

**Department of Criminal Justice and Criminology
SAM HOUSTON STATE UNIVERSITY**

CRIJ 5393.01 LEGAL ASPECTS OF THE CRIMINAL JUSTICE SYSTEM

Professor: Dr. Michael S. Vaughn, Ph.D.

Email: mvaughn@shsu.edu

Semester/Year: Fall 2017

Class Day/Time: T 1:00-3:50 AM

Class Location: CJ Center A213

Credit Hours: 3

Phone: 936-294-1349

Office: 217 CJ Hotel

Office Hours: by appointment; but I'm here on most days; email me for appointments

Course Prerequisites: None

Course Abstract: This course addresses legal issues within the criminal justice system, focusing on the various component parts which include legal research, constitutional law, criminal procedure, judicial policy making, law as social control, juvenile law, death penalty law, prison law, civil liability, and the role of attorneys within the criminal justice apparatus. Our primary emphasis is upon the judicial interface with the processes inherent within the system. In addition to studying the content of and rationale for specific judicial mandates, we will also consider the broader policy implications for the criminal justice system resulting from heightened legalization of the field.

Course Objectives: 1—To give students an analytical insight into the substance and procedure of criminal justice and its legal environment. 2—To acquaint students with some of the leading court decisions that have impacted on the criminal justice system. 3—To have students acquire and demonstrate critical thinking skills through written work. 4—To provide students with an overview of the duties and responsibilities of criminal justice personnel in the face of increasing legalization and judicial oversight of the criminal justice system. 5—To introduce students to a variety of judicial approaches to the criminal justice system so that students will appreciate the evolving nature of the judicial role and its impact upon criminal justice agencies, clientele, and processes.

Required Texts: (1) Weinreb, L.L. (2017). *Leading Constitutional Cases on Criminal Justice, 2017l*. ISBN: 9781683289616. St. Paul, MN: West Academic. (2) *The Bluebook: A Uniform System of Citation*. (2015). (20th ed.). Harvard, Columbia Law Reviews. ISBN: 9780692400197. (3) Articles/readings/cases will be distributed to students on Blackbaord.

Student Academic Policies concerning **Attendance, Academic Honesty, Disabled Student and Services for Disabled Students, and Absences on Religious Holy Days** may be found at:
<http://www.shsu.edu/dept/academic-affairs/aps/aps-students.html> ii

Policies on Use of Telephones and Text Messages in Academic Classrooms and Facilities may be found at
<http://www.shsu.edu/dept/academic-affairs/aps/aps-curriculum.html>

Disruptive Student Behavior: Disruptive student behavior in the classroom will not be tolerated. Students may consult the policy in the 2016-2017 Graduate Catalog

Withdrawals: Students wishing to withdraw are cautioned to follow formal procedures outlined by the university. Consult the 2016-2017 Graduate Catalog for official policies on withdrawal from classes.

Incompletes: Except for the gravest of emergencies, a grade of "incomplete" will not be allowed for the course. Any missing grades, whether for examination or assignments, will be assumed to be zeros and will be averaged as such.

Reading Assignments: This course requires a high degree of dedication, preparation, and perseverance. The material is not that difficult, but the volume is heavy, so procrastination on the readings, assignments, and writings is not an option. Each student is expected to have completed the reading assignments before each class session. Reading the assignments before each class session is critical for any student to do well in this course.

Tests: There will be 2 non-cumulative tests over the course of the semester. Each test will consist of 25% of the final grade. Exams will be on **October 10** and **December 7**.. If a student misses an exam, a make-up exam may be scheduled, but make-up exams will be given only in the most extraordinary circumstances.

Writing Assignment: The final version of the research paper will consist of 40% of the final grade (30 page minimum research paper), and a description of the research paper is attached to the syllabus. The research paper will consist of 30 typewritten (30 pages minimum; maximum page numbers can be 60 pages), double-spaced pages with an inch margin all the way around. Each paper will have a **Title Page**, a separate page for the **Abstract**, and a separate page for a **Roman numerical Outline** .. The due date for the final paper will be **November 28 at 1:00pm**. Late papers will be subject to a letter grade deduction per calendar-day.

