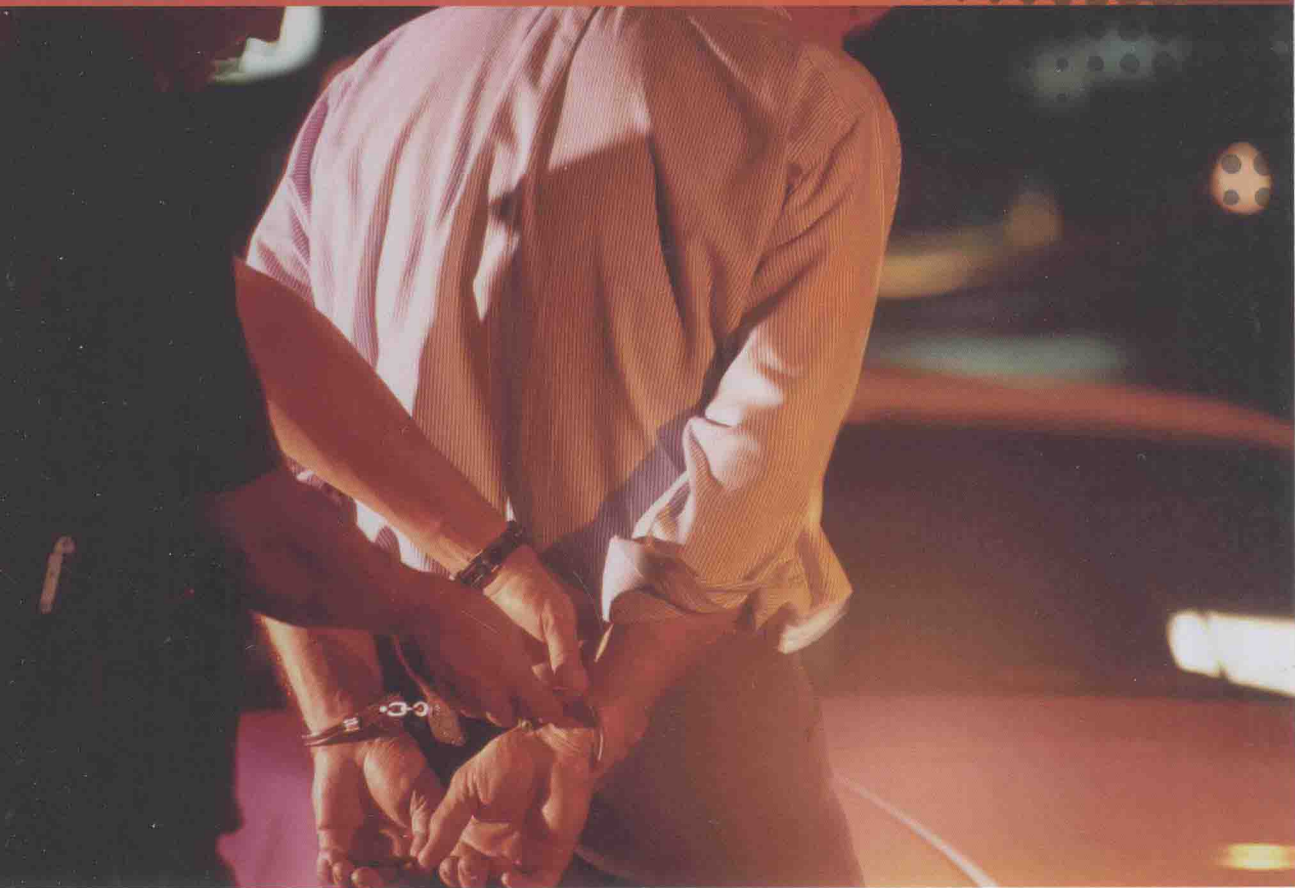


ASPEN COLLEGE SERIES

# CONSTITUTIONAL LAW IN CRIMINAL JUSTICE



**Tina M. Fielding Fryling**

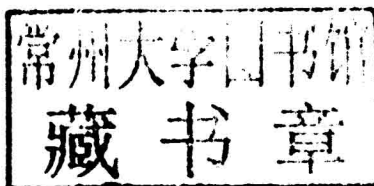


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# CONSTITUTIONAL LAW IN CRIMINAL JUSTICE

