Criminal Legal Procedure

CRMJ 4140, Section 40 (Online)
Spring 2017

Instructor
Dr. Maggi Maier Murdock
Email: murdock@uwyo.edu
Phone: 766.5144 (office)
Office: Arts and Sciences Room 140

Office Hours
Tuesday 1:30 – 3:00 pm
Wednesday 9:00 – 10:30 am
Always by email or phone

Introduction
This course examines the constitutional principles that safeguard the rights and liberties of criminal suspects and constrain police during the investigatory stages of the criminal justice process: arrest; search and seizure; interrogation; undercover operations; pretrial identification; and the exclusionary rule. We will also examine some judicial processes that affect the rights of criminal suspects, especially the right to counsel.

Our investigation of these issues will take us through the Fourth, Fifth, and Sixth Amendments to the United States Constitution, along with an examination of how the Fourteenth Amendment has been utilized as the vehicle to incorporate rights from these amendments to the states.

While we will certainly attend to cases decided by the United States Supreme Court in these areas, our examination will not be based entirely on reading, briefing, and analyzing cases. For a portion of the course we will organize our examination of the meaning of these Amendments through some problem-based learning.

The Nature of a Scholarly Community
This class is a community of scholars, intent on learning and sharing their learning. Learning cannot take place in an atmosphere of fear, distrust, and intolerance. Therefore, in order to learn effectively, a community of scholars

- Must be willing to examine evidence and ideas, old or new, in novel ways and with open minds;
- Must approach learning unbiased against groups, individuals, ideas, or evidence;
- Must trust one another, even if its members disagree; and
- Must be willing – and able – to share their learning with others.

Inclusion: It is University of Wyoming policy to accommodate students, faculty, staff, and visitors with disabilities. If you have a physical, learning, sensory, or psychological disability and require accommodations, please let me know as soon as possible. You will need to register with University Disability Support Services (UDSS) in the Student Educational Opportunity offices and provide UDSS with documentation of your disability. Information about the University Disability Support Services Office can be accessed at http://www.uwyo.edu/udss/. Students can contact UDSS by phone at 307.766.6189, TTY at 307.766.3073, Fax at 307.766.4010, and Email at udss@uwyo.edu.
**Academic Integrity:** The trust essential to a scholarly community is destroyed when members of the community do not act with integrity. Students are responsible for understanding what constitutes academic dishonesty under the regulations of the University of Wyoming and for ensuring they do not engage in practices of academic dishonesty. See University Regulation 6-802 at http://www.uwyo.edu/generalcounsel/_files/docs/uw-reg-6-802.pdf. The full text of this University Regulation can be found at the end of this course syllabus. *All acts of academic dishonesty will be dealt with seriously, swiftly, and according to this University regulation.*

**Course Expectations**

All members of our scholarly community should expect to act (and be treated) with integrity, trust, and open minds. This means that we all must enter our learning space and time prepared and committed to learning and sharing our learning.

- Students in our scholarly community should have high expectations for the instructor – not that she will know everything and dutifully pour the sum of all knowledge on the course topics into the students’ brains for students to dutifully repeat back. Rather, students should expect the instructor to be an effective guide for this learning journey we will embark upon together.

- The instructor will expect that students complete assignments and activities fully, on time and – when assigned – collaboratively. I will also expect that students demonstrate their learning effectively.

- All of us have emergencies and obstacles in our lives. Therefore, please contact me as soon as possible when emergencies and problems arise so that I can be of assistance. I’d rather be a help than a hindrance as emergencies and problems affect students’ abilities and inclination to learn.

- If an assignment is missed, students should contact the instructor to discuss how the assignment can be made up.

**Learning Objectives**

Through their learning in the class, students will demonstrate

- An ability to examine, analyze, solve, and explain problems presented by constitutional controversies;

- An understanding of the *substance* of the United States Constitution and the Bill of Rights;

- An understanding of the *development* of the United States Constitution and the Bill of Rights, especially through the controversies that have led to judicial interpretations of the constitutional meaning of the Fourth, Fifth, and Sixth Amendments;
• An understanding of the Fourteenth Amendment as the vehicle through which federally protected civil liberties have been made applicable to the states and from which additional civil liberties and rights have evolved; and

• An understanding of contemporary debates about the meaning of the Constitution, the Bill of Rights, and protections for criminal suspects.

Course Resources

• **Learning discipline** to read critically, analyze thoroughly, communicate clearly, and collaborate effectively.

• **Textbook**: None. However, readings will be assigned throughout the course. Reading assignments can be found in each course module, in the Course Schedule and Assignments module, and in the Course Schedule and Assignments section found below in the syllabus.

• **UW Libraries** (including the Law Library) can be accessed online at [http://www-lib.uwyo.edu](http://www-lib.uwyo.edu).

• **Internet resources** will be helpful for our learning, for reading full case opinions, for assigned readings, and for research for the course. It is particularly useful that all Supreme Court decisions can be found online! See, for example,
  
  o The Justia Supreme Court website at [https://supreme.justia.com](https://supreme.justia.com) or the Legal Information Institute at Cornell University Law School at [https://www.law.cornell.edu/supct/search/](https://www.law.cornell.edu/supct/search/) for or opinion text.

  o The Oyez Project of the Illinois Institute of Technology Chicago-Kent College of Law at [https://www.oyez.org](https://www.oyez.org) for audio files of Supreme Court oral arguments and opinion announcements.

• **Learning to brief a case** (if you don't already know how):
  
  o You will brief some cases and use those briefs to discuss cases in the course. But we will also be examining controversies or problems and using cases to understand them. Briefing cases is a good way to boil down the real meaning of a case.

  o Good information about language in cases and how to brief a case can be found at the Lloyd Sealey Library of the John Jay College of Criminal Justice. See [http://www.lib.jjay.cuny.edu/research/brief.html](http://www.lib.jjay.cuny.edu/research/brief.html).

  o A sample brief can be found in the Introductory Module for this course.

  o My expectations for a case brief will include the following information about the case decision, in this order:

    • **Case name and citation**: for example, *Marbury v. Madison*, 5 U.S. 1 (1803). The numbers and letters tell us where the case decision can be found: (1) the first number tells us the volume number where the case decision can be found, (2) the letters between the numbers (e.g., U.S.) tell us the reporter (source) where the case decision can be found, and (3) the number following the letters or words
tells us on what page in the specified volume and reporter the case decision can be found.

- **Case facts**: what happened to make this a case? Remember to ensure that you include information on those involved in the case (the parties).

- **Questions**: what are the constitutional questions that the U.S. Supreme Court (or a lower court) has been asked to address? Often the decision of the Court will include an explicit statement of the question(s), but sometimes readers have to figure out the questions from the decision itself.

- **Answers and rationale**: How did the Court answer the questions they addressed in their decision about the case? What reasoning did they use to come to these conclusions? Include the name of the justice writing the majority opinion for the Court, as well as the names of the justices who joined that opinion.

- **Other opinions**: The questions, answers, and rationale referred to just above come from the majority opinion of the Court. However, sometimes other justices agree (concurring opinion) or disagree (dissenting opinion) with the majority. It’s important to include these additional opinions to understand the orientation of the justices and the Court as a whole. And, by following trends in the dissenting and concurring opinions, one can sometimes discern the development of a new majority on an issue. Include the name of the justice writing the concurring or dissenting opinion in the case, as well as the names of the justices who joined that opinion.

  - I know you can find case briefs online (because I can find those briefs online), but I will look for your own work, not someone else’s work. This is one of the reasons the class will also utilize some problem-based learning. I see no need to require you to do something you can find online.

- **Framing the Issues**: In each module, a page called Framing the Issues is an overview of information that students will need to understand the issues being addressed in that particular section of the class. Since online classes do not have lectures, and students and teachers do not meet together at the same time and place, these Framing the Issues presentations provide a guide to understanding in lieu of lectures.

- **Problem-Based Learning (PBL)**: Rather than relying only on the case decision analysis method, we will also utilize problem-based learning (PBL) to enhance our understanding of issues and controversies that are at the heart of constitutional controversies. The problems to be addressed in this class can be found at the end of the syllabus, under “Learning Activities.”
Grading Policies

Grades are a reflection of students’ learning: instructors don’t give grades; students earn grades based on their effective demonstration of their work and learning. Recognizing that students learn differently, in this course the assessments of students’ learning will be varied, providing students with ample opportunities to demonstrate their understanding of the ideas, concepts, processes, and methods that will be found in readings, assignments, and activities. Assessments of learning will include exams, participation in learning activities, and applying knowledge.

According to University policy (see University Regulation 6-722 at http://www.uwyo.edu/generalcounsel/_files/docs/uw-regulation-6-722.pdf), students in our learning community will be assigned grades according to the plus/minus grading scale:

**Final Grades – Grading Scale**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Letter Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>94 – 100%</td>
<td>A</td>
</tr>
<tr>
<td>90 – 93%</td>
<td>A-</td>
</tr>
<tr>
<td>87 – 89%</td>
<td>B+</td>
</tr>
<tr>
<td>83 – 86%</td>
<td>B</td>
</tr>
<tr>
<td>80 – 82%</td>
<td>B-</td>
</tr>
<tr>
<td>77 – 79%</td>
<td>C+</td>
</tr>
<tr>
<td>73 – 76%</td>
<td>C</td>
</tr>
<tr>
<td>70 – 72%</td>
<td>C-</td>
</tr>
<tr>
<td>67 – 69%</td>
<td>D+</td>
</tr>
<tr>
<td>63 – 66%</td>
<td>D</td>
</tr>
<tr>
<td>60 – 62%</td>
<td>D-</td>
</tr>
<tr>
<td>Below 60%</td>
<td>F</td>
</tr>
</tbody>
</table>

**Assessment of Learning (see Assignment Details Below)**

<table>
<thead>
<tr>
<th>Evaluation</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>5%</td>
</tr>
<tr>
<td>Case Briefs</td>
<td>15%</td>
</tr>
<tr>
<td>Exams (3)</td>
<td>30%</td>
</tr>
<tr>
<td>Learning Activities (Weekly)</td>
<td>30%</td>
</tr>
<tr>
<td>Applying Cumulative Learning (Final)</td>
<td>20%</td>
</tr>
</tbody>
</table>
Assignment Overview

Addressing learning assignments. Woody Allen has asserted that 80% of success is showing up.¹ While this may not technically be true, it is true that students will learn more by participating effectively in class. An online class does not have formal class meetings. However, our course will nonetheless have consistent weekly assignments that students must complete for their learning in the course. Thus, it is expected that students will regularly and consistently address and participate in learning assignments.

Participation. In our course, being prepared to participate and learn while in our virtual class (not just superficially “showing up” in the class assignments) is critical. Active learning is effective long-term learning.² Participation in the requirements of modules will be assessed each week.

