

USC Gould

School of Law

Criminal Procedure (LAW-602)
3 Units
Spring 2024—Wednesdays—6:15 to 9:00 pm
Classroom LAW 3

Instructor: Judge Serena Murillo, Los Angeles Superior Court

Office Hours: By appointment, please e-mail to schedule a specific time.

Contact Info: smurillo@law.usc.edu

Course Description

This course will cover the leading Supreme Court cases on the criminal justice process. At each step in the process, procedures exist, many judicially created, to ensure fair adjudication of criminal allegations and to prevent government oppression of liberty and privacy interests. The foundation of these procedures are found in the Bill of Rights, the first ten amendments to the United States Constitution. The United States Supreme Court interprets these provisions and sets a constitutional floor for government behavior. Thus, the principles of criminal procedure are more appropriately described as constitutional criminal procedure. We will also consider the social, economic and political policies that have driven the development of criminal procedure. The class will focus on the Fourth, Fifth, Sixth and Eighth Amendments to the U.S. Constitution. Special attention will be given to the Fourth Amendment and its application in the realm of electronic evidence at both the state and federal level. Guest speakers from the Los Angeles Criminal Law Community will also offer focused instruction.

Learning Objectives

As we progress through the course, students will be able to analyze various fact patterns and explain the potential outcomes after applying Supreme Court precedent. Students will also be able to explain the public and social policies behind the development of various aspects of criminal procedure.

Prerequisites(s): Criminal Law

Co-Requisite(s): None

Concurrent Enrollment: None

Recommended Preparation: Evidence

Course Notes

Grading for the class is available as a numerical grade or CR/D/F. Your grade will be based upon a closed book final multiple-choice exam and an essay mid-term. 10% of the final grade will also be based on attendance and participation in classroom discussions. The law school curve will be applied to raw scores.

Syllabus and copies of lecture slides will be posted on Blackboard.

Required Readings and Supplementary Materials

Criminal Procedure, Cases and Materials, Third Edition (West Academic Publishing, 2022); Cynthia Lee, L. Song Richardson;
ISBN: 9781647086183

Supplementary Materials will also be assigned and posted in Blackboard. Some weekly readings require students to review the case syllabus of assigned U.S. Supreme Court opinions as listed in this course syllabus.

Description and Assessment of Assignments

The readings for each week are summaries of much longer opinions. The cases included in the textbook are already heavily edited – what remains is usually important to the analysis and holding. Consequently, it is important to take the time to understand the factual background and policy discussions in each case. Simply skimming the reading is not helpful. In-class discussions will focus on the key facts and policies considered in each case.

The questions and notes after the readings should be read and considered, but keep in mind that there are often not “right” answers to the questions presented. Rather, they serve as prompts for further consideration of the issues presented and would be good to discuss in study groups and in class.

Note: Commercial outlines of the cases we study that are available on-line often only provide you with “what happened” in the case. They usually don’t provide you with any information as to the issues facing the court, the policies under consideration, or any balancing tests used to reach the result. Students who rely solely on commercial outlines will lack fundamental understanding of these very important issues. I hope to teach you what you need to know for the bar exam, but also the policies underlying these legal doctrines.

Grading Breakdown

Students will be graded overall based upon their performance on the final, the midterm, and weekly participation in class. Participation will be worth 10% of the overall grade as discussion contributes to the learning process.

Assignment	Points	% of Grade
Final Exam	100	70
Mid Term Essay	50	20
Participation	10	10
TOTAL	160	100

Assignment Submission Policy

There will not be any assignments that must be submitted. Students will be required to read weekly assignments and discuss them in class.

Additional Policies

Students must attend class. The Syllabus outlines the cases students are expected to read prior to each lecture. Occasionally, if there is a great deal of discussion during class, we will run out of time and not discuss all of the assigned reading for that day. If this occurs, I will amend the reading assignment for the next class in Blackboard.

Use of AI in this Course

Except where expressly permitted by the instructor, all work submitted for this course, including exams and papers, must be completed by you, personally. Use of artificial intelligence (AI) tools to generate text as part of preparing your work is strictly prohibited. Submission or presentation of material generated by AI, including summarizing, paraphrasing, or editing such material, will be considered a violation of Academic Integrity. For additional information, please refer to the Academic Integrity and Plagiarism portions of the Gould Student Handbook and the USC Student Handbook.

Course Evaluations

Students will have an opportunity to complete a course evaluation at the end of the course. I would greatly appreciate your completing an evaluation at that time. I value your feedback and will use it to improve this course. We will make time during the class session and before the end of the semester for you to complete an evaluation. Thank you.

