

# **SYLLABUS**

PSC 240  
The Constitution and Criminal Procedure

Prof. Edward L. Fiandach  
Spring, 2023

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Purpose

The purpose of this course will be to examine the Constitution and criminal procedure and the role undertaken by the Supreme Court in shaping American justice. In the first half of this course, we will examine the origins of the Constitution, the Bill of Rights and American Rights generally. We will also examine the methodology of Constitutional litigation, and we discuss in detail the role that the Constitution through the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments play during the course of a criminal prosecution.

During the second half of the semester, we will turn our attention to the procedural issues addressing topics such as Motions, Discovery, Terrorism, Double Jeopardy, the Trial, the Death Penalty and the Innocence Project. To some extent, we will discuss questions of strategy and ethics that must be considered by counsel.

While the course should prove helpful for those wishing to attend law school, it is by no means a "lawyer's course." We will deal with broad issues of social policy as reflected in the mechanics of criminal procedure.

Class Attendance

Class Attendance is optional. *This does not mean that it is advisable to miss class. Much of the material that the student will be expected to know will be presented in class.* Further, it has been the experience of past years that students have been remiss in reading LaFave. If you do neither, you will fail. Additionally, the class will be engaging in various discussions. While no grade or credit will be given for the content of class discussions, those who chose to engage in class discussions on a regular basis will receive consideration in the event that "a grade up" is close.

Class Preparation

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My desire is that class preparation will consist of an assigned reading from the course book, *LaFave, Israel and King, Criminal Procedure*, published by West Group. There

My grading is very objective. Therefore, the only time I will review a grade is if there has been what appears to be *an obvious* error such as a midterm of an "A," a paper of an "A" and a final grade of a C. If you are displeased with your grade, please note that I rarely change grades and do not appreciate e-mails complaining about a particular grade. Please also note that if a student asks for a review of his/her grade, I will do so, *however*, that test will be re-graded *ab initio*. *This means that I will grade it as though it was not previously graded, it will not be re-graded simply to be raised. The grade, awarded upon regrading, may be higher or lower and it will be final.*

Grading of the examinations will be as follows. The midterm will count towards 1/3 of the final grade and the final will be weighted as 1/3 of the final grade.

### How to Contact Me

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Mail: 100 Allens Creek Road, Rochester, NY 14618.  
Office Hours by appointment only.

### Course Syllabus

*Please note that what follows is always subject to change!*

January 11<sup>th</sup>, Introduction and lecture, "Course of a Criminal Case."

January 16<sup>th</sup>, Martin Luther King, Jr. Day, No Class.

January 18<sup>th</sup>, "The Origin of Constitutional Power"  
Fiandach, "Time and Space, the Unseen Brilliance of the Gettysburg Address;" PDF "Hallmarks of Freedom."

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January 23<sup>rd</sup>, "The Origin and Future of American Rights."  
Fiandach & Candela, "*Obergefell*, Drugs and Fundamental Rights."

January 25<sup>th</sup>, "Perspectives on Search and Seizure."  
LaFave, *et.al.*, pp. 103. - 118; 127 - 141.

January 30<sup>th</sup>, "Probable Cause."  
LaFave, *et al.*, 3.1 - 3.3.

February 1<sup>st</sup>, "*Automobiles – Stops and Searches.*"  
LaFave, *et.al.*, pp. 199 - 212.

February 6<sup>th</sup>, "*Terry v. Ohio*, Street Encounters and Roadblocks."  
LaFave, *et.al.*, §§ 3.9.

February 8<sup>th</sup>, "Consent and the Power to Search."  
LaFave, *et.al.*, § 3.10.

February 13<sup>th</sup>, "Eavesdropping, and Electronic Surveillance."  
LaFave, *et.al.*, §§ 4.1 - 4.6.

February 15<sup>th</sup>, "Compelling Truth; Interrogation and Voluntariness,"  
LaFave, *et.al.*, §§ 6.1 - 6.3.

February 20<sup>th</sup>, No Class.

February 22<sup>nd</sup>, No Class.

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February 27<sup>th</sup>, "*Escobedo* and The Right to Counsel."  
LaFave, *et. al.*, § 6.4.

March 1st, "*Miranda* and the Privilege Against Self Incrimination."  
LaFave, *et.al.*, §§ 6.6 - 6.10; Fiandach, "*Miranda at Fifty.*"

March 13<sup>th</sup>, **MIDTERM, IN CLASS.**

March 15<sup>th</sup>, "Cross-Examination."  
LaFave, *et.al.*,

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April 5<sup>th</sup>, "Substantive Crimes."

Please note that this is not covered in the reading. Class attendance is suggested.

April 10<sup>th</sup>, "Speedy Trial" & "Double Jeopardy,"

LaFave, *et. al.*, §§ 20.3 - 20.4, and LaFave, *et.al.*, §§ 18.1 - 18.2; §§ 25.1 - 25.4

April 12<sup>th</sup>, "Terrorism and the USA Patriot Act."

Please attend, this is not covered by LaFave.

April 17<sup>th</sup>, "The Trial" LaFave, *et. al.*, §§ 22.1 - 22.4.

"Perry Mason," season 2, episode 25 (This is the original Perry Mason show from the 1950's. It is streamable on most services) Please attend, this is not covered by LaFave.

April 19<sup>th</sup>, "The Death Penalty."

Please attend, this is not covered by LaFave.

April 24<sup>th</sup>, "The Future of the Constitution."

Please attend, this is not covered by LaFave.

April 26<sup>th</sup>, Final Review.