



# Understanding Capital Punishment Law

*Linda E. Carter, Ellen Kreitzber, Scott Howe*

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This treatise is designed to provide an overview of the complex issues surrounding capital punishment. The primary emphasis of **Understanding Capital Punishment Law** is an explanation of the constitutional law that governs death penalty proceedings in the United States.

**Understanding Capital Punishment Law** is structured in five parts:

- **Overview.** These chapters include arguments for and against capital punishment, and an overview of the legal constructs for analysis of Eighth Amendment issues.
- **Trial Procedures.** This group of chapters covers the constitutional issues that have shaped the process into a guilt phase and a penalty phase: aggravating circumstances, mitigating circumstances, and a decision on death or life. Topics include categorical bars to the death penalty, such as mental retardation; the function of aggravating evidence to narrow the group of death-eligible defendants; the presentation of aggravating evidence, such as victim-impact evidence; the function of mitigating evidence to provide for individualized consideration of the defendant; the presentation of mitigating evidence; and the decision process, including the distinction between weighing and non-weighing states and life without parole instructions.
- **Post-Trial Procedures.** These chapters include direct appeal; habeas corpus, with an emphasis on ineffective assistance of counsel and innocence claims; clemency; and death row issues of insanity and the death row phenomenon.
- **Systemic Issues.** Pervasive issues of race and gender discrimination are covered as well as the constitutional and practical problem of 'volunteers' for the death penalty. Additionally, there is a chapter that explains and describes international treaty issues in capital cases.
- **Future Issues.** A final chapter looks at issues that are likely to arise in future death penalty cases, including the constitutionality of executing juveniles and the effect of terrorism on death penalty law.

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