

CRIMINAL PROCEDURE

Spring 2008
Craig Lerner

Syllabus

Class Schedule:

Class meets Tuesdays and Thursdays at 2:00-3:15 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 Thursdays 3:30-4:30, or by appointment.

Required course material:

Saltzburg & Capra, American Criminal Procedure: Cases and Commentary (8th ed. 2007). The 2008 Supplement is **not** required.

Classroom participation:

Classroom participation will be based on a “present and prepared” sign-in system. Once the add-drop period ends, I will distribute a sign-in sheet at the beginning of each class. If you’ve done the reading and are prepared to discuss it, you should sign in. If you are absent, or are unprepared for, 4 or fewer classes, your grade will be increased one step (e.g., from a B+ to an A-). (Exception: no automatic increase from A to A+.) If you are absent, or are unprepared for, 10 or more classes, your grade will be decreased one step (e.g., from a B+ to a B).

Use of the internet in any form is prohibited. Abiding by this rule is a condition of taking this class.

Final exam:

The exam is on May 5 at noon.

Reading assignments:

We’ll cover about 30-35 pages in the textbook per class. Supplemental readings from law review articles 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; 326-332
 - 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 783-794; 800-811

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 871-892