

PLSC 4338
Criminal Procedure: 4th Amendment Rights
Fall 2023

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Office Hours: T/TH 2:00 to 3:00, and by appointment

This course is designed to provide you with an understanding of certain key aspects of American constitutional criminal procedure. Specifically, we will study many of the procedural issues presented by the Fourth Amendment.

Text: Chemerinsky, Erwin, and Laurie L. Levenson. 2022. *Criminal Procedure: Investigation* (4th edition). New York: Wolters Kluwer. You should bring your book to class.

Note: I will post announcements, powerpoints, assignments, etc. on Canvas. Quizzes will be taken in class. The final exam will be taken in class.

Course Requirements

Quizzes

There will be five (5) quizzes (multiple choice and/or true/false) and the lowest quiz grade will be dropped.

Make up quizzes will be given only when the student has notified me prior to the scheduled quiz, and upon my acceptance of the reason for the absence. A student who misses a quiz without prior notification without a satisfactory reason will receive a grade of **zero** for that quiz. I will only make exceptions under the most unusual of circumstances. If a make-up quiz is given, I retain the right to modify substantially both the content and the format of the quiz.

Legal Memo

You will be required draft a legal memo, based on a hypothetical scenario. You will answer the hypothetical outside of class, using your notes and textbook. The legal memo requires application/analysis of assigned readings and does not involve library research. In fact, points will be deducted if you use any materials other than your notes and textbook. More details will be provided about the assignment on Canvas. Once I have posted the hypothetical, it is treated as a take-home exam. That means you are not to receive any assistance from anyone except me. **The legal memo must be uploaded to Canvas (pdf only) by noon on October 3.** If it is one minute late, it is late. Each 24 hour

period it is late, one grade will be deducted (A to A-, A- to B+, et cetera). I will not accept the legal memo more than five (5) days late.

Note: No variation on the computer/hard drive catastrophe excuse will be accepted. You should keep adequate backups of all written work to prevent such a problem. Google Drive, Dropbox, and SMU Box are free and you can use any of them to store your work.

Attendance/Class Participation

In light of the nature of the course material and the case-method approach to conducting this class, thoughtful participation is expected of each student throughout the semester. I use a modified Socratic teaching method, which means I randomly call on students to answer questions based on the readings and lecture. Thus, each student is expected to have read assigned materials **prior** to class. In order to be adequately prepared for class, you should brief the cases before class. I will explain how to brief a case in class.

Note: All cell phones must be turned to silent and stowed away for the duration of each class session. Additionally, masks are required in this course. This masking policy is subject to change during the semester, and any changes will be posted clearly in Canvas announcements.

Outline

An outline is a way to reduce the materials from class into a reasonable, organized study aid. You learn the law through the process of creating an outline. You are required to turn in your outline **in class** on the day of the final exam. You must turn in a **physical copy** of the outline. If you do not turn in your outline on that day, you will receive a zero. **I will not accept late outlines.** We will discuss how to outline in class, and I will provide the details of the assignment on Canvas.

Note: No variation on the computer/hard drive catastrophe excuse will be accepted. You should keep adequate backups of all written work to prevent such a problem. Google Drive, Dropbox, and SMU Box are free and you can use any of them to store your work.

Final Exam

The final exam is cumulative and will consist of two sections. The first section will cover the exclusionary rule and will consist of multiple choice and true/false questions. The second section will be an issue-spotting question, in which you will be given a fact pattern and required to identify the legal issues that arise from the fact pattern, state legal rules, apply them to the fact pattern, and reach legal conclusions. I will provide information to help you prepare for this type of exam, along with turning your outline into an attack outline.

Grading

Quizzes	40%
Legal Memo	20%
Attendance/Participation	10%
Outline	10%
Final Exam	20%

Final grades will be computed on the following basis:

93-100% = A	90-92% = A-	87-89% = B+	83-86% = B
80-82% = B-	77-79% = C+	73-76% = C	70-72% = C-
67-69% = D+	63-66% = D	60-62% = D-	<60% = F

In determining your final letter grade for the course, your final numerical grade will be rounded up to the next highest whole number if it is greater than or equal to 0.5. Individual assignments will not be rounded.

