

**Political Science 331: Special Topics  
Due Process and the Constitution  
UWSP  
Fall 2019  
Monday, Wednesday 9:30-10:45  
CCC 234**

Prof. John C. Blakeman  
CCC 484  
Ext: 4111  
Office hours: M, W 11am-1pm, and by appointment.  
*e-mail: jblakema@uwsp.edu*

**Course Outline and Objectives**

This course examines the basic constitutional principles in the Fourth, Fifth, and Sixth Amendments to the U.S. Constitution. We focus on Supreme Court opinions to learn and understand the basic constitutional law and principles concerning criminal due process and the rights of those accused of crimes.

**Learning Outcomes**

*Some of the learning outcomes for this course are:*

- students will learn to read and analyze closely and critically constitutional law cases decided by the Supreme Court and other courts;
- students will study legal cases and other materials to learn, understand, and explain doctrinal developments in the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> amendments;
- students will learn about the role of courts and judicial policymaking in interpreting and applying constitutional law;
- students will learn how the due process clauses in the Constitution affects specific policy areas in American politics at the local, state, and federal level.

**Participation:** 25% your semester grade is based on participation in class. This semester I do not have a required attendance policy. However, your participation grade is heavily dependent on class attendance AND participation in discussions. Please see the participation grade rubric for more information. I will post your participation grade and attendance in CANVAS on a regular basis. I do not have an “excused absence” policy either. When you miss class you have missed discussion, and your discussion grade may be affected.

**This course often requires *active* participation from students, which means much of our time centers on classroom discussion. To facilitate discussion, I will, from time to time, call on people to participate. If this kind of classroom interaction isn’t for you, then I suggest you drop the class.**

**Reading:** *the readings for this course are extensive and consist mainly of legal cases organized topically around each of the administrative law areas studied this semester. You must be prepared to work in this class, and you must come to class prepared to*

discuss the assigned reading. Therefore, you must keep up with the reading assignments. If you cannot do the reading for each seminar, then do not take this class.

The readings are in the assigned casebook and in CANVAS.

### **Reading:**

TEXTRENTAL: American Constitutional Law, 7<sup>th</sup> ed. Edited by Louis Fisher and Katy J. Harriger. (Carolina Academic Press, 2016).

CANVAS: several cases and other course materials will be placed in CANVAS. The Canvas website is: <https://uwstp.instructure.com/courses/223279>

All readings and cases are required. The page numbers listed in the syllabus are the start of each case in the casebook. Other *cases in italics* are in CANVAS.

NOTE that the course is organized differently than other courses you've taken. Each date or set of dates will focus on due process rights in the Constitution, broadly defined. The cases listed under each section are the cases you are responsible for reading. Not all cases will be covered in class, but you are expected to know each case listed. You will have the opportunity to demonstrate your knowledge of the cases in class discussions, exams, and the written paper.

### **Grading**

|                     |     |                   |     |
|---------------------|-----|-------------------|-----|
| Class participation | 25% | Final Paper       | 25% |
| Paper #1            | 15% | Online Final Exam | 25% |
| Paper #2            | 20% |                   |     |

### **Writing assignments**

There are THREE writing assignments in this course.

Assignment #1 is a paper in which you respond to a specific prompt. The purpose of this assignment is for you to develop critical and analytical responses to issues of constitutional law. Minimum word count: 750 words. DO NOT worry about the number of papers; focus on the number of words. Your paper is to be uploaded to CANVAS.

Due Date: September 27.

Assignment #2 is a paper that summarizes the case law in a specific area. The purpose of this assignment for you to develop the ability to summarize key principles of constitutional law. Your paper will be uploaded to CANVAS.

Minimum word count: 1000 words.

Due Date: November 8.

Assignment #3 asks you to apply your knowledge about constitutional law to a specific policy problem. This paper will be more analytical than the others and will require you to develop a clear analysis and argument, supported by the cases covered in the course, to a

specific constitutional problem or public policy issue. Information about this assignment will be distributed later. Your paper will be uploaded to CANVAS.

