

*John C. Klotter Justice Administration Legal Series*

# CRIMINAL EVIDENCE

Twelfth Edition

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Jefferson L. Ingram



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University of Dayton

*John C. Klotter Justice Administration Legal Series*



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Anderson Publishing is an imprint of Elsevier



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*Anderson Publishing* is an imprint of Elsevier  
225 Wyman Street, Waltham, MA 02451, USA

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#### **Library of Congress Cataloging-in-Publication Data**

Application Submitted

#### **British Library Cataloguing-in-Publication Data**

A catalogue record for this book is available from the British Library

ISBN: 978-0-323-29458-4

Printed and bound in the United States of America

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# Acknowledgments

The author would like to thank Ellen Boyne, editor, for all of her diligent and careful work and assistance in producing the Twelfth Edition of *Criminal Evidence*. Special thanks are also extended to Dean Paul E. McGreal of the University of Dayton School of Law for his invaluable assistance in facilitating my research. Special thanks go to Jason Pierce, Chairman of the University of Dayton Department of Political Science, for his support and understanding in a variety of areas that fostered the research and completion of this edition.

# Preface

In revising *Criminal Evidence*, Twelfth Edition, the author continues to honor John Klotter's extensive work on criminal evidence by following the excellent approach he initiated by updating evidentiary themes, trends, and cases, while remaining generally true to the original organization and presentation. As with prior editions, this book remains primarily a textbook with illustrated cases for those involved in the study of criminal evidence and in the administration of justice. The cases in Part II are designed to demonstrate many of the more salient principles of evidence that appear in the text portion. With the exception of the Chapter 1, the organization of the book closely follows the Federal Rules of Evidence, although a student or professor could easily choose to follow a different order when learning or teaching the laws of evidence. Many stylistic changes in the Federal Rules of Evidence became effective on 1 December 2011, and the text has been updated to reflect these and subsequent changes. Chapter 1 offers the reader an overview of the significant legal systems that predate our present American system and demonstrates that all effective legal systems must have a mechanism that logically decides which evidence should be considered as important and which evidence should be excluded based on logic or for policy reasons. Prior legal systems, such as the Chinese and Egyptian systems, attempted to discern truth and justice from a perspective that was different from our modern point of view. All legal systems evolve as time passes, as our system continues to evolve as well, with newer interpretations replacing older rules as time and events present novel challenges.

This book is adaptable to most levels of the educational spectrum, and it may be used as an entry-level evidence text or as the lead evidence text to deliver a moderately advanced evidence course. Ancillary materials should appropriately serve the needs of both instructors and students. *Criminal Evidence* should prove valuable for students learning the basic foundations to prepare for careers in criminal justice or law, or for an attorney needing a source to consult when clarifying a point of law.

This book has been prepared as a textbook for individuals teaching or learning about the evidentiary framework in the administration of criminal justice. The materials presented cover general evidence law and illustrate, by example and case reference, the law of evidence as it is practiced in criminal courts. When civil use of evidence impacts criminal justice or where a civil evidence example is especially relevant, the book references civil cases as appropriate. Where appropriate to the text, selected sections of the current version of Federal Rules of Evidence are isolated within

callout boxes for easy identification. Similar callout boxes identify many references to important concepts and are also incorporated within the glossary located with the back matter of this book. State rules of evidence exhibit significant uniformity because many states have adopted versions of the Federal Rules of Evidence or the Uniform Rules of Evidence. While many differences exist in the way a rule of evidence is administered and interpreted in the various American jurisdictions, significant similarities exist, with states often looking to interpretations of the Federal Rules of Evidence for guidance. Where differences exist, effort has been made to identify the areas where legal interpretations have diverged and the law remains unsettled or state courts follow it differently than the federal courts do. Although the states that have adopted a version of the federal evidence rules tend to follow, and look to, the federal courts for interpretations of those rules, this practice has not been uniform, and different judges have taken slightly different routes in various state and local jurisdictions.

For the reader or instructor, this book retains its familiar organization, with related ancillary materials, including the glossary, an up to date version of the Federal Rules of Evidence, and the table of contents of the Uniform Rules of Evidence. In Part II, where cases demonstrate some of the evidentiary principles, the author has added some newer legal cases that illustrate current legal principles and explain the evolving principles of evidence in a contemporary case context. Several landmark cases are presented in Part II, and this version of the book retains some older cases in which the judicial writers offered particularly excellent explanations of legal principles. Also in Part II, the glossary permits the reader to find the typical legal definitions, and for many entries, it goes further and explains some of the concepts in greater detail. Although the text portion of this book does not deal with every section of the Federal Rules of Evidence, Appendix I permits the reader to consult the sections that have not received complete mention in the text portion of this work.

Constitutional reinterpretations by the Supreme Court of the United States often change the admissibility of evidence. Several terms ago, the Supreme Court of the United States reinterpreted the Sixth Amendment right of confrontation in a way that affected the admissibility of hearsay evidence by requiring more in court testimony, but the Court has backtracked somewhat from what was thought to be required from an initial reading of some of the cases. Four years ago, the Supreme Court revised the admissibility of evidence seized from automobiles under the search incident to arrest theory. In 2010, the Supreme Court relaxed the rigidity of reading *Miranda* warnings and permitted less than clear warnings to suffice, a fact that may mean the admissibility of more evidence that police obtain from arrestees. Congressional legislation under the Patriot Act has the potential to affect the admissibility of some evidence, and the direction Congress will take in reforming this legislation remains unclear, although significant agitation has occurred within some quarters of the legislature related to the Patriot Act and the need to restrict some data collection that is being conducted by various federal agencies. Much of the intelligence that is collected has not been offered for admission in criminal courts, so those Fourth Amendment issues and their effects on the admission of evidence remains to be determined. How these evidentiary issues

will be resolved remains an open question, given the fact that politics are involved. Recognizing that the law of evidence evolves, the author makes every effort to recognize changes in evidence law and to incorporate the new material into the text discussion of the principles.

The study of criminal evidence involves some understanding of collateral legal subjects, such as constitutional law, criminal procedure, and criminal law. In this book, evidentiary principles are illustrated by references to actual criminal legal cases, and the legal cases in Part II should assist in understanding specific evidentiary principles that are fairly universal to all American courts. By using examples from actual criminal prosecutions, this book presents the traditional rules of evidence that most often create problems and issues in criminal cases that lawyers, police, and criminal justice professionals will encounter and will have to resolve.

To assist professors, an Instructor's Guide, which includes a test bank and a complete 16-chapter PowerPoint presentation illuminating the text section of this book, is available from the publisher to authorized adopting professors.

**Jefferson Ingram,  
University of Dayton, April 2014.**

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