Explanation of Assignments:

- **Participation:** Students who participate actively and consistently in their learning learn more and earn better grades. Each week I will assess students’ participation in the class. 5% of the final grade will be based on weekly participation. A rubric for what I will look for in students’ participation can be found in the WyoCourses assignments under Participation.

- **Case Briefs:** The cases we will examine in this course to understand various issues in criminal legal procedure are listed in each module. Beginning in Module 4 (Week of 13 February) students are assigned cases to brief. Students’ case brief assignments are listed beside the case names. Each student will have 3-4 cases to brief during the semester. Guidance on how to brief a case can be found above and a sample case brief is found at the end of the Course Schedule and Assignments part of this syllabus, as well as in the Introductory Module for the course. Case briefs must be submitted through WyoCourses by Sunday at 11:59 pm following the week the case was assigned. 15% of the final grade will be earned through students’ case briefs.

- **Exams.** There will be 3 online exams for this course. The exam dates are 12 February, 12 March, and 16 April. 30% of the final grade will be earned through these examinations. All exams will be taken through WyoCourses. Exams are called quizzes in WyoCourses. The exams can be found in WyoCourses under “Quizzes” and in the module for the week in which the exam must be taken.

Some notes about exams:

⇒ Each exam will be open for 2-3 days. During that time, students will have 60 minutes in which to take the exam. Remember that once the exam is opened in WyoCourses, the timer continues even if you leave the exam and return to finish it later. Thus, you should be prepared to devote at least one hour to each examination without interruption.

⇒ Students may use their reading material, case decisions, and other materials when taking the exams. These are “open book” examinations.

⇒ **However,** students are on their honor to (1) NOT utilize another person to help them with the exam and (2) NOT plagiarize materials for use in their essay question responses. As noted above, all instances of academic dishonesty will be dealt with seriously and swiftly according to University regulations.

---

¹ See [http://quoteinvestigator.com/2013/06/10/showing-up/](http://quoteinvestigator.com/2013/06/10/showing-up/).

² An ancient Chinese proverb says something to the effect: “I hear and I forget, I see and remember, I do and I understand.” This is the essence of active learning.
Learning activities. Learning activities will be assigned each week of the semester. These activities are largely based on individual (that is, not group) work. All learning activities will require thought, time, and effort. 30% of the final grade will be earned through these activities. A list of the learning activities can be found at the end of the Course Schedule and Assignments section of this syllabus and in the Introductory Module for the course.

Applying course learning in a final hypothetical case. This learning activity will account for 20% of the final grade. Instructions for this activity can be found as Learning Activity #13 in the list of Learning Activities, as well as in Module 13 (Weeks of 1 and 8 May 2017).
INTRODUCTORY MODULE: This module provides students with information they will need to understand and fulfill the requirements for the course.

CASE BRIEF MODULE: This module provides the case briefs for each module. These case briefs are completed by students as assigned in each module. The briefs will allow students to review all the cases assigned for the class.

<table>
<thead>
<tr>
<th>Module</th>
<th>Topic</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>MODULE 1</td>
<td>Introduction and Course Overview</td>
<td>29 January</td>
</tr>
<tr>
<td>Week of 23 January</td>
<td>Overview: The Criminal Justice System and Process</td>
<td></td>
</tr>
</tbody>
</table>

**Learning activities**

- **Learning Activity #1A: Discussion: Getting to Know You.** This Discussion involves the introduction of members of our learning community so that we can work together as a community of scholars. For information about this assignment, see Learning Activity #1A in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

- **Learning Activity #1B:** What do you know about the U.S Constitution? You will take a quiz in WyoCourses to determine your knowledge of the United States Constitution and its Amendments. There is no grade for this quiz: it is merely a way for us to understand what we will need to learn during the semester. For information about this assignment, see Learning Activity #1B in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

**Reading assignment:**

- Review of Module 1 *Framing the Issues* for an understanding of the criminal justice process (WyoCourses).

**While links are included below for these reading assignments, the readings can also be found in the UW Libraries Electronic Reserves for this course.**

- United States Courts, “Court Role and Structure,” at


See a diagram of the criminal justice process at the Bureau of Justice Statistics website http://www.bjs.gov/content/justsys.cfm

---

**MODULE 2**

**Week of 30 January**

**An Overview of the U.S. Constitution and its Amendments, Federalism, and Judicial Review**

**5 February**

**Learning activities**

- Students meet individually with instructor via phone or Skype/FaceTime during the second week of class. A sign-up sheet will be available online.

- **Learning Activity #2** – Debate on the topic: *The U.S. Constitution grants too much power to the national government.* For information about the debate, see Learning Activity #2 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

**Reading assignment:**

- Review of Module 2 *Framing the Issues* for an understanding of the U.S. Constitution and its Amendments, along with the concepts of federalism and judicial review (WyoCourses).

*While links are included below for some of these reading assignments, the readings can also be found in the UW Libraries Electronic Reserves for this course.*

- Declaration of Independence at http://avalon.law.yale.edu/18th_century/declare.asp

- U.S. Constitution and its Amendments at http://avalon.law.yale.edu/18th_century/usconst.asp

- Peter Sagal, “Federalism,” Constitution USA, PBS discussion and videos at [http://www.pbs.org/tpt/constitution-usa-peter-sagal/federalism/#.Vp_InBGBAd4](http://www.pbs.org/tpt/constitution-usa-peter-sagal/federalism/#.Vp_InBGBAd4)

---

**MODULE 3**

**Week of 6 February**

**Incorporation**

**12 February**

**Learning activities**

- **Learning Activity #3** - Discussion: case comparisons. Students have been divided into groups to focus on these case comparisons. For information about this assignment, including group assignments, see Learning Activity #3 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

**Reading assignment:**

- Review of Module 3 *Framing the Issues* for an understanding of the process of incorporation.


**Cases:** *Selective Incorporation*, or how the Supreme Court has changed its mind about fundamental rights

- **Fifth Amendment protection from self-incrimination:** Group 1
  - Adamson v. California (1947)
  - Malloy v. Hogan (1964)

- **Fifth Amendment protection from double jeopardy:** Group 2
  - Palko v. Connecticut (1937)
  - Benton v. Maryland (1969)
Sixth Amendment right to counsel: Group 3
Betts v. Brady (1942)
Gideon v. Wainwright (1963)

Not incorporation, but a test of reasonableness: Group 4
Rochin v. California (1952)
Breithaupt v. Abram (1957)

February 12 Exam #1 – To be completed online through WyoCourses by 11:59 PM on Sunday, February 12.

MODULE 4
Week of 13 February

Arrest, Search, and Seizure:

The Exclusionary Rule

Learning activities:

- **Learning Activity #4**: Debate on the use of the Exclusionary Rule. For information about the debate, see Learning Activity #4 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

- Review of Module 4 *Framing the Issues* for an understanding of the Fourth Amendment Exclusionary Rule.


MODULE 5
Arrest, Search, and Seizure:
Protected Areas and Interests
26 February

Week of
20 February

Learning activities:

- **Learning Activity #5:** Discussion of subjective and objective expectations of privacy. For information about the discussion, see Learning Activity #5 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

- Review Module 5 *Framing the Issues* for an understanding of protected areas and interests under the Fourth Amendment.


Electronic Reserve

Cases:

*Katz v. United States* (1967)  *Salazar*
*United States v. White* (1971)  *Rose*
*Smith v. Maryland* (1979)  *Pfloor*
*United States v. Knotts* (1983)  *Ortiz*
*Oliver v. United States* (1984)  *Knowlton*
*Florida v. Riley* (1989)  *Johnson*
*United States v. Jones* (2012)  *Jackson*
MODULE 6  
Week of  
27 February

Arrest, Search, and Seizure:  Probable Cause and Search Warrants  
5 March

Learning Activities:

- **Learning Activity #6:** Hypothetical case #1. For information about this assignment, see Learning Activity #6 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

- Review Module 6 *Framing the Issues* for an understanding of probable cause and search warrants.
  Electronic Reserve

Arrest, Search, and Seizure:  Probable Cause

Cases:

Draper v. United States (1959)  
Aguilar v. Texas (1964)  
Spinelli v. United States (1969)  
Massachusetts v. Upton (1984)  
Alabama v. White (1990)  

Arrest, Search, and Seizure:  Search Warrants

Cases:

Go-Bart Importing Company v. United States (1931)  
Shadwick v. City of Tampa (1972)  
Connally v. Georgia (1977)  
Ybarra v. Illinois (1979)  
Maryland v. Garrison (1987)  
Richards v. Wisconsin (1997)  
Daugherty  
Coleman  
Castillo  
Bellinghiere  
Acord  
Wu
Arrest, Search, and Seizure: Arrest and Search of Persons and Premises

6 March

Learning activities:

- Learning Activity #7: Supreme Court Exercise. For information about this assignment, see Learning Activity #7 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment: Review of cases listed below

- Review Module 7 Framing the Issues for an understanding of Fourth Amendment search and seizure of persons and premises.

Arrest, Search, and Seizure: Arrest and Search of Persons

Cases:
United States v. Robinson (1973) Warren
United States v. Watson (1976) Vogel
Whren v. United States (1996) Tysdal
Atwater v. City of Lago Vista (2001) Thorpe
Maryland v. King (2013) Sponsler

Arrest, Search, and Seizure: Seizure and Search of Premises

Cases:
Chimel v. California (1969) Salazar
Kentucky v. King (2011) Porath

March 12 Exam #2 – To be completed online through WyoCourses by 11:59 PM on Sunday, March 12.

MARCH 13 – 19 2017 SPRING BREAK: NO CLASS ASSIGNMENTS
MODULE 8
Weeks of 20 March and 27 March

Applying our knowledge of Fourth Amendment protections to a hypothetical case

Learning activities:

- **Learning Activity #8**: Hypothetical Case 2. For information about this assignment, see Learning Activity #8 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

Review of cases and additional materials useful in completing the assignment for Hypothetical Case #2.

---

MODULE 9
Week of 3 April

Seizure and Search of Vehicles and Effects

Learning activities:

- **Learning Activity #9**: Discussion of Fourth Amendment considerations in the search and seizure of vehicles and effects. For information about this assignment, see Learning Activity #9 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

- Review Module 9 *Framing the Issues* for an understanding of search and seizures of vehicles and effects.


Cases:

- *Carroll v. United States* (1925) [Pfloor]
- *California v. Carney* (1985) [Liebzeit]
- *Riley v. California* (2014) [Jackson]
MODULE 10  Arrestr, Search, and Seizure: Stop and Frisk  16 April

Week of 10 April

Learning activities

- Learning Activity #10: Debate about the effectiveness of stop and frisk. For information about this assignment, see Learning Activity #10 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.

