

**RUTGERS UNIVERSITY  
DEPARTMENT OF CRIMINAL JUSTICE**

**CRIMINAL PROCEDURE – SPRING 2012**

**01:202:205:01**

T/Th 5-6:20

LCB 109

Instructor: Philip Nettl, Esq.  
Phone: (732) 745-9000  
Email: [philnettl@gmail.com](mailto:philnettl@gmail.com)  
Office Hours: Tues 6:30 – 7:30 pm, Livingston Library

**TEXTBOOK:** Samaha, Joel (8<sup>th</sup> Edition) Criminal Procedure (Wadsworth/Cengage)

**OBJECTIVES:**

- Provide a working knowledge of constitutional rights in the context of criminal law
- Focus on the concept of reasonableness of restraints on those rights
- Gain an understanding of the public policy considerations underlying the substantive criminal law and the manner in which such policies are effectuated through criminal procedural requirements
- Study specific procedural law issue/requirements, including right to counsel, exclusionary rule; search warrant; permissible warrantless searches; stop and frisk, entrapment, wiretapping, confessions, lineups, jury selection, voir dire, negotiated pleas, post conviction relief

**LEARNING GOALS FOR CRIMINAL JUSTICE MAJORS**

**A Statement of Principles:**

The Program Committee for the Program in Criminal Justice at Rutgers University in New Brunswick has adopted a series of learning goals for students who complete the major. These goals represent the consensus of the faculty regarding the concepts a student should grasp and the skills a student should acquire in the course of completing the major. These goals guide the choices faculty make about the structure of the curriculum and the requirements for our majors. Moreover, they guide faculty and instructors preparing course material and teaching courses.

The Program in Criminal Justice will provide students with a rich understanding of crime and criminal justice in the United States and abroad through an interdisciplinary approach that blends a strong liberal arts educational experience with pre-professional instruction in the field of criminal justice. Graduates of the program will be well-informed citizens on the topic of crime and justice, and qualified for graduate study or for employment as practitioners in a variety of legal, policymaking, and law enforcement fields.

Criminal justice majors graduating from a research university should be able to use critical thinking, factual inquiry, and the scientific approach to solve problems related to individual and group behavior. In addition, students should have an understanding of the legal, political and policymaking processes that affect criminal justice systems in the United States and elsewhere in the world. Finally, students should be familiar with the institutional structures and latest developments in the field in order to engage in meaningful debate about current public policy issues.

## **Learning Goals:**

### **1. Competence:**

- a) **Theory.** Students who complete the major in Criminal Justice should understand and be able to articulate, both orally and in writing, the core theoretical concepts that form the foundation of analysis and research in criminology and criminal justice today. Core concepts are derived from explanations of crime from a variety of perspectives, including biogenic, psychological, and sociological approaches. There are myriad theories of crime that are informed by these perspectives, including, classical, control, critical, ecology, labeling, learning, strain, and trait-based approaches. Theoretical literacy should extend to multicultural and international understanding.
- b) **Institutions.** Students who complete the major in criminal justice should understand the special role of three types of institutions: Police, Corrections, and Courts. In addition, students should know how institutional forms vary across jurisdictions and how these institutions interact with and influence each other.
- c) **Research Methods.** Students who complete the Criminal Justice major should be familiar with the tools, techniques, and data sources necessary for empirical analysis. Students should understand the various ways that empirical analysis is used in the scientific approach: for description, for developing, and for testing theories. They should be able to analyze data using computer applications and should be familiar with basic statistical techniques and regression analysis. They should be able to read and assess research from a wide range of sources, including general interest, academic, and government publications.

### **2. Critical Thinking.**

Upon completion of the major students should be able to apply their understanding of core concepts and quantitative tools to analyze and research real world problems, and evaluate alternative policy proposals on a range of criminal justice issues, from micro-level analyses relevant to particular cases to management concerns to macro-level analyses of legislative and other broad-scale policies. Accomplishment of this goal will require that students can apply their literacy and numeracy skills to different institutional structures, within the U.S. and across countries.

### 3. Scholarship.

Qualified majors should have an opportunity through such avenues as advanced coursework, internships, and faculty interactions to conduct independent research on matters of central relevance to the field of criminal justice.

**EXAMS:** There will be three (3) non-cumulative exams covering material from the texts, lecture and discussion.

**PRESENTATIONS:** Students will be responsible for leading one or more class discussions on a selected case during each class session. The discussion will focus on the facts of the case, the Court's decision, rule of law, and the underlying public policy. Assignments will be made during the first class meeting.

**PREPARATION:** The assigned readings are the basis of discussion for each class session. Students are expected to have read the assigned material **before** class.

**PARTICIPATION:** Active participation is expected in all class discussions, including the discussions led by fellow students. Solid preparation and participation will result in an improved Grade.

