

LAW B 515  
CRIMINAL PROCEDURE: INVESTIGATION  
WINTER

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| <b>INSTRUCTOR:</b> David Garavito                | <b>SECTION:</b> B                    |
| <b>OFFICE:</b> 343                               | <b>CREDIT HOURS:</b> 4               |
| <b>PHONE:</b> (206)685-9304                      | <b>PREREQUISITE(s):</b> None         |
| <b>E-MAIL:</b> garavito@uw.edu                   | <b>SCHEDULE:</b> MW 8:30AM - 10:20PM |
| <b>OFFICE HOURS:</b> By appointment <sup>1</sup> | <b>ROOM:</b> 119                     |

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Any future changes to this syllabus will be announced in class to avoid confusion.

**Course Description:** This course emphasizes the pretrial rights of persons suspected or accused of crime, primarily those derived from the Fourth, Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution, but may include examples based on state and federal statutes and rules. The topics covered include arrest, search and seizure, interrogation, electronic surveillance, undercover investigation, counsel, preliminary proceedings, prosecution. Within this course, we will also draw on social, philosophical, and psychological perspectives when discussing topics in criminal investigation and police practices.

**Learning Objectives:** By the end of this course, I hope that you will be able to perform the following tasks:

- **Identify** the basic constitutional principles behind criminal procedure
- **Recognize** the limitations, or lack thereof, imposed upon the police by the United States Constitution in criminal investigations
- **Discern** the reasoning and societal values behind statutes and holdings controlling criminal procedure
- **Assess** when the requirements for lawful stops, searches, and arrests have been met
- **Compare** an individual's rights in both custodial and non-custodial settings
- **Recognize** the effects of criminal procedure and police practices on systematic oppression and vice versa

**Casebook:** CRIMINAL PROCEDURE, CASES AND MATERIALS

**Author(s):** Cynthia Lee & L. Song Richardson; **Edition:** 3<sup>rd</sup>; **ISBN-13:** 978-1647086183

**Grade Composition:**

A student's final grade will be based on performance on a mid-term examination, a final examination, and the student's participation in class. The breakdown for the final grade is listed below:

- Final examination = 55%
- Mid-term examination = 30%

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<sup>1</sup>In addition to this, if I am in my office and my door is open (as it usually is), feel free to stop by. You are always welcome.

- Participation (including quizzes & class activities) = 15%

The mid-term examination will use ExamSoft and cover the material presented during the first 5-weeks of the course; it will be a 2-hour, open-note (Non-Secure with Blocked Internet) exam and consist of only multiple choice questions. The final examination will count for 55% of the final grade. This 3-hour, open-note (Non-Secure with Blocked Internet) test on ExamSoft will consist of 2 parts:

- Short-answer questions (i.e., answered in 1 paragraph or less)
- Traditional issue spotter

### Letter Grade Distribution:

I adhere to the standard Law School grading system, which can be found [here](#).

### Participation & Classroom Behavior:

Class participation comprises 15% of a student's grade. During the course, we may have quizzes, class discussions, or other activities. These activities will not be graded in the traditional sense (i.e., full points are given if you give a good faith effort). Generally, all students should get full points for participation. However, exceptions will be made for students with notable class participation. Notable, in this case, can mean exceptionally good *or* bad.

Notably *good* class participation generally consists of the following:

- Proper attendance when possible
- Giving a good faith effort in all class activities
- Coming prepared for each class
- Actively and **meaningfully** discussing class topics (more  $\neq$  better)
- Communication with me when any of the above are not possible (e.g., due to sickness)

In these cases, as judged by me and within my reasonable discretion, may result in a raise given to the student's grade on the final examination by one step (e.g., B+ to A-).

Notably *bad* class participation may consist of the following:

- Being absent unreasonably, often such that one could reasonably wonder whether the student has dropped the course
- Behaving disruptively or disrespectfully in class (it is okay to disagree but not to be disrespectful)
- Severe lack of preparation regarding class topics
- Lack of communication with me addressing any above deficiency

I expect that no student will cross this line, but I do reserve the discretion to lower a student's participation grade to reflect sub-par participation. In extreme cases, and if the misbehavior is serious enough to warrant it, I reserve the discretion to lower a student's final examination grade by one step (e.g., A- to B+) or more.

This policy is in place to help promote proper behavioral standards in classroom, professional, and other settings. To give an example, if you planned to meet with a client but need to cancel or reschedule, you owe them a reasonable explanation; attending class is also important and should merit similar considerations. For another example, if you are ever unprepared for a meeting (with a judge, client, etc.), you should show enough respect to let the other party know; to do otherwise will be perceived as being unprepared and disrespectful. Further, in class (as in other settings), we may discuss topics on which people have strong and differing opinions. If we want to begin and end such a discussion as a group, we all have to agree to the rules listed above. In such discussions, I reserve the right and power to intervene (but only when one of the rules has been or may likely be violated).

