

Index

- Accused
 - co-accused, benefits of appeals, 405–06
 - defined, 35, 38
 - evidence obtained in violation of rights, exclusion, 347–52
 - family members not required to testify against, 364–65
 - indictment, joinder of accused persons, 139, 312
 - mental health examinations, 245–46
 - mental incapacity of, 148–52, 246
 - physical examinations, 239–43
 - rights (*See* Fair trial rights; Freedom from self-incrimination; Right to counsel)
 - statement at trial, 338, 341–42, 367–68
 - summons by courts, 75–78
 - as witness, 367–68
- Acquittal, appeals. *See* Appeals
- Acquitted persons, status of, 384–85
- “Active exploitation” standard, 351
- Adopted children, 45, 256
- Adopted parent, 45, 256
- Afghanistan, 6
- African Charters
 - Human and Peoples’ Rights, on, 59, 105, 110, 118, 122, 124, 128, 281–82, 395
 - Rights and Welfare of the Child, on, 40, 459–60, 467
- African Commission Resolutions
 - Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa, on, 171, 353
 - Respect and Strengthening of the Independence of the Judiciary, on, 59
- African Union Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 124–26
- Air space, territoriality of, 44
- Angola, 6
- Appeals, 395–409. *See also* Interlocutory appeals
 - appeal statement, 400–02
 - co-accused, benefits of, 405–06
 - criminal investigations, discontinuation of or failure to initiate, 165
 - cross-appeal, 401–02
 - detention, 311
 - discontinuation of, 403
 - errors and miscalculations in trial court judgments, 389
 - grounds of, 397–400
 - leave to appeal defined, 396
 - notification of respondent, 401–02
 - orders for anonymity, 271
 - orders for protective measures, 263–65
 - prosecutors, by, 395–96
 - responses to, 401–02
 - restrictive measures other than detention, 311
- Appeals court, 56–58
 - competence regarding detention of convicted persons, 403
 - convicted persons, duties regarding detention of, 403
 - deliberations of, 405–06
 - hearings, 403–04
 - judges (appeals court panels), 57–58
 - judgment on appeal, pronouncement of, 407–08
 - president, 57
 - presiding judge, 58
 - registry, 70–71
 - reopening of criminal proceedings, 414–15
 - retrial orders, 405–06
 - sitting *en banc* defined, 406
 - staff, 72
 - subject matter jurisdiction, 56
 - territorial jurisdiction, 56
 - trial records, transmission to, 402–03
 - written judgments, preparation and release, 58, 408–09
- Appellant defined, 402
- Application defined, 35, 38–39
- Appropriate adult defined, 180
- Arab Charters, Human Rights, on, 105–07
- Arbitrary arrest or detention defined, 281
- Arrest, 281–91. *See also* House arrest
 - defined, 35, 39, 283, 285

- freedom from arbitrary arrest, 281–82
 - presumption of liberty, 281–82
 - procedure upon, 286–90
 - provisional arrest prior to extradition, 445–47
 - review of legality of, 292–93
 - unlawful arrest, allegations of, 292–93
 - under warrant, 284–86
 - without warrant, 282–84
- Arrested persons
 - access to doctors, 287, 289
 - allegations of mistreatment or unlawful arrest or detention, 292–93
 - arrested defined, 199, 201
 - consular support for, 287, 289
 - defined, 35
 - detention (*See* Detention)
 - information provided to upon arrest, 286–90
 - information regarding provided to family members, 286, 288
 - juveniles, 474–75
 - questioning of, 290
 - right to counsel, 288
- Audio recordings, 169–71
- Autopsy defined, 248
- Avoid harm defined, 471
- Bail
 - grounds for, 296–97
 - prosecutorial applications for, 301–06
 - provision of, 297–98
 - warrants for, 294, 298–300, 304
- Balance of probabilities, 43, 304, 321
- Bangalore Principles of Judicial Conduct, 59, 63, 65–66, 68
- Beijing Rules, 40, 459–60
- Beneficium cohesionis* principle, 406
- Beyond reasonable doubt, 43, 338
- Biometric data, 242
- Book of evidence, 324
- Bosnia and Herzegovina, 144, 252, 264
- Brahimi Report, 7–8
- Burden of proof, 220, 304, 336, 422
- But-for link (evidence), 351
- Cambodia, 6–7, 62, 102
- Cassation defined, 396
- Child victims and witnesses
 - child-sensitive approach to questioning, 374–75
 - further reading and resources, 504
 - solemn declarations (oath), 368–69
 - statements not under oath, 381–83
- Children. *See also* Juveniles
 - adopted children, 45, 256
 - “best interests” of, 466–67, 474
 - child defined, 35, 39–40, 374
 - interests of, 117
 - violence against, 93–94
- Close protection defined, 252
- Coastal seas, territoriality of, 44
- Coercion, freedom from
 - fair trial rights, 110–11
 - rights during questioning, 177–78, 349, 353
- Collaborators of justice, 272–73
- Commercial records defined, 213
- Competent, 35, 403
- Competent legislative authority defined, 35, 40
- Computer systems and data. *See also* Cybercrime
 - computer data
 - access to, 209–11
 - defined, 206, 210–11
 - expedited preservation of, 204–07
 - noncompliance, penalties, 207
 - computer systems
 - defined, 210
 - point of access, identification of subscriber, owner, or user of, 207–09
 - noncompliance, penalties, 209
 - seizure, 209–11
 - data preservation defined, 207
 - data retention defined, 207
 - data-storage medium defined, 211
- Conditional release, 392–94, 479–80
- Conditional release panel defined, 394
- Confession evidence, 349–50
- Confiscation, 422–26
 - defined, 218
 - proceeds of crime or of property of corresponding value, 424
 - property, equipment, or other instrumentalities, 423
 - third persons, rights, 425–26
- Connexité, 312
- Consent issues, 356–59, 473
- Consular support for arrested persons, 287, 289

