

Criminal Justice

Course Syllabus

Instructor: Professor Lynda Dodd
Office: 125 Harrison Hall
Office Hours: Tues-Thurs. 10am – 12 noon

Classroom: 204 Harrison
Time: T-Th 8-9:50 am

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I. Description

We will be spending much of our time studying and evaluating Supreme Court doctrines concerning the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments. In addition, we will consider whether constitutional doctrines alone can adequately protect the rights of criminal defendants, by focusing on empirical studies of the “law in action” and examining leading proposals for policy reforms.

II. Course Texts

The following required textbooks are available for purchase at the Miami U. Bookstore:

- Jerold H. Israel, Yale Kamisar, and Wayne R. LaFave, *Criminal Procedure and the Constitution* (2004) ed. (“IKL”)
- David W. Neubauer, *America’s Courts and the Criminal Justice System* (2002) (“Neubauer”)
- All other assigned readings will be available via electronic reserve or Blackboard.

III. Course Requirements and Grading

- **30 % MIDTERM:** There is one midterm examination, which are worth 30% of your course grade. The midterm examination is closed book, and includes short answer identification questions, and 1-2 essay questions. I will provide you with a study guide to help you prepare for the exam.

- **25% RESEARCH ESSAY & GROUP PRESENTATION:** There is one group research project and in-class presentation worth 25% of your course grade. You will pick topics and organize into groups of four to five students during the first week of class. The research will be a “guided research project,” which means that I will post on Blackboard a short reading list for the group to use when developing its presentation.

Each group project will address a controversial issue within the field of criminal procedure, and will provide to the class an overview of the parameters of the debate, as well as the group’s assessment of the issue. The style of the presentation is something for the group to decide upon, and you are welcome to consult with me via email and during office hours as you begin working on the project. You may wish to present an actual debate in front of the class, or a multimedia presentation, using web pages, posters, handouts, or clips from the Supreme Court oral arguments, etc.

The grade for the group project is based on two equal criteria: (1) each individual member of the group will write up a 7-10 page essay which will address their own views on the chosen topic; (2) the effectiveness of the group’s in-class presentation. An effective presentation will be a concise presentation (usually between 30 to 45 minutes), which engages the rest of the class, and also presents the information in a clear manner. You should not worry that I will penalize groups that do not rely on multimedia resources, although I do recommend that you take this opportunity to explore King Library’s extensive Center for Information Management, if you have not yet already done so.
<http://www.lib.muohio.edu/libinfo/depts/cim/>

- **30% FINAL EXAMINATION:** The final examination is worth 30% of your course grade. The examination will include both short identification and essay questions. I will provide you with a study guide to help you prepare for the exam.

- **15% CLASS PARTICIPATION:** Class participation is worth 15% of your course grade. Although I expect regular attendance and participation from all class members, during each class session, two groups of 4-6 class members will be “on call” to discuss that day’s assigned cases. The group will be chosen by going down the class roster in alphabetical order. One-half of the group will be “pro-defendant” and the other half will be “pro-government.” Your responsibilities will include (1.) submitting one or two questions or comments by email to the professor the day before class, and (2.) preparing to answer questions and to present an overview of the cases in class.

IV. Schedule of Readings and Assignments

Aug. 24 Introduction to the Course

1. Multiple Agendas

- “Law on the Books and the Law in Action”

2. An Overview of the Criminal Justice Process

- IKL, Ch. 1

- Neubauer, Chs. 1-4 (review for background info.)

A. *INVESTIGATIONS: Policing Strategies*

Aug. 26 The Police

1. Evaluating Police Performance

2. Reform Case Studies (New York, Boston, L.A., Cincinnati)

Required:

(1.) *Cincinnati Enquirer* Special Report: “Unrest in the City” (please review articles covering the riots and aftermath, click on the photo galleries)

(2.) James Q. Wilson and George L. Kelling, “Broken Windows: The Police and Public Safety,” *The Atlantic Monthly* (March 1982)

<http://www.theatlantic.com/politics/crime/safehood.htm> (update)

<http://www.theatlantic.com/unbound/bookauth/broken/broke.htm>
(update)

(3.) What is “Community Policing”?

