

## **CRIMINAL EVIDENCE AND PROCEDURES**

Justice Studies 16, San Jose State University  
Spring Semester 2007

Class location: MacQuarrie Hall 520  
Class schedule: Tuesdays, 5:30 p.m. to 8:15 p.m., January 30 to May 15, 2007  
Final examination: Tuesday, May 22, 2007, at 5:30 p.m.  
Instructor information: Cynthia C. Lie  
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Office hours: Tuesdays, 4:15 p.m. to 5:15 p.m. and by  
appointment  
MacQuarrie Hall 521  
Required textbook: Thomas J. Gardner and Terry M. Anderson, Criminal Evidence: Principles and Cases (6<sup>th</sup> ed. 2006) [available at Spartan Bookstore and on library reserve]

### **Course Description**

The focus of this course will be the constitutional and policy-based limitations on what evidence may be used by the government in attempting to meet its burden of proving an accused's guilt.

Following an overview of the political conflicts and philosophical principles commonly understood to have influenced the framing of the relevant constitutional provisions, we will proceed with an exploration of the criminal adjudicative process and the progression of a criminal charge from accusation through trial, conviction, direct appeal and collateral review. In considering the limited capacity of this institutional framework to consistently produce verdicts comporting with ideals of substantive justice, we will then examine the network of rules designed to produce verdicts that comport with a procedural model of justice.

We will first assess the constitutional rules and remedies designed to regulate the executive's investigation and collection of evidence intended for trial, the policies meant to be furthered by those rules, and the policy considerations disfavoring them. From the investigative stage, we will then proceed to the accused's rights as to the manner and conduct of the criminal trial, observing the interplay of these rights with judicial rules meant to permit admission of evidence that meets minimum standards of reliability and materiality.

### **Course Requirements and Grading**

Students will be graded in accordance with their ability to critically analyze and apply the principles addressed in the course, as demonstrated by their performance in the areas described below. Delays in submitting homework or the mid-term examination will be accepted only at the discretion of the instructor, based upon an adequate justification; if accepted, late homework

and/or mid-terms are subject to a grade reduction of one grade per day of delay or fraction thereof.

1) Weekly homework

Regular homework will consist of short writing assignments and/or substantive revisions of prior assignments. The initial assignments will account for 20% of the total semester grade; the subsequent revisions will account for an additional 20%. One of these assignments will require the student to attend either a judicial evidentiary hearing or a law enforcement exercise and to report and analyze the relevant events.

2) Class participation

Class meetings will occasionally include short written exercises based upon the readings previously assigned. These will account for 5% of the total semester grade, graded on a credit/no-credit basis. In addition, constructive contribution to class discussion will account for an additional 5% of the total semester grade.

3) Examinations

Students will complete one mid-term examination, worth 20% of the total semester grade, which will be a take-home written exercise to be distributed March 20, 2007 and turned in to the instructor or Department office no later than Monday, March 26, 2007 at 9:00 a.m. The final examination, worth 30% of the total semester grade, will be administered in class on Tuesday, May 22, 2007. Students are permitted to use their textbook and notes during the final examination.

**Schedule of Lectures**

<u>Week 1</u>	January 30	<u>Overview of the Constitutional Framework</u>
	Reading:	Ch. 1 (all) and Ch. 2 (through p. 25)
<u>Week 2</u>	February 6	<u>Stages of a Criminal Prosecution; the Jury Trial</u>
	Reading:	Ch.2 (p. 25 to end); Ch. 3 (all)
<u>Week 3</u>	February 13	<u>Introduction to the Exclusionary Rule</u>
	Reading:	Ch. 9 (all); Ch.10 (all except pp. 174-175); Ch. 15, pp.309, 312-318, 322-325; begin <i>Mapp v. Ohio</i> , 367 U.S. 643 (1961)
<u>Week 4</u>	February 20	<u>The Fourth Amendment and the Exclusionary Rule, part I: The Warrant Requirement and Exceptions</u>

	Reading:	Ch. 14, pp. 278-283, 287-292; Ch. 15, pp. 301-312; Ch. 17, pp.356-358; finish <i>Mapp v. Ohio</i> , 367 U.S. 643 (1961)
<u>Week 5</u>	February 27	<u>The Fourth Amendment and the Exclusionary Rule, part II: Arrests and Ancillary Searches</u>
	Reading:	Ch. 14, pp. 273-278, 279 (“Three Types of Police-Citizen Contacts”), 284-end; Ch. 15, pp. 319-320, 321-322 <i>New York v. Belton</i> , 453 U.S. 454 (1981)
<u>Week 6</u>	March 6	<u>The Fourth Amendment and the Exclusionary Rule, part III: Investigative Detentions and Protective Searches</u>
	Reading:	Ch. 14, pp. 270-273, 284-287 <i>Terry v. Ohio</i> , 392 U.S. 1 (1968)
<u>Week 7</u>	March 13	<u>The Fifth Amendment and the Exclusionary Rule: Improperly Obtained Admissions and Confessions</u>
	Reading:	Ch. 12 (all); Ch. 10, pp. 174-175; Ch. 17, pp. 368-369 <i>Miranda v. Arizona</i> , 384 U.S. 436 (1968)
<u>Week 8</u>	March 20	<u>Review for Mid-term Examination</u>
<u>Week 9</u>	April 3	<u>Lost and Destroyed Evidence; Eyewitness Identifications</u>
	Reading:	Ch. 1, p. 10, Ch. 2, pp. 29-33
<u>Week 10</u>	April 10	<u>Privileges</u>
	Reading:	Ch. 6, pp. 115-end <i>Roviaro v. United States</i> , 353 U.S. 53 (1956)
<u>Week 11</u>	April 17	<u>Hearsay and the Confrontation Clause</u>
	Reading:	Ch. 7 (all); Ch. 8 (all)
<u>Week 12</u>	April 24	<u>Character Evidence, Impeachment and Undue Prejudice</u>
	Reading:	Ch. 4, pp.67-70; Ch. 5, 97-99 <i>Guam v. Shymanovitz</i> , 157 F.3d 1154 (9 <sup>th</sup> Cir. 1998)
<u>Week 13</u>	May 1	<u>“Scientific” evidence</u>
	Reading:	Ch. 18 (all)

<u>Week 14</u>	May 8	<u>Authentication of Evidence</u>
	Reading:	Ch. 16; Ch. 17, pp. 358-364
<u>Week 15</u>	May 15	<u>Review for Final Examination</u>
<u>Week 16</u>	May 22	<u>Final Examination</u>