work and extended case investigations

II. Expectations of Investigators

A. Verification of Information, Gathering Leads, Examining Evidence

1. The expected depth and level required of a "follow-up" investigation
2. Sufficiency of proof required in investigations

III. Investigation Organization

A. Prioritizing Workload

1. Perishable Evidence
2. In-Custody Cases
3. Danger to Society
4. Bond Releases

5. "Specials" (as Designated by Supervisors)
 6. Workable Felonies
 7. Workable Misdemeanors
 8. Pending Felonies
 9. Pending Misdemeanors
- B. Case Tracking
1. Department's Tracking System
 2. Personal Tracking Systems
- C. Creating Investigative Systems
1. Visit a Crime Scene
 2. Obtain all Recorded Evidence
 3. Obtain all Document Evidence
- D. Organizing Files
1. File Contents
 2. File Storage
- E. When to Conclude an Investigation
1. Cost / Benefit Analysis
 2. Awareness of viable "Lead" Exhaustion

IV. Utilization of Investigative Sources

- A. Awareness of Available Sources, Resources, and Contacts
- B. Garnering Contacts
- C. Documentation and Use of Resources as an Investigator

V. Investigation Documentation

A. Notes

1. Single Case = Single Notebook or Stand Alone Notes
2. What to Write
3. Note Retention

B. Multi-Media Evidence

1. Photographic Film / Digital Photographs
2. Retention / Location
3. Audio Recordings / Digital
4. Retention / Location

VI. Case Preparation

A. Filing Procedures

B. DA Rejects

C. Office Hearings

VII. Courtroom Testimony

A. Rules of Evidence

1. Peace officers must know the rules of evidence governing
relevance, types of evidence, authentication, and chain of custody.

B. Recognize relevance as it pertains to the admissibility of evidence

1. Reduce violations of constitutional protections

2. Avoid undue prejudice

3. Prohibit consideration of unreliable evidence

4. Protect valued interests and relationships

5. Hearsay Rule

- a. Hearsay is the legal term for testimony in a court proceeding where the witness does not have direct knowledge of the fact asserted, but knows it only from being told by someone.
- b. Three tests are calculated to expose possible weaknesses in a statement:
 - 1. Assertions must be taken under oath
 - 2. Assertions must be made in front of the tribunal (judge or jury)
 - 3. Assertions must be subject to cross-examination.
 - a. Assertions not subject to these three tests are (with some exceptions) prohibited insofar as they are offered through testimony (for the truth of what they assert).
- c. Hearsay in reports

C. Reports

- a. Complete accurate and reliable investigative reports.
- b. Discuss evidentiary foundation in reports
- c. CA Evidence Code Section 352
- d. Exclusionary Rule
- e. Opinion and Expert Testimony
- f. Privilege
- g. Witness Creditability

D. Professionalism

- a. Guidelines for answering/ receiving questions
- b. Appropriate Responses in cases of uncertainty; lack of knowledge
- c. Appropriate Responses in cases of opinion sought during testimony
 - i. Base opinion on known facts
 - ii. Differentiate between fact and opinion

E. Testifying as an Expert

- a. Formal Training
- b. Informal Training

F. Professional Experience

VIII. LEARNING ACTIVITIES

- A. The learner will participate, as a field investigator, in the analysis and presentation of mock case investigation(s) followed by simulated criminal trial testimony of the mock case. The learner will either

provide testimony or offer critique of testimony provided by another person. The simulation shall incorporate a variety of questioning styles that investigators are likely to encounter on the witness stand, including but not limited to:

- a. Badgering / Belligerent Questioning
- b. Offensive / Condescending / Patronizing Questions
- c. Hearsay Questions and Testimony at a Preliminary Hearing and

Jury Trial

- i. *By sworn members of the Los Angeles County Sheriff's Department and District Attorney's Office*

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
BASIC CRIMINAL INVESTIGATIONS

