THE EIGHTH AMENDMENT AND ITS FUTURE
IN A NEW AGE OF PUNISHMENT

This book provides a theoretical and practical exploration of the constitutional bar against cruel and unusual punishments, excessive bail, and excessive fines. It explores the history of this prohibition, the current legal doctrine, and future applications of the Eighth Amendment. With contributions from the leading academics and experts on the Eighth Amendment and the wide range of punishments and criminal justice actors it touches, this volume addresses constitutional theory, legal history, federalism, constitutional values, the applicable legal doctrine, punishment theory, prison conditions, bail, fines, the death penalty, juvenile life without parole, execution methods, prosecutorial misconduct, race discrimination, and law and science.

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To Tré and Jack – MJR

To Stephanie, Eleanor, William, and Caroline – WWB
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Some particularly memorable conversations included a Southeastern Association of Law Schools panel in the summer of 2011 in Hilton Head, South Carolina, with John Stinneford and Corinna Lain; a Law & Society panel in Boston, Massachusetts, in 2013 with Rick Bierschbach and Beth Colgan; a Law & Society panel in Minneapolis, Minnesota, in 2014 with Richard Frase; an Association of American Law Schools panel in 2016 in New York City with Corinna Lain, Debby Denno, and Eric Berger; and a Law & Society panel in Washington, DC, in 2019 with Corinna Lain and John Bessler. And of course, we should mention the SEALS panel we had in August 2018 in Fort Lauderdale, Florida, with many of the contributors in preparation for this volume: Rick Bierschbach, Mike Mannheimer, Debby Denno, John Bessler, Corinna Lain, John Stinneford, and Cara Drinan.

Unaware of any collection of Eighth Amendment work by a variety of authors, we found it important to collect the many ideas that these stimulating conversations generated in one place. We wanted to share how constitutional doctrine connects to the hot-button issues of the day – mass incarceration, the death penalty, juvenile life-without-parole, and innocence – and offer our thoughts about how the Court will shape the Eighth Amendment in the future. We hope this volume of chapters on the Eighth Amendment will generate many future conversations exploring this often overlooked constitutional amendment, and its capacity to regulate the excessive punishment (and related) practices of federal and state governments. We are indebted...
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to this book’s many contributors for the sophistication and acumen of their contributions; we hope their insights will be of use to practitioners and academics alike.

We also appreciate the willingness of Cambridge University Press to publish this manuscript and allow for the collection of the interwoven and interconnected ideas and theories contained within a single volume. To be sure, there is much to say about the Court’s Eighth Amendment jurisprudence, and we believe this volume is a good start to the conversation and a precursor to many fruitful conversations in the future.

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