

# **Criminal Evidence and Procedures**

Justice Studies 16, San Jose State University  
Fall Semester 2010

Class Location: MacQuarrie Hall 523  
Class Schedule: Mondays, 6:00–8:45 p.m., August 25, 2010–December 9, 2010  
Final Examination: Monday, December 13, 2010, 5:30–7:30 p.m.  
Instructor Information: Jose S. Franco  
[jfranco@pdo.sccgov.org](mailto:jfranco@pdo.sccgov.org) or [pdjfranco@yahoo.com](mailto:pdjfranco@yahoo.com)  
(408) 299-7159 (8:30 a.m.–4:30 p.m. Mon.-Fri.)  
Office Hours: By appointment  
Mondays 8:45-9:45 p.m. (MacQuarrie Hall 521)  
Required Textbook: Criminal Evidence: Principles and Cases (7<sup>th</sup> ed.)  
Thomas J. Gardner and Terry M. Anderson  
(Available at Spartan Bookstore and on library reserve)

## **Course Description**

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

Following an overview of the history, principles, and policies in the development of the law of criminal evidence, we will proceed to an exploration of the criminal adjudicative process and progression from arrest through appeal in the adversarial and American accusatorial system.

The course will also examine the network of rules designed to produce verdicts in criminal prosecutions that comport with a procedural model of justice. The course will assess the constitutional rules and remedies designed to regulate the executive's investigation and collection of evidence intended for trial as well as the accused's rights as to the manner and conduct of a criminal trial and a thorough review of the principles governing the admission of evidence that meet standard 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. Evaluation of that ability and final grade will be based on the following weighted evaluation of the student's work:

10% Quizzes, Participation, and Attendance  
50% Writing Assignments  
20% Mid-term Examination  
20% Final Examination (not cumulative)

Students will be allowed to use their textbooks and notes during the mid-term and final examinations in this course. Both the Mid-term Examination and Final Examination will consist of True/False, Multiple Choice, and/or Short Essay Answer formats.

Textbooks and notes will not be allowed for quizzes.

With the exception of the first session, all readings must be completed prior to the day they will be discussed. For example, on September 13, 2010, students must have read Chapter 3 prior to coming to class. Students will/may also be required to read, analyze, brief, and discuss certain U.S. Supreme Court Cases (to be provided at a later time).

### **Class Rules and Academic Integrity**

Students are expected to arrive to class on time, unless arrangements are otherwise made with the instructor prior to class. Students are required to turn off all pagers and cell phones before class begins. Please note that use of laptops is at the discretion of the instructor. Classroom disruptions or misuse of laptops in any form will not be tolerated.

Lecture notes will not be provided by the instructor. In the event of an absence, students must rely on other classmates to obtain information provided in a missed class.

Plagiarism and cheating will immediately be reported to the Department Chairperson. Students are referred to [http://sa.sjsu.edu/student\\_conduct](http://sa.sjsu.edu/student_conduct) and <http://tutorials.sjlibrary.org/plagiarism/index.htm> for further information in this regard.

Students are expected to behave in a respectful manner towards other students and their contributions to classroom discussion and inquiries. The University encourages “all forms of action which do not interfere with the rights of other individuals or groups or with the essential functions of the academic community.” Therefore, disparaging remarks pertaining to another’s group of origin or affinity (e.g. age, gender, health status, physical or mental abilities, race, culture, sexual orientation or religion) will not be tolerated.

### **Course Add/Drop Requirements**

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 continued in the class. Students are referred to [http://sa.sjsu.edu/student\\_conduct](http://sa.sjsu.edu/student_conduct) for procedures and policies regarding add and/or withdraw classes, academic renewal, and other student responsibilities. Students are reminded these are not the instructor’s responsibilities.

### **American with Disabilities Act**

Students are asked to report any and all necessary accommodations and adaptations to the instructor as soon as possible. Presidential Directive 97-03 requires students with disabilities requesting accommodations must register with DRC to establish a record of their disability.

### **Attendance and Participation**

It is university policy (F69-24, <http://www2.sjsu.edu/senate/f69-24.htm>) that all students should attend all meetings of their classes, not only because they are responsible for material discussed therein, but because active participation is frequently essential to insure maximum benefit for all members of the class.

Attendance per se shall not be used as a criterion for grading. Class participation may be factored into the grading criteria. Students who have been out of school for one or more days should report to their instructors upon their return to inquire about missed work. Students will not be allowed to make-up any missed quizzes or exams (unless prior arrangements are made with the instructor). Students who know in advance that they will miss one or more classes should inform their instructors about their plans.

There is no 15-minute rule allowing students to leave if the instructor is delayed. If class is cancelled or if a substitute is handling the class, students will be notified.

### **Learning Assistance Resource Center (LARC)**

The Learning Assistance Resource Center (LARC) is located in Room 600 in the Student Services Center. It is designed to assist students in the development of their full academic potential and to inspire them to become independent learners. The Center's tutors are trained and nationally certified by the College

Reading and Learning Association (CRLA). They provide content-based tutoring in many lower division courses (some upper division) as well as writing and study skills assistance. Small group, individual, and drop-in tutoring are available. Please visit the LARC website for more information (<http://www.sjsu.edu/larc/>).

### **Schedule of Sessions**

Week 1 (08/30)	Introductions, Survey of the Course and Overview of the Constitutional Framework in the Criminal Legal Process Chapter 1 and Chapter 2
Week 2 (09/06)	No Class (Labor Day Holiday)
Week 3 (09/13)	Stages of the Criminal Prosecution Chapter 3
Week 4 (09/20)	Direct and Circumstantial Evidence Chapter 4
Week 5 (09/27)	Witnesses Chapter 5
Week 6 (10/04)	Judicial Notice and Privileges Chapter 6
Week 7 (10/11)	Hearsay and the Hearsay Rule Chapter 7, Chapter 8
Week 8 (10/18)	Mid-Term Examination (Chapters 1-8—up through 10/11/10)
Week 9 (10/25)	Exclusionary Rule and the Fourth Amendment Chapter 9, Chapter 10
Week 10 (11/01)	Exclusionary Rule and the Fourth Amendment Chapter 9, Chapter 10
Week 11 (11/08)	Obtaining Evidence Chapter 14, Chapter 15
Week 12 (11/15)	Obtaining Statements, Admission, Confessions for use as Evidence Chapter 12, Chapter 11
Week 13 (11/22)	Identification Evidence and Scientific Evidence Chapter 13, Chapter 18
Week 14 (11/29)	Crime Scenes, Chain of Custody, Authentication of Evidence Chapter 16, Chapter 17
Week 15 (12/6)	Review for Final Exam
Week 15 (12/13)	Final Exam (Note Different Time) 5:30-7:30

