

**SUL ROSS STATE UNIVESRITY-RIO GRANDE COLLEGE
DEL RIO * EAGLE PASS * UVALDE
DEPARTMENT OF LIBERAL ARTS
CRIMINAL JUSTICE PROGRAM
COURSE SYLLABUS**

- COURSE TITLE:** CRIM 4305: Procedural Law
- COURSE PERIOD:** Online Web Course
- INSTRUCTOR:** Dr. Ferris Roger Byxbe (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 & 2:00 – 4:00 PM
- COURSE DESCRIPTION:** A study of the nature and function of the law with relation to the criminal justice process and policies and procedures in the administration of criminal justice. An analysis of the 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 4th Amendment. Students will read opinions of the Supreme Court and discuss the impact of those decisions on the balance between individual privacy rights and societal interests.
- TEXTBOOK:** Criminal Procedure: Law and Practice, 9th ed. (2014)
Rolando V. del Carmen
ISBN: 13: 978-1-285-06289-1
Wadsworth/Cengage Learning
- ACADEMIC SUCCESS:** Students enrolling in online Web Courses at Rio Grande College must be aware that such courses are not self-paced and require considerable vested time in order to meet requirements. Students should be prepared to devote a considerable amount of time to accomplish the requisites in this self-directed course of study. Each semester will require a student to devote approximately 12 hours per week to each web class – which equates to 3 hours of class time plus 9 hours of research, reading, writing and other course preparation.

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. Online web 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.
- Exams will consist of multi-formatted questions taken from weekly reading 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.
- 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.
- Do not attempt to take exams using a cell phone.

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
- will result in a failing grade for the exam.

The professor assumes no responsibility for student omissions or technology problems.

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 conclusions of each semester and grades are posted on Banner for student review.

COURSE OBJECTIVES: Upon 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

- Know that the United States has a dual court system – federal and state.
- Understand that court decisions are binding only in that court’s territorial jurisdiction.
- Be aware that some criminal cases can be tried in both federal and state courts.
- Understand the distinctions between jurisdiction and venue.
- Be aware that briefing decided cases is a good way to understand a court decision.
- Understand that the Internet is an easily accessible source of court decisions.
- Understand that there are four sources of legal rights.
- Know the incorporation controversy and the four approaches to incorporation.
- Understand the term “rule of law” has many meanings.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Chapter 2: Overview of the Criminal Justice Process

- Understand that the procedures used when processing suspects and defendants can be divided into three stages: before trial, during trial, and after trial.
- Understand that *before* trial, the procedure following this sequence:
 - Filing the complaint
 - Arrest
 - 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
 - Plea by the defendant
- Understand the procedure *during* trial follows the following sequence:
 - The selection of jurors
 - The 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

A verdict of guilty or not guilty

- Know the two main procedures after trial are sentencing and appeal.
- Understand that even while a defendant is serving time in jail or in prison, access to the court is always available by way of habeas corpus petition.
- Understand that although criminal procedure is governed by the Bill of Rights, procedures differ from one jurisdiction to another.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Duncan v. Louisiana (1968)

Boykin v. Alabama (1969)

Santobello v. New York (1971)

North Carolina v. Alford (1979)

County of Riverside v. McLaughlin (1991)

Chapter 3: Probable Cause and Reasonable Suspicion

- Understand that law enforcement officers must be thoroughly familiar with the concept of probable cause.
- Know and understand the legal and practical definitions of probable cause.
- Understand that the definition of probable cause is the same in various areas of law enforcement work but the focus may be different.
- Know that it is better to have a warrant when making arrests or seizures.
- Know the three ways in which probable cause can be established.
- Understand that reasonable suspicion is based on the “totality of circumstances” and not simply on a single factor.
- Understand that reasonable suspicion has a lower degree of certainty than probable cause.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Michigan v. Summers (1981)

Brinegar v. United States (1949)

Spinelli v. United States (1969)

United States v. Leon (1984)

Alabama v. White (1990)

Chapter 4: The Exclusionary Rule

- Understand that the purpose of the exclusionary rule is to deter police misconduct.
- Understand that the exclusionary rule is judge-made and can be eliminated by the courts.
- Understand that *Mapp v. Ohio* extended the exclusionary rule to state criminal proceedings.
- Understand that illegally seized evidence and the fruit of the poisonous tree are both excludable.
- Know and understand the four general exceptions to the exclusionary rule.
- Know and understand the five types of proceedings to which the rule does not apply.
- Know the arguments for and against the exclusionary rule.

- Know the alternatives to the exclusionary rule.
- Know the significance of all US Supreme Court and 5th Circuit Court cases.

