



CRESTPOINT UNIVERSITY

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PLG-110 Constitutional Law & Criminal Procedure Syllabus and Course Guide

The Constitutional Law & Criminal Procedure course is a time-based course built into the Crestpoint learning management system. The course is divided into modules, each of which contains readings and/or video lessons. Each module also contains one or more assessments. Students should aim to complete one module per week and should not work too far ahead or fall too far behind.

All course assessments must be submitted by the course deadline. The deadline can be found by clicking on the Course Name, then Progress Report. Generally, the course deadline is approximately 4 weeks after the last day of the course.

If you are having trouble completing the course, the student is strongly encouraged to contact his or her academic advisor or [Academic Support](#).

Course Description:

Although concepts in constitutional law do not often manifest themselves in the everyday practice of law, a basic understanding of the foundation on which our entire legal system is built is vital to a student's legal education. This course will provide our students with a general understanding of the major issues in constitutional law, including the separation of powers between the executive, legislative and judicial branches of the federal government; federalism and states' rights; the concept of interstate commerce; freedom of speech (the First Amendment); substantive and procedural due process; the Equal Protection Clause; and various areas of discrimination.

Perhaps the portions of the Constitution most relevant to the everyday practice of law are those sections of the Bill of Rights which deal with criminal procedure and litigation. Therefore, this course will especially focus on the rights of a criminal defendant. The areas to be highlighted will include: the Fourth Amendment's protection against unreasonable searches and seizures by the police; the Fifth and Fourteenth Amendments' guarantees of "due process" for an alleged criminal; the Sixth Amendment's guarantee of the right to counsel along with the landmark case of *Miranda v. Arizona*; and the Eighth Amendment's prohibition of cruel and unusual punishment.

Course Objectives:

Upon completion of this course, students will be able to:

- Explain the concept of separation of powers.
- Articulate the standards the courts use in determining whether the government may make classifications that treat people differently from one another.
- Determine whether a claim of government deprivation of civil rights is likely to succeed.
- Differentiate between "searches" that are regulated by the Fourth Amendment and police actions that are not considered searches and are thus not restricted by the Amendment.
- Determine whether a statement given by a suspect was in response to a proper Miranda "interrogation".
- Determine whether a government regulation impacting religion violates the First Amendment.
- Distinguish between government actions satisfy procedural due process requirements and those that don't.
- Explain what kinds of speech are and are not protected under the First Amendment.
- Describe the significance of the Commerce Clause and the latitude it affords Congress to legislate.
- Articulate the elements necessary for obtaining a search warrant.

Textbook:

All reading assignments refer to the Crestpoint courseware, Cases and/or statutes that are specifically mentioned in the syllabus are required reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the Course Materials, under this course's materials, on the Crestpoint student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class.

In addition to the courseware's electronic form, you may also view/print out a PDF version of the courseware that includes:

- 1) The courseware**
- 2) All lecture slides**
- 3) Selected provisions from the Constitution of the United States**

See the course materials page for the link.

Weekly Interaction Requirement

To ensure that all students are involved, participating, and in compliance within the course, each student should complete one assessment each week. Students who do not fulfill the requirement within a given week will be sent reminder emails. Students who fail to interact in multiple weeks may be subject to academic and financial aid consequences, in accordance with Crestpoint's Satisfactory Academic Policy and other school policies.

Course Structure

After logging into your Crestpoint student account, locate your enrolled course by scrolling down and clicking on the course name. Your course will expand, and you will find eight modules, each corresponding to one week of the course. Lectures, slides, documents, assignments, discussions, and exams for each week are organized within the respective module.

Assessments

Assessments may be in the form of discussion questions, assignments, and/or exams.

Exams are graded on a scale of 0-100 and must be done in 2-4 hours, depending on the exam. The start exam page indicates the length of time for each exam. Discussions and assignments should be completed in accordance with the assignment instructions. Assignment information can be found at the end of the course syllabus.

Please see the Grading Policy under School Links for specific details regarding the grading of assessments.

