

# LEGAL ASPECTS OF THE CRIMINAL JUSTICE SYSTEM

## CJ 780 Spring Semester, 2008

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**Class meets** 12:00-3:00 p.m., Mondays  
**Room:** A-205

**Office:** C-113, CJ Center  
**OfficeHours:** T-F: 9:30-12 p.m.  
T-F: 1:30-5:00 p.m.

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**Semester/Year:** Spring 2008  
**Class Day/Time:** 12:00-3:00 pm Mondays  
**Class Location:** CJ Center A-205

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or by appointment

## COURSE SYLLABUS

### I. TEXTS

1. *Civil Liabilities and Rights of Police Officers and Supervisors in Texas*, by Rolando V. del Carmen, et. al., (a LEMIT book, 2003). Available as a book or disk from the LEMIT BUILDING, Room 301.
2. *Briefs of Leading Cases in Corrections*, by Rolando V. del Carmen, et al., fourth edition (Anderson Publishing Company) 2005.
3. Internet sources and handouts as we go along.

II. **CLASS FORMAT:** All are expected to have read the assignment before each session. Lectures will be at a minimum. A combined law school-graduate school seminar approach will be used. Students will be asked to respond to questions in class and are encouraged to ask questions at any time, particularly on matters that need clarification.

III. **GRADES:** Will be based on the following:

- Mid-term examination –Monday, March 17, 12:00-4:00 p.m. – ¼ of the course grade.
- Final examination –Monday, May 12, 12:00-4:00 p.m. – ¼ of the course

grade.

- Legal briefs and class participation – ¼ of the course grade.
- Notes and Comments paper – due Monday, May 5 – ¼ of the course grade.

IV. LEGAL BRIEFS: Legal briefs must be submitted the day the class meets. Late briefs will suffer points deduction. A brief that is not submitted gets zero points for that week. This will have a serious adverse effect on the final grade for the legal briefs. Cases to be briefed and presented are assigned in the syllabus, but changes may be made as the semester goes along if new and significant cases are decided by the U.S. Supreme Court. Case briefs will be discussed in class. The quality of class presentations and participation will be taken into account when determining the grade for the legal briefs.

V. NOTES AND COMMENTS PAPER: A Notes and Comments paper is similar to a term paper in graduate school, except that it probes a legal topic using statutes, decided cases, and uses *THE BLUEBOOK: A Uniform System of Citation* ([www.legalbluebook.com](http://www.legalbluebook.com)) for referencing. Go over law journals in the library so you may be familiar with the content and format of a Notes and Comments paper.

Choose your topic, subject to my approval, as long as it is of interest to you and related to criminal justice. The dates to note for your Notes and Comments paper are:

Monday, February 18 – Submit your topic.

Monday, April 7 – Submit a complete draft of your paper, with sources. This submission will be graded like a legal brief and worth 20 points.

Monday, May 5 – Submit your final Notes and Comments paper.

The paper must be between 25-35 pages long, double space, footnotes included. An abstract not to exceed 50 words must precede the paper, followed by a Table of Contents. A two-page Literature Review must follow the Introduction. This review identifies the leading published sources on the topic (articles, books, monographs, Internet publications, dissertations, etc.) you found most helpful in your research on the topic. Summarize in narrative fashion (as you will later do in your dissertation, but limited to two pages) what these leading sources say. There is no need for a bibliography. Use footnotes, (meaning references are at the bottom of the page) rather than of endnotes (where references are at the end of the paper.)

For referencing, use *THE BLUEBOOK: A Uniform System of Citation* ([www.legalbluebook.com](http://www.legalbluebook.com)), eighteenth edition.

As in all aspects of academic work, absolute honesty is expected in your Notes and Comments paper. I reserve the right to ascertain the integrity of your paper by submitting it to TURNITIN or other screening programs for verification. Enrollment in the course signifies acceptance of this condition.

Submit a hard copy to Dr. Vaughn in class and an e-mailed copy to mvaughn@shsu.edu.

IV. TYPE OF EXAMINATION: Part I will consist of distinctions, definitions, specific responses, and hypothetical questions – a maximum of four points for each question. Choose any 20 out of 25 questions for a total of 80 points. Part II will feature essay questions. Choose any 3 out of 4 questions – for a total of 60 points. Total number of points = 140.

Examinations are not comprehensive. The mid-term examination will cover all materials assigned or taken up in class up to that time. The final examination will cover materials taken after the mid-term. Cases briefed and discussed in class will be included in the examinations.

