

POSC 168: Constitutional Law: Criminal Justice

Summer 2019: Session 2 *

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Class Hours: M-R 10:40am-12:00pm

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Class Hours: Thursday 1:10-3:00pm

Class Room: 1117 Watkins Hall

Course Objectives

This course focuses primarily on criminal procedure as protected by the Fourth, Fifth, and Sixth Amendments to the Constitution. The course will also cover — to a lesser extent — Eighth and Fourteenth Amendment protections that are relevant to criminal procedure. In studying these areas of case law, this course will fulfill two primary objectives.

First, we will cover the substantive background of a number of important areas of investigatory — and to a lesser extent adjudicatory — procedure, while tracing the development of these protections, afforded by the United States Constitution, across time. While we are concerned with the political context and history surrounding each case, we will also focus on how these ‘facts’ align with legal doctrine, how the cases were adjudicated, and what consequences these decisions hold.

To this end, the second goal of this course is to foster a new way of thinking, by requiring you to break down complex concepts into their, more manageable, constituent parts, and then using basic legal doctrine to understand and construct your own arguments. This course will help hone your analytical skills and will encourage you — in many ways — to think as an attorney or Supreme Court justice.

***Disclaimer:** The instructor reserves the right to alter the contents, requirements, grading and/or scheduling as she sees fit in order to best fulfill the objectives of the course. Any changes in the syllabus will be announced in class.

Teaching Philosophy

I begin with the premise that each student enrolled in this course is highly intelligent and capable therefore I have high expectations for both your academic commitment and personal behavior. You are responsible for your success in this course and the course is designed such that if you work hard you will do quite well. This course has all the ingredients necessary to engage and challenge you. Your TA and I are available to answer any questions or concerns that you may have throughout the course and we encourage you to take advantage of office hours to get any help you need/want.

This course provides high value added. While I will discuss the readings in class to an extent, lectures are meant to complement the reading and not simply go over them. Instead, the readings will serve as a point of departure for the lectures, most lectures will involve information not contained in the readings.

Required Readings

There is not a required textbook for the course. Reading assignments will be made available on the iLearn website.

Students are responsible for having read each assignment before coming to class. It is also highly recommended that you take notes as you read, as the material is very dense and can be difficult to understand if you do not actively engage it.

The majority of the assigned readings are excerpts of opinions from the Supreme Court. Unlike a traditional textbook, these opinions were not written for an undergraduate audience. This can be frustrating for some students, but please remember that just like you had to learn how to read textbooks, you will likely need to learn to read Court opinions– please know that if you find the reading difficult, you are not alone and Paul and I are here to help. During week one we will cover the basic structure of SCOTUS opinions in both lecture and section, and throughout the session we will continue to work through any struggles that you have.

In addition to these lessons I will also post topic outlines on iLearn prior to the start of each new section (i.e., Searches & Seizures, Probable Cause, etc.). I created these outlines to structure the course and I base my lectures around them. I highly recommend that you look at them prior to starting the reading because they will offer some context for cases and the order we will be covering them. Moreover, I highly encourage you to use them in lecture to help structure your personal notes. Students have also told me that they use them to take reading notes (rather than using a traditional case brief style), if that works for you, I encourage you to do the same.

This course moves quickly, especially when condensed into a 5 week format. Please, if you are struggling with any aspect of the reading/material, come to me (and/or Paul) as soon as possible so that you do not fall behind.

Any changes or clarifications to the assigned readings will be announced in lecture and via email.

Grading and Course Requirements

Attendance in lecture is not recorded, but it is required. Please consult the course iLearn website for updates and additional information about assignments.

Remember: You are in charge of your own grade. Grades are earned, not given, based on the quality of the product that you turn in.

Readings:

All the readings in this syllabus are required. You should read all the assignments before the class period for which it is assigned and be prepared to discuss it in class. Please note that all information in the readings can appear on the test even if not discussed in class.

Exams:

All students are required to take a midterm and final exam. Make-up exams may be scheduled with **prior** approval from the instructor.

There will be one take-home midterm approximately half-way through the course. The exam will be distributed at the end of **SECTION on August 15, 2019**. Completed exams are required to be **uploaded to SafeAssign by 10:30am on August 19, 2019**. Late exams are penalized 1/3 of a letter grade for each 24-hour period beyond the submission deadline. A couple things to note. If you have done the reading and regularly attended lecture and section, the exam should not take you more than an hour to an hour and a half to complete. You have several days to work on it so that you can find time in your schedule to get it done. If you are trying to learn the material while taking the exam, it will take you much longer. The exam is take home for a couple reasons. First, the format can be intimidating if it is your first test like this. I want you to focus on learning the material, not stressing about using it in an exam. Second, just like with the practice exam you will do in section, the exam is open book/note. Please note that this is also practice for the final exam, which will be the exact same format, but closed note and in class.