Course Schedule: A Weekly Breakdown

	Topics/Daily Activities	Readings and Homework	Deliverable/ Due Dates
Week 1 10 January, 2024	Introduction to the Criminal Trial Process	Introduction Casebook pgs. 1-8 Guest Lecturer: Los Angeles Deputy District Attorney Habib Balian, Overview of the Criminal Trial Process through the case of the People v. Robert Durst	Read by class date and be prepared to discuss.
Week 2 17 January, 2024	Search & Seizure: What Constitutes a Search?	Searches: Open Fields & Third Party Doctrine Casebook pgs. 9-38 Electronic Surveillance pgs. 43-74 Commentary on the "Reasonable Expectation of Privacy" Test pgs. 82-85	Read by class date and be prepared to discuss.
Week 3 24 January, 2024	Search & Seizure: Probable Cause Three Types of Seizures: Consensual Encounter, Temporary Detention, Arrest	Probable Cause Casebook pgs. 89-101 Consensual Encounter Pgs. 287-327; Temporary Detention <i>Case Syllabus for: US v. Mendenhall (1980) 446 U.S. 544; Rodriguez v. US (2015) 135 S. Ct. 1609</i> Terry "Stop & Frisk" pgs. 201-239 Arrests <i>People v. Souza (1994) 9 Cal.4th 224 (Please read whole case.)</i>	Read by class date and be prepared to discuss.
Week 4 31 January, 2024	Search & Seizure: Search Warrants and Exceptions to the Warrant Requirement	Search Incident to Arrest pgs. 133-167 Exigent Circumstances & Blood Alcohol pgs. 405-420; Read Case syllabus for: <i>Schmerber v. California (1966)</i> 384 U.S. 757;	Read by class date and be prepared to discuss.

		<p><i>Missouri v. McNeely</i> (2013) 133 S. Ct. 1552; <i>Mitchell v. Wisconsin</i> (2019) 139 S.Ct. 2525</p>	
<p>Week 5 7 February, 2024</p>	<p>Search & Seizure: Exceptions to the Warrant Requirement</p>	<p>Consent pgs. 351-369; Read case syllabus for: <i>Birchfield v. North Dakota</i> (2016) 136 S. Ct. 2160</p> <p>Plain View pgs. 241-254</p> <p>The Automobile Exception pgs. 169 -199</p>	<p>Read by class date and be prepared to discuss.</p>
<p>Week 6 14 February, 2024</p>	<p>Search & Seizure: The Exclusionary Rule</p>	<p>Exclusionary Rule pgs. 421- 465</p> <p>Exceptions to the Exclusionary Rule Read case syllabus for: <i>Davis v. United States</i> (2011) 131 S. Ct. 2419</p>	<p>Read by class date and be prepared to discuss.</p>
<p>Week 7 21 February, 2024</p>	<p>Search & Seizure: Search Warrants for Electronic Evidence in California</p> <p>Search Warrants for Electronic Evidence in Federal Court</p> <p>*Guest Speaker</p>	<p>California Electronic Communications Privacy Act Review California Statute, Penal Code section 1546, <i>et. seq.</i> Will be posted in Blackboard.</p> <p>Federal Electronic Communications Privacy Act Any reading will be posted in Blackboard.</p> <p>* Mid-Term Essay Exam</p>	
<p>Week 8 28 February, 2024</p>	<p>8th Amendment; Pretrial Release, also known as "Bail"</p>	<p>Chapter 24 pgs. 747-762;</p> <p><i>In re Humphrey</i> (2021) 11 Cal.5th 135 (Read the whole case.)</p> <p><i>*More Reading to be posted in Blackboard.</i></p>	<p>Read by class date and be prepared to discuss.</p>
<p>Week 9 6 March, 2024</p>	<p>6th Amendment; Right to Counsel</p> <p>Interrogations</p>	<p>Chapter 17, pgs. 467-486</p> <p>Chapter 18, pgs. 487-502</p>	<p>Read by class date and be prepared to discuss.</p>

Week 10 13 March, 2024	No Class, Spring Break		
Week 11 20 March, 2024	Interrogations, Continued.	Chapter 19, pgs. 503-529	Read by class date and be prepared to discuss.
Week 12 27 March, 2024	5th Amendment: Interrogations, The Miranda Rule	<i>Chapter 20, pgs. 531-573</i>	Read by class date and be prepared to discuss.
Week 13 3 April, 2024	5th Amendment: Interrogations & Waiver	<i>Chapter 20, pgs. 574-597</i>	Read by class date and be prepared to discuss.
Week 14 10 April, 2024	5th Amendment: Interrogations	<i>Chapter 20, pgs. 597-671</i>	Read by class date and be prepared to discuss.
Week 15 17 April, 2024	Review for Exam.	<i>No reading.</i>	Read by class date and be prepared to discuss.
EXAM WEEK	April 26 – May 9	Exam date: May 8th 2024, 8:30 a.m.	

