Course Learning Outcomes for Unit VIII

Upon completion of this unit, students should be able to:

3. Relate property rights to rules of search and seizure.
   3.1 Describe reasonable expectation of privacy as it relates to the Fourth Amendment.
   3.2 Describe protective sweeps as they relate to a warrantless search of an arrestee.

4. Explain protections of arrest and the right to counsel.
   4.1 Distinguish the primary factors associated with the validity of a search warrant.
   4.2 Describe the two basic types of arrests (warrant and warrantless) as they relate to probable cause.
   4.3 Define probable cause.

8. Summarize the protection of civil rights, liberties, and due process.
   8.1 Describe the rights and/or provisions of individuals as they relate to constitutional values when addressing accusations or suspicions of criminal activity.

Reading Assignment

Chapter 13: Civil Liberties in the Criminal Justice System, pp. 492-533

Unit Lesson

In this unit, we will cover and explore Chapter 13, “Civil Liberties in the Criminal Justice System.” As we move into the final unit of this course, you should keep in mind all that you have learned up to this point. From each of the past units, your U.S. Constitutional knowledge has been expanding, and this unit wraps up your complete overview of the U.S. Constitution and how this document relates to the criminal justice system as a whole. No matter which career field you choose in the criminal justice field, the U.S. Constitution is the reigning document and rule of law, and you should be familiar with the main components.

In Chapter 13 of your textbook, we will concentrate on the U.S. Constitutional values in the criminal context and explore in detail the Fourth, Fifth, Sixth, and Eighth Amendments to the U.S. Constitution, as it relates to rights of individuals when there is suspicion of criminal activity. You will explore search and seizure provisions as it pertains to the Fourth Amendment. The Search and Seizure Clause found in the Fourth Amendment of the U.S. Constitution precludes the government from engaging in unreasonable searches and seizures of persons, houses, papers and effects (Hall & Feldmeier, 2012). Under the Search and Seizure Clause there is a term referred to as a warrant provision. The warrant provision requires an establishment of probable cause before a sitting judge can initiate a warrant. A warrant provision provides that the government must demonstrate probable cause before a warrant will be issued by a judge (Hall & Feldmeier, 2012).

When you examine the Fifth Amendment as it relates to rights of individuals in suspicious criminal activity, there are a few clauses you will explore and learn about as it relates to the criminal justice system. The first clause is the Grand Jury Provision. The Grand Jury Provision under the Fifth Amendment requires the government to obtain a grand jury indictment to charge someone with a capital offense or felony (Hall & Feldmeier, 2012). A grand jury indictment is a set of formal charges by a select group of citizens known as a jury. The grand jury’s job is to review the evidence in the potential case to determine if there is enough sufficient evidence to charge an individual of a criminal offense, which is usually a felony.

The second clause we will explore that relates to the Fifth Amendment and the criminal justice system is the Double Jeopardy Clause. The Double Jeopardy Clause provides that the government may not punish a
person twice for the same offense (Hall & Feldmeier, 2012). However, this clause is only limited to the civilian sector of government. If an individual is a service member serving in the Armed Forces the individual can be tried and punished for the same crime under both U.S. law and the UCMJ (Uniform Code of Military Justice).

The Due Process Clause is found in both the Fifth (federal) and Fourteenth (state) Amendments of the U.S. Constitution and provides that the government cannot deprive individuals of life, liberty, or property without due process of the law (Hall & Feldmeier, 2012). Due process is the requirement of both the federal and state governments to treat all individuals fairly and without bias during the criminal process. Fair treatment includes humane conditions while waiting for trial, to have a fair trial with an impartial jury and judge, and the right to an appeal process. One area that is sometimes confusing is the Eighth Amendment and bail. Individuals are not afforded the right to bail, but individuals are afforded the right against excessive bail if bail is set.

The Eighth Amendment to the U.S. Constitution also includes the Cruel and Unusual Punishment Clause that provides the government may not inflict cruel and unusual punishment upon individuals (Hall & Feldmeier, 2012). What constitutes cruel and unusual punishment is left up to the U.S. Supreme Court for interpretation. You have learned at this point in the course that the U.S. Constitution’s interpretation is often left up to the highest court in the land, the U.S. Supreme Court.

Let’s move further into Chapter 13 and examine arrests. Many of you will or are currently working in the criminal justice field as law enforcement officials. This section of the textbook is of particular interest to individuals who work in the field of law enforcement at every level whether at the federal, state, or local jurisdictions. First, let’s examine the definition of arrest. An arrest in many criminal cases is a law enforcement officer physically taking a person into custody against their will for purposes of initiating a criminal prosecution or investigation (Hall & Feldmeier, 2012). Arrests are broken down into distinct types: arrest warrant and warrantless arrest. In an arrest warrant, a judicial official must authorize the law enforcement official(s) to arrest a particular individual based on probable cause. A warrantless arrest is an exemption to the warrant requirement that allows home arrests where pressing needs of the public outweigh the individual’s rights to privacy (Hall & Feldmeier, 2012). After reading pages 496-497 of your textbook, give some thought to what you have read and comprehended. What would be some examples of “pressing needs” in your opinion?

One aspect that is of particular importance that needs to be covered in detail is the use of deadly force by law enforcement officers. Think about these questions: What does deadly force mean to you? At what time and/or events are law enforcement officers authorized to use deadly force in your opinion? Mass media outlets and our own personal experiences often shape our opinion. Let’s examine the textbook’s definition of deadly force:

Deadly force is the application of potentially deadly techniques by police in an effort to apprehend or stop individuals and the use of deadly force to seize or stop individuals is unreasonable under the Fourth Amendment unless the officer has probable cause to believe that the person presents a substantial threat of death or serious physical harm to the officer or other persons (Hall & Feldmeier, 2012, p.497).

Make sure to read page 497-498 of your textbook to understand the scope and parameters of the use of deadly force by law enforcement officers.

Reference

Suggested Reading

The following article discusses deadly force with law enforcement, which was discussed in the lesson. You are encouraged to review this information.

In order to access the resource below, you must first log into the myCSU Student Portal and access the Academic Search Complete database within the CSU Online Library.


The following information on the Use of Force by the U.S. Department of Justice Community Oriented Policing Services (COPS) presents some interesting information. You are highly encouraged to review this information.


Review the PowerPoint presentations on Chapter 13 to supplement the textbook reading and lesson content.

Chapter 13: Civil Liberties in the Criminal Justice System
Click here to access the Chapter 13 PowerPoint presentation.
Click here for the PDF version.

Learning Activities (Non-Graded)

Choose and complete one of the three assignments in your textbook found on page 533, “Constitutional Law in Action.”

Non-graded Learning Activities are provided to aid students in their course of study. You do not have to submit them. If you have questions, contact your instructor for further guidance and information.