

**PLS 3120: The Law of Criminal Procedure**  
**Spring 2012 – Oxendine Science Bldg. 3246**

**Instructor:** Ms. Carole Graham, J.D.

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**Class hours:** TR 2:00 PM– 3:15 PM

**Office hours:** 9:00 a.m. – 11:00 a.m.  
or by appointment

**Purpose:** Criminal procedure law comprises the legal rules and principles that regulate the administration of criminal justice. In this course, students will study U.S. Supreme Court and other appellate court decisions in order to understand: (1) the constitutional scope and limitations of the law and (2) how it has developed and evolved over time. Topics to be covered include the Law of Search and Seizure, the Warrant Requirement and the Exclusionary Rule, Interrogation, Confessions and the Accused's Right to Counsel.

**Course Objectives:**

1. To develop the legal reasoning and analytical skills to understand case law and to compare and distinguish the fact scenarios of cases.
2. To learn how to brief cases and present them in class.
3. To improve speaking, research and writing skills through briefing cases and writing a 10-12 page paper.

**Text:** There is one textbook for this course: *Criminal Procedure: A Contemporary Perspective*, (3<sup>rd</sup> ed.) by James R. Acker and David C. Brody. Each new textbook purchased from the UNCP bookstore should be packaged with an access code for the companion website.

- Read all assignments before coming to class, including the “Notes and Questions” sections in grey boxes, and be prepared to discuss them in class.

- Because of the evolving nature of the law, I may from time to time assign new cases that are not in our textbook. These materials will be available either as a handout or online on the Blackboard page. It will be your responsibility to copy, read, and brief these cases for presentation and discussion in class. You may be tested on these extra cases.

- In addition, please monitor current criminal procedure cases before the Supreme Court by reading a newspaper or online newswire (for example, go to Yahoo! News at <http://news.yahoo.com/>, then click on the “Politics” tab at the top of the page, and then click on “The Courts” under the “Politics” tab for AP and Reuters news stories).

**Blackboard and e-mail:** There is a page for this class on Blackboard at <http://blackboard.uncp.edu/>. If you have difficulty logging in to Blackboard, please reference the above website or the DoIT Helpdesk at <http://www.uncp.edu/doi/help/>.

- From time to time or as necessary, class assignments, information and handouts will be posted on Blackboard. You are responsible for checking the Blackboard page and keeping up with posted messages, assignments or syllabus adjustments. Assignments will state whether you are to turn them in electronically or in class.

- Correspondence via Blackboard is through the UNCP e-mail system. Therefore, you should **activate and check** your UNCP e-mail account often. A full e-mail box is not an acceptable excuse for missing an assignment or announcement.

**Attendance:** Attendance is expected in this class and will affect your final grade. You should arrive on time. I will either pass around a sign-in sheet for each class or call roll at the beginning of class. If you do not sign the sheet or answer the roll call, I will count you as absent for the day. It will be your responsibility to sign the sheet (or remind me verbally that you were late to class) before I leave the classroom at the end of class; however, students who are habitually late may be counted as absent.

- If you are absent from class it is your responsibility, upon returning to class, to request from the instructor or check the Blackboard page for any handouts, announcements, or assignments that may have been given during your absence.

- If you are absent from class, you will be counted as absent regardless of the reason for missing the class (in other words, an absence is an absence, with no “excused” absences, except for those outlined below under “UNCP Religious Holiday Policy”). I would ask, however, that if you miss a number of classes due to hospitalization or illness that you inform me of such ASAP, through either e-mail or a telephone call to my office, so I do not think you have dropped the class or just stopped showing up.

**UNCP Religious Holiday Policy:** To accommodate students’ religious holidays, each student will be allowed two excused absences each semester with the following conditions:

Students, who submit written notification to their instructors within two weeks of the beginning of the semester, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith. Excused absences are limited to two class sessions (days) per semester. At the time written notification is submitted to the instructor, students who will miss tests or other work due to an excused absence for a religious observance should be prepared to discuss with the professor a plan to make up such work.

**Participation:** We will be using the case-study method in this class. You are expected to read the assignments and brief each appellate case before class. You should be prepared to present and discuss the cases in class when called upon. Attendance and participation are included in calculating your final grade. If you are unprepared for class, it will be noted and will affect your final grade. Students are allowed two “pass” days during the semester, but you must notify me prior to the start of class for that day that you do not wish to be called upon.