<b>GRADING:</b>	Exam #1	30%
	Exam #2	30%
	Exam #3	30%
	Oral presentation	7.5%
	Class participation	2.5%

The final grade will be assigned based upon the following scale:

A	=	90-100	C	=	70-74.9
B+	=	85-89.9	D	=	60-69.9
B	=	80-84.9	F	=	below 60
C+	=	74-79.9			

**MAKE-UP EXAM:** The administration of make-up exams will be contingent upon a **legitimate** excuse (i.e., illness, family death, unexpected emergency situation), presented **prior** to the test period in most cases. The make-up will be given **IMMEDIATELY** upon termination of the condition that caused the student to miss the original exam. Failure to take the make-up as scheduled will result in a grade of zero. Note: there is no **RIGHT** to take a make-up; it is a **PRIVILEGE** permitted only under extenuating circumstances **at the discretion of the professor.**

**ATTENDANCE:** Given the size of this class, regular attendance will not be taken. However, consistent attendance (or absence) will be noted to assist with borderline grades. Nevertheless, the exams are composed of information from class lectures, reading material and oral presentations. As a result, it is nearly impossible to pass the class without a consistent attendance pattern.

**LATENESS:** It is essential that you arrive on time for the beginning of the class. The instructor will exclude persistent latecomers. On the day of a test, any late arrivals will result in a ½ letter grade deduction from the test score.

**CHEATING:** You are expected to do your work. Sanctions for cheating and plagiarism will be levied in accordance with the **University Policy on Academic Integrity**. You should familiarize yourself with this policy, which can be accessed at [www.Rutgers.edu/catalog/nb-ug.html](http://www.Rutgers.edu/catalog/nb-ug.html). Suspected cases of policy violations will be reported to the Department Chair and to the appropriate Dean.

**LATE SUBMISSIONS:** It is essential that all requirements be completed on the date specified by the Professor. Failure to follow the schedule will result in a deduction of a letter grade from the assignment and additional letter grades deducted from the assignment and letter grades deducted for each subsequent 24 hour period.

**SPECIAL ACCOMMODATIONS:**

Students with disabilities who need special accommodations for this class are encouraged to meet with me or the appropriate disability service provider on campus as soon as possible. In order to receive accommodations, students must be registered with the appropriate disability service provider on campus and must follow the University procedure for self-disclosure. Students will not be afforded any special accommodations for academic work completed prior to disclosure of the disability and completion of the registration process with the appropriate disability service provider on campus.

**CRIMINAL PROCEDURE**  
**01:202:205**

**COURSE OUTLINE AND ASSIGNMENTS**

- Jan. 17:           **Introduction:** Course requirements; overview of criminal procedure -- What it is and how it differs from substantive criminal law, judicial administration and other aspects of constitutional law; Discussion of the concepts of due process and fundamental fairness.
- Jan. 19:           Chap. 1:        Crime Control in a Constitutional Democracy
- Jan. 24:           Chap. 2:        Criminal Procedure and the Constitution
- Jan. 26:           Chap. 3:        The Definition of Search and Seizures
- Jan. 31, Feb. 2:   Chap. 4:        Stop and Frisk
- Feb. 7:           **REVIEW**
- Feb. 9:           ***EXAM #1 (CHAPTERS 1-4)***
- Feb. 14, 16:       Chap. 5:        Seizures of Persons: Arrest
- Feb. 21, 23:       Chap. 6:        Searches for Evidence
- Feb. 28, Mar. 1:   Chap. 7:        Special Needs Searches
- Mar. 6:           **REVIEW**
- Mar. 8:           ***EXAM #2 (CHAPTERS 5, 6, 7)***
- Mar. 13, 15:       **No Class – Spring Break**
- Mar. 20, 22:       Chap. 8        Self-Incrimination
- Mar. 27, 29:       Chap. 9:        Identification Procedures
- Apr. 3:           Chap. 10:      Remedies for Constitutional Violations I: Exclusionary Rule and Entrapment
- Apr. 5:           Chap. 11:      Constitutional Violations II: Other Remedies against Official Misconduct

Apr. 10: Chap. 12: Proceedings I: Before Trial

Apr. 12: Chap. 13: Court Proceedings II: Trial and Conviction

Apr. 17: Chap. 14: After Conviction

Apr. 19: Chap. 15: Criminal Procedure in Crisis Time

Apr. 24: **REVIEW**

Apr. 26: ***EXAM #3 (CHAPTERS 8-15)***

**KEY AMENDMENTS TO THE CONSTITUTION  
AFFECTING THE JUDICIAL PROCESS**

**THE FOURTH AMENDMENT**

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**THE FIFTH AMENDMENT**

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy or life or limb; *nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law*; nor shall private property be taken for public use without just compensation.

