Criminal Due Process, Privacy, and Economic Rights
PLSC 317

Fall, 2018
Monday, Wednesday 3:30 – 4:45
Pray-Harrold 421

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We create governments to protect us from, or help us accomplish, things that we can't deal with on our own. Having a government that can perform these services effectively requires significant sacrifices on our part. One thing we sacrifice is money, in the form of taxes. But even more important is that we give up a good chunk of our liberty to act as we would like to.

How much liberty should we have to give up, under what circumstances, and why? These are among the most crucial questions any society must answer. In this country, the toughest such questions often reach the U.S. Supreme Court in the context of court cases. They arise most often in matters of crime and punishment but can also involve such very different issues as land use, abortion, and same-sex marriage.

Our chief aim in this class is to understand and critically evaluate the answers the Court has offered to these questions across a range of issues. Therefore, our primary texts will be Supreme Court opinions. Court opinions can be challenging to read, but I will help you with them; experience in reading cases is not required to excel in the class.

If you are thinking about law school, this course will provide you with some preparation and a test of your interest. But the questions we'll be exploring are the kind that all good citizens should think hard about, so you should find it valuable and interesting even if you have no desire to be a lawyer.

COURSE MATERIALS
The primary textbook for the class is Israel, et al. *Criminal Procedure and the Constitution* (2016 Edition).   If you would prefer to buy a used copy of the 2015 edition, it should work fine; the case names are listed in the syllabus along with the 2016-edition page number, and they should start on a nearby page in the 2015 edition. URLs are given in parentheses for cases not in the textbook.

GRADING
Your course grade will be based on two exams (50%), two multiple-draft papers critically evaluating cases on the syllabus (40%), and class participation (10%). A = 93-100%, A- = 90-92, B+ = 87-89, B = 83-86, B- = 80-82, etc.

I will judge **class participation** primarily in terms of quality. So, for instance, someone who comes to a class session prepared and asks just two thoughtful questions will get more credit than someone who makes a number of poorly thought out comments.

The **exams** will be open-book and take-home. The second exam will not be cumulative; it will just cover material from after the first exam. The approximate dates are listed in the syllabus. We will agree on the exact dates together.

Each **paper** will be written in two stages. First, you will submit a one- to two-page reaction to the opinions before or on the day we discuss that case in class. You will then have about a week after we discuss the case in class to submit a revised two- to three-page version of the paper. Each draft will count for 10% of your total course grade. The two cases you will be writing on are *Miranda v. Arizona* and *Griswold v. Connecticut.* The due dates for the papers are shown in red in the syllabus below.

Plagiarism is pretending – or allowing a reader to think – that someone else's words, ideas, insights, or discoveries are yours. You can never go wrong by giving too much credit to someone else. So when in doubt, cite your source – or just ask me for guidance.

ATTENDANCE AND DEVICES:

Attendance will not be counted or required, though naturally your participation grade will suffer if you miss class frequently. Except in emergencies, phones must be put away, and computers and tablets must be used only for class work. Violations of this rule of common courtesy will result in penalties to the participation grade.

OFFICE HOURS:
I strongly encourage you to come see me if you need any assistance with course material or if you wish to pursue discussions outside of class. I will be available during the office hours listed above but am also happy to schedule meetings for other times.

EMU POLICIES
In addition to the course-specific policies and expectations listed here, students are responsible for understanding all applicable university guidelines, policies, and procedures. The EMU Student Handbook is the primary resource provided to students to ensure that they have access to all university policies, support resources, and student's rights and responsibilities. Changes may be made to the EMU Student Handbook whenever necessary, and shall be effective immediately, and/or as of the date on which a policy is formally adopted, and/or the date specified in the amendment. Electing not to access the link provided below does not absolve a student of responsibility. For questions about any university policy, procedure, practice, or resource, please contact the Office of the Ombuds: 248 Student Center, 734-487-0074, emu_ombuds@emich.edu, or visit the website at www.emich.edu/ombuds.
CLICK HERE to access the University Course Policies

WRITING ASSISTANCE
The **University Writing Center** (115 Halle Library; 487-0694) offers one-to-one writing consulting for both undergraduate and graduate students. Hours are **10 a.m. to 6 p.m. Mondays through Thursdays and 11 a.m. to 4 p.m. Fridays**. The UWC opens **Monday, September 10**, and closes **Thursday, December 13**.
The UWC also has several college and program satellite locations across campus. **The locations and hours for the other satellites can be found on the UWC web site:**
http://www.emich.edu/ccw/writing-center/contact.php
Students seeking writing support at any UWC location should bring a draft of their writing (along with any relevant instructions or rubrics) to work on during the consultation.

