

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY PROGRAM IN CRIMINAL JUSTICE

CRIMINAL PROCEDURE – SPRING 2018

01:202:205:01

T/Th 6:40 to 8:00 P.M.

Tillet Room 257

Instructor: Jay Kohl
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Office Hours: Tuesdays and Thursdays from 8:00 to 9:30 p.m. (or as scheduled) at Lucy Stone Hall, Room 355

TEXTBOOK: Samaha, Joel (9th Edition) - Criminal Procedure (Wadsworth/Cengage)

OBJECTIVES:

- Provide a working knowledge of constitutional rights in the context of criminal law
- Focus on the concept of reasonableness of restraints on those rights
- Gain an understanding of the public policy considerations underlying the substantive criminal law and the manner in which such policies are effectuated through criminal procedural requirements
- Study specific procedural law issue/requirements, including right to counsel, exclusionary rule; search warrant; permissible warrantless searches; stop and frisk, entrapment, wiretapping, confessions, lineups, jury selection, voir dire, negotiated pleas, post-conviction relief

LEARNING GOALS FOR CRIMINAL JUSTICE MAJORS

A Statement of Principles:

The Program Committee for the Program in Criminal Justice at Rutgers University in New Brunswick has adopted a series of learning goals for students who complete the major. These goals represent the consensus of the faculty regarding the concepts a student should grasp and the skills a student should acquire in the course of completing the major. These goals guide the choices faculty make about the structure of the curriculum and the requirements for our majors. Moreover, they guide faculty and instructors preparing course material and teaching courses.

The Program in Criminal Justice will provide students with a rich understanding of crime and criminal justice in the United States and abroad through an interdisciplinary approach that blends a strong liberal arts educational experience with pre-professional

instruction in the field of criminal justice. Graduates of the program will be well-informed citizens on the topic of crime and justice, and qualified for graduate study or for employment as practitioners in a variety of legal, policymaking, and law enforcement fields.

Criminal justice majors graduating from a research university should be able to use critical thinking, factual inquiry, and the scientific approach to solve problems related to individual and group behavior. In addition, students should have an understanding of the legal, political and policymaking processes that affect criminal justice systems in the United States and elsewhere in the world. Finally, students should be familiar with the institutional structures and latest developments in the field in order to engage in meaningful debate about current public policy issues.

Learning Goals:

1. Competence:

- a) **Theory.** Students who complete the major in Criminal Justice should understand and be able to articulate, both orally and in writing, the core theoretical concepts that form the foundation of analysis and research in criminology and criminal justice today. Core concepts are derived from explanations of crime from a variety of perspectives, including biogenic, psychological, and sociological approaches. There are myriad theories of crime that are informed by these perspectives, including, classical, control, critical, ecology, labeling, learning, strain, and trait-based approaches. Theoretical literacy should extend to multicultural and international understanding.
- b) **Institutions.** Students who complete the major in criminal justice should understand the special role of three types of institutions: Police, Corrections, and Courts. In addition, students should know how institutional forms vary across jurisdictions and how these institutions interact with and influence each other.
- c) **Research Methods.** Students who complete the Criminal Justice major should be familiar with the tools, techniques, and data sources necessary for empirical analysis. Students should understand the various ways that empirical analysis is used in the scientific approach for description, for developing, and for testing theories. They should be able to analyze data using computer applications and should be familiar with basic statistical techniques and regression analysis. They should be able to read and assess research from a wide range of sources, including general interest, academic, and government publications.

2. Critical Thinking.

Upon completion of the major students should be able to apply their understanding of core concepts and quantitative tools to analyze and research real world problems, and evaluate alternative policy proposals on a range of criminal justice issues, from micro-level analyses relevant to particular cases to management concerns to macro-level analyses of legislative and other broad-scale policies. Accomplishment of this goal will require that students can apply their literacy and numeracy skills to different institutional structures, within the U.S. and across countries.

3. Scholarship.

Qualified majors should have an opportunity through such avenues as advanced coursework, internships, and faculty interactions to conduct independent research on matters of central relevance to the field of criminal justice.

EXAMS: There will be three (3) non-cumulative exams covering material from the texts, lectures, guest and student presentations. Also, all in-class discussions related to current issues and cases are subject to testing.

