

Professor Spill
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"Justice, though due to the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

Supreme Court Justice Benjamin N. Cardozo in *Snyder v. Massachusetts*,
291 U.S. 97, 122, 545. Ct. 330, 338 (1934).

In a constitutional system, representatives of the government, when dealing with criminal prosecutions must walk a fine line. Prosecutors are present in the system to enforce law and order, and to protect the general citizenry. Yet, at the same time, these representatives of government pledge to uphold and protect the Constitution. Embedded within the Constitution are several amendments that protect the rights of the criminally accused. How does a government both defend and protect its citizens from illegal activity, and uphold its constitutional principles? This heady question is at the heart of the subject matter for this course. What constitutes violations of the rights of the accused? When can government tread upon those rights? What are the constitutional boundaries and how are they defined?

The primary focus of this course is on the American judiciary, with a heavy emphasis on the practices and procedures of the criminal justice system within the United States as defined by constitutional law. Therefore, we will pay particular attention to the effect of U.S. Supreme Court decisions on the operation of this system and on the rights of the criminal defendant. Through this lens, we will get a glimpse of how the justice system operates, today and yesterday; how the interpretation of constitutional rights change, as well as how the structure of our judicial system and the political nature of the courts create a fluid and malleable system.

Our efforts and discussions this term will be aided by reading several books (listed below). Please note: **there is a heavy workload for this course**. Please examine the syllabus carefully to be sure that you are prepared to meet the requirements. The readings are designed to be complementary to lectures; do not expect that lectures or class attendance can substitute for one another. In other words, failure to attend class or to attend to the readings will make it difficult to do well in class. All reading assignments, listed below, are required and should be completed at the beginning of each week. I expect all students to be prepared to engage in discussions and debates based on the reading material.

If it becomes apparent that students are not keeping up with their assigned reading, unannounced quizzes on the readings will commence. ALL reading assignments, regardless of whether they are discussed in class, are fair game for examination questions. The cases listed below are from the Weinreb text.

Course Requirements:

Attendance and Participation:

Class participation is expected in an upper level course and the instructor reserves the right to call on students during class if participation is not forthcoming voluntarily. I utilize the Socratic method to discuss the assigned cases; therefore students should be prepared to present the facts, issues and reasoning from the relevant cases. There will be multiple opportunities for all students to participate throughout the term. (10%)

Reading:

All reading assignments are required. The material should be read prior to the lecture on the topic. Be prepared to ask and to answer questions and to discuss the issues presented in the readings. I use the Socratic method when teaching this course. Students are called upon randomly to answer questions concerning the facts, issues, and reasoning in the week's assignment. ALL reading assignments, regardless of whether they are discussed in class, are fair game for examination questions.

Most of the reading for the class comes from the Weinreb text. There are, however, two additional case study texts and some readings on reserve at Rod Library. I reserve the right to assign additional cases that are not included in this text. I strongly suggest that students brief at least the landmark or major cases presented.

Unannounced Quizzes:

If it becomes apparent that the students are not completing the reading, the instructor reserves the right to include 'pop' quizzes in the grading schedule. Whether or not 'pop' quizzes take place is completely dependent upon students completing the required reading and participating in discussion.

Short Paper:

There will be a short paper assignment (5-7 pages) related to the section on right to counsel and the book by Lewis due during the term. The paper will require students to assess the arguments presented by the two parties in the case, and the appropriateness of the Supreme Court's decision in the case, and as precedent for current controversies in this area. (15%)

Moot Court:

In addition to the examinations, students in the course are required to participate in a moot court simulation. Each student will play a role--either counsel, Chief Justice, or Associate Justice. While all roles are critical to the success of the simulation, students acting as counsel or Chief Justice have additional responsibilities. The roles will be assigned by me based upon your performance in class and on the exams.

There is an oral and written component to the simulation, regardless of the role played. The oral portion of the simulation will take between 1 1/2 and 1 3/4 hours to complete. Each student will attend one moot court session. There will be two sessions held during regular class hours and two sessions held outside of regular class hours. The session will be during week X of the course. Students should schedule extra curricular activities accordingly. **Failure to attend a moot court session will result in a failing grade for the course.** The moot court will comprise 35% of the final grade (oral: 10%, written: 25%).

I expect the opinions/papers to be well written. Grammatical and spelling errors will severely hurt the overall grade. More information on the paper will be available prior to the simulation. **Late papers will not be accepted.**

Exams:

There will be a two part mid-term and a final examination. All are essay exams. The dates for the midterms are tentative. Any schedule change will be announced at least one week before the original exam date. The midterm is worth 15% and the final is worth 25% of the grade for the course.

