

DEPARTMENT OF POLITICAL SCIENCE  
UNIVERSITY AT BUFFALO

PSC 302  
Protecting Civil Liberties  
Spring 2017  
Professor Lamb  
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General Course Description and Goals: This course deals with trends in Supreme Court development of civil liberties law in the United States. In light of America's diversity, topics to receive attention include the freedoms of speech, press, and religion, and the most important criminal procedure protections. This course does not primarily focus on equal protection and due process of law; they are emphasized in PSC 301 (Cases in Civil Liberties).

Readings consist of Supreme Court decisions themselves, and students are expected to read and brief cases before they are analyzed in class. This course is designed for students with at least the status of sophomore. It is recommended that students should have completed either PSC 101 or PSC 215 before taking this course.

The study of civil liberties law can be an intriguing and challenging intellectual adventure. You can learn not only a great deal of legal substance but different ways of thinking about and analyzing sensitive legal issues. You can also learn about issues completely new to you. However, the key is that *YOU* read and think about cases before and after class, not simply attend class and take notes. If simply attending class is your approach, you will learn only a fraction of what is available.

Learning Outcomes	Assessment Measures
Read two or three U.S. Supreme Court decisions before each class and understand the steps in the legal reasoning used by the justices.	Question-and-answer interactions in class; two examinations.
Critique U.S. Supreme Court decisions in light of existing precedents.	Question-and-answer interactions in class; two examinations.
Develop public speaking skills.	Participation in class discussions and volunteering to brief a case in class.

Text: David M. O'Brien, Constitutional Law and Politics: Civil Rights and Civil Liberties, 9th ed., **Volume II** (New York: Norton, 2014), will be available at the Follett Bookstore in the Commons or online, and used copies should be available. (Note: You may use the 8th edition, published in 2011, if you wish, but you need to xerox from the 9th edition the most recent Supreme Court decisions that we will be reading this semester. Also note that the page numbers are different in the 9th edition. This means it will be more difficult for you to follow class discussion of the cases because we will be using the 9th edition in the classroom.)

Class Procedure: The instructor will brief cases in class unless a student volunteers. Students need to read and brief cases *BEFORE* class to develop the ability to do that on your own, especially if you are considering law school. Class attendance is important in this course since its purpose, beyond teaching you civil liberties law, is to help train you to think logically and critically about legal concepts and constitutional reasoning in the classroom. Our principal concern is not with the justices' policy preferences and whether

we agree with them, but instead whether they develop a strong line of logical constitutional reasoning, supplemented with other types of legal analysis.

Examinations and Grades: It is completely the student's responsibility to take exams when they are scheduled. **There will be three exams, which will be given on March 2, April 11, and May 11.** Each exam will count one-third of your final grade, and all three are given in our regular classroom during normal class hours. **There is no extra credit in this course, but grades for each exam will be rounded up so that the highest grade in the class for each will be 100.**

Failure to take a regularly scheduled exam may be subject to penalty. Permission for a make-up exam will normally be warranted only for serious medical reasons certified in writing by a physician. The student or a member of his/her immediate family must have suffered a serious physical illness that clearly prevented the taking of the exam. Permission to take a make-up will normally be granted, moreover, only where there is prompt notification to the instructor for the reason for the absence. If one or more students miss an exam, one make-up for the first exam will be administered; make-ups for the second exam will be scheduled during the following semester. A make-up exam may be of a different nature, content, and structure than the scheduled exam. And, importantly, there will be only one make-up; if you miss it in addition to the exam originally scheduled, you will receive a grade of zero for the exam! No passing grade for the course can be achieved without taking three exams.

University Policy on Incomplete Grades: Note the University's policy on "Incompletes": "A grade of 'Incomplete' (I) may be given a student who has not completed all of the assigned work in a course, if he/she has a passing average and there exists a well defined means by which the course requirements can be completed. The grade of 'I' must be removed within a period of fifteen months. At the time an 'I' is given, the instructor must specify the default grade that the student will receive if no grade change is filed by the instructor before the expiration of the grace period. The default grade is the grade that the student will receive as a course grade if the additional work is not completed. Individual instructors may set shorter time limits for removing an 'Incomplete' within the time limits specified." Also note that, for this course, all 'Incompletes' for missing the second exam must be removed through the taking of an exam during the next semester. It is the student's responsibility to find out from the instructor when the make-up exam will be administered.

University Policy on Classroom Distractions: According to the University, classroom "etiquette" expectations should include:

- \*Attending classes and paying attention. Do not ask an instructor in class to go over material you missed by skipping a class or not concentrating.
- \*Not coming to class late or leaving early.
- \*Not talking with other classmates while the instructor or another student is speaking. If you have a question or a comment, please raise your hand, rather than starting a conversation about it with your neighbor.
- \*Showing respect and concern for others by not monopolizing class discussion.
- \*Not eating or drinking during class time.
- \*Turning off the electronics: cell phones, pagers, and beeper watches.
- \*Avoiding audible and visible signs of restlessness.
- \*Focusing on class material during class time. Sleeping, talking to others, doing work for another class, reading the newspaper, checking email, and exploring the internet are unacceptable and can be disruptive.
- \*Not packing bookbags or backpacks to leave until the instructor has dismissed class.

