

## **COURTS AND SOCIETY**

San Jose State University: Justice Studies 103

Fall 2005

Thursdays 5:30-8:15 p.m. in Dwight Bentel Hall 133

Instructor: Margaret Marr  
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Office Hours: Thursdays 4:15-5:15 p.m.  
and by appointment

### **SYLLABUS**

#### **COURSE DESCRIPTION**

This course surveys how courts in the United States, and the people who work in them, process criminal cases. We begin with an introduction to the sources of criminal law and the structure of state and federal trial courts. We then proceed to examine the basic steps of a criminal case, including arrest and charge, initial appearance and bail, preliminary hearings and grand juries, discovery and investigation, pretrial motions including motions to suppress illegally obtained evidence, plea bargaining, jury trial, evidence, sentencing and appeal. We will also examine juvenile courts in comparison to adult courts, and consider drug courts and alternatives to incarceration. Along the way, we will consider the roles of the major actors in criminal courts in the United States including prosecutors, defense attorneys and judges.

#### **REQUIRED READING**

Required Text: David W. Neubauer, America's Courts and the Criminal Justice System (8th ed. 2005) published by Thompson/Wadsworth. Study guide optional.

A reader will be available for purchase at Maple Press, located at 481 E San Carlos St. Other required reading will be handed out or made available for purchase as the course proceeds.

Readings must be completed in advance of the class for which they are assigned.

#### **COURSE SCHEDULE**

Week 1: 8/25: **Introductions, Survey of Course**  
Ch 1: All  
Controversy Boxes in Ch 4 (p. 96), Ch 10 (p. 223), Ch 17 (p. 412),  
Ch 18 (pp. 434-435)

**Sources of Law, Rights of the Accused, Life Cycle of a Law Suit,  
Basic Structure of a Criminal Law**  
Ch 2: All  
Reader: Bill of Rights; 3 Sample criminal laws

Week 2: 9/1: **Trial Courts: State and Federal**  
Review Chart in Ch. 1, p. 6  
Read Ch 3: All (State Courts);  
Read Ch 4: All (Federal Courts);  
Read Quickly Ch 18: All (Lower Courts) (We look at Ch. 18 again in weeks 4 and 5)

**Judges & Court Staff**  
Read Ch. 8

Week 3: 9/8: **Enforcing the law: Prosecutors and their Offices**  
Ch 6: All

**Arrest and Charging**  
Ch 10: pp. 217-224  
Review Ch 10: p. 223 (controversy box)  
Reader: Review 3 Sample Criminal Laws, Read 3 Arrest Reports; Sample Complaint (“Chandler Bryant”)

**Defendants and Victims**  
Ch. 9: pp. 192-208  
Reader: MAOA Articles

Week 4: 9/15: **Bail**  
Read Ch. 11: All  
Sample Bail Schedule

**Arraignment on Misdemeanors**  
Ch 18: All  
Read Ch. 10, p. 225 (County of Riverside v. McLaughlin)  
Reader: Transcript of Misdemeanor Advisement of Rights (5/17/00)

**Initial Appearance on Felonies**  
Review Ch. 10: p. 221 (Initial Appearance)  
Review Ch. 10, p. 225 (County of Riverside v. McLaughlin)

Week 5: 9/22: **Is the Courthouse a Madhouse?**  
Read: Ch. 5: All  
Review Ch. 18;  
Review Ch. 10: p. 222 (box)  
Review Ch. 4: p. 86 (box)

**Defense Attorneys**  
Ch. 7: All

Week 6: 9/29: **Discovery and Defense Investigation**  
Ch. 12: 262-266, 278 (box)  
Reader: California Reciprocal Discovery Statutes, Penal Code § 1054.1 et seq.

**Handling drug use and dependency in Criminal Courts**

Review: Ch. 4: pp. 92-95, 96 (controversy box)

Reader: Penal Code § 1000 et seq.; Prop. 36 FAQs; Summary of California Drug Laws

**Preliminary hearings, the Grand Jury and arraignment on felonies**

Ch. 10: pp 224-236

Reader: Transcript of Preliminary Hearing of People v. Guzman and Alvarez; Information in *People v. Steven B. (aka Hippie)*

Week 7: 10/6: **Pretrial Motions including the motion to exclude illegally obtained evidence**  
Ch. 12: 266-281  
Ch. 14: 327-330  
Reader: Motion to Set Aside Information (People v. Avila),  
Reader: Motion to Suppress Evidence, Response & Reply in People v. "Chandler Bryant;" Preliminary Hearing Transcript in People v. "Chandler Bryant"

Plan to make your first, pretrial courtroom observation(s) this week, with possible follow-up (or back-up) visit the next week

Week 8: 10/13: **Plea Bargaining**  
Ch 13: All  
Reader: Transcript of Change of Plea (Santa Clara 9/3/02); Penal Code § 1192.7

(Discuss First Court Room Observations and Paper Outlines)