- Content data defined, 225
- Controlled delivery defined, 225
- Conventions. *See also* European Conventions; Inter-American Conventions
- American Convention on Human Rights, 59, 105–08, 110, 112–14, 117–18, 120–22, 124–25, 222, 284, 288, 297, 395, 460, 481–82, 489
 - Arab League Convention on Mutual Assistance in Criminal Matters, 427
 - Corruption, against, 43, 213–14, 218–21, 252–53, 422, 428, 430, 432–36, 438–41, 447, 451, 453
 - Council of Europe (*See* Council of Europe)
 - Economic Community of West African States (*See* Economic Community of West African States)
 - Elimination of All Forms of Racial Discrimination, on, 105–06
 - Elimination of Discrimination against Women, on, 106
 - Illicit Traffic in Narcotic Drugs and Psychotropic Substances, against, 219
 - International Convention on the Protection of All Persons from Forced Disappearances, 289
 - Protection of All Persons from Forced Disappearance, on, 483
 - Rights of the Child, on, 39–40, 59, 110, 459–60, 467, 474–75
 - Suppression of the Financing of Terrorism, for, 219
 - Torture Convention, 110, 348, 352, 452
 - Transnational Organized Crime, against, 213–14, 218–22, 252–53, 272, 428–30, 432–36, 438–41, 447, 451, 453
 - Vienna Convention on Consular Relations, 289
- Convicted persons, 35, 392, 403
- appeals (*See* Appeals)
- Cooperative witnesses, 271–80
- defined, 272–74
 - hearings, 276–78
 - records and record keeping, 278–79
 - immunity from prosecution, 271–73
 - liability for false testimony of, 279–80
 - use in securing convictions, 381–82
- Corporate responsibility. *See* Legal persons
- Corruption, 225, 500, 505–07
- Council of Europe
- Convention on Cybercrime, 205–07, 210–11, 222, 225, 430
 - Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and the Financing of Terrorism, 214, 221, 422
 - recommendations
 - 19, Role of Public Prosecution in the Criminal Justice System, 90
 - No. R (85) 11, Position of the Victim in the Framework of Criminal Law and Procedure, 131–32
 - No. R (94) 12, Independence, Efficiency and Role of Judges, 59
- Courts, 47–88. *See also* Appeals court; Judges; Trial courts
- administration of, 73–81
 - further reading and resources, 515
 - change of location, 85–86
 - organization of, 48
 - personnel, 69–72
 - president, 69–70
 - proceedings, 81–88
 - records and record keeping, 82–85
 - sanctions, 86–88
 - service of documents, 73–74
 - specialized courts, 48
 - submissions to, 73
 - summonses (*See* Summonses)
 - vice president, 69
- Covenants, Civil and Political Rights, on, 41, 59, 105–08, 110, 112–18, 120–22, 124–25, 177, 222, 281–82, 284, 288, 297, 395, 467, 481–82, 488–89
- Covert surveillance, 222–24
- destruction of unused materials from, 234–35
 - entrapment prohibited, 233
 - execution of, 231–32
 - extension of warrant, 233–34
 - general provisions, 224–25
 - noncompliance with warrant, 230, 232
 - service providers, implementation of warrants for, 231–32

- under warrant, 227–30
 - without warrant in exigent circumstances, 226–27
- Crime, further reading and resources, 500–02
- Criminal contamination defined, 475
- Criminal dispositions, 464, 521–22
- Criminal investigations, 153–280
 - accused (*See* Accused)
 - conduct of, 154–55
 - criminal offenses, reporting, 156–57
 - discontinuation of, 162–65
 - evidence (*See* Evidence)
 - further reading and resources, 500–02, 504–14
 - initiation of, 158–60, 164–65
 - investigation defined, 36
 - measures prior to formal initiation of, 157–58
 - participation in by victims, 135
 - prosecutor's discretion not to initiate, 160–61, 165
 - purpose of, 154
 - records and record keeping, 153, 167–73
 - actions by police and prosecutor, 167–68
 - audio or video recordings, 169–71
 - questioning of suspects or other persons, 169–73
 - retention, security, and storage of information and evidence, 166
 - suspects (*See* Suspects)
 - suspension of, 161–62, 164–65
 - unlawful deprivation of liberty, 487
 - witnesses (*See* Witnesses)
- Criminal law reform
 - guiding principles for, 27–31
 - assessment of existing laws and systems, 27–28
 - breadth and inclusivity of process, 30
 - continuing nature of legal reform, 31
 - coordination by single independent body, 29
 - holistic nature of criminal law reform, 28–29
 - realistic time frames, 30
 - resource and financial implications, 31
 - transplantation of legal models, 30
 - prior efforts, 6–7
- Criminal law reform resources
 - assessment tools, 524–25
 - comparative criminal procedure, 524
 - customary/traditional systems of justice, 525–26
 - law reform agencies, 526–27
 - law reform process, 527–28
 - legislative drafting in plain English, 528–29
 - legislative drafting manuals, 529
- Criminal responsibility
 - admission of, 143–52
 - mental incapacity of suspect or accused, 148–52
 - proceedings, generally, 143–45
 - time limits, 146–47
 - criminally responsible defined, 382
 - determination of, 386
 - juveniles found to be criminally responsible, 464
- Cross-appeals, 401–02
- Cross-examination, 35, 40–41, 342–43
- Cruel, inhuman, or degrading treatment
 - defined, 111
 - excluded evidence, 352–53
 - freedom from (fair trial rights), 110–11
 - rights during questioning, 177–78, 349, 353
- Cybercrime, further reading and resources, 500, 507
- Day defined, 35, 41
- Deaf persons, questioning, 179–80
- Deaf witnesses, solemn declarations (oath), 369
- Declarations
 - American Declaration of the Rights and Duties of Man, 59, 107, 120, 222, 281
 - Basic Principles of Justice for Victims of Crime and Abuse of Power, of, 44
 - Cairo Declaration of Human Rights in Islam, 281
 - Human Rights of Individuals Who Are Not National of the Country in Which They Live, on, 289
 - Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 352–53
 - Protection of All Persons from Enforced Disappearances, 284

- Right to a Fair Trial and a Remedy, on the, 59
- Rights of the Child, on, 459
- Universal Declaration of Human Rights, 59, 106, 110, 115, 122, 125
- Universal Islamic Declaration of Human Rights, 106–07, 222, 281
- Defense. *See also* Right to counsel
 - access to records, 168, 172
 - defined, 35
 - disclosure obligations, 329–31
 - fair trial rights, 114
- Defense service, 99–102
- Defense unit (legal aid), 100–01
- Definitions, 35–46
- Degrading treatment defined, 243
- Democratic Republic of Congo, 62
- Deprivation of liberty
 - legality of, right to review (*See* Habeas corpus)
 - unlawful, 487–89
- Derivative evidence, 351–52
- Destined for use in defined, 220
- Detention
 - appeals, 311
 - bail (*See* Bail)
 - conditions of, 291, 296
 - continued detention hearings, 306–07
 - convicted persons, duties of appeals
 - court regarding detention of, 403
 - defined, 35, 41
 - detained defined, 199, 201
 - detained persons, 41, 118–20
 - detainee defined, 35, 41
 - detention on remand defined, 41
 - freedom from arbitrary detention, 281–82
 - grounds for, 295–96
 - hearings and trials
 - determinations, 304
 - duties of judges, 310–11
 - initial hearing, 292–93
 - issues at, 310–11
 - issues during trials, 310–11
 - judges' duties at hearing and trial, 310–11
 - juveniles, 475–76
 - prosecutorial applications for, 301–06
 - provisional detention, persons on scene
 - of criminal offense, 187
 - restrictive measures in lieu of (*See* Restrictive measures other than detention)
 - time limits, 307–08
 - extensions, 308–10
 - unlawful detention, allegations of, 292–93
 - warrants for, 77, 294–95, 301–02, 305, 311
- Detention authorities, 36, 81
- Detention center defined, 36, 41
- Direct examination, 36, 40–41, 342–43
- Disclosure. *See* Evidence: disclosure
- Discovery. *See* Evidence: disclosure
- Dispositions, juveniles, 464, 478–79
- Doctors
 - arrested persons, access to, 287, 289
 - defined, 36, 42–43
 - determination of age of juveniles, 465
- Document defined, 36
- Document servers, duties, 74
- Domestic violence
 - assistance to victims, 137
 - further reading and resources, 508
 - interviews of female victims, 181–82
 - reports of, 157
 - victims, rights of, 155
- Double jeopardy, 160, 385, 395
 - exceptions, 139
- Drug offenses, further reading and resources, 500
- Due process, further reading and resources, 499, 515–17
- Duress, freedom from
 - fair trial rights, 110–11
 - rights during questioning, 177–78, 349, 353
- Duty to prosecute defined, 94
- Dwellings, 190
 - searches (*See* Searches: of premises and dwellings)
- East Timor
 - absence of forensic pathology expertise, 41–42, 151
 - admission of criminal responsibility, 144
 - criminal law reform efforts, 6–7
 - defense unit (legal aid), 100
 - evolution of Model Codes project, 9
 - legal aid, 102
 - monitoring of court proceedings, 84
 - as recognized state, 44
 - search of persons, 200
 - specialized courts, 48