**THE SIXTH AMENDMENT**

*In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

**THE EIGHT AMENDMENT**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

CASE ASSIGNMENTS: SPRING 2012 CRIMINAL PROCEDURE

**CASE**

**STUDENT**

***CHAPTER 2***

Powell v Alabama (Scottsboro Boys)\_\_\_\_\_

Brown v Mississippi\_\_\_\_\_

Rochin v Cal\_\_\_\_\_

US v Armstrong\_\_\_\_\_

***CHAPTER 3***

Katz v US\_\_\_\_\_

California v Greenwood\_\_\_\_\_

US v White\_\_\_\_\_

US v Kyllo\_\_\_\_\_

Illinois v Caballes\_\_\_\_\_

Cal v Hodari D\_\_\_\_\_

***CHAPTER 4***

Terry v Ohio\_\_\_\_\_

Adams v Williams\_\_\_\_\_

US v Cortez (text case, p. 99)\_\_\_\_\_

Florida v J. L. (text case, p. 100)\_\_\_\_\_

Illinois v Wardlow\_\_\_\_\_

US v Sokolow (text case, p. 112)\_\_\_\_\_



Chapter 4 (continued)

US v Sharpe and Savage (text case, p. 113)\_\_\_\_\_

Hilbel v 6<sup>th</sup> Judicial Court, Nevada (new)\_\_\_\_\_

Minnesota v Dickerson\_\_\_\_\_

Maryland v Wilson\_\_\_\_\_

Arizona v Johnson (new)\_\_\_\_\_

US v Montoya de Hernandez\_\_\_\_\_

Michigan v Sitz\_\_\_\_\_

**CHAPTER 5**

Draper v US\_\_\_\_\_

Payton v NY (text case, p. 151)\_\_\_\_\_

Brigham City v Stuart and Taylor (new)\_\_\_\_\_

Tenn v Garner\_\_\_\_\_

Graham v Connor\_\_\_\_\_

Kuha v City of Minnetonka\_\_\_\_\_

Atwater v City of Lago Vista\_\_\_\_\_

**CHAPTER 6**

Wilson v Arkansas\_\_\_\_\_

US v Banks (text case, p. 183)\_\_\_\_\_

Chimel v Cal\_\_\_\_\_

NY v Belton (text case, p. 187)\_\_\_\_\_

Arizona v Gant\_\_\_\_\_

Knowles v Idaho\_\_\_\_\_

Whren v US\_\_\_\_\_

Schneekloth v Bustamonte\_\_\_\_\_

State v. Carty (text case, p. 202)\_\_\_\_\_

US v Rodney\_\_\_\_\_

US v Gray\_\_\_\_\_

Illinois v Rodriguez\_\_\_\_\_

Caroll v US (text case, p. 219)\_\_\_\_\_

Wyoming v Houghton\_\_\_\_\_

**CHAPTER 7**

S. Dakota v Opperman (new)\_\_\_\_\_

Samson v California\_\_\_\_\_

State v Ellis (new)\_\_\_\_\_

Ferguson v Charleston (new)\_\_\_\_\_

NJ v T. L. O. (p. 261)\_\_\_\_\_

**CHAPTER 8**

Miranda v Ariz\_\_\_\_\_

Berkemer v McCarty\_\_\_\_\_

NY v Quarles (text case, p. 277)\_\_\_\_\_

Brewer v Williams (text case, p. 279)\_\_\_\_\_

N.C. v Butler (text case, p. 281)\_\_\_\_\_

Berghus v Thompkins (new)\_\_\_\_\_

Colorado v Connelly\_\_\_\_\_

State v Bowe (text case, p. 289)\_\_\_\_\_

**CHAPTER 9**

Manson v Brathwaite\_\_\_\_\_

State v Clopen (new)\_\_\_\_\_

DA v Osborne Crew (new)\_\_\_\_\_

Neil v Biggers, (text case, p. 307)\_\_\_\_\_

**CHAPTER 10**

Mapp v Ohio\_\_\_\_\_

US v Leon (text case, p. 343-345)\_\_\_\_\_

Herring v US (new)\_\_\_\_\_

Arizona v Evans (text case, p. 347)\_\_\_\_\_

Jacobson v US (new)\_\_\_\_\_

**CHAPTER 11**

Anderson v Creighton\_\_\_\_\_

Pinder v Johnson\_\_\_\_\_

**CHAPTER 12**

County of Riverside v McLaughlin\_\_\_\_\_

US v Salerno\_\_\_\_\_

Gideon v Wainwright (text case, p. 409-411)\_\_\_\_\_

Rompilla v Beard (new)\_\_\_\_\_

Renico v Lett (new)\_\_\_\_\_

**CHAPTER 13**

Ballew v Geo (text case, p. 445)\_\_\_\_\_

Lockhart v McCree (not in text) \_\_\_\_\_

Snyder v La \_\_\_\_\_

NC v Alford (text case, p. 462) \_\_\_\_\_

**CHAPTER 14**

Ewing v California (text case, p. 489) \_\_\_\_\_

Lockyear v. Cal (new) \_\_\_\_\_

Gall v US (new) \_\_\_\_\_

**CHAPTER 15**

Hamden v Rumsfeld (text case, p. 520) \_\_\_\_\_

Boumediene v Bush \_\_\_\_\_

US v Martinez v Fuerte \_\_\_\_\_

Demore v Kim \_\_\_\_\_