



Criminology 424: Constitutional Law: Criminal Process and Rights

Fall 2021

Dr. Wesley S. McCann, Ph.D

Office: Virtual

Office Hours: virtual by appointment (see below)

Email: [wmccann@gmu.edu](mailto:wMcCann@gmu.edu)

Class Time: Asynchronous

Course Design

This course will follow the asynchronous remote-only model. As such, lectures for that week will be pre-recorded and made available on Monday morning. Each week will have 1-2 lectures depending on the content. Additional activities, assignments, quizzes, and exams will be assessed via Blackboard asynchronously as well. This course will take place entirely remotely with no in-person meetings.

Course Description

This class is designed for you to examine and understand how criminal procedure operates within the United States criminal justice system vis-à-vis the United States Constitution. Furthermore, this course will enable you to understand the origins, evolution, and application of contemporary criminal procedure. Within the course, we will analyze current jurisprudence at both the state and federal levels in relation to real criminal cases.

Course Objectives:

Upon completing the course the student will be able to:

- Communicate- orally and in writing- the constitutional foundations of contemporary criminal procedure.
- Communicate- orally and in writing- the current constitutional issues within criminal procedure.

- Critically examine and discuss how criminal procedure operates within a diverse and multicultural society.
- Critically examine and discuss the theoretical and philosophical bases for various constitutional provisions related to the adjudicative process, including how they have evolved.
- Understand how criminal procedure is constructed and defined.
- Critically examine and discuss the ethical foundations and limitations of various procedural safeguards

Required Text(s):

1. Lippmann, Matthew (2019). Criminal Procedure (4th edition). Sage.

Specific articles, cases, and additional readings will be provided by me and added to Blackboard.

Technology Needs:

Students will need access to a microphone and webcam for this course. Almost every laptop has these items built in. If you do not have a laptop, cameras with built-in microphones can be purchased for a small fee online. These will be essential for weekly activities. Please review the course specific policies below.

Course Requirements:

Activities (25%)- Most weeks you will be provided with an exercise to engage in online. These exercises are typically discussions or debates of some salient issue pertaining to the topic(s) of the week. Each of these activities are worth 25 points (10 activities, 250 points total). At the beginning of the week, an activity will be posted within the respective weekly module in Blackboard. This activity may take the form of a discussion, a debate, a case analysis, a problem that needs a solution, or something else. Sometimes there will be a “correct” answer, and sometimes there will not. These will often involve additional reading or research. It is up to you to do your due diligence in crafting your response. Because these are worth 25 points each, they do require a substantial amount of research and writing. Many times these activities will require asynchronous interaction with your peers via video/audio chat. Regardless of format, instructions will be provided. These open on Monday at 12:01 a.m. and close on Friday @ 11:59 p.m. EST.

Case Reactions (15%)- You will have 3 unit case reactions this semester. These reactions are just that- reactions to cases I provide you. These case reactions can be on any of the materials covered within that respective unit. These case reactions are designed to get students to go deeper than activities in terms of providing legal reasoning, nuance, and logical decision-making. Each of these assessments are worth 50 points (3 cases, 150 points total). At the end of the week (Friday morning), a case will be posted within the respective weekly module in Blackboard. You will then spend some time reading over the case and determining how you would tackle it given the legal and constitutional issues presented.

A case reaction example will be provided at the beginning of the semester in the “Getting Started” folder. It is imperative that your responses conform to the format provided. A strong response begins with a synthesis statement, or sentence that outlines your conclusion (e.g. “I believe that the facts substantiate the petitioner's argument and the evidence should be excluded...”). This is then followed by a few paragraphs that explain your rationale behind your conclusion. Consider this part the “roadmap”. Assume that the reader knows nothing about the law. Basically, how would you explain the case and your conclusion to a child? This is like an algebra question; getting the question correct is good, but if you cannot show your work and how you got there, you will lose easy points. These open on Friday at 12:01 a.m. and close on Sunday @ 11:59 p.m. EST. Students will have 1 hour to complete these once they initiate the timer.

Quizzes (25%)- There will be a quiz most weeks during the semester. These will consist of 10 multiple-choice questions drawn from the readings and lecture and 1 situational question. Each multiple-choice question is worth 2 points and the situational question is worth 5 points (25 points each quiz, 250 total points). These open on Monday at 12:01 a.m. and close on Friday @ 11:59 p.m. EST. Please see the schedule below for specific quiz dates. Students will have 15 minutes to complete these.