- Economic Community of West African States
 - Convention on Extradition, 441, 444–46, 451–53, 455–58
 - Convention on Mutual Assistance in Criminal Matters, 427
- El Salvador, 46
- Equal protection of the law, 105
- Equality before the law, 105–06
- Equality of arms principle, 89, 100, 114, 116, 121, 324
- Equality of treatment, 105
- European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 129–30, 170, 177, 289–90, 293
- European Conventions
 - European Convention on Mutual Assistance in Criminal Matters, 430
 - Extradition, on, 441, 444–46, 451–58
 - Human Rights and Fundamental Freedoms, on, 59, 102, 109, 120, 123
 - Mutual Assistance in Criminal Matters, on, 427
 - Protection of Human Rights and Fundamental Freedoms, for, 112–18, 121–22, 124–25, 128, 222, 282, 284, 288, 296, 382, 395, 481–82, 488–89
- European Court of Human Rights, 61, 66, 106–07, 109, 111, 116–17, 119, 121, 123, 125, 177–78, 196, 222–23, 230, 243, 264–65, 282, 284, 296, 298, 378, 382, 422, 484, 486
- European Prisons Rules, 289
- Evidence, 174–251, 316–31. *See also* Rules of evidence; Searches; Seizure
 - computer systems and data (*See* Computer systems and data)
 - confession evidence, 349–50
 - costs of collection, 175
 - covert surveillance or investigation (*See* Covert surveillance)
 - defined, 36
 - derivative evidence, 351–52
 - disclosure after confirmation hearing and prior to trial, 324–31
 - breach of obligations by prosecutor or defense, 331
 - materials in prosecutor's possession or control, 325–26
 - matters not subject to, 326–27
 - names of defense witnesses, 330
 - names of prosecution witnesses, 328–29
 - obligations on defense, 329–30
 - restrictions on, 327–28
 - disclosure prior to confirmation hearing, 314, 316–17
 - expert witnesses (*See* Expert witnesses)
 - fingerprints, 188
 - forensic (*See* Forensic investigations)
 - hearsay evidence defined, 345
 - information gathering, 187–88
 - inspection of vehicles, 200–01
 - investigative measures, 182–87
 - orders (*See* Orders)
 - photographs, 188
 - production orders, 212–13, 362
 - property, preservation of, 213–14
 - provisional detention, persons on scene of criminal offense, 187
 - questioning (*See* Questioning)
 - records and record keeping, 199–201
 - seized objects and documents, 185–86
 - retention, security, and storage of, 166
 - suspicious transactions, freezing of, 213–14
 - telecommunications systems and data (*See* Telecommunications entries)
 - unique investigative opportunities, 250–51
 - victims, access to, 135
 - warrants (*See* Warrants)
- Evidence room defined, 166
- Exclusionary rules. *See* Rules of evidence: excluded evidence
- Exhumation defined, 248
- Existing laws, revision of, 14
- Expert witnesses, 235–38
 - computers and computer data, 211
 - defined, 36
 - evidence, 235–38
 - failure to appear in trial court, consequences of, 366–67
 - summonses, 78–81
- Extradition, 441–58
 - application of treaties and the MCCC, 442

- costs of, 457–58
- defined, 442
- further reading and resources, 500, 520–21
- hearings, 51, 447–54
- instituting, 443–45
- requests for, 443–58
 - concurrent requests, 457
 - from a foreign state, 458
 - grounds for, 447–48, 451–53
 - provisional arrest prior to, 445–47
 - refusal of, 448, 451, 453–54
- rule of specialty, 456
- surrender to requesting state, 455–56
- Extraordinary legal remedy. *See* Reopening of criminal proceedings
- Fair hearings, 115–18, 334
- Fair trial rights, 105–21
 - accused's presence during hearings, trials, and sentencing, 115–18, 334–35, 383–84, 387, 447, 450
 - assistance from interpreter, 112
 - detained persons, trial within a reasonable time or release, 118–20
 - equality before the law and courts, 105–06
 - examination of witnesses, 120–21
 - fair and public hearing, 115–18, 334
 - freedom from coercion, duress, threat, torture, or cruel, inhuman, or degrading treatment, 110–11
 - freedom from discrimination, 106–07
 - further reading and resources, 499, 515–17
 - information on charges, 113
 - judge's presence during trial, 336
 - preparation of defense, 114
 - presumption of innocence, 107–08
 - privilege against self-incrimination, 108–09
 - right to silence, 108–09
 - trial without undue delay, 118–20
 - juveniles, 467–68
- Family members, 256, 286, 288, 364
- Financial records defined, 213
- Fingerprints, 188
- Firearms, offenses involving, further reading and resources, 502
- Foreign country defined, 44
- Forensic autopsies defined, 248
- Forensic investigations, 239–49
 - autopsy and exhumation, 246–49
 - DNA analysis, 244–45
 - further reading and resources, 504–05
 - mental health examination of suspect or accused, 245–46
 - physical examination of suspect or accused, 239–43
- Forensic pathologists, 36, 151, 248
- Forensic pathology, generally, 41–42
- Forfeiture defined, 218
- Free system of evidence, 345
- Freedom from arbitrary arrest, 281–82
- Freedom from discrimination, fair trial rights, 106–07
- Freedom from self-incrimination
 - suspect's or accused's, 108–10, 173, 177, 181, 288, 292, 330, 339
 - witness's, 259, 370
- Freezing defined, 218
- Friends of the court, 238, 245
- "Fruits of the poisonous tree" doctrine, 351
- Full immunity defined, 272
- Functional independence defined, 61
- Gender violence, 93–94
- Grounded suspicion defined, 43
- Guidelines
 - Forensic Psychologists, for, 151
 - Prevention of Juvenile Delinquency, for, 40, 459
 - Protection of Juveniles Deprived of Their Liberty, for, 40, 459
 - Role of Prosecutors, on, 90, 94–96
- Habeas corpus, 481–87
 - defined, 484
 - motion for
 - assignment to a judge, 483
 - date of hearing, 485
 - filing procedures, 482–83
 - hearing on, 485–87
 - initial review of, 484–85
- Head of the competent authority responsible for authorizing extradition defined, 454
- Hearsay evidence defined, 345, 377
- "Hot pursuit" exception, 283
- House arrest
 - continuation, hearings, 306–07