Crestpoint Academic Advisor

Each Crestpoint student is assigned an academic advisor upon enrollment. Your academic advisor is a resource that can and should be drawn on if you need academic assistance. This includes advice on studying, help with assignments, general academic questions, etc. You should have received an email from your academic advisor upon enrollment. If you have not received such an email or do not know who your academic advisor is, please contact Anne Lewis at anne@crestpoint.edu.

Crestpoint Plagiarism Policy

All work done by Crestpoint students is expected to be their own work. In addition, Crestpoint students may not share their completed work, answer keys, or sample answers which they have obtained by any method with any other student. Students may NOT upload any sample answer (whether written by themselves or any other person) to any publicly available website or database.

Students are requested and encouraged to please review the [Academic Integrity and AI Use Policy](#). Students are responsible for complying with its terms.

Course Grades

Grades are issued on a classical A through F scale based on the grades scored on the assessments, per this syllabus.

Lesson Schedule

Module 1

Lecture 1

In this first class, we will acquaint ourselves with the basic principles of American government and constitutional law. We will begin with an examination of what it means to have a federal system of government, and how the Constitution divides power between the national and state governments as well as between the branches of the national government. We will begin looking at federal power by analyzing the powers of Congress via the various clauses in Article I, Section 8 of the Constitution and the various enforcement clauses of the Amendments. We will save the “commerce clause” however, for later in the course.

Courseware Reading:

Chapter 1: Federalism & Separation of Powers

- A. What is Federalism?
- B. Congressional Powers

Cases and Statutes:

United States Constitution, Article I, Section 8

This is the section of the Constitution that lays out Congress’ sources of power. Keep in mind that before any law can be passed, the power to legislate in that area must have been given to Congress by the Constitution.

McCulloch v. Maryland

This seminal case established the supremacy of the federal government over the state governments by disallowing state taxation of a federal entity. It also confirmed federal Congressional power to do things that were only tangentially related to the carrying out of its enumerated powers.

Lecture 2

Tonight, we will continue our discussion of federal power by looking at the power of the executive and judicial branches of our government. We will discuss the President’s powers both in relation to foreign and domestic affairs. We will then look at the federal court system, including the Supreme Court’s all-important power of “judicial review.”

Courseware Reading:

Chapter 1: Federalism & Separation of Powers

C. Presidential Powers

D. Judicial Review

Cases and Statutes:*Marbury v. Madison*

This case established the concept of judicial review, and it set the important precedent that a court (especially the Supreme Court) can declare the actions of another branch of government to be “unconstitutional.”

Complete Weekly Discussion 1

Module 2**Lecture 3**

This class will consist of a Lexis tutorial/ assignment walkthrough. The instructor will use a research assignment from a past or current course to demonstrate the way an assignment should be researched and composed.

The instructor will walk the students through the various Lexis databases and explain to students how to most efficiently use the Lexis system to complete research assignments. Various general aspects of navigating Lexis, including Shepardizing, seeking and finding appropriate search databases, getting a document by citation, etc., may be explored.

The instructor will also discuss how to most effectively plan, outline, organize and draft research assignments. Model answers and/or past student submissions may be used to illustrate what a “4” assignment looks like and how to compose one.

Lecture 4

We will devote this class to examining the Commerce Clause, which is the constitutional provision that largely explains how Congress enjoys vast legislative authority despite its powers being technically limited to a few areas of law. We will explore how the Great Depression breathed life into the Commerce Clause, and how assertions of states’ rights in the last twenty years have led to a slight diminution of the Clause’s impact.

Courseware Reading:

Chapter 2: Congress's Power to Regulate Interstate Commerce

- A. The Commerce Clause
- B. "Substantial Effects" Commerce Clause power

Cases and Statutes:

Gibbons v. Ogden

Written by the great Chief Justice John Marshall, this case established and discussed the expansive powers afforded to the federal government by the all-important "interstate commerce" clause in Article I, Section 8, Clause 3 of the Constitution.

