

CALIFORNIA STATE UNIVERSITY, SACRAMENTO

**Division of Criminal Justice
CRJ 174A
(Law of Arrest, Search and Seizure)
Spring, 2009**

Professor F. Horowitz

Office Hours: MW 1:30-2:30pm

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Prerequisite: Students must have taken CrJ 2, Criminal Law, or CrJ 2B, Defenses to Crime, at Sac State, or equivalent course at an acceptable institution.

Required Texts: 1. California Judges Benchbook: Search and Seizure, 2d ed.
By Judge George Brunn
2. Leading Constitutional Cases on Criminal Justice, 2007 ed. By Lloyd Weinreb

Course Description (per current university catalogue) and Objectives:

This class will focus on current and recent developments relating to arrest, searches, and seizures; Study of constitutional rights predominately associated with the 4th, 5th, 6th, and 14th Amendments as related to criminal justice and its administration. The subjects studied will include the Exclusionary Rule, warrants, warrantless seizures, confessions, eye-witness identification, electronic surveillance, entrapment, state variance with federal rules. This is a case study method law class.

In other words we will study the historical development and current application of the 4th Amendment and the Exclusionary Rule and how they effect the laws of Arrest and Search and Seizure. By reading and analyzing assigned appellate cases you will learn to extract the relevant rules of law and then effectively apply them in solving factual search and seizure problems. Specifically, in this course, you will learn to:

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 4th Amendment including the subjects of
 - reasonable/probable clause
 - warrant clause
 - procuring, issuance and execution of warrants
 - searches incident to arrest
 - stop and frisk
 - warrantless searches

- consent searches
- plain view
- exigent circumstances
- open fields
- abandoned property
- motor vehicles
- administrative searches

3. Demonstrate knowledge of the remedies for unlawful investigative practices that include concepts of standing, exclusion of evidence, the good faith exception, collateral use of illegally obtained evidence, and civil remedies.

4. Develop appreciation and knowledge of the 5th, 6th and 14th Amendments related to interrogation practices that include the subjects of voluntariness standards, legal standards for interrogation techniques and practices, Miranda requirements, represented subjects and post arrest proceedings.

Grades:

The grade in this class is determined by the number of points a student earns on a **200 point scale**. Grades are as follows:

A... 180 pts B+...170 pts C+ ...150 pts D+ ...130 pts
A-...175 pts B ... 160 pts C ...140 pts D ... 120 pts
 B- ...155 pts C- ...135 pts

Your course grade will be determined by your performance in the following activities:

1. QUIZZES (40% of your grade (80 points))

There will be **four quizzes** during the course of the semester. **Each quiz** will be worth **10% (20 points)** of the semester grade. **There will be NO makeup quizzes provided.**

2. THE FINAL EXAM (40% of your grade (80 points))

The Final Exam in this course will require the student to demonstrate a **CUMULATIVE** knowledge of all the principals of search and seizure learned during the semester.

3. CASE BRIEFS (10% (20 points))

Each student will be assigned **six cases** to brief during the course of the semester. **Each** case brief **is worth as much as 2% towards your grade(4 points per brief)**. (Yes, that means you could earn 2% (4 points) extra credit, if you submit all six briefs assigned.). The desired format will be discussed in class. All briefs submitted **MUST** be typed and **SUBMITTED WHEN DUE**. Neither late nor handwritten submissions will be accepted.

4. CLASS PARTICIPATION AND ATTENDANCE (10% of your grade (20 points))

In order for one to succeed in this class, **class preparation, attendance and participation is essential**. Learning the legal concepts presented and developing the skills necessary to

accurately apply these concepts to real life situations requires the discussion and illustration of concepts only available in the classroom. Therefore this portion of your final grade will be determined by

- A. Your class preparation as evidenced by your knowledge of the assigned cases;
- B. Your participation in classroom discussions;
- C. The number of the required briefs that you submit;
- D. Attendance. Only three unexcused absences are permitted per semester.
 Thereafter, a student shall lose 1% of your grade (2 points) for each additional absence.
 [. BE ADVISED: Attendance will be taken **at the START** of each class.
 If a student is not present when role is taken, then they are absent for that class.]
- E. A student who regularly leaves during class sessions will suffer a 2% (4 points) forfeiture from their Participation and Attendance grade.
- F. THERE IS NO EATING IN CLASS

Academic Integrity and matters of makeup exams and late assignments:

One would hope that the following admonitions would be unnecessary in an upper division course in the Division of Criminal Justice.

