

Contact Information

My email address is dlord1@gmu.edu. I would welcome you to contact me with any questions or concerns and am happy to schedule a meeting, as needed, throughout the Summer term.

Reading(s) & Supplemental Material

The required text for this class is *American Criminal Procedure: Investigative - Cases and*

Commentary, 12th Edition by Stephen A. Saltzburg and Daniel J. Capra (ISBN 978-1-64708-646-6). Please note that this is a soft-bound, book with a red(ish) cover. Pay careful attention to which version you are purchasing, as these authors have a more inclusive book which includes adjudication. That is not the volume you need for this class. Students frequently ask whether

they can purchase the prior edition of a book, in this case the 11th edition. While I won't prohibit that, if you elect to pursue that path, it will be your responsibility to assess where the texts diverge and to download any cases unavailable in the older version to make sure that you are up to date on the current case law. I have identified each week the most critical cases so that you can make sure to know if there are other cases you would need to pull from another source if you are using a prior version of the textbook. You may also elect to access the listed cases and read them from some other source. These cases are the most important in criminal procedure and form the basis for exam questions, in addition to cases that will be discussed in the lectures. If you elect to do this however, please note that you may end up missing some of the material that helps create a more cohesive overall framework for understanding criminal procedure.

I am mindful of the many time constraints facing law students. For the reading each week, I've been highly selective about which portions of the text need to be read and the most important cases that you need to focus on in order to master this area of the law. ***Some of the cases that I cite as being of significant importance do not have a full copy of the opinion in the text. If you are assigned to brief that case, you may need to do additional research in order to be able to meaningfully discuss the case in class.***

COURSE DESCRIPTION

This course explores the 4th, 5th, and 6th Amendment issues in the police investigation of crimes and how those issues are litigated inside the courtroom.

COURSE OBJECTIVES

By the end of the course, students will have acquired the following skill-set:

- (A) A broad understanding of the key U.S. Supreme Court jurisprudence in 4th, 5th, and 6th Amendment law;
- (B) An understanding of the interrelatedness of legal concepts involving these three amendments to the U.S. Constitution;
- (C) An appreciation of the differing viewpoints and debated concepts that apply to criminal procedure;
- (D) An ability to apply case law in this field to individual fact patterns and make cogent arguments on contested legal issues.

GRADING & PARTICIPATION

Class Structure

Generally, each class will begin with a mock motion to suppress. Two students will volunteer to act as defense attorney and prosecutor. A video will be made available prior to class involving a scenario of law enforcement interaction with a suspect. The student acting as the defense attorney will be responsible for identifying any conduct by the law enforcement officer that they believe to be legally or constitutionally problematic and will argue why it should result in the Court suppressing evidence if the suspect in the video is charged with the crime. The prosecutor will be responsible for responding to these arguments and answering whether the government can constitutionally defend the conduct at issue. All of the class will be engaged in a general discussion of the videos. In terms of reading, every student is expected to be thoroughly engaged in class discussions about the cases. However, to reduce anxiety and improve the quality of case presentation, the cases that we plan on discussing each class will be identified in the prior session and each case will be assigned to a particular student. That student will be responsible for summarizing the facts and holding as well as offering their view of the issues. However, all students are expected to engage in conversation about the cases and are responsible for reading the decisions. You will note that this text in many ways is part case-book and part hornbook. As a result, some of the cases that we will be discussing offer only a cursory summary in the casebook and the student assigned the case may need to access the full text of the decision online.

Requirement(s)

Students are expected to actively participate in class through our mock motions to suppress and presentation/discussion of the cases. Additionally, there is a single final exam that students must complete.

Grading

Grading is based entirely on the final exam, as modified by classroom participation (discussed below).

Attendance

Please understand that it is Mason's policy that if a student is absent for *any* reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session. (AR 4-1.1.) Missing three sessions of this course would result in this provision being triggered. Please also note that while missing less than 3 courses would not result in your being precluded from receiving credit from the course, any absence will factor into class participation.

Participation

Class participation will consist of attendance, engagement in class discussion, and preparation for the class activities. If a student is deemed to have exceptional class participation, they will be eligible to have their final grade increased one level (for example, from a B to a B+ or from a B+ to an A-), **assuming it does not cause a violation of the university's mandatory curve.** Similarly, the failure to meaningfully participate can result in a one-step decrease on a student's grade level.

Exams

The final exam will take place on Tuesday, July 15th at 6:00 pm EST. and students will have three hours to complete it. The exam will be open-book. Half will consist of multiple choice and true/false questions. The additional portion will consist of an essay in which you are provided a fact pattern and asked to assess the constitutional issues in it.

COURSE SCHEDULE & ASSIGNED READINGS

Announcement(s): Please note, there is no class on July 1st or July 3rd.