(4.) New York v. Boston

John Buntin, “Murder Mystery,” *Governing Magazine*
(June 2002)

(5.) LAPD Scandal

Peter J. Boyer, "Bad Cops," New Yorker (May 21, 2001)

Recommended: Cincinnati Case Study

- DOJ-Cincinnati Collaborative Agreement (created in response to an ongoing racial profiling lawsuit)

- Heather McDonald, "Lessons from Cincinnati: A Vivid Guide in How Not to Handle the Riots" (July 22, 2001)

(a conservative viewpoint, suggesting Cincinnati is "caving in" to black protesters)

- Community Action Now (CAN)

(Cincinnati's race relations council, established by Mayor Charlie Luken in response to the 2001 riots)

- Gregory Korte, "New Police Oversight Agency Meets," Cincinnati Enquirer (Jan. 7, 2003)

- Independent Monitor's First Quarterly Report on the Collaborative Agreement (April 1, 2003)

- Gregory Korte, "Agreement's Yield: Contention," Cincinnati Enquirer (April 30, 2003)

(a pessimistic view of the Collaborative Agreement)

- Gregory Korte, "ACLU Picks 12 for Collaborative," Cincinnati Enquirer (May 2, 2003)

(ACLU replaces Black United Front as members of the Collaborative Agreement)

- Dan Horn, "City Helped Tame DOJ's Fierceness," Cincinnati Enquirer (June 9, 2003)

(suggesting that the DOJ "kinder and gentler" approach got results in Cincinnati)

- Independent Monitor's Second Quarterly Report on the Collaborative Agreement (July 1, 2003)

- Dan Horn, "Police Monitor See Progress," Cincinnati Enquirer (July 2, 2003)

B. INVESTIGATIONS: Constitutional Limits

Aug. 31- **Fourth Amendment: Foundations**
Sep. 7

(No class 9/2)

1. Early History (video)

2. Expectations of Privacy: Defining “Searches” and “Seizures”

- *Katz v. United States* (1967) IKL- p. 81
- *California v. Greenwood* (1988) IKL- p. 86
- *Florida v. Riley* (1989) IKL- p. 89
- *United States v. Karo* (1984) IKL- p. 93
- *Smith v. Maryland* (1979)*
- *Kyllo v. United States* (2001) IKL- p. 97
- *Bond v. United States* (2000)*
- *United States v. White* (1971) IKL- p. 102
- *Zurcher v. Stanford Daily* (1978) IKL- p. 105
- *Florida v. Bostick* (1991)*

Sep. 9-14 **Fourth Amendment: Warrants and the Exclusionary Rule**

1. The Warrant Requirement

- *Maryland v. Garrison* (1987) IKL- p. 130
- *Richards v. Wisconsin* (1997) IKL- p. 136

2. What Constitutes “Probable Cause”?

- *Spinelli v. United States* (1969) IKL- p. 110
- *Illinois v. Gates* (1983) IKL- p. 113

3. Remedies & the Exclusionary Rule Debate

Exclusionary Rule

- *Wolf v. Colorado* (1949) IKL- p. 55
- *Mapp v. Ohio* (1961) IKL- p. 57

“Good Faith Exception”

- *United States v. Leon* (1984) IKL- p. 63
- *Arizona v. Evans* (1995)*

4. Fruit of the Poisonous Tree Analysis

“Inevitable Discovery”/ “Independent Source” Rule
- *Nix v. Williams* (1984)*

Sep. 16-23 Fourth Amendment: Exceptions to the Warrant Requirement

1. Searches Incident to Arrest

- *Chimel v. California* (1969) IKL- p. 174

2. Regulatory Searches

- *New Jersey v. TLO* (1985)*
- *Vernonia School District 47J v. Acton* (1995)*
- *Board of Education v. Earls* (2002) IKL- p. 246

3. Consent

- *Illinois v. Rodriquez* (1990) IKL- p. 263

4. “Plain View” Exception

- *Arizona v. Hicks* (1987)*

5. Exigent Circumstances

- *United States v. Santana* (1976)*

6. Automobile Search Doctrines

- *California v. Carney* (1985) IKL- p. 183
- *Thornton v. United States* (2004) IKL- p. 187
- *Knowles v. Iowa* (1998) IKL- p. 192
- *California v. Acevado* (1991) IKL- p. 194
- *Wyoming v. Houghton* (1999) IKL- p. 203
- *Colorado v. Bertine* (1987) IKL- p. 210
- *Indianapolis v. Edmond* (2000)

Group #1 Presentation

Question: Should warrantless searches be permitted in public schools?