1. Any student who engages in any form of **cheating, plagiarism, or other acts of dishonesty** shall receive **ZERO points** for the assignment or test and **forfeit the 10% of the final grade** that is determined by classroom participation and also be referred to the Office of Student Affairs for the appropriate discipline.

2. The general rule is there will be NO makeup exams provided NOR late assignments accepted

Weekly Class Topics and Assignments

The following weekly listings give some direction to where this class is going and what will be the subject matter of our sessions. However, like the itinerary of any planned journey, it may prove inexact in order to accommodate the unexpected that seems to occur in even the best planned trips or course.

<u>WEEK</u>	<u>TOPIC & ASSIGNMENT</u>
Week 1 (1/26)	-The history and function of the 4 th Amendment Text: Pp 1-10; 14-16 <u>Lorenzana v. Superior Court</u> (On CJ website) <u>Minnesota v. Carter</u> <u>Calif. v. Greenwood; Katz v. U.S.;</u>

Week 10 *****SPRING BREAK*****

Week 11 (4/6) - Arrest Warrants
****QUIZ # 3** Text: Pp 255-286
U.S. v. Watson.(4); Payton v. N.Y (5);

Week 12 (4/13) -Searches Incident to an Arrest
Text: Pp 286-313
Ill. v. Lafayette (6) U.S. v. Edwards;(7)
Cupp v. Murphy (1); Schmerber v. Calif;(2)
Chimel v. Calif.;(3) Md. v. Buie;(4)

Week 13 (4/20) -Plain View Searches
Text: Pp 315-346
Oliver v. U.S. (5); Ariz. v. Hick;(6);
Horton v. Calif.(7); Kyllo v.U.S (1)

Week 14 (4/27) -Vehicle Searches
****QUIZ # 4**** - Exigent Circumstances
Text: Pp 346-370
So.Dak. v.Opperman;(2) Calif. v. Acevedo(3)

Week 15 (5/4) -Consent Searches
-Probation, Parole Searches
-School Authority Searches
Text: 370-395
Stoner v. Calif (4); Bumper v. N.C.(5);
Ill. v Rodriguez (6); Georgia v. Randolph (7);

Week 15 (5/11) -Miranda Issues
-Course review

CASE BRIEF FORMAT:

Basics:

1. Each case you will brief is an Appellate Court decision. The rules of law that impact and guide people and agencies in conducting themselves in society (including law enforcement) are created and defined in Appellate Court opinions.

2. Each case we will study is an Appellate Court answer to a particular legal problem (generally called an *ISSUE* in the language of the Law). It is only by understanding

- a.) The facts of the case;
- b.) The procedural history of the case (the path it took to get to the appellate court);
- c.) Who is the *Appellant* and who is the *Respondent* (Hint: Why are there TWO “L”s in Appellant?)
- d.) The legal issues (questions) that were raised by the Appellant;
- and e.) How the Court answered these issues (called the Court’s **HOLDING** that we can begin to understand the complexities of the law and how to follow it.

3. An appeal occurs when the losing side seeks a review of the lower court’s decision in a higher court. **NOTE: The Lower court Loser will be called the APPELLANT in the appellate court.** (Do you now see why there are TWO “L’s” in Appellant?) The side that **WON** in the lower court will be called the **RESPONDENT**. Commonly the Defense is the APPELLANT...but NOT always. Sometimes the Prosecution loses in the lower court and seeks an appeal, in which case they become the APPELLANT. Whoever won at the lower court is “responding” to the appeal, so they are called the **RESPONDENT**.

THE ORGANIZATION OF A CASE BRIEF (For this Course):

Your Case Brief grades will be determined by how well you are able to follow this **10 step** format and correctly and concisely provide the relevant information.