Key Cases:

Elkins v. United States (1960)

Mapp v. Ohio (1961)

Silverthorne Lumber Co. v. United States (1920)

Massachusetts v. Sheppard (1984)

United States v. Leon (1984)

Chapter 5: Stop and Frisk and Stationhouse Detention

- Understand that reasonable suspicion is necessary for either a stop or a frisk to be valid.
- Understand that *Terry v. Ohio* is the leading case in stop and frisk and one of the most important cases in criminal justice.
- Understand that in some cases, unprovoked flight justifies a stop.
- Understand that stops based on hearsay information, an anonymous tip, or a flyer from another jurisdiction, are valid.
- Understand that stops based on race alone are not valid, but that lower courts disagree on whether race can be taken as one factor in determining reasonable suspicion for a stop.
- Understand that persons stopped by the police cannot be forced to answer questions, but can be forced to identify themselves if this is authorized by state law.
- Understand that a frisk does not automatically follow a valid stop, and is justified only if an officer has reasonable suspicion that a threat to his or her safety exists.
- Understand that a frisk that goes beyond a mere pat-down for weapons is illegal.
- Understand that stationhouse detentions are intimidating and should be considered the equivalent to arrest.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Terry v. Ohio (1968)

Illinois v. Wardlow (2000)

Florida v. Royer (1983)

Minnesota v. Dickerson (1993)

Pennsylvania v. Mimms (1977)

Chapter 6: Arrest and Use of Force

- Understand that there are different types of seizures under the Fourth Amendment, of which an arrest is only one type.
- Understand that the more intrusive the seizure, the greater the protection given by the courts.
- Understand that 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.
- Know the four elements of an arrest.

- Know the various types of proceedings that occur after arrest.
- Know the specific requirements for arrest with and without a warrant.
- Know that the common law rules for felony arrests, misdemeanor arrests, and citizen's arrest differ, but that they are usually replaced by state law.
- Know the rules for what an officer can and cannot do after an arrest.
- Know that officers must follow certain procedures after making an arrest.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Payton v. New York (1980)

Wilson v. Arkansas (1995)

Atwater v. City of Lago Vista (2001)

Tennessee v. Garner (1985)

Brigham City, Utah v. Stuart (2006)

Chapter 7: Searches and Seizures of Things

- Understand that the constitutional rights to privacy is often invoked in search and seizure cases in addition to the Fourth Amendment protections against unreasonable searches and seizures.
- Know that the phrase “reasonable expectation of privacy” is important in search and seizure cases.
- Know the four categories of things subject to searches and seizures.
- Know the four things required to issue a search warrant.
- Know that searches have specific rules limiting their scope, duration, and procedures.
- Know that warrantless searches and seizures are legal in many instances.
- Know that electronic surveillance is governed primarily by three federal laws, which are supplemented by state laws.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Chimel v. California (1969)

United States v. Robinson (1973)

New York v. Belton (1981)

Wilson v. Arkansas (1995)

Georgia v. Randolph (2006)

Chapter 8: Motor Vehicle Stops, Searches, and Inventories

- Be able to apply the basic rules of stop and frisk, probable cause, and warrantless searches to situations involving motor vehicles.
- Understand the automobile or movable vehicle exception to the warrant requirement.
- Be aware of the rules regarding search incident to a lawful arrest in motor vehicle situations.
- Be familiar with the legal rules regarding inventory searches of motor vehicles.
- Understand the rules for searches of containers inside motor vehicles.
- Be familiar with the justifications for seizing and impounding vehicles.

- Be aware of the rules for searching and seizing motor homes.
- Understand the limitations on the use of beepers in motor vehicle and other situations.
- Be aware that department regulations or state law may impose more restrictions on the police than are imposed by the Fourth Amendment.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key cases:

Carroll v. United States (1925)

New York v. Belton (1981)

United States v. Ross (1982)

Whren v. United States (1996)

Atwater v. City of Lago Vista (2001)

Chapter 9: Searches and Seizures Not Fully Protected by the Fourth Amendment: Plain View, Open Fields, Abandonment, and Border Searches.

- Understand that the plain view doctrine has three requirements:
Officers must become aware of the items by seeing them in plain view
The officer must be in that specific location legally
It must be immediately apparent that the item is subject to seizure
- Understand that inadvertence (accidental discovery) is no longer a requirement of plain view.
- Understand that the plain view doctrine allows evidence obtained without a warrant or probable cause to be used in court.
- Understand that open fields do not come under the Fourth Amendment.
- Know that open fields begin where curtilage ends.
- Know that abandoned properties are not protected by the Fourth Amendment.
- Understand that border searches at the point of entry do not come under the Fourth Amendment, but that searches inside the border do.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Horton v. California (1990)

Boyd v. United States (1886)

United States v. Dunn (1987)

Oliver v. United States (1984)

United States v. Ramsey (1977)

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

- Know that the police use three procedures in pretrial identification: line-ups, show-ups, and photographic identifications.
- Understand that 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.
- Understand that the rights to counsel and to due process apply in line-ups, show-ups, and photographic identification, but that the rights to protection against unreasonable searches and seizure and self-incrimination do not.

