Advanced Criminal Procedure

**Spring 2019 Syllabus**

# Professor: Lauren McLane

# Course: Advanced Crim Pro—CRIMJ 4140-01 & LAW 6915-11

# Course Meetings—

**Tuesdays & Thursdays:**

1:20-2:35pm, **College of Business Room:** 129

**Offices:** Law Bldg in RM110 AND A&S Bldg in RM 402

**Phone:** 766-3118

**E-mail:** lmclane@uwyo.edu

**Open Door & Preset Office Hours:**

Most days, if my door is open, I am available. Feel free to drop by the law school OR email me for an appointment.

**Set Office Hours in the Law Bldg:** Mondays 12:00pm-2:00pm, RM 110

**Set Office Hours in the A&S Bldg:** Thursdays 3:00pm-5:00pm, RM 402

**Teacher’s Assistant (TA):\*[[1]](#footnote-1)**

Catherine (Kate) Mercer, 3L Law Student and Student Director, Prosecution Assistance Clinic in the College of Law

**Set Office Hours for Kate:** Wednesdays 1-3pm, Prosecution Assistance Clinic, 2nd floor in Law Building, OR by appointment—email: cmercer1@uwyo.edu.

**WyoCourses:\*[[2]](#footnote-2)**

As a resource for this class, a WyoCourses site is available to you. This site provides the opportunity to have all course materials in one place that is accessible to everyone. Assignments and announcements will be posted to this site. As part of the requirements for this class, you are expected to check and use this site regularly. **Make sure to check your UW email as this is the address that will be utilized for any posted announcements.**

**Course Description, Objectives, and Structure:**

This course is designed to be an advanced exploration into both investigative and adjudicative criminal legal procedure. At the end of the course, students will be comfortable with the language, meaning, and application of the Fourth, Fifth, Sixth, and Eighth Amendments to the United States Constitution. This course has been prepared with both the undergraduate criminal justice student as well as the law student in mind. In addition, it is intended to cover the course in such a manner that those seeking careers as law enforcement professionals, investigators, probation officers, correctional officers, social workers, lawyers, etc. will be provided a strong foundation for practical application in their careers.

**Texts:**

Roger Wright, Criminal Procedure: From the Courtroom to the Street (Wolters

Kluwer 2015).

Other frequently assigned readings posted on WyoCourses throughout the semester.

**Class Attendance:**

Per ABA rule, law school policy, and classroom policy you are required to attend at least

**75% of the course classes/meetings**. I will take attendance and enforce this requirement

via an attendance sheet that will be passed around each class.

In this course, there’s really no time to catch you up if you miss too many classes; you will

surely be left behind. In each class, I will provide supplemental material and cases through

lecture and discussion; thus, merely doing the reading will not give you everything you

need to do well on the final examination. If you miss a class, make an appointment with

TA Kate Mercer to get back up to speed. I will post case names throughout the semester

that should help you understand what you have missed; however, that (alone) will not be

sufficient and, thus, meeting with Kate will be invaluable (even when you have not missed

a class).

**Note that there may be times where I will suggest that you go to either the Albany County Courthouse or Laramie Municipal Court here in Laramie for court/trial observations.** It is encouraged (but not required) that you attempt to make these court observations.

**Please do not email me why you either need to miss a class or why you missed a**

**previous class. I want to know that you are doing well, but it is**

**not necessary for you to give me this kind of information. What is important is that**

**you take care of yourself and then jump back into the class and get caught up**

**immediately.**

**Course meetings/classes:**

Unless otherwise noted, we will meet in Room 129 in the **College of Business Building** on **Tuesdays & Thursdays 1:20-2:35pm**. Please note that we will NOT meet on 4/11/19 as I will be traveling to a conference.

**Partnerships/Teams:**

You will work in teams for most of this course for in-class exercises or presentations; however, each student will receive his or her own participation score (that is 20% of your final grade for the course). Each team will consist of approximately 4 students. In addition, law students will be assigned to teams made up of only law students AND undergraduates assigned to teams made up of only undergraduate students.

**Assessment & Grading:**

**The Final Exam will place appropriate demands on you based on whether you are an undergraduate student or law school student. There will be two different versions of the Final Exam—one for each of these levels of enrollment.**

As part of your participation/preparedness/collaboration/attendance grade, you will be assessed throughout the semester for development of creative and critical thinking, cultivation of problem-solving skills, iterative and incremental development, participation and collaboration in the classroom. **Effort and commitment are key**.

