

Criminology, Law and Society 721
The Constitution, Criminal Procedure, and Security
Spring 2012

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Class meetings: Mondays, 1:30 to 4:10 pm, University Hall, Rm. 1203

Office Hours: To be announced

Course Description and Objectives

In this course, we will examine the rights of individuals at all stages of the criminal process. In order to understand how these doctrines develop, students will read and study opinions of the U.S. Supreme Court. This course is most frequently taught at the graduate level in law schools. At the end of this class, you will have a working knowledge of the law in this area, as well as experience engaging in legal reasoning, as a law student would.

However, the objectives of our class are broader than those of the typical graduate law course in criminal procedure. Our course will also focus upon the manner in which these legal doctrines function in practice and the ways in which these topics have been examined by social scientists. Familiarity with this scholarship will broaden your knowledge of the 'real world' functioning of criminal procedure and provide you with additional experience in understanding and planning social scientific research.

Course Requirements

Required Readings and Materials:

The syllabus lists required readings below. These readings may be accessed for free via GMU's library website. As part of your assignments for the course, students will also research and read additional scholarly articles with guidance from the instructor. These readings will be added to the list below as the semester continues. There is no required textbook for this course.

Class Participation and Discussion

Since reasoning is so crucial to the study of constitutional law and this is a graduate-level course, our class sessions will rely heavily upon discussion and participation. Class discussions will not merely re-cap the material found in the readings, but rather will supplement the reading material and, in many cases, greatly expand upon it. For these reasons, regular attendance at class meetings and participation is required. This area of constitutional law can result in some fascinating class discussions, but it also requires that you prepare for class and reflect upon what you read. I will often ask the class questions which will require you to apply and even to extend the legal rules that we discuss to other situations. Each student will make an important contribution to this class through their

comments and insights. The class will be conducted informally and we will be respectful of all opinions and contributions. Please feel free to speak up.

Course Requirements:

Assignments:

In addition to completion of the readings, there are six requirements for the course:

- 1) active participation in class discussions and activities (15%),
- 2) one literature review paper (5-7 pages) (20%),
- 3) one practice comprehensive exam question (5-7 pages) (15%)
- 4) two presentations as class discussion leader (15% each)
- 5) one final research design paper (10-12 pages) (20%)

As researchers, some of our most important skills involve the synthesis of large amounts of literature and the ability to present this in a focused, coherent manner. As a result, during two class sessions this semester, each student will take the responsibility for giving a brief literature review presentation and leading class discussion related to an area of academic research that we are discussing (see item #4 above). In consultation with me, each student will also select two journal articles for the class to read in preparation for these class sessions. These journal articles should represent interesting, cutting-edge research and should contain good reviews of the literature. I will help you to locate these articles and provide suggestions to you as you conduct your literature review. These presentations will be evaluated based upon your knowledge of the topic, ability to stimulate interest and discussion, organization and preparedness, and creativity. A sign-up sheet for these assignments will be distributed during the second class meeting.

All written assignments must be typed, double-spaced, in 12-point Times New Roman font and must include correct APA citations where necessary. A short guide to APA citations may be found on the web at GMU's writing center site. Please note: there are also specific rules governing the citation of legal materials in APA style.

University Policies

Please note these important dates:

Last Day to Add (Full-Semester Course) January 31, 2012

Last Day to Drop (Full-Semester Course) February 24, 2012

Students with Disabilities

If you are a student with a disability and you need academic accommodations, please see me and also contact the Office of Disability Resources at 703.993.2474. All academic accommodations must be arranged through this office. The need for accommodations should be identified at the beginning of the semester.

The Honor Code, Plagiarism and Academic Integrity

Adherence to the University regulations concerning academic integrity is mandatory for this class. Please familiarize yourself with the University's Honor Code, which may be found in the University Catalog. It will be considered a violation of the honor code for you to

turn in written work that you have previously completed for another class at GMU or elsewhere (even if you are the author of this work).