Grade Distribution: The final grade will be based on an average of the 2 tests (each worth 25% of the final grade), the final paper (worth 40% of the final grade), student powerpoint presentations of their papers (10% of the final grade). 100-90%=A, 89-80%=B, 79-70%=C, 69-60%=D, 59% and below=F.

Course Outline:

Week 1: August 29**Go over Syllabus; Legal Research****Week 2: September 5****Legal Research****Week 3: September 12****Weinreb: Chapter 1 & 2****Week 4: September 19****Weinreb Chapter 3 & 4****Week 5: September 26****Weinreb Chapter 5 & 6****Week 6: October 3****Weinreb Chapter 7 & 8****Week 7: October 10****Midterm Exam****===== Midterm Examination (October 10) =====****Week 8: October 17**

Weinreb Chapter 9

Week 9: October 24
Weinreb Chapter 10 & 12

Week 10: October 31
Weinreb Chapter 11

Week 11: November 7
NO CLASS: I will attend the National Commission on Correctional Health Care conference

Week 12: November 14
NO CLASS: I will attend the American Society of Criminology Conference

Week 13: November 21
Weinreb Chapter 13

Week 14
November 28
Student Presentations
Final Paper Due 1:00 pm

Week 15
December 7 2:30 to 4:30 pm
Final Exam

===== **Final Exam (December 7, 2:30-to 4:40 pm)** =====

NOTE--This syllabus is primarily for planning purposes, and the professor reserves the right to alter it in any fashion.

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GUIDELINES FOR RESEARCH PAPER ASSIGNMENT Fall 2017

**CRIJ 5393 LEGAL ASPECTS OF CRIMINAL JUSTICE
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Guidelines for grading the writing assignment.

The paper will be graded based on the following criteria:

- 1-30% content
- 2-25% organization and presentation
- 3-25% grammar, spelling, punctuation, and syntax
- 4-20% citation and reference style

1-Content

The paper should address the issue(s) of the assignment and answer directly the question(s) posed.

2-Organization and presentation

The paper should be presented in a neat and professional fashion. The paper also should be well organized.

3-Grammar, spelling, punctuation, and syntax

The paper should use correct grammar and punctuation. The paper should contain no spelling errors and read well.

4-Citation and reference style

The paper should conform to the latest edition of *The Bluebook: A Uniform System of Citation*.

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Research Paper Assignment Topics:

Each student will write a research paper, not a case brief, on legal issues in criminal justice that will consist of 30 pages minimum in length. Do not write the paper in the form of a case brief. Use the GRID (distributed in class) to first brief the individual cases. Once the GRID is completed, please write each case description in sentence and paragraph form to create a coherent narrative.

Select a topic below or get the professor's approval for one not listed:

Right to Confront Witnesses	Right to be free from Double Jeopardy
Right to Speedy Trial	Right to Jury Trial
Right to Effective Counsel at Trial	Border Checkpoints and Safety Roadblocks
Line Ups, Show Ups, & Photographic Identifications	Sobriety and Drug Checkpoints
Arrest Without Warrant	Electronic Surveillance Searches
Search & Seizure With a Warrant	Arrest With Warrant
Special Needs Searches	Search & Seizure Without Warrant
Home Searches	Inventory Searches
Miranda Rights	Reasonable Suspicion
Consent Searches (Criminal)	Plain View
Vehicle Stops	Open Fields Doctrine
Stop and Frisk	Exigent Circumstances
Probable Cause	Exclusionary Rule
Prison Unions	Freedom of Association in Prison
Medical Care in Prison	Prison Searches and Seizures
Overcrowding in Jails/Prisons	Prisoner Discipline
Prison/Jail Suicide	Prison Religion
Good Time	Inmate-on-Inmate Assault
State Created Liberty Interests	Use of Nondeadly Force by Prison Officials
ADA (Disability Discrimination)	Use of Deadly Force by Prison Officials
Prison Transfers	Segregation of Prisoners
18 U.S.C. Section 242 (Criminal Liability)	Strip Search
Probation and Parole Liability	Bivens Actions
Municipal Liability under Section 1983 (Jails)	(FTCA) 28 U.S.C. Section 2674
Sexual Violence Committed by Jail/Prison Staff	Color of Law Requirement in Sections 242 & 1983
Visitation in Prisons/Jails	Qualified Immunity from Lawsuits
Forced Medications in Jail/Prisons	Smoking in Prison
Forced Medications to Stand Trial/Sentenced	Prison Mail
Prison Publications	Prison Exercise
Prison Treatment Programs	Prison Mental Health Treatment