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BASIC INTERVIEWING

I. **Interview and Interrogation, the Two Phase Approach**

Phase One, the Interview

A. Perception is Truth

B. Obtaining the Truth

C. Building Rapport and Trust

D. Maintaining Control

II. The Profile of a successful Interviewer

Elicitation - The act of bringing to light or drawing forth information

A. Attitude - positive and confident

B. Cordial and polite

C. Even tempered

D. Sincere

E. Interested

F. Understanding

III. Tools for Success

A. Listening skills

B. Good salesmanship

C. Understanding the other person's needs

D. Have a plan

E. Recording observations

F. Remove your prejudices

G. Remove you ego

H. Know who you are interviewing

IV. Witness/Victim Interviews

A. The cognitive interview approach

1. Obtaining maximum information
2. Solving more cases
3. Establishes witness credibility
4. Recognized and approved in the Court
5. Excellent tool for trauma victims and witnesses
6. Useful when multiple events or suspects are involved
7. Very helpful for recalling long ago events

V. The Cognitive Process

A. Information memory retrieval

1. Use the senses as memory triggers
2. Put the witness at ease
3. Begin rapport building
4. Explain the process
5. Reconstruct circumstances
6. Focus memory
7. Use sensory associations

8. Change direction and perspective

B. What Should I Be Looking For?

1. The power of observation

- a. Note one's personal style and mannerism
- b. Note verbal vs non-verbal behavior
- c. Look for signs of anxiety as they tell you things
- d. Note how they think and process information
- e. Identify and record differences in behavior
- f. Note the timing of responses

C. Rapport Building Techniques

1. Manipulation - the artful management of control

- a. Mirroring
- b. Anchoring - positive and negative
- c. Lower anxiety
- d. Think like the suspect - use his words

D. Control

1. A path of mental conditioning
 - a. Make sure you let the suspect know that you are in charge
 - b. Tend to all of his needs
 - c. Only one interviewer asks questions
 - d. Escort the suspect in and out of his cell
 - e. Avoid lies if possible
 - f. Allow for plenty of time
 - g. Monitor your emotions
 - h. Never allow obstacles between you and the suspect

VI. The Baseline or Truth Telling Style

- A. How to detect deception
 1. Misinterpreting body language
 2. Common errors when attempting to read deceptive behavior
 3. Asking non-threatening questions
 4. Allow for casual conversation
 5. Do not confront but encourage open dialog
 6. Ask the suspect why he is there
 7. Let the suspect complete his thoughts and do not interrupt
 8. Remember the more he talks the more you learn

B. Facial Expressions and Emotions

1. The seven expressions of emotions
 - a. Happiness
 - b. Sadness
 - c. Anger
 - d. Fear
 - e. Disgust
 - f. Surprise
 - g. Contempt

C. Deceptive Behavior

1. The Golden Rules
 - a. Look for changes in the baseline
 - b. Note discrepancies between the verbal and non-verbal
 - c. Note discrepancies with emotions (leakage)
 - d. Refer to these changes as **hot spots** and not as tell tail signs of deception

VII. Breaking Techniques or Confrontation

A. Phase Two, The Interrogation

1. Use the positive/negative anchor to establish the psychological advantage

2. Begin by confronting the suspect (use a confrontation statement)
3. Watch the behavior as you accuse
4. Stop the denials
5. Give the way out (theme building)
6. Overcome any objections
7. Using the alternative way of viewing his actions
8. Use encouragement at first admission
9. Obtain the confession

B. Stopping Denial

1. The most common error made during an interrogation is to allow the suspect to deny after you accuse
 - a. Once accused the suspect begins to develop a defense
 - b. You must stop any denial
 - c. You must keep the suspect quiet and listening
 - d. Deliver a way out, present your theme

C. Delivery

1. The Way Out
 - a. Use empathy and transfer blame

- b. Move forward in your chair and use open body language
- c. Show you care through voice inflection, eye contact and choice of words
- d. Praise him when he interacts and show displeasure when he lies or denies
- e. Use stories when delivering the way out
- f. If empathy fails, switch to facts
- g. Monitor your emotions

D. True Confession

- 1. At first admission give positive reinforcement
 - a. Develop the admission further
 - b. Let the suspect talk and tell you what happened
 - c. Do not interrupt except to encourage him along
 - d. Avoid leading questions
 - e. Be a good listener
 - f. Have him take you through the entire story from beginning to the end

VIII. Typology of the Offender

A. Knowing and understanding the evil that people do

- 1. Knowing and reading your crime scene

2. Knowing and reading the offender
3. Begin theme building
4. Be aware of any possible legal issues

B. Legal Issues

1. Legal Overview

amendments

- a. Constitutional issues, 4th, 5th, 6th and 14th

- b. Beheler Admonishment

- c. Spontaneous statements

- d. Coercion

- e. Civil Issues

- f. Local legal policies

- g. Waivers(i.e. Miranda, medical record, Spouse, Clergy, etc...

