**GEORGE MASON UNIVERSITY**

**Criminology, Law and Society**

**Controversial Legal Issues - #422**

# COURSE SYLLABUS

###  SPRING 2019

## I. Instructor:

## Lawrence J. Leiser, Esq. llawrenc@gmu.edu There will be no posted office hours.  However, students are encouraged to meet with the Instructor by scheduled appointments. Students may call (703) 299-3913 to make appointments. The instructor is always available after class to meet with students.

II.  Purpose of Course:

To study law as an institution on four levels: 1) Law and Terrorism; 2) Law and the Individual; 3) Law and the State; and 4) Law and the Community.  The course will focus on the study of law as an institution that continuously interacts with other social institutions by examining nineteen (19) contemporary legal issues.

The course will allow the student to see how constitutional and statutory laws are interpreted by the courts to determine and define the law. We will examine contemporary legal issues and learn how the courts, using the law, resolve today’s most controversial issues.

The course is intended to allow the student to examine contemporary legal issues by analysis, research, and discussion.  A series of nineteen (19) issues will be explored by the student.  It is hoped that the exploration will not only help the student define his understanding of how the law is determined, but more importantly allow the student to analyze all sides of an issue and reach a well reasoned and carefully thought out conclusion.

This class will be challenging, interesting, and fun.  It will require the student to be prepared.  True learning only comes from a commitment to study, which requires self-discipline.  Every student will be expected to read, study (think, analyze, and review), participate in class discussion, i.e., be prepared to discuss the reading assignments and offer his/her perspective, and do so in a respectful and appropriate fashion.  This is not a course for those who want to “slide-by.”  You will be required to learn a new language - - that of judicial discourse - - in the process you will acquire insights into how our judicial system resolves some of today’s most controversial legal issues.  At bottom, if you do what is required by way of preparation, you will find the subject matter fascinating, insightful, and I believe inspiring. **Classes will start on time**. Unless it is an emergency students are not permitted to leave class once started.

III. Assignments:

A.  Assigned Readings.

Students will be expected to read each of the designated 19 “Issues” (mostly excerpts of Supreme Court decisions) in the text for each class. In addition, each student will be required to “brief” (explanation of briefing procedure to follow) each case or topic that is the subject matter of an “Issue.”  A short quiz (five to six questions) will be given on each issue in the text book. You should retain your quiz results as a useful study guide to prepare for the final exam.

B. Writing Assignments.

1. Legal Brief.  A legal brief is a summary of a published, or unpublished, court opinion with a very specific format and objective.  Its purpose is to set forth, as clearly and concisely as possible, the facts, issues, holding(s), and reasoning of a particular case/issue.  The details of the format involved in brief writing will be the subject of the first class lecture. Students will be responsible for submitting briefs of 2-3 typed pages, double-spaced, size 12 type) for each “Issue.”  Briefing assignments will track the “Issues” found in the text book. A Blackboard “SafeAssign Report” **must** be attached to each brief. Unless there is an excused absence all late briefs will be given a “C” grade at best. All briefs must be written exclusively based upon the text. Any evidence that other sources were used in writing a brief will detract from the overall grade.

2. Research Paper.  Each student will be required to complete a college level research paper of 2,200 words, double-spaced, size 12 type.   Although, emphasis will be placed upon identification and discussion of issues involved in the assignment, the paper will also be reviewed for other aspects of writing skills, such as, research, organization, grammar, spelling, and sentence structure.  The research paper is NOT a book report on the “Issue,” it should be a researched discussion of a related topic from the assigned “Issue.” Your paper will be on a topic related to the second issue that will be assigned to you at the beginning of the semester. The research paper must contain a “word count” at its conclusion and a “SafeAssign Report” must be attached to the research paper.

3. “SafeAssign”

We will use “SafeAssign” on all briefs and the “term paper” as an instructive tool for using sources correctly. A “SafeAssign” report must be attached to each brief and your term paper when handed in on the due date.

1. ORAL PRESENTATIONS

Each student will be required to make two to four Oral Presentations from the nineteen (19) issues in the text book. For each of the nineteen (19) “Issues” identified in the text book, a team of 1 to 2 students will be assigned either “majority” (yes) or “minority” (no) positions.  You will be required to work with your teammate to state and defend your position and make oral presentations as a team to the class.  The team will be required to support its position in a creative and educational manner with presentations that are imaginative, insightful, and entertaining.  This may be done through demonstrative evidence, argumentative presentation, guest speakers, etc.  (The use of guest speakers must be discussed with the instructor beforehand.)