LIBRARY RESEARCH AND TECHNOLOGY HELP
The EMU Library offers support for finding, evaluating, and using information sources for research papers and projects.
Use **Library research guides** for your assignments or subject area. Look in your Canvas course shell for the *Library Guides* link. You'll also find **self-service help** on using the library, research basics, plagiarism, and citing sources at: http://www.emich.edu/library/help/index.php
Get **one-on-one research help** by visiting the Library, calling the Information Desk at 734-487-2445, or making an appointment with a subject specialist librarian. Subject specialist librarians, assigned to each EMU department, can give you friendly expert advice on your research project. You can also **consult a librarian online** via the 24/7 *Ask-A-Librarian* chat service. For details, visit: http://www.emich.edu/library/help/ask.php
The **Academic Projects Center**, *located on the Halle Library first floor,* offers drop-in help with research, writing, and technology to improve the quality of your research paper, project, or presentation. You can get help with brainstorming ideas, finding sources, structuring an essay, or putting together a presentation using PowerPoint or Emich Google Apps. The APC is staffed by writing and technology consultants as well as Library faculty. More info at**:** http://www.emich.edu/apc/

TOPICS AND READINGS

It is critical that you come to each class having already read the material we will be covering that day. It's not necessary for you to remember all the details of a case; focus on the larger questions that could arise in many other situations, not just what happened in this one.

9/5 – 9/10   Introduction to the course and the judicial system
Readings: Chapter 1 (A Criminal Justice Process Overview)

9/12 – 9/26   Searches and seizures
Landmark cases of the 1960s: *Mapp v. Ohio* (p. 60), *Katz v. U.S.* (p. 99), *Terry v. Ohio* (p. 273)
Warrantless searches: *Samson v. California* (314), *Schneckloth v. Bustamonte (313),* *U.S. v. Drayton* (299), *U.S. v. Jones* (112)
Arrests and their consequences: *U.S. v. Robinson* (173), *Atwater v. Lago Vista* (189), *Maryland v. King* (196), *Riley v. California* (265).
Consequences of police mistakes/misconduct: *MD v. Garrison* (156), *U.S. v. Leon* (66)

10/1 – 10/8   Self-incrimination
What does "compelled" mean? *Kastigar v. U.S.* (603), *Griffin v. California* (985)
The coming of *Miranda:* Introduction to The "Voluntariness Test" (399), *Ashcraft v. Tennessee* (402), Introduction to *Miranda* (419), and *Miranda v. Arizona* (420)
The scope of *Miranda: NY v. Quarles* (497), *Missouri v. Seibert* (505), *Chavez v. Martinez* (532)
First draft of *Miranda* paper due 10/3

10/10 – 10/15   Right to Counsel
Introduction to The Right to Appointed Counsel (363-66), *Washington v. Strickland* (876), *Faretta v. California* (940)
Second draft of *Miranda* paper due 10/15

10/17 – 10/24   Juries
Singer v. U.S. (765), *Burch v. Louisiana* (762), *Batson v. Kentucky* (786), *Blakely v. WA* (1087)

10/29– 10/31   Cruel and Unusual Punishment
Glossip v. Gross (1154), *McKleskey v. Kemp* (1106), *Graham v. Florida* (1124)

Take-home exam around 11/5

11/5 – 11/7   Other protections, and Due Process generally
Barker v. Wingo (685), *Williams v. Pennsylvania* (803), *Cleveland Board Of Education V. Loudermill* (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/Loudermill.html)

11/12   The Takings Clause and just compensation
Kelo v. City of New London (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/Kelo.html)

11/14   Substantive Due Process - Introduction
Lochner v. NY (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/lochner.html)

11/19   Incorporation of the Bill of Rights
McDonald v. Chicago (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/mcdonaldvchicago.html)

11/26 – 12/10   **The right of privacy**
   Griswold v. CT (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/griswold.html)
   Planned Parenthood v. Casey
   (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/casey.html)
   Washington v. Glucksberg
   (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/glucksberg.html)
   Obergefell v. Hodges (https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf)
   First draft of *Griswold* paper due 11/26
   Second draft of *Griswold* paper due 12/5

   Take-home exam around 12/12