C. Gang Murder Scenario

1. The Gang member

- a. Denies involvement in case, gang tie, any knowledge of case

- b. Lack of trust
- c. Lack of remorse
- d. Antisocial behavior
- e. Blame transference
- f. Status/Respect

D. Child witness and parents

- 1. Fear
- 2. Lack of trust
- 3. Denial of child's activities
- 4. Intellectual abilities

IX. Teaching Points

- 1. Keep an open mind
- 2. Let the facts direct the investigation
- 3. Interviewing a child vs adult
- 4. Language issues (jargon/slang)
- 5. Interviewing EMT's
- 6. Cultural issues (generational issues within the culture)
- 7. Gang subculture/language (pitfalls)
- 8. What are some possible theme examples?

X. Legal issues

A. Detaining and transporting witnesses against their will

1. Exclusion of evidence
2. Civil and or criminal liability

B. Juvenile witnesses

1. Presence and consent of parents

C. Victims who are not dead

1. Spontaneous statements or dying declarations

XI. Hotel Murder Scenario

A. Manager witness

- a. Wants to avoid involvement
- b. Wants to protect against negative publicity
- c. Desire to cover up liability (criminal and civil)

B. Husband witness/suspect

1. Hostile
2. Grief consistent with circumstances?
3. Overly willing to assist/cooperate with investigation (sometimes indicates involvement in domestic violence cases)

C. Teaching points and legal issues

1. Keep an open mind
2. Let the facts direct the investigation
3. Does the husband have a relationship with someone else?
4. History of domestic violence
5. Can the husband invoke?
6. Custodial issues
7. What are some possible themes

XII. Residential Murder Scenario

A. Ex lover

1. Desire to maintain privacy
2. Fear of detection (sexual orientation), involvement (Guilt)
3. Concealing evidence of financial gain/inculpatory evidence

B. Business Partner

1. Unwilling to discuss victim's lifestyle
 2. Concealing evidence of financial gain

3. Privacy (romantic involvement)

C. Friends/associates

1. Privacy
2. Concealing knowledge of victim's activities/acquaintances

D. Teaching points and legal issues

1. Keep an open mind
2. Let the facts direct the investigation
3. Don't let prejudices get in the way (maintain a non-judgmental attitude)
4. Guilt relative to religious beliefs/social acceptance
5. 4th Amendment
6. 5th Amendment (Exclusionary Rule)
7. What are some possible themes?

XIII Narcotic Death Scenario

A. Manager

1. Wants to avoid involvement
2. Wants to protect against negative publicity
3. Desire to cover up liability (criminal and civil)

B. Narcotics Officer

1. Cooperative vs uncooperative
 2. Covering misconduct
- C. Teaching points and legal issues
1. Keep an open mind
 2. Let the facts direct the investigation
 3. Consider officer as a witness vs involved party
 4. Narcotics Officer
 - a. Criminal, civil, administrative (Departmental policy)
 5. What are some possible themes?

XIV. Gun Shot Victim in Car Scenario

- A. City official (i.e. Council Member, Mayor, Commissioner)
1. Guarded
 2. Closed mouth
 3. Outside influences (advisors, lawyers)
 4. Condescending
 5. Arrogant
- B. Teaching points

1. Keep an open mind
2. Let the facts direct the investigation
3. Independent investigation (Attorney General, or County)
4. Dealing with outside influences
 - a. The Media
 - b. On air interviews (get a copy)
 - c. What you can expect to get (only what was on the air)
 - d. Court orders (gag orders)
 - e. Political pressure
 - f. Media exposure
 - g. What are some possible themes?

C. Legal issues

1. 5th Amendment
2. Conflict (agency and council are both part of city government)
3. Administrative laws (Interview and Interrogation involving employment records)
4. Civil law (i.e. defamation)

XV. Body Dump Scenario

A. Officer witness

1. Covers up contamination of scene
2. Conceals possible involvement
3. Evasiveness (does not provide information unless specifically asked)

B. Teaching points

1. Keep an open mind
2. Let the facts direct the investigation
3. Determine officer's actions at scene (relate to crime scene management and (reconstruction)
4. Does dispatch have phone number of truck driver?
5. Consideration to M.O.'s outside your jurisdiction
6. Dispatch info
 - a. Demeanor of caller
 - b. tape of conversation (get copy)
7. What are some possible themes?

