

Criminal Justice
LAWJ-003-97
Wednesday & Friday 5:45-7:45PM

Professor James Forman, Jr.

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662-9442

Room 470

Office Hours: Friday 3-5pm, or by appointment

“Law is but a means; justice is the end.”

--GULC motto

“For every question there is a simple answer, and it is wrong.”

--H.L. Mencken

“Enjoy this moment because this moment is your life.”

--Unidentified

Reading: At times we may not be able to discuss all of the assigned material in class. For purposes of the exam, you are expected to be familiar with all of the assigned material, whether we have discussed it in class or not.

Please read Chap 1 (pages 3-70) as background reading for this course. You can read it at any time during the semester, but the sooner you read it the better, because it will provide context for a variety of the specific legal issues we will discuss. Also, at times I may assign particular portions of this reading for a specific class and will let you know in advance when I am doing this.

Participation: I will call on students, and you will have notice of when you will be on call. Keeping up with the reading is always encouraged, but is absolutely essential on days when you are on call. Voluntary participation is always encouraged. Class participation can influence your grade.

Communication: For substantive questions, I prefer talking in person to e-mail. If my office hours conflict with your schedule, I'm happy to find a convenient time to talk.

Exam: There will be a 3 ½ hour exam.

I. Right to Counsel

Wednesday, January 12

- The right to appointed counsel—*Gideon* and its aftermath, pages 105-122 and Supplement pages 9-10

Friday, January 14

- Effective assistance of counsel—*Strickland* and its aftermath, pages 156-76 (through note 5) and Supplement pages 10-11; Background Reading, pages 50-53, 59 (beginning with “3. Judicial and Prosecutorial Pressures”)-60; Courseware 4 WPost articles on indigent representation in Virginia.
- Guest Speaker: Laura Hankins, Special Counsel to the Director, Public Defender Service for D.C., discussing her work on behalf of three young men from Marked Tree, Arkansas who were convicted after receiving inadequate counsel.

Wednesday, January 19 (NO CLASS)

Friday, January 21

- Right to Counsel on Appeal. Pages 39-43, 122-139, 147-48 (Notes 1 and 2).

II. *Boyd v. U.S.*

Wednesday, January 26

- The rise and fall of *Boyd v. U.S.* Pages 261-287, 309-312 (excerpt of Stuntz article)

III. The Fourth Amendment

Friday, January 28

- Introduction to the Fourth Amendment: The Exclusionary Rule. Pages 30-35, 323-338.

Wednesday, February 2

- Searches. Pages 338-348 (omit n. 5 on 348), 349-356, Supplement pp. 27-35

Friday, February 4

- Seizures. Pages 364-372 and Supp. p. 35.
- Probable Cause. Pages 377-393 and Supp. pp. 36-37.

Wednesday, February 9

- **Guest Speaker: Steve Mastrofski**
- Topic: *Policing in Practice: A View from the Field*, Read paper.

Friday, February 11

- The Warrant Requirement & exceptions. Pages 398-418.

Wednesday, February 16

- **Guest Speakers: Jennifer Cannino and Ron Cotton**

Friday, February 18

- Automobile exception to warrant requirement. Pages 418-434.

Wednesday, February 23

- Arrests and searches incident to arrests. Pages 434-465.

Wednesday, March 2

- **Guest Speaker: Jon Rapping**
- Consent searches. Pages 508-519 and 525-544.

Friday, March 4

- Reasonableness & concept of “reasonable” or “articulable” suspicion. Pages 466-498.

SPRING BREAK

Wednesday, March 16

- **Guest Speaker: Robert Wilkins**
- **Topic: Racial Profiling.** Refresh Pages 461-463, 489-91 and 497-98.

Friday, March 18

- Roadblocks & border searches. Pages 499-508, Supplement 95-97 and Courseware – 3 WPost articles re: traffic cameras.

Wednesday, March 23

- The Limits of the Exclusionary Rule: Standing. Pages 556-567
- The Limits of the Exclusionary Rule: Fruits Doctrine. Pages 567-77, 28-30

EASTER BREAK

Please note that due to make-up classes, between Wed. March 30th and Sat. April 9th there is an especially heavy reading load. I encourage you to read ahead and otherwise plan accordingly.

Wednesday, March 30

- The 4A Outside Criminal Litigation: Alternatives to the Exclusionary Rule. Pages 580-597 (these pages you may have read already for Wilkins lecture)
- The 4A Outside Criminal Litigation: Police Use of Force. Pages 597-607

Friday, April 1

- The 4A Outside Criminal Litigation: Searches and Seizures by Other Government Agents (“Special Needs” Searches). Pages 607-615, Supp. 106-119.
- The 4A Outside Criminal Litigation: Private Police. Pages 615-617.

Saturday, April 2, 1-4pm (make up class)

- The 5A Privilege Against Self Incrimination and Its Justifications. Pages 619-644.
- The Contours of the Privilege: Compulsion. Pages 644-647, Supp. 121-37.

Wednesday, April 6

- The Contours of the Privilege: Testimony. Pages 647-653.
- The Contours of the Privilege: Incrimination. Pages 653-660, Supp. 137-46.

Friday, April 8

- Limits on the 5A: Balancing. Pages 671-693.

Saturday, April 9, 1-4pm (make-up class)

- Police Interrogation—*Bram, Miranda, Dickerson, & Innis*. Pages 694-701, 707-756

Wednesday, April 13

- **Guest Speaker: Former MPD Homicide Detective Bill Corboy**
- Topic: Police Interrogation (continued)
- Interrogation Video

Friday, April 15

- **Guest Speaker: Miles Ehrlich, Chief of the White Collar Crimes Section, San Francisco US Attorney's Office**
- Topic: The Anatomy of a White Collar Prosecution
- Please read the material posted on the website relating to this lecture

Wednesday April 20

- Custody & Police Trickery. Pages 766-780.
- Exam Discussion.¹

Friday, April 22

- The Implications of Invoking *Miranda*. Pages 796-805.
- The Right to Counsel Revisited. Pages 701-703, 805-816.

Exam, May 12

- **Good Luck!**

¹ Please note that in order to ensure that all students have equal access to information, and to make sure that there are no misunderstandings, I will not discuss the exam outside of class, but am happy to answer questions about the exam during the scheduled class discussion period. For the same reasons, I require that you ask any questions that you have about the substance of the course material *before* our April 20 class session, so that I can respond to the entire class, some of whom may have the same question.