

CRIMINAL PROCEDURE

Fall 2009
Craig Lerner

Syllabus

Class Schedule:

Class meets Mondays and Wednesday at 10:30-11:45 p.m.

Office hours:

My office is Room 433J. I can also be reached at (703) 993-8080 or clerner@gmu.edu. Office hours are Wednesdays at 1:30-2:30, or by appointment.

Required course material:

Saltzburg & Capra, American Criminal Procedure: Cases and Commentary (8th ed. 2007). The 2009 Supplement is **not** required. However, there were several Supreme Court cases decided last term that will be assigned, in an excerpted form. I will also be supplementing the casebook reading with others materials throughout the semester.

Classroom participation:

I will take attendance. Students are expected to be present and prepared every single class. If you know you will be absent or are unable to prepare, you should email me prior to the class. I reserve the right to raise or lower grades based on class participation.

Use of the internet in any form is prohibited during class.

Final exam:

The exam is on December 15 at noon. It will be closed-book.

Reading assignments:

We'll cover about 30-35 pages in the textbook per class. Supplemental readings will also be assigned. At the end of each week, I will tell you how far to read for the next week.

Topic Outline--Subject to revision

- I. Introduction: Basic Themes of Class: Saltzburg & Capra 787-793; 1-19
- II. The Fourth Amendment
 - A. Introduction to the Fourth Amendment; what is a search or seizure
 1. *Katz v. United States*, S&C 32-42
 2. Applications of *Katz*, S&C 42-85
 - B. The warrant requirement
 1. Prerequisites to getting a warrant and what is probable cause, S&C 86-108; 113-120; 164-166; 507-509
 2. Executing the warrant, S&C 127-160
 3. When to apply the Warrant Clause
 - a. Arrests, S&C 166-190
 - b. *Terry* stops, S&C 190-206; 209-284
 - c. Search incident to arrest and pretextual stops, S&C 289-321; 324-330
 - d. Plain view, plain touch, cars S&C 337-352
 - e. Exigent circumstances, S&C 363-376
 - f. Administrative searches and special needs, S&C 382-433
 - g. Consent, S&C 457-465
 - h. Wiretapping and computer searches, S&C 487-492
 - C. Remedies for Fourth Amendment violations
 1. The exclusionary rule, S&C 493-504

2. Standing, S&C 512-523
3. Fruits of the search, S&C 529-557
4. Good faith, S&C 567-576; 589-592
5. Alternatives to exclusion, S&C 595-600

III. Self-incrimination

- A. Policies, scope of privilege, compulsion, S&C 601-608; 614-617; 625-635
- B. What is protected and immunity, S&C 635-647; 656; 658-659; 664-668
- C. Confessions and due process; the special federal standard, S&C 671-688
- D. *Miranda*, S&C 688-708
 1. The impact and scope of *Miranda*, S&C, 708-729; 735-767
 2. Waiver of *Miranda* rights, S&C 767-783
- E. Confessions and the Sixth Amendment right to counsel: *Massiah*, S&C 783-811

IV. Lineups

- A. Right to Counsel, S&C 813-820
- B. Due Process, S&C 823-834

V. Right to counsel, S&C 842-860; 863-864

VI. Screening and charging, S&C 868-880