United States v. Lopez

This 1995 decision put limits on the Commerce Clause for the first time in the modern era. The Supreme Court put boundaries on the scope of the power allowed to the federal government by the Constitution.

Complete Weekly Discussion 2

Module 3**Lecture 5**

In this class, we will examine what has come to be known as the "Dormant Commerce Clause," a judicial doctrine that limits a state's power to regulate commerce even in areas where Congress has taken no action. This is done to prevent states from interfering too much with interstate commerce. We will also discuss the very closely related doctrine of the "privileges and immunities" clause of Article IV of the Constitution, which prevents states from discriminating against people from other states.

Courseware Reading:

Chapter 2: Congress's Power to Regulate Interstate Commerce

- C. The Dormant Commerce Clause
- D. The Privileges and Immunities Clause

Lecture 6

In this class, we will begin our discussion of civil rights guaranteed by the Constitution. This class will begin our examination of the Constitution's Due Process Clause, a vaguely worded provision that the Supreme Court has interpreted to be the source of many important individual rights. We will first explore what are called rights of substantive due process, which used to be considered primarily economic but have for the last eighty years been understood to relate to matters of personal autonomy and family life.

Courseware Reading:

Chapter 3: Due Process of Law

- A. Substantive Due Process: Economic Regulation
- B. Substantive Due Process: Fundamental Rights

Cases and Statutes:U.S. Constitution: Fourteenth Amendment

The Fourteenth Amendment must be the starting point for due process for equal protection and due process analyses because it is the source of the important “equal protection” and “due process” clauses.

Griswold v. Connecticut

This case will be discussed for its role as the grandfather of all the right-to-privacy cases, as this was the first case that established privacy as a Constitutional right. Many famous constitutional law cases, including those on abortion, gay rights and the right to make one’s own healthcare decisions, are, in reality, progeny of *Griswold*.

Complete Weekly Discussion 3

Module 4**Lecture 7**

Tonight we will continue our discussion of the substantive due process rules. We will look at specific rights such as the right to refuse healthcare, certain aspects of the right to privacy and we will look at the always controversial topic of abortion and the status under Supreme Court law, of the right to choose an abortion. We will conclude by looking at the other side of due process rights: those that require government to follow fair procedures in limiting individual freedom.

Courseware Reading:

Chapter 3: Due Process of Law

- C. Procedural Due Process

Cases and Statutes:*Dobbs v. Jackson Women's Health Organization*

This case overturned the landmark 1973 case of *Roe v. Wade*. The 2022 case ended the federal right to abortion and returned the authority to the states.

Documents for Review:

Complaint by Prisoners under the Civil Rights Act

Complete Weekly Discussion 4

Module 5**Lecture 8**

We will examine the Constitution's Equal Protection Clause, which in simplest terms, requires the government to treat similarly situated people equally. We will begin with an overview of the historical circumstances leading to the Clause's creation, and how its significance has expanded over time. We will look at the three tiers of review and the classifications to which each is applied.

Courseware Reading:

Chapter 4: Equal Protection

- A. History & Levels of Review
- B. Nonsuspect Classifications

Cases and Statutes:

U.S. Constitution: Fourteenth Amendment

United States v. Virginia

Known as the "VMI" case, this case is a classic example of a Supreme Court discussion of the equal protection clause. This is an excellent case to analyze because it presents an interesting balancing test between competing interests in its analysis and contains a vigorous dissent.

Lecture 9

In this class, we will continue our equal protection discussion. We will look at suspect classifications and the differences between discriminatory intent and discriminatory effect. We will look at famous race discrimination cases like *Brown v. Board of Education of Kansas* and discuss the effects of these seminal cases to this day. We will also see how the Clause has been interpreted to permit certain kinds of race- and sex-conscious affirmative action programs.

Courseware Reading:

Chapter 4: Equal Protection

- C. Suspect Classifications Based on Race
- D. Fundamental Rights and the Equal Protection Clause

Cases and Statutes:*Korematsu v. United States*

This famous (and, in many eyes, infamous) case allowed the internment of Japanese Americans during World War II. The case is a very important one to analyze because it demonstrates that, under some circumstances, even the most invidious types of discrimination can sometimes be justified by circumstances.

