

POSC 168: Constitutional Law: Criminal Justice

Winter 2019: Session 2 *

Instructor: Erinn Lauterbach

E-mail:

Office Hours:

Office:

Web: ilearn.ucr.edu

Class Hours:

Class Room:

Teaching Assistant:

E-mail:

Office Hours:

Office:

Class Hours:

Class Room:

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.

I view lecture as a supplement to, rather than a replacement for, reading assignments. While I will discuss the readings in class, lectures are meant to complement the readings and not simply go over the. Instead, the readings will serve as a point of departure for lectures and most lectures will contain information not provided in the readings. All information, from both the readings and lecture, will be covered in the exams so attendance and reading are both required to do well.

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.

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. One of the best ways to take notes is by creating a case brief for each case. More information will be provided on briefing at the start of the course and as you will see below, you may turn in 5 briefs for extra credit in the course. To show you have completed part of the first assignment- that you read the syllabus- please do the following: 1) email Paul and copy me, 2) write Syllabus Assignment as the subject of the email, and 3) in the body of the email include your first and last name and your favorite (school appropriate) gif. This email must be sent before 5:00pm on January 9, 2019.

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.

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.

This course moves quickly. 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.

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 **lecture on Friday February 8, 2019**. Completed exams are required to be **uploaded to SafeAssign by 5:00pm on Monday February 11, 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 **Friday March 22, 2019**. The exam will begin at **7:00pm** and students will have **3 hours** to complete it. Although the exam is closed book/note, I will include a list of the cases covered with the exam.

Discussion Questions:

You will turn in *three* sets of discussion questions & answers throughout the quarter. These questions will cover material in the assigned cases and may cover the majority, concurring and/or

dissenting opinions. These are designed to help you think in depth about important aspects of the cases and can be helpful while completing the take home exam as well as studying for the in class final exam. Each set of questions is worth 5% of your grade for a total of 15% overall. The discussion questions should be turned in to SafeAssign on iLearn and a hard copy turned in at the start of your discussion section on the following days:

- Set 1: Due January 25, 2019 (Week 3)
- Set 2: Due February 22, 2019 (Week 7)
- Set 3: Due March 8, 2019 (Week 9)

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 he 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 5:10pm on March 15, 2019.**

Grading Policy

- 30%: Take-home midterm exam.
- 20%: Discussion Section
- 15%: Discussion Questions
- 35%: 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, 01/07 - 01/11:

- January 7: **NO CLASS**, Course Introduction
 - Read Syllabus
 - Course Introduction Assignment on iLearn, under the assignments tab- **due by 5:00pm on Wednesday January 9, 2019**
- January 9: A Framework for Criminal Procedure
 - Chapter 1, p 1-12
 - Recommended: Introduction to Criminal Procedure (up to page 29)
- January 11: American Court System Review & Reading-Briefing Court Opinions
 - Chapter 9, p 248-255, 263-276
 - Kerr- "How to Read a Judicial Opinion"
 - Sample Brief and example

Week 02, 01/14 - 01/18:

- January 14: Tracing a Case
 - The Criminal Process- an Overview
- January 16: Finish Up Introduction
 - No New Reading
- January 18: Search & Seizures, Pt. 1
 - Katz v. United States (1967)
 - United States v Jones (2011)
 - Oliver v. United States (1984)
 - United States v. Dunn (1987)

Week 03, 01/21 - 01/25:

- January 21: **NO CLASS- Holiday**
- January 23: Searches & Seizures Pt 2.
 - California v. Ciraolo (1986)
 - Florida v. Riley (1989)
 - Kyllo v. United States (2000)
- January 25: Searches & Seizures Part 3. **Discussion Questions Set 1 Due in Section**
 - California v. Greenwood (1988)
 - United States v. Knotts (1983)
 - Illinois v. Caballes (2004)

Week 04, 01/28 - 02/01:

