

CRJ 174A: ARREST, SEARCH AND SEIZURE SPRING 2009

Course: Section 6, Douglass Hall, Room 209, TTh 3-4:15 pm Office: Alpine Hall, Room 107 Office Hours: TTh 1:30 - 3 pm; W 2-5 pm	Phone: (916) 996-2821 E-mail: panneton@csus.edu Website: Accessible via the CSUS-Faculty Websites or the Criminal Justice Division - Faculty links.
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Required Text

1. California Judges' Benchbook, 2nd Edition, by Honorable George Brunn
2. Leading Constitutional Cases On Criminal Justice, 2008 Edition, by Lloyd L. Weinreb (Earlier editions acceptable)

Course Description

“CRJ 174A. Law of Arrest, Search and Seizure. 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. Restricted to declared majors and minors or instructor’s permission. 3 units.”

Goals and Objectives

At the end of the course, it is intended that the student be able to:

1. Demonstrate an understanding of criminal procedure.
2. Express an in-depth knowledge of the fourth amendment that includes the subjects of: the reasonableness clause, warrant clause, probable cause, procuring, issuance and execution of warrants, arrest and incidental search, stop and frisk, warrantless searches, consent searches, plain view, emergency circumstances, open fields, abandoned property, motor vehicles and 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 and the good faith exception.
4. Develop appreciation and knowledge of the fifth, sixth and fourteenth amendments related to interrogation practices that includes the subject of voluntariness, legal standards for interrogation techniques and practices, Miranda requirements, represented subjects and post arrest formal proceedings.

Academic Dishonesty

If you engage in any form of academic dishonesty, including but not limited to, copying, plagiarism, cheating, or any other form of misrepresentation, 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:

1. Case Briefs/Attendance/Participation	20%
2. Class Presentations (2 worth 10% apiece)	20%
3. Scenario /Judicial Opinion Exercise	10%
4. Mid-term Exam	20%
5. Final Exam	30%
<i>Total:</i>	<i>100%</i>

Grading Scale

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

Course Procedure

Students will learn about search and seizure law by reading and analyzing judicial decisions. The case method approach of teaching will be emphasized, with supplementation by lecture when appropriate. Lectures may include the use of power-point presentations and overheads. Guest speakers will provide students with practical realities of the criminal justice system.

All Court decisions may be read on-line through two websites, www.findlaw.com or www.lawcornell.edu/index.html. Students will also become familiar with how to retrieve court opinions and legal articles through Lexis-Nexis.

Attendance and Participation

This course will involve a great deal of class discussion. As such, attendance and participation in class will represent a portion of your grade. I expect all students to be prepared to discuss each assigned case when they arrive in class.

In Class Presentations

A. Case Brief Assignment:

Within the first week of the semester, each student will be assigned one case from the Reading Assignment to brief fully and to lead the discussion in class. The student presentation should last approximately 5 minutes.

In completing this assignment, it is particularly important to describe what happened in the case in your own words. Do not expect to merely read your case brief to the class. Additionally, to be fully successful, the student must identify not only the main legal arguments for the case presented but also opposing positions as well. Personal observations about the Court's opinion by the student who is leading the discussion will be rewarded. Visual aids and power-point presentations are encouraged.

This assignment will be due in class on the date the case is scheduled to be discussed in class. Students must turn in the case brief, be present in class and discuss the case assigned to receive credit for the assignment.

The case brief must be typewritten [double-spaced, 1-inch margin on all sides, 12 point font size, and maximum 4pages], in the following format and with the following headings in italics:

Case Name

(A) *Facts and Procedural History of the Case.*

[What crime did the defendant commit? How did the case get to the U.S. Supreme Court? What are the facts relevant to resolving the legal issue?]

(B) *Issues of the Case.*

[What are the legal questions before the Court? Why is the Court reviewing this case?]

(C) *Rule of Law Applied.*

[What is the answer to the legal issue?]

(D) *Rationale for the Answer.*

[What is the basis or reasoning for the Court's decision?]

