

Criminal Justice Syllabus
Spring 2019
Prof. Salem

University of Maryland

CURRENT ISSUES IN THE LAW
CCJS 418
Spring 2018
Thursday, 6:00 - 8:30pm (College Park)

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COURSE DESCRIPTION

This course is designed to introduce students to very recent, complex issues in both criminal and civil law. Particular emphasis will be placed on some of the Ahot@ issues in the law, which means this class syllabus may be more fluid than others. Among other things, you will learn about recent developments in the law of search and seizure. We will also discuss the federal death penalty and how a capital case is tried in the courtroom. In addition, we will learn about how a prosecutor decides to charge an offense and what considerations go into that decision, as a lead-up to several weeks of discussion of the Special Counsel investigation. Students will become familiar with federal charging documents, including indictments and informations, as well as the law of evidence, but the focus will be on understanding some of the most current issues of the day as they relate to criminal legal issues. In addition, the student will be exposed to ethical considerations in prosecuting certain cases. Materials will be made available through CANVAS, although some may be given out in class.

SYLLABUS

CLASS 1: Introduction and course overview; examination and grading policy.

CLASS 2-5: Overview of the criminal process: the manner in which a federal court obtains jurisdiction and venue of a criminal case and defendants, and a discussion of different Clauses of the United States Constitution that provide the basis for Congress's regulation of criminal activity. We will also cover the Federal Rules of Evidence, particularly as they relate to admissibility of evidence and an understanding of indictments, hearsay, the right to confront witnesses and the right to counsel under the Sixth Amendment.

A description of the various federal investigative agencies, the offenses which each agency investigates, the resources available to the agencies, and the prosecutor's role in the investigation of crimes. We will also consider defense investigations

designed to avoid indictment and/or gather information to prepare for indictment, including pre-indictment motions practice.

In addition, these classes will be an introduction to the mechanics of grand jury investigations, including types of witnesses and evidence which may be presented, structuring and conducting the investigation with a focus on gathering evidence, locking-in testimony, avoiding allegations of grand jury abuse, obtaining pre-indictment pleas and deciding whether to indict, and identifying targets, subjects and those individuals from whom cooperation should be sought. We will also review matters such as Fifth Amendment privileges in the face of grand jury subpoenas, challenges to apparently overbroad grand jury subpoenas, and defense access to grand jury materials.

Class 6: The Death Penalty: recent Supreme Court cases dealing with the death penalty and the legal issues surrounding the administration of the medical concoctions that induce death.

Class 7: The growth of international white collar offenses, including money laundering, bribery, the Foreign Corrupt Practices Act and Iranian sanctions.

CLASS 8: Midterm

CLASS 9: The Special Counsel's Office structure and legal underpinnings, the history of Special Counsel investigations in the United States (focusing primarily on the Special Counsel Watergate investigation into President Richard Nixon's criminal activity). Review of the legal meaning behind the oft-used term "collusion," the allegations against members of the Trump campaign, and what criminal statutes apply to that conduct. We will also cover the complicated legal framework behind the various obstruction of justice statutes, including discussion of the different criminal activity targeted by each statute, the difficulties in obtaining convictions, and unresolved legal questions in case law interpreting each statute.

CLASS 10: Case Study—Paul Manafort, Rick Gates and the Russians

Discussion of the Manafort, Gates and Russian indictments, including Manafort's and Gates's roles in Trump's campaign, a review of the charged statutes (including conspiracy, money laundering, and failing to register as an agent of a foreign principal), and the laws concerning lobbying on behalf of a foreign government in the United States. Discussion will include the prosecutor's consideration of whether to arrest the defendant or to permit the defendant to voluntarily appear in lieu of arrest, the government's decision to seek detention and the legal basis for detention, and ensuring a defendant's Fifth and Sixth Amendment rights are honored in the early stages of a case.

Class 11: Case Study—Michael Flynn, George Papadopoulos and Roger Stone

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Discussion of the Michael Flynn and George Papadopoulos Informations and the Stone Indictment, and discussion of the difference between Informations and Indictments, the crime of false statements, and the prosecutor's use of false statement charges as part of an overall strategy with cooperating witnesses. This class will also cover plea negotiations and plea agreements in general, and with cooperating witnesses: (1) what the prosecution expects from cooperators and how the agreement affects the government's goals (i.e., presenting a credible witness at trial), and (2) whether the defendant should be willing to cooperate (i.e., the cost-benefit analysis).