V. MAKE UP EXAMINATION POLICY: Make up examinations will be allowed only in cases of emergency.

VI. ATTENDANCE POLICY: Class attendance is expected. Whenever possible, I would appreciate being informed beforehand of an absence. Excessive unexcused absences (more than two) will result in a lower course grade or a course failure.

VII. GOAL OF THE COURSE:

- Develop greater familiarity with the case method of learning law;
- Encourage students to acquire better legal skills and publish a graduate level type of legal research paper;
- Introduce students to more criminal justice legal terms and concepts;
- Instill better legal writing skills;
- Familiarize students with the latest statutes and case law on the topics covered in the course, which are: Legal Liabilities of Public Officers, Rights of Public Officers, Corrections Law, Death Penalty Law, and Juvenile Law.

VIII. OBJECTIVES OF THE COURSE: The specific course objectives are:

- Refresh students' knowledge of legal research;
- Reinforce students' skills for legal writing;
- Further familiarize students with case briefing and presentations;
- Ensure that students get extensive knowledge of the major legal topics covered in the course;
- Help students analyze and understand U.S. Supreme Court decisions;
- Acquaint students with how judges and lawyers defend legal positions;
- Develop skills in class discussions and presentations.

XI. ACADEMIC DISHONESTY:

The Faculty of the College of Criminal Justice expects students to conduct their academic work with integrity and honesty. Acts of academic dishonesty will not be tolerated and

can result in the failure of a course and dismissal from the University. Students who engage in academic dishonesty will be reported to the Dean and the Office of the Vice President for Student Life.

Academic dishonesty includes, but is not limited to, cheating on a test, plagiarism, collusion – the unauthorized collaboration with another person in preparing work offered for credit, the abuse of resource materials, and misrepresentation of credentials or accomplishments as a member of the college.

The University's policy on academic honesty and appeal procedures can be found in the manual entitled Student Guidelines, distributed by Division of Student Services. (Reference Section 5.3 of the SHSU Student Guidelines).

For the official university policy on academic honesty, see <http://www.shsu.edu/administrative/faulty/sectionb.html#dishonesty>.

## XII. DISABLED STUDENT POLICY:

“Students with a disability which affects their academic performance are expected to arrange for a conference with the instructor in order that appropriate strategies can be considered to ensure that participation and achievement opportunities are not impaired.” The physically impaired may contact the Director of the Counseling Center as chair of the Committee for Continuing Assistance for Disabled Students by telephone (ext. 1720).

For services for disabled students, see <http://www.shsu.edu/schedule/>

## XIII. STUDENT ABSENCES ON RELIGIOUS HOLY DAY POLICY

“Section 51.91 (b) of the Texas Education Code requires that an institution of higher education excuse a student from attending classes or other required activities, including examinations, for the observance of a religious holy day, including travel for that purpose. A student whose absence is excused under this subsection may not be penalized for that absence and shall be allowed to take an examination or complete an assignment from which the student is excused within a reasonable time after the absence.

“University policy 861001 provides the procedures to be followed by the student and instructor. A day(s) shall present to each instructor involved a written statement concerning the religious holy day(s). This request must be made in the first fifteen days of the semester or the first seven days of a summer session in which the absence(s) will occur. The instructor will complete a form notifying the student of a reasonable time frame in which the missed assignment and/or examinations are to be completed.”

For the official university policy on student absences on religious holy days, see <http://www.shsu.edu/catalog/scholasticrequirements.html#holyday>.

## **WEEKLY ASSIGNMENTS**

### **JANUARY 28: CLASS ORIENTATION AND LEGAL RESEARCH REFRESHER**

Course syllabus and expectations.

Case Briefing

Notes and Comments paper

“The World of Criminal Justice v. the World of Law: Differences and Common Grounds”

“Legal Research and Publications”

Start lecture and discussion on “Legal Liabilities of Public Officers”

Readings:

H.S. Becker. *Writing for Social Scientists: How to Start and Finish your Thesis, Book, or Article*. 1986. “Freshman English for Graduate Students: A Memoir and Two Theories.”

W.H. Rehnquist. *The Supreme Court* (revised and updated ed.). 2001. “Certiorarias: Picking the Cases to be Decided”; “How the Court Does Its Work: Oral Argument”; “How the Court Does its Work: Deciding the Cases.”

J. Rosen. *The Supreme Court: The Personalities and Rivalries that Defined America*. 2007. “A Question of Temperament”; “The Future of Temperament.”

D.P. Kommers, J.E. Finn, & G.J. Jacobsohn. *American Constitutional Law* (2<sup>nd</sup> ed.). 2004. “The Supreme Court.”