Prison Nutrition/Diet
 HIV/AIDS Medical Care in Prisons
 Retaliation Against Prisoners
 Access to Courts in Prison/Jail
 Working Overtime (FLSA)
 Use of Deadly Force by Police
 Sexual Harassment (Title VII)
 False Arrest
 Failure to Arrest Drunken Drivers
 Failure to Train/Supervise (Liability)
 Canine Liability
 Sexual Violence Committed by Police
 Respondeat Superior Liability under State Tort Law
 Dismissal Grounds
 Disciplinary Grounds
 ADEA (Age Discrimination)
 Sex Discrimination in Workplace
 Privacy in the Workplace
 ADA (Disability Discrimination)
 Sexual Harassment in the Workplace
 Transfer in the Workplace
 Unions in the Workplace
 Arbitration in the Workplace
 Worker's Compensation
 Conduct Unbecoming an Officer

Prison Dental Care
 Segregation of HIV/AIDS Prisoners
 Hot Pursuit Criminal
 Fireman's Rule
 Use of Nondeadly Force by Police
 ADEA (Age Discrimination)
 Failure to Investigate Adequately
 False Imprisonment
 Stops, Searches, and Seizures (Liability)
 War on Drugs (Criminal or Civil)
 Municipal Liability under Section 1983 (Police)
 Police Grooming Policies
 Selection Procedures/Hiring
 Dismissal Procedures
 Disciplinary Procedures
 Race Discrimination
 Religious Discrimination in the Workplace
 Polygraph in the Workplace
 Sexual Orientation Discrimination in Workplace
 Open Records/Meetings
 Promotion Procedures
 Collective Bargaining
 Grievance Procedures
 Secondary Employment
 Pension Rights

Other Topics with the Approval of the Professor

How to Write a Paper for Dr. Vaughn

The assignment requires students to integrate some social science research with the legal case law and produce a hybrid paper that is primarily legal in scope but it is informed by social science research on the topic.

If you are writing a paper on civil liability, make sure you either do Section 1983 or state tort law. Mixing of the two is easy to do, but this should be avoided since standards of liability and the precedents differ for each. Likewise if you are writing a paper on criminal procedure or constitutional law, make sure you focus either on federal constitutional and statutory interpretation or state constitutional and statutory interpretation. Mixing federal and state criminal cases will cause more confusion than you need in this paper.

Know the difference between Section 1983 or tort law or civil liability cases and criminal cases. Know that cases pertaining to motions to suppress evidence are criminal cases; also know that if you are writing a paper on civil liability, many of your cases will pertain to motions for dismissal and motions for summary judgment. For this reason, in the search strategy of Westlaw, you should use "Section 1983" as one of the search terms with searching for civil cases of a federal nature.

Keep the paper narrowly focused on the topic; you are not writing a book so don't get too carried away.

Take each of the four sections below and treat each section as a discrete entity. This assignment requires time and organization and it can seem overwhelming at first, but if you take each part of the paper and complete one and then move on to the next, it can be more manageable.

