

CRIMINAL PROCEDURE
LAWS 547
SPRING 2026 -- PROF. SETH STOUGHTON

COURSE DESCRIPTION

This course explores the constitutional rules that govern the range of actions taken by government officials (primarily police officers). We will critically examine the way that courts apply the Fourth and Fifth Amendment rules that regulate invasive actions—such as frisks, searches, detentions, arrests, interrogations, and uses of force—through the use of balancing tests that weigh the social benefits of crime prevention, investigation, and apprehension against the costs of individual liberty and privacy.

Goals & Objectives

By the end of this course, you will:

- Critically evaluate the normative justifications for and against delimiting government authority, especially as it is related to the investigation of crime, in different contexts, including arguments grounded in privacy, liberty, legitimacy, accuracy, and deterrence;
- Construct well-reasoned legal analyses of novel and complex scenarios, integrating multiple constitutional doctrines into a single, coherent argument through the application of Fourth and Fifth Amendment analytical frameworks to novel fact patterns, including:
 - Identifying and applying the relevant doctrinal tests to determine whether government action constitutes a search or seizure under the Fourth Amendment and, if so, whether such actions are constitutionally reasonable;
 - Identifying and applying the relevant doctrinal tests to determine whether government action constitutes custodial interrogation under the Fifth Amendment and, if so, whether government actors complied with constitutional requirements; and
 - Assess the applicability of the exclusionary remedy by tracing causal chains between governmental action and the discovery of specific pieces of evidence through the application of actual and proximate cause analyses;
- Compare and contrast competing doctrinal frameworks used by courts to regulate policing under the Fourth and Fifth Amendments (e.g., brightline rules versus balancing tests, privacy versus trespass, etc.);

COURSE INFORMATION

Professor: Seth Stoughton
Office: Room 325
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Class Meetings

We meet in room 136 from 10:45am-12:10pm on Mondays and Wednesdays.

Casebook & Other Assignments

- Allen *et al.*, CRIMINAL PROCEDURE: INVESTIGATION AND RIGHT TO COUNSEL (4th Ed. 2020), ISBN 9781543804379; and
- Supplemental reading materials, which will be made available via the course TWEN site

Office Hours: I do not have set office hours; you can either swing by when I'm in the office (I'm always happy to see you!) or email me to set up a specific appointment. I am generally in the building from about 9am-5pm on Mondays and Wednesdays and from 10:30am until 4pm on Tuesdays and Thursdays. I travel with distressing frequency, so don't hesitate to set up an appointment.

If there is an urgent need to reach me, you may call or text my cell (above). Please use your best judgment about calling or texting after hours, and remember to tell me who you are if you text me!

1) General Information

1.0 – Course Website

The syllabus and all supplemental materials will be hosted on TWEN.

1.1 – Professionalism & Classroom Expectations

Preparation. You are also expected to be *fully prepared* for every class. Being “fully prepared” means reading the assigned material a sufficient number of times, taking notes as needed, for you to:

- 1) Familiarize yourself with the materials, including the facts, legal questions, procedural posture, rules, reasoning, and holding of each case you read;

- 2) Develop well thought out answers to any questions raised in the material, especially the notes; and
- 3) Think proactively about how this topic fits in with topics you've already discussed (e.g., comparing and contrasting different cases, rules, or doctrines, or engaging in hypotheticals that build on but go beyond the assigned reading) and try to anticipate how prior class discussions may be relevant to the *next* class's discussion.

Advance/Prompt Notice. I expect you to attend and be fully prepared for each class, but I know full well that life sometimes gets in the way. If you are unable to be fully prepared for class, let me know as soon as possible *before* class (once class starts, I will assume everyone in the room who has not told me otherwise is fully prepared). If you are unable to attend class, let me know as soon as circumstances allow (either in advance or promptly after the fact in the event of an emergency). Notification need not include any sensitive information (for example, you are not expected to provide any details about your health or medical conditions), but should include enough information to establish that there is a professionally appropriate justification for the lack of preparation or absence.

