

## **Rights of the Criminally Accused**

### **PSC 411E, Spring 2009**

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In America, we tend to revere our founding document to an extent that seems quite unusual to the citizens of other constitutional democracies. We know that our constitution was the first of its kind, and most of us know that it starts with something like “We the people...” We also know that the Constitution provides a prescription for the protection of individual rights and liberties. These prescriptions, however, are generally far less precise than we might expect. In order to determine what the text of the Constitution actually requires, we use “constitutional law.”

Constitutional law can give us answers to questions regarding the balance of liberty and equality, but these answers are typically far from precise, and far from indisputable. What remains is a gray area where the important questions of power and privilege are discussed, debated, and advanced according to the changing needs of government and society.

The main aim of this course is to peek into this gray area of constitutional jurisprudence and attempt to make sense of the vagaries of this venerated document. We will begin by learning about the tools used by judges and lawyers to address these questions. We will also examine the institutional constraints within which these actors operate, and the effect that these constraints have on the resulting constitutional law. From here, we will learn about the process of incorporation through which the Bill of Rights was nationalized. For the bulk of the course, we will examine the history and status of constitutional jurisprudence related to the rights of the criminally accused. We will learn about the Supreme Court decisions which have shaped these rights, and we will analyze the socio-political context in which these decisions were made.

## **Course Objectives**

After completing this course, the successful student will:

1. Have a working knowledge of the constitutional jurisprudence relative to the rights of the criminally accused;
2. Understand the process of constitutional law and be able to “think like a constitutional lawyer”;
3. Analyze the merit of particular legal arguments and approaches, both from a socio-political perspective and a legal perspective;
4. Convince others of a particular legal argument or stance, addressing the best arguments on either side of the debate; and
5. Use Web 2.0 to create a collaborative repository of information, analysis and critique of Supreme Court decisions and the rights and liberties they address.

## **Required Texts**

- Weinreb, Lloyd L., ed. 2008. *Leading Constitutional Cases on Criminal Justice*. 2008 ed. Foundation Press: New York. ISBN: 978-1-59941-488-1.
- Smith, Christopher E. 2004. *Constitutional Rights: Myths and Realities*. Thompson Wadsworth: Belmont, CA. ISBN: 0-534-63965-8.

## The Course Wiki

As a class, you will compile a comprehensive repository of cases and topics covered this term. More information can be found under the [Getting Started](#) topic heading. The wiki can be found at <http://unlvpublaw.wetpaint.com>.

## In Class Writings

In addition to the content on the wiki, you will be required to engage in short writing assignments during class. On average, these will take place once a week. Some of these writings will be group efforts, some will ask you to relate the readings to the presentation in class, and others will ask you for your reflections on the day's readings.

## Examinations

There are two examinations in this course. The midterm exam will be held during the first half of class on March 11. The final exam will be on Wednesday, May 6 at 6:00 pm. Both exams will cover the assigned readings, lecture materials, class discussions, in-class films and the content of the wiki. (Of course, the content of the wiki should overlap the other resources quite substantially!)

## Grading Policy

### Weighted Assessment List:

Course Wiki	40%
In-Class Writing	20%
Midterm Exam	20%
Final Exam	20%

### Grading Scale:

A	Exceptional	>90	%
B	Good	80-89	%
C	Average	70-79	%
D	Marginal	60-69	%
F	Unacceptable	<60	%

**For more information, please see the Course Information section on the course wiki.**