

GEORGE MASON UNIVERSITY

Course Syllabus CRIM 424-004 - FALL, 2021

CONSTITUTIONAL LAW: CRIMINAL PROCESS AND RIGHTS

If we desire respect for the law, we must first make the law respectable.

Louis D. Brandeis

There is plenty of law at the end of a nightstick.

Grover A. Whalen

There is no such thing as justice - in or out of court.

Clarence Darrow

COURSE INFORMATION

I. Instructors: Richard A. Conway
rconway@gmu.edu

James A. Willett
jwillett@vacourts.gov

Please use these phone numbers and e-mail addresses to communicate with the instructors.

II. Purpose of Course:

Although the process of investigating a crime can be varied and complex, the most fruitful avenues of investigation typically involve search and seizure under the Fourth Amendment to the U.S. Constitution and interrogation of suspects under the Fifth and Sixth Amendments. Law enforcement officers are charged with knowing these areas of the law. To the extent that they do not, they imperil their cases, because violation of constitutional rights can result in exclusion of evidence at trial. This course is designed to provide students a detailed understanding of this critical area of constitutional law with a view toward giving them the ability to conduct successful criminal investigations within this complex matrix of requirements.

III. Textbook:

The instructors have compiled a collection of federal and state cases, which will be available at the university bookstore in Manassas.

IV. Course Requirements:

- A. **Assigned Readings**. Readings from the collected cases will be assigned for each class. The instructors will provide additional materials during the course on specific topics, most of which may be accessed at www.findlaw.com/casecode/supreme.html.
- B. **Examinations**. There will be two (2) examinations: a mid-term and a cumulative final.
- C. **Class Participation**. Each student is required to demonstrate that he or she is reading and attempting to understand the assignments by making regular contributions to class discussions. There should be an emphasis on the *quality*, not the *quantity* of such contributions.
- D. **Optional Extra Credit**. Attend a criminal court proceeding, preferably a trial or motion to suppress evidence. Include the name of the defendant, the offense charged, the date of the proceeding, and the name of the court attended. Write 2-3 pages maximum (double-spaced) summarizing the nature of the proceeding, the evidence introduced, issue(s) presented, and the disposition of the proceeding. (A brief interview of a participant is recommended.) This paper will be due by the date of our final exam, December 7, 2021, and will not be accepted after that date. Depending upon the quality of the paper submitted, students seeking this extra credit may have between 2 and 5 points added to their final grade.

V. Grading.

Grades for this course will be computed as follows:

- Examinations - 90%
- Class Participation - 10%

99-100 = A+	78-79 = C+	0-59 = F
92-98 = A	72-77 = C	
90-91 = A-	70-71 = C-	
88-89 = B+	68-69 = D+	
82-87 = B	62-67 = D	
80-81 = B-	60-61 = D-	

VI. Academic Integrity.

Students are expected to be present at all lectures and to complete all assignments in a timely fashion. Students are reminded of the University's Honor Code, relevant portion attached hereto.

VII. Office Hours.

There will be no posted office hours. However, students are encouraged to meet with instructors by scheduled appointments. Students may contact the instructors via email to make such appointments.

VIII. Add and Drop Deadline.

Last Day to Add/Drop classes w/no tuition penalty - Sept 7, 2021
Last Day to Drop classes with penalty - Sept 14, 2021

IX. Accommodations for Disabilities.

If you are a student with a disability and you need academic accommodations, please see one of the instructors and contact the Disability Resource Center (DRC) at 703-993-2474. All academic accommodations must be arranged through that office.

COURSE TOPICS AND SCHEDULE OF REQUIRED READINGS.

August 24

- I. Introduction to Class, Review Syllabus

August 31

Introduction to Criminal Procedure and Discovery

September 7, 14

- II. The Fourth Amendment: Stops, Arrests and Searches.