The final exam will be given on **August 29, 2019 during lecture**. The exam will begin at **10:40am** and students will have **1 hour and 20 minutes** to complete it. Although the exam is closed book/note, I will include a list of the cases covered with the exam.

Discussion Section:

Students must enroll in discussion section. The TA will serve as your personal instructor for the course. *If you have any general questions, or if scheduling, personal problems, or questions about grading arise, please contact your TA immediately.* Paul has full authority to make all decisions.

You must attend section regularly and should be prepared to participate. Take advantage of this setting to engage with the course material and ideas therein. Paul determines your section grade based on attendance, participation, and any other activities she chooses to assign.

Extra Credit:

In addition to these evaluations, students will have the opportunity to complete up to five case briefs for a total of 2.5% extra credit, earning a total of 1/2 of a percentage point a piece. All of the briefs listed on the syllabus are fair game **unless they were briefed in section**, please double check with Paul if you have any doubts which cases can be briefed for extra credit. Any briefs done for extra credit **must be submitted in hard copy AND to SafeAssign by 12:00pm on August 27, 2019.**

Grading Policy

- 30%: Take-home midterm exam.
- 20%: Discussion Section
- 50%: Final Exam

Any changes to the grading scale will be announced in class and via email.

Challenging a Grade:

You **MUST** discuss any questions or concerns regarding any assignment grade with the TA first. If the issue is not resolved after meeting with him, you may request that I re-grade the assignment. Please note that the new grade does not consider the previous grade. That is, your grade may go down if I assess the assignment less favorably than Paul.

Academic Dishonesty Policy

This section is taken from the Academic Integrity Brochure for Students <http://conduct.ucr.edu/> “At the University of California, Riverside (UCR) honesty and integrity are fundamental values that guide and inform us as individuals and as a community. The academic culture requires that each student take responsibility for learning and for producing work that reflect their intellectual potential, curiosity, and capability. Students must represent themselves truthfully, claim only work that is their own, acknowledge their use of others’ words, research results, and ideas, using the methods accepted by the appropriate academic disciplines and engage honestly in all academic assignments. Misunderstanding of the appropriate academic conduct will not be accepted as an excuse for academic misconduct. If a student is in doubt about appropriate academic conduct in a particular situation, he or she should consult with the instructor in the course to avoid the serious charge of academic misconduct.”

Plagiarism is the “copying of language, structure, or ideas of another and attributing (explicitly or implicitly) the work to one’s own efforts. Plagiarism means using another’s work without giving credit. Examples include but are not limited to:

- Copying information from computer-based sources (i.e., the Internet)
- Allowing another person to substantially alter or revise your work and submitting it entirely as your own.”

Other forms of academic dishonesty include cheating by “copying from another student’s examination, quiz, . . . or homework assignment.” Note that the definition of cheating also includes “submitting for academic advancement an item of academic work that you have previously submitted for academic advancement” without prior authorization from the faculty member supervising the work. “Unauthorized collaboration” is also considered inappropriate.

If I suspect you have committed an act of academic misconduct, I will discuss it with you and file a report with the Student Conduct & Academic Integrity Program (SCAIP). You may receive a zero on the assignment and an ‘F’ for the course. Further disciplinary action may also be taken by SCAIP. If you ever have a question about plagiarism or other academic conduct, please ask me before you turn in any work that may be problematic.

Student Support Services:

Students with Disabilities:

If you have a physical, psychiatric, emotional, medical, or learning disability that may impact your ability to carry out assigned coursework, I urge you to contact the staff in Student Special Services (<http://specialservices.ucr.edu/>), who will review your concerns and determine, with you, what accommodations are necessary and appropriate. All information and documentation are confidential.

Student Wellness Services:

Case Managers:

The Student Affairs Case Managers help students dealing with mental health, academic, relationship, food insecurity and other stressful crises. Students may contact the case managers directly, without a referral. For appointments and consultations: 951-827-5000 or email casemanager@ucr.edu. Location: 125 Costo Hall, open M-F 8am-5pm.

Website: <http://deanofstudents.ucr.edu/emergencycrisis/casemanager.html>

Campus Advocacy, Resources, & Education (CARE)

CARE is an intervention and prevention support program dedicated to ending sexual violence at UCR. For more information, see: <http://care.ucr.edu>.

Counseling and Psychological Services (CAPS):

There are several options for student to get help with mental health and other self-care services. A few of these services include:

951-UCR-TALK:

Mental health therapists are available by phone, 24 hours a day, for crisis counseling and consultations (951-827-5531).

Website: <http://counseling.ucr.edu/emergency-assistance/index.html>

“JUST IN CASE” App:

This is a mobile app that provides tips and contacts to help you navigate physical and mental health related situations.

Website: <http://m.appcreatorpro.com/m/ucriverside/19465d3e31/19465d3e31.html>

For more information on services available to students, and how to make an appointment for the various on campus counseling services visit the website: <http://counseling.ucr.edu/index.html>
Contact information: Call at 951-827-5531 or walk in at Veitch Student Center, North Wing.

