

# **SYLLABUS**

## **PSC 240 Criminal Constitutional Procedure**

**Prof. Edward L. Fiandach  
Spring, 2025**

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**PSC 240**  
**Criminal Constitutional Procedure**

**Prof. Edward Fiandach**  
**Spring 2025**

**Purpose**

The purpose of this course will be to examine the Constitutional criminal procedure and the role undertaken by the Supreme Court in shaping American justice. In the first half of this course, we will examine the origins of the Constitution, the Bill of Rights and American Rights generally. We will also examine the methodology of Constitutional litigation, and we discuss in detail the role that the Constitution through the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments play during the course of a criminal prosecution.

During the second half of the semester, we will turn our attention to the procedural issues addressing topics such as Motions, Discovery, Terrorism, Double Jeopardy, the Trial, the Death Penalty and the Innocence Project. To some extent, we will discuss questions of strategy and ethics that must be considered by counsel.

We will close with a probing examination of the trials, tribulations and faults facing the American Constitution.

While the course should prove helpful for those wishing to attend law school, it is by no means a “lawyer’s course.” We will deal with broad issues of social policy as reflected in the mechanics of criminal procedure.

**Class Attendance**

Class Attendance is optional. *This does not mean that it is advisable to miss class. Much of the material that the student will be expected to know will be presented in class.* Further, it has been the experience of past years that students have been remiss in reading LaFave. If you do neither, you will fail. Additionally, the class will be engaging in various discussions. While no grade or credit will be given for the content of class discussions, those who chose to engage in class discussions on a

regular basis will receive consideration in the event that "a grade up" is close.

### **Class Preparation**

My desire is that class preparation will consist of an assigned reading from the course book, *LaFave, Israel and King, Criminal Procedure*, published by West Group. There are multiple editions of this text and any version is acceptable. Reading section numbers should be roughly consistent through all available revisions.

Over the years, I have received some critical comment along the lines that since the material is well covered in class, the textbook represented a needless expense. Maybe it is, but maybe it's not. Therefore, I will leave the decision as to whether to purchase a copy up to the individual student. Please bear in mind however, that I am still firmly of the belief that to excel in this course, *you must do the reading*.

*Additionally, please note that in the syllabus there are references to those classes where the reading does not cover the topic well and attendance is strongly suggested.*

### **Examinations**

There will be two examinations given. One will be given in class as a midterm. Please note that *under no circumstances whatsoever will a student be permitted to defer or retake any examination.*

The second examination will be the final examination.

### **Paper Requirement**

A paper is required for this course. It will comprise the remaining 1/3 of the grade. The topic will be offered after the midterm break. The topic will be so unique so as to

ensure that originality will prevail. **Because of the size of this class. No papers will be accepted late or by e-mail! Please also note: This requirement is subject to change due to the creation of ChatGPT.**

### Grading

My grading is very objective. Therefore, the only time I will review a grade is if there has been what appears to be *an obvious* error such as a midterm of an "A," a paper of an "A" and a final grade of a C. If you are displeased with your grade, please note that I rarely change grades and do not appreciate e-mails complaining about a particular grade. Please also note that if a student asks for a review of his/her grade, I will do so, *however*, that test will be re-graded *ab initio*. *This means that I will grade it as though it was not previously graded, it will not be re-graded simply to be raised. The grade, awarded upon regrading, may be higher or lower and it will be final.*

Grading of the examinations will be as follows. The midterm will count towards 1/3 of the final grade and the final will be weighted as 1/3 of the final grade.

### How to Contact Me

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E-Mail: [ed@fiandach.com](mailto:ed@fiandach.com) (best)  
Mail: 160 Allens Creek Road,  
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Office Hours by appointment only.

### Course Syllabus

*Please note that what follows is always subject to change!*

PSC 240, "Criminal Constitutional Procedure"  
Prof. Edward L. Fiandach.  
Syllabus, Spring, 2025.  
Page 4.

January 22<sup>nd</sup>, **Class introduction and lecture, "Course of a Criminal Case."**

January 27<sup>th</sup>, **The Origin of Constitutional Power**

Fiandach, "*Time and Space, the Unseen Brilliance of the Gettysburg Address,*"  
PDF "Hallmarks of Freedom."