Session	Date	Class Topic	Assignments
1	Tuesday, May 20th	Introduction to the 4 th Amendment and the exclusionary rule. How to address a 4 th Amendment problem. What is a search? Expectation of privacy vs. property rights view of the 4 th Amendment; Standing	Reading assignment: Saltzburg and Capra pp. 561-578; 609-619; 33-38; 53-78; 111-116 (63 pages) Cases of significance • Weeks v. US/Mapp v. Ohio/Wolf v. Colorado • Katz v. United States
2	Thursday, May 22nd	3 rd party doctrine: what is probable cause?;	Reading assignment: Saltzburg and Capra 81-85; 89-105; 149-182 (53 pages) Cases of significance • US v. Miller/Smith v. Maryland • US v. Jacobsen/Illinois v. Andreas • Carpenter v. United States • Spinelli v. US (including Aguillar) • Illinois v. Gates • Massachusetts v. Upton • Maryland v. Pringle • Florida v. Harris
3	Tuesday, May 27th	Particularity requirement; Seizure of a Person; "Stop and Frisk"/Terry Stops part 1.	Reading assignment: Saltzburg and Capra pp. 193-205; 120-140; 245-265 (52 pages) Cases of significance • Torres v. Madrid • California v. Hodari D. • Florida v. Royer • US v. Mendenhall • US. V. Drayton • Terry v. Ohio • Minnesota v. Dickerson (referenced in text, likely need to pull decision) • Adams v. Williams • Pennsylvania v. Mimms • Maryland v. Wilson
4	Thursday, May 29th	Stop and Frisk/Terry Stops pt. 2, limits of a Terry stop, Pretextual stops	Reading assignment: Saltzburg and Capra pp. 265-300; 314-330; 387-394 (67 pages) Cases of significance • Kansas v. Glover • Florida v. J.L. • Navarette v. California • Illinois v. Wardlaw • Whren v. United States • Ohio v. Robinette, • US v. Sharpe • US v. Place

5	Tuesday, June 3rd	Search incident to arrest and plain view	<p>Reading assignment: Saltzburg and Capra pp. 333-347; 359-384; 396-405 (48 pages)</p> <p>Case of significance</p> <ul style="list-style-type: none"> · Chimel v. California · Maryland v. Buie · U.S. v. Robinson · Riley v. California · Birchfield v. North Dakota · Atwater v. City of Lago Vista · Horton v. California · Arizona v. Hicks
6	Thursday – June 5th	Vehicle searches and exigent circumstances	<p>Saltzburg and Capra pp. 347-359; 405-445 (57 pages)</p> <p>Cases of significance</p> <ul style="list-style-type: none"> · New York v. Belton · Arizona v. Gant · Michigan v. Long (may need to pull) · Carroll v. United States · Chambers v. Maroney · Coolidge v. New Hampshire · California v. Carney · Collins v. Virginia · California v. Acevedo · Wyoming v. Houghton · South Dakota v. Opperman · Florida v. Wells · Warden v. Hayden · Brigham City v. Stuart · Mincey v. Arizona · Schmerber v. California/Missouri v. McNeely · Kentucky v. King
7	Tuesday, June 10th	Special needs searches; consent	<p>Saltzburg and Capra pp. 448-458; 465-468; 489-512; 523-530; 533-551 (61 pages)</p> <p>Cases of significance</p> <ul style="list-style-type: none"> · New York v. Burger · New Jersey v. TLO · City of Ontario v. Quon · Maryland v. King · Michigan Dept of State Police v. Stitz · City of Indianapolis v. Edmond · Illinois v. Lidster · US v. Flores-Montano · Schneckloth v. Bustamonte/US v. Drayton · US v. Matlock · Illinois v. Rodriguez · Georgia v. Randolph

8	Thursday, June 12th	Limitations on the Exclusionary Rule	<p>Saltzburg and Capra pp.300-304; 578-609; 621-648; 657-658 (61 pages)</p> <p>Cases of significance</p> <ul style="list-style-type: none"> · Heien v. US · US v. Leon · Massachusetts v. Shepherd · Arizona v. Evans · Herring v. United States · Brown v. Illinois · Rawlings v. Kentucky · Utah v. Strieff · Murray v. United States · Nix v. Williams · Franks v. Delaware
9	Tuesday, June 17th	Fourth Amendment Review; Background to the 5 th Amendment; Voluntariness	<p>Saltzburg and Capra pp. 673-678; 685-698; 722-742 (38 pages)</p> <p>Cases of Significance</p> <ul style="list-style-type: none"> · Lefowitz v. Turley · Fisher v. US · Schmerber v. California · Pennsylvania v. Muniz · Brown v. Mississippi · Spano v. New York · Colorado v. Connelly · Hiibel v. Sixth Judicial District Court of Nevada, Humboldt County
10	Tuesday, June 24th	The Basics of <i>Miranda</i>	<p>Saltzburg and Capra pp. 743-801(58 pages)</p> <p>Cases of significance:</p> <ul style="list-style-type: none"> · Miranda v. Arizona · Dickerson v. United States · New York v. Quarles · Oregon v. Elstad · Missouri v. Seibert · Harris v. New York · Mincey v. Arizona · US v. Patane · Vega v. Tekoh
11	Thursday, June 26th	What is interrogation?, What is custody? Waiver of <i>Miranda</i> rights	<p>Saltzburg and Capra pp. 801-861 (60 pages)</p> <p>Cases of Significance</p> <ul style="list-style-type: none"> · Berkemer v. McCarty <p>Stansbury v. California</p> <ul style="list-style-type: none"> · J.D.B. v. North Carolina · Rhode Island v. Innis · Illinois v. Perkins · Moran v. Burbine · Berghuis v. Thompkins · Edwards v. Arizona and Oregon v. Bradshaw · Davis v. United States · California v. Prysok

