CHAPTERS 7 & 8 (Hearsay Handout)

Students should know the following definitions:

1. Hearsay:
   An out of court statement, whether verbal, written, or by physical gesture, offered in court to prove the truth of the statement itself, generally where the person making the statement is not in court to testify as to the statement themselves - Hearsay evidence is generally inadmissible

2. Confession:
   A direct acknowledgement of guilt by the defendant – is admissible hearsay

3. Admission:
   A statement by a defendant against his/her interests

4. Spontaneous Statement (Res Gestae):
   A Spontaneous Statement describing an event made while perceiving the event or immediately after - is admissible hearsay

5. Business Records:
   Records made at or near the times of the events recorded by a person or from information received from a person with knowledge of the event, kept in the regular course of business and offered to the Court by a Custodian of the records - is admissible hearsay.

6. Public Records:
   Records kept by a Government Agency on matters for which there is a duty to keep reports and offered in Court by a Custodian of the records or Under Seal (Certified Government Record) – is admissible hearsay.

7. Dying Declaration:
   Made by victim about the cause of their impending death while believing death to be imminent and victim is unavailable to come to court – is admissible hearsay.

8. State of Mind of Listener:
   A statement made by another to a witness repeated in court to prove that the statement was made not that the statement was necessarily true - is admissible hearsay.
CHAPTER 9

Students should know the following definitions:

1. Exclusionary Rule:
2. Fruit of the Poisonous Tree: Evidence obtained legally through the use of
evidence obtained illegally
3. Independent Source: Evidence obtained lawfully by one source is admissible
even though another source obtained the same evidence improperly
4. Inevitable Discovery: Evidence discovered illegally which would certainly have
been discovered legally anyway
5. Witness Statement:

CHAPTER 10

Students should know the following definitions:

1. Private Searches
2. Standing Rule: Possessing the necessary relationship to an issue to be allowed to
raise that issue in court. A person cannot contest a search if their personal
rights were not violated by the search.

Students should know the following rules:

1. Abandoned Property
2. Open Fields: Large open unattended pieces of land can be entered without a
warrant
3. Plain View: An officer in a lawful place sees an item out in the open that he/she
recognizes as contraband
4. Good Faith
5. Consent Searches
   A search based on voluntary permission
6. Probable Cause Vehicle Searches (Carroll Doctrine)
   Vehicles can be searched on Probable Cause without a warrant
7. Exigent Circumstances Searches (Emergency Search)
   Officers can enter a home and search if they are chasing a fleeing
   felon, entering to stop a crime of violence or help someone injured,
or to stop evidence from being destroyed
8. Arrest Searches
   Persons arrested can be thoroughly searched, including purses the arrestee
   is holding, the area within reach if arrested in a house, and the entire
   passenger compartment of a car if arrested in a car
9. Frisks
   Pat-down for weapons during a stop and detain
CHAPTER 11

Students should know the following rules:

1. Inspectional Searches (Like border searches)
2. Regulatory Searches (Like bar searches)
3. School Searches – Requires reasonable suspicion
4. Correctional Searches
5. Roadblocks

CHAPTER 12

Students should know the following definitions:

1. Confession: A direct acknowledgement of guilt
2. Admission: An indirect acknowledgement of guilt

Students should know the following rules:

1. Admissibility of Confessions
   - Not during an illegal stop or arrest
   - Free and Voluntary Requirement
   - In compliance with Miranda
2. Free and Voluntary Rule
   - No physical force or threats
   - No promises
   - No improper coercion
     - Factors considered in determining coercion
       - Suspect’s susceptibility (age, criminal experience, etc)
       - Interview environment (location, length, intensity, etc)
3. Miranda:
   - Warnings: Right to remain silent, Anything said can be used against you, You have a right to an attorney, & If you can’t afford an attorney, one can be appointed
   - Only required when there is custodial interrogation
   - Miranda not required when questioning a suspect not in custody
   - Miranda not required when arresting a suspect who is not questioned
   - Public Safety Exception
CHAPTER 13

Students should know the following definitions:

1. Line-Ups
   A police identification technique whereby people or photographs of people are lined up for inspection and possible identification by a crime victim or witness.

2. Physical Lineup:
   A police identification technique whereby people are lined up for inspection and possible identification by a crime victim or witness.

3. Photographic Lineup:
   A police identification technique whereby photographs of people are shown for inspection and possible identification by a crime victim or witness.

