

The Constitution, Criminal Procedure, and Security
Spring 2021 CRIM 521-DL1
Mondays, 8:45PM – 10:00PM
Online

Instructor: Christopher Morehouse, Esq. Office Hours: By appointment only
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PLEASE READ THE ENTIRE SYLLABUS BEFORE THE FIRST DAY OF CLASS

Course Description: This seminar course will focus on understanding legal doctrines that form the basis of U.S. constitutional criminal procedural rights and how doctrines develop, why courts rule as they do, and evaluating strengths/weaknesses of rights.

Course Goal: In this course, we will examine the rights of individuals at all stages of the criminal process. In order to understand how these legal doctrines develop, students will read and study opinions of the U.S. Supreme Court. At the end of the class, you will have a working knowledge of the major doctrines of criminal procedure, 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 law school course in criminal procedure. This perspective is an important one for students of criminal justice with a practical focus, since many of these issues form the basis of key, contemporary challenges in the area of constitutional law. In addition to the substantive objectives outlined above, the course will also advance students' mastery of important professional skills, such as writing, public speaking, professional briefing, and translating academic research for use by practitioners.

Textbook: No formal textbook. See Class Schedule for reading assignments

Method of Evaluation:

Original Paper = 80%	≥96%:	A+
This is a "paper course" in which the student will be asked to complete an original essay of 5,000 – 7,500 words touching on some aspect of the course. Some examples: an in-depth look at the history of a particular right or doctrine; an analysis of the effectiveness of a particular right or doctrine at accomplishing its intended function and any secondary consequences of its implementation; a comparison between countries on the application of a selection of rights and doctrines.	93-95.99%:	A
	90-92.99%:	A-
	86-89.99%:	B+
	83-85.99%:	B
	80-82.99%:	B-
	76-79.99%:	C+
	73-75.99%:	C
	70-72.99%:	C-
	65-69%:	D

<p>The student is required to discuss the topic with the instructor before starting the paper.</p> <p>Attendance/Class Discussion = 20%</p>	<p><65%: F</p>
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Attendance: As this is a seminar course, which the University defines as one where course material is primarily delivered via small group discussion led by a faculty member, it is vital that students attend the online classes regularly. The quality of the student’s participation will be reflected in the grade as well; you cannot simply “phone it in”.

Excused absences will be dealt with according to University policy. I realize that life exists outside of school and can often get in the way. Provide me as much notice as possible by e-mail. Same day notice will be viewed with a high amount of scrutiny.

Class Meetings: Class meetings will be by Cisco WebEx. You can download the software here: <https://www.webex.com/downloads.html>. A link will be sent to you for class each week inviting you to the meeting. I will endeavor to have the “meeting room” open at least 15 minutes before each class. ***You will be required to keep your video function ON and your face visible for each class.*** Attendance by phone alone will not be sufficient for credit. Additional policies may be put into place regarding the mute function depending on how well the connection works.

Communications: Email is the best way to reach the instructor. *Please place in the subject line “S21-Crim 521 [Last name, FI]” on ALL emails sent to the instructor.* The instructor will respond within 24 hours.

Equipment: A laptop or desktop computer is essential for this class.

Coursework

Essay: As stated before, this will be an original work of 5,000 to 7,500 words. Deviations from this word requirement will be penalized at the discretion of the instructor. Formatting will be Times New Roman 12-pt font, single-spaced, and standard margins. Files must be submitted electronically to me by e-mail in a .docx format.

The essay is due by Friday, April 30, 2021 at 11:59PM. Late submissions will be penalized 25% of the total grade for each day late. No submissions will be accepted four days after the due date.

The student should draw on primary sources and cite to relevant statutes and case law when applicable. Any and all citations used shall be consistent and follow either the MLA or Bluebook formats at the discretion of the student. In-text citations are required for material facts.

Grades will be available by the end of the University exam period.