**Students with Disabilities:** Any student with a documented disability needing academic adjustments is requested to speak directly to Disability Support Services (located in the D.F. Lowry Building) and the instructor, as early in the semester as possible. All discussions will remain confidential. Please contact DSS at 521-6695. The syllabus is also available in alternate formats upon request. Please call the aforementioned number if you desire this.

“When testing accommodations or alternative testing is needed, students are responsible for discussing this issue with the professor to make the appropriate arrangements to have the exam administered. It is the responsibility of the student to schedule exams with DSS at least one week prior to the exam date. Failure to schedule an exam one week in advance may lead to DSS denying the requested time and date for the exam.” Please visit

[http://www.uncp.edu/dss/students/directions\\_for\\_accesing\\_exams\\_for\\_current\\_students.htm](http://www.uncp.edu/dss/students/directions_for_accesing_exams_for_current_students.htm) for the Exam Proctoring Authorization Form and for more information.

**Grading:** There will be three tests during the semester. The tests may be a combination of multiple choice, true/false, fill in the blank, short answer and essay questions.

- In addition, each student will write a 10-12 page research paper. The paper is due on **April 10th by 2:00 PM**. There will be **NO** exceptions to this, so don't ask. Late papers will be penalized 10 points for each class in which the paper is late, **starting at 2:01 PM**. **I will not accept any late papers after 2:00 PM on April 17**. You are required to hand in a hard copy of your stapled paper AND submit a digital copy on Blackboard as a Safe Assignment. If you wish to turn in your hard copy of the paper early, either hand it to me directly in my office, or personally hand it to Mrs. Effie Locklear to put into my mailbox in Oxendine 1300. Please do not slide papers under the office door. Paper requirements are outlined on page 5 of the syllabus.

- Normally, I will not give out test, midterm, or final grades via e-mail or over the phone. Midterm and final grades will be posted on BraveWeb (not Blackboard) as soon as they are calculated. If you have a question or concern about your grade, please come by to see me in my office (either during office hours or by appointment) as soon as the issue arises. If you wait until the last week of the semester to discuss your performance and final grade in the class with me, it will be too late. If I am unable to schedule an appointment with you, I will do my best to discuss the situation via e-mail.

- Your final grade is the grade you have earned over the course of the semester. I do not offer or accept "extra credit" work. Instead, you should focus on studying the materials and participating in class from the beginning of the semester. Barring mathematical error, I will not change your final grade.

Test I	100 points
Test II	100 points
Test III	100 points
Research Paper	100 points
Attendance and Participation	<u>100 points</u>
Total	500 points

Grading Scale: 500-465= A; 464-450= A-; 449-435= B+; 434-415= B; 414-400= B-; 399-385= C+; 384-365= C; 364-350= C-; 349-335= D+; 334-315= D; 314-300= D-; 299 and below= F

**Make-up Policy:** There will be no make-ups in this course. If, for whatever reason, you should miss Test I or Test II, then Test III will be counted at 80% in replacing that missing score. If you miss Test I and Test II, then one test will be given the grade of ZERO. No replacement grade will be given for Test III. The only exception to this will be for students with OFFICIAL scheduled university activities, and arrangements must be made at least a week in advance to do such graded work BEFORE the scheduled date.

**Academic Dishonesty:** Academic dishonesty of any variety will not be tolerated. Any instance coming to the attention of the instructor will result in the assignment of an "F" grade for the course, and notification of the appropriate Deans.

**Cell Phones:** Please turn your cell phones SILENT or OFF while in class, and then put them away for the duration of the class. You may not wear headphones or Bluetooth earpieces in the classroom. Cell phones must be **OFF** during tests. If you do not wear a watch, I will bring a clock for you to reference during the test.

**Other Class Considerations:** Ours is a large class, so the rules of common courtesy will apply in the classroom. This includes raising your hand to be called on, not talking over others, etc. Students who are disruptive may be asked to leave and counted as absent for the day. Disruptive behaviors include (but are not limited to) gossiping, text messaging your friend or significant other, reading a textbook other than ours in class, sleeping/snoring in class. You can bring a small drink and snack to class, but nothing more (this means no hot lunch or Taco Bell leftovers). Generally, I expect you to be considerate of your fellow classmates and the professor.