No Laptops. For pedagogical reasons, I prohibit laptops, tablets with keyboards, and similar devices. The relevant research generally finds that notetaking on electronic devices tends to diminish attention and learning while significantly increasing distractions for both students using the device and students sitting nearby.* Additionally, students who take handwritten notes retain, on average, more material and better understand the material compared to students who take notes on laptops.† You may use electronic notebooks designed for handwritten notetaking (e.g., reMarkable or Supernote devices) that do not have internet browsers or communications apps (e.g., email). I understand that there can be individual variation, and if the general prohibition presents any obstacle to your learning, please either communicate directly with me or contact the appropriate university office (see Disability Accommodations, below).

Stand During Cold Calls. As a general rule, please stand up when cold called and remain standing for the duration of the cold call. If this presents any challenges or issues, please promptly communicate directly with me. You may also contact the appropriate university office (see Disability Accommodations, below).

* Richard W. Patterson & Robert M. Patterson Computers and Productivity: Evidence from Laptop Use in the College Classroom, 57 ECON. EDUC. REV. 66 (2017); Faria Sana et al., Laptop Multitasking Hinders Classroom Learning for Both Users and Nearby Peers, 62 COMP. & EDUC. 24 (2013); Erping Zhu, et al., Use of Laptops in the Classroom: Research and Best Practices, 30 U. MICH. CENTER FOR RESEARCH ON LEARNING AND TEACHING 1 (2012); Carrie B. Fried, In-Class Laptop Use and its Effects on Student Learning, 50 COMPUTERS & ED. 906 (2008); Helene Hembrooke and Geri Gay, The Laptop and the Lecture: The Effects of Multitasking in Learning Environments, 15 J. COMPUTING IN HIGHER ED. 46 (2003).

† Pam A. Mueller & Daniel M. Oppenheimer, The Pen is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking, 25 PSYCH. SCI. 1159 (2014).

1.2 – Disability Accommodations

The University of South Carolina provides high-quality services to students with medically documented disabilities, and I encourage you to take advantage of them. Any student with a documented disability should make arrangements for appropriate accommodations by bringing appropriate documentation to the Student Disability Resource Center in LeConte College Room 112A. Questions may be directed to the Center at (803) 777-6142, or sadrc@mailbox.sc.edu.

2) Grading

2.0 – Grading

This course will follow the School of Law’s standard letter grade system.

2.1 – Grading Criteria

Your grade in this course is based primarily on your performance on the final exam, but Professionalism and Classroom Expectations may affect your grade (see Grading Penalties, below).

2.2 – Grading Penalties

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), attending class while un- or under-prepared without providing appropriate notice and a professional explanation can negatively impact your grade by up to one letter grade.

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), missing class without providing appropriate notice and a professional explanation can negatively impact your grade by up to one letter grade.

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), failing to follow classroom or exam rules can negatively impact your grade, including dropping your grade to an F.

I retain the right to assign grade penalties as I deem professionally appropriate.

2.3 – Exam

The exam is comprehensive; it may test you on material from the entire semester. The exam will likely consist of multiple-choice questions, although it is possible that it will include essays, short answers, or some combination of those three or other types of questions.

I will provide additional information about the exam over the course of the semester.

2.4 - Observation Exercise

At any point in the semester **after class 14**, you **must** complete an observation exercise by going on a ride-along for at least four (4) hours with a police officer. You are responsible for making all necessary arrangements to go on a ride-along, although I will post helpful documents on the TWEN site. After the ride-along, you must turn in a summary of your observations; you can find a template on the TWEN site. Students who are unable to go on a ride-along should contact me as soon as possible to discuss alternatives. **The observation exercise must be completed by the last day of class.**