Reading assignment:

- Review Module 10 Framing the Issues for an understanding of Fourth Amendment interpretations of searches and seizures in the case of stop and frisk.


Cases:

Terry v. Ohio (1968) Holz
Pennsylvania v. Mimms (1977) Ho
United States v. Place (1983) Guerra
Minnesota v. Dickerson (1993) Daugherty

April 16  Exam #3 – To be completed online through WyoCourses by 11:59 PM on Sunday, April 16.
MODULE 11
Week of 17 April

Arrest, Search, and Seizure: Consent Searches and Police “Encouragement” – and Entrapment

Learning activities:

- **Learning Activity #11**: A discussion of Fourth, Fifth, and Sixth Amendment considerations in consent searches and police “encouragement” and entrapment.

Reading assignment:

- Review Module 11 *Framing the Issues* for an understanding of consent searches and police “encouragement” and entrapment.


Arrest, Search, and Seizure: Consent Searches

Cases:

*Stoner v. California* (1964) **Wu**  
*Schnneckloth v. Bustamonte* (1973) **Warren**  
*United States v. Matlock* (1974) **Vogel**  
*Georgia v. Randolph* (2006) **Thorpe**

Police “Encouragement” – and Entrapment

Cases:

*Sherman v. United States* (1958) **Sponsler**  
*United States v. Russell* (1973) **Salazar**  
*Jacobson v. United States* (1992) **Rose**

MODULE 12
Week of 24 April

The Right to Counsel: Appointed Counsel and Police Interrogations and Confessions

Learning activities:

- Since there are so many cases to brief and review in Module 12, there is no additional learning activity for this module.
Reading assignment:

- Review of Module 12 *Framing the Issues* for an understanding of the Sixth Amendment right to counsel.


Appointed Counsel

Cases:

*Powell v. Alabama* (1932) Porath
*Betts v. Brady* (1942) Pfoor
*Gideon v. Wainwright* (1963) Ortiz
*Griffin v. Illinois* (1956) Lazzaretti
*Douglas v. California* (1963) Knowlton

Police Interrogations and Confessions

Cases:

*Ashcraft v. Tennessee* (1944) Johnson
*Massiah v. United States* (1964) Jackson
*Escobedo v. Illinois* (1964) Holz
*Miranda v. Arizona (No. 759)* (1966) Ho
*Micigan v. Mosley* (1975) Hetland
*Oregon v. Mathisaron* (1977) Gill
*Brewer v. Williams* (1977) Fuimaono-Malauulu
MODULE 13
Weeks of 1 May and 8 May

Integrating our learning in criminal legal procedure

10 May

Learning activities:

- Learning Activity #13: Hypothetical Case #3 -- Utilizing a hypothetical case to demonstrate cumulative learning.

Reading assignment:

- Review of Module 13 Framing the Issues for a summary overview of our learning in criminal legal procedure – with some recommendations for continued learning.

- Review of cases, course materials, assigned readings, and outside readings useful in addressing the issues raised in the hypothetical case. For information about this final assignment, see Learning Activity #13 in the list of Learning Activities at the end of the syllabus and in the Introductory Module.
LEARNING ACTIVITIES LIST
CRMJ 4140 – ONLINE
SPRING 2017

LEARNING ACTIVITY #1A: Discussion: Getting to Know You. This Discussion involves the introduction of members of our learning community so that we can work together as a community of scholars.

Since we will be working together in our course scholarly community for several months, it will be useful for us to get to know one another. This discussion is designed to help us do just that.

For Learning Activity #1A, students may enter this discussion beginning at 6:00 am on Monday, 23 January. All students should have completed their submissions to this discussion by Sunday, 29 January at 11:59 pm. Students should go to the MODULE 1 Discussion page and address these questions:

• What is your name?
• What name do you like to be called if it is not your official name?
• Where do you live? Don't give us your address (!), but do let us know what town and state you live in.
• What is your major?
• What do you like to do when you're not focusing on your academic learning?

Please share a picture with us so we can get a better feel for our virtual learning community. *If you are not comfortable sharing a picture, just let me know by email through WyoCourses.*

LEARNING ACTIVITY #1B – What do you know about the United States Constitution?

BACKGROUND. While many think they know what the U.S. Constitution and its Amendments say, studies show that few American citizens have a really good understanding of the United States Constitution. ³

Learning Activity #1B provides students with the opportunity to exhibit their knowledge of the Constitution and its Amendments – and it provides the instructor with some assessment of where students are stronger, and where they may have challenges, in understanding the Constitution.

In WyoCourses for Module 1, student can find a Constitutional Knowledge survey. Note: surveys, like exams, are all called “quizzes” in WyoCourses. Students are required to complete this survey to the best of their knowledge. I’ll put students on their honor to complete the questions without reference to the Constitution or seeking help from someone else. This survey is not graded, so there is no reward or punishment for what students know – or don’t know. This just provides us all with an understanding of what we’ll need to learn throughout this semester.

This survey will open for students at 6:00 am on Tuesday, 24 January, and will close at 11:59 pm on Sunday, 29 January.
**LEARNING ACTIVITY #2A:** Students meet individually with instructor via phone or FaceTime/Skype during the second week of class. A sign-up sheet is available here: CRMJ 4140-40 - Student Meeting Spreadsheet - Spring 2017.xlsx. Students should email me with the time they would like to meet AND the phone number or FaceTime or Skype address at which I can reach them. I will update the meeting spreadsheet frequently.

**LEARNING ACTIVITY #2B:** Debate on the topic “The U.S. Constitution grants too much power to the national government.”

**Background.** From even before the Constitutional Convention in 1787 (when the Constitution was written) to the present day (for examples, you might want to pay attention to the views of the new Congress and U.S. President on the Constitution and federalism, as well as the views of some members of the Wyoming Legislature on state control of federal lands), we have never had complete agreement about how much power should reside in the national government of the United States – or how to balance the power of the states and the national government. The readings for this module should provide some insight into citizens’ shifting views about the relative power of the federal and state governments.

**Learning Activity #2B** provides the opportunity for students to express their own (informed) views about this balance of power in our federalist system. We will hold an online debate in our WyoCourses discussion for this module. The class has been divided into two groups: one group for a strong national government and one group for stronger power in the state governments.

Students will participate in the debate individually, and it is expected that contributions to the debate will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should be substantiated with references to credible and authoritative sources about federalism. All students must participate, both with their own original contributions, and with thoughtful responses to other students’ contributions.

The debate will be open for students at 6:00 am on Monday, 30 January, and will close at 11:59 pm on Sunday, 5 February.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

**Learning Activity #2B Group Assignments**

**Note:** students will participate in this assignment individually, but are assigned to argue for a particular perspective.

**Students arguing for a strong national government:**
- Carmen Acord
- Klara Castillo
- Bobbie Coleman
- Sidney Fuimaono-Malauulu
- Jordan Gill
- Tyler Hetland
Joe Jackson  Cristina Salazar
Devereaux Johnson Brittany Thorpe
Faith Liebzeit Kateri Warren
John Nelson Glen Wu
Shea Rose

Students arguing for stronger power in the state governments:

Gino Bellinghiere Kayla Knowlton
Bill Daugherty Brandy Lazzaretti
Samuel Eberflus Ramona Ortiz
Alexandria Eckhart Heidi Pfoor
Drake Guerra Christina Porath
Tony Ho Nicole Leigh Sponsler
Taylor Holz Jennifer Tysdal
Stephanie Kiger Zachary Vogel
Learning Activity #3: Understanding the process of incorporation through comparing and contrasting Supreme Court case decisions.

Background. The United States Constitution was written to create a stronger, more effective national government than that which existed under the Articles of Confederation.\(^4\) Ratification of the Constitution, like agreement on the elements of the Constitution itself, required compromise. One of the major compromises that ensured the successful ratification of the Constitution was the promise to create protections for individuals – a “bill of rights.”

The First Congress, which began its work in 1789, eventually passed the first ten amendments to the Constitution, or what we now know as the Bill of Rights. The rights recognized in these amendments are not ones granted by the government, but rights that we have as humans and thus rights that must be protected by the government. The rights recognized in these amendments are essential to our protection from the government. The intention was protection from the national government – not the state governments.

Incorporation is the process through which the United States Supreme Court, through its authority to interpret the Constitution, has required that citizens’ rights under the Bill of Rights be protected by state as well as federal government agents. Simply put, through a process of selective incorporation, over decades the Supreme Court has made most of the rights in the Bill of Rights apply to the states.

Learning Activity #3 provides the opportunity for students to better understand incorporation by comparing a case where originally the Supreme Court said that a right was not fundamental and therefore would not be made applicable to the states with a case where the Supreme Court later said the same right was fundamental and therefore applicable to the states. We will also examine a pair of cases where the Supreme Court did not determine if rights should be incorporated, but, rather, whether the actions of agents of the state were reasonable (or not) – thus affecting whether a right was violated.

Students have been divided into four groups, each group assigned to one pair of cases. Students will individually participate in the discussion through a focus on their assigned cases, addressing the questions noted in the discussion page:

For incorporation case pairs (Groups 1, 2, and 3):
1. What right is addressed in these cases?
2. Why did the Supreme Court originally see the right as not being fundamental?
3. What reasoning did the Supreme Court utilize for eventually incorporating the right, that is, deeming the right to be fundamental and therefore applicable to the states?
4. What political, economic, and social factors might have influenced the Court’s decision in these cases?
5. Why is the change in the Supreme Court’s perspective important?
6. How would your life be different if the Court had not incorporated this right to the states?

For the reasonableness case pair (Group 4):
1. What right is addressed in these cases?
2. How did the Supreme Court perceive the reasonableness of the actions of the government agents?
3. What reasoning did the Court utilize for determining reasonableness?

\(^{4}\) See http://avalon.law.yale.edu/18th_century/artconf.asp.
4. What political, economic, and social factors might have influenced the Court’s decision?
5. Why are the difference in the Supreme Court’s perspectives important?
6. How would your life be different if the Court had not determined reasonableness in this fashion?

Students will participate in the discussion individually, and it is expected that contributions to the discussion will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about incorporation. It is especially important that students incorporate their learning about the Supreme Court decisions in cases listed in the syllabus regarding incorporation – and that students address all the discussion questions. All students must participate, both with their own original contributions, and with thoughtful responses to other students’ contributions.

The assignment will be open for students at 6:00 am on Monday, 6 February, and will close at 11:59 pm on Sunday, 12 February.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

**Learning Activity #3 Group Assignments**

**Note:** students will participate in this assignment individually, but are assigned to address the questions for a particular set of cases.

**Group 1: Fifth Amendment protection from self-incrimination.** By utilizing the questions assigned above, the students assigned to this group will compare and contrast the cases of *Adamson v. California* (1947) and *Malloy v. Hogan* (1964).