C. Legal issues

1. When and if Internal Affairs get involved (Department policy)

XVI. Suggested Reading

- A. How to make a man fall in love with you

By Tracy Cabot

B. Telling Lies

By Paul Ekman

C. Principles of kinesthetic Interviewing and Interrogation

By Stan Walters

D. Memory
Enhancing Techniques for
Investigative
Interviewing

By Ron Fisher and Ed Geiselman

E. Profiling Violent Crimes: An Investigative Tool

By Stephen Holmes and Ronald Holmes

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

BASIC CRIMINAL INVESTIGATIONS

CRIME SCENE INVESTIGATIONS

I. Type of crime determines type of crime scene

A. Complex / dynamic crime scene vs. simple crime scene

- B. Multiple crime scene locations
- C. Quickly establishing control of all scenes from a primary command post.
- D. No two crime scenes are alike (ie : be able to be flexible, “out of the box”)

II. Establishing the crime scene

A. Location

- 1. Control of the crime scene
 - a. Investigating officer has control.
- 2. How was the crime scene established
 - a. Victim / Witness statements
 - b. Physical evidence
 - c. Informant / caller description of events

B. Establishing how many players are involved could adjust the size of your scene

- 1. Victim, witness and suspect interviews
- 2. Deputy / personnel interviews
- 3. Physical evidence located
- 4. Cross referencing validity of all statements

C. Suspect; Planning vs. Conspiracy

- 1. Alibi
- 2. Location
- 3. Disposal of evidence

D. Reasonable expectation of privacy

1. 4th Amendment
 - a. Probable Cause
 - b. 1529PC
2. Consent search vs. search warrant
3. Mincey Warrant
4. Exigent Circumstances

III. Crime scene containment; size

A. Making it big enough to adequately preserve the evidence but not unnecessarily large.

B. Establishing an inner containment (primary) evidence preservation
& outer containment

1. providing deputies with a working environment away from evidence
& to keep out media / civilian problems

C. Adjusting crime scene size if necessary

1. Upon onset, think big crime scenes can always be reduced during
the course of the investigation

2. Hesitating to enlarge a crime scene can be costly later for
evidence documenting and gathering purposes

3. Thinking out of the box, utilizing a three dimensional crime scene
mentality

IV. Where to start searching

- A. Detailed victim and witness interviews could give markers on where to recover evidence

- B. Systematic and vigilant search will better results

- C. Utilizing a skirmish line and or creating a containment grid for reference and later documentation

- D. Analyzing evidence & comparing it's location to victim / witness accounts

- E. Identify even potential evidence as evidence and marking (without disturbing) as you search

- F. Utilize a three dimensional search attitude

V. Photograph and recovery

- A. Utilizing or assisting Crime Lab whenever possible)
 - 1. Systematically labeling evidence
 - a. provides a more user friendly way of documentation
 - b. ensures nothing is overlooked
 - c. looks more efficient in a court room setting

B. Photographing evidence

1. Provides permanent documentation of evidence location
2. Establishes environmental factors
 - a. time of day, type of area, day / night time etc.

C. Crime scene sketch

- visual assessment of where evidence was recovered or
analysis
photographs taken at the scene
1. Provides further
 - a. backs up
 - b. provides overview of entire crime scene
 - c. evidence
- recovered

D. Holding for prints

1. All evidence even suspected of being involved
2. Consider which surfaces can and cannot be printed
3. Which evidence can be transported for prints
4. Which areas have to be held for a print technician
5. Could require additional man power to hold evidence

E. Evidence recovery

1. Utilize proper packaging

2. Keep all recovered evidence in order for smooth documentation purposes

3. Documenting evidence in the order it was found

VI. Media

A. Objectives:

1. Give investigators working knowledge as to what type of information can be given to the news media and how to present it. Students will also learn about laws that govern the media and how it pertains to crime scenes.

2. 409.5 PC Provides for an exception to the media to cross a police or fire line into an area that has been closed due to menace safety or calamity. Such areas Might include train wreck, earthquake, disaster area brush fire, flood, or explosion

B. Defining Media role in a democracy and Elements

1. Media role is to gather information of interest to the public, then relay that information in reports. Reporters mostly report facts which they gather from a variety of sources.

