

**SUL ROSS STATE UNIVESRITY-RIO GRANDE COLLEGE  
DEPARTMENT OF NATURAL AND BEHAVIORAL SCIENCES  
DEL RIO \* EAGLE PASS \* UVALDE  
CRIMINAL JUSTICE PROGRAM  
COURSE SYLLABUS**

- COURSE TITLE:** CRIM 4305: Procedural Law
- COURSE PERIOD:** Tuesday & Thursday 4:30 – 5:45 PM
- INSTRUCTOR:** Dr. Ferris Roger Byxbe ([fbyxbe@sulross.edu](mailto:fbyxbe@sulross.edu))
- BIOGRAPHY:** <http://faculty.sulross.edu/fbyxbe>
- OFFICE:** Faculty Offices Building 205, Del Rio Campus
- OFFICE PHONE:** 830-703-4834 Office, 830-703-4831 Fax
- OFFICE HOURS:** Tuesday & Thursday 09:00 AM – 12:00 PM & 3:30 – 4:30 PM.
- COURSE DESCRIPTION:** A study of the nature and function of the law with relation to criminal justice policies and procedures in the administration of criminal justice. An analysis of procedural rules for the judicial enforcement of substantive law, to include a survey of procedural due process, venue, statute of limitations, jurisdiction, and an emphasis on police search and seizure as regulated by the 4<sup>th</sup> Amendment. Students will read opinions of the Supreme Court and discuss the impact of those decisions on the balance between individual rights and societal interests.
- TEXTBOOK:** Criminal Procedure: Law and Practice, 9<sup>th</sup> ed. (2014)  
Rolando V. del Carmen  
ISBN: 13: 978-1-285-06289-1  
Wadsworth/Cengage Learning
- ACADEMIC SUCCESS:** Students are advised to adhere to the following recommendations in order to achieve academic success in this course.
- (1) **ATTEND** all class sessions
  - (2) take comprehensive **NOTES** in class
  - (3) **READ** assigned chapters in your textbook
  - (4) know key **CASES/CONCEPTS/TERMS**
  - (5) **PREPARE** timely for each examination
  - (6) See **Blackboard** for student study guides

**COMPUTER LABS:**

Rio Grande College computer labs are open Monday – Thursday 8:00AM - 9:00PM and Friday 8:00AM – 4:00PM. **RGC Computer labs are not open weekends.** However, students may avail themselves to the SWTJC computer labs with a valid ID. Students should have available a high-speed internet connection on a regular basis for off-campus course work, exams, assignments and research.

**DISHONESTY:**

Academic cheating and plagiarism is not acceptable behavior. It violates university policy and human ethics. If a violation occurs the penalty will result in the grade of “F” for the semester.

**EXAMINATIONS:**

Exams have been structured to mandate maximum participation in this course of study.

- There will be a chapter exam each week on Blackboard.
- Chapter reading assignments, research and writing endeavors are of the utmost importance in student assessment and evaluation.
- Exams will consist of multi-formatted questions taken from weekly assignments.
- It is recommended that all exams be taken in the computer laboratory on the Rio Grande College campus. However, this is not required. Exams may be taken at any location using a high-speed internet connection. Firefox browser is recommended for accessing all Blackboard exams.
- Weekly exams will be made available for 24 hours each Tuesday commencing early (morning) 12:00 AM and ending late Tuesday night at 11:59 PM.
- Weekly exams may be accessed one-time only for a period of 75 minutes (one class period). Students exceeding the allotted time will be timed-out of Blackboard. All exams must be completed in one sitting. Exams may not be saved and returned to later.
- Mobile apps are available to facilitate access to your course materials in Blackboard. However, be aware that any difficulties with your carrier, or jumping from cell tower to cell tower will likely disrupt your connection. For this reason, you are advised [required] NOT to use a cell phone for tests for it may be detrimentally affected by service disruptions. Please note that calling the faculty member to have an exam reset will be limited - also note that to reset an exam is a courtesy – NOT a requirement. You are strongly advised [required] to take all exams on a computer at a stable location having a strong and consistent connection.”

**NO MAKE-UP EXAMS:** If a student for any reason:

- fails to take an exam
- fails to complete an exam
- fails to submit an exam

this will result in an “F” for the exam.

*The professor assumes no responsibility for student omissions or technology problems. Should a student be dropped off-line the instructor will reset the exam during the testing period ONLY. To Contact the instructor send an immediate email to [fbxbe@subross.edu](mailto:fbxbe@subross.edu). Assistance from OIT or the instructor will not be available after 9:00 PM.*

**GRADING SCALE:**

1260 -1400 = A  
1120 -1259 = B  
980 -1119 = C  
840 - 979 = D  
0 - 839 = F

NOTE: Each exam is worth 100 points x 14 exams = 1400 total points.