CLASS 12: The El Chapo investigation and prosecution and issues for federal law enforcement. If time, we also will consider *United States v. Carpenter* and Fourth Amendment protections for cell-site information.

CLASSES 13, 14 and Final Exam week: In-class presentations on a current issue of the law.

REQUIRED TEXT: there is no required text for this course. Course materials will be provided before discussions or you will be requested to read materials available on the Internet.

COURSE REQUIREMENTS: There are several requirements you must fulfill for this course. There will be a midterm exam, covering the material from the first half of the course. It is primarily multiple choice with some true/false. The exam will be worth 40% of your grade. The exam must be taken in class. During the semester, there also will be 5 quizzes, either at the beginning or end of class (it goes without saying that timely attendance is important); each will be worth 4 points and each will be graded strictly: the answer is either correct or incorrect. You will therefore receive on each quiz either 4 points or 0 points: no partial credit will be given. The quizzes will be worth 20% of your final grade. The final 40% of your grade will be made up of a combined paper/class presentation related to a current event case. The assignment typically is done in a team setting of groups of two, and each of you is expected to contribute to the written and oral parts of the assignment; I will give further direction as the course progresses. Participation and attendance in class will be worth up to 10 additional points and can make the difference between the grade you get and the one you wanted! **There will be no makeups for the quizzes and you are expected to be present when the quiz is given in order to receive the credit. I will not give the quiz earlier or later than when it is offered in class, and if you come late or leave early and miss it, there is no make-up. The scheduled exam and assignment must be turned in in the class on the date it is due.**

MAKEUP POLICY

This policy does not apply to quizzes, for which there is no makeup. I have a very strict policy regarding makeup exams or assignments. These will only be given in cases of

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excused absences and official documentation is required. Excused absences are: illness with a doctor's note, death in the immediate family, required school activities, and required court appearance. **I will not accept a Health Center honor statement to verify an illness.** If you go to the Health Center and a doctor will not write you a note, you will need to get a copy of your medical record from them to verify your illness. By law, you are entitled to get a copy of this and it is your responsibility to do so. I must be notified in person or by phone **PRIOR** to missing an **exam or assignment** for me to consider giving you a makeup. If you have a problem on the day of an exam or on a day when an assignment is due, call me and I can advise you what to do. **If you know in advance that you will be absent for an exam or an assignment due date with an approved absence, you will be expected to take the exam or turn in the assignment prior to the exam/assignment due date.**

DISABILITY SUPPORT

I will make every effort to accommodate students who are registered with the Disability Support Services (DSS) Office and who provide me with a University of Maryland DSS Accommodation form. This form must be presented to me no later than the first scheduled class in February 2018. I am not able to accommodate students who are not registered with DSS or who do not provide me with documentation that has not been reviewed by DSS after the first scheduled February 2018 class. DSS students who are requesting to take their exams at the DSS Center need to provide me with a testing form for each exam that must be turned in to me no later than 1 week prior to each exam. The student is expected to take the exam at the same time as the rest of the class.

THE CLASS PRESENTATION AND PAPER ASSIGNMENT

The class presentation will be based on a paper and oral presentation and will be done in small groups of two (2) people. The class presentation will, of course, need to be done the class it is scheduled. You will divide up and make an 8-15 minute presentation (I will give a final timeframe when I see how many teams we have by mid-semester) to the class on some current topic in the law of interest to you and which I approve in advance. In the presentation, the team will discuss the case/issue and also provide some personal feedback about the case (agree/disagree with the decision and WHY!!). The team will also submit a 3-5 page outline of the oral presentation, which is to contain additional information about the case/issue presented. Each member of the team is expected to make a part of the oral presentation, but only one joint outline is to be submitted. The team will receive ONE grade, applicable to both team members. The written part of the assignment is due for every student at the beginning of the class during which presentations begin. **The written assignment may NOT be submitted via e-mail without prior permission.** The written assignment may be turned in early and can be submitted in my mailbox ONLY if it is turned in prior to the actual due date. Turning in the written assignment early does not, however, in any way affect the presentation part of the assignment. **If you are turning in your written assignment on the day it is due, it must be turned in in the classroom.** Because of the many students I have and the multiple assignments I give, I do not accept late