(E) *Conclusion.*

[What happened to the case, i.e., reversed, affirmed, etc.]

(F) *Dissenting Opinions*

[How do the dissenting justices differ from the majority opinion?]

B. Moot Court Arguments

During the first week of class, each student will be assigned one U.S. Supreme Court argument to present to the class during the semester. There will be an Appellant and a Respondent (Appellee), who will argue opposing views of the issues presented in the assigned case. The object of the exercise is to educate the class about arrest, search and seizure issues raised in the Court's decision, as well as persuade them of the merits of the advocates' respective positions. Each student's presentation should last approximately 5 minutes. Students are encouraged to confer with their "opponent" beforehand to review the issues and court decision. I will provide a demonstration to the class of a proper argument.

Each student will be required to submit their arguments in typewritten form (4 to 6 pages) following their presentations. Students may refer to notes during their presentation, but may not read their presentations verbatim. Students will be expected to prepare their oral arguments so that verbatim reading will be unnecessary. Students are encouraged to use visual aids or power-point presentations during their arguments.

The written presentations should address relevant facts in the case, including how the case arrived at the U.S. Supreme Court, the issue presented to the Court for resolution, and why the Court should find in favor of the advocate. In presenting the argument, the student should refer to other judicial precedents cited in the case under discussion, point out weaknesses in the opposition position, and convince the Court of the soundness of his/her own reasoning. In this regard, logic, common sense, and a familiarity with both the facts and law of the case will be essential for a successful presentation.

Since the Weinreb case book is edited and does not contain complete U.S. Supreme Court Opinions, frequently the dissenting opinions are omitted. Students assigned to these presentations will be expected to read the entire Opinion, including dissents, to prepare for their argument. The entire opinion should be read online through one of the websites identified above.

Scenario/Judicial Opinion Exercise

Judicial Opinions are typically written by virtually all Courts using the IRAC method. We will discuss and learn this method during the course and it will be utilized by students in their mid-term and final essay exams. The method relies on identifying legal issues, reciting the appropriate rule of law, and analyzing the facts in light of the issues and rule to arrive at a conclusion.

To assist you in learning this method, students will be required to develop a factual scenario containing at least five arrest, search and/or seizure issues. After setting forth the scenario in typewritten form, the student will be required to write a court opinion (no more than four typewritten pages) using the IRAC method to arrive at a conclusion in the case. I will provide a sample of this exercise to assist you.

The scenario/judicial opinion exercise must be turned in no later than **April 23, 2009**.

Case Briefs

There is a great deal of material to be covered in this course. In order to properly prepare for the exams, students will be required to summarize 50 of the 85 U.S. Supreme Court cases which are assigned. They should be one page summaries, commonly called Case Briefs, may be typewritten or handwritten and should briefly address relevant facts, the issue presented, the rule of law set forth by the Court, and its reasoning. The case briefs must be prepared prior to the day that the case is scheduled to be reviewed in class. These summaries differ from the class presentation case briefs discussed above in that they should be less detailed and more concise as to the rule of law. The case briefs must be maintained in a binder. I will collect the binders periodically during the semester to assure that students are preparing the briefs in a timely manner. The case briefs will not be graded but students will receive credit toward their final grade.

Exams

There will be two essay exams. Exam questions may be drawn from all sources, including the required text, lectures, class discussions, and required court opinions.

There will be NO make-up exams except for extraordinary and documented reasons.

Exams will be on the following dates:

- (1) Exam No. 1: **March 19, 2009** (Worth 20% of final grade)
- (2) Exam No. 2: **Week of May 16, 2009 (exact time to be announced)** (Worth 30% of final grade)

If you have a disability and require accommodation, you need to provide disability documentation to SSWD, Lassen Hall, Room 1008, telephone (916) 278-6955. Please discuss your accommodation needs

with me after class or during my office hours early in the semester.

Potential Problems

Please silence all beepers, cell phones, etc., before coming to class, including making sure that all text messaging capabilities have been turned off. The use of laptops to take notes during class is permitted.