Alexandria Eckhart
Sidney Suimaono-Malauulu
Jordan Gill
Devereaux Johnson
Ramona Ortiz
Heidi Pfoor
Zachary Vogel

**Group 2: Fifth Amendment protection from double jeopardy.** By utilizing the questions assigned above, the students assigned to this group will compare and contrast the cases of *Palko v. Connecticut* (1937) and *Benton v. Maryland* (1969).

Tyler Hetland
Tony Ho
Joe Jackson
Kayla Knowlton
John Nelson
Christina Porath
Brittany Thorpe
Jennifer Tysdal
Group 3: Sixth Amendment right to counsel. By utilizing the questions assigned above, the students assigned to this group will compare and contrast the cases of *Betts v. Brady* (1942) and *Gideon v. Wainwright* (1963).

Carmen Acord
Klara Castillo
Bobbie Coleman
Bill Daugherty

Samuel Eberflus
Brandy Lazzaretti
Nicole Leigh Sponsler
Kateri Warren

Group 4: Not incorporation, but a test of reasonableness. By utilizing the questions assigned above, the students assigned to this group will compare and contrast the cases of *Rochin v. California* (1952) and *Breithaupt v. Abram* (1957).

Gino Bellinghiere
Drake Guerra
Taylor Holz
Stephanie Kiger

Faith Liebzeit
Shea Rose
Cristina Salazar
Glen Wu
Learning Activity #4: *A debate on the topic “The use of the Exclusionary Rule should be discontinued, because it allows criminals to go free.”*

**Background.** The Fourth Amendment itself does not provide a means to protect citizens from unreasonable searches and seizures, or to ensure the effective use of valid warrants. The Fourth Amendment simply states

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

It was up to the Supreme Court to determine how to make the Fourth Amendment protections effective, and their solution was the Exclusionary Rule. The Exclusionary Rule is used to exclude evidence from trial when that evidence is gained by government agents in violation of the Fourth Amendment.

A corollary to the Exclusionary Rule is the “fruit of the poisonous tree” doctrine, which mandates that when evidence is recovered as a result of the original constitutional violation (the “poisonous tree”), the resulting additional evidence must also be excluded as “fruit of the poisonous tree.” An example would simply be this: (1) Police break into an apartment without a warrant and without reasonable suspicion or exigent circumstances. They find contraband drugs. (2) The police arrest the person renting the apartment and interrogate her — and she confesses to buying, using, and selling the contraband drugs in partnership with another person. (3) The police arrest the person named by the first arrestee without a warrant. The intrusion into the apartment in violation of the Fourth Amendment is the “poisonous tree.” The arrest and interrogation of the suspect produces additional evidence that is the “fruit of the poisonous tree.”

However, there are differing views on the use of the Exclusionary Rule in relation to police searches and seizures under the Fourth Amendment. Some see the use of the rule as necessary to protect the rights of citizens; others see the use of the rule as simply a way for the courts to allow criminals to go free.

Learning Activity #4 provides the opportunity for students to provide their own (informed) perspectives on the appropriateness of the use of the Exclusionary Rule through a debate on whether the Exclusionary Rule is an appropriate way to enforce the Fourth Amendment.

We will hold an online debate in our WyoCourses discussion for this module. The topic is: “The use of the Exclusionary Rule should be discontinued, because it allows criminals to go free.” The class has been divided into two groups: one group for the continued use of the Exclusionary Rule and one group for the discontinuation of the use of the Exclusionary Rule.

Students will participate in the debate individually, and it is expected that contributions to the debate will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about the Exclusionary Rule. It is especially important that students are able to refer to the Supreme Court decisions in cases (at least those listed in the syllabus) regarding the use of the Exclusionary Rule. All students must participate, both with their own original contributions and with thoughtful responses to other students’ contributions.
The debate will be open for students at 6:00 am on Monday, 13 February, and will end at 11:59 pm on Sunday, 19 February.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

**Learning Activity #4 Group Assignments**

**Note:** students will participate in this assignment individually, but are assigned to argue for a particular perspective.

**Group #1: arguing for the continued use of the Exclusionary Rule.**

<table>
<thead>
<tr>
<th>Carmen Acord</th>
<th>John Nelson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill Daugherty</td>
<td>Christina Porath</td>
</tr>
<tr>
<td>Jordan Gill</td>
<td>Shea Rose</td>
</tr>
<tr>
<td>Drake Guerra</td>
<td>Cristina Salazar</td>
</tr>
<tr>
<td>Taylor Holz</td>
<td>Jennifer Tysdal</td>
</tr>
<tr>
<td>Joe Jackson</td>
<td>Kateri Warren</td>
</tr>
<tr>
<td>Stephanie Kiger</td>
<td>Glen Wu</td>
</tr>
<tr>
<td>Faith Liebzeit</td>
<td></td>
</tr>
</tbody>
</table>

**Group #2: arguing for the discontinuation of the use of the Exclusionary Rule.**

<table>
<thead>
<tr>
<th>Gino Bellinghiere</th>
<th>Devereaux Johnson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Klara Castillo</td>
<td>Kayla Knowlton</td>
</tr>
<tr>
<td>Bobbie Coleman</td>
<td>Grandy Lazzaretti</td>
</tr>
<tr>
<td>Samuel Eberflus</td>
<td>Ramona Ortiz</td>
</tr>
<tr>
<td>Alexandria Eckhart</td>
<td>Heidi Pfoor</td>
</tr>
<tr>
<td>Sidney Fuimaono-Malauulu</td>
<td>Nicole Leigh Sponsler</td>
</tr>
<tr>
<td>Tyler Hetland</td>
<td>Brittany Thorpe</td>
</tr>
<tr>
<td>Tony Ho</td>
<td>Zachary Vogel</td>
</tr>
</tbody>
</table>
Learning Activity #5: Discussion of subjective and objective expectations of privacy.

Background. The Fourth Amendment provides essential protections against unreasonable searches and seizures by government agents. We have learned about the use of the Exclusionary Rule to give effect to the Fourth Amendment, and we have debated the relative merits of the use of the Exclusionary Rule.

But what expectations of privacy do we have as citizens (subjective expectations of privacy)? And what expectations of privacy is society prepared to recognize as legitimate (objective expectations of privacy)?

Learning Activity #5 provides students with the opportunity to discuss their perspectives on their own subjective expectations of privacy and what objective expectations of privacy the society should be prepared to recognize.

For this discussion, students should (1) articulate their understanding of the meaning of and the differences between subjective expectations of privacy and objective expectations of privacy. (2) define an example from their own experience of a situation where they felt they had a subjective expectation of privacy against government intrusion and (3) analyze whether – and why – this example should be recognized by society as an objective expectation of privacy against government intrusion.

Students will participate in the discussion individually, and it is expected that contributions to the discussion will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about incorporation. It is especially important that students incorporate their learning about the Supreme Court decisions in cases listed in the syllabus regarding protected areas and interests – and that students address all the discussion questions. All students must participate, both with their own original contributions, and with thoughtful responses to other students’ contributions.

The assignment will be open for students at 6:00 am on Monday, 20 February, and will close at 6:00 pm on Sunday, 26 February.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ discussion participation.
Learning Activity #6: Hypothetical Case #1

Background. Probable cause and search warrants are not judicially invented technicalities designed to allow criminals to operate with impunity. These requirements for a reasonable search are part of the Fourth Amendment to the United States Constitution:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The requirement for a search warrant based on probable cause has its origins in English history, and certainly in our own colonial history as well. But of course, like most of our constitutional requirements, interpretations have sometimes changed since the Constitution was written. How has the U.S. Supreme Court interpreted the Fourth Amendment requirement for a search warrant based on probable cause?

We’ve spent a good deal of time understanding the Constitution and its amendments, along with essential concepts like federalism, judicial review, and incorporation. We’ve spent time examining the Fourth Amendment and its requirements, and we will continue to do so. So far, we’ve been utilizing U.S. Supreme Court case decisions to guide our debates and discussions. But knowing a list of cases, even when you can remember some of the elements of a case, provides only limited value. It is also essential to be able to use what you have learned from the Supreme Court decisions in these cases and apply that knowledge to a situation.

Learning Activity #6 provides students with the opportunity to put into practice some of the ideas and concepts that they have learned thus far in the class. We’ll put our learning into practice in Hypothetical Case 1, which deals with protected areas and interests as applied to probable cause, search, and seizure. Our scenario is a hypothetical case before the United States Supreme Court, Anderson v. Virginia (2012). See below for requirements for this assignment and the facts of the case.

For this learning activity, students will work individually. Students should read the facts of the hypothetical case and answer these questions:

1. What is the definition of probable cause?
2. How would you define a “reasonable” search? How would you define an “unreasonable” search?
3. Define the search(s) conducted by the law enforcement officer in this case.
4. Did the law enforcement officer in this situation have probable cause to conduct this search(s)? Explain why or why not.
5. Explain why you think this was a reasonable (constitutional) or unreasonable (unconstitutional) search(s) under the Fourth Amendment.

Students will participate in the discussion individually, and it is expected that contributions to the discussion will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about search warrants and probable cause. It is especially important that students incorporate their learning about the Supreme Court decisions in cases listed in the syllabus regarding search warrants and probable cause — and that students address all the discussion questions. All students must participate with their own original analysis focused on the questions listed above.
The discussion will be open for students at 6:00 am on Monday, 27 February, and will close at 11:59 pm on Sunday, 5 March.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.
Hypothetical Case #1

In the Supreme Court of the United States

No. 48-1-2017

SIMONE CLARA ANDERSON, APPELLANT

V.

STATE OF VIRGINIA, RESPONDENT

THE FOLLOWING FACTS HAVE BEEN STIPULATED BY BOTH PARTIES TO THE CASE:

On the afternoon of March 12, 2015, Virginia State Police Trooper Alice Martino, who was traveling westbound on U.S. Highway 250 in Albemarle County, observed a white Jeep Grand Cherokee traveling eastbound, about fifty feet behind a silver passenger vehicle. Trooper Martino also noticed that the jeep had a cracked windshield. She turned around and activated her lights to pursue the jeep, pulling the driver over for following too closely and for having a cracked windshield. The jeep was driven by Georgette English; Ms. Anderson was seated in the front passenger seat. The trooper’s initial sighting of the vehicle and the encounter that followed were recorded on the video by the trooper’s L3 Camera System.