**Key to Success** - - A significant part of your grade will be determined on how well you and/or your “**team**” coordinated their presentation. Working together before hand is critical to your success. Uncoordinated individual presentations will greatly detract from your grade. Whereas a well-coordinated team approach that brings out the strengths of your position and the weaknesses of your adversaries will assuredly bring you a high grade in this exercise.

  Each issue will be debated by a panel of one or two student for the “majority” (Yes) position, and one or two students for the “minority” (No) position. Each speaker will be given no more than five (5) minutes to make his/her presentation.  Each team has one or two persons, each with a primary responsibility, as follows:

**STATOR:** This student will be primarily responsible for stating the position taken by the team.  He or she will bring up, point by point, the issues inherent in each part of the argument.  A prepared written outline may be quite helpful, but direct reading of a prepared statement will not be appropriate and will lose points. A conversational presentation of the position in the stator’s own words will be much more acceptable. The Stator must have intimate knowledge of the empirical content of the positions taken and should understand the research supporting the side chosen.  The stator can do well by looking up outside sources in order to strengthen the arguments.    Any effort (short of murder) is legitimate for generating support for a position.  However, the stator will be “attacked” at some length by the opposition – so he or she had better be able to back up his or her supporting data.  It should be empirical and responsible.

**ATTACKER: T**he attacker will be responsible for probing the opposite team for weaknesses in their arguments.  He or she may question data, disprove, counter, and use any *rational* method to discredit the opposition’s position or data.  An appreciation for research design and data analysis may help the attacker.  It is also strongly suggested that the attacker be very familiar with the articles and materials being used by the opposing team.  Unless role-playing is extremely good, personal attacks are considered in very poor taste.  The questioner may insult one of the authors but should refrain from attacking the student who supports that position. At the end, the stator will summarize, recap, and state which of the points made can be salvaged to ultimately support the team’s position.

IV.   Grading:

A. Research Paper - - 20%

Brief Assignments - - 20%

Issue Presentations (2) - - 20%

Class Participation and Weekly Quiz - - 20%

Final Exam - - 20%

B. 100 to 99 = A+; 98 to 96 = A; 95 to 92 = A-; 91 to 89 = B+; 88 to 85 = B; 84 to 81 = B-; 80 to 77 = c+; 76 to 73 = C; 72 to 70 = C-; 69 to 66 = D; 65 and below = F

V.   Required Text:

M. Ethan Katsh and William Rose, TAKING SIDES - - *Clashing Views of Contemporary Legal Issues*, Seventeenth Edition

VI.   Class Schedule and Assignments:

**Jan. 24, 2019 Review Course Syllabus; Overview of American Legal System; Reading and Briefing Cases.**

**Jan. 31, 2019 Issue 1.   Should Persons Who are Declared to be “Enemy Combatants” be Able to Contest Their Detention Before a Judge? (page 15)**

#### Feb. 7, 2019 Issue 2. Does the President Possess Constitutional Authority to Order Wiretaps on U.S. Citizens? (page 26)

#### Feb. 14, 2019 Issue 3. Are Violent Video Games Protected by the First Amendment? (page 47)

**Feb. 21, 2019 Issue 4.**  **Can States Ban Physician Aid-in Dying for Terminally Ill Patients? (page 64)**

 **Issue 5. Does the Sharing of Music Files Through the Internet Violate Copyright Laws? (page 82)**

**Feb. 28, 2019 Issue 6. Is the Eighth Amendment Protection Violated If Prisoners are Deprived of Basic Sustenance, Including Adequate Medical Care? (page 95)**

 **Issue 7. Is It Constitutional to Open a Town Meeting with a Prayer? (page 113)**

##### March 7, 2019 Issue 8. Is a Strip Search of Middle School Students That Is Aimed at Finding Drugs Prohibited Under the Fourth Amendment? (page 131)

**March 14, 2019 No Class Spring Break**

**March 21, 2019 TERM PAPER DUE Issue 9. Is a Dog Sniff Outside a Home Prohibited by the Fourth Amendment? (145)**

##### March 28, 2019 Issue 10. Does the "Cruel and Unusual Punishment" Clause of the Eighth Amendment Bar the Imposition of the Death Penalty on Juveniles? (page 156)

#####  Issue 11. Should the Federal Government Require That All Internet Traffic Be Treated Equally? (168)

##### April 4, 2019 Issue 12. Can a Facebook Poster Be Punished If a “Friend” Finds It Threatening? (182)

#####  Issue 13. Is there a Constitutional Right to Possess a Firearm for Private Use? (page 198)

##### April 11, 2019 Issue 14. Are Blanket Prohibitions on Cross Burnings Unconstitutional? (page 214)

#####  Issue 15. Does the 4th Amendment Permit Police to Collect DNA from People Arrested, but Not Convicted on Felony Charges? (page 227)