- January 28: Probable Cause
 - Illinois v. Gates (1983)
 - Maryland v. Pringle (2003)
 - Whren v. United States (1996)
 - REP test hypothetical example (no reading)
- January 30: Warrant Requirements Pt 1.
 - Andresen v. Maryland (1976)
 - Groh v. Ramirez (2004)
 - Muehler v. Mena (2005)
- February 1: Warrant Requirements Pt 2.
 - Wilson v. Arkansas (1995)
 - Richards v. Wisconsin (1997)
 - Maryland v. Garrison (1987)
 - LA County v. Rettele (2007)

Week 05, 02/04 - 02/08:

- February 4: Exceptions to the Warrant Requirement
 - Michigan v Fisher (2009)
 - Kentucky v. King (2011)
 - Welsh v. Wisconsin (1984)
 - Coolidge v. New Hampshire (1971)
 - California v. Carney (1985)
 - Arizona v. Grant (2009)
- February 6: 'Special Needs' Warrant Exceptions Procedure
 - New York v. Burger (1987)
 - United States v. Flores-Montano (2004)
 - United States v. Ramsey (1977)
 - Safford Unified v. Redding (2009)
 - United States v. Knights (2001)
- February 9: Finish Warrant Exceptions
 - **Midterm Exam Available at 6:00pm on iLearn**
 - No New Reading

Week 06:, 02/11 - 02/15:

- February 11: **MIDTERM DUE BY 5:10PM**
 - No New Reading. Please come! I will set up what to expect for the last half of the course.
- February 13: Stop & Frisk Part 1.
 - United States v. Watson (1976)
 - United States v. Mendenhall (1980)
 - Terry v. Ohio (1968)
- February 15: Stop & Frisk Pt 2.
 - Hiibel v. District Court of Nevada (2004)
 - United States v. Arvizu (2002)
 - Alabama v. White (1990)

Week 07:, 02/18 - 02/22:

- February 18:**NO CLASS- Holiday**
- February 20: Stop & Frisk Pt 3.
 - Florida v. JL (2000)
 - Illinois v. Wardlow (2000)
 - United States v. Sokolow (1989)
- February 22: Exclusionary Rule **Discussion Questions Set 2 Due in Section**
 - Hudson v. Michigan (2006)
 - Weeks v. United States (1914)
 - Mapp v. Ohio (1967)
 - Herring v. United States (2009)
 - Rakas v. Illinois (1978)

Week 08:, 02/25 - 03/01:

- February 25: Exceptions to the Exclusionary Rule
 - Murray v. United States (1988)
 - Nix v. Williams (1984)
 - United States v. Leon (1984)
- February 27: Due Process & Voluntariness Requirement
 - Brown v. Mississippi (1936)

- Arizona v. Fulminante (1991)
- Spano v. New York (1959)
- Colorado v. Connelly (1986)

- March 1: Limits on In-Custodial Interrogation

- Miranda v. Arizona (1966)
- Dickerson v. United States (2000)

Week 09; 03/04 - 03/08:

- March 4: Custody, Interrogation, & Right to Remain Silent Pt 1.

- Oregon v. Mathiason (1977)
- Rhode Island v. Innis (1980)
- Oregon v. Elstad (1985)
- Berghuis v. Thompkins (2010)
- Salinas v. Texas (2013)

- March 6: Custody, Interrogation, & Right to Remain Silent Pt 2.

- Edwards v. Arizona (1981)
- Davis v. United States (2011)
- Harris v. New York (1971)

- March 8: Right to Counsel. **Discussion Question Set 3 Due in Section**

- Massiah v. United States (1964)
- Texas v. Cobb (2001)
- United States v. Henry (1980)
- Schmerber v. California (1966)
- Fisher v. United States (1946)

Week 10; 03/11 - 03/15:

- March 11: Cruel & Unusual Punishment and the Death Penalty Pt 1.

- Solem v. Helm (1983)
- Ewing v. California (2003)
- Graham v. Florida (2010)
- United States v. Bajakajian (1998)

- March 13: Cruel & Unusual Punishment and the Death Penalty Pt 2.

- Furman v. Georgia (1972)

- Baze v. Rees (2003)

- March 15: Technological Advancement & The Future of Criminal Procedure. **Extra Credit Due by 5:10pm**

- Reading TBD

Finals Week, 03/18 - 03/22:

- Final Exam: **Friday March 22, 2019, 7:00-10:00pm**

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.