C. Transparent Police Agency;

1. Develops good relationships with media outlets.

2. Is a good source of information to the media

3. Provide accurate, timely information, as ethically as possible

4. Keeps media informed about crimes, trends, police strengths and weaknesses, and special problems that are unique to neighborhoods

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

BASIC CRIMINAL INVESTIGATIONS

CRIME LAB

I. Roles of a criminalist/crime lab functions

A. What is a Criminalist?

B. This presentation will cover the field of criminalistics, physical evidence, crime scene preservation and crime scene processing concerns. The presentation will consist of lecture, and slides and video tape will be shown from actual crime scenes and related evidence.

II. Introduction to Criminalistics (Forensic Science)

A. Crime Lab services

1. Drug Analysis
2. Toxicology / Blood Alcohol
3. Questioned Documents
4. Polygraph
5. Photo Studio / Digital Imaging
6. Finger prints / Chemical processing
7. Firearms
8. Forensic Biology (DNA)
9. Physical / Trace

B. Physical Evidence

1. Biological evidence (bloodstains, semen, saliva, etc.)
2. Narcotics (illicit drugs)
3. Blood alcohol
4. Trace evidence (fibers, hairs, glass, soil, footwear impression, etc.)
5. Latent prints
6. Firearm evidence (bullets, cartridge cases, gunshot residue)

C. Evidence collection and preservation

C. Elaborate and inform on the different services offered at the Sheriff's Crime laboratory

III. Crime Scene preservation and processing (Concerns of the first officer at scene)

A. Officer safety

1. Victim(s) welfare
2. Search for additional victim(s), informants and/or suspect(s)

B. Setting crime scene boundaries / securing the crime scene

1. Crime scene tape
2. Using the radio car as a barrier
3. Natural boundaries

C. Notifications using land lines (what pertinent information is needed)

1. Field Sergeant
2. Watch commander
3. Homicide

D. Major incident log

1. Holds personnel accountable
2. Adds to the completion of report

IV. Introduction to DNA

A. What is DNA?

1. Building Block for an individual's entire genetic makeup
2. A component of virtually every cell
3. A person's DNA is the same in every cell
4. Each person's DNA is different from every other individuals except identical twins.
5. DNA collection from a crime scene can either link a suspect to the evidence or eliminate the suspect

B. Where DNA can be found

C. Other Sources of DNA

D. Limitations Of DNA

E. What Can DNA do for you?

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
BASIC CRIMINAL INVESTIGATIONS

COMPUTERIZED INVESTIGATION METHODS

I. D.I.R.C.

A. History

B. Patrol needs

1. Doesn't just roll into a call
 - a. Wants a Want 9 on location
 - b. Wants a reverse directory for phone
 - c. Wants a hazard check
 - d. Wants persons run for criminal history

C. Detective needs

1. Manage your data
2. Data base
3. Cost issues
4. Centralization of data

D. Pilot project began March 18, 1996 as a service for JIB

1. January 6, 1997 the entire division
2. January 1, 1998 Industry Station

E. Goal is to provide a one-stop source for all of an investigator's information needs

1. Provide a centralized crime analysis, research, and resource center

II. Motto

- A. To make the knowledge of the few, the knowledge of many

III. What do we do

- A. Locate people

1. Due diligence checks
- B. Establish property history and ownership
- C. Crime Analysis
1. Link Analysis
 2. Time Analysis
 3. Trend Analysis
 4. Pattern Analysis
 5. Series Analysis
- D. Phone toll analysis
- E. Scan documents
- F. Data base design and utilization
1. Major fraud/check cases
 2. Multiple victims/multiple offenders
 3. Large items of evidence
 4. Spreadsheets, Graphs, Charts
- G. Research legal issues
- H. Train

IV. What we do not do

- A. Obtain full TRW reports
- B. Contacts within the phone company to get unlisted numbers
- C. All data is clean and eligible to be entered into court.