Trooper Martino approached the passenger side of the jeep, startling Ms. Anderson, who had just lit a cigarette. She informed Ms. English of the reason for the stop and asked for her identification and insurance information. She also asked Ms. Anderson for her license because she was not wearing a seatbelt. Trooper Martino then initiated a conversation with Ms. English and Ms. Anderson as to the general nature of their travel plans. Ms. English responded to the trooper’s questions, but, when questioned, Ms. Anderson responded with a “blank stare,” a pause lasting four seconds, and then said, “What?” When questioned further, Ms. Anderson began to raise her voice and tensions escalated. She stated she was “getting irritated.” When Trooper Martino asked if there were weapons in the car, Ms. Anderson denied having any. The trooper testified that at this point, given Ms. Anderson’s contentious behavior, “red flags” were going up in her mind and, based on her training and experience, Ms. Anderson’s behavior was not characteristic of the “innocent motoring public.”

Concerned for her safety, Trooper Martino asked Ms. Anderson to step out of the car, but she refused. Trooper Martino reached inside the passenger side window, unlocked the passenger door, and opened it. Ms. Anderson removed her jacket as she stepped out of the car and threw it in the back seat of the vehicle. Once Ms. Anderson was out of the car, Trooper Martino, standing behind Ms. Anderson, reached for Ms. Anderson’s arms and began to pat her down. Ms. Anderson became rigid and began yelling and complaining of shoulder pain. Trooper Martino found a pocketknife in Ms. Anderson’s right rear jeans pocket. Trooper Martino testified that this caused her even more concern because earlier Ms. Anderson had indicated she had no weapons. At this point, Ms. Anderson appeared to suffer a seizure, fell to her knees, and then to the ground, and began to shake. Trooper Martino testified that she was unsure whether Ms. Anderson was having a seizure or faking it, so she handcuffed her before going to her patrol car and calling for an ambulance and back up.
Trooper Martino returned to check on Ms. Anderson, informing her that she had called for an ambulance and repeatedly telling her to relax. Trooper Martino also asked Ms. Anderson if she had any medication. Ms. Anderson responded that she did not. The trooper approached the vehicle and, while taking the jacket from the backseat, asked Ms. English “any meds in here?” She then looked in one of the pockets and saw a plastic purple prescription bottle, which appeared to have a label on it. Trooper Martino recognized the bottle as the type that comes from medical marijuana dispensaries in Delaware. She removed the bottle from the jacket pocket and saw that the label on it was indeed a medical marijuana label with Ms. Anderson’s name on it. Trooper Martino then opened the bottle and found what she suspected to be marijuana inside.

Trooper Martino ordered Ms. English to get out of the jeep, handcuffed her, and placed her in her state police patrol car. Trooper Martino then returned to check on Ms. Anderson and waited with her until the ambulance arrived.

A subsequent search of the jeep revealed a felony amount of marijuana, along with other drug paraphernalia. Both Ms. Anderson and Ms. English were charged with one count of possession of a controlled substance and one count of unlawful possession with intent to deliver a controlled substance.

Ms. Anderson moved to suppress the evidence found by Trooper Martino during her search of the jacket and the vehicle. After a hearing, the Virginia circuit court denied the motion and Ms. Anderson was found guilty on both counts. The Virginia Court of Appeals and the Virginia State Supreme Court both upheld the conviction.

This case comes before the U.S. Supreme Court on a writ of certiorari.  

A writ of certiorari orders a lower court to deliver its record in a case so that the higher court may review it. The U.S. Supreme Court uses certiorari to pick most of the cases that it hears. From Cornell University Law School, Legal Information Institute, at https://www.law.cornell.edu/wex/writ_of_certiorari.
Learning Activity #7: Supreme Court Exercise.

**Background.** The Fourth Amendment provides essential protections against unreasonable searches and seizures. We have learned a good deal about the Supreme Court’s interpretation of the Fourth Amendment in a variety of circumstances, including protected areas and interests and what expectations of privacy we have as citizens – and the expectations of privacy the society is prepared to recognize as legitimate – in a variety of circumstances. We have examined the requirements for warrants based on probable cause.

Learning Activity #7 provides students with the opportunity to simulate a U.S. Supreme Court process of presenting a case and rendering a decision.

The class has been divided into eight discussion groups. Each discussion group is composed of (1) one of the eight students who are assigned to brief cases in Module 7 and (2) two to three students (those not assigned to brief cases in Module 7) who will act as Supreme Court justices to propose decisions for the cases assigned in Module 7. The group assignments are listed below.

This is how the exercise will work:
- The student assigned to brief a particular case will enter the assigned WyoCourses discussion group to articulate the facts of the case.
- The students assigned as justices for the case in the assigned discussion group will individually discuss how they think the case should be decided – and on what constitutional grounds.
- After all the “justices” have weighed in on how the case should be decided, the student assigned to brief the particular case will then provide the discussion group with the U.S. Supreme Court’s actual decision in the case.

The assignment will be open for students at 6:00 am on Monday, 6 March, and will close at 11:59 pm on Sunday, 12 March.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ case briefs.

**Learning Activity #7 Discussion Group Assignments**

Note: students will participate in this assignment individually, but are assigned to a particular role for a particular case.

**Discussion Group #1: United States v. Robinson (1973)**

Case Presenter: Kateri Warren

Justices: Jordan Gill, Taylor Holz, and Kayla Knowlton
Discussion Group #2: *United States v. Watson* (1976)

Case Presenter: Zachary Vogel

Justices: Carmen Acord, Klara Castillo, and Bill Daugherty


Case Presenter: Jennifer Tysdal

Justices: Bobbie Coleman, Joe Jackson, and Glen Wu

Discussion Group #4: *Atwater v. City of Lago Vista* (2001)

Case Presenter: Brittany Thorpe

Justices: Sidney Fuimaono-Malauulu and Drake Guerra

Discussion Group #5: *Maryland v. King* (2013)

Case Presenter: Nicole Leigh Sponsler

Justices: Samuel Eberflus, Tony Ho, and Brandy Lazzaretti

Discussion Group #6: *Chimel v. California* (1969)

Case Presenter: Cristina Salazar

Justices: Stephanie Kiger, Faith Liebzeit, and Ramona Ortiz


Case Presenter: Shea Rose

Justices: Alexandria Eckhart, Devereaux Johnson, and Heidi Pfoor

Discussion Group #8: *Kentucky v. King* (2011)

Case Presenter: Christina Porath

Justices: Gino Bellinghiere, Tyler Hetland, and John Nelson
Learning Activity #8: Hypothetical case 2

Background. We’ve spent a good deal of time understanding the Constitution and its amendments, along with essential concepts like federalism, judicial review, and incorporation. We’ve spent time examining the Fourth Amendment and its requirements, and we will continue to do so. So far, we’ve been utilizing U.S. Supreme Court case decisions to guide our debates and discussions. But knowing a list of cases, even when you can remember some of the elements of a case, provides only limited value. It is also essential to be able to use what you have learned from the Supreme Court decisions in these cases and apply that knowledge to a situation.

Learning Activity #8 provides students with the opportunity to put into practice some of the ideas and concepts that they have learned thus far in the class. We’ll put our learning into practice in Hypothetical Case 2, which deals with search and seizure. Our scenario is a hypothetical case before the United States Supreme Court, Larkin v. Alaska. See below for requirements for this assignment and the facts of the case.

The assignment is to examine the facts of the case and write a decision on the constitutional issue(s), as the justice writing the majority opinion for the United States Supreme Court. Each student will do her/his work individually.

This learning activity will take two weeks: Hypothetical Case 2 will be open for students at 6:00 am on Monday, 20 March, and will close at 11:59 pm on Sunday, 2 April. The requirements for students’ submission are listed below. Students should submit their work into the Module 8: Supreme Court Decision.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

Submission requirements:
Each student should write her/his majority opinion as a justice of the United States Supreme Court addressing how the Court would decide the case. The student's decision statement should address the following questions:

• What are the constitutional issues raised by this case? Please identify each constitutional issue clearly, coherently, and comprehensively.
• What are the arguments that best support your decision? Please articulate the arguments clearly, coherently, and comprehensively.
• What are the U.S. Supreme Court case decisions that support your arguments in your decision?
• What effect might this decision might have on criminal legal procedure in the U.S.?

Students’ decision statements should not only address the questions noted above, but students should also remember these additional requirements:
1. Please cite the cases that most appropriately support your arguments. Case citations should have this form: Case name (italicized), citation (volume number, reporter, page number), and date of case decision. For example: Marbury v. Madison, 5 U.S. 1 (1803).
   • Please do not brief the cases.
   • Cite cases that appropriately support your arguments.
2. When appropriate, also cite other sources to support your arguments. For example, you may want to cite readings assigned for the class or other authoritative sources that support your arguments. Citations of all other references should consistently follow one of the accepted citation forms (e.g., APA, MLA, Chicago).

3. Students’ submissions should include the following information:
   - At the top of the first page, students should include their names and the name, citation, and date of the hypothetical case.
   - At the end of the decision statement, students should include a list of references utilized in the decision statement, including all cases cited. Please use the same case citation form and additional source citation form as that utilized within the decision statement. All citations should be consistent throughout the discussion.

**Note:** Effective writing promotes clear communication. It is hard to appropriately understand and assess students’ learning if a submission is poorly written. A portion of the grade for this assignment will be an assessment of the clarity of communication. Therefore, please take the time to
   - Organize your thoughts carefully and logically,
   - Articulate your arguments clearly,
   - Write in a clear and focused manner (being concise but thorough is a plus),
   - Attend to the mechanics of your writing (use appropriate sentence structure, punctuation, spelling, grammar, and citations), and
   - Proofread your work before you submit it to ensure you have attended to these signposts of clear communication: both student and teacher will be happier if you do.
HYPOTHETICAL CASE 2
In the Supreme Court of the United States

No. 21-2-2017

Martin Russell Larkin, Appellant
v.
State of Alaska, Respondent

The following facts have been stipulated by both parties to the case:

Alaska statute section 16-05-111 allows an enforcement officer to inspect a premise when the game and fish laws require that the activity be licensed. On 31 January 2013, Alaska Department of Natural Resources conservation officer Scott French was patrolling on Square Lake in Sitka County, Alaska. Pursuant to the statute, French began knocking on occupied fish houses to check for the required license.

Martin Russell Larkin was an ice-fishing angler. Larkin occupied a fish house on 31 January 2013.

Conservation officer French presumed Larkin's fish house was occupied after observing a light in the house and a vehicle parked nearby. French, having no reason to suspect fishing laws were being violated, knocked on the door of Larkin's fish house. French then identified himself as a state game warden while simultaneously opening the door. Fisherman Larkin did not give express consent to enter.

Upon entering, French smelled marijuana, and saw what he believed to be a marijuana cigarette. He conducted a pat down search on Larkin. A bag of marijuana was found.

French also noticed three fishing lines in the water. In Alaska, two lines are the maximum allowed by law when ice fishing.

Larkin was charged with possession of a controlled substance and having an unlawful fishing line.