**Syllabus adjustments** will be announced in class and/or posted on Blackboard as necessary.

<u>Date</u>	<u>Topic</u>	<u>Readings</u>
Jan. 10	Introduction, Syllabus Review	Syllabus
Jan. 12	Briefing cases, Federal Court System	Chapter 1, 2
Jan. 17	Searches, Seizures, and Warrant Req.	Chap. 3 pp. 46-73
Jan. 19-24	Exclusionary Rule	Chap. 3 pp. 74-109
Jan. 26 - 31	Arrests and Stop and Frisk	Chap. 4 pp. 110-155
Feb. 2	Search Warrant Requirement	Chap. 4 pp. 155-181
Feb. 7	Excep. to the Warrant Req.	Chap. 5 pp. 181-214
Feb. 9-14	Plain View	Chapter 5 pp. 214-237
<b>Feb. 16</b>	<b>Test I</b>	
<b>Mar. 5-10</b>	<b>No Class, Spring Break</b>	
<b>Mar. 27</b>	<b>Test II – approximate date</b>	
<b>April 10</b>	<b>Paper Due – no later than 2:00 PM</b>	
<b>May 1</b>	<b>Final Exam (Test III) at 1:30 PM - Tuesday</b>	

**The exam will start at 1:30 PM. To be fair to those who arrive on time, students who arrive late (after 1:45 PM) will not be allowed to sit for the exam.**

The topic for the research paper will be discussed in class.

### **Paper Requirements**

**Composition:** The research paper will be 10-12 pages long. Papers are to be typed, double-spaced, and with 1" margins all around. Please do not use a font larger than 12 point, and use Times New Roman or Arial font if you can. Also include a **separate title page** (this means your title page does not count as one of your 10-12 pages. Your works cited page is also not included in the 10-12 page count).

**Sources:** This is a research paper, so I expect you to do some research, either online or at the library. You should have, at a minimum, eight (8) referenced sources for your paper. You can use our textbook as a source, but you cannot count it toward the eight sources. Examples of sources include: newspaper articles, magazine stories, academic journals, books, *The Encyclopedia Britannica*, etc. Try to use a balance of sources in your paper (i.e., don't use four stories from *The New York Times*). Wikipedia, although a popular and entertaining website, is not a good source of information because the pages can be altered by anyone at any time (therefore my suggestion would be not to use it). Editorial blogs may be interesting, but please be aware that you are probably getting only one side of the story. Again, a balance of sources can help you understand both sides of the story.

Visit the reference librarian or <http://www.uncp.edu/library/reference/> for assistance in researching books and articles for your paper.

**Citations:** Please format in text citations and a works cited bibliography according to the *MLA Handbook for Writers of Research Papers*. This format will be graded VERY STRICTLY, so please reference the Handbook and proofread your paper before handing it in. This handbook is available at the University Bookstore for purchase, or in the library under call number LB2369 .G53 2009.

If you have any questions regarding MLA format you can e-mail me, but please reference the Handbook first.

### **Plagiarism:**

From the UNCP Student Handbook: "Plagiarism is intentionally or knowingly presenting someone else's words or ideas as one's own. You avoid plagiarism by very carefully acknowledging the sources of ideas you use and by appropriately indicating any material that has been quoted [or paraphrased] (that is, by using quotation marks and properly acknowledging the source of the quote, usually with a clear reference source citation and page number)." If an instance comes up where you are unsure whether or not you should cite, play it safe and cite. Visit Chapter 2 of the Handbook and <http://www.unc.edu/depts/wcweb/handouts/plagiarism.html> for more information on plagiarism.

In addition to content, your paper will be graded on spelling, grammar, and sentence structure, so please **proofread your paper before handing it in**. Visit the University Writing Center in Dial 128, or their website <http://www.uncp.edu/writing> for more information.

**Figure 1-1: Outline of a Brief**

<b>CASE NAME</b> (Year and Court) (page no.)	
<b>FACTS:</b>	Include only those facts that are relevant to the opinion.  Be sure to include what took place in the lower courts (i.e., convicted of murder at trial, State Supreme Court reversed because of illegal search).
<b>ISSUE:</b>	What question(s) is the Court addressing and/or deciding in the opinion.  Always put in the form of a question. (For example: Does a defendant's silence upon receiving his Miranda warnings constitute a valid waiver of his right to counsel prior to interrogation?)
<b>HOLDING:</b>	Answers the question posed in the issue. Usually can be answered yes or no. (For example: Yes, if the circumstances surrounding the interrogation indicate that the defendant understood his rights and answered the officers' questions voluntarily, a valid waiver has occurred.)
<b>RATIONALE:</b>	The reasoning behind the decision. Why did the Court rule as it did?
<b>DISSENTING AND CONCURRING OPINIONS:</b>	Major points of other opinions published with the case.
<b>YOUR THOUGHTS:</b>	What do you think of the opinions?

This table is from Criminal Procedure: A Contemporary Perspective, 2ed. by Acker and Brody.