



FALL 2026 COURSE SYLLABUS

Course Number: 580-004

Course Title: Digital Justice

Credit Hours: 3

Grading Mode: Letter grade

Meeting Day(s)/ Time(s): Thursdays 6:05 p.m. – 9:00 p.m.

Meeting Mode: In-person (September 24 session via Zoom)

Exam Day(s)/ Time(s): DEC 7, 6:00PM

Final Exam Mode: In-Person Exam and Class Project

Prerequisite(s): Criminal Procedure I: Investigations (Law 206)

Corequisite(s): N/A

Instructor(s): David A. Lord

Contact Information: dlord1@gmu.edu

Office Hours: I generally will be at Mason by 5:15 p.m. on Wednesdays and Thursdays and can meet with you in person. Alternatively, please contact me to schedule a meeting via Zoom.

Course Overview

This three-credit seminar explores the evolving intersection between the Fourth, Fifth, and Sixth Amendments, modern technology, and cutting-edge applications in criminal investigations and prosecutions. While foundational criminal procedure case law continues to govern the field, emerging tools, from AI-driven surveillance and geofencing to biometric unlocking and social media, are pushing the limits of long-standing constitutional doctrines. The course progresses from defining digital searches, to examining AI-driven investigative tools, to evaluating whether traditional constitutional protections remain sufficient in technology-shaped prosecutions.

Students will examine real-world legal challenges and open constitutional questions posed by these technologies, while also considering the ethical implications for practicing lawyers. A culminating session will focus on the intersection of digital practice and the Model Rules of Professional Conduct, incorporating the instructor's experience as a national speaker on prosecutorial ethics.

This seminar is designed for students interested in privacy law, criminal law, constitutional litigation, technology and law, or public interest practice. The class relies heavily on the practical application of the concepts covered, including in-class demonstrations of the technology being discussed and guest presentations by attorneys and law enforcement officers on how modern technology is shaping their work.

Course Learning Outcomes

By the end of this course, students will be able to:

- Identify and analyze the constitutional doctrines that govern modern digital investigations under the Fourth, Fifth, and Sixth Amendments.
- Apply foundational criminal procedure case law to novel technologies.
- Evaluate the practical and ethical implications of using emerging technologies in criminal investigations and prosecutions.
- Anticipate how courts may address open constitutional questions raised by emerging technologies.
- Apply the Model Rules of Professional Conduct to scenarios involving AI and digital evidence.

Reading(s) & Supplement(s):

There is no required textbook. Instead, students will be provided with a curated selection of judicial opinions, law review articles and scholarly essays, policy papers and expert commentary, and supplemental videos or news segments. All required readings will be made available on Canvas under the module for each session and are referenced in this syllabus. Supplemental readings will also be provided for students who wish to explore a topic in greater depth. These are materials that I will cover in the lecture each week. While reading supplemental materials is not required, students are responsible (for exam purposes) for the content of any required material in addition to material discussed in class. PowerPoints from lectures will be posted each week on Canvas. My aim is to have no more than 50-60 pages of assigned reading each week. To that end, prior to the start of the semester, I will identify the extracts or relevant parts of each reading that should be the focus of your efforts.

Grading Policies

Participation & Preparation:

In terms of reading, every student is expected to be thoroughly engaged in class discussion. However, to reduce anxiety and improve the quality of case presentation, the

materials that we plan on discussing each class will be identified at the beginning of the semester and will be assigned to a particular student. That student will be the primary person responsible for discussing content of the reading with me. For example, if the reading is a United States Supreme Court case, I may assign one student to the majority opinion, another to concurrences and another to dissent. All students will still be expected to discuss the issues raised. Class participation will consist of attendance, engagement in class discussion, preparation for the class activities and reading preparation discussed above. If a student is deemed to have exceptional class participation, they will be eligible to have their final grade increased one level (for example, from a B to a B+ or from a B+ to an A), assuming it does not cause a violation of the university's mandatory curve.

Course Project (25%)

This course replaces the traditional first class meeting with an independent project that each student designs and completes over the course of the semester. There is no class on August 20. Instead, every student will choose one project from the options below, or propose an alternative for instructor approval, and produce a paper of at least 5 pages, double-spaced, with appropriate citations. Each student will also present their work to the class during the final two sessions of the semester, with a presentation of at least 5 minutes followed by questions. Both the paper and the presentation contribute to the project grade. I will be looking for some volunteers who complete this project in advance and are willing to present on an earlier date in order avoid too much clustering at the end. In particular if a student is talking about a topic relevant to a different course section and is willing to present at that time, I would highly encourage them to consider volunteering to do so.