Week 9: 10/20: **Presentations of First Papers**

**First court room observation papers due!**

Week 10: 10/27: **The Right to Jury Trial: An Overview**  
Review Ch. 2: pp. 31-35  
Read Ch 14: All  
Reader: Sample Jury Instructions

**Jury Selection**  
Review Ch. 14: p. 311-314

Week 11: 11/3: **Trial Evidence: Finding the truth? At what cost?**  
Review Ch 14: 314-322

Week 12: 11/10: **Sentencing I: Principles**  
Read Ch. 15  
Review Ch. 9: p. 208 (box) (victim impact statements)  
Review Ch. 2: p. 39 (box) (forfeiture, restitution)

**Sentencing II: Practice**  
Read Ch. 16: All  
Review Ch. 15; Ch. 4: p. 93 (box)  
Review Ch. 2: pp 45-46  
Reader: Cal Rules of Court, rules 4.420, 4.421 & 4.423 (circumstances in aggravation & mitigation); Three Strikes in a Nutshell; Proposition 66  
Summary

Week 13: 11/17: **Presentations of Second Paper**

**Second Paper Due!**

**THURSDAY 11/24 -- NO CLASS! -- (U.S. THANKSGIVING)**

Week 14: 12/1: **Appeals, Appellate Procedure and Writs**  
Ch. 17: All  
Review Ch. 3: pp. 63-64  
Review Ch. 4: pp. 85, 87, 88, 90-91

**Juvenile Justice**  
Ch. 19: All  
Reader: *In Re Gault*, 387 U.S. 1 (1967)

Week 15: 12/8: **Semester Review/Summary**  
Reader: Read and take final given recently found at the end of the reader  
Review all quizzes

FINAL EXAM: **Thursday 12/8 5:15-7:30 p.m.**  
(Note earlier meeting time: 5:15, not 5:30)

## REQUIREMENTS AND EVALUATIONS

Students' mastery of the material will be evaluated through two short papers, presentations of those papers, a final exam, and class preparation and participation. More specifically, students will be required to:

- 1) Complete the readings prior to the class for which they are assigned;
- 2) Participate in class discussions;
- 3) Complete two courtroom observations, each a minimum of 3 hours in duration;
- 4) Write two short papers, each word processed, double spaced, of at least 4 and no more than 5 pages, that detail the student's astute courtroom observations and analyze the course materials in light of those observations;
- 5) Present each of those papers to the class and lead a short discussion about it;
- 6) Complete quizzes, some surprise, and homework assignments; and
- 7) Take a final exam. The final exam is short answer. A sample of one given recently year is at the end of the course reader.

A student's final grade will be based on the following weighted evaluation of the student's work:

- 25% First Paper (pre-trial)
- 25% Second Paper (trial or post-trial)
- 30% Final Examination
- 10% Class discussion preparedness and participation, including attendance
- 5% Presentation of papers (graded on a credit/no credit basis)
- 5% Quizzes and homework assignments

Grades attempt to measure the student's mastery of the material. Full mastery receives a grade of A, good mastery a B, satisfactory a C, unsatisfactory a D, and not completed work will be assigned the grade of F. Grades are assigned on an absolute, not a relative, or "curved" basis. The instructor is willing to give all who demonstrate full mastery of the material an A. In the past three years, the average grade in the course has been between a B and a B+ for those who complete the class and take the final exam.

**A NOTE ON LATE ASSIGNMENTS:** They are unprofessional and not tolerated. Quizzes may not be made up. For papers and the final exam, only excuses as would persuade a trial judge to postpone an in-progress trial, including documentation, are accepted. Hospitalization of the student or the student's dependent are examples of good cause. Forgetting, oversleeping, or technology failure does not constitute good cause. Without "good cause," the final exam may not be made up. The sanction for papers that are late without "good cause" is that the grade on a late paper will be reduced one whole letter grade for each day it is late, including weekends and holidays.

**A WORD ABOUT THE HONOR CODE:** This instructor takes professional ethics very seriously. Any failure to comply with the University's honor code will be reported. Fabricated, or "recycled" papers are examples of honor code violations. Any such paper will receive a grade of "F," the student may -- at the instructor's sole discretion -- fail the course, and the student will be reported for further disciplinary action by the University.

**A NOTE ON TECHNOLOGY ETIQUETTE:** Class meetings are a time to focus exclusively on the course material. Using technology during class when that technology use is not required for the class meeting -- including using cell phones, checking messages, using the internet, playing games on laptops -- distracts not only the technology user but also those around him or her. So, in devotion to your own education, as well as out of kindness for others, please *turn off your cell phone* and do not use unrelated technology use during class. Thanks!

**QUESTIONS:** The instructor welcomes questions, all questions. Always feel free to call 831/429-6276 from 8 a.m. to 8:00 p.m., seven days a week, or email [marr@ucsc.edu](mailto:marr@ucsc.edu). If you have not received a reply within 24 hours, assume a technology glitch and try again, perhaps with a different form of technology. (An alternate email address is [mmarr@cruzio.com](mailto:mmarr@cruzio.com)).