Grades are assigned on a **plus/minus (+/-) system as follows: A, A-, B+, B, B-, C+, C, C-, D+, D, D-, F**. This course is NOT graded on a curve; I want you to come out of this course knowing what your personal level of competence is in criminal procedure. For instance, if you get a B you will know where you personally are since there will be no curve. However, there are rubrics I will utilize for assessment and grading purposes and those are outlined for you below**.**

**Grade percentage ranges:**

94-100 = A 77-79 = C+ 60-62 = D-

90-93 = A- 73-76 = C 59 or < = F

87-89 = B+ 70-72 = C-

84-86 = B 67-69 = D+

80-83 = B- 63-66 = D

**What you are graded on and weight toward final, overall grade:**

**1) Attendance, Preparedness, Participation, & Collaboration—20%**

* This 20% of your final grade is focused on your attendance, preparedness, participation, and collaboration in the course. In order for this course to work well, it is essential that you attend the course, come prepared, and participate fully in the course (participation includes, but is not limited to, reading assignments and class discussion) and collaborate with your team for assignments when appropriate.
* Throughout the course, I will keep track of participation (both quantity and quality) as well as overall contribution to the course. While it is expected that all students will receive full credit in this area, I will lower a student’s grade up to the full 20% for substantial absences, repeated failure to be fully prepared for the course, and for failure to contribute regularly, meaningfully, and positively in course discussion and in collaboration with your teammate(s).
* Please note that any suggested “field trips” or court/trial observations are simply that, suggestions, and they are not mandatory. You will not be docked points under this category if you do not attend these.
* Please note that if you do not abide by the 75% attendance policy as outlined above, you will be given an F for the course.

1. **Final Exam—80%**

* First, please note that law students will be given a separate, different final examination from undergraduate students. Each exam will be designed with these two separate levels of study in mind.
* The majority of your final grade is comprised of your final exam. Everything we do leading up to that point will be focused on readying you for this exam.

**Grading Rubric—how students will be assessed and graded:**

**What is a Rubric?**

It is a scoring guide for evaluating student performance in a graded course. It consists of certain criteria, serving as a guidepost for the professor as well as a working guide for students.

**How rubrics are applied in this course—**

**Attendance, Preparedness, Participation, & Collaboration:**

A rubric is applied to your semester-long attendance, preparedness, participation, and collaboration (*see* above to understand what this category entails).

Students have a total of 3 points to be earned here.

3 = Met 85% or more of expectations

2 = Met 69-84% of expectations

1 = Met less than 69% of expectations

0 = Met none of the expectations

Expectations for this category:

* Attends 75% or more of course meetings/classes
* Is adequately prepared for in-class discussions related to topic at hand, reading assignments, and in-class exercises as demonstrated by performance and participation
* Participates either on own OR when called upon during course
* Collaborates with team member(s) as demonstrated by class discussions and presentations

Remember that this category is weighted at 20% of your final grade.

(E.g.) If a student’s points totaled 2 out of 3 here, then she got a 67% (66 rounded up to 67—professor will round up to student’s favor) in this grading category that will contribute to or be weighted at 20% to the student’s final grade (i.e., .67 x .20 = .134), and then added to the other weighted result (i.e., final exam).

**Final Exam:**

A rubric is also applied to your final exam. Your final examination will be an “issue-spotting” exam in essay form and will also include policy-related questions.

Remember that this assignment is weighted at 80% of your final grade.

More information regarding the Final Exam will be shared as the semester progresses.

**Academic Honesty:**

Please be advised that the College of Law Honor Code applies to this course. You are expected to be familiar with the requirements of the Code and to adhere to them at all times. Failure to do so may subject you to severe sanctions, including but not limited to possibly failing this course. A copy of the honor code can be found at <http://www.uwyo.edu/law/current/resources/forms.html>. Additional information regarding academic honesty is described in University Regulation: UW Regulation 2-114 “Procedures and Authorized University Actions in Cases of Student Academic Dishonesty.”

**Disability Accommodation:**

If you have a physical, learning, sensory or psychological disability and require accommodations, please let me know as soon as possible. If you have not already done so you will need to register with, and provide documentation of your disability to, the Law School Administration office and University Disability Support Services (UDSS) in Student Education Opportunities (SEO), room 330 Knight Hall. For more information please see <http://www.uwyo.edu/udss/>.