### **FEBRUARY 4: LEGAL LIABILITIES OF PUBLIC OFFICERS I**

No case brief or case discussion today.

Readings:

Chapter 13, “Legal Liabilities and Other Consequences of Police Misconduct,” (from *Criminal Procedure: Law and Practice*, by Rolando V. del Carmen, 7<sup>th</sup> ed. Copies will be distributed in class for those who do not have access to the book.

J.W. Wade et al. *Prosser, Wade, and Schwartz’s Cases and Materials on Torts*. 1994. “Development of Liability Based on Fault.”

V.E. Kappeler. *Critical Issues in Police Civil Liability* (3<sup>rd</sup> ed.). 2001. “The Scope and Impact of Police Civil Liability”; “The Fundamentals of State Tort Law”; “The Fundamentals of Federal Liability Law.”

M.S. Vaughn & L.F. Coomes. “Police Civil Liability Under Section 1983: When Do Police Officers Act Under Color of Law.” *Journal of Criminal Justice*, 23(5), 395-415.

## **FEBRUARY 11: LEGAL LIABILITIES OF PUBLIC OFFICERS II**

Brief and discuss: *Kimbrough v. United States* (2007): Is the disparity in sentencing crack cocaine and power cocaine defendants valid?

Readings:

W.C. Collins. *Correctional Law for the Correctional Officer* (4<sup>th</sup> ed.). 2004. "The Correctional Employee and Litigation: How a Lawsuit Works."

Chapter 1 - An Overview of Police Legal Liabilities, from *Civil Liabilities and Rights of Police Officers and Supervisors in Texas*, by R. V. del Carmen, et. al., 2002. (hereinafter referred to as the LEMIT book).

Chapter 2 of the LEMIT book – An Overview of Lawsuits Against Police Supervisors

Chapter 3 of the LEMIT book – Liabilities of Supervisors for Acts of Their Subordinates

Chapter 4 of the LEMIT BOOK – Overview of Federal and Texas Laws that Affect Police Officers and Supervisors

## **FEBRUARY 18: RIGHTS OF PUBLIC OFFICERS I**

Brief and discuss: *Garcetti v. Ceballos* (2006): What are the limits of a public employee's freedom of speech?

Readings:

Chapter 5 of the LEMIT book – Hiring and Recruitment of Officers

Chapter 6 of the LEMIT book – Firing and Discipline

M.S. Vaughn. "Political Patronage in Law Enforcement: Civil Liability Against Police Supervisors For Violating Their Subordinates First Amendment Rights." *Journal of Criminal Justice*, 25(5), 347-366.

Your Notes and Comments topic is due in class today.

## **FEBRUARY 25: RIGHTS OF PUBLIC OFFICERS II**

Brief and discuss: *Dothard v. Rawlinson* (1977): Are height and weight job requirements valid?

Readings:

Chapter 7 of the LEMIT book: Constitutional Rights of Police Officers

Chapter 8 of the LEMIT book – Discrimination in Police Employment

### **MARCH 3: RIGHTS OF PUBLIC OFFICERS III**

Brief and discuss: *O'Connor v. Ortega* (1987) Search of employee's office.

Readings:

Chapter 9 of the LEMIT book – Privacy Rights and Searches and Seizures

### **MARCH 10: SPRING VACATION**

### **MARCH 17: MID TERM EXAMINATION**

Covering everything taken thus far in the course. 12:00-4:00 p.m.- ¼ of course grade.  
The materials covered in the mid-term exam will not be included in the final exam.

### **MARCH 24: PRISON LAW I**

No case brief or case discussion today

Readings:

“History of Prisoners’ Rights, Court Access and Remedies,” by Ira Silberman, Ch. 14 of *Corrections: A Comprehensive View* – distributed in class.

Pages 3-68 of the *Briefs of Leading cases in Corrections, 4<sup>th</sup> edition*, the section on Prison Law

J.B. Jacobs. *Punishment & Social Control* (2<sup>nd</sup> ed.). 2003. “Judicial Impact on Prison Reform.”

### **March 31: PRISON LAW II**

Brief and discuss: *Georgia v. Randolph* (2006): Can the police search a home without a warrant if one resident consents and another resident objects?

Readings:

“The Governance of Corrections: Implications of the Changing Interface of Courts and Corrections,” by Christopher E. Smith, *Boundary Changes in Criminal Justice Organizations, Criminal Justice 2000*, Vol. 2 (July 2000) – Available in the Internet.

