

# POL 202 Criminal Law and Procedure

## Winter, Term II

Dr. Mantzopoulos

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Office Hours: 9-9:50 MWF, 1-2 Friday, 10-11 Tues and by appointment

### **Course Description:**

This course surveys the practice and theory of American criminal law. Students will obtain an understanding of both substantive criminal law and criminal procedure. The course will define criminal responsibility and address the major felonies recognized in most jurisdictions. It will also survey some common law crimes. The second part of the course focuses on the criminal procedure as described by the Fourth, Fifth, and Sixth Amendments to the U.S. Constitution. Topics to be discussed include arrests, sentencing, appeals, search and seizure, right to an attorney and the exclusionary rule. The course is a blend of theory and case analysis in areas of criminal law and procedure.

There are no prerequisites for the course, although a basic understanding of the structure of the courts may assist in understanding the foundational issues. Students will also obtain an understanding of briefing court cases.

### **Text:**

Ronald J. Bacigal, *Criminal Law and Procedure: An Introduction*. 2<sup>nd</sup> Edition, West Publishing Company, 2002. ISBN 0-7668-3083-7

Also available is a student study guide, the purchase of this guide is completely optional.

### **Examination:**

There will be two exams worth 35% each. Each exam will cover cases as well as issues. All exams are written essay exams. Students are expected to write with proper spelling and grammar. Emphasis on questions concerning cases is placed on identifying the significance of a case. The court's legal questions and opinions are important. The facts of the case should be limited. Students should study for the exam by identifying cases that develop themes. The themes are often developed with cases that seemingly are unrelated. Cases on different topics from different chapters are often related by a specific judicial philosophy or application. The final exam is not cumulative. **ABSOLUTELY NO MAKE-UP EXAMS!!!** Students arriving late will have only the remaining allocated time to complete the exam.

### **Simulation:**

Each student will participate in a simulated trial-court session. The whole class will participate in a trial representing an issue before the U.S. District Court. Each student will have a role as a judge, jury, plaintiff, respondent, legal counsel, or other actor. Some students will be grouped together as legal staffs, jury or witnesses. A few students may play double roles as assigned by the instructor. Each student must also submit a report of their activities, their role, and rationale for their position. The report must also contain a copy of the brief, if an attorney, submitted to the court, or the decision if the student is playing the role of a judge. The simulation is worth 25% of the final course grade. Attendance is mandatory during all days of the simulation. Every absence during the simulation will result in a full grade reduction in the simulation grade as well as affect the overall attendance policy of the class, as outlined below.

### **Class Participation:**

All cases assigned to be read will be briefed by the students in the class. Each student will be expected to brief 2-3 cases (depending on the class enrollment) during the semester. The brief must be orally presented at the front of the classroom. A written one-page single-spaced copy must be submitted to the professor at the beginning of the presentation. A guideline describing the format of a brief is attached, with another found in the appendix of the text. Missed class briefs will result in a reduction of the participation grade and count toward the class absenteeism policy outlined below. A student arriving late as their case is already being briefed by the instructor or other student will not be allowed to complete the brief. Missed briefs will not be rescheduled.

Extra credit will be given to those students who give a brief that they were not scheduled to give. At no time will extra credit exceed points deducted when a scheduled brief was missed. All briefs will total 5% of the final grade.

### **Attendance:**

Class attendance is especially important in this class. Student understanding of court cases is supported by hearing every case briefed in class. The significance of a case is always discussed in the class and is not always apparent by reading the case. Points will be deducted from the final grade based on the following absences (any student arriving late or leaving early will be considered absent):

0-1 0% deduction, 2-3 5% deduction, 4-5 10% deduction, 6 or more 20% deduction

The instructor reserves the right to deny any student missing 5 or more class meetings participation on any project or exam. The student may be required to withdraw from the course.

**Grading Scale:**

The following grading scale is used for the final course grade: 92-100% A, 90-91% A-, 88-89% B+, 82-87% B, 80-81% B-, 78-79% C+, 72-77% C, 70-71% C-, 68-69% D+, 60-67% D, 0-59% F.

**Notes:**

The instructor reserves the right to make necessary changes to these requirements.

The instructor reserves the right to set a seating arrangement at any time.

Students leaving early or arriving late will be considered absent from class.

Plagiarism, fraud, or academic misconduct will result in an F for the course and a report to the Dean's office.

Please remember that moot court meetings and class sessions have mandatory attendance, each missed day will result in a grade deduction and may prevent the student from full participation in the remaining sessions.

Please remember that missed briefs will not be made up. Partial credit will be given for the submission of the written brief.

Please attempt to respect the instructor and the students. If you arrive late, please enter quietly.

Try to refrain from leaving and re-entering the classroom, or do so with little distraction to the class.