- Know that the U.S. Department of Justice has issued guidelines for use in line-ups, show-ups, and photographic identification, which seek to ensure fairness and reliability.
- Know about other means of pretrial identification, such as DNA testing, polygraph examination, Breathalyzer tests, hair samples, and brain fingerprinting.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Kirby v. Illinois (1972)

Gilbert v. California (1967)

United States v. Wade (1967)

Neil v. Biggers (1972)

Daubert v. Merrell Dow Pharmaceuticals, Inc. (1993)

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

- Understand that before *Miranda*, voluntariness was the sole test for the admissibility of a confession or admission, but the standard was difficult for courts to apply.
- Understand that *Miranda v. Arizona* changed the rules on admissibility from voluntariness to the “three question test.”
- Understand that the *Miranda* warnings must be given whenever there is custodial interrogation by the police.
- Understand that the single phrase “custodial interrogation” is actually composed of two separate terms: custody and interrogation.
- Understand that there are many situations, based on Court decisions. When the *Miranda* warnings are not required.
- Understand that the “harmless error” rule applies to *Miranda* cases on appeal.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Miranda v. Arizona (1966)

Dickerson v. United States (2000)

Edwards v. Arizona (1981)

Berkemer v. McCarty (1984)

Arizona v. Fulminante (1991)

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

- Know that there are ten basic rights given to an accused during a trial.
- Know that defendants have the right to trial by jury in all serious offenses, and that jurors cannot be disqualified because of race or gender.
- Know that defendants need counsel during trials, that there is a process for appointing lawyers, and that defendants are entitled to “effective counsel.”
- Know that a defense lawyer’s loyalty is to the client, not to society.
- Know that due process required that any evidence favorable to the accused be disclosed by the prosecution; otherwise, the conviction is unconstitutional.
- Know that the privilege against self-incrimination has different meanings for the accused and for witnesses, and that it applies only to testimonial, not physical, self-incrimination.

- Know that double jeopardy applies to both the “same offense” and any “lesser included offenses.”
- Know that defendants have the right to confront witnesses and to be present at all stages of the trial.
- Know that the right to a fair trial may be controlled by the court in a number of ways.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases

Key Cases:

Batson v. Kentucky (1986)

J.E.B. v. Alabama (1994)

Lockhart v. McCree (1986)

Gideon v. Wainwright (1963)

Brady v. Maryland (1963)

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

- Understand that sentencing has various goals that may not be consistent with each other.
- Discuss how a grossly disproportionate sentence would constitute cruel and unusual punishment.
- Explain how judges have many options when sentencing juvenile offenders, including blended sentences.
- Explain the five sentencing categories: imprisonment; probation; intermediate sanctions; fines, forfeiture, and restitution; and the death penalty.
- Describe how the Court has resolved many issues involving the death penalty and continues to do so.
- Understand how prisoners were once considered “slaves of the state,” but now have constitutional rights.
- Recognize that probation is a privilege, not a right.
- Explain how intermediate sanctions come in many forms and are widely used.

Key Cases

Weems v. United States (1910)

Gregg v. Georgia (1976)

Roper v. Simmons (2005)

Wolff v. McDonnell (1974)

Baze v. Reese (2008)

Chapter 14: Legal Liabilities of Public Officers

- Understand that being sued is an occupational hazard in modern-day policing.
- Understand that legal liabilities in police work fall into two categories: under federal law and under state law.
- Understand that legal liabilities under federal and state laws further fall into three subcategories: administrative, civil, and criminal.
- Understand that an officer can be prosecuted under state law and federal criminal laws for the same act, and that the protection against double jeopardy does not apply.
- Understand that civil liability under federal law (Section 1983) and under state law (state

tort case) has different requirements.

- Understand that good faith (in federal law) and official immunity (in state tort cases) are the defenses often used in civil liability cases.
- Understand that in a civil liability case, plaintiffs often sue the officer, the supervisor, and the agency. The bases for liability for these defendants are different.
- Understand that other consequences of police misconduct besides civil liabilities are criminal prosecutions, exclusion of evidence illegally obtained, administrative investigation, and revocation of law enforcement license.
- Know the significance of all US Supreme Court and US 5th Circuit Court cases.