Final Exam (35%)- There will be a final exam at the end of the semester. This exam is NOT proctored. The final exam will consist of 75 multiple-choice, true-false questions (2 points each; 150 total points), 10 situational questions (5 points each) and 1 case reaction worth 150 points (350 points total). The situational questions encompass brief criminal case scenarios that require each student to read through them and choose which answer they think best addresses the question or problem. The case response follows the exact same format as the case reactions assessed throughout the semester, but is much longer and encompasses multiple questions. The exam will cover material from the entire semester, so students will need to study in advance, as ALL weeks are fair game here. Students will have **2 hours and 45 minutes** to take the exam. More information on the exam format, including a voluntary study session, will be provided later in the semester.

For the case reaction portion of the exam, you will be presented with a legal issue within a given criminal case and will subsequently provide a written opinion. This opinion spells out: 1) your overall conclusion (ex: the evidence should be suppressed; and 2) the legal reasoning behind the conclusion. The latter part walks the reader through each of the relevant parts of your analysis and how you reached that conclusion. Again, this type of exercise is like an algebra question; getting the question correct is good, but if you cannot show your work and how you got there, you will lose most of the points. Reactions are capped at 1 page, single-spaced, and are expected to have been edited.

Other resources:

- <http://www.oyez.org/>
- www.casebriefs.com
- www.law.cornell.edu

The final grade will be comprised of the following components:

<i>Activities</i> (25 pts each x 10) (250 points)	25%
<i>Quizzes</i> (25 points each x 10)(250 total points)	25%
<i>Case Reactions</i> (50 points each x 3)(150 total points)	15%
<i>Final Exam</i> (350 total points)	35%
<i>Total (1000 points)</i>	100%

Grading scale:

A: 93%–100%

A-: 90%–92%

B+: 87%–89%

B: 83%–86%

B-: 80%–82%

C+: 77%–79%

C: 73%–76%

C-: 70%–72%

D+: 67%–69%

D: 60%–66%

F: 59% & Below

Course Policies

Changes to Syllabus Clause

The course requirements [see “course requirements” above] of this syllabus may be changed at any time by mutual agreement of the parties. Here the “parties” refers to the course instructor and student body within that course. Such modification shall be effective upon the express agreement by both parties of an alteration to this syllabus encompassing those changes. Where the alteration changes the course requirements, the agreement shall also describe the change in scope, character or complexity in terms of the course requirements that is the basis for the change. No change can be instituted without both the course instructor and a three-quarters majority of the voting student body coming to an agreement. Changes proposed by the course instructor will not go into effect until the course instructor describes the change in scope, character or complexity in terms of the course requirements that is the basis for the change, and the student body votes on and affirms those changes. Such a vote need not occur during regularly scheduled course time, but the scheduling of such a vote is at the discretion of the course instructor. If a vote to change the course requirements is proposed by the instructor outside of regularly scheduled course time, students will be given a maximum of 24 hours to respond. Once a vote has been executed and the voting period elapsed, the instructor will record and disseminate the results to the student body. Once the results are relayed, any agreed upon change is immediately effectuated. No student may propose a change to the course requirements.

Diversity Statement

At George Mason, students and faculty should create a learning environment that fosters respect for people across identities. We welcome and value individuals and their differences, including gender expression and identity, race, economic status, sex, sexuality, ethnicity, national origin, first language, religion, age and ability, as well as heterodox ideas or opinions. We encourage all members of this course to engage with the material personally, but to also be open to exploring and learning from experiences different than their own.

Expectations for virtual office hours

Office hours will be held in Zoom:

- It is recommended that you schedule a time and place to come to office hours where you can have your camera on for better clarity in questions and answers.
- Have your course materials (books, notes, etc.) available when you attend office hours.
- Here is a quick tutorial for screen sharing to aid in showing documents during the call:
 - <https://www.youtube.com/watch?v=YA6SGQIVmcA>

Procedure for attending office hours:

- Schedule a Zoom meeting by emailing the instructor.
- Once the meeting is scheduled, ensure that you do the following:
 - Arrive on time for your appointment.
 - Please wait in the “waiting room” until the professor “admits” you into the office.