Introduction

2 to 4 pages

The introduction should introduce the problem to readers. It should draw on the social science literature (Academic Search Complete, Criminal Justice Abstracts, Criminology Collection, Sage Premier, EBSCOhost all databases, Proquest Criminal Justice, Index to Legal Periodicals, JSTOR, ScienceDirect, SocIndex, SpringerLink, Social Science Full Text, PsycINFO, PsycArticles). This part of the paper is not legal; this part of the paper frames the issue based on the social science literature for an understanding to be achieved through legal analysis. At the end of the introduction, the paper should include a brief paragraph (4 to 6 sentences) that tells readers what the rest of the paper is about.

U.S. Supreme Court Precedent or State Supreme Court Precedent

2 to 3 pages

This part of the paper should briefly tell readers what the U.S. Supreme Court has said about the area and articulate the standard for liability (i.e., in prison medical care cases, in *Estelle v. Gamble*, the Court said the standard for liability is deliberate indifference; in police use of force cases, the Court in *Graham v. Connor* said the standard for liability is objective reasonableness) or the standard in criminal cases (i.e., in *Miranda v. Arizona* the Court said the standard to give *Miranda* rights was custodial interrogation). Give readers the highlights of what the Court has said in the area. If there are no U.S. Supreme Court cases on the issue, then discuss what standards lower courts are using. Don't get too carried away with this part of the paper, for this could be the entire paper if you write too much here, and this assignment is not about Supreme Court precedent, so this needs to be limited (use WestLaw).

Lower Court Interpretation of U.S. Supreme Court Precedent or State Supreme Court Precedent

(heart of the paper): 20 to 25 pages

Here, you must locate lower court cases on their topical areas (Westlaw). 15-20 lower court cases should be used here (U.S. Court of Appeals or U.S. District Court Cases if 1983 actions is the focus and/or you could also focus on state law (cases from state supreme courts and state court of appeals). If state law is your focus, you would get state cases that were interpreting state supreme court precedent. Under state law, you could take a concept like *independent state grounds* where states give their citizens more protections under their constitutions than what is required under the U.S. constitution, and look at several states that have looked at extending protections to their citizens through the legal concept of independent state grounds. In this situation, you would report on developments in several states but the cases would all be based on state law, but it would be the state law and constitutional authority in a particular state on a narrow legal issue. In the civil context, some may want to get into state tort law but it is more complicated and difficult, but if you are writing about liability under state law then obviously you will be using state cases). Break this discussion into two broad areas: cases where the defendants are possibly liable and cases where the defendants are not liable. Students should not mix cases of possible liability with cases of no liability. Under each of these two areas, further organize the material into categories and subcategories. If use of nondeadly force is the topic, then cases on potential liability and no liability would make up two separate categories and under each category, further break the cases into meaningful categories: group 3-4 cases together that focus on force with batons, another 3-4 on chemical agents, another 3-4 on bodily restraint holds, etc. Categories could also be related to use of force at traffic stops, use of force during arrests, use of force at domestic disturbances, use of force at jail, etc. OR, use of force with juveniles, use of force with adults, use of force with foreign nationals, use of force with the elderly, use of force with the mentally ill, use of force with the mentally challenged, use of force with the intoxicated, etc. Since creating the categories is an inductive process and the specific factual situations of the cases will drive what type of categories one develops, it is difficult to precisely say what the categories will be. Creating the categories within each of the broader areas of possible liability (or in the criminal context; police did not prevail and the evidence is inadmissible, i.e., defendant's motion to suppress is granted) and no liability (or in the criminal context; police prevailed and the evidence is admissible, i.e., not suppressed) is part of the creative process and students must read several cases before getting discouraged because the categories only come from what the factual situations in the cases dictate. **Do not write more than one page per case in this lower court section.** Some of these cases are complex and students could write several pages per case, but this is not the point of the paper. The point of the paper is for students to integrate several cases into a cohesive body of work. You should find commonalities and differences between cases and then group these similarities and differences into categories. At the end of the section on possible liability (or in the criminal context, where the police lost the case and the evidence was suppressed because of a bad search), students are required to write a brief paragraph (4 to 6 sentences) to summarize the section; at the end of the section on no liability (or in the criminal context, where police prevailed, the evidence was admissible at the defendant's criminal trial) students are required to write a summary paragraph that summarizes this section (4 to 6 sentences).