4. Requirements for a Lineup include:
   a. 6 people or 6 photos of people
   b. The people should be of the same sex, race, and appropriate age
   c. The people should have similar or the same height, weight, build, and hair coloring
   d. The people should have approximately the same clothing
   e. The people should be posed in similar poses
   f. The suspect should be placed in line-up at random
   g. Give proper line-up instructions to witnesses – do not indicate whether suspect is included in line-up
   h. Maintain control of the situation

5. The Role of Counsel at Line-Up
   The accused has a right to have an attorney present at a line-up; however, their role is very limited:
   a. Participation is limited to observing
   b. Counsel cannot prohibit the line-up
   c. Counsel cannot examine witness at time of line-up
   d. Counsel cannot impose conditions on the line-up

6. Physical Testing
   A suspect in custody cannot refuse to participate in a line-up, or to provide bodily samples, once ordered by the Court.

7. Show-Ups
   A police identification technique in which the witness or victim of a crime is allowed to view the suspect individually, without the presence of similar-looking persons.

CHAPTER 14

Students should know the following rules:

1. Mere Suspicion = Voluntary Contact
   (Walking down streets)
Right to walk away – Florida v. Royer
Right to run away – Illinois v. Wardlow
No right to search for evidence except with permission
No right to frisk for weapons except with permission
Can question but suspect can refuse to answer

2. Reasonable Suspicion = Stop and Detain = Terry v. Ohio
   {Hiding behind streets}
   No right to search for evidence
   Possible right to frisk for weapons
   Can question but suspect can refuse to answer

3. Probable Cause = Arrest
   Can conduct full search (chapter 10)
   Can question but suspect can refuse to answer

4. Pre-Text Stop Rule – Whren v. U.S.
5. Profile Stop Rule
6. Rules For Vehicle Stops
   Occupants to exit vehicle
   Weapons inspect for safety if weapons suspected
   Search on probable cause (Carroll – Chapter 10)
   Search if making arrest (Belton – Chapter 10)

CHAPTER 15

Students should know the following definitions and rules:

1. Search Warrants:
   A court order allowing officers to search a particular place or particular items based on probable cause.

2. Wiretaps & Eavesdropping:
   Technological intrusion – Requires Court Order

3. Citizen Recordings (FS 934)

CHAPTER 16

Students should know the following definitions and rules:

1. Crime Scene Entry
   Public Area: Securing crime scene requires no justification
   Private Premises: Exigency Required (or Consent or Warrant)

2. Crime Scene Activities
   Police may stay as long as reasonably necessary (Although if the defendant’s residence, a Search Warrant should be obtained as soon as possible.)
3. Chain of Custody
   Foundation evidence tracing evidence from the time it was discovered to the time it’s offered in court
   - Prove the item in court is the same item discovered (no substitution)
   - Prove the item has not been tampered with or contaminated
   Chain of custody violations:
   - Items that could be tampered with (like drugs) – exclusion
   - Items readily identifiable and not subject to tampering (like guns) – Admissible if witness can Id

4. Latent Fingerprints:
   Fingerprints left by a person on any surface other then a place designed for recording fingerprints (a crime scene)

5. Trace Evidence
   When two objects come into contact with each other, there may be a transfer of small amounts of material from one object to the other.

CHAPTER 17

Students should know the following definitions and rules:

1. Videotapes & Photographs:
   It will be admissible if without a warrant:
   (1) It’s in an area the subject cannot expect privacy in, and
   (2) A witness testifies that it is a reliable reproduction of the events (Doesn’t have to be the one who took it)

2. Documents & Writings:
   Must be genuine and authentic

3. Best Evidence Rule
   The best evidence must be used in court which in the case of a document means the original unless unavailable

4. Questioned Document
   A document where questions are raised about who wrote it, if its genuine, or if it was forged or altered.

CHAPTER 18

Students should know the following definitions and rules:

1. Scientific Evidence:
   Evidence, usually in the form of expert testimony, concerning scientific theory, experiments, or tests

2. Criminal Justice Sciences
   DNA Genetic Profiling
   Forensic Entomology (Insects)
   Forensic Pathology (Death)
   Forensic Odontology (Dental)
Forensic Anthropology (Id Victims)
Ballistics (Firearms & bullets)
Fire and Explosive Science Evidence
Toxicology (Chemistry)
Serology (Bodily fluids)
Microanalysis (Small object id)
Questioned Documents Analysis
Accident Reconstruction
Alcohol Intoxication