Documents for Review:

- Civil Rights Complaint under 42 U.S.C. Sections 1983 and 1985
- Civil Rights Complaint Form- U.S. Attorney's Office

Complete Weekly Discussion 5**Complete Assignment 1**

The Midterm Exam can be taken at this point

Module 6**Lecture 10**

We will focus in the class on the all-important rights of freedom of speech and freedom of the press under the First Amendment to the Constitution. We will begin with freedom of expression, learning how courts rarely allow the government to suppress expression because of the ideas it may convey. We will then examine the situations in which government may regulate expression because of its content or means of delivery. Also, we will discuss various types of speech that are not protected under the First Amendment or which are only protected to a lesser extent.

Courseware Reading:

Chapter 5: Freedom of Expression & Religion

- A. Freedom of Expression
- B. Substantive & Procedural Limits on Expression

Cases and Statutes:*Brandenburg v. Ohio*

Although a much earlier case established the "clear and present danger" rule for "dangerous" speech, this case represents the modern Supreme Court rule on that subject. It is important to analyze the "imminent lawless action" standard that was established by this case and how it differs from the "clear and present danger" rule that it replaced.

Lecture 11

This class will feature an exploration of the freedom of religion clauses of the First Amendment. We will look at the “establishment” clause, examining how government may interact with religious groups and the extent to which religion is allowed in government sponsored activities. We will also look at the “free exercise” clause and the limits on the government in passing laws or taking actions that limit people’s right to practice their religion.

Courseware Reading:

Chapter 5: Freedom of Expression & Religion

- C. The Establishment Clause
- D. The Free Exercise Clause

Cases and Statutes:

Lemon v. Kurtzman

This case is important to read and discuss because it presents an excellent synopsis of the way in which courts must analyze whether a government program or action is considered an “establishment” of religion, and thus a First Amendment violation.

Lecture 12

We will shift focus here to concentrate on how the Constitution applies to regulate criminal law. The emphasis of the remaining classes will therefore be on the constitutional rights of criminal suspects and defendants. We will devote this class to an examination of the Fourth Amendment’s prohibition on unreasonable government searches and seizures. Starting with the rule that evidence obtained in violation of the Amendment may not be used against a criminal defendant, we will explore the matter of just what constitutes a police search or seizure. We will then examine the two main prerequisites for authorizing such state action: that probable cause exists to undertake the search or seizure, and that the police obtain a warrant before taking action.

Courseware Reading:

Chapter 6: Protection from unreasonable searches and seizures

- A. The Exclusionary Rule
- B. Searches and seizures defined
- C. Probable Cause

Cases and Statutes:

U.S. Constitution: Fourth Amendment

The Fourth Amendment forbids unreasonable searches and seizures, and it requires that police have probable cause before obtaining a warrant to conduct searches. Clearly, any discussion of criminal procedure must begin with a reading of the Fourth Amendment.

Mapp v. Ohio

This seminal case announced that the “exclusionary rule” applied to state police searches. This means that any evidence gained through an illegal search cannot be used in a court of law against the victim of the bad search. In reading the case, note the lengths that the Court goes to defend its decisions based on practical and theoretical arguments.

Wong Sun v. United States

An important corollary to the exclusionary rule is the rule announced in this case. The Supreme Court here held that any evidence obtained even indirectly because of an illegal search must be excluded from court. This is known as the “fruit of the poisonous tree” rule. Analysis of the rule and a discussion as to what extent it hampers law enforcement efforts are important aspects of practical criminal procedure.

Documents for Review:

- Michigan Miscellaneous Felony Forms
- Arrest Order-State

Complete Weekly Discussion 6

Module 7

Lecture 13

In this class, we will continue our discussion of searches and seizures. We will focus on the warrant requirement for a police search and the exceptions to the general rule that a warrant is required. We will discuss who may issue a warrant and what circumstances a warrant must be based upon to be valid. We will finish by focusing on the various “exigent circumstances” in which a warrant is not required for a search.