## READINGS AND CASE SCHEDULE

Jan	5	Introduction	
	7	Service Learning Speaker	
	9	Defining and Proving Crimes	Chapter 1
	12	Essential Elements of Crimes	Chapter 2
	14	Chapter 2 cases: _____ Commonwealth v. Olshefski	
	16	Parties to a Crime	Chapter 3
	21	Chapter 3 cases: _____ Bailey v. Commonwealth _____ Thacker v. Commonwealth _____ People v. Rizzo	
	23	Defenses	Chapter 4
	26	Defenses	
	28	Chapter 4 cases: _____ U.S. v. Cally _____ Braun v. State _____ M <sup>3</sup> Naghten Case _____ Jacobson v. U.S.	
30	Crimes against a Person	Chapter 5	
Feb	2	Crimes against a Person	
	4	Chapter 5 cases: _____ Keeler v. Superior Ct. _____ People v. Stamp _____ State v. Harrington _____ State v. Rusk	
	6	Crimes against Property and Habitation	Chapter 6
	9	Chapter 6 cases _____ People v. Olivo _____ Barnes v. U.S. _____ State v. Howe	
	11	Crimes against Public Order and Public Morality	Chapter 7
	13	Chapter 7 Cases _____ Thompson v. City of Louisville _____ City of Houston v. Hill _____ American League v. U.S. _____ Davis v. Commonwealth _____ Tucker v. Commonwealth _____ Hart v. Commonwealth _____ Bowers v. Hardwick	
	16	Midterm Exam	
	18	Introduction to Procedure and the Right to Counsel	Chapter 8
	20	Chapter 8 cases _____ Rochin v. California _____ Gideon v. Wainwright	
	23	Seizures of a Person and Identification Procedures	Chapter 9
25	Chapter 9 cases: _____ Stegald v. U.S. _____ Terry v. Ohio _____ Florida v. Royer _____ Minnesota v. Dickerson _____ Schmerber v. California _____ Manson v. Brathwaite		
27	Search and Seizure of Property	Chapter 10	
March	8	Chapter 10 cases: _____ Katz v. U.S. _____ Oliver v. U.S. _____ Illinois v. Gates _____ California v. Carney	

	_____	Schneckloth v. Bustamonte	
	_____	Florida v. Jimeno	
	_____	Illinois v. Rodriguez	
10		Monitoring Comm. and Fourth Amend. Excl. Rule	Chapter 11
12		Interrogation and Self-Incrimination	Chapter 12
15		Preliminary Stages of the Prosecution	Chapter 13
17		<b>Court: 1st Appearance before a Judicial Officer/Jury Selection</b>	
19		<b>Court: Jury Selection</b>	
22		<b>Court: Jury Selection</b>	
24		<b>Court: Jury Selection</b>	
26		<b>Court: Arraignment and opening statements</b>	
29		<b>Court: Trial—Prosecution’s case</b>	
31		<b>Court: Trial—Prosecution’s case</b>	
April 2		<b>Court: Trial—Prosecution’s case</b>	
5		<b>Court: Trial—Defense’s case</b>	
7		<b>Court: Trial—Defense’s case</b>	
12		<b>Court: Trial—Defense’s case</b>	
14		<b>Court: Closing Arguments/deliberation</b>	
16		<b>Court: Deliberation/sentencing</b>	

**Final Exam: Monday April 19, 2004, 11:00am-12:50 pm**

## Reading and Briefing Supreme Court Opinions

The title of each case is taken from the names of the two parties of the controversy. Thus, Marbury v. Madison involved one William Marbury who brought suit for his seat as Justice of the Peace in the District of Columbia, and one James Madison, Secretary of State under President Jefferson, whose alleged duty it was to deliver Marbury's commission as Justice of the Peace.

The name which appears first in a case is the Plaintiff or the party which is bringing the action. The Defendant or Respondent is the other party, against whom the action is taken. Each of the parties may be referred to as indicated in the hypothetical case which follows:

### Pensyltucky v. Arkansas 335 U.S. 1 (1949)

Pensyltucky	v.	Arkansas
Plaintiff		Defendant and
Petitioner (certiorari)		Respondent
or		or
Appellant (Appeal)		Appellee

In reading and analyzing each case, students will undoubtedly diverge in their study habits and approaches. However, in order to grasp the essential points of each case, the following outline must be followed:

- a. **Title** of the Case: Who is doing what to whom?
- b. **Facts** of the Case: Who are the parties to the case? How do they fit into the case. (You may have to dig into the opinion, or even the dissenting opinions to discover all the facts) Get the facts straight or else the opinion will be meaningless.
- c. **Legal Question** or Questions: What legal question is the Court trying to answer. The Court may include a great deal of obiter dicta in a case, but the crucial material found in the Court's answer to specific legal question which the Court must answer. Most legal questions in Constitutional Law and Civil Liberties/Rights focus on a Constitutional power, amendment, or law/public policy. Usually laws are challenged as unconstitutional or individual/group behavior is challenged as unconstitutional. When a constitutional challenge is presented, a constitutional citation is necessary.
- d. **Holding**: (Answer) What was the Court's answer to the legal questions. Usually a yes or no is sufficient at this stage.
- e. **Opinion**: (Reasoning) What were the Court's reasons for its decision? How did they legally arrive at the answer? It is helpful if you can outline the Court's reasons for the decision to see how logical they are.
- f. **Concurring and Dissenting Opinions**: What are the major points of the conflict with the majority opinion? Who or why did other judges dissent?
- g. **Significance** of the Case: What impact does this case have? What makes it important enough for us to have discussed it? Are there any major flaws in the case that will need to be resolved in other cases? Does it set a precedent or overturn one?