- issues at trials, 310–11
 - time limits, 307–10
 - warrant for, 305
- Human rights, 15, 499–500, 503
- Impeachment, of witnesses, 379–80
- Imprisonment, supervision by trial courts, 392
- In flagrante delicto defined, 283
- Indictment
 - amendment
 - after confirmation hearing, 322–23
 - prior to confirmation hearing, 318–19
 - confirmation hearings, 319–22
 - waiver, 317–18
 - defined, 36
 - form and content, 42
 - joinder of accused persons, 139, 312
 - joinder of criminal offenses, 313
 - notification of suspect, 315–16
 - presentation and confirmation prior to
 - confirmation hearing, 314–15
 - receipt by court, 315–16
 - suspect's response, 317
- Information technology data defined, 206
- Inhuman acts defined, 243
- Insanity defense, 151
- Institutional independence defined, 61
- Intangible defined, 214, 221
- Inter-American Conventions
 - Extradition, on, 441, 444–45, 447, 451–58
 - Forced Disappearance of Persons, on, 284
 - Mutual Legal Assistance in Criminal Matters, on, 427
 - Prevent and Punish Torture, to, 111, 352
- Interests of a child, 117
- “best interests,” 466–67, 474
- Interests of justice, 117, 144–45, 161, 164
- Interlocutory appeals, 418–21
 - defined, 36, 42, 418
 - determination of, 420–21
 - procedure for *Seeking*, 420
 - warrants for detention, continued
 - detention, or restrictive measures
 - other than detention, 311
 - when permitted, 396
- International Committee of the Red Cross (ICRC), 349, 355
- International Criminal Court, 348, 396, 442
 - Rules of Procedure and Evidence, 355, 357–58, 404
- International criminal law, further reading and resources, 502–03
- International Criminal Police Organization (INTERPOL), 431–32, 445
- International Criminal Tribunal for Rwanda, 255, 274, 348, 396
 - Rules of Procedure and Evidence, 346
- International Criminal Tribunal for the former Yugoslavia (ICTY), 264–65, 274, 348, 355, 396
 - Rules of Procedure and Evidence, 312, 346
- International human rights standards, amending laws to comply with, 15
- Interpreters, assistance from
 - fair trial rights, 112
 - during questioning, 179–80, 289
- Intimidated witness defined, 252
- Iraq, specialized courts, 48
- Joinder of accused persons, 139, 312
- Joinder of criminal offenses, 313
- Joint and separate trials, 339
- Judges, 59–68. *See also* Appeals court; Courts; Trial courts
 - admission of criminal responsibility, accepting, 144–45
 - detention hearings and trials, duties, 310–11
 - impartiality
 - disqualification for lack of, 66–67
 - excusal for lack of, 64–66
 - further reading and resources, 518–19
 - generally, 59–60, 63–64
 - independence
 - further reading and resources, 518–19
 - generally, 59–62
 - insulation from pressure, 62–63
 - public confidence in, 68
 - trials, duties (*See* Trials)
- Jurisdiction defined, 36
- Jury system, 51
- Juvenile diversion programs, 469–70
- Juvenile justice, 459–80
 - aim of, 466
 - application of MCCP, 461
 - dispositions, 478–79
 - juveniles found to be criminally responsible, 464
 - further reading and resources, 519–20
 - jurisdiction, 464

- principles applicable to, 466–68
- proceedings in court, 477
- records and record keeping, 478
- special judicial panels, composition and duties of, 462–63, 472, 477–80
- Juveniles. *See also* Children
 - arrests of, 474–75
 - competence to stand trial, 150
 - conditional release from imprisonment, 479–80
 - consent issues, 473
 - contact with police and prosecutor, 471
 - defined, 36, 39–40, 459
 - detention, 475–76
 - determination of age, 464–65
 - fair trial rights, 467–68
 - physical examinations, 473
 - questioning of, 471–72
 - review of arrests, 475
 - right to counsel, 472–74, 477
 - right to privacy, 467–68, 477
 - warrants and orders against, 472–73
- Kenya, 101
- Kosovo
 - absence of forensic pathology expertise, 42, 245
 - admission of criminal responsibility, 144
 - cooperative witnesses, 273
 - covert surveillance in, 222–24
 - criminal law reform efforts, 6–7
 - detention, periodic review of, 307
 - evolution of Model Codes project, 9
 - judicial independence, 62–63
 - Juvenile Justice Code, 469–70
 - legal aid, 101–02
 - monitoring of court proceedings, 84
 - victim assistance units, 137
 - witness anonymity, 264
 - witness protection, 252
- Latimer House Guidelines for the Commonwealth, 59
- Laundering of money, further reading and resources, 500, 508
- Legal advice defined, 100
- Legal assistance (legal aid) rights. *See* Right to counsel
- Legal framework, need for, 5–6
- Legal persons, prosecution of, 138–42
 - defense counsel for, 140
 - further reading and resources, 521
 - indictment, contents of, 141
 - opening statements at trial, 141–42
 - proceedings against, 138–39
 - representatives for, 139–40
 - service of documents and other court materials, 141
 - written judgments against, 142
- Legal representation defined, 100
- Lesser included offense defined, 382
- Letters rogatory defined, 432
- Liberia
 - compensation of judges and juries, 51
 - criminal law reform efforts, 6
 - evolution of Model Codes project, 9
 - forensic pathology expertise, 41–42
 - judicial independence, 62
 - legal aid, 102
 - monitoring of court proceedings, 84
- List model (legal aid), 100
- Malawi, 101
- Medical assistance, rights of victims, 136–37
- Medical examinations. *See* Physical examinations
- Medical professional defined, 36, 42–43
- Mental health
 - accused's, mental incapacity of, 148–52, 246
 - declaration of mental incompetence, 148–49
 - juveniles, competence to stand trial, 150
 - mental incompetency plea, 150
 - suspects, mental incapacity, 148–52
- Mental health examinations, 245–46, 363
- Mentally disordered or otherwise mentally vulnerable persons, 151, 180
- Military members, summonses, 81
- Miscarriage of justice, compensation mechanism for, 488–89
- Mistreatment of arrested persons, 292–93
- Model Code of Criminal Procedure (MCCP)
 - defined, 36
 - juvenile justice, 461
 - mutual legal assistance, 428–29
 - potential uses of, 15, 17
 - publication, 10, 42
 - purpose, 45–46
 - synopsis, 19–25
- Model Codes
 - potential uses of, 13–18

