

LAW OF ARREST, SEARCH AND SEIZURE, CRJ 174A

Office: Alpine 219
Office Hours: Wed. 5:45-6:30 p.m.
and by appointment
Email: BKNLAW@yahoo.com

Barry K. Newman
Spring 2009
Wednesday 7:00-9:50 p.m.
Alpine 148

REQUIRED TEXTS

Casebook: Leading Constitutional Cases on Criminal Justice, by Lloyd Weinreb, Foundation Press, 2008 Edition (or earlier)

Workbook: Criminal Procedure: Examples & Explanations, 5th ed., by Robert M. Bloom and Mark S. Brodin, Aspen Publishers.

COURSE DESCRIPTION

Current and recent developments relating to arrest, searches, and seizures; study of constitutional rights predominately associated with the Fourth, Fifth, Sixth, and Fourteenth Amendments as related to criminal justice and its administration—warrants, warrantless seizures, exclusionary rule, confessions, eye-witness identification, electronic surveillance, entrapment, state variance with federal rules. Case study method law course. **Prerequisite:** CRJ 002.

COURSE OBJECTIVES

At the end of the course you will have an understanding of criminal procedure as it relates to the law of arrest, search and seizure. Specifically, you will:

1. Demonstrate an understanding of criminal procedure as it relates to the law of arrest, search, and seizure;
2. Express an in-depth knowledge of the Fourth Amendment that includes the subjects of: reasonable/probable cause, warrant clause, procuring, issuance, and execution of warrants, arrests and searches incidental to arrest, stop and frisk, warrantless searches, consent searches, plain view, emergency circumstances, open fields, abandoned property, motor vehicles, administrative searches;
3. Demonstrate knowledge of the remedies for unlawful investigative practices that include: exclusion of evidence, standing concepts, collateral use of illegally obtained evidence, civil remedies, good faith exception;
4. Develop an appreciation and knowledge of the Fifth, Sixth, and Fourteenth Amendments related to interrogation practices that include the subjects of voluntariness standard, legal standards for interrogation techniques and practices, Miranda requirements, represented subjects, post arrest proceedings.

COURSE REQUIREMENTS

1. **Participation** - the material in this course will be presented in both lecture and “case method” format. Students are to read and be prepared to discuss each assignment. Participation is a factor in the grading scheme for this course. Students will be randomly called upon to answer questions and analyze factual scenarios in light of the reading assignment. Excessive absences will lower your points received for participation.
2. **Attendance** - because this course involves a high degree of participation, attendance is required. Roll will be taken and as discussed above, absences can affect your grade. Missing any one class will be a serious detriment to your success in this course. Nonetheless, it is understood that illness and emergencies are unfortunate facts of life. Students with excessive absences need to contact the instructor. Tardiness can result in you being deemed absent.
3. **Case Briefs** - each student will be assigned three cases from the reading assignment to brief and to discuss in class. The brief assignments and structure of the briefs will be discussed at the first class meeting. Briefs will be submitted on the class date of the reading assignment. Late briefs will be accepted but a penalty of at least one letter grade reduction will be assessed unless otherwise approved by instructor. These briefs will constitute part of your grade.

EXAMS

There will be two exams. The examinations will be essay exams in which you will be required to analyze factual scenarios or discuss legal principles. In addition, there will be one or more quizzes. Make-up exams will only be permitted with prior approval by the instructor.

SUPPORT WITH WRITING ASSIGNMENTS

As discussed above your grade in this course will be derived in large part from your written work (briefs and exams.) Your ability to analyze the material presented and communicate in writing is therefore extremely important, not only in this course, but for the balance of your college career. Assistance with writing is available on campus. Please consider the following information from the college of Health and Human Services:

“The College of Health and Human Services Writing Center, located in Solano Hall 5000, is a program designed to assist students with all stages of writing from pre-writing through editing a text utilizing a peer-tutoring environment. The Center is staffed by graduate students from the English Department. Hours will be posted at the beginning of the Fall 2008 semester. If you have any questions about the Center, please call (916) 278-7255.”

