

Spring 2006  
TUES. 5:30 p.m. - 8:15 p.m.

## JS 16 CRIMINAL EVIDENCE & PROCEDURE

Professor: **Thanh D. Ngo, Esq.**  
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Office Hours: Tuesday 8:15-9:15, or by appointment.

### **Course Objectives:**

1. Understand the development and philosophy of the use of Evidence in an adversarial Court System.
2. Tracing the development of the Constitutional basis and the judicial decisions regarding Evidence.
3. Learning to distinguish between the kinds and degrees of evidence and rules regarding admissibility.
4. Understanding the development of the Exclusionary Rule.
5. Understanding the concept of Probable Cause.

### **Required Text:**

1. **Thomas J. Gardner and Terry M. Anderson, *Criminal Evidence: Principles & Cases, 5<sup>th</sup> Edition* (Belmont, CA: Wadsworth 2004)**

Reading Assignments: Please complete all reading assignments before the class in which they are to be discussed. All tests, class discussions, and final exams will be based upon the readings. Students are expected to know the material that will be discussed in class.

Class Discussion: You are responsible for doing the assigned reading on time and being prepared to discuss it in class. Class participation is MANDATORY and helps your learning. Bring the appropriate text and cases to class. If you miss class, get notes from a classmate (the professor's notes will not be available to students). Because the class meets only once per week, missing class will be detrimental to understanding of the material. Note that to do well in class, you need to attend regularly and participate in the discussion. You are responsible for contacting the professor to make up any assignment that was given in class.

Testing and Evaluation: There will be a number of quizzes given in class. Usually these will be short quizzes which reflect a student's understanding of the text. Quizzes may be given with or without advance notice. Additionally, there will be a mid-term and final examination. There will also be a courtroom assignment which will be discussed in depth when it is assigned.

**During class, please make sure your cell phones and pagers are silent.**

**Exams:** Exams are closed book, closed-note. Exams include multiple choice, short-answer and/or short essay questions. Exams cover assigned readings and material covered in class, including videos and guest speakers. A review will be given before each exam. Some material discussed in class will not be in the

readings; similarly, not everything discussed in the readings will be covered in class. Thus it is very important that you both keep up with the reading and come to class.

Exams will be handed out only for the first 10 minutes of the class period in which the exam is being given. Students who arrive more than 10 minutes late will not be allowed to take the exam. This policy also applies to the final.

You must take the final exam to pass the course. Students who do not take the final will receive an “F” or an “I” for the course, at the instructor’s discretion, regardless of their class average prior to the final.

**Courtroom Assignment:** You will be required to attend a court hearing in the criminal court in Santa Clara County or Santa Cruz County. Afterward, you will be required to write a 5 page summary of the court hearing including the issues and arguments raised both sides.

**Grading:** Your grade will be based on four writing assignments (2 short assignments, a draft term paper, and a final term paper), library research for your paper, three exams (2 midterms and a final), and class participation. Your grade will be calculated as follows:

Exams: 100 points each (x 2 exams)	=	200 points
Quizzes:		50 points
Court Room Assignment		100 points
Class Participation:		<u>150 points</u>
		<b>500 total points possible</b>

Scores for each item will be added together, and your total points at the end of the semester will determine your grade.

**Participation:** Participation is required. At the end of the semester, up to 150 points will be awarded for class participation before grades are calculated. Points for class participation are given for presentations and contributions to class discussions (questions, comments, criticisms, etc.), *not* simply for attendance.

**Extra credit assignments:** Several extra credit (optional) assignments will be handed out during the semester. They may involve attendance at community events relating to the course material or volunteering in community based organization relating to course work. They will not be announced ahead of time, and cannot be made up if missed. They will be worth 25-50 points depending upon complexity and effort.

**Makeup policy, late papers, missed exams:**

**Papers** received at any time on the day they are due will count as “on time.” Late papers will be marked down **10%** for each **day** they are late, including weekends. (For example, a paper worth 50 points will be docked 5 points for each day late; a paper worth 150 points will be docked 15 points for each day late.)

You may email late papers *at your own risk*; emailed papers often get garbled in transmission or fail to arrive due to typographical errors in addressing. You will receive credit for emailed papers, like all other papers, only when they are received by the professor *in the correct format* (double-spaced, 1-inch margins, etc.). Papers may be emailed only as attachments, in Word or WordPerfect. Do not send papers as html documents, in compressed files, as email messages, or in other formats. If you need to turn in a paper late, you are strongly encouraged to use fax rather than email. If you turn in a late paper in person, have the person in the JS Department office date-stamp it, then put it in my mailbox. Papers slipped under my office door will count as received the day I get them, which may not be the day you submitted them; using my mailbox avoids this problem.