- existing laws, revision of, 14
 - international human rights standards, amending laws to comply with, 15
 - Rome Statute, amending laws to comply with, 17
 - special tribunals to address past abuses, 17–18
 - transitional laws, creating, 15–16
 - vulnerable groups, protection of, 16–17
 - tailoring to needs of post-conflict states, 11–13
- Model Codes for Post-conflict Criminal Justice. *See specific code*
- Model Codes project
 - evolution of, 8–9
 - overview, 5–10
 - publication of model codes, 10
- Model Criminal Code (MCC)
 - appeals court deliberations, 405
 - appeals statement, filing, 401
 - computer and telecommunications data, preservation of, 205–06
 - conditional release, 394
 - confiscation, 422–24
 - cooperative witnesses, 272, 278, 280
 - covert surveillance, 229–30, 232
 - criminal responsibility over legal persons, 138–42, 145
 - defined, 36
 - disclosure by defense, 329–30
 - errors of law, 398
 - evidence of sexual violence, 358–59
 - excluded evidence, 352
 - extradition, 447, 453–54
 - final judgment, 385
 - indictment confirmation hearings, 320
 - investigations, grounds barring initiation of, 159–60
 - juvenile justice, 459–60, 464–65, 478–79
 - mental health examinations, 245–46
 - mental incapacity of suspect or accused, 148, 151
 - mutual legal assistance, 435
 - penalties and orders, 386–87, 391
 - potential uses of, 14, 16, 18
 - prosecutors, duties of, 93
 - publication, 10, 42
 - reporting of criminal offenses, 157
 - restrictive measures other than detention, 300
 - right to self-defense, 123
 - search and seizure, 189
 - search of persons, 196
 - summonses, 76, 79–80
 - suspension of investigation, 161
 - temporary seizure, proceeds of crime or property used in crime, 218–19, 221, 223
 - trial courts
 - composition, 51
 - deliberations, 382
 - jurisdiction, 49
 - sanctions for misconduct, 87
 - warnings issued by, 371
 - trial procedure, 338
 - victims' rights, 132
 - witness anonymity, 269
 - witness protection, 253, 255, 259
 - witnesses, failure to appear, 367
- Model Detention Act (MDA)
 - arrest procedures, 287–88, 290
 - arrested persons, detention conditions of, 290
 - defined, 36
 - detainees, detention conditions of, 296
 - juveniles, detention or imprisonment, 476, 478
 - potential uses of, 18
 - publication, 10, 42
- Model Law on Extradition, 441, 444–45, 447, 451, 458
- Model Police Powers Act (MPPA)
 - defined, 36
 - generally, 103
 - investigative measures prior to formal investigation, 157–58
 - policing authority, general duties, 104
 - publication, 10, 42
 - search of persons, 196
 - seizure of objects and documents, 186
- Model treaties
 - Extradition, on, 441, 444–46, 451–53, 455–58
 - Mutual Assistance in Criminal Matters, on, 427, 430, 432–34, 436, 438–39, 441
- Monitoring and recording of private conversations defined, 224
- Monitoring of financial transactions and disclosure of financial data defined, 224–25

- Morals defined, 116
- More probable than not, 321
- Motions
 - defined, 37, 43, 174
 - habeas corpus (*See* Habeas corpus)
 - preliminary motions, 332–33
 - trial procedures, 340–41
- Mute persons, questioning, 179–80
- Mute witnesses, solemn declarations (oath), 369
- Mutual legal assistance, 427–40
 - application of treaties, agreements, and the MCCP, 428–29
 - further reading and resources, 501, 520–21
 - general principles, 428
 - measures of, 429–30
 - orders for, 435–37
 - requests for
 - central authority for receiving and transmitting, 431–32
 - costs of executing, 440
 - execution of, 437–38
 - execution to facilitate the appearance of a person in a requesting state, 438–39
 - form of, 432–34
 - hearings of, 434–37
 - use of information obtained from, 439
- National security defined, 116–17
- Ne bis in idem*. *See* Double jeopardy
- Nepal, 9
- Nexus requirement, 312
- Not criminally responsible, 382, 384
- Nuremberg Tribunal, 274
- Nurse defined, 37, 42–43
- Oaths (solemn declarations), 368–69
- Objective impartiality defined, 64
- Onsite inspection defined, 238
- Oppression defined, 177
- Orders
 - anonymity (*See* Witnesses: orders for anonymity)
 - collection of evidence, 182–84, 186–87
 - cooperative witnesses, 275–76, 279–80
 - defined, 37, 43, 174
 - imposition by trial courts (*See* Trial courts: penalties or orders)
 - juveniles, against, 472
 - production of evidence, 212–13, 362
 - protective measures (*See* Witnesses: orders for protective measures)
- Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 44
- Organization for Security and Cooperation in Europe, 7, 84
 - Legal Systems Monitoring Section (LSMS), 307
- Organized crime, further reading and resources, 501, 509–10
- Other status (freedom from discrimination), 107
- Panel model (legal aid), 100–01
- Paper review, 314, 396, 484
- Paralegal aid, 101
- Parole, 394, 480
- Parole board, 394
- Parole service, juveniles, 480
- Partial immunity defined, 272
- Party joinder, 312
- Pat down search defined, 196
- Penalties
 - appeals (*See* Appeals)
 - computer data, expedited preservation of, noncompliance, 207
 - computer systems, point of access, identification of subscriber, owner, or user of, noncompliance, 209
 - defined, 464
 - further reading and resources, 521–22
 - imposition by trial courts (*See* Trial courts)
 - telecommunications systems, identification of subscriber, owner, or user of, noncompliance, 209
 - telecommunications traffic data, expedited preservation of, noncompliance, 207
- Person sought defined, 441
- Personal independence defined, 61
- Persons
 - searches (*See* Searches: of persons)
 - trafficking in, further reading and resources, 502, 513–14

