

Due Process

Criminal Procedure

Equality Review

Conceptions of Equality

Equal treatment → Non-discrimination from the state

Equal opportunity → Minimum state obligation to address existing inequality

Equal outcome → State guarantee to fix existing inequality

Federal Constitutional Backdrop

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.”

U.S. Constitution, Fourteenth Amendment.

Tiers of scrutiny

Rational basis

Applies when no suspect classification is at issue.

To survive judicial review, the law must serve a *legitimate* government interest and there must be a *rational connection* between the law's means and that interest.

Intermediate scrutiny

Applies to quasi-suspect classifications such as gender.

To survive judicial review, the law must further an *important* government interest and must do so by means that are *substantially related* to that interest.

Strict scrutiny

Applies to suspect classifications such as race, national origin, and religion.

To survive judicial review, the law must further a *compelling* government interest and law must be *narrowly tailored* to achieve that interest.

Malabed v. North Slope Borough

70 P.3d 416 (Alaska 2003)

Three-step sliding scale test

1. Weight of the interest impaired
2. Importance of purpose behind government action
3. Means-to-end fit

Commonwealth v. Penn. Interscholastic Athletic Ass'n
334 A.2d 839 (Pa. Commw. Ct. 1975)

“Sex may longer be accepted as an exclusive classifying tool”

State v. Rivera

612 P.2d 526 (Haw. 1980)

“Not even the ERA, however, forbids all classifications”

Driscoll v. Corbett

69 A.3d 197 (Pa. 2013)

Rational basis

Arneson v. State

864 P.2d 1245 (Mont. 1993)

Rational basis

Gartner v. Iowa Dep't of Public Health

830 N.W.2s 335 (Iowa 2013)

Heightened scrutiny

AFSCME Iowa Council 61 v. State

928 N.W.2d 21 (Iowa 2019)

Rational basis

Aztec Municipal Schools v. Cardenas

549 P.3d 488 (N.M. 2024)

Intermediate

Procedural Due Process

If the government is going to deny someone a life, liberty, or property interest, what process is due?

State v. Veale

972 A.2d 1009 (N.H. 2009)

Important Precedent:

Paul v. Davis

424 U.S. 693 (1976)

“No subject shall be deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.”

Part I, Article 15, New Hampshire Const.

Due Process Inquiry

Is this a legally protected interest?

If so, what process is due?

Balancing test for determining what process is due

1. Private interest that will be affected
2. Risk of erroneous deprivation and probable value of additional procedural safeguards
3. Government interest (including burden of additional safeguards)

M.E.K. v. R.L.K.

921 So.2d 787 (Fla. App. 2006)

Supreme Court Precedent:

Lassiter v. Dep't of Social Serv. of Durham County, N.C. (1981)

Florida Precedents:

O.A.H. v. R.L.A. (1998)

In the Interest of M.C. (2005)

Criminal Procedure

Search and Seizure

Topics

- Probable cause
- Good faith exception
- Warrant requirement

Review of Crim Pro Cases

Sitz v. Department of State Police

506 N.W.2d 209 (Mich. 1993)

State v. Hemptele

576 A.2d 793 (N.J. 1990)

State v. Wright

961 N.W.2d 396 (Iowa 2021)

Ohio v. Robinette

653 N.E.2d 695 (Ohio 1995)

What should I focus upon?

or

How in the hell am I supposed to learn all of crim pro in a week and why did I sign up for this class?

Questions to guide us for search and seizure

What is the nature of a right “against unreasonable searches and seizures”? How should that right be protected?

If search warrants require probable cause, what is probable cause?

When is a warrantless search still reasonable?

How should stare decisis factor into constitutional interpretation, particularly when federal and state precedents are intertwined?

Probable Cause

People v. Griminger

524 N.E.2d 409 (N.Y. 1988)

State v. Tuttle

515 S.W.3d 282 (Tenn. 2017)

Aguilar / Spinelli Test

To establish probable cause, a search warrant affidavit must demonstrate:

1. the basis of the informant's knowledge, and
2. the credibility of the informant or the reliability of the information.

Gates Test

To determine whether an affidavit establishes probable cause, a magistrate should consider the totality of the circumstances.

Good Faith Exception

State v. Koivu

272 P.3d 483 (Idaho 2012)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991)

History of federal exclusionary rule

Weeks v. United States (1914)

Federal exclusionary rule.

Wolf v. Colorado (1949)

Fourth Amendment applies to states, but remedy up to states to decide.

Mapp v. Ohio (1961)

Exclusionary rule applies to the states.

Stone v. Powell (1976)

Exclusionary rule not a constitutional right but designed to deter police misconduct.

United States v. Leon (1984)

Good faith exception

Idaho Precedents

State v. Arregui
(Idaho 1927)

State v. Rauch
(Idaho 1978)

Pennsylvania's Analytic Framework

For state constitutional law issues, litigants should analyze:

1. Text of the state constitution
2. History of the constitutional provision, including case law
3. Related case law from other states
4. Policy considerations