### **Cold Call Policy:**

The traditional “pure” cold-call setup of law school does have its merits, though I, personally, believe that the pros do not always outweigh the cons. As such, I use an adjusted cold-call strategy. Starting the second week of class, I will divide the class up into equally-sized panels of students (around 4 students per panel). Each panel will be randomly assigned to a given week of class such that they will be expected to be well-prepared for participation and discussion. This schedule will be posted on Canvas so that students will know if they are “on-call” for a given week.

I hope this arrangement will help mitigate some law school anxiety. Lastly, **should a person let me know that they are not prepared or available for their assigned week, there will be extra weeks available near the end of the term (i.e., ones which will not have a panel assigned) which that person can be re-assigned to.**

### **Law School Attendance Policy:**

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance. At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor’s so indicating to the Academic Services Office.

### **Course Evaluations:**

During the course, I will include small anonymous feedback surveys so that I can incorporate feedback from students during the term. In addition to these evaluations, end-of-term evaluations will be opened online during the last week of classes. To ensure that your voice is heard, please participate in evaluations.

### **Summary of Relevant Academic Policies:**

For this course, students are expected to comport with the University of Washington Student Conduct Code, its companion policies, and the Law School Honor Code. For example, students may not give or get any unauthorized or excessive assistance in the preparation of any work. Submission (online or otherwise) of assignment (or any course document), or placing one’s name on an exam, is a statement of academic honor that the student has not received or given inappropriate assistance in completing it and that the student has complied with the University academic policies in that work.

## **Access & Accommodations:**

### **Disability Accommodations:**

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to: mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall, (206)543-8924, [uwdrs@uw.edu](mailto:uwdrs@uw.edu), or the official website. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

### **Religious Accommodations:**

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy. Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form.

## **Other University Resources:**

### **Health & Wellness Support:**

We need to take care of ourselves inside and outside of class. Start with the Husky Health and Well-Being site for a comprehensive list of Husky health and well-being support resources on campus, including food assistance via the UW Food Pantry and information about substance use resources.

Regardless of their backgrounds, many people, at some point in their lives, experience a range of challenges or events that can interfere with their mental health, such as strained relationships, personal losses, an increased number of stressors, substance use, etc. These mental health concerns may diminish your academic performance and/or your daily functioning. The University of Washington has multiple resources available to help address the mental health needs of all those in our community. *Please* take advantage of these resources and do not hesitate to seek treatment if you are struggling. Find those resources here.

For support within the law school, you can reach out to Terry Price ([tprice@uw.edu](mailto:tprice@uw.edu)), Associate Dean for Student Affairs; Phil Lentz ([plentz@uw.edu](mailto:plentz@uw.edu)), UW Law's mental health counselor; Kayla Fencil and Law Student Life ([lawstudentlife@uw.edu](mailto:lawstudentlife@uw.edu)); or your instructors. Campus mental health support includes the real-time and confidential Student Support Program (SSP) which is available 24/7/365 via the My SSP app, by phone (866-743-7732), and MySSP online. Additional mental health support is available through the Counseling Center (206-543-1240).

If you are concerned about yourself or a friend who is experiencing emotional distress and/or may be at risk of suicide, contact Safe Campus at 206-685-7233. Safe Campus is UW's central reporting office, staffed by trained specialists who will talk through your options, and connect you with resources, Monday through Friday, 8-5pm. Additional after-hours and crisis support is available at SafeCampus: 24/7 Crisis Resources.

**Student Learning Technologies (UW-IT) Support:**

Contact [help@uw.edu](mailto:help@uw.edu) or 206-221-5000 for UW NetID and general networking support. UW-IT maintains a help desk at the Odegaard Undergraduate Library and a website [here](#).

**Research Services Librarians:**

The Research Services librarians are legal research experts who are dedicated to helping students with research questions, database training, locating academic resources, etc. Visit the library's [UW Law Students](#) page for more information about their services generally. To get help, you can email the Research Services librarians directly at [lawref@uw.edu](mailto:lawref@uw.edu). You are also welcome to visit the Reference Office on L1 to speak with the Research Services librarian on duty. If you have a detailed research question or would prefer to meet privately with a librarian, you may set up an appointment.