Larkin was found guilty in a bench trial in Alaska trial court in Sitka and sentenced to 2 years in the state penitentiary. The Alaska Court of Appeals and the Alaska Supreme Court upheld Larkin’s conviction.

This case comes before the United States Supreme Court on a writ of certiorari.6

---

6 A writ of certiorari orders a lower court to deliver its record in a case so that the higher court may review it. The U.S. Supreme Court uses certiorari to pick most of the cases that it hears. From Cornell University Law School, Legal Information Institute, at https://www.law.cornell.edu/wex/writ_of_certiorari.
Learning Activity #9: Discussion of Fourth Amendment considerations in the search and seizure of vehicles and effects.

Background. As we have learned, probable cause and search warrants are not judicially invented technicalities designed to allow criminals to operate with impunity. These requirements for a reasonable search are part of the Fourth Amendment to the United States Constitution:

*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

The requirement for a search warrant based on probable cause has its origins in English history, and certainly in our own colonial history as well. But of course, like most of our constitutional requirements, interpretations have sometimes changed since the Constitution was written. One of the important reasons interpretations have changed is a result of changes in the environment, especially the development of technology. Transportation technology, like communications technology, has advanced remarkably since the 18th century. In the 18th century, nothing traveled faster than a horse or a sailing ship; in the 21st century, transportation moves much more rapidly and communication, faster still. However, the basis for search and seizure of vehicles and effects remains rooted in basic Fourth Amendment constitutional principles.

Learning Activity #9 provides students with the opportunity to discuss Fourth Amendment considerations of searches of vehicles and effects. The discussion will address the following questions:

1. How would you define a “reasonable” search of a vehicle and effects within the vehicle? How would you define an “unreasonable” search in these circumstances?
2. What makes a vehicle search different from the search of a person or a premise?
3. What Fourth Amendment expectations of privacy does a citizen have in a vehicle?
4. How has the U.S. Supreme Court determined the Fourth Amendment constitutionality of vehicle searches?
5. Has the Court changed its perspectives on vehicle searches? If so, how?
6. How is your own life affected by the Supreme Court’s interpretation of Fourth Amendment searches and seizures of vehicles and effects?

Students will participate in the discussion individually, and it is expected that contributions to the discussion will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about searches of vehicles and effects. It is especially important that students incorporate their learning about the Supreme Court decisions in cases listed in the syllabus regarding searches of vehicles and effects – and that students address all the discussion questions. All students must participate, both with their own original contributions, and with thoughtful responses to other students’ contributions.

The discussion will be open for students at 6:00 am on Monday, 3 April, and will close at 6:00 pm on Sunday, 9 April.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.
Learning Activity #10: *A debate on the topic: “Stop and frisk should be perceived as constitutional under the Fourth Amendment as an essential policing tool to reduce crime.”*

**Background.** As we have learned, probable cause and search warrants are not judicially invented technicalities designed to allow criminals to operate with impunity. These requirements for a reasonable search are part of the Fourth Amendment to the United States Constitution:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Interpretations of the Fourth Amendment protection against unreasonable searches and seizures have grown to include the concept of “stop and frisk.” This procedure presents a classic case of the balance of freedom and security: which do we desire most? Why?

Learning Activity #10 provides the opportunity for students to provide their own (informed) perspectives on the appropriateness of the use of the stop and frisk procedures under the protections mandated by the Fourth Amendment.

We will hold an online debate in our WyoCourses discussion for this module. The topic is: “Stop and frisk should be perceived as constitutional under the Fourth Amendment as an essential policing tool to reduce crime.”

The class has been divided into two groups: one group that favors the aggressive use of stop and frisk as an effective crime-fighting tool (safety) and one group against the aggressive use of stop and frisk, based in Fourth Amendment protections (freedom). Group assignments can be found below.

Students will participate in the debate individually, and it is expected that contributions to the debate will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about stop and frisk. It is especially important that students are able to refer to the Supreme Court decisions in cases (at least those listed in the syllabus) regarding the use of stop and frisk. All students must participate, both with their own original contributions and with thoughtful responses to other students’ contributions.

The debate will be open for students at 6:00 am on Monday, 10 April, and will close at 11:59 pm on Sunday, 16 April.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

**Learning Activity #10 Group Assignments**

Note: students will participate in this assignment individually, but are assigned to argue for a particular perspective.
Group 1: arguing for the aggressive use of stop and frisk as an effective crime-fighting tool (concerned with safety first).

Carmen Acord
Gino Bellinghiere
Bobbie Coleman
Alexandria Eckhart
Sidney Fuimaono-Malauulu
Tyler Hetland
Tony Ho
Joe Jackson

Stephanie Kiger
Kayla Knowlton
Brandy Lazzaretti
Shea Rose
Cristina Salazar
Nicole Leigh Sponsler
Kateri Warren

Group 2: arguing against the aggressive use of stop and frisk, based on Fourth Amendment protections (concerned with individual rights and freedoms first).

Klara Castillo
Bioll Daugherty
Samuel Eberflus
Jordan Gill
Drake Guerra
Taylor Holz
Devereaux Johnson
Faith Liebzeit

John Nelson
Ramona Ortiz
Heidi Pfoor
Christina Porath
Brittany Thorp
Jennifer Tysdal
Zachary Vogel
Glen Wu
Learning Activity #11: A discussion of Fourth, Fifth, and Sixth Amendment considerations in consent searches and police “encouragement” and entrapment.

Background. As we have learned, the Fourth Amendment to the United States Constitution provides us with protection from unreasonable searches and seizures and mandates the use of search warrants based on probable cause. The Fourth Amendment states:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fifth and Sixth Amendments also provide important protections for citizens, and often the protections of these two amendment are intertwined. The Fifth Amendment states:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

The Sixth Amendment states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The requirement for a search warrant based on probable cause has its origins in English history, and certainly in our own colonial history as well. The same can be said for the Fifth Amendment protection against self-incrimination and the Sixth Amendment right to counsel. But of course, like most of our constitutional requirements, interpretations have sometimes changed since the Constitution was written. In this module we will examine one aspect of the Fifth Amendment (protection against self-incrimination) and one aspect of the Sixth Amendment (the right to counsel).

Learning Activity #11 provides students with the opportunity to discuss Fifth and Sixth Amendment considerations of consent searches and police “encouragement” and entrapment. The discussion will address the following questions:

1. What are the reasons for allowing consent searches under the Fourth Amendment?
2. What are the requirements for a consent to search to be considered valid?
3. What dangers can arise from requests to consent to search?
4. What is police “encouragement”? What is police entrapment? How do they differ?
5. What is the Court’s view of the constitutionality of police “encouragement” and police entrapment?
6. How is your own life affected by the Court’s interpretation of consent searches and police “encouragement” and entrapment?

Students will participate in the discussion individually, and it is expected that contributions to the discussion will be not only thoughtful and arguments will be logical and focused, but contributions and arguments should also be substantiated with references to credible and authoritative sources about consent searches, police “encouragement,” and police entrapment. It is especially important that students incorporate their learning about the Supreme Court decisions in cases listed in the syllabus regarding consent searches, police “encouragement,” and police entrapment – and that students address all the discussion questions. All students must participate, both with their own original contributions, and with thoughtful responses to other students’ contributions.

The discussion will be open for students at 6:00 am on Monday, 17 April, and will close at 11:59 pm on Sunday, 23 April.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.
There is no Learning Activity for Module 12. Since there are so many cases to brief and review, no additional learning activity will be required.
Learning Activity #13: Utilizing a hypothetical case to demonstrate cumulative learning.

Background. We’ve spent a good deal of time understanding the Constitution and its amendments, along with essential concepts like federalism, judicial review, and incorporation. We’ve spent time examining Fourth, Fifth, and Sixth Amendment requirements. For much of our learning we have utilizing U.S. Supreme Court case decisions to guide our debates and discussions. But knowing a list of cases, even when you can remember some of the elements of a case, provides only limited value. It’s also essential to be able to use what you’ve learned from the Supreme Court decisions in these cases and apply that knowledge to a situation. The ability to utilize cumulative learning across the semester is the focus of this final learning activity.

Learning Activity #13 provides students with the opportunity to put into practice many of the ideas and concepts that they have learned throughout the class. We’ll put our cumulative learning into practice in Hypothetical Case 3, which raises Fourth, Fifth, and Sixth Amendment issues. Our scenario is a case before the United States Supreme Court.

Students will work individually on this final, cumulative learning activity. The requirements for students’ submissions are listed below.

This final learning activity will be open for students at 6:00 am on Monday, 1 May, and will close at 11:59 pm on Wednesday, 10 May.

An assessment rubric in WyoCourses reflects what I will look for in assessing students’ contributions.

Submission requirements:
1. Students’ submissions should address the following questions:
   a. What are the pertinent facts of the case?
   b. What are the constitutional issues raised by this case? Please identify each constitutional issue clearly, completely, and coherently.
   c. What arguments would be most effective for the Appellant to make in this case? Please cite the cases that most appropriately support these arguments. Case citations should have this form: Case name (italicized), citation (volume number, reporter, page number), date of case decision. For example: Marbury v. Madison, 5 U.S. 1 (1803). Please do not brief the cases. Cite cases that appropriately support your arguments. When appropriate, also cite other sources to support your arguments. For example, you may want to cite readings assigned for the class or other authoritative sources that support your arguments.
   d. What arguments would be most effective for the Respondent to make in this case? Please cite the cases that most appropriately support these arguments. Case citations should have this form: Case name (italicized), citation (volume number, reporter, page number), date of case decision. For example: Marbury v. Madison, 5 U.S. 1 (1803). Please do not brief the cases. Cite cases that appropriately support your arguments. When appropriate, also cite other sources to support your arguments. For example, you may want to cite readings assigned for the class or other authoritative sources that support your arguments.
If you were writing the majority opinion for the United States Supreme Court, how would you decide the case? Please identify, articulate, and explain the arguments you would use to support this decision. Please cite the cases that most appropriately support these arguments. Case citations should have this form: Case name (italicized), citation (volume number, reporter, page number), date of case decision. For example: Marbury v. Madison, 5 U.S. 1 (1803). Please do not brief the cases. Cite cases that appropriately support your arguments. When appropriate, also cite other sources to support your arguments. For example, you may want to cite readings assigned for the class or other authoritative sources that support your arguments.

2. Students’ submissions should include the following information:
   a. At the top of the first page, students should include their names.
   b. On the first page, students should include the name, citation, and date of the hypothetical case.
   c. At the end of the discussion that addresses the questions listed above, students should include a list of references utilized in the discussion, including all cases cited.
      i. Case citations should have this form: Case name (italicized), citation (volume number, reporter, page number), date of case decision. For example: Marbury v. Madison, 5 U.S. 1 (1803).
      ii. Citations of all other references should follow one of the accepted citation forms (e.g., APA, MLA, Chicago).
      iii. All citations should be consistent throughout the discussion.