Course Accessibility

Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding the laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please first visit <http://ds.gmu.edu/> for detailed information about the Disability Services registration process. Then please discuss your

approved accommodations with me. Disability Services is located in Student Union Building I (SUB I), Suite 2500. Email:ods@gmu.edu | Phone: (703) 993-2474

Students who experience barriers in this course are encouraged to contact the instructor as early in the semester as possible. The Disability Services department is available to facilitate the removal of barriers and to ensure reasonable accommodations. For more information about the services they provide, please visit: [Classroom and Academic Accommodations – Disability Services \(gmu.edu\)](#) Student accommodations as determined by DS (e.g., additional time, time flexibility) should be discussed as early as possible with the instructor, and must be followed regardless of course delivery mode.

Covid-19 Note: Students who have a Covid-related disability should contact the Disability Services office; DS will contact faculty using standard protocols about any students who require accommodations.

Academic Integrity Policy

Students are expected to complete all course work with integrity by abiding by academic integrity policies. Acts of plagiarism and academic dishonesty will not be tolerated under any circumstances. Academic integrity violations include, but are not limited to: plagiarism, cheating, resubmitting the same assignment for grade submitting work that is not the student's own, or facilitation (helping someone commit a dishonest act).

It is expected that students adhere to the George Mason University Honor Code as it relates to integrity regarding coursework and grades. The Honor Code reads as follows: "To promote a stronger sense of mutual responsibility, respect, trust, and fairness among all members of the George Mason University community and with the desire for greater academic and personal achievement, we, the student members of the University Community have set forth this: Student members of the George Mason University community pledge not to cheat, plagiarize, steal and/or lie in matters related to academic work." More information about the Honor Code, including definitions of cheating, lying, and plagiarism, can be found at the Office of Academic Integrity website at <http://oai.gmu.edu>

As in many classes, a number of projects in this class are designed to be completed within your study group. With collaborative work, names of all the participants should appear on the work. Collaborative projects may be divided up so that individual group members complete portions of the whole, provided that group members take sufficient steps to ensure that the pieces conceptually fit together in the end product. Other projects are designed to be undertaken independently. In the latter case, you may discuss your ideas with others and conference with peers on drafts of the work; however, it is not appropriate to give your paper to someone else to revise. You are responsible for making certain that there is no question that the work you hand in is your own. If only your name appears on an assignment, your professor has the right to expect that you have done the work yourself, fully and independently.

Any incident of serious academic dishonesty may result in the student failing the course. The Professor will also report the incident to the School's Academic Integrity Officer. Possible sanctions from the Board include suspension or expulsion.

Technology and Web-Conferencing

Activities and assignments in this course will regularly use the Blackboard learning system, available at <https://mymason.gmu.edu>. Students are required to have regular, reliable access to a computer with an updated operating system (recommended: Windows 10 or Mac OSX 10.13 or higher) and a stable broadband Internet connection (cable modem, DSL, satellite broadband, etc., with a consistent 1.5 Mbps

[megabits per second] download speed or higher. You can check your speed settings using the speed test on this website.)

Activities and assignments in this course will regularly use web-conferencing software (Blackboard Collaborate / Zoom). In addition to the requirements above, students are required to have a device with a functional camera and microphone. In an emergency, students can connect through a telephone call, but video connection is the expected norm.

Course Materials and Student Privacy

All course materials posted to Blackboard or other course site are private to this class; by federal law, any materials that identify specific students (via their name, voice, or image) must not be shared with anyone not enrolled in this class.

Video Recordings -- whether made by instructors or students -- of class meetings that include audio, visual, or textual information from other students are private and must not be shared outside the class

Live video conference meetings (e.g. Collaborate or Zoom) that include audio, textual, or visual information from other students must be viewed privately and not shared with others in your household or recorded and shared outside the class

Notice of mandatory reporting of sexual or interpersonal misconduct

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, stalking, sexual exploitation, complicity, and retaliation to Mason’s Title IX Coordinator per University Policy 1202. If you wish to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-993-3686 or Counseling and Psychological Services (CAPS) at 703-993-2380. You may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

Extra-Credit Policy

The instructor reserves the rights to give students extra credit opportunities through the semester. Any and all opportunities will be made available to all students and will be discussed during class. Thus, students who miss class may miss opportunities to achieve extra credit.

Make-up/Late submission Policy

No late work will be accepted unless you have a pre-planned absence or pre-arranged accommodation. These excusals can be for any *legitimate* reason but need to be cleared in advance. If you are planning on missing classwork, please let me know within a reasonable amount of time.. Please speak with me if you are a student-athlete so that we can discuss proper arrangements. Assignments that are submitted late will not be given credit. You are all adults, and as such, will be treated like adults. I understand ‘life happens’ and things come up. Nonetheless, it is your responsibility to communicate- proactively- with me, as I am extremely flexible and amenable to the chaos that can be college (i.e. help me help you!).