Students may choose to work together on this project if they wish. Collaborating students will share research and source material but must each submit a separate, individually written paper. The presentation can be delivered jointly.

Each student must declare their chosen project by Wednesday, October 8, by email to the instructor. Final papers are due Wednesday, November 5. Presentations will take place during the class sessions on November 12 and November 19.

Project Options

1. The Data Self-Audit. Request your own data from at least three sources, such as Google Takeout, Apple privacy reports, an Instagram or TikTok download, your phone's location history, an Amazon Alexa voice archive, a Ring or smart-home device log, a fitness tracker, or a credit card or bank app. Write a paper analyzing what was disclosed, what surprised you, what you could not access, and what the data reveals about the constitutional, doctrinal, and ethical questions raised in the course.

2. Warrant Critique. Obtain a real digital search warrant or warrant application. These are increasingly available in public court filings and through court records requests. I may

also be able to assist you in locating one. Write a critical analysis focused on particularity, breadth, and the gap between what the warrant authorizes and what it might actually capture.

3. Algorithmic Tool Audit. Choose a single tool used in criminal investigations or proceedings. Examples include COMPAS, PredPol/Geolitica, Clearview AI, ShotSpotter/SoundThinking, Cellebrite, cell-site simulators, or any other tool. Produce a short critical analysis of how it works, how it is used, what is known about its accuracy and reliability, and what constitutional or ethical pressure points it raises.

4. AI Legal Research Audit. Take a small/constrained real legal research question with genuine doctrinal complexity and run it through multiple AI tools. At minimum, use one general-purpose AI (such as ChatGPT, Claude, or Gemini) and one legal-specific AI tool (Westlaw's CoCounsel, Lexis+ AI, or comparable). Verify the results against traditional legal research, identify specifically where the tools produce inaccuracies, hallucinated citations, fabricated holdings, or other errors, and use those findings as the basis for an ethical analysis.

5. Court Observation: Digital Evidence Edition. Identify a specific motion, hearing, or proceeding involving digital evidence. Examples include a motion to suppress evidence from a phone search, a Franks challenge to a digital warrant, a motion in limine on social media authentication, a Crawford issue with surveillance footage, a Daubert challenge to facial recognition or ShotSpotter, or a compelled decryption fight. Attend the hearing and write a paper framing the legal issue, analyzing the advocacy on both sides, and assessing the court's reasoning. Students choosing this option should begin watching local dockets early; suppression hearings on digital issues are not on every docket and may require advance planning.

6. Practitioner Interview. Interview any practitioner (lawyer, investigator, etc.) about how they use digital tools, such as AI, in their work. Submit a written interview protocol before the interview takes place. Following the interview, write a paper analyzing what you learned and how the reality of practice compares to what the constitutional doctrine assumes.

7. Student-Proposed Project. Students may propose an alternative project for instructor approval. Proposals should be submitted by email to the instructor no later than Wednesday, October 8, and should describe what the student will do, what the resulting written product will look like, and what doctrinal or ethical question the project will address. Approval is at the instructor's discretion.

Final 75%: The exam will be conducted in-person and will be open book, closed access with respect to the internet. The exam will consist of some multiple choice questions, some short answer questions, and two short essays that you can choose from a variety of options as to which to answer.

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI: Students are encouraged to explore generative AI tools in this course, and are authorized to use AI for any purpose during this course except during the final exam. Moreover, please understand that you are responsible for appropriately presenting cases or other material and knowing their content. If you utilize AI to assist in how you present a case for class and it produces inaccurate results, you are on the hook for it. In other words, as you should in real life and real practice, check the results that AI is producing to ensure accuracy. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create course work product, properly cite any AI tools utilized, and should be prepared to produce the transcript of prompts and responses upon request. Misuse will be treated as a violation of academic standards.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student’s computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e-book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor’s standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

Week 1:

Date: August 20 – No Class (Course Project as described above is in lieu of this class)

Topic: N/A

Assignment(s): There is no class meeting on August 20. The Course Project (described above) replaces the traditional first class meeting. Students should review the project options before the August 27 session and begin thinking about which option appeals to them. Project declarations are due October 8.