- Photographs, as evidence, 188
- Physical examinations
- accused's, 239–43
 - arrested persons, access to doctors, 287, 289
 - defined, 196
 - juveniles, 473
 - orders for, 363
 - suspects, 239–43
- Pleas
- guilty pleas, entering, 143–45
 - insanity, 150
 - mental incompetency, 150
 - plea agreements, 145
- Police, 81, 103–04, 155, 167–68. *See also* Criminal investigations; Evidence; Questioning
- Precious witnesses defined, 263
- Preferring an indictment, 315
- Premises, 37, 190
- searches (*See* Searches: of premises or dwellings)
- Preponderance of evidence. *See* Balance of probabilities
- Presumption of innocence, 107–08
- Presumption of liberty, 281–82
- Prima facie case, 321
- Principles
- African Union Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 124
 - Bangalore Principles of Judicial Conduct, 59, 63, 65–66, 68
 - Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, 249
 - Independence of Judiciary, 59, 62–63
 - Justice for Victims of Crime and Abuse of Power, 131–36
 - Protection of All Persons under Any Form of Detention or Imprisonment, 39, 41, 108–10, 120, 123, 125, 128, 169, 249, 281, 284, 287–90, 293, 295, 305, 307, 474, 482
 - Role of Lawyers, 102, 122–24, 126, 128
 - Suva Statement on the Principles of Judicial Independence and Access to Justice, 59
- Privilege against self-incrimination. *See* Freedom from self-incrimination
- Privileged communications, 230, 366
- Probable cause, 37, 43, 214, 285
- Probation board, 394
- Probative value (of evidence), 341, 346, 350
- Procedures, Effective Implementation of
- Basic Principles on the Independence of the Judiciary, for, 59, 62
- Proceeds of crime, 215–21
- “Prohibition of *reformatio peius*” principle, 406, 411
- Promptly defined, 113
- Property
- defined, 214, 221
 - preservation of as evidence, 213–14
 - temporary seizure, property used in or destined for use in criminal offense, 215–21
- Proportionality, principle of, 466
- Prosecution service, 89–98
- chief prosecutor's office, composition, 91
 - deputy chief prosecutor, 91
 - deputy prosecutor, 91–92
 - duties of, 92
 - independence, 94–95
 - insulation from pressure, 95
 - organization of, 90–91
 - prosecutor offices, composition, 91–92
- Prosecutors. *See also* Criminal investigations; Evidence; Questioning
- appeals, 395–96
 - bail, applications for, 301–06
 - cooperation with police, 155
 - criminal investigations, discretion not to initiate, 160–61
 - detention, applications for, 301–06
 - disclosure, 325–26, 328–29, 331
 - duties of, 93–94
 - impartiality, 96
 - disqualification for lack of, 98
 - excusal for lack of, 97
 - juveniles, contact with, 471
 - legal persons, actions against (*See* Legal persons, prosecution of)
 - notification to victims of criminal proceedings, 134
 - records and record keeping, 167–68
 - request from victims to undertake investigation, 133

- restrictive measures other than
 - detention, applications for, 301–06
- updates to victims on progress of case, 133–34
- victims as private prosecutors, 131
- Protocols
 - European Convention on Mutual Assistance in Criminal Matters, 430
 - Legal Investigation of Extra-Legal, Arbitrary and Summary Executions (“Minnesota Protocol”), 249
 - Model Autopsy Protocol, 249
 - Model Protocol for Disinterment and Analysis of Skeletal Remains, 249
- Prudent person defined, 43
- Psychiatrist defined, 37
- Psychological assistance to victims, 136–37
- Psychologist defined, 37
- Public defender model (legal aid), 100
- Public hearings. *See* Fair trial rights
- Public officials, 37, 43, 157
- Public order defined, 116
- Questioning, 175–82
 - arrested persons, of, 290
 - assistance from interpreter, 179–80, 289
 - audio or video recordings of, 169–71
 - child victims and witnesses, 374–75
 - of deaf or mute persons, 179–80
 - defense, access to records of, 172
 - freedom from coercion, duress, threat, torture, or cruel, inhuman, or degrading treatment, 177–78, 349, 353
 - guiding principles, 175–78
 - inappropriate methods of, 177–78
 - juveniles, of, 471–72
 - of mentally disordered or mentally vulnerable persons, 180
 - records and record keeping, 169–73
 - of suspects, generally, 178–79
 - of victims and other persons, 181–82
 - witnesses, 373
 - written records of, 171–72
- Racial discrimination defined, 106
- Rape defined, 358
- Real-time defined, 225
- Reasonable person defined, 43
- Reasonable suspicion, 37, 43, 214, 285
- Reasonable time defined, 147, 152, 255
- Rebuttal evidence defined, 344
- Reciprocal disclosure defined, 330
- Reexamined defined, 40–41
- Regulatory purchase of an item, 225
- Relatives
 - defined, 37–38
 - distinguished from family members, 256
 - juveniles, presence during questioning of, 472
 - mentally disordered or mentally vulnerable persons, presence during questioning of, 180
- Relevant defined, 346
- Religious clergy, 354, 364–66
- Reopening of criminal proceedings, 410–17
 - applications for, 412–14
 - deliberations of trial or appeals courts, 415
 - general provisions, 410–11
 - grounds for, 411
 - pronouncement of judgment, 415–16
 - written judgments, preparation and release, 416–17
- Requested state defined, 441
- Requesting state defined, 441
- Respondents, notification of appeals, 401–02
- Responses, to appeals, 401–02
- Responsible persons, 472–73, 477
- Restrictive measures other than detention
 - appeals, 311
 - general provisions, 300–01
 - prosecutorial applications for, 301–06
 - warrants for, 294, 301–02, 304–05, 311
- Right to counsel, 122–30
 - arrested persons, 288
 - choice of, 124
 - communication with, 128–29
 - free legal assistance, 99, 125–26
 - mandatory free legal assistance, 126–27
 - further reading and resources, 517–18
 - generally, 99
 - juveniles, 472, 474, 477
 - presence of during interviews, trials, or hearings, 129–30, 256, 269, 278, 334–35, 338
 - restrictions on, 123
 - self-defense, 122–23