Minimum word count: 1500 words.

Due Date: December 13.

### **Final Exam**

The final exam will be online in CANVAS and will be a summative assessment. That is, it will test you on in the information that you have learned this semester. The final will consist of two essay questions. It will be an open-book exam, so you may use your casebook and other course materials to answer the questions.

Dates of the Final Exam: December 16 8:00 am to December 20 1:00 pm.

### **Grade distribution:**

|           |                |           |               |           |                |
|-----------|----------------|-----------|---------------|-----------|----------------|
| <b>A</b>  | <b>94-100%</b> | <b>A-</b> | <b>90-93%</b> | <b>B-</b> | <b>80-83%</b>  |
| <b>B+</b> | <b>87-89%</b>  | <b>B</b>  | <b>84-86%</b> | <b>C-</b> | <b>70-73%</b>  |
| <b>C+</b> | <b>77-79%</b>  | <b>C</b>  | <b>74-76%</b> | <b>F</b>  | <b>&lt;60%</b> |
| <b>D+</b> | <b>66-69%</b>  | <b>D</b>  | <b>60-65%</b> |           |                |

### **Make-up exams:**

**Class Decorum:** academic success hinges upon a classroom environment that supports learning. To that end, I ask that all classroom disruptions be kept to a minimum.

**Statement on Academic Integrity:** Academic integrity and academic honesty are a vital part of higher education. For the UWSP policy on academic integrity—what it is, and violations of it—I refer you to pages 5 and 6 of the Community Rights and Responsibilities Document given to all UWSP students. Academic misconduct in this course may result in sanctions, which may include (but are not limited to): a 0 on a specific assignment; a failing grade in the course; removal from the course.

**Student Privacy:** Federal law protects your privacy as a college student, which means your academic records generally cannot be released without your permission. Therefore, I cannot discuss your grades and classroom performance with your roommate, friends, and even parents.

**Communication:** I will use UWSP e-mail as the main means of communicating with the class. I expect you to monitor your university e-mail account frequently.

## **SEPTEMBER**

4 Class introduction.

Watch videos on the Constitution and due process in CANVAS. You will have to log in to the UWSP Library in order to watch the videos in the Kanopy video database.

## THE CONCEPT OF DUE PROCESS AND EARLY DUE PROCESS CASES

- 9/11 The Concept of Due Process  
Supreme Court Decisionmaking  
Casebook: 58-69.
- 16/18 Early due process cases: *Powell v. Alabama*, 646; *Palko v. Connecticut*, 669;  
*Olmstead v. U.S.*, 767;  
**CANVAS:** *Adamson v. California*, *Rochin v. California*, and *County of Sacramento v. Lewis*.

## THE FOURTH AMENDMENT GUARANTEE AGAINST UNREASONABLE SEARCHES AND SEIZURES

- 23/25 Casebook: readings start on page 725.  
*Terry v. Ohio*, 756; *Chimel v. California*, 758; *Coolidge v. New Hampshire*, 749;  
**CANVAS:** *Arizona v. Hicks*; *Illinois v. Wardlaw*; *Minnesota v. Dickerson*; *Bond v. U.S.*; *Florida v. Jardines*; *Minnesota v. Carter*

# OCTOBER

- 2/7 **Automobiles and the Fourth Amendment**  
*U.S. v. Ross*, 754;  
**CANVAS:** *California v. Acevedo*, *Knowles v. Iowa*, *Illinois v. Caballes*, *Atwater v. City of Lago Vista*; *Virginia Moonshine Case*.  
  