A. Stops & Arrests

Herring v. United States, 555 U.S. 135 (1/14/2009) p. 1

DePriest v. Commonwealth, 4 Va. App. 577 (1987) p. 11

Williams v. Commonwealth, 21 Va. App. 263 (1995) p. 21

Illinois v. Wardlow, 528 U.S. 119 (2000) p. 25

U.S. v. Burton, 228 F.3d 524 (4th Cir. 2000) p. 31

Thomas v. Commonwealth, 57 Va. App. 267 (2010) p. 37

September 21, 28

B. Probable Cause

Buck v. Commonwealth, 20 Va. App. 298 (1995) p. 45

C. Search Warrants

Morton v. Commonwealth, 16 Va. App. 946 (1993) p. 49

Spivey v. Commonwealth, 23 Va. App. 715 (1997) p. 55

D. Exceptions to Search Warrant Requirements.

1. Search Incident to Arrest

Italiano v. Commonwealth, 211 Va. 334 (1973) p. 61

Arizona v. Gant, 556 U.S. 332 (4/21/2009) p. 65

2. Consent Searches

United States v. Drayton, 536 U.S. 194 (2002) p. 81

3. Plain View

Horton v. California, 496 U.S. 128 (1990) p. 91

October 5

4. Motor Vehicles

United States v. Ross, 456 U.S. 798 (1982) p. 101

5. Open Fields and Abandoned Property

Wellford v. Commonwealth, 227 Va. 297 (1984) p. 121

Wechsler v. Commonwealth, 20 Va. App. 162 (1995) p. 127

6. Exigent Circumstances

Commonwealth v. Robertson, 275 Va. 559 (2008) p. 133

October 12 - Fall Break: NO CLASS

October 19 - Review for Mid-Term Exam

October 26 - Mid-Term Exam

November 2, 9

III. The Fifth and Sixth Amendments: Confessions, Interrogations, Identification, and the Right to Counsel.

A. Voluntariness.

Robinson v. Commonwealth, 63 Va. App. 302 (2014) p. 139

Bottenfield v. Commonwealth, 25 Va. App. 316 (1997) p. 147

Arthur v. Commonwealth, 24 Va. App. 102 (1997) p. 155

B. Nontestimonial Evidence.

C. Miranda Warnings.

1. Custody and Interrogation.

Timbers v. Commonwealth, 28 Va. App. 187 (1998) p. 159

Burket v. Commonwealth, 248 Va. 596 (1994) p. 169

2. Voluntary Encounters.

3. Investigative Detention.

Cherry v. Commonwealth, 14 Va. App. 135 (1992) p. 187

4. Spontaneous Statements.

5. Public Safety Exceptions.

6. Booking Information.

November 16

D. Miranda Waivers.

Novak v. Commonwealth, 20 Va. App. 373 (1995) p. 193

E. Invoking Miranda.

Bolding v. Commonwealth, 15 Va. App. 320 (1992) p. 203

Weeks v. Commonwealth, 248 Va. 460 (1994) p. 207

Commonwealth v. Redmond, 264 Va. 321 (2001) p. 223

Maryland v. Shatzer, 559 U.S. 98 (2010) p. 235

November 23 Thanksgiving Break: NO CLASS

November 30 - Review for Final Exam

F. Sixth Amendment.

Rothgery v. Gillespie County, Texas, 554 U.S. 191 (2008) p. 247

Texas v. Cobb, 532 U.S. 162 (2001) p. 265

Saleem v. Commonwealth, 23 Va. App. 726 (1997) p. 275

Montejo v. Louisiana, 556 U.S. 778 (5/26/2009) p. 281

G. Pre-trial identification procedures

December 14 - Final Exam

CRIM 424-004, FALL, 2021

August 24	Introduction to Class Review Syllabus
August 31	Criminal Justice System 4 th Amendment
September 7	4 th Amendment
September 14	4 th Amendment
September 21	4 th Amendment
September 28	4 th Amendment
October 5	4 th Amendment
October 11	NO CLASS; FALL BREAK
October 19	Review for Mid-Term Exam
October 26	MID-TERM EXAM
November 2	5 th Amendment
November 9	5 th Amendment
November 16	5 th Amendment
November 23	NO CLASS; THANKSGIVING BREAK
November 30	6 th Amendment REVIEW FOR FINAL EXAM
December 7	Optional Extra Credit Paper Due
December 14	FINAL EXAMINATION

Extent of the Honor Code

The Honor Code of George Mason University deals specifically with *cheating and attempted cheating, plagiarism, lying, and stealing.*

A. Cheating encompasses the following:

1. The willful giving or receiving of an unauthorized, unfair, dishonest, or unscrupulous advantage in academic work over other students
2. The above may be accomplished by any means whatsoever, including but not limited to the following: fraud; duress; deception; theft; trick; talking; signs; gestures; copying from another student; and the unauthorized use of study aids, memoranda, books, data, or other information
3. Attempted cheating

B. Plagiarism encompasses the following:

1. Presenting as one's own the words, the work, or the opinions of someone else without proper acknowledgment
2. Borrowing the sequence of ideas, the arrangement of material, or the pattern of thought of someone else without proper acknowledgment

C. Lying encompasses the following: The willful and knowledgeable telling of an untruth, as well as any form of deceit, attempted deceit, or fraud in an oral or written statement relating to academic work. This includes but is not limited to the following:

1. Lying to administration and faculty members
2. Falsifying any university document by mutilation, addition, or deletion
3. Lying to Honor Committee members and counsels during investigation and hearing. This may constitute a second charge, with the committee members who acted as judges during that specific hearing acting as accusers

D. Stealing encompasses the following:

Taking or appropriating without the permission to do so, and with the intent to keep or to make use of wrongfully, property belonging to any member of the George Mason University community or any property located on the university campus. This includes misuse of university computer resources (see the Responsible Use of Computing Policy section in the "General Policies" chapter). This section is relevant only to academic work and related materials.