- victims, during criminal proceedings, 136
- waiver of, 127–28
- Right to privacy, 196, 222, 242
 - juveniles, 467–68, 477
- Right to silence, 108–09, 288
- Right to trial without undue delay, 118–20
 - juveniles, 467–68
- Riyadh Guidelines, 40, 459
- Rome Statute, 17, 442
- Rules for the Protection of Juveniles
 - Deprived of Their Liberty, 474–75
- Rules of evidence, 345–61
 - admissibility of evidence, hearings, 359
 - books, documents, and other tangible items, 360–61
 - excluded evidence
 - handling of, 352
 - International Committee of the Red Cross, privileged information, documents, or other evidence of, 354–55
 - MCCP, evidence obtained by violation of, 347–52
 - privileged communications, evidence of, 353–54
 - rights of accused, evidence obtained by violation of, 347–52
 - sexual conduct, evidence of, 356–57
 - torture or cruel, inhuman, or degrading treatment, evidence obtained through, 352–53
 - warrant or order, evidence obtained without, 186–87
- general provisions, 345–46
- irrelevant or repetitive evidence, refusal to allow, 346–47
- principles of evidence, sexual violence cases, 358–59
- records and record keeping, 360–61
- Search and seizure, generally, 189–221
- Searches
 - of letters, packages, containers, and parcels defined, 225
 - of persons
 - distinguished from physical examination, 242
 - execution of, 199–200
 - general provisions, 195–96
 - under warrant, 196–98
 - without warrant, 198–99
 - of premises and dwellings
 - execution of, 193–95
 - general provisions, 189–90
 - oversight mechanisms, 194–95
 - under warrant, 190–92
 - without warrant, 192–93
 - of vehicles, 201–03
- Seizure
 - of computer, 209–11
 - defined, 218, 220
 - of objects and documents, 184–86
 - temporary, of proceeds of crime or property used in or destined for use in criminal offense, 215–21
- Self-defense, 122–23
- Sentencing hearings, 386–87
- Serious misconduct, 67
- Service providers, 206, 231–32
- Sexual harassment, questioning of juvenile girls, 472
- Sexual violence, 93–94, 358
- Sierra Leone
 - defense unit (legal aid), 100–01
 - judicial independence, 62
 - paralegal aid, 101
 - specialized courts, 48
- Simulations of corruption offenses, 225
- Sine qua non conditions (evidence), 351
- Social inquiry reports defined, 478–79
- Solemn declarations (oaths), 368–69
- Solomon Islands, 102
- South Africa, 101
- Special Court for Sierra Leone, 274
- Special tribunals to address past abuses, 17–18
- Standard Minimum Rules
 - Administration of Juvenile Justice, for, 39–40, 459–60, 466–67, 469–71, 474–75, 478
 - Treatment of Prisoners, for, 107, 125, 128, 288–89
- Standard of proof, 43, 321, 336
- Standard operating procedure (SOP), search and seizure, 189
- Standards
 - Minimum Standards of Judicial Independence, 59, 61–64
 - Professional Responsibility and Statement of Essential Duties and Rights of Prosecutors, 90

- State defined, 38, 44
- Stated misbehavior, 67
- Stay defined, 151
- Stop and frisk search defined, 196
- Subjective impartiality defined, 64
- Subpoenas. *See* Evidence: production orders
- Substantive independence defined, 61
- Sudan, 9
- Sufficient suspicion, 321
- Summonses
 - detention authority officials, 81
 - members of the military, 81
 - police officers, 81
 - suspect's or accused's, 75–78
 - witnesses, 78–81
- Surrender defined, 442
- Surveillance. *See* Covert surveillance
- Surveillance in private premises defined, 224
- Suspects
 - defined, 38
 - mental health examinations, 245–46
 - mental incapacity, 148–52
 - physical examinations, 239–43
 - rights (*See* Fair trial rights; Freedom from self-incrimination; Right to counsel)
 - summonses, 75–78
- Suspicious transactions, freezing of, 213–14
- Suva Statement on the Principles of Judicial Independence and Access to Justice, 59
- Tangible defined, 214, 221
- Targeted observation defined, 224
- Telecommunications data definitions, 206, 224
- Telecommunications systems, identification of subscriber, owner, or user of, 207–09
- Telecommunications traffic data, expedited preservation of, 204–07
- Territory defined, 38, 44
- Terrorism, further reading and resources, 501–02, 511–12
- Third persons, confiscation of property, 425–26
- Threats, freedom from
 - fair trial rights, 110–11
 - rights during questioning, 177–78, 349, 353
- Torture
 - defined, 110–11
 - freedom from, during questioning, 177–78, 349, 353
 - further reading and resources, 512–13
- Tracing defined, 220
- Traffic data defined, 206, 225
- Transaction defined, 312
- Transactional immunity defined, 272
- Transitional laws, creating, 15–16
- Trial courts, 49–55. *See also* Reopening of criminal proceedings
 - conditional release after trial, supervision of, 392–94
 - cooperation between courts, 54–55
 - court of first instance, 50
 - extradition hearings, 447–54
 - final judgments, 385
 - imprisonment, supervision of, 392
 - judges (special panels for juveniles), 462–63, 472, 477–80
 - judges (trial court panels)
 - appointment procedures, 51
 - deliberations, 51, 381–83
 - judge administrators, 52–53
 - presiding judges, 53–54
 - penalties or orders
 - evidence, producing, 362
 - execution of, 390–91
 - hearing and determination of, 386–87
 - medical examinations, 363
 - mental health examinations, 363
 - mutual legal assistance, 435–37
 - pronouncement of, 387
 - reenactments of criminal offense, 363
 - pronouncement of judgment, 383–84
 - registry, 70–71
 - staff, 72
 - subject matter jurisdiction, 50
 - territorial jurisdiction, 49
 - warnings issued to witnesses, 371
 - written judgments, 388–89, 435–37
- Trials, 334–94. *See also* Fair trial rights
 - burden of proof, 336
 - complexity of cases, effect on timeliness of, 119
 - detention or house arrest issues, 310–11
 - in absentia, 117–18, 335
 - judge's presence during trial, right to, 336
 - motions (*See* Motions)

- procedures, 40–41, 338–44
 - adjournment, 343–44
 - closing arguments, 344
 - closure of, 344
 - commencement of, 339–40
 - joint and separate trials, 339
 - motions relating to, 340–41
 - opening statements, 341
 - presentation of evidence during, 342–43
 - recesses, 344
 - statement of accused, 338, 341–42, 367–68
- public trials, 115–18, 334
- records and record keeping, 336–37
- standard of proof, 336
- undue delay, causes of, 119–20
- Undercover agents, deployment, 225
- Undue delay, at trial, 119–20
- Unique investigative opportunities, 250–51
- United Nations. *See also* Conventions;
 - Declarations; Guidelines; Model treaties; Principles; Protocols; Rules; Standard Minimum Rules
- Human Rights Committee
 - General Comment no. 8, Right to Liberty and Security of Persons, 284, 294
 - General Comment no. 13, Right to Education, 61–62, 107, 110, 112–19, 121, 128, 395, 459
 - General Comment no. 18, Nondiscrimination, 106
 - General Comment no. 20, Right to Freedom of Thought, Conscience and Religion, 110–11, 128, 289, 353
- Mission in Kosovo (UNMIK), 102, 222, 264
- Use immunity, 272, 370
- Vehicles
 - inspection of, 200–01
 - searches, 210–03
- Victim protection, further reading and resources, 522–23
- Victims, 131–37. *See also* Child victims and witnesses
 - access to evidence, 135
 - appeals, failure to initiate criminal investigations, 164–65
 - consent issues, 356–59
 - counsel for, in criminal proceedings, 136
 - criminal investigations, notification of initiation, suspension, or discontinuation, 164–65
 - defined, 38, 44–45
 - domestic violence, 137, 155
 - general provisions, 132–33
 - medical assistance for, 136–37
 - needs defined, 132
 - notification from prosecutor of criminal proceedings, 134
 - participation in criminal proceedings, 135
 - as private prosecutors, 131
 - psychological assistance for, 136–37
 - questioning of, 181–82
 - request to prosecutor to undertake investigation, 133
 - updates from prosecutor on progress of case, 133–34
- Video recordings, 169–71
- Violence against children, 93–94
- Vulnerable groups, protection of, 16–17
- Vulnerable witnesses, 252–53, 255–56
- Warrants
 - arrest under warrant, 284–86
 - bail, for
 - cancellation after completion of criminal proceedings, 299–300
 - cancellation during criminal proceedings, 299
 - consequences of breaching, 298
 - effective time frame of, 304
 - general provision, 294
 - collection of evidence
 - application for, 183–84
 - execution of, 184
 - failure to obtain, inadmissibility of evidence, 186–87
 - issuance of, 182–83
 - covert surveillance (*See* Covert surveillance)
 - defined, 38–39, 43, 174
 - detention, for (*See* Detention: warrants for)
 - house arrest, for, 305
 - juveniles, against, 472–73
 - persons, searches under warrant, 196–98