Key Cases:

Harlow v. Fitzgerald (1982)

Town of Castle Rock v. Gonzales (2005)

Groh v. Ramirez (2004)

Brosseau v. Haugen (2004)

Scott v. Harris (2007)

(*)Chapter 15: Terrorism and Electronic Surveillance

- Understand how the basic provisions of the USA Patriot Act of 2001 had a significant impact on Homeland Security, and the USA Patriot Act of 2006 amended it.
- Describe how Fusion Centers are intelligence centers run by various U.S. states.
- Describe that the purpose of the Department of Homeland Security is to “mobilize and organized our nation to secure the homeland from terrorist attacks.”
- Explain how the role of police officers in the fight against terrorism is not well defined.
- Explain how some efforts on the local law enforcement level prevent and minimize terrorism.
- Discuss the many legal issues inherent in the fight against terrorism.
- Explain the differences in the old and the new concepts on the constitutionality of electronic surveillance.
- Understand the four federal laws that govern electronic surveillance: Title III of the Omnibus Crime Control and Safe Streets Act of 1968, FISA, ECPA and CALEA.
- Discuss the debate as to whether consent is sufficient in wiretapping cases.
- Describe some types of electronic devices that do not intercept communications.

Key Cases

Berger v. New York (1967)

Katz v. United States (1967)

Kyllo v. United States (2001)

Hamdi v. Rumsfeld (2004)

Rasul v. Bush (2004)

(*) Chapters not assigned this semester.

SEMESTER CALENDAR, READING ASSIGNMENT AND EXAM DATES

WEEK ONE: Aug. 22 - 26	Chapter 1: The Court System and Sources of Rights
WEEK TWO: Aug. 29 – Sept. 2	Chapter 2: Overview of the Criminal Justice Process Exam #1: Chapter 1: Aug. 30 th
WEEK THREE: Sept. 5 – 9	Chapter 3: Probable Cause and Reasonable Suspicion Exam #2: Chapter 2: Sept 6 th
WEEK FOUR: Sept. 12 - 16	Chapter 4: The Exclusionary Rule Exam #3: Chapter 3: Sept.13 th
WEEK FIVE: Sept 19 - 23	Chapter 5: Stop and Frisk and Stationhouse Detention Exam #4: Chapter 4: Sept. 20 th
WEEK SIX: Sept 26 – 30	Chapter 6: Arrest and Use of Force Exam #5: Chapter 5: Sept. 27 th
WEEK SEVEN: Oct. 3 – 7	Chapter 7: Searches and Seizures of Things Exam #6: Chapter 6: October 4 th
WEEK EIGHT: Oct. 10 - 14	Chapter 8: Motor Vehicle Stops, Searches, and Inventories Exam #7: Chapter 7: October 11 th
WEEK NINE Oct. 17 - 21	Chapter 9: Searches and Seizure: Not Fully Protected by the Fourth Amendment: Plain View, Open Fields, Abandonment and Border Searches Exam #8: Chapter 8: October 18 th
WEEK TEN: Oct. 24 – 28	Chapter 10: Lineups, and Other Means of Pretrial Identification Exam #9: Chapter 9: Oct. 25 th
WEEK ELEVEN: Oct. 31 – Nov. 4	Chapter 11: Confessions and Admissions: <i>Miranda v. Arizona</i> Exam #10; Chapter 10: Nov. 1 st
WEEK TWELVE: Nov. 7 – 11	Chapter 12: Constitutional Rights of the Accused during the Trial Exam #11: Chapter 11: Nov. 8 th
WEEK THIRTEEN: Nov. 14 – 18	Chapter 13: Sentencing, the Death Penalty and other forms of Punishment Exam #12: Chapter 12: Nov. 15 th

WEEK FOURTEEN:

Nov. 21 - 25 **Thanksgiving Holidays NO Classes 23rd, 24th, 25th.
No Exam this week**

WEEK FIFTEEN:

Nov. 30 – Dec 2 Chapter 14: Legal Liabilities of Public Officers
Exam #13: Chapter 13: Nov. 29th

WEEK SIXTEEN:

Dec. 7 – 10 Exam #14: Chapter 14: Dec. 6th
None Scheduled

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.

Distance Education Statement: Students enrolled in distance education courses have equal access to the university's academic support services, library resources, and instructional technology support. For more information about accessing these resources, visit the SRSU website. Students should submit online assignments through Blackboard or SRSU email, which require secure login information to verify students' identities and to protect students' information. *[If the course requires students to take proctored exams or to purchase additional software or equipment, please describe those requirements here.]* The procedures for filing a student complaint are included in the student handbook. Students enrolled in distance education courses at Sul Ross are expected to adhere to all policies pertaining to academic honesty and appropriate student conduct, as described in the student handbook. Students in web-based courses must maintain appropriate equipment and software, according to the needs and requirements of the course, as outlined on the SRSU website.