##### April 18, 2019 Issue 16. Is same-Sex Marriage Protected by the Fourteenth Amendment to the U.S. Constitution? (242)

##### April 25, 2019 Issue 17. Does the First Amendment Protect Unlimited Donations by a Single Contributor on Behalf of Political Candidates.? (253)

#####  Issue 18. Are Voter-Approved Bans on Race-Conscious Public Univeresity Admissions Policies Permitted Under the Fourteenth Amendment? (271)

##### May 2, 2019 Issue 19. Is It Unconstitutional for States to Imprison Undocumented Immigrants? (288)

##### May 9, 2019 Final Exam

VII. Words of Advise:

As both a former state and current federal prosecutor, I have lived and practiced within our system of justice.  I will be prepared to share with you my years of experience and study, but your success is entirely within your own hands.  Being unprepared is unacceptable and will assuredly reduce your grade.  Lack of class participation will have an adverse effect as well.  You cannot succeed in this class unless you do the readings and come to class prepared to participate, learn, and share your thoughts and insights.  Being late or leaving early will have an adverse impact on your final grade, in that you cannot participate if you are not there.

Extensions will be arranged only in the case of serious illness, family tragedy and the like, and then only with advance notice.  Late assignments, i.e., briefs and research paper, will be penalized a half grade per day.

As an officer of the law, I take very seriously compliance with the law.  Therefore, I will take very seriously the University’s Honor Code.  It is available in the *University Catalog*.  Please make sure that you consult it and understand its terms.  You will be held to them.

Plagiarism:  Know what it is, go to [http://writingcenter](http://writingcenter/).gmu.edu for a concise definition.  I will use several computer programs to check for plagiarism, if you are caught you will be reported and be given an "F" for this course at a minimum.  Do your own work; attribute credit to the work of others.

**Use of Computer and cell phones**: All cells phones **must be turned off and not on your desk** at the start of class. If you feel you must use your computer in class to take notes, please see me, otherwise computers **must be turn off and not on your desk**. No one may leave class, other than on a “class break,” unless there is an emergency.

VIII.  Brief Format (two to four pages, double space, one side of page):

NAME OF CASE, YOUR NAME, DATE, ISSUE #

FACTS:  A statement of the key facts that are involved in case.

ISSUE(S):  A sentence(s) that succinctly states what the issues(s) is in the case.  This is always in the form of a question.

HOLDING:  This is a statement that answers the question(s) raised by the Issue.

MAJORITY RATIONALE:  This is an explanation as to why the majority of the court decided the case the way it did, written by a majority judge.  This is the “Yes” side of the issue.

MINORITY RATIONALE:  This is an explanation as to why the minority of the court believes the case should be ruled differently than the majority held. This is the “No” side of the issue

YOUR OPINION:  How you would have decided the case and why.

Caveat: Your briefs should be written **exclusively based upon the text book**. Seeking “short-cuts” by searching other materials is prohibited and will result is a reduced grade. However, presenters are encouraged to make a broader investigation on their assigned issues. Presenters are not required to submit a brief for their assigned issue.

X. The General Education Mission of George Mason University.

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| The mission of George Mason University's General Education Program is to educate, liberate, and broaden the mind, and to instill lifelong love of learning. In conjunction with each student’s major program of study and other electives, minors, or certificates, this program seeks to produce graduates with intellectual vision, creative abilities, and moral sensibility, as well as the skills to assure a well-rounded and useable education. The General Education Program seeks four specific goals: A. General education courses should first ensure that all undergraduates develop skills in information gathering, written and oral communication, and analytical and quantitative reasoning. B. General education courses should expose students to the development of knowledge by emphasizing major domains of thought and methods of inquiry. C. General education courses should enable students to attain a breadth of knowledge that supports their specializations and contributes to their education in both personal and professional ways. D. General education courses should encourage students to make important connections across boundaries (for example: among disciplines; between the university and the external world; between the United States and other countries).XI. Disability Statement If you are a student with a disability, and you need academic accommodations, please see me and contact the Office of Disability Resources at (703) 993-2474.  All academic accommodations must be arranged through that office.XII. Enrollment Statement Students are responsible for verifying their enrollment in this class.  Schedule adjustments should be made by the deadlines published in the schedule of classes, see registrar.gmu.edu.

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|  | **Last Day to Add** **(no tuition liability)** | **Last Day to Drop****(100% tuition** **refund)**  | **Final Drop** **Deadline****(TBD tuition refund percent)** |  |
|  | 1/29 | 2/5 | 2/12 |  |

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