In the event you must leave early, please advise me before the class begins. I expect students to arrive on time for class, particularly since attendance will be taken.

I fully appreciate that unforeseeable events may arise during the semester which affect your responsibilities as a student. I suggest that you notify me immediately so that your performance in the course is not jeopardized.

GRADING RUBRIC

FOR ASSIGNMENTS AND EXAMS

Content/Analysis: 80% of the total score

Organization/Grammar/Spelling: 20% of the total score

- A - Excellent Answer:
- Accurately addresses the question.
 - Demonstrates an excellent understanding of the issues.
 - Incorporates all applicable case law and legal principles in the discussion.
 - Demonstrates coherent organization.
 - Contains no grammatical or spelling errors.
- B - Strong Answer:
- Accurately addresses the question.
 - Demonstrates a good understanding of the issues.
 - Incorporates some of the applicable case law and legal principles in the discussion.
 - Demonstrates coherent organization.
 - Contains minimal grammatical or spelling errors.
- C - Adequate Answer
- Adequately addresses the question.
 - Demonstrates an adequate understanding of the issues.
 - Incorporates several of the applicable case law and legal principles in the discussion.
 - Demonstrates coherent organization.
 - Contains several grammatical or spelling errors.
- D- Seriously Flawed Answer
- Partially addresses the question.
 - Demonstrates a superficial understanding of the issues.
 - Incorporates few of the applicable case law and legal principles in the discussion.
 - Lacks organization.
 - Contains several grammatical or spelling errors.
- F- Fundamentally Flawed Answer
- Fails to address the question.
 - Demonstrates a total lack of understanding of the issues.
 - Fails to incorporate any of the applicable case law and legal principles in the discussion.
 - Lacks organization.
 - Contains many grammatical or spelling errors.

The grading rubric assumes that your writing on the exams is legible. Please make sure that your writing is indeed legible.

READING ASSIGNMENTS

Dates	Cases	Text Pages	Topics
1/27/09			Intro To Course: Syllabus, Reading Cases, Briefing Cases
1/29/09	<i>Griswold v. Connecticut</i> , 381 US 479 (1965) <i>Duncan v. Louisiana</i> , 391 US 1451 (1968)		Overview of course material; Demonstration to class regarding case briefing presentation and moot court presentation
2/3/09	<i>Mapp v. Ohio</i> , 367 US 643 (1961) <i>Olmstead v. United States</i> , 277 U.S. 438 (1928) <i>Katz v. United States</i> , 389 U.S. 347 (1967) <i>Arizona v. Hicks</i> , 480 U.S. 321 (1987)	1-40, 403-420	What is the Exclusionary Rule and how does it apply to the 4 th Amendment?; What is a suppression motion?; What is a search?; What is a seizure?; How does the reasonable expectation of privacy (ROP) standard apply to government conduct? “Plain View” Doctrine
2/5/09	<i>California v. Greenwood</i> , 486 U.S. 35 (1988) <i>Oliver v. United States</i> , 466 U.S. 170 (1984) <i>Kyllo v. United States</i> , 533 U.S. 27 (2001)	315-345	When is government conduct not considered to be a search under 4 th Amendment principles?; Government high tech investigations; Open Fields principles of the 4 th Amendment
2/10/09	<i>United States v. White</i> , 401 U.S. 745 (1971) <i>Lewis v. United States</i> , 385 U.S. 206 (1966) <i>Hoffa v. United States</i> , 385 U.S. 293 (1966)		Electronic surveillance, agents and informers