STUDENTS WITH DISABILITIES

If you have a disability and require accommodations, you need to provide disability documentation to SSWD, Lassen Hall 1008, (916) 278-6955. Please discuss your accommodation needs with me after class or during my office hours early in the semester.

LAPTOP AND CELLPHONE REGULATION

No photographing, recording or text messaging is allowed without permission of the instructor. The use of cell phones in class is not allowed. Please turn off your cell phone prior to the beginning of the class. The use of laptops for taking notes is permitted.

ACADEMIC DISHONESTY

I do not tolerate any form of academic dishonesty. A statement of what constitutes academic dishonesty is attached to the back of this syllabus. If you engage in any form of academic dishonesty you will receive zero points for that assignment and other sanctions as deemed appropriate by the professor, including but not limited to, deduction of points from the final course grade or a grade of F in the course.

GRADES

Grades will be determined as follows:

<u>Assignments</u>	<u>Points</u>	<u>Percentage of Final Grade</u>
Quiz	60	15%
Midterm	100	25%
Briefs	60	15%
Participation	40	10%
Final Exam	140	35%
	<hr/> 400	

Grading Scale

360-400 pts	90-100 %	=	A- to A+
320-359 pts	80-89 %	=	B- to B+
280-319 pts	70-79 %	=	C- to C+
240-279 pts	60-69 %	=	D- to D+
	< 60 %	=	F

GRADING RUBRIC FOR EXAMS AND ASSIGNMENTS

- Content/Analysis: 80% of the total score
- Organization/Grammar/Spelling: 20% of the total score

A - Excellent Answer:

- Correctly identifies and incorporates all applicable case law and legal principles in the analysis.
- Analyzes all relevant facts given in the exam and applies them to applicable case law and legal principles.
- Thoughtfully analyzes alternative points of view.
- Demonstrates coherent organization.
- Contains no grammatical or spelling errors.

B - Strong Answer:

- Identifies and incorporates some of the applicable case law and legal principles in the analysis.
- Analyzes some of the relevant facts given in the exam and applies them to applicable case law and legal principles.
- Analyzes alternative points of view.
- Demonstrates coherent organization.
- Contains minimal grammatical or spelling errors.

C - Adequate Answer:

- Identifies some of the applicable case law and legal principles.
- Applies a few of the facts given in the exam to applicable case law and legal principles.
- Discusses one point of view.
- Demonstrates coherent organization.
- Contains several grammatical or spelling errors.

D - Seriously Flawed Answer:

- Names case law and legal principles inapplicable to the issues.
- Misapplies the facts given in the exam to case law and legal principles.
- Discusses one point of view.
- Lacks organization.
- Contains many grammatical or spelling errors.

F - Fundamentally Flawed Answer:

- Fails to identify or incorporate applicable case law and legal principles.
- Fails to apply the facts given in the exam to case law and legal principles.
- Fails to discuss any point of view.
- Lacks organization.
- Contains many grammatical or spelling errors.

READING ASSIGNMENTS & TENTATIVE SCHEDULE

You must be prepared to discuss the subject matter covered by the reading assigned for that date. Moreover, you must be prepared to engage in class discussion about the cases and topics covered by the reading assignments. The reading assignments are subject to change depending on time limitations.

Date	Book Chapter	Topic/Case	Pages
Jan. 28 th	B ¹ : 2, 3	Introduction: Briefing a Case Overview; Introduction to the Fourth Amendment, Applications Processing the Accused	11-28
Feb. 4 th	B: 4.1 B: 5.1-5.6 W:	What does the Fourth Amendment require? – The Doctrine of Justification. Search and Arrest Warrants <i>Draper v. United States</i> <i>United States v. Watson</i> <i>Illinois v. Gates</i> <i>Payton v. New York</i>	41-63 111-132 55-58 59-62 103-111 92-102
Feb. 11 th	B: 11.4 W: B: 6.3 W:	Electronic Surveillance <i>Katz v. United States</i> <i>Kyllo v. United States</i> Exceptions: Search Incident to Arrest <i>Chimel v. California</i> <i>Knowles v Iowa</i> <i>Atwater v. City of Lago Vista</i>	338-341 540-545 553-563 143-153 117-128 152-154 69-76