January 29<sup>th</sup>, **The Origin and Future of American Rights.**

Fiandach & Candela, "*Obergefell, Drugs and Fundamental Rights.*"

Fiandach, "The Future of American Rights"

February 3<sup>rd</sup>, **Perspectives on Search and Seizure**

LaFave, *et.al.*, pp. 103. - 118; 127 - 141.

February 5<sup>th</sup>, **Probable Cause**

LaFave, *et al.*, 3.1 - 3.3.

February 10<sup>th</sup>, **Automobiles – Stops and Searches**

LaFave, *et.al.*, pp. 199 - 212.

February 12<sup>th</sup>, ***Terry v. Ohio*, Street Encounters and Roadblocks**

LaFave, *et.al.*, §§ 3.9.

February 17<sup>th</sup>, **NO CLASS**

February 19<sup>th</sup>, **NO CLASS**

February 24<sup>th</sup>, **Consent and the Power to Search**

LaFave, *et.al.*, § 3.10.

February 26<sup>th</sup>, **Eavesdropping, and Electronic Surveillance**

PSC 240, "Criminal Constitutional Procedure"  
Prof. Edward L. Fiandach.  
Syllabus, Spring, 2025.  
Page 5.

LaFave, *et.al.*, §§ 4.1 - 4.6.

March 3<sup>rd</sup>, **Compelling Truth; Interrogation and Voluntariness**  
LaFave, *et.al.*, §§ 6.1 - 6.3.

March 5<sup>th</sup>, **Escobedo v. Illinois and The Right to Counsel**  
LaFave, *et. al.*, § 6.4.

March 17<sup>th</sup>, **Miranda v. Arizona and the Privilege Against Self Incrimination**  
LaFave, *et.al.*, §§ 6.6 - 6.10; Fiandach, "Miranda at Fifty."

March 19<sup>th</sup>, **Cross-Examination**  
LaFave, *et.al.*, §§ 7.1 - 7.5. The lecture focus will be additional to what is covered in the reading attendance is *strongly advised*.

March 24<sup>th</sup>, **Habeas Corpus**  
LaFave, *et. al.*, , § 24.4 Class presentation will be more extensive than the reading, attendance is *strongly advised*.

March 26<sup>th</sup>, **MIDTERM, IN CLASS**

March 31<sup>st</sup>, **Identification Testimony**  
LaFave, § 28.1 - § 28.2. Class presentation will be far more extensive than the reading, attendance is *strongly advised*.

April 2<sup>nd</sup>, **William Bastuck, founder of 'It Could Happen to You' on false accusations'**

April 7<sup>th</sup>, **Jennifer Summers, Esq., Police Encounters and Race**  
Please note, this is not covered either in PowerPoint and recording is not permitted.

April 9<sup>th</sup>, **Evidence**  
Try to stream this old TV episode "Perry Mason," season 2, episode 21. This is

one of Hollywood's best examples of the importance of knowing the laws of evidence. LaFave, *et. al.*, § 24.4. *Please note, this topic is not well covered in the reading, class attendance is strongly advised.*

April 14<sup>th</sup>, **Substantive Crimes**

Please note that this is not covered in the reading. Class attendance is strongly advised.

April 14<sup>th</sup>, **Paper Due.**

Topic, "The Imperial Presidency," Four to five pages concerning the effect of Executive Orders on Democracy." Email the paper to 240papers@gmail.com.

April 16<sup>th</sup>, **Speedy Trial & "Double Jeopardy**

LaFave, *et. al.*, §§ 20.3 - 20.4, and LaFave, *et. al.*, §§ 18.1 - 18.2; §§ 25.1 - 25.4

April 21<sup>st</sup>, **Terrorism and the USA Patriot Act**

Please attend, this is not covered by LaFave.

April 23<sup>rd</sup>, **The Trial**

LaFave, *et. al.*, §§ 22.1 - 22.4.

"Perry Mason," season 2, episode 25. Again, this is the original Perry Mason show from the 1950's. It is streamable on most services. Please attend, this is not covered by LaFave.

April 28<sup>th</sup>, **The Death Penalty**

Please attend, this is not covered by LaFave.

April 30<sup>th</sup>, **The Future of the Constitution**

Please attend, this is not covered by LaFave.