PREPARATION: The assigned readings are the basis of discussion for each class session. Students are expected to have read the assigned material **before** class and be prepared to discuss.

PARTICIPATION: Active participation is expected in all class discussions, including the discussions led by fellow students. The level of preparation and participation will be reflected in final grade.

GRADING:	Exam #1	25%
	Exam #2	35%
	Exam #3	40%

Total possible points: **100**

EXTRA CREDIT: No extra credit will be provided for work performed outside the above discussed grading parameters. However, bonus points can be earned for demonstrated preparedness and participation. As part of

the case review process, students will be called upon in class to discuss cases and provide “a brief” oral overview of the case. This activity, and a clarification of what will be expected of students, will be discussed in more detail during our first class. Basically, students will be expected to detail the facts of the case, the Court’s decision, rule of law, the impacts on policing practices and public policy. Attention must also be given to dissenting opinions. A good example of how to prepare for a brief discussion of a case can be found at:

<http://www.ucs.louisiana.edu/~ras2777/adminlaw/casebrief.html>

Note: the above example describes how to write a brief but also provides a good outline for how to prepare for an oral discussion. No written briefs are required and no extra credit will be awarded for writing them. To excel in class and earn bonus points, students are expected to attend class, be ready to explain cases when called upon and add to the discussion of other students. The state of preparedness to discuss cases when called upon, the quality of presentation, active participation in discussions of other cases and classroom dialog will determine the awarding of bonus points. Points may also be provided for attendance to guest presentations (if any) outside the normal class schedule. A maximum of 10 bonus points are possible.

GRADING - The final grade will be assigned based upon the following scale:

A	=	90-100	C	=	70-74.9
B+	=	85-89.9	D	=	60-69.9
B	=	80-84.9	F	=	below 60
C+	=	74-79.9			

MAKE-UP EXAM: The authorization to take a make-up exams will be contingent upon a **legitimate** excuse (i.e., illness, family death, unexpected emergency situation), presented **prior** to the test period in most cases. The make-up will be given **IMMEDIATELY** upon termination of the condition that caused the student to miss the original exam. Failure to take the make-up as scheduled will result in a grade of zero. Note: there is no **RIGHT** to take a make-up; it is a **PRIVILEGE** permitted only under extenuating circumstances **at the discretion of the professor.**

ATTENDANCE: Regular attendance is required even though it will not be taken during every class. However, as noted above, consistent attendance is important and will have a measurable impact on the final grade (for reasons noted above and as historically observed). No consideration of bonus points will be provided to students with a poor attendance record. Nevertheless, the exams are composed of

information from class lectures, reading material, guest and oral presentations. As a result, there is a logical (and established) positive correlation between a consistent attendance pattern and good grades.

LATENESS: It is important that you arrive on time for class. On the day of a test, any late arrivals will be excluded from entry and the burden to take a make-up exam will be consistent with what is described above in MAKE-UP EXAM.

CHEATING: You are expected to do your work. Sanctions for cheating and plagiarism will be levied in accordance with the **University Policy on Academic Integrity**. You should familiarize yourself with this policy, which can be accessed at www.Rutgers.edu/catalog/nb-ug.html. Suspected cases of policy violations will be reported to the Department Chair and to the appropriate Dean.

PHONES & LAPTOPS: Phones are to be shut off and put away during class. Laptops are only authorized for purpose of taking notes. Students observed using laptops for any other purpose will be denied the continued use of them.

LATE SUBMISSIONS: It is essential that all requirements be completed on the date specified. Failure to follow the schedule will result in a deduction of a letter grade. Additional letter grades will be deducted for each failure to complete the assignment.

SPECIAL ACCOMMODATIONS:

Students with disabilities who need special accommodations for this class are encouraged to meet with me or the appropriate disability service provider on campus as soon as possible. In order to receive accommodations, students must be registered with the appropriate disability service provider on campus and must follow the University procedure for self-disclosure. Students will not be afforded any special accommodations for academic work completed prior to disclosure of the disability and completion of the registration process with the appropriate disability service provider on campus.

STUDENT WELLNESS SERVICES:

Just In Case Web App

<http://codu.co/cee05e>

Access helpful mental health information and resources for yourself or a friend in a mental health crisis on your smartphone or tablet and easily contact CAPS or RUPD.