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Feb. 18 th	<p>B: 6.8</p> <p>W:</p> <p>B: 6</p> <p>W:</p>	<p>Plain View Doctrine</p> <p><i>Arizona v. Hicks</i></p> <p><i>Horton v. California</i></p> <p>Warrantless Intrusion Requiring No Justification: The Consent Doctrine</p> <p><i>Illinois v. Rodriguez</i></p> <p><i>Georgia v. Randolph</i></p> <p><i>United States v. Matlock</i></p>	<p>171-177</p> <p>251-259</p> <p>260-268</p> <p>160-170</p> <p>228-234</p> <p>235-250</p> <p>225-227</p>
Feb. 25 th	<p>B: 6.1-6.2</p> <p>W:</p> <p>B: 6.6</p> <p>W:</p> <p>B: 6.4</p> <p>W:</p>	<p>The Emergency Exception</p> <p><i>Maryland v. Buie</i></p> <p>Administrative and Inventory Searches</p> <p><i>Illinois v. Lafayette</i></p> <p><i>Camera v. Municipal Court of the City and County of San Francisco</i></p> <p><i>New York v. Burger</i></p> <p>Automobile Searches and the Container Doctrine</p> <p><i>Chamber v. Maroney</i></p> <p><i>South Dakota v. Opperman</i></p> <p><i>California v. Acevedo</i></p>	<p>133-143</p> <p>129-136</p> <p>158-160</p> <p>176-180</p> <p>315-322</p> <p>323-331</p> <p>153-158</p> <p>137-143</p> <p>144-151</p> <p>162-170</p>
March 4 th	<p>B: 4.2</p> <p>W:</p>	<p>Stop and Frisk, and Other Limited Investigative Detentions</p> <p>Reasonable Suspicion: The Standard for “Stop and Frisk”</p> <p><i>Terry v. Ohio</i></p> <p><i>Minnesota v. Dickerson</i></p>	<p>63-94</p> <p>423-437</p> <p>461-466</p>

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		<i>Florida v. J.L.</i>	446-449
		<i>Illinois v. Wardlow</i>	450-453
		<i>United States v. Sharpe</i>	467-472
		<i>Brown v. Texas</i>	473-475
		<i>New Jersey v. TLO</i>	288-301
March 11 th		The Exclusionary Rule: Rationale, Operation and Limitations	
	B: 7.2	“Fruit of the Poisonous Tree” Doctrine	185-200
	W:	<i>Mapp v. Ohio</i>	338-351
		<i>Wong Sun v United States</i>	415-420
		<i>Rakas v. Illinois</i>	391-400
March 18 th		Good Faith Exception/Inevitable Discovery	
	B: 7.3.3	The Good-Faith Exception	215-226
	W:	<i>U.S. v. Leon</i>	365-382
		<i>Nix v. Williams</i>	383-390
		REVIEW FOR MIDTERM	
March 25 th		<u>MIDTERM EXAMINATION</u>	
April 1 st		*SPRING BREAK*	
April 8 th	B: 8	Confessions and Interrogations: The Voluntariness Standard 5 th Amendment 14 th Amendment	231-242
	W:	<i>Brown v. Mississippi</i>	658-663
		<i>Spano v. New York</i>	664-670
		<i>Colorado v. Connelly</i>	671-680