**Tina M. Fielding Fryling**  
Mercyhurst University



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*To Grace, Madeline, Madison, and Mason*

# PREFACE

Students who aspire to work in the criminal justice or court system in any capacity need to be familiar with the provisions of the Constitution that specifically apply to criminal law and procedure. The Constitution related to American culture when it was written in 1787 and, amazingly, continues to be relevant to American culture today. The framers of the Constitution were concerned about general, unwarranted searches and seizures, while today Americans debate over terrorism, airport searches, and racial profiling by police and other government officials. While the framers did not need to consider iPods, electronic pagers, and cellular telephone records when drafting the Constitution, they did worry about protecting politically outspoken citizens from government searches. The Constitution today continues to protect Americans from government intrusion into electronic versions of soapbox declarations and broadsheet and pamphlet publications. Although Supreme Court justices have invoked various approaches to interpretation over the years, foremost among them continues to be the attempt to determine the framer's intent in devising the provisions of the Constitution. Yet, as Franklin D. Roosevelt quipped, "The United States Constitution has proved itself the most marvelously elastic compilation of rules of government ever written." As an attorney who represents criminal clients, I see every day how the Constitution continues to be integral to our court system.

*Constitutional Law in Criminal Justice* sets forth the provisions of the Constitution that relate most directly to criminal law. Its practical approach encourages students to consider how these provisions affect daily attitudes, capabilities, events, and responses in policing, courtrooms, and federal agencies. The Constitution guides every facet of the investigation of crime and threats to our safety and national security. To further the understanding of these processes, this book examines both the wording of the original constitutional provisions and the central developments in how those provisions have been subsequently interpreted by the Supreme Court and, in some instances, by lower courts.

This text also provides open-ended scenarios, based on actual cases, for students to consider. Through these scenarios, students will explore the actions they will need to think through and take every day as members of the criminal justice system. These actions and their motives will be scrutinized at many levels, and practitioners need to keep abreast of changes in the law



as they are handed down by various courts. The law is not an exact science, but in the area of constitutional law in particular, many decisions courts make about what constitutes acceptable police action or admissible evidence are extremely fact specific.

*Constitutional Law in Criminal Justice* explains the concepts of incorporation and the Fourteenth Amendment in terms that are easily grasped by students, enabling them to understand the amendments applicable to the states, what those amendments were intended to achieve, and why they became such important elements in our criminal system. The Fourth, Fifth, and Sixth Amendments are emphasized, but the First and Second Amendments are included, as well, with emphasis on how they relate to crime and criminal justice.

After reading *Constitutional Law in Criminal Justice*, students should understand the expectations and requirements that will be placed on them as they endeavor to pursue their careers in compliance with the Constitution's provisions and their changing application. This effort will require constant diligence and proper documentation of their actions every day, and this text offers the tools for research and analysis they will need to achieve success. By balancing presentation of the rules handed down by the courts with questions and scenarios challenging students to assess the Constitution's impact on both criminal and everyday activities, the text integrates students' professional and personal concerns.

I especially wish to thank my mentors, Dr. Peter Benekos and Dr. Frank Hagan, both for their constant support throughout my career in teaching and this writing process and for their friendship. I would also like to thank David Herzig and Susan Boulanger at Aspen Publishing for their patience and assistance as I completed this project. I am also indebted to Christine Kern who assisted me with the supplemental materials in this text and to Christine Holden and Nicole Sloane who reviewed some of the chapters of this book. I would also like to thank my research assistants, Anthony Hugar and Mary Mancuso, who assisted me with some of the organization and ideas for this book. I wish also to thank my friend, Carolyn Washe, who has supported me in many ways through this process. I am grateful every day to my late grandmother, Grace Sieklucki, who loved me unconditionally and was always proud of me. Finally, I would like to thank Peter Octavian and my children, Grace, Madeline, Madison, and Mason, who tolerated my lessened attention to them during late nights, early mornings, and every time in between, as my attention turned to completing this book.

# **CONSTITUTIONAL LAW IN CRIMINAL JUSTICE**

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