Courseware Reading:

Chapter 6: Protection from unreasonable searches and seizures

- D. The Warrant Requirement
- E. Exceptions to the Warrant Requirement

Cases and Statutes:

Terry v. Ohio

In this case, the Supreme Court announced the “stop and frisk” rule. The case allows police officers to stop and frisk a potentially armed and dangerous suspect even without a warrant and based on a showing of less than the normally required “probable cause” in some cases. This case should be analyzed as an important check on the earlier cases that had broadened the protections afforded to suspects by the federal Constitution.

Documents for Review:

- Affidavit for Search Warrant -State
- Arrest Warrant - State

Complete Assignment 2

Module 8**Lecture 14**

We will examine here how the police may behave in questioning people. Using *Miranda v. Arizona* as our focal point, we will explore precisely what the police must do to inform a person of his or her constitutional rights before commencing a custodial interrogation. We will then examine some of the situations in which the Miranda protection does not apply, such as when a person is not in police custody, no actual interrogation has occurred, or the person has waived his or her rights.

Courseware Reading:

Chapter 7: Police Interrogation

- A. Miranda v. Arizona
- B. Custody defined
- C. Interrogation defined
- D. Waiver of right

Cases and Statutes:**United States Constitution: Fifth Amendment**

The Fifth Amendment contains many famous and important constitutional rights guaranteed to criminal defendants, such as the right to remain silent, the right to due process and the right to avoid having to face double jeopardy.

United States Constitution: Sixth Amendment

The Sixth Amendment enumerates many of the rights that the criminal defendant has at trial itself, including the all-important right to the assistance of counsel.

Miranda v. Arizona

One of the most famous cases in Supreme Court history, this case mandated that police officers who are arresting a suspect advise him or her of the rights to remain silent and the assistance of counsel. Students reading the case should think about whether it is clear that the Fifth Amendment really requires this warning and whether the Court's arguments that the warnings are necessary to protect the Fifth Amendment are persuasive.

Rhode Island v. Innis

If Miranda is mostly about the theory of what is necessary to protect the Fifth Amendment rights of suspects, then this case is about the practical application of Miranda. This case discusses the very practical question of: What is considered an “interrogation” for Miranda purposes?

Documents for Review:

- Affidavit of Indigency- State
- Appointment of Counsel for Indigent - Federal
- Notice of Appearance in Criminal Case - Federal
- Subpoena in a Criminal Case - Federal
- Voucher for Experts Services for Indigents – Federal

Lecture 15

We will conclude this course with an examination of a criminal defendant’s constitutional rights at trial. Beginning with a defendant’s right to a competent attorney, we will examine the rights to confront adverse evidence, to compel the production of favorable evidence, and to not be forced to incriminate oneself. We will also explore what showing of proof is required to convict a defendant, and how a convicted person may not be sentenced to cruel and unusual punishment.

Courseware Reading:

Chapter 8: Rights at trial

- A. The right to effective assistance of counsel
- B. The Confrontation Clause
- C. The right to compulsory process
- D. Burden of proof
- E. Protection from cruel and unusual punishment

Cases and Statutes:

United States Constitution: Eighth Amendment

This Amendment contains the famous Constitutional ban on “cruel and unusual punishment” that mandates that sentences be proportional to the crimes committed and that has been used time and again to challenge the death penalty.

Maryland v. Craig

Reading and discussing this case is one of the best ways to analyze the important balancing test that must be performed in a criminal case between the defendant’s right to a fair trial and the interest in protecting the victim. This case decides the fascinating issue of whether allowing an alleged victim of child abuse to testify without the defendant in the room (if the child is scared of the defendant) violates the defendant’s right to “confront” his accuser. Also, if you get the chance, read Justice Scalia’s thought-provoking dissent to the allowance of this procedure, in which he observes “Perhaps that is a procedure today's society desires; perhaps (though I doubt it) it is even a fair procedure; but it is assuredly not a procedure permitted by the Constitution.”