3. Submissions are due by 11:59 pm on Wednesday, 10 May. The late submission of this assignment will cause a reduction in the student’s grade. Please notify me as soon as possible if some unforeseeable obstacle prevents a timely submission of this assignment. Telling me that the dog ate your homework is not a good excuse!

4. Submissions for this assignment should be typed and submitted through WyoCourses.

5. Effective writing promotes clear communication. It’s hard to appropriately assess a student’s learning if a submission is poorly written. A portion of the grade for this assignment will be an assessment of the clarity of communication. Therefore, please take the time to
   a. Organize your thoughts carefully and logically,
   b. Articulate your arguments clearly,
   c. Write in a clear and focused manner (being concise but thorough is a plus),
   d. Attend to the mechanics of your writing (use appropriate sentence structure, punctuation, spelling, and grammar), and
   e. Proofread your work before you submit it to ensure you have attended to these signposts of clear communication: both student and teacher will be happier if you do.

6. Have some fun! Let this assignment be an occasion to really show off what you have learned throughout the semester.
Final Assignment:

Hypothetical Case Demonstrating Cumulative Learning in the Class
NOTE:
THE CASE NAME AND THE FACTS FOR THIS HYPOTHETICAL CASE WILL BE AVAILABLE TO STUDENTS BY 15 APRIL 2017.
APPENDIX:

SAMPLE BRIEF

UNIVERSITY REGULATION 6-802: ACADEMIC DISHONESTY
SAMPLE CASE BRIEF

Marbury v. Madison, 5 U.S. 137 (1803)

Facts:

Before ceding power to the incoming Jefferson administration in March 1801, the outgoing Federalist administration of President John Adams made a number of last-minute judicial appointments. William Marbury was one of those named a justice of the peace for the District of Columbia. Although he had received the nomination of the President and was approved by the advice and consent of the Senate, and although his commission had been signed by the President and sealed by outgoing Secretary of State John Marshall, his commission, like that of several others, was not delivered before the end of Adams’s term. The Jefferson Administration, in which James Madison served as Secretary of State, chose to disregard the undelivered commissions. Marbury and the other plaintiffs argued that, in refusing to deliver the commissions, the Secretary of State was neglecting his Constitutional duty. They sought a *writ of mandamus* as prescribed by the Judiciary Act of 1789. Note that former Secretary of State John Marshall had moved from this position to become the Chief Justice of the United States Supreme Court prior to this case coming to the Court.

Questions:

1. Is there a remedy for the controversy? Yes
2. Is Marbury entitled to his commission? Yes
3. Does the Supreme Court have jurisdiction? No

Reasoning/Analysis:

*Chief Justice John Marshall delivered the unanimous opinion of the Court.* He stated it is decidedly the opinion of the Court that when a commission has been signed by the President, the
appointment is made; and that the commission is complete when the seal of the United States has been affixed to it by the Secretary of State. To withhold Marbury’s commission, therefore, is an act deemed by the Court not warranted by law, but is violative of a vested legal right. Because Marbury’s position is a political one and his specific duty is assigned by law, he has a right to the commission and a refusal to deliver is a plain violation of that right, for which the laws of his country afford him a remedy. In the question of whether or not the Supreme Court is the proper venue and has jurisdiction, Marshall noted the Supreme Court has limited original jurisdiction, the bounds of which are set by the United States Constitution. The original jurisdiction of the Court, set by the Constitution, may not be changed statutorily by the Congress. Only a constitutional amendment may change the Constitution. The case was dismissed for lack of jurisdiction.

Note: This case set the precedent for judicial review: the right of the U.S. Supreme Court to review the acts of the executive and legislative branches of government to determine their constitutionality.
UW REGULATION 6-802

Procedures and Authorized University Actions
in Cases of Student Academic Dishonesty

1. PURPOSE

To establish the policies and procedures for actions in situations of student academic dishonesty.

2. GENERAL INFORMATION

All members of the University community are responsible for upholding the values of academic integrity. The faculty considers academic integrity a matter of common concern, not merely a private issue between instructor and student. Honesty in all academic endeavors is a component of academic integrity that is vital to the educational functions of the University. Whatever form academic dishonesty may take, the faculty considers it as establishing a student’s failure to demonstrate the acquisition of knowledge and the failure to apply it to an academic endeavor. It is a student’s responsibility to learn the standards of conduct for the performance of academic endeavors; it is an instructor or faculty member’s responsibility to make reasonable effort to make known the standards of conduct for the performance of academic endeavors. Through an atmosphere of mutual respect we enhance the value of education and maintain high standards of academic excellence. Failure on the part of the student to observe and maintain standards of academic honesty, as hereafter defined or made known by an instructor responsible for a course or other academic endeavor, requires corrective action as hereafter authorized.

3. SCIENTIFIC OR RESEARCH MISCONDUCT

Allegations of student academic misconduct involving federal grants and scientific misconduct or research misconduct shall be referred to the Vice President for Research and Economic Development to be handled pursuant to the University of Wyoming policy for responding to allegations of scientific or research misconduct. Further action under this UW Regulation is dependent on the outcome of that process. Sanctions under this UW Regulation may be imposed when an allegation of scientific misconduct has been substantiated. Only the sanction is appealable under this UW Regulation. A student may not appeal the finding of scientific misconduct. If no scientific misconduct has been substantiated, but issues of academic dishonesty remain, this UW Regulation may be utilized.

4. DEFINITIONS

A. ACADEMIC DISHONESTY. An action attempted or performed that misrepresents one’s involvement in an academic endeavor in any way, or assists another student in misrepresenting his or her involvement in an academic endeavor. Examples of academic dishonesty include, but are not limited to:
i. Plagiarism: presenting the work (i.e., ideas, data, creations) of another, wholly or in part, as one’s own work without customary and proper acknowledgement of sources and extent of use, unless authorized by the instructor.

ii. Cheating: using information, study aids, notes, materials, devices, or collaboration not explicitly approved by the instructor. For example: doing a class assignment for someone else or allowing someone to copy one’s assignment; copying from, or assisting, another student during an examination; or stealing, or otherwise improperly obtaining, copies of an examination before or after its administration.

iii. Fraud: altering or inventing data, research, or citations for an academic endeavor; fabricating, forging or otherwise misrepresenting to an instructor or an institution one’s past or current academic or professional activities; impersonating someone or allowing oneself to be impersonated for an examination or other academic endeavor; using a ghost writer, commercial or otherwise, for any type of assignment.

iv. Violation of Standards: violations against ethical and professional standards required by individual University programs, academic courses, and clinical programs that may result in qualification for entry into a profession that maintains standards of conduct.

v. Multiple Submissions: submitting, wholly or in part, the same academic endeavor to earn credit in two or more courses without explicit approval by all concerned instructors.

vi. Interference or Obstruction: interfering with academic efforts of other students to gain unfair advantage for personal academic advancement. Interference may include but is not limited to, sabotage, harassment, tampering, bribery, or intimidation of another student.

vii. Complicity: assisting another person in any act of academic dishonesty as defined above.

B. ACADEMIC ENDEAVOR. Any student activity undertaken to earn University credit or meet some other University program requirement. Examples of academic endeavors include, but are not limited to:

i. Course assignments (written and/or oral, projects, research, exhibitions of work)
ii. Exams (written and/or oral, quizzes)
iii. Clinical assignments (internships, rotations, practical)
iv. Presentations (on and off campus)

v. Publications
vi. Independent study coursework
vii. Plan B papers or projects, theses, dissertations
viii. Student media associated with academic credit

C. APPEAL. A written request by a student for review of the findings by the hearing officer.

D. CHARGE OF ACADEMIC DISHONESTY. Action taken when an instructor has reasonable grounds to believe that a student has committed any act pursuant to 4.A.
E. COLLEGE OR INTERDISCIPLINARY PROGRAM. The college or interdisciplinary program awarding credit or benefit for the academic endeavor.

F. FINDING OF ACADEMIC DISHONESTY. A written description of the specific acts and evidence of academic dishonesty, along with supporting materials and any sanction imposed by the appropriate hearing or appeals body.

G. HEARING. A hearing is at a minimum an administrative review by the Dean of College or designee, or Administrator of an Interdisciplinary Program of a charge of academic dishonesty and a written response from the student. Nothing in this definition shall preclude individual colleges from establishing additional procedures related to academic dishonesty. If additional procedures are in place, they shall be utilized in place of the minimum hearing.
   i. College Hearing: Established by the individual college
   ii. Interdisciplinary Program Hearing: Established by the program director

H. INSTRUCTOR. The instructor is the person responsible for the evaluation of the academic endeavor. Examples include but are not limited to: professors, academic professionals, externship or clinical supervisors, graduate assistants or course directors.

I. NOTIFICATION. Notification shall be in writing and is satisfied when delivered to the student in person with signed acknowledgment by the student or by certified United States mail to the student’s local address on file with the University. If no local address is on file, notification will be sent to the student’s permanent address.

J. OFFENSE. An offense occurs when a student, in consultation with the instructor and Department Head, submits a written admission of academic dishonesty and/or the student is found to have committed academic dishonesty pursuant to 5.D.

K. SANCTIONS. Any authorized actions outlined in Section 6, or combinations thereof, imposed as a consequence of a determination under UW Regulation 6-802 that academic dishonesty has occurred.

L. CENTRAL REPOSITORY. Maintenance of disciplinary records will be in the Central Repository. Disciplinary records will be maintained in the Office of the Dean of Students for seven years and then destroyed unless the Dean of Students determines there is good reason to retain the records beyond that date. Access is limited to the Dean of Students and the academic deans and/or designees and any other employees of the University who have a need to know as determined by the Vice President of Academic Affairs.

5. ADMINISTRATIVE PROCEDURES

A. SUSPICION OF ACADEMIC DISHONESTY: Whenever an instructor has reason to suspect that an act of academic dishonesty has been committed in a course, clinical or academic program for which s/he is responsible for supervision or assignment of an academic evaluation, the instructor shall investigate the matter and discuss the matter with the student and, at the instructor’s discretion, come to one of the following resolutions:
i. If in the judgment of the instructor, the charge of academic dishonesty is not justified and/or there is insufficient evidence of academic dishonesty, then no further action is warranted.

ii. If, in the judgment of the instructor, sufficient evidence of academic dishonesty exists, then the instructor pursues the charge of academic dishonesty.

B. ESTABLISHING AN ACADEMIC CHARGE: Pursuant to the charge of academic dishonesty the instructor shall consult with the Department Head and with the concurrence of the Department Head shall prepare a charge of academic dishonesty and recommended sanction for submission to the Dean of College or designee.