**CANVAS:** *BJS Statistics on Police and Automobile Searches*
- 14 **Aerial Searches**  
*California v. Ciraolo*, 752;  
**CANVAS:** *Florida v. Riley*
- 16/21 **Wiretapping and Electronics**  
Olmstead case; *Katz v. U.S.*, 770;  
**CANVAS:** *Kyllo v. U.S.*, *U.S. v. Jones*; *Cellphones: Riley v. California*; *GPS: U.S. v. Riley (Federal District Court)*
- 23 **The Exclusionary Rule**  
*Weeks v. U.S.*, 777; *Mapp v. California*, 779; *U.S. v. Leon*, 781;  
**CANVAS:** *Nix v. Williams*
- 30 **Administrative Searches and School Searches**  
*New Jersey v. T.L.O.*, 760;  
**CANVAS:** Find the folder “Administrative Searches:” *Marshall v. Barlow’s*; *Wyman v. James*; *DOW Chemicals v. U.S.*; *Lakeland Enterprises v. Chao*; *Fourth*

*Amendment School Search Cases (Veronia School District v. Acton; Board of Education of Pottawatomie City v. Earles; Safford v. Reading).*

## NOVEMBER

4 Administrative Searches

### **The Fifth Amendment Guarantee Against Self-Incrimination**

6/11 *Miranda v. Arizona*, 684; *In re Gault*, 649; *Dickerson v. U.S.*  
**CANVAS:** *Rhode Island v. Innis; Brewer v. Williams, Doyle v. Ohio, Oregon v. Mathiason*

### **The Sixth Amendment Right to Counsel**

13/18 *Review Powell v. Alabama; Gideon v. Wainwright*, 681; *Escobedo v. Illinois*, 683;  
**CANVAS:** *Argersinger v. Hamlin*  
**CANVAS:** *Report on 50 Years of Gideon v. Wainwright*

20/25 Criminal Law and National Security—issues of trial and habeas corpus  
**CANVAS:** *Kerr v. Illinois, U.S. v. Alvarez-Machain; U.S. v. Verdugo*

Casebook: *Ex Parte Milligan*, 267;  
**CANVAS:** *Ex parte Merryman; Ex parte Quirin*

Casebook: *Hamdi v. Rumsfeld*, 296; *Hamdan v. Rumsfeld*, 298; *Boumediene v. Bush*, 300.

27 THANKSGIVING

## DECEMBER

2/4 As above

9/11 Wrap Up

# GRADING Rubrics

## Participation Rubric

*Your participation grade in this class will be based on the following rubric.* Students are expected to participate regularly in class discussions. Participation is to be based on *quality and quantity*. If you don't come to class, you obviously cannot participate. Given that you will be graded on your participation in a somewhat spontaneous atmosphere of seminar discussion, the following general rules apply for participation grades.

NOTE: I will frequently refer to the text during class. You are expected to have your textbook with you for reference.

|                    | <b>Excellent (A to B+)</b>  | <b>Satisfactory (B to C)</b>  | <b>Unsatisfactory (C- to F)</b>  |
|--------------------|---|---|--|
| <b>Attendance</b>  | Attendance is consistent, on time   | Attendance is relatively consistent   | Poor attendance and/or late to class consistently.                               |
| <b>Engagement</b>  | Student shows consistent and ongoing engagement with the class and course materials.                | Student shows general interest in course and materials  | Student does not show interest or engagement with course and materials.          |
| <b>Preparation</b> | Student shows clear and excellent familiarity with course materials and is prepared for discussion. | Students shows general familiarity with course materials and is nominally prepared for discussion | Student does not show familiarity with materials, or preparation for discussion. |
| <b>Demeanor</b>    | Student shows respect for diversity of opinions in class.   | Not applicable  | Student does not show respect for diversity of opinion in class.                 |