Sep. 28-
Oct. 5

Fourth Amendment: Terry and Its Impact on Police Practices

1. Terry “Stop and Frisk” Analysis

- *Terry v. Ohio* (1968) IKL- p. 214
- *Florida v. J.L.* (2000) IKL- p. 223
- *Illinois v. Wardlaw* (2000) IKL- p. 226
- *United States v. Place* (1983) IKL- p. 241

2. “Plain Feel” Addendum?

- *Minnesota v. Dickerson* (1993)*

3. Cases Informing the Racial Profiling Debate

- *United States v. Martinez-Fuerte* (1976)*
- *Florida v. Royer* (1983) IKL- p. 228
- *United States v. Sokolow* (1989)*
- *United States v. Arvizu* (2002)*
- *United States v. Flores-Montano* (2004)

Group #2 Presentation

Question: Is racial profiling a necessary tool of law enforcement?
How has *Terry v. Ohio* contributed to the increasing sense of harassment by African-American residents of inner cities?

Oct. 7

The USA PATRIOT Act and Government Surveillance

1. Background

The Foreign Intelligence Surveillance Act (FISA)

2. The USA PATRIOT Act

- The Federalist Society White Paper
- DOJ Webpage
- Dahlia Lithwick and Julia Turner, “A Guide to the Patriot Act,” Slate (September 11, 2003) (Parts I-IV required)

Group #3 Presentation

Question: The Patriot Act: Was the ACLU Wrong?

C. INTERROGATIONS AND PRE-TRIAL PROTECTIONS

Oct. 12-14 Fifth Amendment: The Privilege Against Self-Incrimination

1. Pre-Miranda Standards

- *Ashcraft v. Tennessee* (1944) IKL- p. 314
- *Watts v. Indiana* (1949) IKL- p. 320
- *Massiah v. United States* (1964) IKL- p. 326
- *Escobedo v. Illinois* (1964) IKL- p. 330

2. The Miranda Doctrine

- *Miranda v. Arizona* (1966) IKL- p. 336
- *Yarborough v. Alvaredo* (2004) IKL- p. 363
- *Rhode Island v. Innis* (1980) IKL- p. 370
- *Illinois v. Perkins* (1990) IKL- p. 376
- *Minnick v. Mississippi* (1990) IKL- p. 378
- *New York v. Quarles* (1984) IKL- p. 386
- *Moran v. Burbine* (1986) IKL- p. 402
- *Withrow v. Williams* (1993) IKL- p. 411

3. Did Congress Overrule *Miranda*?

- *Dickerson v. United States* (2000) IKL- p. 418

Group #4 Presentation

Questions: Is post-*Miranda* doctrine inconsistent? Should *Miranda* be saved? What are the real-world costs of the *Miranda* requirement?

Oct. 19 **** MIDTERM EXAM ****

Oct. 21-26 **Sixth Amendment: Scope & Limits**

1. The Right to Appointed Counsel

- Neubauer, Ch. 7
- *Gideon v. Wainwright* (1963) IKL- p. 293
- *Alabama v. Shelton* (2002) IKL- p. 295

2. The Adequacy of Appointed Counsel

- *Strickland v. Washington* (1984) IKL- p. 708
- *Nix v. Whiteside* (1986) IKL- p. 719
- *Mickens v. Taylor* (2002) IKL- p. 731

Group # 5 Presentation

Topic: Ensuring Quality Defense Counsel: A Matter of Money, or ...?

Oct. 26-
Nov. 2 **Plea Bargaining and the “Courtroom Workgroup”**

1. Courtroom Workgroup

- Neubauer, Ch. 5
- Frontline Video, “Real Justice: Inside the Suffolk County Court House”

2. Prosecutorial Discretion, Grand Juries, and Plea Bargaining

- Neubauer, Ch. 6 & 13
- *United States v. Armstrong* (1996) IKL- p. 530
- *United States v. Batchelder* (1979) IKL- p. 539
- *United States v. Goodwin* (1982) IKL- p. 541
- *Costello v. United States* (1956) IKL- p. 562
- *Bordenkircher v. Hayes* (1978) IKL- p. 605
- *Santobello v. New York* (1971) IKL- p. 610
- *United States v. Ruiz* (2002) IKL- p. 615
- Frontline Video, "The Plea"

Group #6 Presentation

Questions: Are Prosecutors too powerful? Should plea bargaining be abolished?