**Diversity Statement:**

The University of Wyoming values an educational environment that is diverse, equitable, and inclusive. The diversity that students and faculty bring to class, including age, country of origin, culture, disability, economic class, ethnicity, gender identity, immigration status, linguist, political affiliation, race, religion, sexual orientation, veteran status, worldview, and other social and cultural diversity is valued, respected, and considered a source for learning.

**Title IX Statement:**

The University of Wyoming is committed to maintaining a respectful, safe, and non-threatening environment for its faculty, staff, students, contractors, and visitors and will address and resolve all complaints of sexual misconduct. *See* UW Regulation 4-3 at <http://www.uwyo.edu/regs-policies/_files/docs/regulations-july-2018/uw_reg_4-3_effective_7-1-18.pdf>. Students can find more information about Title IX and reporting violations or potential misconduct at <http://www.uwyo.edu/reportit/>.

**Syllabus is Subject to Change:**

The information and schedule contained in the course syllabus, other than the grade and absence policies, may be subject to change with reasonable advanced notice, as deemed appropriate by the professor. Substantive changes made to the syllabus by the professor during the semester shall be communicated in the learning management system, other electronic means, or in class to students with reasonable notice.

**Class Schedule and Assignments:**

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| --- | --- |
| **Class #1:**  1/29/19 | **Criminal Procedure 101**   * Read: Text, pages 5-28 * Law Students Team 1 and Law Students Team 2 to present on reading   Lecture/Review  Introductions & Team Assignments |
| **Class #2:**  1/31/19 | **Due Process & The Bill of Rights**   * Read: Text, pp 29-26 and *Powell* case (posted on Wyocourses) |
| **Class #3:**  2/5/18 | **The Right to Trial**   * Read: Text, pp 189-202 * Law Students Team 1—present on speedy trial in Wyoming * Law Students Team 2—present on when there is a right to jury in Wyoming   Lecture/Class Discussion/Case problem  Anatomy of a Jury Trial |
| **Class #4:**  2/7/19 | **The Right to Trial (cont’d)**   * You have already read text, pp189-202 * Also read *Batson* case (posted on Wyocourses) * And Implicit Bias reading (posted on Wyocourse)   Lecture/Discussion/Case problem  Right to impartial jury, the jury pool  *Batson* in the state of Washington as an example  Implicit bias instructions |
| **Class #5:**  2/12/19 | **Right to Counsel**   * Read: *Gideon*, *Faretta*, and *Strickland* cases (posted on Wyocourses) * Presentation: CJ Team-(TBD) vs. CJ Team-(TBD)—Is *Faretta* equal to *Gideon*?   Class Discussion/Lecture/Case problem  Right to counsel  Right to effective counsel  Right to a complete defense  Pro se |
| **Class #6:**  2/14/19 | **The Confrontation Clause and the Compulsory Clause**   * Read: *Roberts* and *Crawford*, *In re Oliver* and *Washington v. Texas* cases (posted on Wyocourses) * CJ Team-(TBD) vs. CJ Team-(TBD)—*Roberts* vs. *Crawford*, the better rule?   Lecture/Class discussion/Case problem  Overview and Evolution of the Confrontation Clause since *Crawford* |
| **Class #7:**  2/19/19 | **Bail and Pretrial Detention**   * Read: Text pp219-224, *Gerstein* case, and Wyoming Criminal Court Rule on Bail/Pretrial Detention (posted on Wyocourses)   Lecture/Class discussion/Case problem  Discussion surrounding bail reform efforts |
| **Class #8:**  2/21/19 | **The Exclusionary Rule and Introduction to the 4th Amendment**   * Read: Text pp 37-49, Fourth Amendment (p52 of Text), *Katz* and *Mendenhall* cases (posted on Wyocourses)   Lecture/Class discussion/Case problem  *Wong Sun* discussion |
| **Class #9:**  2/26/19 | **Probable Cause & the Warrant Clause**   * Read: Text pp53-57 * Read: Two case assignments on Probable Cause and Warrant Clause (posted on Wyocourses) * CJ Team-(TBD) vs. CJ Team-(TBD)—write an affidavit for probable cause for case problem (sample on Wyocourses)   Lecture/Review/Class discussion |