V. Staff

- A. (1) Sergeant
- B. (2) Crime Analysts
- C. (4) Researches
- D. (1) Supervising Researcher

VI. Access

- A. Detective Division
- B. Industry Station

VII. Sources of Information

- A. Federal
 - 1. National Law Enforcement Teletype System (NLETS)
 - 2. National Crime Information System (NCIC)
 - 3. U.S. Department of Motor Vehicles
 - 4. Wanted Person File

5. Alcohol, Tobacco & Firearms File (ATF)

B. State

1. Calif Law Enforcement Telecommunication System (CLETS)
2. Other state systems
3. Los Angeles County Systems

Resources

4. Los Angeles Sheriff's Department Systems &
5. Public Records On Line Services
6. Internet

VIII. Future

A. Mobile unit

1. Suspect identification at crime scene
2. Search Warrants
3. Property Ownership
4. Computer Assisted Drawing (CAD) Programs

B. Bring it down to the patrol level

C. Optical Character Readers (OCR)

1. JDIC teletypes

D. Patrol barricades

1. Find neighbors telephone numbers

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
BASIC CRIMINAL INVESTIGATIONS

SEARCH & SEIZURE LEGAL UPDATE

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I. Search and Seizure:

A. Definition

1. Standing:

B. Laws of Arrest:

1. Detentions

2. Private person's arrest:

C Detention Categories:

1. Investigative:

D. Consensual Encounters:

1. Free to leave

2. Consent tested on an objective belief standard

E. Pat Searches:

1. Reasonable suspicion:

2. A detention, by itself, does not justify a pat search.

3. Companion search - Close physical association

4. Presence of drugs immediately apparent during pat search.

5. Hostility directed toward an officer

6. Officer's subjective belief

F. Vehicle Stop:

1. Officer's subjective belief.
2. Pretext Stops
3. Ordering the driver out

4. Ordering passengers in or out of a vehicle
5. Detaining passengers

6. Demanding identification
7. Failing to present satisfactory evidence of identity
8. Stopping cars for seat belt violations

G Vehicle Searches:

1. Six ways in which a vehicle may be searched:
2. Inventory searches

3. Searches incident to an arrest

H. Parole and Probation Searches:

1. Parolee searches
2. Challenging a probation search

3. Association with probationers – expectation of privacy restricted

4. Invalidating a probation search

I. Ramey rules and procedures:

1. Entering a residence to arrest.

2. Use of subterfuge to induce suspect to exit the location.

3. Entering the residence of someone other than the arrestee.

4. Compliance with knock and notice requirements.

5. Knock and notice – entry refused.

J. Plain view seizures:

1. Lawfully at the observation point.

2. Searching entire room based on plain sight.

3. Lawful access to the evidence.

4. Warrant less searches of residence – plain view.

K. Consent search:

1. Consent – free and voluntary given.

2. Consent regarding locked containers.

L. Exigent Circumstances:

1. Warrant less entry based on an exigency.
2. Exigencies created by the police

M. Search warrants:

1. Search warrant defined.

N. Executing the search warrant:

1. Compliance with knock and notice requirements (844 PC).
2. Seizing evidence not identified in the warrant.

O. Miranda requirements:

1. Custodial interrogation – Miranda warnings required.
2. Deliberately ignoring the suspect's Miranda invocation.
3. The cost of going outside Miranda.

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

BASIC CRIMINAL INVESTIGATIONS

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MIRANDA AND STATEMENTS

I. Miranda

A. What's at stake?

1. Original statement
2. Later statements
3. Discovered witnesses
4. Physical evidence
5. Impeachment
6. Civil liability

B. Fundamental Principles.

II. Basic Miranda law.

A. When does Miranda apply?

B. Requirements

C. Sanctions

III. Miranda Custody

A. Requires “formal arrest or restraints on the freedom of movement of the degree associated with formal arrest.”

B. Determination based what reasonable person in subjects position would believe.

C. Subjective view of either the interrogating officer or subject is not determinative of custody.

IV. Intentional violation of Miranda

A. Uncoerced statement are admissible for impeachment

B. Danger of outside Miranda

1. Repeated intentional violations may equal coercion.

2. May render any statement involuntary

VI. 4th Amendment Law

- A. Independent ground for excluding statement.
 - B. Requirements depend on context.
 - C. Sanctions

VII. 6th Amendment Right to Counsel

- A. 6th Amendment applies when criminal proceedings are initiated, filing of complaint
- B. Scope: 6th Amendment, right to Counsel is offense specific
- C. “Inextricably intertwined” charge
- D. 6th Amendment and Witness Intimidation
 - 1. People vs. Martin (2002): Admissible in current case.
- E. 6th Amendment Right to Counsel
 - 1. Requirements, how do you comply?

VII. Due Process Clause: 5th and 14th Amendments

- A. Always applies.
-