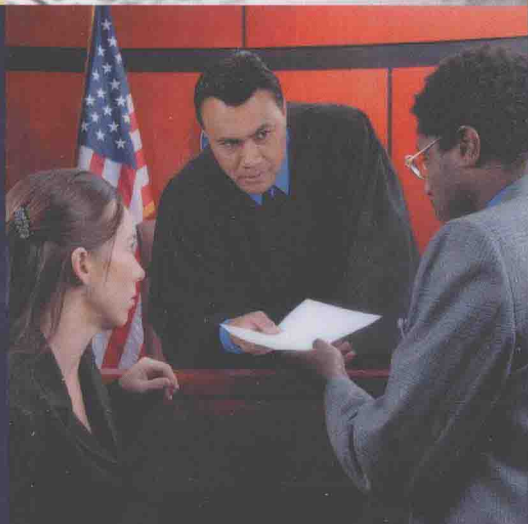


CRIMINAL PROCEDURE

FOR THE
CRIMINAL JUSTICE PROFESSIONAL

Twelfth Edition



JOHN N. FERDICO | HENRY F. FRADELLA | CHRISTOPHER D. TOTTEN

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DEDICATION

*For Cassia C. Spohn, Ph.D.,
for her support and friendship—H.F.F.*

For Sebastian Christopher Totten, may he grow swift and strong—C.D.T.

About the Authors

John N. Ferdico holds a J.D. from Northwestern University School of Law and a B.A. in sociology from Dartmouth College. He is a former assistant attorney general and director of law enforcement education for the State of Maine. Other books he has published are *Ferdico's Criminal Law and Justice Dictionary* and the *Maine Law Enforcement Officer's Manual*. Mr. Ferdico currently writes and runs a legal publishing company in Bowdoinham, Maine.

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Criminal Procedure for the Criminal Justice Professional was originally published in 1975 as *Criminal Procedure for the Law Enforcement Officer*. Its primary emphasis was on providing practical guidelines for law enforcement officers with respect to the legal aspects of their daily duties. Although the main emphasis remains on the policing aspects of criminal procedure, additional materials have been added since then that are relevant to professionals who work in other areas of the justice system.

Because we believe that criminal justice professionals should not have to read and interpret lengthy and complicated court opinions in order to determine the powers, duties, limitations, and liabilities associated with performing their jobs, this book is written in a clear, concise, and coherent narrative to make it accessible and understandable. Sufficient detail is provided to enable the reader to operate competently and effectively within the criminal justice system. Actual case excerpts are used to provide authoritative statements of legal principles, explanations of the “reasons behind the rules,” and examples of the application of the law to real-life scenarios.

As appellate courts continue to deal with significant numbers of complex criminal procedure cases, the design and approach of this book provide an enduring vehicle for imparting the knowledge necessary to properly comply with this ever-changing area of the law.

Criminal Procedure for the Criminal Justice Professional is intended for courses in criminal procedure or administration at both two- and four-year colleges for students preparing for careers in criminal justice, especially in law enforcement and corrections. Titles of courses that have used this book include “Criminal Procedure,” “Constitutional Law in Criminal Justice,” “Law of Arrest, Search, and Seizure,” “Legal Aspects of Law Enforcement,” “Constitutional Criminal Procedure,” and “Court Systems and Practices.” Because it is written in plain English rather than in technical legal jargon, this book is also suitable as a criminal procedure textbook at law enforcement training academies and for high school courses dealing with constitutional law or law enforcement. Over the years, in response to suggestions and comments from professors and students who have used it, many changes have been made to enhance the book’s suitability for use as a classroom text.

What’s New in the Twelfth Edition

The twelfth edition of the book has been revised such that most chapters have thirty or fewer key terms (a dramatic reduction for some chapters). All chapters in the book have also been updated with citations to (and often discussions of) the latest case law on each and every topic in the book. Textual changes have also been made to increase readability and students’ mastery of the material (e.g., more tables and more bulleted and numbered lists). Key changes to individual chapters are as follows:

- **Chapter 1**, “Individual Rights Under the United States Constitution,” has been revised to focus more on constitutional rights relevant to criminal procedure; the discussion of other constitutional rights and constitutional history has been

shortened significantly, especially those pertaining to the First Amendment. The following recent U.S. Supreme Court decisions have been added to the chapter: *Hall v. Florida*, *Hinton v. Alabama*, *Missouri v. Frye*, *Lafler v. Cooper*, and *Peugh v. United States*.