**SEMESTER GRADES:** Final semester grades are reported to the Office of Admissions & Records at the appropriate time. Student grades are posted on Banner for review at the conclusion of each semester.

**COURSE OBJECTIVES:** Upon attending class, taking comprehensive notes, and reading assigned chapters in the textbook with a thorough analysis of the key concepts, terms and case law within each chapter the student will acquire extensive knowledge of the following subject-matter materials to be inclusive on each examination.

### **Chapter 1: The Court System and Sources of Rights**

- LO1: The United States has a dual court system—federal and state.
- LO2: Court decisions are binding only in that court’s territorial jurisdiction.
- LO3: Criminal cases can be tried in both federal and state courts if punished in both jurisdictions.
- LO4: Jurisdiction means *power* to try a case; venue means the place where the case is to be tried.
- LO5: Judicial review is the power of courts to declare laws or acts of public officials unconstitutional.
- LO6: *Rule of law* generally means that no person, from the most powerful public official to the least powerful individual, is above the law.
- LO7: The four sources of legal rights are constitutions, statutory law, case law, and court rules.
- LO8: The Court has used four approaches to the incorporation controversy: selective incorporation, total incorporation, total incorporation plus, and case-by-case incorporation.

### **Chapter 2: Overview of the Criminal Justice Process**

LO1: The procedures used when processing suspects and defendants can be divided into three stages: before trial, during trial, and after trial.

LO2: Before trial, the procedure follows this sequence: filing of the complaint by a member of the public and arrest or arrest of a suspect by a police officer, booking, appearance before a magistrate, setting of bail, preliminary examination, decision by the prosecutor to charge, grand jury indictment or the filing of an information by the prosecutor, arraignment, and plea by the defendant.

LO3: The procedure during trial starts with the selection of jurors, followed by opening statements, the presentation of the cases for the prosecution and the defense, rebuttal evidence, closing arguments, defense motions prior to the verdict, the judge's instructions to the jury, jury deliberation, and a verdict of guilty or not guilty.

LO4: The two main procedures after trial are sentencing and appeal.

LO5: Even while a defendant is serving time in jail or in prison, access to the court is always available by way of a habeas corpus petition.

LO6: Although criminal procedure is governed by the Bill of Rights, procedures differ from one jurisdiction to another.

### **Chapter 3: Probable Cause and Reasonable Suspicion**

LO1: Probable cause is arguably the most important term to know in day-to-day law enforcement.

LO2: There is a legal definition and a practical definition of probable cause.

LO3: The definition of probable cause is the same in various areas of law enforcement work, but the focus may differ.

LO4: It is better to have a warrant when making arrests or seizures.

LO5: Probable cause can be established in three ways.

LO6: Probable cause and reasonable suspicion differ in the degree of certainty and are used in different situations.

LO7: Probable cause and reasonable suspicion are based on the "totality of circumstances."

LO8: More circumstances taken into account means greater likelihood of establishing probable cause or reasonable suspicion.

LO9: Reasonable suspicion has a lower degree of certainty than probable cause.

### **Chapter 4: The Exclusionary Rule**

LO1: The purpose of the exclusionary rule is to deter police misconduct.

LO2: The exclusionary rule is judge-made and can be eliminated by the courts.

LO3: The exclusionary rule was first applied to all federal prosecutions in *Weeks v. United States* (1914).

LO4: The exclusionary rule was extended to state prosecutions in *Mapp v. Ohio* (1961).

LO5: Illegally seized evidence and fruit of the poisonous tree are both excludable.

LO6: There are four general exceptions to the exclusionary rule: good faith, inevitable discovery, purged taint, and independent source.

LO7: There are eight situations or types of proceedings where the rule does not apply: violations of the knock and announce rule, private searches, grand jury investigations, sentencing, arrests based on probable cause that violate state law, violations of agency rules, noncriminal proceedings, and parole revocation hearings.

LO8: There are arguments for and against the exclusionary rule.

LO9: There are alternatives to the exclusionary rule, none of which is popular in the United States.

LO10: The exclusionary rule has been modified by Court decisions, but it is here to stay.