Counseling, ADAP & Psychiatric Services (CAPS)

(848) 932-7884 / 17 Senior Street, New Brunswick, NJ 08901/ rhscaps.rutgers.edu/

CAPS is a University mental health support service that includes counseling, alcohol and other drug assistance, and psychiatric services staffed by a team of professional within Rutgers Health services to support students' efforts to succeed at Rutgers University. CAPS offers a variety of services that include: individual therapy, group therapy and workshops, crisis intervention, referral to specialists in the community and consultation and collaboration with campus partners.

Violence Prevention & Victim Assistance (VPVA)

(848) 932-1181 / 3 Bartlett Street, New Brunswick, NJ 08901 / vpva.rutgers.edu/

The Office for Violence Prevention and Victim Assistance provides confidential crisis intervention, counseling and advocacy for victims of sexual and relationship violence and stalking to students, staff and faculty. To reach staff during office hours when the university is open or to reach an advocate after hours, call 848-932-1181.

Disability Services

(848) 445-6800 / Lucy Stone Hall, Suite A145, Livingston Campus, 54 Joyce Kilmer Avenue, Piscataway, NJ 08854 / <https://ods.rutgers.edu/>

The Office of Disability Services works with students with a documented disability to determine the eligibility of reasonable accommodations, facilitates and coordinates those accommodations when applicable, and lastly engages with the Rutgers community at large to provide and connect students to appropriate resources.

Scarlet Listeners

(732) 247-5555 / <http://www.scarletlisteners.com/>

Free and confidential peer counseling and referral hotline, providing a comforting and supportive safe space.

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COURSE OUTLINE AND ASSIGNMENTS

- Jan. 16: Introduction: Provide course overview, requirements and expectations. Discuss what the criminal procedures course will address and how it differs from substantive criminal law, judicial administration and other aspects of constitutional law. Also, introduce the basic concepts of due process and fundamental fairness.
- Jan. 18: Chap. 1: U.S. Criminal Procedure: A Road Map
- Jan. 23: Chap. 2: Criminal Procedure and the Constitution
- Jan. 25: Chap. 3: The Definition of Search and Seizures
- Jan. 30: Chap. 4: Stop and Frisk
- Feb. 1: Guest, case reviews or special topic discussion
- Feb. 6:** ***TEST #1 (CHAPTERS reviewed and class discussions)***
- Feb. 8: Chap. 5: Seizures of Persons: Arrest
- Feb. 13: Chap. 6: Searches for Evidence
- Feb. 15: Guest, case reviews or special topic discussion
- Feb. 20: Chap. 7: Special Needs Searches
- Feb. 22: Chap. 8 Self-Incrimination
- Feb. 27: Chap. 8 Self-Incrimination
- Mar. 1: Chap. 9 Identification Procedures
- Mar. 6: Chap. 9: Identification Procedures
- Mar. 8:** ***Test #2 (CHAPTERS reviewed and class discussions)***

Spring Break March 10 - 18

Mar. 20:	Chap. 10: Remedies for Constitutional Violations
Mar. 22:	Chap. 11: Remedies for Official Misconduct
Mar. 27:	Guest, case reviews or special topic discussion
Mar. 29:	Chap. 12: Proceedings I: Before Trial
Apr. 3:	Chap. 13: Court Proceedings II: Trial and Conviction
Apr. 5:	Chap. 14: After Conviction (non-capital cases)
Apr. 10:	Guest, case reviews or special topic discussion
Apr. 12:	Guest, case review or special topic discussion
Apr. 17:	Guest, case review or special topic discussion
Apr. 19:	Guest, case review or special topic discussion
Apr. 24	Guest, case review or special topic discussion
Apr. 26 :	Final class

**FINAL
EXAM**

FINAL EXAM DATE AND TIMES TO BE ANNOUNCED

KEY AMENDMENTS TO THE CONSTITUTION AFFECTING THE JUDICIAL PROCESS

THE FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

THE FIFTH AMENDMENT

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; *nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law*; nor shall private property be taken for public use without just compensation.

THE SIXTH AMENDMENT

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

THE EIGHT AMENDMENT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

THE FOURTEENTH AMENDMENT

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; *nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*