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assignments unless you have an excused absence (see above Makeup Policy). **AN ASSIGNMENT TURNED IN AFTER CLASS IS CONSIDERED LATE AND WILL NOT BE ACCEPTED.** All assignments are due at the very beginning of class. The grade given to the group is the grade each member of the group will receive.

ACADEMIC INTEGRITY

Academic dishonesty of any form will absolutely NOT be tolerated. Academic dishonesty encompasses the traditional behavior such as cheating on exams and assignments, giving false statements, etc., but also includes activities such as possessing and/or reviewing previous semester's exams and computer assignments. Additionally, students will be asked to write the University approved Honor Pledge on the exam and any assignment. The University of Maryland, College Park has a nationally Recognized Code of Academic Integrity, administered by the Student Honor Council. This Code sets standards for academic integrity at Maryland for all undergraduate and graduate students. As a student you are responsible for upholding these standards for this course. It is very important for you to be aware of the consequences of cheating, fabrication, facilitation, and plagiarism. For more information on the Code of Academic Integrity or the Student Honor Council, please visit <http://www.studenthonorcouncil.umd.edu/whatis.html>.

CLASSROOM CODE OF CONDUCT

The success of this class is dependent not only on my abilities and talents as an instructor to communicate new and complicated ideas, but also on our ability as a class to work together to create an environment conducive to learning. As a Department and University, we expect the faculty and students to be prepared for class and to be actively engaged in the classroom activities. Unfortunately, disruptive behaviors in the classroom cheat other students out of opportunities to learn. The University of Maryland's Code of Academic Integrity defines classroom disruption as Abehavior a reasonable person would view as substantially or repeatedly interfering with the conduct of a class. Examples would include coming late to class, repeatedly leaving and entering the classroom without authorization, making loud or distracting noises, and persisting in speaking without being recognized. As the instructor of this class, I also find the following distracting: reading outside material, sleeping, side conversations, text messaging and using laptops for non-academic functions (IM, e-mail, surfing, etc.). I also request that you turn cell phones/pagers on vibrate or silent during class.

Students are expected to treat each other with respect. Disruptive behavior of any kind will not be tolerated. Students who are unable to show civility with one another, the teaching assistants, or me will be subject to referral to the Office of Student Conduct or to Campus Police. You are expected to adhere to the Code of Student Conduct.

COPYRIGHT

The lectures I deliver in this class and the course materials I create and distribute, other than copies of case decisions, are protected by federal copyright law as my original works. My lectures are recorded or delivered from written lectures in order to ensure copyright protection. You are permitted to take notes of my lectures and to use course materials for your use in this course. You may not record, reproduce, or distribute my lectures/notes for any commercial purpose without my written consent. Persons who sell or distribute copies or modified copies of my course materials, possess commercial copies of my notes (i.e. Terpnotes), or assist another person or entity in selling or distributing those materials may be considered in violation of the University Code of Student Conduct, Part 9(k).

OFFICE HOURS

I will not typically have office hours, unless necessary.

COURSE EVALUATION

Your feedback about this course is very important to me and I hope you will fill out the online evaluation at the end of the semester.

SUGGESTED READINGS

In order to get the most out of the class, I would suggest you consider reading the following prior to Class 4:

1. Gideon's Trumpet by Anthony Lewis (1966): a great primer for Right to Counsel
2. Peculiar Institution: America's Death Penalty in an Age of Abolition (2010), David Garland, the newest treatment of the topic; *see also* The Death Penalty in America: Current Controversies (1997), Hugo Bedau: a good review of the death penalty in its current state and recent relevant issues.
3. The Russia Hoax by Greg Jarrett (2018); one view of the Mueller investigation.
4. Russian Roulette by Michael Isikoff and David Corn (2018): an overview of Russian meddling in U.S. politics.