

**UNIVERSITY OF LA VERNE COLLEGE OF LAW**

**Criminal Procedure: Pre-Trial, Trial, and Sentencing (Law 504, 2 Units)**

**Professor Gregory Tavill**

**Spring 2019 – Tuesday, 6:30 to 8:30 p.m.**

**OFFICE HOURS**

Time will be made available to meet with students before and after class. Additional meeting times can be arranged as necessary. I may be reached by email at [greg.tavill@yahoo.com](mailto:greg.tavill@yahoo.com) (preferred) or by phone at (909) 938-0933 (if necessary).

**COURSE DESCRIPTION**

A study of constitutional issues presented in the criminal justice system. Emphasis is placed on issues relating to specific procedures in the criminal process, including pre-trial procedures (charging, bail, preliminary hearing, grand jury, and right-to-counsel), trial procedures (effective assistance of counsel, jury trials, and trial publicity), post-trial procedures (sentencing and appeals), and double jeopardy.

**GRADING/EXAMS**

The class grade will be based on the course final exam (85%) and class attendance, preparation, effort and participation (15%).

**REQUIRED TEXTBOOK**

Stephen A. Saltzburg and Daniel J. Capra, American Criminal Procedure Adjudicative – Cases and Commentary (West Academic Publishing, 11th Ed., 2018). Portions of the course will cover material that is not included in the assigned textbook. Additional topics and required reading are included in the course outline, below.

**READING ASSIGNMENTS**

Reading assignments will follow the outline, below. The outline is a hopeful prediction of the material to be covered during the 14 weeks of class. Please anticipate adjustments will be made during the course, and specific reading assignments may be adjusted at the end of each class session.

Students will be expected to be familiar with all assigned reading from the *Saltzburg & Capra* text. Students are also expected to read relevant portions of the additional cases listed in the course outline.

*Please note: For additional case citations listed in the outline, there is no need to read the entire decision. Please focus on that part of the decision relevant to the subject matter indicated in the course outline.*

Please do not read too far ahead. The usual result of getting too far ahead is that the student is not able to remember the reading and comes to class unprepared.

**ATTENDANCE**

Attendance is required. Students are expected to arrive on time for class and stay for the duration of the session. The semester is 14 weeks; if you miss 3 classes you will have exceeded the 20% maximum requiring that you be administratively dropped from the course.

### **ABA STANDARD 310**

This course is designed to satisfy the requirements of ABA Standard 310. Standard 310 requires that for each hour of in-class time, students spend two hours preparing for class (reading or completing class assignments or assessments).

### **PROFESSIONALISM POLICY**

Students are expected to be familiar with, and at all times in compliance with, the University of La Verne College of Law Professionalism Policy.

### **COURSE OBJECTIVES**

Establish student competency regarding constitutional law issues that arise in the criminal court from the filing decision through appeal.

### **LEARNING OUTCOMES**

This is a two-hour course intended to give students a working knowledge of the concepts of criminal procedure from the formal charge through trial and sentencing. At the end of the course, students will be able to:

- Competently identify common issues of criminal procedure that arise after criminal charges are initiated against an accused.
- Understand the process of how a case moves through the criminal court, and recognize the criminal procedure issues implicated at various stages of the case.
- Understand and articulate the related roles of prosecutors, defense attorneys, judges, and juries in the application of criminal law.
- Develop skills necessary to carefully read, analyze, synthesize, and articulate what criminal procedure issues are implicated in various circumstances; understand how such issues are raised and litigated in the criminal court.
- Explain and articulate common legal terminology and methods used by professionals in the criminal justice system.

### **STUDENTS WITH DISABILITIES**

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook [as of September 13, 2017 located at <https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>], which can be found on the website of the University of La Verne Disabled Student Services website (<https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>) or at their office. Temporary accommodations are offered on a case by case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at [amungaray@laverne.edu](mailto:amungaray@laverne.edu) or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at <https://sites.laverne.edu/disabled-student-services>.

## OUTLINE OF COURSE READING ASSIGNMENTS

### **Class No. 1 January 8**

1. Introduction
2. Crime Charging  
(Saltzburg & Capra, pages 971 to 999, 1218 to 1225)
  - A. Prosecutorial Discretion
  - B. Equal Protection
  - C. Joinder of crimes/parties and severance

### **Class No. 2 January 15**

3. Grand Jury Proceedings  
(Saltzburg & Capra, pages 999 to 1028)
4. Pre-trial detention  
*Gerstein v. Pugh* (1975) 420 U.S. 103
5. Preliminary Hearings, Variance and Amendment  
(Saltzburg & Capra, pages 1029 to 1036)  
*Stanton v Superior Court* (1987) 193 Cal.App.3d 265  
*Bridgforth v. Superior Court* (2013) 214 Cal.App.4th 1074

### **Class No. 3 January 22**

6. Booking of the Defendant  
*Pennsylvania v. Muniz* (1990) 496 U.S. 582  
*People v. Elizalde* (2015) 61 Cal.4th 523
7. Arraignment
8. Bail and OR Release  
(Saltzburg & Capra, pages 1037 to 1078)  
*In re Humphrey* (2018) 19 Cal.App.5th 1006  
SB 10 (Stats. 2018, c. 244, § 2, eff. Jan. 1, 2019) available at:  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB10](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB10)

#### **Class No. 4 January 29**

9. Pre-trial Discovery

(Saltzburg & Capra, pages 1079 to 1127, 1131 to 1141)

Cal. Penal Code § 1054, et seq.