SYLLABUS*

TOPICS	CLASS	ASSIGNMENT	KEY CASES
SECTION I: THE FOURTH AMENDMENT			
PART 1: FRAMEWORK			
A. Introduction			
1. Text & History			
2. The Exclusionary Remedy			
3. Other Remedies	1	pp. 315-18 pp. 318-30 <i>Skim pp. 330-40</i>	<i>Mapp</i>
B. Defining “Searches”			
1. Infringements on REoP			
i. Reasonable Expectations of Privacy (REoP)	2	pp. 340-52, 366-72	<i>Katz; White</i>
ii. Developing REoP	3	Supp. 1	<i>Byrd</i>
iii. Losing REoP: Third-Party Exposure	4	pp. 352-58, 372-79, and Supp. 2	<i>Riley, Greenwood; Cabelles</i>
iv. Retaining REoP: Limits of Third-Party Exposure	5	pp. 392-421	<i>Carpenter</i>
2. Trespassory Physical Contact with Persons, Papers, Houses, or Effects	6	pp. 380-92, 359-66	<i>Jones; Jardines</i>
C. Defining “Seizures” of Property & Persons	7	pp. 421-34	<i>Drayton; Hodari D.</i>
D. Search or Seizure of <i>Whom?</i> Fourth Amendment Protections as Personal Rights	8	pp. 737-53 (thru n. 2)	<i>Carter; Wong Sun</i>

* The assignments set out in this syllabus are not set in stone; we may make adjustments over the course of the semester depending on where our combined interests take us. At various points in the semester, I may assign additional readings that provide different perspectives or raise new questions about the topics we cover in class. I will provide as much notice as possible before making any changes.

E. Justifying Searches & Seizures 1. The Warrant “Requirement” 2. Fourth Amendment Standards of Proof i. Probable Cause ii. Reasonable Suspicion	9	<i>Skim pp. 434-49 pp. 449-67, 571-78</i>	<i>Gates; JL</i>
iii. Mistakes of Law	10	Supp. 3	<i>Heien</i>
3. Valid Consent	11	pp. 526-44	<i>Bustamonte; Randolph</i>
PART II: SPECIFIC FOURTH AMENDMENT DOCTRINES			
A. Traffic Stops	12	<i>Skim pp. 585-91 pp. 592-599, 665-77</i>	<i>Whren; Edmond</i>
B. Vehicle Searches	13	pp. 497-517	<i>Acevedo; Houghton</i>
C. Stops & Frisks	14	pp. 550-71, 578-85	<i>Terry; Wardlow</i>
<u>Observation Exercise Period Opens</u>			
D. Arrests	15	pp. 517-24 (thru. n.3) <u>and</u> 600-13	<i>Atwater</i>
E. Searches Incident to Arrest	16	pp. 627-65	<i>Chimel; Gant; Riley</i>
F. Searches of a Home	17	pp. 524-26 (nn.4-5)	<i>Payton; Steagold</i>
G. Exigent Circumstances		pp. 468-80	<i>Mincey; King</i>
H. Plain View		pp. 491-97	<i>Hicks</i>
PART III: THE EXCLUSIONARY REMEDY			
A. The Deterrence Rationale	18	pp. 716-35	<i>Leon; Herring; Davis</i>
B. Fruit of the Poisonous Tree Analysis 1. “But For” Causation	19	pp. 753-54 (n.3) <u>and</u> pp. 761-67	<i>Murray</i>
2. Proximate Causation C. The Impeachment Exception	20	pp. 754-61 pp. 768-72	<i>Strieff Havens</i>

<i>SECTION II: THE FIFTH AMENDMENT</i>			
A. Voluntariness	21	<i>Skim pp. 883-97</i>	<i>Watts; Massiah; Escobedo</i>
B. The <i>Miranda</i> Warnings		pp. 897-913	<i>Miranda</i>
1. Custody	22	pp. 914-23	<i>Murphy; J.D.B.</i>
2. Interrogation		pp. 923-35	<i>INNIS; PERKINS</i>
3. Warnings		pp. 935-37	<i>Powell</i>
4. Invocations	23	pp. 937-51 <u>and</u> 861-66 (thru n.6)	<i>Mosley; Edwards; Salinas</i>
5. Waivers	24	pp. 951-61, 965-82	<i>Moran, Thompkins</i>
C. Remedies for <i>Miranda</i> Violations	25	pp. 982-1002	<i>Dickerson; Seibert; Patane</i>
D. <i>FINAL EXAM REVIEW</i>	26		Bring Your Laptops