Week 2:

Date: August 27

Topic: Framing the Challenge: Privacy, Social Media, Technology, and the Constitution

Assignment(s):

- Assignment(s): Katz v. United States, 389 U.S. 347 (1967)
- Carpenter v. United States, 585 U.S. 296 (2018)
- Orin Kerr, The Mosaic Theory of the Fourth Amendment, 111 Mich. L. Rev. 311 (2012)

Week 3:

Date: September 3

Topic: The Modern Third-Party Doctrine

Assignment(s):

- Assignment(s): Smith v. Maryland, 442 U.S. 735 (1979)
- United States v. Miller, 425 U.S. 435 (1976)
- Paul Ohm, The Many Revolutions of Carpenter, 32 Harv. J.L. & Tech. 357 (2019)

Week 4:

Date: September 10

Topic: Digital Search Warrants and Particularity

Assignment(s):

- David Lord, Pocket-Zied Privacy: The Supreme Court's Coming Clash Over Digital Searches, 30 Berkeley J. Crim. L. 311 (2025)
- Orin Kerr, Executing Warrants for Digital Evidence: The Case for Use Restrictions on Nonresponsive Data, 48 Tex. Tech L. Rev. 1 (2015)

Week 5:

Date: September 17

Topic: Surveillance Technologies: Geofencing, License Plate Readers, Pole Cameras, Cell Tower Dumps, Stingrays, and IoT Devices

Assignment(s):

- United States v. Chatrue (Supreme Court Decision pending 2026)
- Andrew Guthrie Ferguson, Persistent Surveillance, 74 Ala. L. Rev. 1 (2022)
- David Lord, Every You Take: Where Federal Doctrine Stalls, State Law Can Pick Up in the Fight Over Persistent Surveillance, Hofstra L. Rev. (upcoming publication Spring 2026)

Week 6:

Date: September 24 (Meeting Via Zoom)

Topic: Bodily Privacy: Biometrics, DNA, and Genetic Investigations

Assignment(s):

- Maryland v. King, 569 U.S. 435 (2013) (excerpts)
- Natalie Ram, Genetic Privacy After Carpenter, 105 Va. L. Rev. 1357 (2019)

Week 7:

Date: October 1

Topic: Predictive Policing, Algorithmic Suspicion, and Fifth Amendment Issues

Assignment(s):

- Commonwealth v. Davis, 220 A.3d 534 (Pa. 2019) (compelled passcode)
- Doe v. United States, 487 U.S. 201 (1988)
- Laurent Sacharoff, Unlocking the Fifth Amendment: Passwords and Encrypted Devices, 87 Fordham L. Rev. 203 (2018)
- Andrew Guthrie Ferguson, Predictive Policing and Reasonable Suspicion, 62 Emory L.J. 259 (2012)

October 8 – No Class – Fall Break

Week 8:

Date: October 15

Topic: Deepfakes, Enhanced Media, and Synthetic Evidence

Assignment(s):

- Federal Rules of Evidence 901, 902
- Riana Pfefferkorn, "Deepfakes" in the Courtroom, 29 B.U. J. Sci. & Tech. L. 245 (2023) (excerpts)
- Hany Farid, Creating, Using, Misusing, and Detecting Deep Fakes, 1 J. Online Trust & Safety 1 (2022) (excerpts)

Week 9:

Date: October 29

Topic: Remote Testimony, Digital Confrontation, and the Sixth Amendment

Assignment(s):

- Maryland v. Craig, 497 U.S. 836 (1990)
- Crawford v. Washington, 541 U.S. 36 (2004) (excerpts)
- Jeffrey Bellin, Applying Crawford's Confrontation Right in a Digital Age, 45 Tex Tech L Rev 33

Week 10:

Date: November 5

Topic: Jury Selection, Risk-Based Detention, and Due Process

Assignment(s):

- State v. Loomis, 881 N.W.2d 749 (Wis. 2016)
- Sandra G. Mayson, Bias In, Bias Out, 128 Yale L.J. 2218 (2019) (excerpts)

Week 11:

Date: November 12

Topic: Cryptocurrency, Digital Assets, and the Future of Enforcement | Student Presentations (Part 1)

- United States v. Sterlingov, Order Regarding Release of Funds
- United States v. Sterlingov, Order Regarding Forfeiture

Week 12:

Date: October 22

Topic: AI Tools in Criminal Practice: Prosecution and Defense

Assignment(s): These readings are for Weeks 12 and 13

- Selection from the Model Rules of Professional Conduct
- ABA Formal Opinion 512
- Additional reading, TBD

Week 13:

Date: November 19

Topic: Legal Ethics in the Digital Age | Student Presentations (Part 2)

Assignment(s): See above for Week 12.

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-993-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)