1. THE CASE CAPTION

- A. The parties to the appeal. (e.g. *Wilson v. Arkansas; People v. Lorenzana*)
- B. Which court wrote the opinion you’re reading. (e.g. The USSC; The California Court of Appeals)
- C. The case citation. (23Cal App. 4th ed. 123 (1986))
[Note: What this citation tells you is
 - It’s in **volume 23**
 - of the **4th Edition**
 - of the **California Appellate Reports**
 - At **page 123**
 - And the case was **decided in 1986**]

2. THE CHARGES FILED AGAINST THE DEFENDANT

(e.g. Possession for sale of heroin; or, Murder, etc.)

3. THE FACTS OF THE CASE

What did the defendant and/or officers do that resulted in the defendant’s arrest. This should be a concise summary of the crime and the relevant actions of law enforcement that are necessary in understanding the Court’s opinion... not every fact, address or person’s name mentioned in the Appellate Court opinion (unless necessary to understand the **ISSUE** in the case).
(e.g. The Deft. was stopped for a traffic violation. The officer observed

a pistol, a ski mask and a large sum of money on the passenger seat from outside the vehicle. (Would knowing the officer's name be important?).

4. THE PROCEDURAL HISTORY OF THE CASE

This would be a brief history of the earlier court proceedings that will explain how the case got to the Appellate Court.

(e.g. "The trial court suppressed the prosecution's evidence in a pre-trial search and seizure motion. The Prosecutor appealed to the State Supreme Court, which reversed the lower court and admitted the prosecution's evidence. The Deft. then appealed to the USSC. ")

5. Who is the APPELLANT ?

Is it the **PROSECUTION** or the **DEFENSE**

6. The Appellant's Position on Appeal

Briefly explain what the Appellant believes is wrong with the lower court ruling and needs to be fixed by the Appellate Court (Remember, in search and seizure cases, either the **prosecution** or the **defense** may raise an appeal).

(e.g. "The appellant contends that the officer failed to get a search warrant before the search that produced the seizure of evidence, and therefore the evidence should be suppressed")

7. What is the ISSUE (Question) the Appellate Court is trying to answer (What's the fight all about?)

It is necessary that we be clear of what question the Court is wrestling with if we are to understand the Court's HOLDING (Answer). Traditionally, a court will highlight the issue it is working on by using the word "**WHETHER**"

(e.g. "We now deal with **WHETHER** the facts known to the officer required her to seek a search warrant")

The good student would then phrase the ISSUE in their brief as "**The issue was WHETHER the officer should have obtained a search warrant before proceeding with the search of the defendant's house.**"

[NOTE: Obviously the wise student would be sure to **both**, begin the ISSUE section with the word **WHETHER,** and to **underline** the entire statement of ISSUE...in order to focus in on what question the court is dealing with...and to make the grader happy]

8. The Case Result

A. Define the outcome. (Did the court **AFFIRM** or **REVERSE** ?)

If the Appellate Court agreed with the lower court it will AFFIRM. If it disagrees, it will REVERSE (and likely REMAND).

B. Who won? (**Prosecution** or **Defense**)

9. The Court's HOLDING

In this section of the brief you will BOTH lay out the Court's answer to the ISSUE that was presented AND, most importantly, explain WHY the Court ruled the way it did.

(e.g. "The court ruled that the evidence was not in "plain view" since the officer had to first open the closet in order to observe the contraband. The court ruled that something observed after a search is never a "plain view" observation.")

10. What RULE of Law did you learn from this case?

Each appellate case teaches us at least one or more RULES of LAW. The quizzes and final exam in this class will test how well you have learned the various rules of law AND how well you can apply them to case facts.

In order to prepare you for this type of analysis, part 10 of your brief will state what RULE of LAW this case provided.

(e.g. "**THAT if something is discovered after a search, it is not a "plain view" observation under the law.**")

Notice how the Rule of Law began with the word "**THAT**" and was underlined. Somehow it is easier to remember a RULE of LAW if it begins with the word THAT and is underlined.

THE GRADING RUBRIC FOR CASE BRIEFS:

You may earn as many as 4 points (2% towards your final grade) on any given case brief. Points will be earned in the following manner:

2 POINTS: A student who correctly answers the first 8 parts as outlined in the Case Brief Format will be assured of 2 points (1% towards your final grade).

2 POINTS: Accurate, well articulated statements of the Court's Holding (Part 9 of the Format) and of the Rule of Law (Part 10 of the Format) is worth as much as an additional 2 points.