Statement on Academic Conduct and Support Systems

Academic Integrity:

The University of Southern California is a learning community committed to developing successful scholars and researchers dedicated to the pursuit of knowledge and the dissemination of ideas. Academic misconduct, which includes any act of dishonesty in the production or submission of academic work, compromises the integrity of the person who commits the act and can impugn the perceived integrity of the entire university community. It stands in opposition to the university's mission to research, educate, and contribute productively to our community and the world.

All students are expected to submit assignments that represent their own original work, and that have been prepared specifically for the course or section for which they have been submitted. You may not submit work written by others or "recycle" work prepared for other courses without obtaining written permission from the instructor(s).

Other violations of academic integrity include, but are not limited to, cheating, plagiarism, fabrication (e.g., falsifying data), collusion, knowingly assisting others in acts of academic dishonesty, and any act that gains or is intended to gain an unfair academic advantage.

The impact of academic dishonesty is far-reaching and is considered a serious offense against the university. All incidences of academic misconduct will be reported to the Office of Academic Integrity and could result in outcomes such as failure on the assignment, failure in the course, suspension, or even expulsion from the university.

For more information about academic integrity see [the student handbook](#) or the [Office of Academic Integrity's website](#), and university policies on [Research and Scholarship Misconduct](#).

Please ask your instructor if you are unsure what constitutes unauthorized assistance on an exam or assignment, or what information requires citation and/or attribution.

Students and Disability Accommodations:

USC welcomes students with disabilities into all of the University's educational programs. [The Office of Student Accessibility Services](#) (OSAS) is responsible for the determination of appropriate accommodations for students who encounter disability-related barriers. Once a student has completed the OSAS process (registration, initial appointment, and submitted documentation) and accommodations are determined to be reasonable and appropriate, a Letter of Accommodation (LOA) will be available to generate for each course. The LOA must be emailed to the Student Affairs office, and to ensure anonymity where possible, the Student Affairs office will communicate with faculty as needed. For classroom accommodations, the student can work directly with faculty to determine how best to implement the modification. This should be done as early in the semester as possible as accommodations are not retroactive. More information can be found at osas.usc.edu. You may contact OSAS at (213) 740-0776 or via email at

osasfrontdesk@usc.edu. You can also contact Student Affairs for more information about accommodations in the law school (studentcare@law.usc.edu).

Support Systems:

[*Counseling and Mental Health*](#) - (213) 740-9355 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

[*988 Suicide and Crisis Lifeline*](#) - 988 for both calls and text messages – 24/7 on call

The 988 Suicide and Crisis Lifeline (formerly known as the National Suicide Prevention Lifeline) provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States. The Lifeline is comprised of a national network of over 200 local crisis centers, combining custom local care and resources with national standards and best practices. The new, shorter phone number makes it easier for people to remember and access mental health crisis services (though the previous 1 (800) 273-8255 number will continue to function indefinitely) and represents a continued commitment to those in crisis.

[*Relationship and Sexual Violence Prevention Services \(RSVP\)*](#) - (213) 740-9355(WELL) – 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender- and power-based harm (including sexual assault, intimate partner violence, and stalking).

[*Office for Equity, Equal Opportunity, and Title IX \(EEO-TIX\)*](#) - (213) 740-5086

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants.

[*Reporting Incidents of Bias or Harassment*](#) - (213) 740-5086 or (213) 821-8298

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office for Equity, Equal Opportunity, and Title for appropriate investigation, supportive measures, and response.

[*The Office of Student Accessibility Services \(OSAS\)*](#) - (213) 740-0776

OSAS ensures equal access for students with disabilities through providing academic accommodations and auxiliary aids in accordance with federal laws and university policy.

[*USC Campus Support and Intervention*](#) - (213) 740-0411

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

[*Diversity, Equity and Inclusion*](#) - (213) 740-2101

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

[*USC Emergency*](#) - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

[USC Department of Public Safety](#) - UPC: (213) 740-6000, HSC: (323) 442-1200 – 24/7 on call

Non-emergency assistance or information.

[Office of the Ombuds](#) - (213) 821-9556 (UPC) / (323-442-0382 (HSC)

A safe and confidential place to share your USC-related issues with a University Ombuds who will work with you to explore options or paths to manage your concern.

[Occupational Therapy Faculty Practice](#) - (323) 442-2850 or otfp@med.usc.edu

Confidential Lifestyle Redesign services for USC students to support health promoting habits and routines that enhance quality of life and academic performance.