- **Chapter 2**, “Criminal Courts, Pretrial Processes, and the Exclusionary Rule,” has been divided into two chapters. Chapter 2 contains expanded coverage of plea bargaining (including *Missouri v. Frye* and *Lafler v. Cooper*). A new Criminal Procedure in Action box on the movie theater shootings in Aurora, Colorado has been added.
- **Chapter 3**, “Basic Underlying Concepts: Property, Privacy, Probable Cause, and Reasonableness,” has undergone a major restructuring to incorporate the dual property and privacy approaches to the Fourth Amendment in light of the U.S. Supreme Court’s decision in *United States v. Jones*. In addition, a major “follow-up” case to *Jones* by the U.S. Supreme Court, *Florida v. Jardines*, has been added to this chapter.
- **Chapter 4**, “Criminal Investigatory Search Warrants,” contains significant updates to state and lower federal court rulings on search warrants. A new section on the variable times it takes to obtain a search warrant has been added. The section on the use of force has been updated to better differentiate between force against premises and force against persons.
- **Chapter 5**, “Searches for Electronically Stored Information and Electronic Surveillance,” has been significantly restructured with regard to how the materials on electronically stored information searches are presented. The U.S. Supreme Court decisions in *United States v. Jones* and *Riley v. California* have been integrated. New scholarship and case law has been infused throughout the chapter.
- **Chapter 6**, “Administrative and Special Needs Searches,” now begins with an introductory section outlining the basic requirements of special needs searches. The following U.S. Supreme Court cases have been added: *City of Ontario v. Quon*, *Florence v. Board of Chosen Freeholders of County of Burlington*, and *Maryland v. King*.
- **Chapter 7**, “Arrests, Searches Incident to Arrest, and Protective Sweeps,” has been updated to include the most recent U.S. Supreme Court cases, including *Florence v. Burlington*, *Maryland v. King*, *Missouri v. McNeely*, *Plumhoff v. Rickard*, *Stanton v. Sims*, and *Riley v. California*. The sections on hot pursuits and conducted energy devices (Tasers) have also been expanded with recent case law and scholarship.
- **Chapter 8**, “Stops and Frisks,” now includes *Navarette v. California* along with a Discussion Point addressing this recent U.S. Supreme Court case. The material dealing with racial profiling has been expanded to include recent scholarship as well as the U.S. Supreme Court decision of *Arizona v. United States* addressing the “show me your papers” laws. The section on detentions, the USA PATRIOT Act, and the war on terror has been updated with the latest case law,

legislation, and executive orders, including coverage of the National Defense Authorization Act (NDAA). Finally, a new Criminal Procedure in Action feature has been added concerning a recent lower court decision interpreting *United States v. Arvizu*.

- **Part III**, “Exceptions to the Search Warrant Requirement,” has been significantly updated with recent lower federal and state case law, including **Chapter 9**, “Consent Searches”; **Chapter 10**, “The Plain View Doctrine”; **Chapter 11**, “Search and Seizure of Vehicles and Containers”; and **Chapter 12**, “Open Fields and Abandoned Property.” Key leading cases decided since the eleventh edition have been added, including *Fernandez v. California*, *Florida v. Jardines*, *Florida v. Harris*, and *United States v. Jones*. Finally, new or revised Criminal Procedure in Action features have been integrated into each of the chapters in Part III.
- **Chapter 13**, “Interrogations, Admissions, and Confessions,” now incorporates key leading cases decided since the eleventh edition, including *Salinas v. Texas* and *Howes v. Fields*. In addition, we have expanded coverage of purposeful attempts to avoid *Miranda* by exploiting *Elstad* in the wake of *Missouri v. Seibert*.
- **Chapter 14**, “Pretrial Visual Identification Procedures,” has been updated to include more recent information on wrongful convictions. A new section has been added on the latest approaches to suggestive identifications, comparing new state law approaches with the latest Supreme Court pronouncement on the matter in *Perry v. New Hampshire*.
- **Chapter 15**, “Criminal Trials, Appeals, and Postconviction Remedies,” has been updated to include *Melendez-Diaz v. Massachusetts*, *Bullcoming v. New Mexico*, *Williams v. Illinois*, and *McQuiggin v. Perkins*. A new table has been included that summarizes some of the major shortcomings of various forensic scientific evidence. The section on sentencing has been expanded to include more material on discrimination and sentencing disparities.