### **Chapter 5: Stop and Frisk and Stationhouse Detention**

- LO1: Stop and frisk are two separate acts, not one continuous act.
- LO2: Stops and frisks require reasonable suspicion to be valid.
- LO3: *Terry v. Ohio* is the leading case on stop and frisk.
- LO4: The only valid purpose of a stop is to determine if a criminal activity has taken place or is about to take place.
- LO5: The only valid purpose of a frisk is officer protection.
- LO6: Stops based on race alone are not valid, but lower courts disagree on whether race can be taken as one factor in determining reasonable suspicion for a stop.
- LO7: Persons stopped by the police cannot be forced to answer questions but can be forced to identify themselves if that is authorized by state law.
- LO8: A frisk should not automatically follow a stop; it is valid only if there is reasonable suspicion that a threat to officer safety exists.
- LO9: A frisk that goes beyond a mere pat-down for weapons is illegal.
- LO10: Officers cannot constitutionally squeeze, slide, or manipulate an object felt during the frisk (unless probable cause has suddenly been established). Doing that goes beyond a mere pat-down for weapons.
- LO11: For legal purposes, stationhouse detention should be considered equivalent to an arrest.

## **Chapter 6: Arrest and Use of Force**

- LO1: There are different types of seizure under the Fourth Amendment; an arrest is but one type.
- LO2: The more intrusive the seizure, the greater is the protection given by the courts.
- LO3: Whether a person has been seized or not is determined by the standard of a reasonable person under the same circumstances, not by the perception of a suspect or the police.
- LO4: An arrest has four elements: seizure and detention, intention to arrest, arrest authority, and understanding by the arrestee.
- LO5: There are specific requirements for arrests with a warrant and without a warrant.
- LO6: The common law rules for felony arrests, misdemeanor arrests, and citizen's arrests differ, but they are usually superseded by state law.
- LO7: There are rules, usually based on court cases and state law, for what an officer can and cannot do after an arrest.
- LO8: The Constitution requires that officers must knock and announce before making an arrest, but there are exceptions based on state law or court decisions.

## **Chapter 7: Searches and Seizures of Things**

- LO1: The constitutional right to privacy is often invoked in search and seizure cases in addition to the Fourth Amendment right against unreasonable searches and seizures.
- LO2: The term *search and seizure* is often used as one term; in reality, they are two different terms and refer to different acts.
- LO3: The phrase *reasonable expectation of privacy* requires that the person must have exhibited an actual expectation of privacy and the expectation must be one that society is prepared to recognize as reasonable.
- LO4: Four categories of things are subject to searches and seizures: contraband, fruits of the crime, instrumentalities of the crime, and "mere evidence" of the crime.
- LO5: There are many situations when a warrantless search is valid.
- LO6: It is important to know who can give valid consent to a search.

- LO7: There are four requirements for a search warrant: probable cause, supporting oath or affirmation, description of the place to be searched and persons or things to be seized, and magistrate's signature.
- LO8: An announcement of officer presence is required when serving a warrant, but there are exceptions.
- LO9: Special needs searches do not need a warrant or probable cause
- LO10: Case law on electronic searches and seizures is still evolving.

### **Chapter 8: Motor Vehicle Stops, Searches, and Inventories**

- LO1: Vehicle stops and searches may sound like one continuous act, but they are two separate acts and are governed by different rules.
- LO2: To be constitutional, vehicle stops need only reasonable suspicion but subsequent searches need probable cause
- LO3: This chapter lists the things an officer can legally do after a vehicle stop.
- LO4: Roadblocks do not need reasonable suspicion; all they need is a justification.
- LO5: *Carroll v. United States* (1925) is the first major case involving vehicles, but is a search (not a stop) case, and therefore needs probable cause instead of reasonable suspicion.
- LO6: Warrantless searches of motor vehicles are valid, but probable cause is required.
- LO7: The authority of the police to search a vehicle based on probable cause is -
- LO8: Inventory searches of vehicles are valid but must follow departmental rules.

### **Chapter 9: Plain View, Open Fields, Abandonment, and Border Searches.**

- LO1: Some types of searches and seizures are not protected in full by the Fourth Amendment. These are: plain view, open fields, abandonment, and border searches.
- LO2: The plain view doctrine has three requirements: officers must become aware of the items by seeing them, the officer must be in that specific location legally, and it must be immediately apparent that the item is subject to seizure.
- LO3: Inadvertence (accidental discovery) is no longer a requirement of plain view.
- LO4: The plain view doctrine allows evidence obtained without a warrant or probable cause to be used in court.
- LO5: Open fields do not come under the Fourth Amendment.
- LO6: Open fields begin where curtilage ends.
- LO7: Abandoned properties are not protected by the Fourth Amendment.
- LO8: Border searches do not come fully under the Fourth Amendment, but searches inside the border do.