# Final Exam Rubric

| Criteria   | ▽<br>A Excellent   | ▽<br>A-/B+ | ▽<br>B  | ▽<br>B-/C+ | ▽<br>C   | ▽<br>C-/D   |
|--|--|------------|---|------------|--|---|
| ▼ Demonstrated knowledge of the main principles and arguments of relevant readings and cases | Excellent knowledge of the main principles and arguments of readings cases   |            | Shows good knowledge of the readings or cases                                     |            | Shows minimal knowledge of the readings or cases                               | Shows little to no knowledge of the readings or cases                       |
| ▼ Ability to integrate and use case selections in a coherent argument                        | Excellent ability to integrate and use cases in a coherent argument          |            | Good ability  |            | Average ability  | Poor use of cases; argument is incoherent                                   |
| ▼ Ability to distinguish between the cases   | Excellent demonstrated ability   |            | Good demonstrated ability   |            | Average ability  | Unable to distinguish between cases   |
| ▼ Essay shows that the author has a thorough understanding of the assigned materials         | Demonstrates thorough understanding  |            | Demonstrates good understanding   |            | Average understanding  | Author does not show an understanding of the cases                          |
| ▼ Essay shows that the author can write critically and analytically about the materials      | Excellent writing abilities  |            | Good writing abilities  |            | Average  | Essay does not demonstrate critical and analytical writing                  |
| ▼ Well organized, coherent essay that addresses the specific question(s).                    | Excellent essay organization and coherence. Questions are addressed in full. |            | Good essay organization and coherence. Questions are generally addressed in full. |            | Average essay organization and coherence. Questions are not addressed in full. | Poor essay organization and coherence. Questions are not addressed in full. |

# PAPER RUBRIC

| Criteria                                | ▽<br>A excellent  | ▽<br>A-/B+   | ▽<br>B Very Good   | ▽<br>B-/C+  | ▽<br>C Satisfactory                       | ▽<br>C-<br>Unsatisfactory   | ▽<br>D Unsatisfactory  |  |
|---|---|--|--|---|---|---|--|--|
| ▽ Grammar, Spelling, Sentence structure | Minimal grammatical, spelling, and structural errors.   | Minimal grammatical, spelling, and structural errors. Generally no more than 2 per page. | More than 2 grammatical, spelling, or structural errors per page | ↔   |   |   | Paper contains an excessive number of grammatical, spelling, and structural errors   |  |
| ▽ Style                                 | Paper is written in clear prose; well written and argued.   | ↔  |  | General style conventions are usually followed  | ↔   |   |  | Style is poor, i.e. paper uses inappropriate narrative (such as 1 <sup>st</sup> person), colloquialisms, etc |
| ▽ Structure of argument                 | Argument is clear, logical, supported by appropriate references to texts  | ↔  |  | Argument is generally clear and logical, nominally supported  | ↔   |   | Argument is unclear, structure of paper is illogical and does not substantiate the author's thesis                               |  |
| ▽ Use of assigned materials             | Writer shows detailed and comprehensive familiarity with assigned materials and legal cases and the ability to incorporate them into a relevant, logical argument or analysis | ↔  |  | Writer shows some familiarity with assigned materials and legal cases and the limited ability to incorporate them into a relevant, logical argument or analysis | ↔   |   | Writer is generally unfamiliar with assigned materials and legal cases and is unable to incorporate them into the paper          |  |
| ▽ Strength of Analysis                  | Writer shows clear understanding of the legal case and other materials and the outstanding ability to critically analyze and reflect upon them                                | ↔  |  | Writer shows nominal understanding of the legal case and other materials and the intermediate ability to critically analyze and reflect upon them               | ↔   |   | Writer is unfamiliar with the legal case and other materials and is generally unable to critically analyze and reflect upon them |  |
| ▽ Word Count, Font                      | Word count and font and paper mechanics (margins, spacing, etc) are appropriate   | ↔  |  |   | Font and paper mechanics are inconsistent | Paper does not meet word count requirements. Font and paper mechanics are inappropriate to 300 level university course. | Paper does not meet word count requirements. Font and paper mechanics are inappropriate to 300 level university course.          |  |