Class Meetings and Assignments

****Please note: in the case of inclement weather, please check your email before coming to class.**

Week 1 – January 23 – Introduction to the class and to the U.S. Court System/Incorporation

Week 2 – January 30 – Probable Cause

Spinelli v. United States, 393 U.S. 410 (1969).

Illinois v. Gates, 462 U.S. 213 (1983).

Mishler, William, and Reginald S. Sheehan. 1993. “The Supreme Court as a Countermajoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions.” *American Political Science Review* 87: 87-101.

Excerpt from Lain, Corinna Barrett, *Countermajoritarian Hero or Zero? Rethinking the Warren Court’s Role in the Criminal Procedure Revolution*, 152 U. Pa. L. Rev. 1361 (2004), pp. 1-9.

Week 3- February 6 – The Exclusionary Rule

Mapp v. Ohio, 367 U.S. 643 (1961).

Massachusetts v. Sheppard, 468 U.S. 981 (1984).

Nix v. Williams, 467 U.S. 431 (1984).

Uchida, Craig D. and Timothy S. Bynum. 1991. “Search Warrants, Motions to Suppress and ‘Lost Cases:’ The Effects of the Exclusionary Rule in Seven Jurisdictions.” *Journal of Criminal Law & Criminology* 81:1034-66

Week 4 – February 13 – Searches and Seizures of Things; Searches and Seizures Not Fully Protected by the Fourth Amendment

US v. Katz, 389 U.S. 347 (1967).

Chimel v. California, 395 U.S. 752 (1969).

Oliver v. U.S., 466 U.S. 170 (1984).

Kyllo v. U.S., 533 U.S. 27 (2001).

Heffernan, William C. and Richard W. Lovely. 1991. “Evaluating the Fourth Amendment Exclusionary Rule: The Problem of Police Compliance with the Law.” *Journal of Law Reform* 24: 311-69.

Week 5 – February 20 – Searchers and Seizures Not Fully Protected (continued)/Motor vehicle searches and inventories

Carroll v. U.S., 267 U.S. 132 (1925).

U.S. v. Ross, 456 U.S. 798 (1982).

Gould, Jon. B. and Stephen D. Mastrofski. 2004. "Suspect Searches: Assessing Police Behavior under the Constitution." *Criminology and Public Policy* 3: 316-362.

Lum, C., Merola, L., Cave, B., Hibdon, J. 2010. "License Plate Recognition Technology: Impact Evaluation and Community Assessment for Law Enforcement" Chapter 4.

Week 6 – February 27 – Stops and Frisks

Terry v. Ohio, 392 U.S. 1 (1968).

Minnesota v. Dickerson, 508 U.S. 366 (1993).

Michigan v. Long, 463 U.S. 1032 (1983).

Week 7 – March 5 – Work day for semester papers

Week 8 – March 12 – No class due to spring break

Week 9 – March 19 – Arrests and the Use of Force

Payton v. New York, 445 U.S. 573 (1980).

Tennessee v. Garner, 411 U.S. 1 (1985).

Week 10 – March 26 – Lineups and Identifications

Kirby v. Illinois, 406 U.S. 682 (1972).

Manson v. Brathwaite, 432 U.S. 98 (1977).

Neil v. Biggers, 409 U.S. 188 (1972).

Week 11 – April 2 – Confessions and Admissions

Miranda v. Arizona, 384 U.S. 436 (1966).

Texas v. Cobb, 532 U.S. 162 (2001).

Week 12 – April 9 - Pre-trial Process/Plea Bargaining

Boykin v. Alabama, 395 U.S. 238 (1969).

North Carolina v. Alford, 400 U.S. 25 (1970).

Week 13 – April 16 - Rights of the Accused during Trial

Gideon v. Wainwright, 372 U.S. 335 (1963).

Brady v. Maryland, 373 U.S. 83 (1963).

Week 14 – April 23 – The Jury

Duncan v. Louisiana, 391 U.S. 145 (1968).

Batson v. Kentucky, 476 U.S. 79 (1986).

Week 15 – April 30 – Terrorism and Rights

Hamdi v. Rumsfeld, 542 U.S. 507 (2004).

Boumedienne v. Bush, 553 U.S. 723 (2008).