			<ul style="list-style-type: none"> • Pennsylvania v. Muniz • Arizona v. Roberts/Minnick v. Mississippi, Maryland v. Shatzer • Michigan v. Mosely
12	Tuesday, July 1	NO CLASS	
13	Thursday, July 3	NO CLASS	
14	Tuesday, July 8	Review Session. The right to Counsel and the 6 th Amendment . Additional instruction will be offered on additional issues related to the identification of suspects)	<p>Saltzburg and Capra pp. 861-894; 945-962 (50 pages)</p> <p>Cases of Significance:</p> <ul style="list-style-type: none"> • Massiah v. United States • Brewer v. Williams • US v. Henry/Kuhlmann v. Wilson • Maine v. Moulton • Texas v. Cobb • Illinois v. Patterson • Michigan v. Jackson/Montejo v. Louisiana • Powell v. Alabama • Gideon v. Wainwright • Argersinger v. Hamlin • US v. Wade/Coleman v. Alabama

ACADEMIC STANDARDS & COURSE POLICIES

Academic Integrity:

Each student at Antonin Scalia Law School (“Scalia Law”) is expected to behave honorably and with the highest personal integrity toward other law students, toward the law school and university, and toward other members of the legal profession.” (Preamble to the Honor Code.)

The Honor Code prohibits a student from lying, cheating, or stealing, to include plagiarism and the use of any prohibited resource in an exam, coursework, or course paper. The full Honor Code can be accessed here:
<https://sls.gmu.edu/honor/>

Recording Class Sessions:

Recording of class sessions by any means is prohibited. See AR 4-2.2: “Unless expressly permitted in writing by an instructor, no portion of a class session or an examination may be preserved by means of a recording device (such as an audio recording device or a camera).”

Use of Technology:

There is no prohibition on the use of technology, other than as stated in the GAI section below. Students will be allowed to use any notes taken on their personal computer during the final exam, though they will not have access to the internet

University Email:

Students must use their Mason email account to receive university or law school information, including communications related to this class.

Use of Generative Artificial Intelligence (GAI) in Academic Work:

Use of Generative Artificial Intelligence in the drafting or writing of papers or any other course work or assignments in this class is prohibited. According to AR 4 -3: “Generative artificial intelligence (GAI) is a type of artificial intelligence that uses algorithms to generate new content, such as text or images, based on the data it has been trained on. For purposes of this regulation, GAI is not intended to encompass legal research databases and word processing applications that, while incorporating AI - based elements or enhancements, do not generate novel text.” Use of GAI in a course that prohibits the use of GAI, constitutes an academic integrity violation.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E -books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e -book or print resources needed from the e-book to

take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Accommodations for Students with Disabilities:

Disability Services at George Mason University is committed to upholding the letter and spirit of the laws that ensure equal treatment of people with disabilities. Disability Services implements and coordinates reasonable accommodations and disability-related services that afford equal access to university programs and activities. For further information and to register for services, please refer to <https://ds.gmu.edu/law-school/>, or call (703) 993-2474.

Name and Pronoun Use:

Students are encouraged to share their name and gender pronouns with me and indicate how best to address them in class and via email. Further information can be obtained at GMU's Chosen Name and Pronoun

Policy, <https://universitypolicy.gmu.edu/policies/chosen-name-pronouns-policy/>

Covid Protocols:

Please refer to GMU's *Safe Return to Campus* web site for information regarding GMU's safety protocols. The site can be accessed at: <https://shs.gmu.edu/services/covidservices/>.

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a "Non-Confidential Employee," and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason's Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason's confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason's Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

University Resources:

Counseling and Psychological Services: <https://caps.gmu.edu/>

Student Health Services: <https://shs.gmu.edu/>

Mason Square Campus Clinic:

After-Hours Nurse Advice – 703-991-2831

Mason Square Campus Clinic Location: Van Metre Hall, Room B102.

Student Support and Advocacy Center: <https://ssac.gmu.edu/>

Police: Emergency - Dial 911; 703-993-8070, Van Metre Hall, Room 110.

Police escort services: 703-993-8370.

Sexual Assault Services: 703-993-8186, Van Metre Hall, Room 222D. Mason Square information: <https://masonsquare.gmu.edu>