C. INITIAL PROCESS: Upon receipt of the charge of academic dishonesty and recommended sanction, the Dean of College or designee shall:

i. Check the Central Repository to determine if the charge is the student’s first or second or subsequent offense.

ii. Notify student in writing with a brief summary of the charge of academic dishonesty and recommended sanction and provide the student with a copy of UW Regulation 6-802.

a. First Offense: If the Dean of College determines that the charge of academic dishonesty is the student’s first offense, the Dean of College or designee shall notify the student of the charge of academic dishonesty and recommended sanction.

   (A) The student may, within five (5) calendar days of notification, request a meeting with the instructor and/or Dean of College or designee to discuss the charge of academic dishonesty and recommended sanctions. At this meeting, the student may:

   1. Accept the charge of academic dishonesty and recommended sanctions approved by the dean or designee as filed. The student will do this by signing a waiver recognizing his/her behavior as academic misconduct and waiving his/her right to a hearing, which is then forwarded to the Central Repository by the Dean of College or designee.

   2. Disagree with the charge of academic dishonesty and recommended sanction and submit a request for a college hearing to the Dean of College or designee within fifteen (15) calendar days.

   (B) If the student does not request a meeting as described in part (A), the Dean shall implement the procedures necessary for a hearing as described in section D below.

b. Second and subsequent charges: If the Dean of College determines that the present charge of academic dishonesty is preceded by a finding of academic dishonesty from a previous incident, then the Dean of College or designee shall notify the student of the charge of academic dishonesty and of the mandatory sanctions associated with a second finding.

   (A) The student may request a meeting with the instructor and Dean of College or designee to discuss the charge of academic dishonesty and recommended sanctions within five calendar days of notification. At this meeting, the student may:
1. Accept the charge of academic dishonesty, mandatory sanction and additional recommended sanction approved by the dean or designee. The student will do this by signing a waiver recognizing his/her behavior as academic misconduct and waiving his/her right to a hearing, which is then forwarded to the Central Repository by the Department Head or designee.

2. Disagree with the charge of academic dishonesty and recommended sanction, and submit a request for a college hearing to the Dean of College or designee within fifteen (15) calendar days.

(B) If the student does not request a meeting as described in part (A), the Dean shall implement the procedures necessary for a hearing as described in section D below.

D. HEARING: In cases where a hearing is required or requested by the student, the Dean of College will designate an impartial hearing officer, who will hold a hearing to determine whether academic dishonesty has occurred. The student shall be notified in writing of the following:

i. A description of the specific acts of alleged academic dishonesty, the date and place of occurrence, and the names of witnesses;

ii. The recommended sanction;

iii. The time, date, and location of the hearing; and

iv. The identity of the designated hearing officer.

PREHEARING PROCEDURES: The Wyoming Rules of Administrative Proceeding shall not apply to this proceeding and discovery shall be limited to the following:

i. Prior to the hearing the parties will exchange a list of witnesses for the hearing, a brief summary of the information each witness is expected to provide, and any documents to be presented at the hearing.

ii. Witnesses shall testify in person or by telephone at the hearing, however, if a witness is unavailable for testimony, the hearing officer may authorize taking testimony in advance.

iii. The parties may jointly communicate with the hearing officer by telephone on any prehearing matters.

iv. The student may petition the hearing officer to excuse him/herself by presenting evidence of bias. The hearing officer shall decide whether to excuse him/herself. In that case, the dean will choose another hearing officer.

v. If the student would like to be accompanied at the hearing by a mentor, advisor, counselor, or attorney at law of his/her choice, s/he must notify the hearing officer at least twenty-four (24) hours prior to the hearing. The role of the mentor, counselor,
advisor, or attorney at law shall only be to consult with the student, not to represent the student.

THE HEARING:

i. The hearing shall be open to the student, a mentor, advisor, counselor, or attorney at law and the instructor who made the charge. The hearing may also be open to others at the discretion of the hearing officer.

ii. The instructor or department designee shall put forth the evidence supporting the charge of academic dishonesty. The student and instructor/departmental designee may ask questions of any witness. The student may present any relevant information in opposition to the charge of academic dishonesty.

iii. The standard of proof shall be “substantial evidence” which is such evidence that a reasonable mind might accept as adequate to support a conclusion.

iv. One of the following findings shall result from the decision from the Hearing:
   
a. Finding of no academic dishonesty and dismissal of the charge.
   
b. Finding of academic dishonesty and concurrence with the recommended sanction.
   
c. Finding of academic dishonesty and modification of the recommended sanction.

v. The hearing will result in a report being prepared, by the hearing officer, which includes a summary of the evidence presented against and for the student, the findings made, and any recommended sanctions from the hearing officer and instructor.

E. Notification of Findings: The Dean of College will notify the student and the instructor of the findings from the hearing.

i. If the charge was not upheld by the hearing, the Dean of College or designee will dismiss the charge of academic dishonesty and shall have the record expunged and notify the student in writing.

ii. If the finding was upheld, the student has thirty (30) calendar days from the date of the notification to file an appeal pursuant to Section F. below.

a. If the student does not file an appeal, the Dean of College or designee shall forward the report, findings and recommended sanctions to the Provost and Vice President for Academic Affairs and to the Dean of Students. The student may submit to the Provost and Vice President for Academic Affairs a request, with rationale, for sanctions different from those recommended by the hearing officer. If the appeal for a different sanction is based on a finding of scientific misconduct, the appeal shall be to a Vice President, designated by the President, other than the Provost and Vice President for Academic Affairs. The Provost and Vice President for Academic Affairs shall decide upon sanctions no harsher than those recommended by the hearing officer. Sanctions involving suspension or dismissal must be justified by a written rationale, based on specific findings of the hearing, the nature of the
offense, and the student’s record, and are subject to approval of or modification by the President of the University.

b. If the student files an appeal (Section F.), the Dean of College or designee shall forward the report of all proceedings to the provost and Vice President for Academic Affairs.

c. If the instructor has opted for the sanction of the assignment of “F” or “U” grade for the course, an “I” grade will be submitted until the completion of the appeals process, when the Provost Vice President for Academic Affairs shall either exercise the sanction of “F” or “U” or remove the “I” grade as per the report from the final appeal.

(A) If the alleged act of academic dishonesty occurs during finals week or within a time frame in which the opportunity for a fair hearing would be difficult, the instructor may submit a grade of “I” until the appeals process can be effectuated.

(B) If a student charged with academic dishonesty withdraws from the course in question, and the charge is eventually upheld, the “W” grade reverts to the grade of “F.”

F. APPEAL: An appeal of the final decision of the college can be lodged to the Provost Vice President for Academic Affairs or designee or hearing panel. This shall be a written appeal, filed, within thirty (30) calendar days after the college decision is rendered, that sets forth facts substantiating the claim. A copy shall be provided by the student to the original hearing officer. The original hearing officer shall have fifteen (15) days to provide a written response including a copy to the student. At the discretion of the Provost and Vice President for Academic Affairs or designee or hearing panel, they may seek written or oral presentation for clarification of the record from both parties.

i. An appeal of the finding of academic dishonesty can be lodged solely upon the following grounds:

a. The student was not given written notice of a hearing or an opportunity for a hearing.

b. The report of the college level hearing fails to describe any act of the student’s which could be construed as academic dishonesty.

c. The findings from the hearing were not supported by substantial evidence, were the result of prejudice toward the student, capricious evaluation, or capricious treatment,

7 Provost and Vice President for Academic Affairs may designate one or more faculty members to conduct appeals for academic dishonesty matters.
and such allegations must include specific examples of the capricious actions or substantive factual errors.

ii. If the Provost and Vice President for Academic Affairs or designee or hearing panel hearing the final appeal upholds the finding of academic dishonesty or determines that it does not have the jurisdiction to hear the appeal, the Provost and Vice President for Academic Affairs or designee or hearing panel will dismiss the appeal, and have the finding filed with the Dean of Students in the Central Repository.

   a. Whenever the Dean of College ascertains from the Central Repository that a student has committed academic dishonesty for a second time, s/he will promptly notify the Provost and Vice President for Academic Affairs who shall cause the suspension of the student from the University for a period of one (1) calendar year. This action is subject to approval of or modification by the President of the University.

   If the Dean of College ascertains that the student has not committed academic dishonesty for a second time, the student may submit to the Provost and Vice President for Academic Affairs a request, with rationale, for sanctions different from those recommended by the hearing officer. The Provost and Vice President for Academic Affairs shall decide upon sanctions no harsher than those recommended by the hearing officer. Sanctions involving suspension or dismissal must be justified by a written rationale, based on specific findings of the hearing, the nature of the offense, and the student’s record, and are subject to approval of or modification by the President of the University.

iii. If the Provost and Vice President for Academic Affairs or designee or hearing panel reverses the finding of academic dishonesty, the Vice President for Academic Affairs or designee or hearing panel will dismiss the finding of academic dishonesty and expunge the record.

G. CENTRAL REPOSITORY: Any final sanction in decisions of academic dishonesty must be sent to the Central Repository held in the office of the Dean of Students.

6. AUTHORIZED SANCTIONS

   A. Any of the following sanctions or combination thereof may be imposed for a first offense. The severity of the offense and other relevant circumstances should be considered.

      i. Extra or alternative work.

      ii. Grade reduction of the academic endeavor.

      iii. A failing grade for the academic endeavor.

      iv. No credit for the academic endeavor.

      v. Grade reduction for the course.

      vi. A failing grade for the course.
vii. Suspension of the benefit of the program, clinical, or academic endeavor.

viii. Termination from the program.

ix. Suspension from University.

x. Dismissal from University.

B. Mandatory Sanction for Second Offense: Whenever the Dean of College or designee ascertains from the Central Repository that a student has committed academic dishonesty for a second time, s/he will promptly notify the Provost and Vice President for Academic Affairs. The Provost and Vice President shall direct who shall cause the suspension of the student from the University for a period of one calendar year. This action is subject to the approval of or modification by the President of the University.

C. The foregoing actions shall not preclude the administrative consequences which may result in the loss of benefits from such programs, scholarships and other opportunities afforded students.

7. INDIVIDUAL COLLEGE REGULATIONS

Regulations of individual colleges may establish additional standards identifying academic dishonesty, as well as other standards for student conduct deemed appropriate for students whose degree program will result in qualification for entry into a profession which maintains standards of conduct. Any such regulations which incorporate academic dishonesty must provide, as a minimum, the sanctions described in Section 6 (Authorized Actions), and must otherwise afford notice and a fair hearing. Such regulations shall become effective upon approval as a University regulation.

Source: University Regulation 802; adopted 10/17/08 Board of Trustees meeting Revisions adopted 11/18/10 Board of Trustees meeting.