

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
e-mail: cynthia_lie@mindspring.com
voicemail: (510)428-9006
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 (6th 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 social objectives 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 certain minimum standards of competence, materiality and fairness.

Course Requirements and Grading

Students will be graded in accordance with their ability to critically analyze and apply the principles addressed in the course readings and/or lectures, as demonstrated by their performance in the assignments described below. All assigned exercises, homework and examinations are to be completed by the individual student unless otherwise specified. Students are expected to

comply with the University's Academic Integrity Policy F06-1 and to be aware of consequences for violation of that policy:

http://www.sa.sjsu.edu/download/judicial_affairs/Academic_Integrity_Policy_F06-1.pdf

http://www.sa.sjsu.edu/judicial_affairs/students/academic_integrity.html

1) Weekly homework

Regular homework will consist of short writing assignments (1-2 typed double-spaced pages) and substantive revisions of prior assignments. The cumulative grade for the initial assignments will account for 20% of the total semester grade; the cumulative grade for the corresponding 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.

Homework is due no later than the commencement of the class session for which it was assigned; no late homework will be accepted. Students unable to attend a particular class meeting are responsible for submitting their homework to the instructor by the appointed deadline; although homework submitted in the text of timely e-mails will be accepted, electronic attachments to e-mails will not be.

2) Class participation/preparation

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. Students are expected to have completed the readings in advance of the class session for which it was assigned.

3) Examinations

Students will complete a take-home mid-term examination, worth 20% of the total semester grade, which will be distributed on March 20, 2007 and shall be turned in to the instructor (see policy, above, as to optional e-mail transmission) or to the Department office prior to Monday, March 26, 2007 at 9:00 a.m. The cumulative final examination, worth 30% of the total semester grade, will be administered in class on Tuesday, May 22, 2007. Students will be permitted to consult their textbook and notes during the final examination.

Any students who, as a result of disability, are in need of course adaptations or accommodations, or of special arrangements or assistance in the event of building evacuation, should inform the instructor at the earliest opportunity, either by appointment or during office hours. Presidential Directive 97-03 requires that students with disabilities register with the Disability Resource Center to establish a record of their disability.

Schedule of Lectures and Readings

<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 th 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>