Course Schedule

8/22 Recommended Reading: pp. 1-30

Introduction
Incorporation
Exclusionary Rule
How to Brief a Case

8/24 **What is a search?**

pp. 31-60
Katz v. United States (1967)
United States v. Jones (2012)
Oliver v. United States (1984)
United States v. Dunn (1987)
California v. Ciraolo (1986)

8/29 pp. 60-79

Florida v. Riley (1989)
Kyllo v. United States (2001)
California v. Greenwood (1988)
United States v. Knotts (1983)

8/31 **No class: Professor at American Political Science Association meeting**

9/5 pp. 80-98; 102-107

Smith v. Maryland (1979)
Carpenter v. United States (2018)

- Illinois v. Caballes* (2005)
Florida v. Jardines (2013)
- 9/7 Quiz 1**
- 9/12 Probable Cause**
pp. 111-121
Illinois v. Gates (1983)
Maryland v. Pringle (2003)
pp. 107-110
Florida v. Harris (2013)
pp. 121-130
Whren v. United States (1996)
Heien v. North Carolina (2014)
***Legal Memo Hypothetical Posted**
- 9/14 **Warrant Requirement**
pp. 130-151
Andresen v. Maryland (1976)
Groh v. Ramirez (2004)
Muehler v. Mena (2005)
Wilson v. Arkansas (1995)
Richards v. Wisconsin (1977)
- 9/19 pp. 151-157
Maryland v. Garrison (1987)
Los Angeles County, CA v. Rettele (2007)
- 9/21 Quiz 2**
- 9/26 **Exceptions to the Warrant Requirement**
pp. 157-167
Warden, Maryland Penitentiary v. Hayden (1967)
Payton v. New York (1980)
Lange v. California (2021)
Brigham City, Utah v. Stuart (2006)
- 9/28 pp. 167-198
Kentucky v. King (2011)
Missouri v. McNeely (2013)
Birchfield v. North Dakota (2016)
Mitchell v. Wisconsin (2019)
- 10/3** pp. 199-215
Caniglia v. Strom (2021)
Coolidge v. New Hampshire (1971)

Minnesota v. Dickerson (1993)
California v. Carney (1985)
Collins v. Virginia (2018)

Legal Memo Due

10/5 pp. 215-243
California v. Acevedo (1991)
Chimel v. California (1969)
Knowles v. Iowa (1998)
Riley v. California (2014)
Arizona v. Gant (2009)

10/10 No class: Fall Break

10/12 pp. 243-270
South Dakota v. Opperman (1976)
Illinois v. Lafayette (1983)
Maryland v. Buie (1990)
Schneckloth v. Bustamonte (1973)
Georgia v. Randolph (2006)
Fernandez v. California (2014)

10/17 Quiz 3

10/19 pp. 270-291
Camara v. Municipal Court of City and County of San Francisco (1967)
New York v. Burger (1987)
City of Los Angeles v. Patel (2015)
United States v. Flores-Montano (2004)
United States v. Ramsey (1977)

10/24 pp. 291-312
United States v. Montoya-Hernandez (1985)
Michigan Department of State Police v. Sitz (1990)
City of Indianapolis v. Edmond (2000)
Safford Unified School District #1 v. Redding (2009)

10/26 pp. 312-345
City of Ontario v. Quon (2010)
Vernonia School District 47J v. Acton (1995)
Board of Education of Independent School District No. 92 v. Earls (2002)
Ferguson v. City of Charleston (2001)
Florence v. Board of Chosen Freeholders of the County of Burlington (2012)

10/31 pp. 345-361
Maryland v. King (2013)

United States v. Knights (2001)
Samson v. California (2006)

11/2 Quiz 4

11/7 Seizures and Arrests

pp. 362-391
United States v. Watson (1976)
United States v. Mendenhall (1980)
California v. Hodari D. (1991)
Torres v. Madrid (2021)
Atwater v. City of Lago Vista (2001)

11/9 Stop and Frisk

pp. 391-417
Terry v. Ohio (1968)
Hiibel v. Sixth Judicial District Court of Nevada (2004)
United States v. Arvizu (2002)
Kansas v. Glover (2020)
Alabama v. White (1990)

11/14 pp. 417-435

Florida v. J.L. (2000)
Navarette v. California (2014)
Illinois v. Wardlow (2000)
United States v. Sokolow (1989)
pp. 448-457
Tennessee v. Garner (1985)
Graham v. Connor (1989)

11/16 Quiz 5

11/21 Exclusionary Rule

pp. 459-485
Hudson v. Michigan (2006)
Weeks v. United States (1914)
Mapp v. Ohio (1961)
Herring v. United States (2009)
Davis v. United States (2011)

11/23 No class: Thanksgiving Holiday

11/28 pp. 485-510

Rakas v. Illinois (1978)
Minnesota v. Carter (1998)
Brendlin v. California (2007)

Byrd v. United States (2018)
Murray v. United States (1988)

11/30 pp. 510-547
Nix v. Williams (1984)
Brown v. Illinois (1975)
Utah v. Strieff (2016)
United States v. Leon (1984)

Final Exam: Friday, December 8, 3:00 PM – 6:00 PM

Additional Information

Email Etiquette: When you email me, you need to follow some basic rules. First, insert the course title (Criminal Procedure) or number (PLSC 4338) into the subject line of your message. Second, start with a greeting. “Hi, Professor Corley...” (Never address a professor as Mr. or Mrs.) Third, plainly identify yourself and articulate the content of your message clearly. This means you should not use text message speak. **Fourth, before emailing me, you should review the syllabus or any announcements/postings on Canvas.** It is very likely that you can find an answer to your question(s) by examining the syllabus or Canvas. Finally, you should send a thank you email if you have asked a question and received an answer.