Office Hours: Monday 9-11 and Tuesday 9:30-11:00 (unless announced otherwise in class). Office:  
503Park Hall.

Our Schedule: Because it is difficult to know how much time will be required to discuss assigned cases in class, the precise cases to be covered for each class meeting will be assigned during the preceding class. However, the general order of case coverage will be as noted below.

### 1/31 Introduction and Overview

#### Freedom of Expression and Association

Schenck v. United States 449-450  
Gitlow v. New York 450-455  
Dennis v. United States 455-466  
Brandenburg v. Ohio 467-469  
Rust v. Sullivan 560-565  
Cohen v. California 529-533  
FCC v. Pacifica Foundation 533-538  
Bethel School District No. 403 v. Fraser 538-542  
R.A.V. v. City of St. Paul 542-551  
Wisconsin v. Mitchell 551-553  
Virginia v. Black 553-560  
Tinker v. Des Moines Ind. Community School 684-686  
Morse v. Frederick 689-694  
Texas v. Johnson 694-701  
NAACP v. Alabama 714-717  
Roberts v. U.S. Jaycees 717-720  
Boy Scouts of America v. Dale 720-728

#### Freedom of Press

Near v. Minnesota 628-631  
New York Times v. United States 631-639  
New York Times v. Sullivan 578-584  
Gertz v. Welch, 584-590  
Branzburg v. Hayes 642-647  
Red Lion Broadcasting v. FCC 656-658

#### Obscenity

Roth v. United States and Alberts v. California 483-487  
Stanley v. Georgia 487-489  
Miller v. California 489-493  
Paris Adult Theatre I v. Slaton 493-499  
New York v. Ferber 500-503  
City of Erie v. Pap's A.M. 503-509  
Reno v. American Civil Liberties Union 509-517

Ashcroft v. Free Speech Coalition 517-523  
U.S. v. Williams 659-664

**Exam 1: March 2, in our regular classroom, at the regular class time. Mark it on your calendar!**

Freedom of Religion

West Virginia Board of Education v. Barnette 676-684  
Sherbert v. Verner 848-851  
Wisconsin v. Yoder 854-857  
Employment Div., Dept. Human Res. v. Smith 857-865  
Church of Lukumi Babalu Aye v. Hialeah 866-872  
City of Boerne v. Flores 872-881

Separation of Church and State

Everson v. Board of Education 758-764  
Engle v. Vitale 764-768  
Abington School District v. Schempp 769-773  
Lemon v. Kurtzman 774-780  
Wallace v. Jafree 780-787  
Lee v. Weisman 790-795  
Zobrest v. Catalina Foothills School District 795-798  
Rosenberger v. Rector of University of Virginia 798-808  
Agostini v. Felton 809-814

Searches and Seizures

Rochin v. California 350-353  
Chimel v. California 899-904  
Terry v. Ohio 914-920  
U.S. v. Sokolow 920-923  
California v. Acevedo 947-951  
Atwater v. Lago Vista 953-958  
National Treasury Employees Union v. Von Raab 967-972  
Vernonia School District v. Acton 972-976  
Bd. of Ed. v. Earls 981-986  
Ferguson v. Charleston 977-981  
Safford Unified School District No. 1 v. Redding 986-990

Wiretapping, Bugging, and Police Surveillance

Olmstead v. United States 999-1002  
Katz v. United States 1002-1005  
California v. Ciraolo 1005-1008  
Kyllo v. United States 1013-1017

**Exam 2: April 11, in our regular classroom, at the regular class time. Don't miss it!**

The Exclusionary Rule

Mapp v. Ohio 1027-1034

Nix v. Williams 1034-1039

United States v. Leon and Mass. v. Sheppard 1039-1049

Confessions and Interrogations

Miranda v. Arizona 1076-1086

In re Gault 1087-1090

Rhode Island v. Innis 1090-1094

Arizona v. Fulminante 1099-1103

Dickerson v. U.S. 1103-1108

Missouri v. Seibert 1108-1112

The Right to Counsel

Powell v. Alabama 1143-1145

Gideon v. Wainwright 1145-1149

Argersinger v. Hamlin 1149-1151

The Right to Trial

Duncan v. Louisiana 364-369

Batson v. Kentucky 1172-1174

Williams v. Florida 1179-1181

Burch v. Louisiana 1181-1182

Cruel and Unusual Punishment

Ewing v. California 1208-1212

Furman v. Georgia 1224-1234

Lockett v. Ohio 1235-1240

McCleskey v. Kemp 1240-1250

Payne v. Tennessee 1250-1254

Atkins v. Virginia 1254-1260

Roper v. Simmons 1260-1267

**Exam 3: May 11, in our regular classroom, at the regular class time. Be there!**