2/12/09	<p><i>California v. Hodari D.</i>, 499 US 621 (1991)</p> <p><i>Florida v. Bostick</i>, 501 U.S. 429 (1991)</p> <p><i>Atwater v. City of Lago Vista</i>, 532 U.S. 318 (2001)</p> <p><i>Knowles v. Iowa</i></p>	221-291	<p>What constitutes an arrest?; Who may properly make an arrest and where?; How do limited detentions differ from custodial arrest? The “free to leave” test; permissible searches incident to citation, misdemeanor, felony arrests</p>
2/17/09	<p><i>Whren v. United States</i>, 517 U.S. 806 (1996)</p> <p><i>Hübel v. Sixth Judicial District</i>, 542 U.S. 177 (2004)</p> <p><i>Brown v. Texas</i>, 443 U.S. 47 (1979)</p>		<p>Subjective vs. objective standards under the 4th Amendment; Stop and identify statutes</p>
2/19/09	<p><i>Illinois v. Gates</i>, 462 US 213 (1983)</p> <p><i>Draper v. U.S.</i>, 358 U.S. 307 (1959)</p> <p><i>Hayes v. Florida</i>, 470 U.S. 811 (1985)</p> <p><i>Dunaway v. New York</i>, 442 U.S. 200 (1979)</p>		<p>What is “Probable Cause” under the 4th Amendment?; May police detain and/or arrest and/or search without “Probable Cause”?; What factors make up Reasonable Suspicion and/or Probable Cause? How does a detention turn into an arrest?</p>
2/24/09	<p><i>Terry v. Ohio</i>, 392 U.S. 1 (1968)</p> <p><i>Minnesota v. Dickerson</i>, 508 U.S. 366 (1993)</p> <p><i>Adams v. Williams</i>, 407 U.S. 143 (1972)</p> <p><i>Illinois v. Wardlow</i>, 528 U.S. 119 (2000)</p> <p><i>U.S. v. Sharpe</i>, 470 U.S. 675 (1985)</p>	147-219	<p>Requisite levels of proof for government conduct; Differences between consensual encounters, <i>Terry</i> stops and arrest; When may officers “pat-down” a suspect?</p>
2/26/09	GUEST SPEAKER		

3/3/09	<p><i>Payton v. New York</i>, 445 U.S. 573 (1980)</p> <p><i>Stoner v. California</i>, 376 U.S. 483 (1964)</p> <p><i>Horton v. California</i>, 496 U.S. 128 (1990)</p> <p><i>Illinois v. McArthur</i>, 531 U.S. 326 (2001)</p>	46-139	<p>Standard of review for Probable Cause determinations; Preference for Search Warrants; Requirements for obtaining and executing Search Warrants; Residence and quasi-residence searches; Seizure of items not listed in a Search Warrant</p>
3/5/09	<p><i>United States v. Leon</i>, 468 U.S. 897 (1984)</p> <p><i>Nix v. Williams</i>, 467 U.S. 431 (1984)</p> <p><i>Rakas v. Illinois</i>, 439 U.S. 128 (1978)</p> <p><i>Wong Sun v. United States</i>, 371 U.S. 471 (1963)</p>		<p>Exceptions to the Exclusionary Rule; Good faith; Inevitable discovery; Attenuation; Standing</p>
3/10/09	<p><i>New York v. Harris</i>, 495 U.S. 14 (1990)</p> <p><i>United States v. Patane</i>, 542 U.S. 630 (2004)</p> <p><i>Oregon v. Elstad</i>, 470 U.S. 298 (1985)</p>		<p>Prosecutor Rights to Impeach Unmirandized Statement; Admissibility of “Physical Fruits” vs. Statements Under <i>Miranda</i></p>
3/12/09	<p><i>Minnesota v. Olson</i>, 495 U.S. 91 (1990)</p> <p><i>Schneekloth v. Bustamonte</i>, 412 U.S. 218 (1973)</p> <p><i>United States v. Matlock</i>, 415 U.S. 164 (1974)</p> <p><i>Georgia v. Randolph</i>, 547 U.S. 103 (2006)</p>	370-387	<p>Consent searches; Third party consent searches</p>