## Tentative Course Outline

At the end of each class, I will announce any changes to the assignments listed below. I will try to adhere to the syllabus as closely as possible, but I am sure we will not have time to cover all of the listed items. I advise students to hold back from reading ahead for this reason (and to ensure that proper attention is given to the most relevant material for the next class).

| <b>Course Roadmap, pt. 1</b> |  |
|------------------------------|--|
| Topic 1                      | <ul style="list-style-type: none"> <li>• Introductions &amp; Basics of Searches: Katz, Privacy, and Government Action</li> <li>• Reading assignment: 9–38 (skip Winn excerpt)</li> </ul>                         |
| Topic 2                      | <ul style="list-style-type: none"> <li>• Searches: The “Ultimate Set of Tools” (Technology &amp; Dogs)</li> <li>• Reading assignment: 43–82 (starting at C; skip notes)</li> </ul>                               |
| Topic 3                      | <ul style="list-style-type: none"> <li>• Probable Cause &amp; Warrants (inspired by Afroman)</li> <li>• Reading assignment: 89–115 (Chapters 3 &amp; 4)</li> </ul>   |
| Topic 4                      | <ul style="list-style-type: none"> <li>• Arrests &amp; Searches Incident to Arrest</li> <li>• Reading assignment: 117–28 (Chapter 5) &amp; 133–67 (Chapter 6; skip notes)</li> </ul>                             |
| Topic 5                      | <ul style="list-style-type: none"> <li>• Searches: Automobile Exception</li> <li>• Reading assignment: 169–99 (Chapter 7)</li> </ul>   |
| Topic 6                      | <ul style="list-style-type: none"> <li>• Searches: Stops and Frisks</li> <li>• Reading assignment: 201–11; 222–30; 235–39 (Chapter 8; skip notes &amp; excerpts)</li> </ul>                                      |
| Topic 7                      | <ul style="list-style-type: none"> <li>• Seizures: Plain View and Plain Feel</li> <li>• Reading assignment: 241–54 (Chapter 9)</li> </ul>  |
| Topic 8                      | <ul style="list-style-type: none"> <li>• Seizures: of the Person</li> <li>• Reading assignment: 287–327 (Chapter 11; skip Nadler excerpt and notes)</li> </ul>   |
| Topic 9                      | <ul style="list-style-type: none"> <li>• Use of Force &amp; Exclusionary Rule, pt. 1</li> <li>• Reading assignment: 329–49 (Chapter 12); 421–31 (Chapter 16: Wolf &amp; Mapp)</li> </ul>                         |
| Mid-Term Examination         |  |
| Topic 10                     | <ul style="list-style-type: none"> <li>• Warrant Exceptions: Consent &amp; Exigent Circumstances</li> <li>• Reading assignment: 351–69 (Chapter 13; skip notes) &amp; 405–20 (Chapter 15; skip notes)</li> </ul> |
| Topic 11                     | <ul style="list-style-type: none"> <li>• Warrant Exceptions: Administrative Searches</li> <li>• Reading assignment: 371–400 (Chapter 14; skip Capers excerpt)</li> </ul>   |
| Topic 12                     | <ul style="list-style-type: none"> <li>• The Exclusionary Rule, pt. 2</li> <li>• Reading assignment: 436–65 (The rest of Chapter 16)</li> </ul>  |

| Course Roadmap, pt. 2 |   |
|-----------------------|---|
| Topic 13              | <ul style="list-style-type: none"> <li>• Interrogations: Due Process &amp; Right to Counsel</li> <li>• Reading assignment: 487-98 (Chapter 18: Ashcraft &amp; Spano); 467-78 (Chapter 17: Bets &amp; Gideon)</li> </ul>   |
| Topic 14              | <ul style="list-style-type: none"> <li>• Interrogations: Snitches</li> <li>• Reading assignment: 503–513; 521–29 (Chapter 19: Massiah, Escobedo, US v. Henry, &amp; Kuhlmann); 513-21 (Chapter 18: Brewer)</li> </ul>   |
| Topic 15              | <ul style="list-style-type: none"> <li>• Interrogations: Miranda &amp; Custody</li> <li>• Reading assignment: 531-59 (Chapter 20, Section A: Intro, Miranda, Berke-mer, &amp; J.D.B.); 626-32 (Chapter 20, Section D: Dickerson)</li> </ul>   |
| Topic 16              | <ul style="list-style-type: none"> <li>• Interrogations: “Is this an interrogation?”</li> <li>• Reading assignment: 559–73 (Chapter 20, Section A: RI v. Innis &amp; IL v. Perkins; skip notes)</li> </ul>  |
| Topic 17              | <ul style="list-style-type: none"> <li>• Interrogations: Asserting &amp; Waiving Your Rights</li> <li>• Reading assignment: 574-96 (Chapter 20, Section B: Intro, MI v. Mosley, Edwards, Davis, &amp; MD v. Shatzer; skip Ainsworth excerpt) &amp; 597–615 (Chapter 20, Section C: Intro, NC v. Butler, Moran, &amp; Berghuis)</li> </ul> |
| Topic 18              | <ul style="list-style-type: none"> <li>• Interrogations: Miranda Bonus Content</li> <li>• Reading assignment: 619-626; 632-43 (Chapter 20, Section D: NY v. Quar-les, Patane, &amp; OR v. Elstad)</li> </ul>  |
| Final Examination     |   |