Conclusion

2 to 3 pages

Here, students should sum up their findings, discuss any trends in the law that they uncovered, tell readers what still needs to be known about their topical areas, and discuss needs for future research. Also, students should identify the policy implications flowing from their research: training, supervision, education, policy development, etc.

Why you do not want to mix state cases with federal cases in your paper. It is a matter of diversity of jurisdiction:

It can be confusing when dealing with our system of federalism with 51 sovereign entities with separate legal systems (federal government & 50 states). State courts may hear questions based on federal law but they must apply federal precedents from federal courts within their jurisdiction and apply federal statutory and constitutional authority. State courts may hear questions based on federal law, but they are not required to do so. This is an issue of **diversity of jurisdiction**. Most state courts have general jurisdiction which gives them the discretion to hear questions based on federal law, but they must hear questions brought to them based on state law. On the other hand, federal district courts (trial courts in federal system) must hear questions brought to them on the basis of federal law, but they have subject matter jurisdiction with respect to questions of state law or state constitutional interpretation. Subject matter jurisdiction limits federal courts' discretion to what they can hear regarding state issues to what Congress has authorized them to hear. If federal courts are authorized to hear questions of state law, they must rely on state law and state statutory and constitutional authority. When federal courts hear state issues in federal courts, they must rely on state precedents and try to determine what the state's highest court or state's legislature meant when the law was enacted or interpreted. Because of a variety of jurisdictional issues, occasionally a federal court, even if it has the requisite jurisdiction to hear a question involving state law, will exercise its discretion and send the case back to state court. Similarly, state courts with general subject matter jurisdiction will refuse to hear a case litigating an issue based on federal law (even though they could); instead, they send the case to federal court for them to apply federal precedent and federal statutory and constitutional authority, presumably something the federal courts should feel more comfortable with since they do it on a daily basis than do the run-of-the-mill state courts.

The U.S. Supreme Court has both **original jurisdiction** and **appellate jurisdiction**. **Original jurisdiction** exists in all cases affecting ambassadors, other public ministers, and counsels, and all cases in which a state is a party. **Appellate jurisdiction** exists over all cases decided by the lower federal courts and cases decided by state courts involving issues of federal law.

(In Civil Cases Only) Motion to Dismiss: a formal pretrial objection made by the defendant attacking the legal sufficiency of the plaintiff's lawsuit. It is an assertion made without disputing the facts that the lawsuit does not state a cause of action, and the defendant is entitled to judgment. The well-settled rule of federal practice is that a motion to dismiss for failure to state a claim should not be granted unless it appears to a certainty that the plaintiff would not be able to recover under any state of facts that could be proved in support of his/her claim.

(In Civil Cases Only) Motion for Summary Judgment is a preverdict judgment rendered by the court in response to a motion by plaintiff or defendant, who claims that the absence of factual dispute on one or more issues eliminates the need to send those issues to the jury; a device designed to effect a prompt disposition of controversies on their merits without resort to a lengthy trial, if in essence there is no real dispute as to salient facts or if only a question of law is involved.

(In Criminal Cases) Motion to Suppress: refusal to produce evidence or to allow evidence to be produced for use in litigation. Suppression of evidence refers most commonly to the sanction in a criminal case for an unreasonable search or seizure that violates a defendant's constitutional rights. In *Weeks v. United States* (232 U.S. 383 (1914)), the U.S. Supreme Court held that illegally seized evidence must be excluded from use in federal criminal trials. In 1961 in *Mapp v. Ohio* (367 U.S. 643), the Court expanded the exclusionary rule to include state criminal trials.

