

Spring 2006
Criminal Justice
LAWJ-003-97
Wednesday & Friday 5:45-7:45PM

Professor James Forman, Jr.
forman@law.georgetown.edu
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: Our casebook is Criminal Procedure: Investigation and the Right to Counsel, by Allen, Hoffman, Livingston, and Stuntz (2005).

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 3-75) 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 hour **closed book** exam.

Commercial Outlines: I understand that, as they were when I was in law school, commercial outlines remain a popular way to understand class material and prepare for exams. I am not telling you how to study; your presence here at Georgetown proves you have developed ways that work for you. But I offer one word of caution about the use of outlines for exam preparation purposes. The universe of material that I will expect you to master for the exam will be solely the assigned reading and what is said in class. Using commercial outlines as you prepare can be detrimental in this regard, because sometimes those outlines cover material that we have not covered (criminal procedure is vast and any 13 week course can only cover so much). You won't get points for citing those cases or arguments you get from commercial outlines, and sometimes they can even harm you by leading you away from the answer that you would have gotten to if you had relied exclusively on the assigned readings and your notes from class.

I. Right to Counsel

Wednesday, January 18

- The right to the assistance of counsel at trial. Pages 115-139.

Friday, January 20

- Right to Counsel on Appeal. Pages 39-47, 139-149, 156-58 (Note 1), 163-66 (Notes 5-7).

Wednesday, January 25

- Effective assistance of counsel. Pages 168-87 (through Note 6); Courseware 4 WPost articles on indigent representation in Virginia.

Friday, January 27

- Guest Speaker: Laura Hankins, Special Counsel to the Director, Public Defender Service for D.C. Ms. Hankins will discuss her work on behalf of three young men from Marked Tree, Arkansas who pled guilty and later claimed they received inadequate counsel.

Wednesday, February 1

- The 6A applied: Lineups, Showups, and Photo Arrays. Pages 255-273.

Friday, February 3

- Eyewitness Identification: The Case of Jennifer Thompson and Ronald Cotton

II. The Fourth Amendment

Wednesday, February 8

- Introduction to the Fourth Amendment: The Exclusionary Rule. Pages 333-348

Friday, February 10

- The Meaning of Searches: The Relationship Between Privacy and Property. Pages 349-367.

Wednesday, February 15

- The Meaning of Searches: “Knowingly Exposed to the Public.” Pages 367-79
- The Meaning of Searches: Privacy and Technology. Pages. 379-394.

Friday, February 17

- The Meaning of Seizures. Pages 394-409.
- Probable Cause. Pages 420-437.

Friday, February 24

- The Warrant Requirement. Page 477-452.
- Exceptions to the Warrant Requirement: Exigent Circumstances. Pages 463-470.
- Exceptions to the Warrant Requirement: Plain View. Pages 479-89.
- Exceptions to the Warrant Requirement: Automobiles. Pages 489-502.

Wednesday, February 22—No Class, Faculty Retreat

Wednesday, March 1

- Arrests. Pages 509-517.
- Exceptions to the Warrant Requirement: Searches Incident to Arrest. Pages 531-552.

Friday, March 3

- Reasonableness: Stops and Frisks. Pages 552-590.

SPRING BREAK

Wednesday, March 15

- Guest Speaker: Robert Wilkins
- Topic: Racial Profiling

Friday, March 17

- Police Discretion and Racial Profiling. Pages 590-606. Forman article on Courseware. 3 WPost articles re: traffic cameras.

Wednesday, March 22

- Limits on the Exclusionary Remedy: Standing. Pages 697-709
- Limits on the Exclusionary Remedy: Fruits Doctrine. Pages 709-724

Friday, March 24

- Remedies: Damages. Pages 728-737
- Remedies: Injunctions. Pages 740-745.

- Remedies: Criminal Prosecution. Pages 745-747.
- Remedies: Administrative and Political Remedies. Pages 747-750.

Wednesday, March 29

- The 5A Privilege Against Self Incrimination and Its Justifications. Pages 751-769.
- The Contours of the Privilege: “No Person . . . Shall Be Compelled”. Pages 770-775.
- The Contours of the Privilege: “In Any Criminal Case”; The Meaning of Incrimination. Pages 775-778.

Friday, March 31

- The Contours of the Privilege: “To Be a Witness Against Himself”; The Meaning of Testimony. Pages 781-786.
- Police Interrogation and the *Miranda* Revolution. Pages 805-841.
- *Brown v. Mississippi*, 297 U.S. 278 (1936); *Payne v. Arkansas*, 356 U.S. 560 (1958).

Wednesday, April 5

- The Scope of Miranda: What is “Custody”? Pages 841-845.
- The Scope of Miranda: What is “Interrogation”? Pages 845-850.
- What Constitutes a Valid *Miranda* Waiver? Pages 858-866.
- Waivers Without Invocations. Pages 872-887.
- Note On *Miranda*’s Effects. Pages 887-890.

Friday, April 7

- **Guest Speaker: Jon Gould, George Mason University**

Wednesday, April 12 (5:45-8:45pm)

- **Guest Speaker: Former MPD Homicide Detective Bill Corboy**
- Beasley Interrogation Video

EASTER BREAK

Wednesday, April 19—No Class (Rescheduled as Exam Review Session)

Friday, April 21—No Class (Rescheduled for extra hour on April 12 and 26)

Wednesday, April 26 (5:45-8:45)

- Film: Murder on a Sunday Morning
- Discussion of Film: Eyewitness Identification and Police Interrogation

Friday, April 28

- *Miranda*’s Constitutional Status. Pages 890-920.

Friday, May 5, 5:45-7:45

Exam Review Session

At the review session I will discuss the format of the exam. I will also answer questions about the material we have covered. **Students with questions for the exam review session should submit those questions to me, via e-mail, not later than 5pm on Thursday, May 4.** After the exam review session I will NOT answer any questions about the exam or the material covered in class. This is a bright line rule that admits no exceptions. It is designed to ensure fairness for all students, so please do not e-mail me after the exam review session.

Final Exam May 11

- **Good Luck!**