Technology Issues

If you have technology issues or needs during the semester, please contact ITS Helpdesk at support@gmu.edu.

Additional Student Resources

- Student Support and Advocacy Center (SSAC)
- Counseling and Psychological Services
- The Learning Services Office or field-specific tutoring
- The Center for Culture, Equity, and Empowerment
- LGBTQ+ Resources
- University Career Services
- University Writing Center

Information and links regarding these and other student support offices are available on our [Student Support Resources on Campus](#) page.

Schedule

Readings will be provided by the instructor on a week-to-week basis. These will be available under the "Files" section of Blackboard. It is expected that you read all additional readings provided by the instructor.

Unit #1- The Basics

Week 1 (8/23-8/27): Intro to Criminal Procedure

Read: How to Read and Brief a Legal Case (handout online)

Read: Chapter 1

Due: Activity #1 (Due Friday @ midnight, EST)

Week 2 (8/30-9/3): The Sources of Criminal Procedure

Read: Chapter 2

Due: Quiz #1 (Due Friday @ midnight, EST)

Due: Activity #2 (Due Friday @ midnight, EST)

Unit #2- Evidence and Procedure, Part I: Searches, Seizures, and Arrests

Week 3 (9/6-9/10): Searches and Seizures (No Class Monday, Labor Day)

Read: Chapter 3

Due: Quiz #2 (Due Friday @ midnight, EST)

Week 4 (9/13-9/17): Stop and Frisk

Read: Chapter 4

Due: Quiz #3 (Due Friday @ midnight, EST)

Due: Activity #3 (Due Friday @ midnight, EST)

Week 5 (9/20-9/24): Probable Cause and Arrests

Read: Chapter 5

Due: Activity #4 (Due Friday @ midnight, EST)

Week 6 (9/27-10/3): Searches and Seizures of Property

Read: Chapter 6

Due: Quiz #4 (Due Friday @ midnight, EST)

Week 7 (10/4-10/8): Inspections and Regulatory Searches

Read: Chapter 7

Due: Activity #5 (Due Friday @ midnight, EST)

Due: Case Reaction #1 (Opens Friday @ 12:01 a.m., closes on Sunday @ midnight, EST)

Unit #3- Evidence and Procedure, Part II: Interrogations, Identification, and Remedies

Week 8 (10/11-10/15): Interrogations and Confessions (No Class on Monday, Fall Break)

Read: Chapter 8
 Due: Quiz #5 (Due Friday @ midnight, EST)
 Due: Activity #6 (Due Friday @ midnight, EST)

Week 9 (10/18-10/22): Eyewitnesses and Scientific Identifications

Read: Chapter 9
 Due: Activity #7 (Due Friday @ midnight, EST)

Week 10 (10/25-10/29): The Exclusionary Rule

Read: Chapter 10 (ignore Entrapment sections)
 Due: Quiz #6 (Due Friday @ midnight, EST)
 Due: Activity #8 (Due Friday @ midnight, EST)

Weeks 11 (11/1-11/5): Civil and Criminal Remedies for Constitutional Violations

Read: Chapter 11
 Due: Quiz #7 (Due Friday @ midnight, EST)
Due: Case Reaction #2 (Opens Friday @ 12:01 a.m., closes on Sunday @ midnight, EST)

Unit #4- Procedure and the Adjudicative Process

Week 12 (11/8-11/12): Initiation of the Legal Process, Bail, and Right to Counsel

Read: Chapter 12
 Due: Quiz #8 (Due Friday @ midnight, EST)
 Due: Activity 9 (Due Friday @ midnight, EST)

Week 13 (11/15-11/21): The Courtroom and Trial

Read: Chapter 13
 Due: Quiz #9 (Due Friday @ midnight, EST)

Week 14 (11/22-11/26): Sentencing (No classes on 11/24-11/26, Thanksgiving Break)

**Items are due on Monday, 11/29 instead of Friday 11/26*

Read: Chapter 14 (pp. 577-602)
 Due: Quiz #10 (Due Monday @ midnight, EST)

Week 15 (11/29-12/3): Appeals

Read: Chapter 14 (pp. 603-612)
 Due: Activity #10 (Due Friday @ midnight, EST)

Due: Case Reaction #3 (Opens Friday @ 12:01 a.m., closes on Sunday @ midnight, EST)

Final Exam TBD