If any student wishes to challenge an examination grade, she must submit **in writing** a concise and well-reasoned argument, based solely on the substance of the exam and the course material, stating why the grade should be changed. I will then review and re-grade the entire examination, reserving the right to increase or decrease the grade as we deem appropriate.

Advisories:

I am required to advise students of certain policies:

1. **Plagiarism:** This concept causes many students confusion, so I will try and put it plainly. Academic work must be your own work. It is plagiarism to claim work (such as writing, exams, or presentations) done by anyone other than the author named. Plagiarism also includes cutting and pasting information from internet websites without attribution or paraphrasing someone else's ideas or writing without attribution. It is not sufficient to re-arrange or re-state someone else's writing or ideas; if you are using someone's ideas in this way, you must cite your source. Plagiarism is simply unacceptable. As a note, if you can find it on the internet Any plagiarized writing or work turned in for this course will result in a course grade of "F."
2. **Disrespectful behavior:** In the university we are all students, seeking truth and understanding. Skin color, gender, age, or other characteristics over which individuals have no choice are irrelevant to that pursuit, as are religious preference or sexual orientation. Students will be expected to treat all others with the same respect as they would want afforded themselves. Additionally, all opinions are valid and worthwhile. Students are expected to listen to each other and, when disagreeing or debating, to do so on the merits of the argument. Disrespectful behavior to others in the course is unacceptable and can result in a course grade of "F."
3. **Disabilities:** Students with documented disabilities should be registered with the Office of Services for Students with Disabilities (OSSD). Students with documented disabilities

who may need accommodation should make an appointment with the professor as early as possible, but no later than the first week of the quarter. The same requirements apply to students who may need to have known emergency medical information. Students should make alternative testing requests and arrangements at least one week in advance of the test.

Make-up Assignments:

ALL students are expected to take exams at the scheduled times. Makeup will be allowed only under **EXCEPTIONAL** circumstances **and** with **PRIOR** consent of the instructor. Exceptional circumstances will require documentation of that circumstance. Makeup exams will be essay exams without the benefit of choice among questions.

Contacting me:

Students should feel free to stop by during office hours or to contact me via e-mail. If you are unable to attend office hours, contact me for an appointment. If you have questions or concerns, please do not wait until before an exam or an assignment is due to stop by my office. If you choose to contact me via e-mail, you should make sure that you sign your name and use an address that accepts replies. I do not respond to anonymous messages. If you send an e-mail message after 4:00 pm Monday through Thursday, I will not respond until the following day. If you send a message after 4:00 pm on Friday, then the earliest I will respond is the following Monday. I will try to attend to your messages promptly, but do not anticipate immediate responses. If your query requires an extensive reply, I will respond by suggesting an appointment.

Required Texts:

- Weinreb, Lloyd L. 2001. Leading Constitutional Cases on Criminal Justice. New York, NY: Foundation Press.
- Lewis, Anthony. 1964. Gideon's Trumpet. New York, Vintage.

Course Outline

DAYS	Introduction to the Criminal Process	Readings on reserve. Chapter 1 from Neubauer and article: Critical Issues in the Courtroom Search & Seizure Arrest.
1/13 & 1/15	4th Amendment	<ul style="list-style-type: none">• Brown v. Texas Searches based upon warrants; probable cause; plain view <ul style="list-style-type: none">• Illinois v. Gates

- Wilson v. Arkansas
- Arizona v. Hicks
- Horton v. California

Places searched (fields, garbage).

- Oliver v. United States
- California v. Greenwood

Electronic searches.

- Olmstead v. United States
- Katz v. United States

Exclusionary Rule & exceptions

1/22 4th Amendment

- Wolf v. Colorado, redoux
- Mapp v. Ohio
- United States v. Leon
- Nix v. Williams

take home portion of midterm distributed on 1/30

First Hour: EXAM

Second Hour: Gathering evidence from the body.

2/3 & 2/5 Investigatory Methods

- Rochin v. California

Prosecutors.

- United States v. Armstrong

Defense attorneys Indigents and the right to counsel.

2/12 6th Amendment Attorneys

- Powell v. Alabama
- Betts v. Brady
- Gideon v. Wainwright, redoux
- Argersinger v. Hamlin

Effectiveness of Counsel.

- United States v. Cronin
- Strickland v. Washington

2/19 Plea Bargaining

Brady v. United States
North Carolina v. Alford

2/26

Moot Court

Bordenkircher v. Hayes

Cruel and Unusual Punishment

3/10

8th Amendment

- Solem v. Helm
- Gregg v. Georgia

Friday March
21st at 7:30 a.m.