GUIDE TO CASE BRIEFING

Case briefs help the reader to understand court cases better and are used extensively as a learning tool in law schools and in the practice of law. Students read a case, take it apart into classified segments, and then reassemble it in a more concise and organized form so as to facilitate learning.

In order to familiarize students with the basics of case briefing, a sample case brief is presented here. It must be stressed that there are various ways to brief cases, usually depending on what the reader or instructor considers important. For example, some instructors include only the court's majority opinion, while others go into concurring and dissenting opinions. Some require comments concerning the significance of the case, while others want excerpts from the decision. What follows is one of the simplest ways to brief a case.

The basic elements of a simple case brief are

1. Name of the case
2. Citation (telling where the case can be found)
3. Date decided
4. Facts
5. Main issue
6. Decision
7. Principle of law
8. Analysis

Example of a Case Brief: The Case of *Miranda v. Arizona*

- 1. Name of the Case:** *Miranda v. Arizona*
- 2. Citation:** 384 U.S. 486
- 3. Date Decided:** 1966

Note: *In your brief, the preceding elements go in this order: *Miranda v. Arizona*, 384 U.S. 486 (1966).*

4. Facts: Ernesto Miranda was arrested in his home and taken to the police station in Phoenix, Arizona, where he was interrogated by two police officers for two hours. He was not advised of his right to remain silent or of his right to an attorney. Miranda signed a written confession and was later convicted of kidnapping and rape. He appealed his conviction to the U.S. Supreme Court, saying that the evidence against him was obtained in violation of his constitutional right against self-incrimination and therefore should not have been admitted in court.

Note: *The facts section can be too detailed or too sketchy, both of which can be misleading. In general, be guided by this question: What minimum facts must you include in your brief so that a person who has not read*

the whole case (as you have) will nonetheless understand it? That amount of detail is for you to decide--you must determine what facts are important or unimportant.

5. Main issue: Are statements made by a suspect during custodial interrogation--where the suspect has not been advised of his right to remain silent or to have an attorney--admissible as evidence in court during the trial?

Note: The issue statement must always be in question form, as here. Be sure that your issue statement is neither too narrow (as to be applicable only to the peculiar facts of that case) nor too general (as to apply to every case even remotely similar in facts), so that it is useless. Also, some cases have more than one issue.

6. Court Decision: The conviction of Miranda was reversed, and the case was sent back to trial court for new trial without using the evidence that was illegally obtained.

Note: The court decision section answers the following questions: Did the court affirm, reverse, or modify the decision of the immediate lower court from which the case came, and what happened to the case? Sometimes this is confused with the principle of law. The difference is that the court decision section simply tells you what happened to the case on appeal and what the court said is to be done with it.

7. Principle of Law (otherwise known as Doctrine or Ruling or Decision): When a suspect is taken into custody or otherwise deprived of freedom in a significant way, he or she must be given the following warnings:

a. You have the right to remain silent; b. Anything you say can be used against you in a court of law; c. You have a right to the presence of an attorney; d. If you cannot afford an attorney, one will be appointed for you by the state.

If these warnings are not given, any evidence obtained by the police cannot be admitted in court during the trial, because it is deemed to have been obtained in violation of a suspect's constitutional right against self-incrimination.

Note: Most cases do not have a principle of law as lengthy as this. In any case, you must be able to state in brief, exact, clear language what the court said. Usually, you can pick the principle of law out from the case itself, particularly toward the end of the court decision. The principle of law is the most important element of the case, because it states the rule declared by the court. Such a rule becomes applicable to similar cases to be decided by courts in that jurisdiction.

8. Notes and Comments: the importance of the case. How the case fits into the overall picture of the law on the subject. You will need to get law review/law journal/scholarly articles on the case to help you write this part of the case.