| **Class #10:**  2/28/19 | **Excessive vs. Acceptable Force**   * Read: Case assignments (posted on Wyo courses) * CJ Teams (TBD)—position presentations   Lecture/Review/Class discussion |
| **Class #11:**  3/5/19 | **Exceptions to the Warrant**  Read: pp58-70 and *Chimel* case (posted on Wyocourses)  Lecture/Class discussion/Case problems  Exigency, SIA, SIA/immediate control, Booking, Closed Containers, Blood (life since *Schmurber* case), and “Administrative Searches” discussed… |
| **Class #12:**  3/7/19 | **Cars and Homes**   * Read: Assigned case reading (posted on Wyocourses)   Lecture/Class discussion/Case problems |
| **Class #13:**  3/12/19 | **Stop & Frisk**   * Read: Text pp 73-86 * Law Team-1 vs. Law Team-2—*Terry* or *Mendenhall*?   Lecture/Review/Class discussion  Discussion related to NY’s evolving Stop & Frisk laws |
| **Class #14:**  3/14/19 | **Terry Extensions**   * Read pp87-97, *Long*, and *Bui* (posted on Wyocourses)   Lecture/Class discussion/Case problems |
| **Class #15:**  3/26/19 | **Pretexts and Roadblocks**   * Read: *Whren* and *Prouse* * CJ Team-(TBD) vs. CJ Team-TBD—on *Whren* positions * CJ Team-(TBD) vs. CJ Team-TBD—*Prouse* positions   Lecture/Class discussion/Review |
| **Class #16:**  3/28/19 | **Search and Seizure Evidence**   * Read: Text pp99-116   Lecture/Class discussion/Case problems  Open Fields doctrine in Wyoming |
| **Class #17:**  4/2/19 | **Consent**   * Read: Text pp119-130 * CJ Team-(TBD) vs. CJ Team-(TBD)—craft your own consent rules   Lecture/Class discussion/Review |
| **Class #18:**  4/4/19 | **Miranda**   * Read: Text pp145-158 and *Miranda* (posted on Wyocourses) * CJ Team-(TBD)—presentation on *Miranda*   Lecture/Class discussion/Case problems |
| **Class #19:**  4/9/19 | **Miranda applied**   * Read: Text pp159-174   Lecture/Class discussion/Case problems  Focus on juvenile 5th Amendment rights—case example from Washington  5th Amendment vs. Miranda |
| **Class #20:**  4/11/19 | **NO CLASS TODAY**  **(if you are an undergraduate student, I strongly advise you to use this time to have TA Kate Mercer review your class outlines)** |
| **Class #21:**  4/16/19 | **Identification Procedures and the attachment of Right to Counsel**   * Read: Text pp177-186 and Case assigned reading (posted on Wyocourses) * CJ Team-(TBD)—when should the right to counsel attach/why?   Lecture/Class discussion/Case problems |
| **Class #22:**  4/18/19 | **Double Jeopardy and Proof Beyond a Reasonable Doubt**   * Read: Text pp 203-208 and assigned case reading (posted to Wyocourses) * CJ Team-(TBD)—pick another standard   Lecture/Class discussion/Case problems |
| **Class #23:**  4/23/19 | **Sentencing and Cruel & Unusual Punishment (Policy)**   * Read: Text pp225-240 and case assigned reading (posted to Wyocourses) * For/Against ½ class   Lecture/Class discussion/Case problems |
| **Class #24:**  4/25/19 | **Life for Juveniles as Unconstitutional (Policy)**   * Read: *Miller* and *Montgomery* (posted to Wyocourses) * For/Against ½ class   Lecture/Class discussion/Case problems |
| **Class #25:**  4/30/19 | **Three Strikes (Policy)**   * Read: Case assignments (posted to Wyocourses) * For/Against ½ class   Lecture/Class discussion/Case problems |
| **Class #26:**  5/2/19 | **Death Penalty (Policy)**   * Read: Text pp241-248 * For/Against ½ class   Lecture/Class discussion/Case problems |
| **Class #27:**  5/7/19 | **Wrongful Convictions (Policy)**   * Read: case assignments (posted to Wyocourses) * What do we do, ½ class   Lecture/Class discussion/Case problems |
| **Class #28:**  5/9/19 | **Review Day (last day of class!!)**  Cases, Other Q&A  Final Exam discussion |

1. Please note that although Kate is a student in the class, the law students will be given a separate final examination from undergraduate students. Further, Kate is only available to undergraduate students in her TA position (not law students). [↑](#footnote-ref-1)
2. I will update both Wyocourses sites—the law students have a separate LAW topics course link assigned for this course. [↑](#footnote-ref-2)