3/17/09	<p><i>Illinois v. Rodriguez</i>, 497 U.S. 177 (1990)</p> <p><i>Chimel v. California</i>, 395 U.S. 752 (1969)</p> <p><i>Maryland v. Buie</i>, 494 U.S. 325 (1990)</p>	292-313	Search incident to arrest; Protective sweeps
3/19/09	FIRST EXAM		
3/24/09	<p><i>California v. Acevedo</i>, 500 U.S. 565 (1991)</p> <p><i>Chambers v. Maroney</i>, 399 U.S. 42 (1970)</p>	346-361	Vehicle and container searches
3/26/09	<p><i>Schmerber v. California</i>, 384 U.S. 757 (1966)</p> <p><i>Pennsylvania v. Muniz</i>, 496 U.S. 582 (1990)</p> <p><i>Winston v. Lee</i>, 470 U.S. 753 (1985)</p>	361-370	Warrantless searches and seizures from exigencies: DUI issues
4/7/09	GUEST SPEAKER		
4/9/09	<p><i>South Dakota v. Opperman</i>, 428 U.S. 364 (1976)</p> <p><i>United States v. Edwards</i>, 415 U.S. 800 (1974)</p>		Inventory and impoundment searches
4/14/09	<p><i>New Jersey v. T.L.O.</i>, 469 U.S. 325 (1985)</p> <p><i>Skinner v. Railway</i>, 489 U.S. 602 (1989)</p> <p><i>Camara v. Municipal Court of City and County of San Francisco</i>, 387 U.S. 523 (1967)</p>	387-393	Special needs searches; the Reasonableness Clause; Administrative searches; Probation searches
4/16/09	<p><i>Michigan Department of State Police v. Sitz</i>, 496 U.S. 444 (1990)</p> <p><i>City of Indianapolis v. Edmond</i>, 531 U.S. 32 (2000)</p>	198-204	Checkpoints for DUIs, narcotics, illegal immigration

4/21/09	<p><i>Brown v. Mississippi</i>, 297 U.S. 278 (1936)</p> <p><i>Spano v. New York</i>, 360 U.S. 315 (1959)</p> <p><i>Colorado v. Connelly</i>, 479 U.S. 157 (1986)</p>		Involuntary confessions
4/23/09	<p><i>Miranda v. Arizona</i>, 384 U.S. 436 (1966)</p> <p><i>Rhode Island v. Innis</i>, 446 U.S. 291 (1980)</p> <p><i>Missouri v. Seibert</i>, 542 U.S. 600 (2004)</p>		<p>Custodial interrogations and the rights to warnings and counsel</p> <p>Last date for submission of scenario/judicial opinion assignment</p>
4/28/09	<p><i>Oregon v. Mathiason</i>, 429 U.S. 492 (1977)</p> <p><i>Harris v. New York</i>, 401 U.S. 222 (1971)</p> <p><i>Doyle v. Ohio</i>, 426 U.S. 610 (1976)</p> <p><i>Gardner v. Broderick</i>, 392 U.S. 273 (1968)</p>		Admissibility of confessions and/or admissions under <i>Miranda</i> ; 5 th Amendment implications: Exceptions to <i>Miranda</i> rule
4/30/09	GUEST SPEAKER		
5/5/09	<p><i>United States v. Dionisio</i>, 410 U.S. 1 (1973)</p> <p><i>Kastigar v. United States</i>, 406 U.S. 441 (1972)</p> <p><i>Massiah v. United States</i>, 377 U.S. 201 (1964)</p> <p><i>Kuhlman v. Wilson</i>, 477 U.S. 436 (1986)</p>		Immunity; Grand Jury evidence; Admissibility of post-indictment statements

5/7/09	<i>United States v. Wade</i> , 388 U.S. 218 (1967) <i>Kirby v. Illinois</i> , 406 U.S. 608 (1972) <i>Neil v. Biggers</i> , 409 U.S. 188 (1972) <i>Simmons v. United States</i> , 390 U.S. 377 (1968)		Admissibility of identification evidence; Line-ups
5/12/09	REVIEW		
5/14/09	REVIEW		
Week of 5/16/09	FINAL EXAM WEEK		