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April 15 th	B: 9	The Miranda Decision	243-264
	W:	<i>Miranda v. Arizona</i>	716-734
		<i>Garrity v. New Jersey</i>	827-832
		Custody <i>Oregon v. Mathison</i>	768-770
April 22 nd		Interrogation	
	W:	<i>Rhode Island v. Innis</i>	758-763
		<i>Illinois v. Perkins</i>	764-767
	B: 9.2.3	The Substance and Adequacy of the Warning <i>Missouri v. Seibert</i>	265-270 735-743
April 29 th	B: 9.2.4-9.2.5	Waiver of Miranda Rights	271-292
	W:	<i>Moran v. Burbine</i>	744-757
	B: 9.3-9.4	Limitations on the Scope of the <i>Miranda</i> Exclusionary Rule	293-305
	W:	<i>Harris v. New York</i>	771-776
		<i>Doyle v. Ohio</i>	777-780
		<i>Oregon v. Elstad</i> <i>United States v. Patane</i>	781-789 790-795
May 6 th	B: 10.1-10.5	The Sixth Amendment “Right to Counsel” Approach	307-316
	W:	<i>Escobedo v. Illinois</i>	706-715
		<i>Massiah v. United States</i>	681-684
		<i>Brewer v. Williams</i>	685-692

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		<i>Texas v. Cobb</i>	693-700
		<i>Kuhlmann v. Wilson</i>	701-705
May 13 th	B: 11.1	Eyewitness Identification	319-325
	W:	<i>United States v. Wade</i>	851-862
		<i>Kirby v. Illinois</i>	863-867
		<i>Neil v. Biggers</i>	874-877
		Excessive Police Actions, Bodily Intrusions, and Examinations of Physical Attributes	
	B: 11.2	Bodily Intrusions	325-328
	W:	<i>Rochin v. California</i>	24-31
		<i>Winston v. Lee</i>	815-820
		<i>United States v. Russell</i>	564-575
		REVIEW FOR FINAL EXAMINATION	
May 20 th		<u>FINAL EXAMINATION</u> 7:30 – 9:30 p.m.	

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DEFINITIONS OF ACADEMIC DISHONESTY

Excerpt from California State University, Sacramento, Policies and Procedures Regarding Academic Honesty:

“III. DEFINITIONS OF ACADEMIC DISHONESTY

A. CHEATING. At CSUS, cheating is the act of obtaining or attempting to obtain credit for academic work through the use of any dishonest, deceptive, or fraudulent means. Cheating at CSUS includes but is not limited to:

1. Copying, in part or in whole, from another’s test or other evaluation instrument;
2. Using crib notes, “cheat sheets,” or any other device, including electronic devices, in aid of writing the exam not permitted by the instructor;
3. Submitting work previously graded in another course unless doing so has been approved by the course instructor or by department policy;
4. Submitting work simultaneously presented in more than one course, unless doing so has been approved by the respective course instructors or by the department policies of the respective departments;
5. Altering or interfering with grading or grading instructions;
6. Sitting for an examination by a surrogate, or as a surrogate;
7. Any other act committed by a student in the course of his or her academic work that defrauds or misrepresents, including aiding or abetting in any of the actions defined above.

B. PLAGIARISM. Plagiarism is a form of cheating. At CSUS plagiarism is the use of the distinctive ideas or works belonging to another person without providing adequate acknowledgment of that person’s contribution. Regardless of the means of appropriation, incorporation of another’s work into one’s own requires adequate identification and acknowledgment. Plagiarism is doubly unethical because it deprives the author of rightful credit and gives credit to someone who has not earned it. Acknowledgment is not necessary when the material used is common knowledge. Plagiarism at CSUS includes, but is not limited to:

1. The act of incorporating into one’s own work the ideas, words, sentences, paragraphs, or parts thereof, or the specific substance of another’s work without giving appropriate credit thereby representing the product as entirely one’s own. Examples include not only word-for-word copying, but also the “mosaic” (i.e., interspersing a few of one’s own words while, in essence, copying another’s work), the paraphrase (i.e., rewriting another’s work while still using the other’s fundamental idea or theory); fabrication (i.e., inventing or counterfeiting sources), ghost-writing (i.e., submitting another’s work as one’s own) and failure to include quotation marks on material that is otherwise acknowledged; and
2. Representing as one’s own another’s artistic or scholarly works such as musical compositions, computer programs, photographs, paintings, drawing, sculptures, or similar works.”

A tutorial on how not to plagiarize may be found at:

<http://library.csus.edu/content2.asp?pageID=353>

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