Procedural Law and the Bill of Rights

[Author’s name]

[Institute’s name]

Author Note

Procedural Law and the Bill of Rights

**Compare and Contrast Sources**

The constitution of the country and case law are characterized as two prominent sources of the rights and fundamental principles established in the legal system of the United States. Both these prospects are used to developed legal conditions according to requirements of the operating legal system in the country. The approach of the country’s constitution is different from the source of case law because it provides a foundation for the legal system of the United States. The implications of the country’s constitution are wide-ranging as compared to the enforcement of principles set through the source of case law.

The constitution of the country developed its position as the charter that provides guidelines of functioning to the government. It is noteworthy to mention that the fundamentals of freedom and basic human rights also found in the case of the country’s constitution. The development of the first ten amendments in the country’s constitution is recognized as the “Bill of Rights.” These amendments are playing an important role when it comes to defining and establishing basic human rights of citizens. The liberties of citizens protected by the document of the United States’ constitution. On the other hand, case law under the broader domain of procedural law played a vital role to determine common law by judges in rulings (Farnsworth, 2010). It is defined as the important source that has the authority to define the legal position of a legal system specifically during the procedure of judicial decision-making.

**Three Steps of the Criminal Justice Process**

The systematic procedure of criminal justice comprised of a series of steps or stages that played an important role to achieve the objective of the criminal justice system. The practical approach of the criminal justice process starts from the proper criminal assessment and finished with the release of imprisoned individuals. There is the existence of different phases during these practical elements that eventually make the entire process of criminal justice valid for all the stakeholders. Arrest and imprisonment are two major phases that describe the overall domain of the criminal justice system. It is important to apprehend that the existing gap between the stages of arrest and captivity associated with the application of other practical steps that also require necessary attention. Prosecution, Indictment, and Arraignment are characterized as three major phases that prevail during the domains of arrest and imprisonment. A brief explanation of all these stages is an imperative condition to makes better inferences on the criminal justice system.

**Prosecution**

The phase of prosecution of an offender established by a district attorney. The central objective of this phase of the criminal justice system is to formulate a decision whether to charge an individual for the allegation or not. The phenomenon of prosecution influenced by different aspects such as considering the seriousness of the criminal activity and authenticity of the evidence.

**Indictment**

Grand jury is responsible to ensure successful enforcement of indictment as a critical phase of the criminal justice process. At this stage, members of the jury decide to charge individuals against criminal activity or not. Probable cause is characterized as the fundamental standard to correctly indicting an individual according to law.

**Arraignment**

The phase of arraignment established by a judge under the principles of the criminal justice system. The time-period of arraignment is a chance for the defendant to appear in court (Kohler-Hausmann, 2013). It is the stage of right for the individual to enter an appeal against the allegation. In simple words, it is a practical action to present the defendant in court.

**Amendment Related to Arrest, Search, and Seizures**

4th amendment in the United States’ constitution defined the basic rights of citizens during the practices of arrest, search, and seizures. The rights of the defendant are clearly illustrated to avoid any form of ambiguity under the entire spectrum of the criminal justice system. The basic human rights of individuals’ privacy and citizenship rights protected by the proper enforcement of the 4th amendment. This principle of the legal spectrum is a caution for law enforcement agencies in case of unreasonable invasion in the form of citizens as individuals, homes, businesses, and the perspective of the property.

A proper application of the 4th Amendment protects citizens’ rights specifically during the procedure of arrest, search, and seizures. The procedures of searches and detentions are regulated in the country under the legal spectrum of the 4th amendment in the constitution. A critical examination of the specific nature of the detention or arrest is necessary to condition to make inferences on the application of the 4th amendment (Richardson, 2010). Characteristics of the searched place also played an important role when it comes to examining the protecting role of the 4th amendment during the process of search and seizures. Additionally, circumstances during the process of search and seizures also influenced the application of this amendment of the basic right of freedom for American citizens.

**Compare and Contrast the Concepts of Probable Cause and Reasonable Suspicion**

Probable cause and reasonable suspicion are two prominent legal terminologies applied in the case of law enforcement operations. Both these apply when it comes to detaining someone for investigation, search, and seizure. The principles of reasonable suspicion and probable cause define the suitability of the process of arrest considering the available evidence. Both concepts range a number of similarities and differences that eventually define the suitability of these standards.

The standard of reasonable suspicion allows law enforcement individuals to shortly detain a person based on the understanding of former training and experience. The approach of reasonable suspicion exists for the person who has a former criminal record. The availability of first-hand experience and the existence of primary facts helps the officer to adopt the approach of reasonable suspicion. On the other hand, consideration of issue warrants is categorized as a necessary condition to establish the principle of probable cause (Ferguson, 2012). The legal standard of probable cause links with the legal approach of the 4th amendment in the constitution that protects individuals’ privacy during the process of search, seize property, or the practice of arrest (Joh, 2014). The approach of probable cause is different from reasonable suspicion because it considers existing facts and officers’ knowledge to draw a conclusion.

**Examples When Exclusionary Rule May Not Apply**

The legal condition of the exclusionary rule is not applicable in specific situations as defined by the constitution of the country. Good faith exception and attenuation doctrine are two possible situations that are explicitly exempted from the enforcement of the exclusionary rule. The specific exclusion in the form of good faith permits police officers to mainly rely on available evidence and consider them valid for the trial. The adoption of an illegal approach to collect evidence is characterized as the exception when it comes to applying the rule of exclusion.

**Identification of Contemporary Issue Related to the Use of Force**

In recent years, the specific case law of Kisela v. Hughes is a noticeable example to observe the excessive use of force. A critical consideration of the entire case assists to identify that Kisela had used an extreme form of force that eventually turned as deadly force. It is claimed by Hughes that Kisela greatly violated the domain of the fourth amendment by improperly using the excessive force of power.

**References**

Farnsworth, E. A. (2010). *An introduction to the legal system of the United States*. Oxford University Press.

Ferguson, A. G. (2012). Predictive policing and reasonable suspicion. *Emory LJ*, *62*, 259.

Joh, E. E. (2014). Policing by numbers: Big data and the Fourth Amendment. *Wash. L. Rev.*, *89*, 35.

Kohler-Hausmann, I. (2013). Misdemeanor justice: Control without conviction. *American Journal of Sociology*, *119*(2), 351–393.

Richardson, L. S. (2010). Arrest Efficiency and the Fourth Amendment. *Minn. L. Rev.*, *95*, 2035.