Nov. 4 The Right to Bail & the Preventive Detention Debate

1. The Bail Process

- Neubauer, Ch. 11

2. Preventive Detention

- *U.S. v. Salerno* (1987) IKL- p. 519

D. ADJUDICATION

Nov. 4-16 Speedy & Public Trials, Press Access, Juries

1. Right to a Speedy Trial

- *Barker v. Wingo* (1972) IKL- p. 565
- *Doggett v. United States* (1992) IKL- 571
- *United States v. Lovasco* (1977) IKL- 577

2. The Brady Rule

- Neubauer, pp. 299-303

- *Brady v. Maryland* (1963)*

- *United States v. Bagley* (1985) IKL- p. 588

5. Trial by Jury

- Neubauer, Ch. 14

- *Duncan v. Louisiana* (1968) IKL- p. 628

- *Burch v. Louisiana* (1979) IKL- p. 630

- *Batson v. Kentucky* (1986) IKL- p. 652

- *J.E.B. v. Alabama Ex Rel. T.B.* (1994) IKL- p. 661

- CBS Reports Video, "Enter the Jury Room"

6. Press Access & Fairness

- *Chandler v. Florida* (1981) IKL- p. 691

7. Exclusion Hearings

- Neubauer, pp. 309-318

Group #7 Presentation

Questions: Why have an exclusionary rule? Should it be abolished? If so, how can we deter the government from conducting overinvasive searches?

E. SENTENCING

Nov. 18-23 Sentencing Procedure

1. Sentencing Goals & Guidelines

- Neubauer, Ch. 15 to p. 403, & Ch. 16

2. Sentencing Reform

- *United States v. Grayson* (1978) IKL- p. 870

- *Mistretta v. United States* (1989)*
- *Blakely v. Washington* (2004) IKL- p. 884

- Erik Luna, “Misguided Policies: A Critique of Federal Sentencing,” Cato Policy Analysis No. 458 (November 1, 2002)

Nov. 30 **The Death Penalty Debate**

1. Background

- Neubauer, Ch. 15, pp. 403-410

2. Race and the Death Penalty

- Neubauer, Ch. 16, pp. 427-9

- *McCleskey v. Kemp* (1987) IKL- p. 902

Group #8 Presentation

Topic: Is The System Broken? Evaluating the Death Penalty
Moratorium Movement

Video: “Deadline”

F. APPEALS & POST-CONVICTION REVIEW

Nov. 30 **Procedure**

- Neubauer, Ch. 17

G. PROSECUTIONS IN WARTIME

Dec. 2 **The Rights of Foreign Nationals**

- CBS News Video, “Guilty Until Proven”

Military Tribunals

I. History

- *Ex Parte Quirin*, 317 U.S. 1 (1942)
- Gary Cohen, "[The Keystone Kommandos](#)," Atlantic Monthly (Feb. 2002)

II. President Bush's Executive Order

- Bush Executive Order, "Military Order: Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism," (Nov. 13, 2001)
- Edward Lazarus, "The History and Precedential Value of the Supreme Court Case Cited in Support of the Bush Administration's Military Tribunals," Findlaw's Writ (Dec. 11, 2001)

III. Declaring U.S. Citizens to be "Enemy-Combatants"

- *Hamdi v. Rumsfeld* (2004)
- *Rumsfeld v. Padilla* (2004)
- *Rasul v. Bush* (2004)
- David Savage, "Not Since Nixon Administration Has the High Court Issued So Many Rulings on Executive Power," ABA Journal (August 2004)
- Michael Greenberger, "A 'Third' Magna Carta," National Law Journal (August 2, 2004)
- Robert Levy, "Logic of Supreme Court Decisions Say that Alleged 'Dirty Bomber' Must be Charged or Freed," Legal Times (August 2, 2004)

Group #9 Presentation

Questions: Are military tribunals a necessary evil? What are the alternatives?

H. PROSECUTING JUVENILES

Dec.7 The Juvenile Justice System

1. Juvenile Courts

- Neubauer, Ch. 19

2. Prosecuting Juveniles as Adults

- Frontline Video, "Juvenile Justice"

Group #10 Presentation

Question: Should juveniles be prosecuted as adults?

Dec.9 Review Session – Final Exam