Pages 69-145 of the *Briefs* book. – Prison Law

L.S. Branham. *Cases and Materials The Law of Sentencing, Corrections, and Prisoners’ Rights.* 2002. “Cruel and Unusual Punishment.”

## **APRIL 7: DEATH PENALTY LAW I**

Brief and discuss: *Gregg v. Georgia* (1976): Is the death penalty constitutional?

Readings:

“Capital Punishment:” latest edition. Bureau of Justice Statistics Bulletin – Available in the Internet.

Pages 199-278 of the *Briefs* book – briefs of major cases on the death penalty.

Submit a complete draft of your Notes and Comments paper today.

L.E. Carter & E. Kreitzberg. *Understanding Capital Punishment Law*. 2004. “Categorical Bars to the Death Penalty.”

## **APRIL 14: DEATH PENALTY LAW II**

Brief and discuss: *Panetti v. Quarterman* (2007): Execution of an inmate who lacks a rational understanding of the state’s justification for the execution.

Readings:

Pages 199-278 of the *Briefs* book – briefs of major cases on the death penalty.

L.E. Carter & E. Kreitzberg. *Understanding Capital Punishment Law*. 2004. “An Overview of Aggravating Evidence: The Eligibility Function and the Selection Function.”

## **APRIL 21: DEATH PENALTY LAW III**

No case brief. Instead, there will be a class debate on *Baze v. Raes* (2008), argued in the U.S. Supreme Court on January 8, 2008, and is still to be decided. The issue: Is death by lethal injection constitutional?

Readings:

Chapters assigned for student reports from the book, *The Death Penalty: Constitutional Issues, Commentaries, and Case Briefs*, by R. V. del Carmen, et. al.

## **APRIL 28: JUVENILE LAW I**

No case brief.

Readings:

Class handout: “Juvenile Justice, Probation, and Aftercare,” from Ch. 14 of *Community Based Corrections*, by Cromwell, Alarid & del Carmen, 6<sup>th</sup> edition (Wadsworth/Thomson)



Publishing Co.) 2005. Distributed in class.

*Juvenile Offenders and Victims: OJJDP 2006 National Report.* (Print Chapter 4 - Juvenile Justice System: Structure and Process - Available in the Internet.)

F.W. Miller et al. *The Juvenile Justice Process* (4<sup>th</sup> ed.). 2000. “The Substantive Law Governing Juvenile Conduct.”

## **MAY 5: JUVENILE LAW II**

No case brief.

Readings:

“The Texas Juvenile Justice system” (published by the Texas Juvenile Probation Commission. Available in the Internet.)

Read: pp. 279-314 of the *Briefs* book – Briefs of Cases in Juvenile Law.

B.C. Feld. *Cases and Materials on Juvenile Justice Administration.* 2000. “Adjudication of Delinquency: Procedural Rights at Trial.”

Your Notes and Comments paper is due today. Submit a hard copy in class and send an electronic copy by e-mail to: [mvaughn@shsu.edu](mailto:mvaughn@shsu.edu). In case of doubt about paper integrity, the paper will be submitted to TURNITIN for verification.

**MAY 12: (MONDAY) – FINAL EXAMINATION – 12:00-4:00 P.M. – COVERS EVERYTHING TAKEN AFTER THE MID-TERM EXAMINATION.**

- End -

The Criminal Justice program examines topics including law, crime, offenders, victims, the criminal justice system and other forms of social sanctions and controls. Our students learn about historical and contemporary explanations of crime, and become familiar with research literature in criminology and on criminal justice agencies such as police, courts, and corrections. Courses credited to the Criminal Justice Major may also be counted in the second major if they meet the requirements of the second major. Students are advised to consult with a major advisor in the appropriate department with respect to course requirements in the second Major. The criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate laws. There is no single criminal justice system in the United States but rather many similar, individual systems. How the criminal justice system works in each area depends on the jurisdiction that is in charge: city, county, state, federal or tribal government or military installation. Different jurisdictions have different laws, agencies, and ways of managing criminal justice processes.<sup>1</sup> The main systems are: State: State criminal justice sys... Criminal Justice System. calls for extensive research and an upgrading of criminal personnel practices. The Structure of the Criminal Justice System. Juvenile Justice System , Law Enforcement , Courts and Corrections. Victim Services. once separate are now slowly being intergrated into the three main branches of the criminal justice system. Law Enforcement. Most familiar part of the CJ system Law enforcemet officers deal with a wide range of issues more than just protect and arrest Police Responsibilities have moved in recent years into educational settings and community based initiatives. The