- premises and dwellings, searches under warrant, 190–92
- restrictive measures other than detention, for (*See* Restrictive measures other than detention: warrants for)
- writing requirements, 35, 38, 228, 230
- Web sites, 530–35
- Witness protection, 253, 372–73, 522
- Witnesses, 252–80, 364–80. *See also* Child victims and witnesses; Cooperative witnesses; Expert witnesses
 - absence during testimony of another witness, 371–72
 - absent witnesses, testimony of, 376–78
 - accused as, 367–68
 - anonymity, witnesses under threat, 263–66, 381–82
 - compensation of, 380
 - defense witnesses, disclosure of names, 330
 - defined, 38
 - examination of, fair trial rights, 120–21
 - failure to appear in trial court,
 - consequences of, 366–67
 - fair trial rights, 120–21
 - freedom from self-incrimination, 259, 370
 - impeachment of, 379–80
 - live and direct testimony, 375–78
 - obligation to testify, 364
 - orders for anonymity, 266–71
 - appeals, 271
 - grounds for, 266
 - hearings, 268–70
 - procedure for, 267–68
 - records and record keeping, 270
 - service of, 271
 - orders for protective measures, 256–65
 - amendment of, 262–63
 - appeals, 263–65
 - granting after hearing, 259–61
 - granting without hearing, 258
 - grounds for, 256
 - procedure for, 257–58
 - records and record keeping, 261–62
 - service of, 262
 - persons not required to testify, 364–66
 - physical or documentary evidence,
 - presentation to during trial, 379
 - preliminary information, 369–70
 - prior statements, presentation to during trial, 350, 378–79
 - prosecution witnesses, disclosure of names, 328–29
 - protective measures, generally, 252–56
 - questioning, 373–75
 - solemn declarations (oaths), 368–69
 - summonses, 78–81
 - vulnerable witnesses, 252–53, 255–56
 - warnings to, by court, 371
 - witness under threat defined, 252, 256
- Working day defined, 41
- Writing requirements
 - appeals court judgments, 58, 408–09
 - appeals statements, filing procedures, 400–01
 - arrested persons
 - allegations of mistreatment or unlawful arrest or detention, 292–93
 - information provided to, 286–88, 290
 - bail, prosecutorial applications for, 305–06
 - court proceedings, 82–83, 85
 - criminal investigations
 - appeals regarding, 165
 - conduct of, 155
 - initiation, suspension, or discontinuation of, 153, 159, 162–63
 - records, 104
 - variation of time limits, 146
 - declaration of mental incompetence, 148–49
 - detention
 - prosecutorial applications for, 305–06
 - warrants for, 295, 301–02
 - detention hearing determinations, 304
 - extradition requests, 450
 - indictments, 36, 42
 - interlocutory appeals, 420–21
 - judges
 - disqualification of, 67
 - excusal from duties, 65
 - orders for anonymity, 269
 - orders for imprisonment, 390–91
 - orders for protective measures, 257–58
 - police, actions by, 167–68
 - prosecutors
 - actions by, 167–68
 - disqualification of, 98
 - excusal from duties, 97

- questioning of other persons, 173
- questioning of suspects, 171–72
- reopening of criminal proceedings, 412, 414, 416–17
- restrictive measures other than detention
 - prosecutorial applications for, 305–06
 - warrants for, 301–02
- submissions to court, 73
- summonses, 75, 78
- trial court judgments, 53, 142, 388–89, 397
- unlawful deprivation of liberty, 488–89
- warrants, applications for, 35, 38
- warrants for surveillance or investigation, 228, 230

About the Institute

The United States Institute of Peace is an independent, nonpartisan, national institution established and funded by Congress. Its goals are to help prevent and resolve violent conflicts, promote post-conflict stability and development, and increase peacebuilding capacity, tools, and intellectual capital worldwide. The Institute does this by empowering others with knowledge, skills, and resources, as well as by directly engaging in peacebuilding efforts around the globe.

Chairman of the Board: J. Robinson West

Vice Chairman: María Otero

President: Richard H. Solomon

Executive Vice President: Patricia Powers Thomson

Vice President: Charles E. Nelson

Board of Directors

J. Robinson West (Chair), Chairman, PFC Energy, Washington, D.C.

María Otero (Vice Chairman), President, ACCION International, Boston, Mass.

Holly J. Burkhalter, Vice President, Government Affairs, International Justice Mission, Washington, D.C.

Anne H. Cahn, Former Scholar in Residence, American University, Washington, D.C.

Chester A. Crocker, James R. Schlesinger Professor of Strategic Studies, School of Foreign Service, Georgetown University, Washington, D.C.

Laurie S. Fulton, Partner, Williams and Connolly, Washington, D.C.

Charles Horner, Senior Fellow, Hudson Institute, Washington, D.C.

Kathleen Martinez, Executive Director, World Institute on Disability

George E. Moose, Adjunct Professor of Practice, The George Washington University, Washington, D.C.

Jeremy A. Rabkin, Professor of Law, George Mason University, Fairfax, Va.

Ron Silver, Actor, Producer, Director, Primparous Productions, Inc.

Judy Van Rest, Executive Vice President, International Republican Institute, Washington, D.C.

Members ex officio

David Kramer, Assistant Secretary of the Bureau of Democracy, Human Rights, and Labor Department of State

Christopher “Ryan” Henry, Principal Deputy Under Secretary for Policy, Department of Defense

Richard H. Solomon, President, United States Institute of Peace (nonvoting)

Frances C. Wilson, Lieutenant General, U.S. Marine Corps; President, National Defense University.

Model Codes for Post-Conflict Criminal Justice, Volume II

Typeface: Minion

Display type: Zurich BT

Designer of cover and interior: Jeff Urbancic, Katharine Moore

Compositor: BMWW, Barton, Matheson, Willse & Worthington

Developmental Editor: Nigel Quinney

Proofreader: Maine Proofreading Services

Indexer: Mary Coe