Undocumented Student Resources:

UCR is committed to creating a welcoming environment for all students, including those who are undocumented. UCR students who are subject to immigration orders should confer with staff in the Undocumented Student Program’s Office.

Coordinator: Ana Coria.

Email: ana.coria@ucr.edu, Telephone: 951-827-3808

Website: <https://usp.ucr.edu/>

For more information about your legal rights in an immigration enforcement situation, please contact UCR campus counsel, Karina Gutierrez at karina.gutierrez@ucr.edu. You may also refer to the UC Immigrant Legal Services Center (530-752-7996) and refer to this **“Know Your Rights” Card**.

Course Schedule

Week 01, 07/29 - 08/01:

- July 29: Course Introduction & American Court System Review
 - Listen to Podcast: **Civics 101 Starter Kit: Judicial Branch** (link also on iLearn, there is also transcript you can read in addition/instead)
 - Recommended: Chapter 9, p 248-255 & 263-276
- July 30: A Framework for Criminal Procedure
 - Chapter 1, p 1-12
 - Recommended: Introduction to Criminal Procedure
- July 31: Reading and Briefing Court Opinions & Tracing a Case
 - Kerr- "How to Read a Judicial Opinion"
 - Sample Brief and example
- August 1: Search & Seizures, Pt. 1
 - Katz v. United States
 - Carpenter v United States
 - Oliver v. United States
 - United States v. Dunn
 - California v. Ciraolo
 - Florida v. Riley

Week 02, 08/05 - 08/08:

- August 5: Searches & Seizures, Pt. 2
 - Kyllo v. United States
 - California v. Greenwood
 - United States v. Knotts
 - Illinois v. Caballes
- August 6: Probable Cause, Pt. 1
 - Illinois v. Gates
 - REP test hypothetical example
- August 7: Probable Cause, Pt. 2 & The Warrant Requirement, Pt. 1
 - Maryland v. Pringle
 - Whren v. United States

- Andresen v. Maryland
- Groh v. Ramirez
- August 8: The Warrant Requirement, Pt. 2
 - Muehler v. Mena
 - Wilson v. Arkansas
 - Richards v. Wisconsin
 - Maryland v. Garrison
 - LA County v. Rettele

Week 03, 08/12 - 08/15:

- August 12: Exceptions to the Warrant Requirement
 - Brigham City Utah v Stuart
 - Kentucky v. King
 - Welsh v. Wisconsin
 - Coolidge v. New Hampshire
 - California v. Carney
 - Riley v California
- August 13: 'Special Needs' Warrant Exceptions
 - United States v. Flores-Montano
 - United States v. Ramsey
 - Possible other readings TBD
 - Safford Unified v. Redding
- August 14: Stop & Frisk, Pt 1.
 - United States v. Watson
 - United States v. Mendenhall
 - Terry v. Ohio
 - Hiibel v. District Court of Nevada
- August 15: **MIDTERM EXAM DISTRIBUTED AT THE END OF SECTION.**
Stop & Frisk, Pt 2. (Reasonable Suspicion)
 - United States v. Arvizu
 - Alabama v. White
 - Florida v. JL
 - Illinois v. Wardlow
 - United States v. Sokolow

Week 04, 08/19 - 08/22:

- August 19: **MIDTERM EXAMS DUE BEFORE CLASS, 10:30am, TODAY**
The Exclusionary Rule & Exceptions
 - Hudson v. Michigan
 - Mapp v. Ohio
 - Herring v. United States
 - Rakas v. Illinois
 - Murray v. United States
 - Nix v. Williams
 - United States v. Leon

- August 20: Due Process & the Requirement for Voluntariness
 - Brown v. Mississippi
 - Arizona v. Fulminante
 - Spano v. New York
 - Colorado v. Connelly
 - Miranda v. Arizona

- August 21: Custody, Interrogation, and the Right to Remain Silent
 - Oregon v. Mathiason
 - Rhode Island v. Innis
 - Oregon v. Elstad
 - Berghuis v. Thompkins
 - Salinas v. Texas
 - Edwards v. Arizona
 - Davis v. United States

- August 22: Right to Counsel
 - Massiah v. United States
 - Texas v. Cobb
 - United States v. Henry

Week 05, 08/26 - 08/29:

- August 26: Cruel and Unusual Punishment & The Constitutionality of the Death Penalty
 - Solem v. Helm
 - Ewing v. California
 - Graham v. Florida

- United States v. Bajakjian
- Furman v. Georgia
- Baze v. Rees
- August 27: Finishing Thoughts
 - Finish Discussion of 8th Amendment
 - Final Exam Review
- August 28: **IN CLASS FINAL EXAM**

Key Amendments to the Constitution Affecting the Judicial Process:

The Fourth Amendment

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Sixth Amendment:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury in the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

The Eight Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Fourteenth Amendment

Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens in the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.