Learning Tools

In recent years, several learning tools and pedagogical devices have been added to the book to enhance understanding of the law of criminal procedure.

Learning Objectives (LO)—Student learning goals appear at the beginning of each chapter and are designed to provide purpose and context. All learning objectives have been revised to use the measurable verbs associated with Bloom’s Taxonomy. Corresponding end-of-chapter summaries have been revised so that they provide concise statements that are responsive to the learning objectives at the start of each chapter. Learning Objectives are also indicated in the Key Points sections to assist students in finding the sections where each objective is discussed.

Key Points—Concise, clear statements of the essential principles of criminal procedure appear at the end of major sections of chapters and serve as mini-summaries of those sections. Their purpose is to aid the student in “separating the wheat from

the chaff” and to expedite review by boiling down complexities into simple statements of fundamentals. These Key Point sections also correlate to the Learning Objectives.

“Supreme Court Nuggets”—Essential quotations from U.S. Supreme Court opinions appear in **boldface** throughout the text. Their purpose is to familiarize students with judicial language as well as to highlight authoritative definitions of terms, clear statements of important legal principles, and the rationales behind those principles.

Discussion Points—Fact patterns and holdings from recent controversial opinions are summarized in a concise manner in these boxed features so that students can see how the “black letter law” was applied in a case related to the main points in a chapter. These summaries are then followed by discussion questions that instructors can use to stimulate class discussion on the law and related public policy issues.

Criminal Procedure in Action—A feature found in every chapter helps students relate what they are learning to the real world by providing in-depth coverage of a case illustrating an important or controversial area of criminal procedure law, as well as probing critical thinking questions designed to engage student debate and reflection.

Review and Discussion Questions—New review and discussion questions have been included to stimulate discussion and to expand students’ understanding beyond the principles and examples used in the text.

Glossary—Definitions of major terms used in criminal procedure law have been streamlined for easier use by students.

References—Citations to statutes and case law appear in the actual text. This twelfth edition also adds a formal bibliography to reflect the many new interdisciplinary sources that have been integrated into the textual pedagogy.

Supplements

A number of supplements are provided by Cengage Learning to help instructors use *Criminal Procedure for the Criminal Justice Professional* in their courses and to aid students in preparing for exams. Supplements are available to qualified adopters. Please consult your local sales representative for details.

To access additional course materials, please visit **www.cengagebrain.com**. At the CengageBrain.com home page, search for the ISBN of your title (from the back cover of your book), using the search box at the top of the page. This will take you to the product page where these resources can be found.

Instructor’s Resource Manual with Lesson Plans and Test Bank includes learning objectives, key terms, a detailed chapter outline, a chapter summary, lesson plans, discussion topics, student activities, “What If” scenarios, media tools, a sample syllabus, and an expanded test bank with 30 percent more questions than the prior edition. The learning objectives are correlated with the discussion topics, student activities, and media tools.

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Each chapter of the test bank contains questions in multiple-choice, true/false, completion, essay, and new critical thinking formats, with a full answer key. The test bank is coded to the learning objectives that appear in the main text, and includes the section in the main text where the answers can be found. Finally, each question in the test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage so instructors can be sure they are working with an assessment and grading resource of the highest caliber.

Cengage Learning Testing Powered by Cognero This assessment software is a flexible, on-line system that allows you to import, edit, and manipulate test bank content from the *Corrections Today* test bank or elsewhere, including your own favorite test questions; create multiple test versions in an instant; and deliver tests from your LMS, your classroom, or wherever you want.

Online PowerPoint® Lectures Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft PowerPoint® slides outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides are updated to reflect the content and organization of the new edition of the text, are tagged by chapter learning objective, and feature some additional examples and real-world cases for application and discussion.

Acknowledgments

We are grateful to the following criminal justice instructors for their time and effort in reviewing this edition of the book and their helpful comments and suggestions for its improvement: Mark Brown, University of South Carolina; Joel Weinstein, George Mason University; Nancy Dempsey, Cape Cod Community College; Cheryl Furdge, North Central Texas College; Andrew Kozal, Northwest State Community College; Tosha Wilson-Davis, Bainbridge College.

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Finally, we thank our families—most especially our spouses—for their support and understanding while we went “MIA” from daily life during the preparation of this edition.

Henry F. Fradella
Christopher D. Totten

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