Assigned Reading: Students are responsible for keeping up with the reading assignments. The discussions will assume participants have internalized the information contained in the texts and are prepared to expand on them. Links have been embedded below for most of the readings. You will need to be able to log into the various databases using your GMU information. The following list is the assigned reading for the semester:

Class Due Date		Reading
January 25 (Week 1)	Course Intro and US Court System	Interactive Map looking at state court structures Virginia Court System - http://www.courts.state.va.us/courts/cib.pdf Brief Look at US Federal Court System Case Brief Writing
February 1 (Week 2)	Probable Cause	Spinelli v. United States, 393 U.S. 410 (1969). Illinois v. Gates, 462 U.S. 213 (1983). Rachlinski, J.J., Guthrie, & Wistrich, A.J. (2011). Probable cause, probability, and hindsight. Journal of Empirical Legal Studies 8, 72–98.
February 8 (Week 3)	Exclusionary Rule	Mapp v. Ohio, 367 U.S. 643 (1961). Herring v. U.S. 555 U.S. 135 (2009). Bilz, K. (2012). Dirty hands or deterrence? An experimental examination of the exclusionary rule. Journal of Empirical Legal Studies 9(1), 149–171.
February 15 (Week 4)	NO CLASS	NO CLASS (INSTRUCTOR UNAVAILABLE)
February 22 (Week 5)	Stops and Frisks	Terry v. Ohio, 392 U.S. 1 (1968). Lt. Dan Marcou, La Crosse Police Department (Ret.), Why the Terry stop is still a life-saving tool, Oct. 10, 2020. Rudovsky, D., Harris, D.A. (2018). Terry Stops-and-Frisks: The Troubling Use of Common Sense in a World of Empirical Data. Ohio State Law Journal, Vol. 79, p. 501, 2018.
March 1 (Week 6)	Investigations, Arrests, and the Use of Force	Payton v. New York, 445 U.S. 573 (1980). Tennessee v. Garner, 411 U.S. 1 (1985). Johnson, D., Kuhns, J.B. (2009). Striking Out: Race and Support for Police Use of Force. Justice Quarterly 26(3), 592-623.

March 8 (Week 7)	Search and Seizure, Pt 1	U.S. v. Katz, 389 U.S. 347 (1967). Oliver v. U.S., 466 U.S. 170 (1984). U.S. Department of Justice (2011). Investigation of the New Orleans police department by the US DOJ Civil Rights Division (Read through page 68)
March 15 (Week 8)	Search and Seizure, Pt 2	Carroll v. U.S., 267 U.S. 132 (1925). Arizona v. Gant, 556 U.S. 332 (2009). U.S. Department of Justice (2011). Investigation of the New Orleans police department by the US DOJ Civil Rights Division (Read remaining) Gau, J.M. (2012). Consent searches as a threat to procedural justice and police legitimacy: An analysis of consent requests during traffic stops. Criminal Justice Policy Review 24(6) 759-777.
March 22 (Week 9)	The Fourth Amendment, Police, and Technology	Kyllo v. U.S., 533 U.S. 27 (2001). U.S. v. Jones, 132 S. Ct. 945 (2012). Gill, M., Bryan, J. & Allen, J. (2007). Public perceptions of CCTV in residential areas: "It is not as good as we thought it would be." International Criminal Justice Review 17, 304-324.
March 29 (Week 10)	Lineups and Eyewitness Identifications	Neil v. Biggers, 409 U.S. 188 (1972). Wells, G. L., & Quinlivan, D. S. (2009). Suggestive eyewitness identification procedures and the supreme court's reliability test in light of eyewitness science: 30 years later. Law and Human Behavior, 33, 1-24.
April 5 (Week 11)	Confessions and Admissions	Miranda v. Arizona, 384 U.S. 436 (1966). Kassin, S.M. & Norwick, R.J. (2004). Why people waive their "Miranda" rights: The power of innocence. Law and Human Behavior, 28(2), 211-221. Leo, R.A. (1996). Inside the interrogation room. The Journal of Criminal Law & Criminology 86(2), 266-303.
April 12 (Week 12)	Pre-trial/Plea Bargaining	Boykin v. Alabama, 395 U.S. 238 (1969). Kuziemko, I. (2006). Does the threat of the death penalty affect plea-bargaining in murder cases? Evidence from New York's 1995 reinstatement of capital punishment. American Law and Economics Review, 8, 116-142.
April 19 (Week 13)	Right to Counsel/Issues of Evidence and the Standard of Proof/Juries	Gideon v. Wainwright, 372 U.S. 335 (1963). Brady v. Maryland, 373 U.S. 83 (1963). Batson v. Kentucky, 476 U.S. 79 (1986).

April 26 (Week 14)	NO CLASS	NO CLASS - Finish Papers
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Notice to Students

I reserve the right to amend and update this Syllabus as I see fit throughout the semester with the aim of making the learning process more efficient and effective. You will be notified by Blackboard update if I have updated the Syllabus.