Gregg v. Georgia

After the Supreme Court temporarily invalidated the death penalty “as it was then applied” in 1972, in *Furman v. Georgia*, the Supreme Court decided this case, which reinstated the death penalty, but set strict guidelines for its “execution.”

Documents for Review:

- Deposition Subpoena in a Criminal Case - Federal
- Witness Protection Order - State
- Waiver of Trial by Jury- State
- Voir Dire Checklist for Criminal Trials - Federal
- Jury Questionnaire
- Notice of Appeal in a Criminal Case - Federal
- Motion to Vacate Sentence by a Person in Federal Custody
- Motion to Vacate Judgment by a Person in Federal Custody
- Petition for Writ of Habeas Corpus by a Person in Federal Custody
- Petition for Writ of Habeas Corpus by a Person in State Custody
- Application to Proceed In Forma Pauperus

The Final Exam can be taken at this point

Course Assignments

Assignment 1:

The legislature of the fictitious state of Xanadu passes a law that states "All people are welcome at all state-run swimming, beach, and golf facilities, as long as they are white. Non-whites may not use any of those facilities."

Within 24 hours after passage, Brenda, a civil rights attorney, brings a cause of action in federal court to have the new regulation ruled unconstitutional. The federal court immediately rules that the state law violates the equal protection clause of the 14th Amendment and issues an injunction against its enforcement.

A week later, the state passes a new law that reads "Because we don't believe that we are capable of managing integrated swimming, beach, and golf facilities, we are hereby closing all such state-run facilities." Brenda sues again in federal court, asking the court to rule that the closure of the facilities is likewise unconstitutional. Brenda argues that even though the closure itself is not discriminatory since it applies equally to everyone, the closure should nevertheless be prevented because it was obviously done for a purpose that implies discrimination against non-whites.

Part 1: You are a clerk in the federal district court for the District of Xanadu. Please find one very relevant Federal case from any jurisdiction that would apply to this scenario. Using this case and the 14th Amendment, put together an IRAC-formatted legal essay to determine the likely outcome of Brenda's second suit regarding closing all the facilities to everyone via applying the law from your cited case and the amendment. Be sure to summarize the facts of the case, discuss the Court's reasoning, and explain how that case could be applied to our scenario.

Part 1 should be written in IRAC format.

Part 2: Discuss your opinion whether you agree with the decision in the case law you cited and used in the IRAC and explain your opinion as to why you agree or disagree with the Court's ruling in terms of the 14th Amendment.

This is your own opinion, so there is no right or wrong, but you should provide a strong basis for the reason for your opinion.

You do not need an IRAC for this part of the assignment.

Assignment 2:

One day, while Officer Careful is sitting behind his desk, he gets a phone call from a person identifying himself as Snitch, who tells the officer, "Trust me, Batman and Robin are planning to start a huge narcotics smuggling ring. They've already imported more than 100 kilos of cocaine and are planning to slowly put them on the street through Druggie, using one of their erstwhile adversaries."

Officer Careful asks "How do you know this?" Snitch responds, "I saw them unloading the shipment into the Batcave last night." Snitch then says, "I gotta go" and hangs up. Officer Careful eventually tracks down Snitch, who turns out to be named Lloyd Williams. Lloyd claims that he is extremely nervous about being identified as the snitch and so he will NOT sign any affidavits. However, he is willing to be quoted by Careful as long as he is not identified in any court documents.

Please write a letter advising Careful on how to go about obtaining a search warrant to allow him to search for Batman's narcotics. Will the fact that Careful has no firsthand knowledge prevent him from getting a proper warrant? Why or why not? Also, please explain to him as specifically as possible what his affidavit should say and what the search warrant must say.

You do NOT have to write an IRAC-style for this assignment. However, you must cite applicable case law and rules to ensure the officer understands the reason for your advice and that it is the law.