*In Re Bacigalupo* (2012) 55 Cal.4th 312

*People v. Burchfield* (2003) 2003 WL 1084872

Optional reading: *In re Stevie Payne* (2018) San Bernardino Sup. Ct. case no. WHCJS1700387

Optional reading: *People v. Miranda* (2018) 4th DCA Case no. D074039, 2018 WL 4292238

#### **Class No. 5 February 5**

10. Destruction of Evidence/Testing

(Saltzburg & Capra, pages 1127 to 1131)

*California v. Trombetta* (1984) 467 U.S. 479

*Arizona v. Youngblood* (1988) 488 U.S. 51

11. Identification issues

*Evans v. Superior Court* (1974) 11 Cal.3d 617

*Perry v. New Hampshire* (2012) 565 U.S. 228

#### **Class No. 6 February 12**

12. Plea bargains

(Saltzburg & Capra, pages 1143 to 1189)

A. *In re Tahl* (1969) 1 Cal.3d 122

B. Factual Basis

C. Immigration Consequences

Cal. Penal Code 1016.5

*People v. Superior Court (Zamudio)* (2000) 23 Cal.4th 183

D. Cruz/Vargas Waivers

E. Agreements to Testify

F. Role of the Court

*People v. Clancey* (2013) 56 Cal.4th 562

G. Motions to Withdraw Plea

**Class No. 7 February 26**

13. Speedy Trial  
(Saltzburg & Capra, pages 1191 to 1218)  
*Serna v. Superior Court* (1985) 40 Cal.3d 239  
*People v. Booth* (2016) 3 Cal.App.5th 1284
14. Presumption of Innocence
15. Proof Beyond a Reasonable Doubt  
(Saltzburg & Capra, pages 1225 to 1249, 1255 to 1259)  
*People v. Centeño* (2014) 60 Cal.4th 659  
*Castillo v. United States* (2000) 530 U.S. 120  
*People v. Gallardo* (2017) 4 Cal.5th 120

**Class No. 8 March 12**

- (Saltzburg & Capra, pages 1259 to 1287)
16. Multiple Theories for same crime  
*People v. Jones* (1990) 51 Cal.3d 294
  17. Presumptions and Burden Shifting
  18. Trial By Jury
  19. What the jury decides
  20. Requisite Features of the Jury  
*People v. Traugott* (2010) 184 Cal.App.4th 492

**Class No. 9 March 19**

- (Saltzburg & Capra, pages 1287 to 1334)
21. Jury Selection and Composition  
*People v. Gutierrez* (2017) 2 Cal.5th 1150

**Class No. 10 March 26**

- (Saltzburg & Capra, pages 1335 to 1361)
22. Jury Deliberations, challenging the judge, inconsistent verdicts, lesser included offenses, bench trials  
*People v. Valdez* (2012) 55 Cal.4th 82  
*People v. Williams* (2001) 25 Cal. 4th 441

**Class No. 11 April 2**

23. Venue and Impartial Jury  
(Saltzburg & Capra, pages 1361 to 1384)
24. Defendant's Rights at Trial  
(Saltzburg & Capra, pages 1384 to 1395)  
*U.S. v. Sanchez-Gomez* (2015) 798 F.3d 1204
25. Aranda/Bruton
26. Compulsory Process of the Court  
*United States v. Valenzuela-Bernal* (1982) 458 U.S. 858
27. Immunity  
*Kastigar v. United States* (1972) 406 U.S. 441

**Class No. 12 April 9**

28. Right to Appointed Counsel  
*Gideon v. Wainwright* (1963) 372 U.S. 335
29. Defendant's Right to Effective assistance of counsel  
(Saltzburg & Capra, pages 1395-1417, 1440-1454, 1457-1465, 1470-1485)  
*Maryland v. Kulbicki* (2015) \_\_\_ U.S. \_\_\_, 136 S.Ct. 2  
*People v. Booth* (2016) 3 Cal.App.5th 1284 (same case discussed during class no. 7)  
*McCoy v. Louisiana* (2018) \_\_\_ U.S. \_\_\_, 138 S.Ct. 1500  
Optional Reading: *In re Yusef Easley*, San Bernardino Sup. Ct. case no. WHCJS1600062
30. Self-Representation  
(Saltzburg & Capra, pages 1497 to 1516)  
*People v. Johnson* (2012) 53 Cal.4th 519

**Class No. 13 April 16**

31. Misc. Trial Issues
  - A. Defendant's right to testify  
*Rock v. Arkansas* (1987) 483 U.S. 44
  - B. Corpus Delicti Rule

(Class No. 13 continued on next page.)

C. Prosecutorial Misconduct

*Doyle v. Ohio* (1976) 426 U.S. 610

*Griffin v. California* (1965) 380 U.S. 609

*People v. Centeño* (2014) 60 Cal.4th 659 (same case discussed during class no. 7)

*People v. Thomas* (2008) 2008 WL 4958353

D. Harmless Error Analysis

(Saltzburg & Capra, pages 1713 to 1736)

*People v. Watson* (1956) 46 Cal.2d 818

32. 8<sup>th</sup> Amendment Prohibition against Cruel and Unusual Punishment

(Saltzburg & Capra, pages 1521 to 1538)

**Class No. 14 April 23**

(Saltzburg & Capra, pages 1615 to 1645, 1649 to 1669, 1682 to 1687)

33. Double Jeopardy

*Kellett v. Superior Court* (1966) 63 Cal.2d 822

Cal. Penal Code § 654