### **Chapter 10: Line-ups and Other Means of Pretrial Identification**

- LO1: The police use three procedures in pretrial identification: lineups, showups, and photographic identifications.
- LO2: Suspects usually invoke four constitutional rights during these proceedings: the right to counsel, the right to due process, the right to protection against unreasonable searches and seizures, and the right to protection against self-incrimination.
- LO3: The rights to counsel and due process apply in lineups, showups, and photographic identification, but the rights to protection against unreasonable searches and seizures and self-incrimination do not.
- LO4: Studies have shown that eyewitness identification is unreliable and has resulted in numerous innocent convictions.

- LO5: The U.S. Department of Justice has issued guidelines for use in lineups, showups, and photographic identifications, in order to ensure fairness and reliability.
- LO6: There are other means of pretrial identification; including DNA testing, polygraph examination, Breathalyzer tests, handwriting, hair sample analysis, brain fingerprinting, and facial recognition.

### **Chapter 11: Confessions and Admissions: *Miranda v. Arizona***

- LO1: Before *Miranda*, voluntariness was the sole test for the admissibility of a confession or admission, but that standard was difficult for courts to apply.
- LO2: *Miranda v. Arizona* changed the rules on admissibility from voluntariness to the “three questions test.”
- LO3: The *Miranda* warnings must be given whenever there is custodial interrogation by the police.
- LO4: “Custodial interrogation” is one phrase, but it is composed of two separate terms: custody and interrogation.
- LO5: There are many situations, based on Court decisions, when the *Miranda* warnings are not required.
- LO6: The harmless error rule applies to *Miranda* cases on appeal.

### **Chapter 12: Basic Constitutional Rights of the Accused during the Trial**

- LO1: Ten basic rights are given to an accused during a trial; five are discussed in this chapter.
- LO2: Defendants have the right to trial by jury in all serious offenses; jurors cannot be disqualified because of race or gender.
- LO3: Defendants need counsel during trial and at every critical stage of the criminal proceeding.
- LO4: Defendants are entitled to “effective counsel,” but proving that defendant’s counsel was ineffective is difficult.
- LO5: A defense lawyer’s loyalty is to the client, not to society.
- LO6: Due process requires that evidence favorable to the accused must be disclosed by the prosecution; otherwise, the conviction is unconstitutional.
- LO7: The privilege against self-incrimination has different meanings for the accused and for witnesses, and applies only to testimonial, not physical, self-incrimination.
- LO8: To protect the right to a fair trial, publicity can be controlled by the judge in a number of ways.

### **Chapter 13: Sentencing, the Death Penalty, and other Forms of Punishment**

- LO1: Sentencing has four goals: rehabilitation, deterrence, incapacitation, and retribution.
- LO2: To minimize sentencing disparity, guidelines have been adopted by the federal government and the states.
- LO3: Judges have many options when sentencing juvenile offenders, including blended sentences.
- LO4: Sentences may be classified into five categories: death penalty, imprisonment, probation, intermediate sanctions, and fines, forfeiture, and restitution.
- LO5: The Court has resolved many issues involving the death penalty and continues to do so.
- LO6: Prisoners were once considered “slaves of the state,” but they now have constitutional rights.
- LO7: Probation is a privilege, not a right.
- LO8: Intermediate sanctions come in many forms and are widely used.
- LO9: The rights of victims are now provided for and well-established by law and state constitutional provisions.
- LO10: Victims’ rights are now given by the federal government and the states.

### **Chapter 14: Legal Liabilities of Law Enforcement Officers**

- LO1: Being sued is an occupational hazard in modern-day policing.
- LO2: Legal liabilities in police work fall into two categories: under federal law and under state law.
- LO3: Legal liabilities under federal and state laws further fall into three subcategories: civil, criminal, and administrative.
- LO4: An officer can be prosecuted under state and federal criminal laws for the same act, and the protection against double jeopardy does not apply.
- LO5: Civil liability under federal law (Section 1983) and under state law (state tort cases) have different requirements.
- LO6: Good faith (in federal law) and official immunity (in state tort cases) are the defenses often used in civil liability cases.
- LO7: In a civil liability case, plaintiffs often sue the officer, the supervisor, and the agency. The bases for liability for these defendants are different.
- LO8: Other consequences of police misconduct besides civil liabilities are criminal prosecutions, administrative investigations, exclusion of evidence illegally obtained, and revocation of law enforcement license.