**In-class assignments** cannot be made up.

**Exams:** **only one** exam can be made up, and only if you have a good reason for missing the exam (e.g., serious illness with physician's note). Make-up exams are *longer and involve more writing* than the regular exams. The make-up exam day is the *last day of class*, and you must notify the professor that you will be taking a make-up exam. Students are strongly discouraged from taking make-up exams, except in dire emergencies, because it is harder to remember the earlier material at the end of the semester than when we have just covered it in class; also, students taking makeups will not have an accurate estimate of their total points before taking the final exam.

#### **Other information:**

##### **Course Add/Drop Statement**

For information regarding adding and dropping a course, please refer to the Schedule of Instructions, Policies, and Procedures:

<http://info.sjsu.edu/cgi-bin/socfiles?command=flok&arg=soc-spring-narrative>

Instructors are permitted to drop students who fail to attend the first scheduled class meeting and who fail to inform the instructor prior to the second class meeting of the reason for any absence and their intention to continue in the class. Some instructors will drop students who do not meet the stated course prerequisites. However, instructors are not required to drop a student from their course. It is the student's responsibility to make sure classes are dropped.

#### **Students with disabilities**

**American with Disabilities Act** "If you need course adaptations or accommodations because of a disability, or if you need special arrangements in case the building must be evacuated, please make an appointment with me as soon as possible, or see me during office hours. Presidential Directive 97-03 requires students with disabilities requesting accommodations must register with DRC to establish a record of their disability." The Disability Resource Center (924-6000, located in Adm 110) will work with the student to determine the disability, document it, and determine the services and accommodations necessary for student success. The DRC will contact the instructor to determine the types of consideration or accommodation necessary. Students must register with the Center during the first three weeks of the semester to properly document their disability. The DRC Web site:  
<http://www.drc.sjsu.edu/>.

##### **Academic Integrity Statement**

In accordance with University policy this course strives to uphold academic honesty. "Your own commitment to learning, as evidenced by your enrollment at San Jose State University, and the University's Academic Integrity Policy requires you to be honest in all your academic course work. Faculty members are required to report all infractions to the Office of Judicial Affairs." A student may be reprimanded, receive a failing grade on their evaluation instrument (exam, paper, etc.), have their grade lowered, or receive an "F" in the course, and referred to administrative sanctions if they are suspected of plagiarism or cheating. If you are considering a career in the criminal justice field, be aware that reports of cheating will go on your academic record and thus will be discovered by employers' background investigations of job candidates. The policy on academic integrity can be found at: <http://www2.sjsu.edu/senate/S04-12.pdf>

To better understand plagiarism and to aid you in making sure that you are not plagiarizing, please see me or visit: <http://tutorials.sjlibrary.org/plagiarism/index.htm>

Schedule is subject to change

### SCHEDULE OF ASSIGNMENTS

DATE	DESCRIPTION	RELEVANT READING
01/31/06	Class Introduction and Description.	<u>People v. Hall</u> , (1854) 4 Cal. 399
02/07/06	History & Development of Evidence	Chapter 1 and 2 pg. 23-33
02/14/06	Direct & Circumstantial Evidence	Chapter 4
02/21/06	Witnesses	Chapter 5
02/28/06	Privileges	Chapter 6 & Handout
03/07/06	Hearsay	Chapter 7 & Handout
03/14/06	Hearsay Exception	Chapter 8
03/21/06	<b><u>Midterm</u></b>	Chapter 1,2, 4, 5, 6 & 7
03/28/06	<b>SPRING RECESS</b>	<b>NO CLASS</b>
04/04/06	Exclusionary Rule	Chapter 9
04/11/06	Exception to Exclusionary Rule	Chapter 10
04/18/06	Probable Cause	Chapter 14 & Handout
04/25/06	Search & Seizure	Chapter 16 pg. 302-307
05/02/06	Search Warrant	Chapter 15
05/09/06	Confession & Miranda	Chapter 12
05/16/06	Review	
05/23/06	<b><u>Final Examination.</u></b>	<b>5:30 p.m.</b>