Generative AI is not permitted in this course. The use of any form of Generative AI (e.g., ChatGPT, iA Writer, DALL-E) is not permitted in this course. Any violation of these rules will be treated within the SMU Honor Code.

Values Statement: As an educator and a human being, I care about your growth and wellbeing. I pledge to foster faculty-student relationships of trust and collaborate with you in creating a learning experience that upholds values representing the unique identities and basic human rights carried by all students. You can see an elaboration of these values here: www.smu.edu/values.

SMU Required Syllabus Statements

Title IX and Disability Accommodations

Disability Accommodations	Students who need academic accommodations for a disability must first register with Disability Accommodations & Success Strategies (DASS). Students can call 214-768-1470 or visit smu.edu/DASS to begin the process. Once they are registered and approved, students then submit a DASS Accommodation Letter through the electronic portal, <i>DASS Link</i> , and then communicate directly with each of their instructors to make appropriate arrangements. Please note that accommodations are not retroactive, but rather require advance notice in order to implement.
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Sexual Harassment	All forms of sexual harassment, including sexual assault, dating violence, domestic violence and stalking, are violations of SMU’s Title IX Sexual Harassment Policy and may also violate Texas law. Students who wish to file a complaint or to receive more information about the grievance process may contact Samantha Thomas, SMU’s Title IX Coordinator, at accessequity@smu.edu or 214-768-3601. Please note that faculty and staff are mandatory reporters. If students notify faculty or staff of sexual harassment, faculty must report it to the Title IX Coordinator. For more information about sexual harassment, including resources available to assist students, please visit smu.edu/sexualharassment .
Pregnant and Parenting Students	Under Title IX, students who are pregnant or parenting may request academic adjustments by contacting the Office of Student Advocacy and Support by calling 214-768-4564. Students seeking assistance must schedule an appointment with their professors as early as possible, present a letter from the Office of the Dean of Students, and make appropriate arrangements. Please note that academic adjustments are not retroactive and, when feasible, require advance notice to implement.

SMU Requirements

Religious Observance	Religiously observant students wishing to be absent on holidays that require missing class should notify their professors in writing at the beginning of the semester and should discuss with them, in advance, acceptable ways of making up any work missed because of the absence. Click here for a list of holidays.
Medical-Related Absences	To ensure academic continuity and avoid any course penalties, students should follow procedures described by their instructors in order to be provided with appropriate modifications to assignments, deadlines, and exams.
Excused Absences for University Extracurricular Activities	Students participating in an officially sanctioned, scheduled university extracurricular activity should be given the opportunity to make up class assignments or other graded assignments that were missed as a result of their participation. It is the responsibility of the student to make arrangements for make-up work with the instructor prior to any missed scheduled examinations or other missed assignments. (See Catalog under heading of “Academic Records/Excused Absences.”)
Academic Dishonest	Students are expected to embrace and uphold the SMU Honor Code . Violations of the Honor Code will be acted upon in accordance with the policies and procedures outlined in the Mustang Student Handbook .

Student Support

Student Academic Success	Students needing assistance with writing assignments for SMU courses may schedule an appointment with the Writing Center through Canvas. Students who would like support for subject-specific tutoring or success
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Programs	strategies should contact SASP, Loyd All Sports Center, Suite 202; 214-768-3648; https://www.smu.edu/sasp . Tutor schedules are available at smu.edu/tutorschedule .
Caring Community Connections Program	CCC is a resource for anyone in the SMU community to refer students of concern to the Office of the Dean of Students. The online referral form can be found at smu.edu/deanofstudentsccc . After a referral form is submitted, students will be contacted to discuss the concern, strategize options, and be connected to appropriate resources. Anyone who is unclear about what steps to take if they have concerns about students should contact the Office of the Dean of Students at 214-768-4564.
Mental Health Resources: Counseling Services & Teletherapy	Throughout the academic year, students may encounter different stressors or go through life experiences which impact their mental health and academic performance. Students who are in distress or have concerns about their mental health can schedule a same-day or next-day appointment to speak with a counselor by calling Counseling Services . Counselors are available at any time, day or night for students in crisis at this number: 214.768.2277 (then select option 2). They will be connected with a counselor immediately. Students seeking on-going counseling should call the same number: 214.768.2277 (then select option 1) during normal business hours to schedule an initial appointment. SMU Teletherapy provides another free option for on-demand counseling and video appointments with a medical professional.

Note: The course syllabus provides a general plan for the course; deviations may be necessary.