### **(\*)Chapter 15: Electronic Surveillance and the War on Terror**

- LO1: There are two concepts on the issue of the constitutionality of electronic surveillance: the old and the new.
- LO2: Under the old concept, the Fourth Amendment did not apply unless there was “trespass”; under the new concept, the Fourth Amendment applies whenever there is a “reasonable expectation of privacy,” even if there is no trespass.
- LO3: Four federal laws govern electronic surveillance: Title III of the Omnibus Crime Control and Safe Streets Act of 1968, the Electronic Communications and Privacy Act (ECPA) of 1986, the Communications Assistance for Law Enforcement Act (CALEA) of 1994, and the Foreign Intelligence Surveillance Act (FISA) of 1978.
- LO4: Some types of electronic devices do not intercept communication, thus do not need a warrant.
- LO5: A GPS installation in a private motor vehicle without a warrant violates the Fourth Amendment.
- LO6: The USA PATRIOT Act increased the authority of government agents to conduct various types of surveillance.
- LO7: The Department of Homeland Security is an umbrella department whose task is to “mobilize and organize our nation to secure the homeland from terrorist attacks.”
- LO8: The role of police officers in the fight against terrorism is not well defined.
- LO9: Police departments differ on what they do to prevent terrorism. Large police departments have more collaboration with the federal government in the war on terror.
- LO10: Legal issues have emerged in the war on terror. Many of these issues have yet to be resolved by the Court.

(\*) Chapter(s) not assigned this semester.

**PROGRAM LEARNING OUTCOMES (PLO):** The graduating student will

- 1) Demonstrate proficiency in the application of legal concepts, theoretical applications, scientific principles, and historical trends in the criminal justice arena.
- 2) Demonstrate the application of organizational principles, cultural, social and behavioral

knowledge, critical thinking skills and cognitive thought processes within the criminal justice arena.

**SEMESTER CALENDAR, READING ASSIGNMENT AND EXAM DATES**

WEEK ONE: Aug. 26 & 28	Chapter 1: The Court System, Sources of Rights and Fundamental Principles Syllabus
WEEK TWO: Sept. 2 & 4	Chapter 2: Overview of the Criminal Justice Process Exam #1, Chapter 1: Sept. 2 <sup>nd</sup>
WEEK THREE: Sept. 9 & 11	Chapter 3: Probable Cause and Reasonable Suspicion Exam #2, Chapter 2: Sept. 9 <sup>th</sup>
WEEK FOUR: Sept. 16 & 18	Chapter 4: The Exclusionary Rule Exam #3, Chapter 3: Sept. 16 <sup>th</sup>
WEEK FIVE: Sept. 23 & 25	Chapter 5: Stop and Frisk and Stationhouse Detention Exam #4, Chapter 4: Sept. 23 <sup>rd</sup>
WEEK SIX: Sept. 30 & Oct. 2	Chapter 6: Arrest and Use of Force Exam #5, Chapter 5: Sept. 30 <sup>th</sup>
WEEK SEVEN: Oct. 7 & 9	Chapter 7: Searches and Seizures of Things Exam #6, Chapter 6: Oct. 7 <sup>th</sup>
WEEK EIGHT: Oct. 14 & 16	Chapter 8: Motor Vehicle Stops, Searches, and Inventories Exam #7, Chapter 7: Oct. 14 <sup>th</sup>
WEEK NINE: Oct. 21 & 23	Chapter 9: Plain View, Open Fields, Abandonment and Border Searches Exam #8, Chapter 8: Oct. 21 <sup>st</sup>
WEEK TEN: Oct. 28 & 30	Chapter 10: Line-ups, and Other Means of Pretrial Identification Exam #9, Chapter 9: Oct. 28 <sup>th</sup>
WEEK ELEVEN: Nov. 4 & 6	Chapter 11: Confessions and Admissions: <i>Miranda v. Arizona</i> Exam #10, Chapter 10: Nov. 4 <sup>th</sup>
WEEK TWELVE: Nov. 11 & 13	Chapter 12: Constitutional Rights of the Accused during the Trial Exam #11, Chapter 11: Nov. 11 <sup>th</sup>
WEEK THIRTEEN: Nov. 18 & 20	Chapter 13: Sentencing, the Death Penalty and other Forms of Punishment Exam #12, Chapter 12: Nov. 18 <sup>th</sup>
WEEK FOURTEEN: Nov. 25 & 27	<b>Thanksgiving Holidays – 26<sup>th</sup>, 27, 28<sup>th</sup></b> Exam #13, Chapter 13: Nov. 25 <sup>th</sup>
WEEK FIFTEEN: Dec. 2 & 4	Chapter 14: Legal Liabilities of Law Enforcement Officers No Exam December 2 <sup>nd</sup> due to Thanksgiving Holidays
WEEK SIXTEEN: Dec. 9 <sup>th</sup> – 12th	Final Exam Week Exam #14, Chapter 14: Dec. 9 <sup>th</sup>

