

Political Science 354
The Constitution and Civil Liberties

Fall 2010

Professor Lyles

Version 8/10/2010

11:00-12:15, T, R, **381 BSB**

Office hours: by appointment only

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[facebook: "Professor Kevin Lyles Student Discussion Group"](#)

<http://www.facebook.com/group.php?gid=226085548554>

Political Science 354 – Civil Liberties and the Constitutional Law

Department Information: Location: 1102 BSB; Phone: (312) 996-3105.

Course Information: 3 hours. Civil rights, including religion, speech, assembly, press, and rights of the accused. Prerequisite(s): POLS 101 or consent of the instructor.

This course explores the role of the judiciary in the articulation, development, and enforcement of civil rights/civil liberties law in various issue areas including freedom of religion, free expression, and the rights of persons accused of crime. These issues will be discussed in the overall framework of the role and participation of courts, primarily the U. S. Supreme Court, in the formulation and implementation of public policy, especially civil liberty/civil rights policies. This discussion should allow us to consider such factors as:

A. The nature, characteristics, and dynamics of the political system and the policy making process, e.g., system features, values, structures; participants in the policy process; the development and implementation of public policy.

B. The nature of civil liberty conflict, including how and why such conflicts begin; and the roles and participation of various actors in such conflict; e.g., the participation of organized groups; the role of policemen, prosecutors, lawyers, and judges.

C. The role of courts in dealing with civil liberty conflict, especially the necessity and propriety of court action given the nature of issues submitted for judicial determination; the capacity and limitations of courts and the judicial process in dealing with such issues.

D. The relation and interrelation of courts to other governing institutions in dealing with civil liberties; e.g., the role and participation of the Congress; the President, the executive and administrative agencies; and the role and participation of state and local governments.

E. The political and social impact of court determinations; law and social change; factors affecting compliance and non-compliance; and the consequences of court actions.

REQUIREMENTS

Required books/readings:

1. Barker/Lyles. Civil Liberties and the Constitution: Cases and Commentaries (9th edition). You will need the 9th edition, not the 8th. This book should be in the UIC bookstore in a few weeks.

In addition to the required book above, students are also required to locate materials on:

1. Barker/Lyles Supplement <http://www.pearsonhighered.com/barker9e>

2. UIC Blackboard, <http://Blackboard.uic.edu/>

3. Lexis/Nexis via the UIC Library

Optional books:

Baum. 1998. The Supreme Court.

Peter Irons. May it Please the Court: The First Amendment. *Caution*, Peter Irons has two books with very similar titles. Do **not** buy May it Please the Court: Transcripts of 23 Live Recordings of Landmark Cases Argued before the Supreme Court, edited by Peter Irons and Stephanie Guitton, 1993, ISBN 1-56584-052-6...this is the wrong book. You *should* buy May it Please the Court: The First Amendment, Transcripts of the Oral Arguments Made before the Supreme Court in Sixteen Key First Amendment Cases, edited by Peter Irons, 1997, ISBN 1-56584-487-4. The correct book has a list price of \$14.95 on Amazon.com. Also, try eBay and books.com.

Book Review Options (select one of the following—these books are not on the bookstore)

1. Kevin Lyles, *The Gatekeepers*
2. Anthony Lewis, *Gideon's Trumpet*
3. David O'Brien, *Storm Center*
4. Cole and Dempsey, *Terrorism and the Constitution*
5. Leonard Levy, *The Establishment Clause: Religion and the First Amendment*
6. Thomas G. Walker. *Eligible for Execution: Daryl Atkins and the Death Penalty*

Course Format

1. The class will be conducted in a formal lecture-discussion format utilizing the Socratic method. This format lends itself to continuous active engagement and dialogue between professor and students and among students themselves. Accordingly, **students are required and expected to attend and participate in class**. Meaningful participation, however, requires that students come to class prepared. Should this occur the class can prove an interesting, challenging, and exciting learning experience. To stimulate advance preparation and class interest, students will be called on randomly. I do, however, encourage volunteers.

A caution and reminder: it is important that students prepare for each class since material is cumulative and the workload of the course increases dramatically as the term proceeds. Moreover, the nature of the materials and expectations of the course make it very difficult for students to "catch up" overnight.

Computation of Course Grade:

1 st Exam	25%
2 nd Exam	25%
3 rd (final) Exam	25%
Book review essay	15%
Quizzes, briefs*, and participation	10%

*Students may be required to turn in written case briefs on a RANDOM basis.

All students must utilize the UIC [Blackboard](#) System. You can enter UIC [Blackboard](#) from the UIC homepage, "learning at UIC," then "[Blackboard](#)," or, go directly to <http://Blackboard.uic.edu/>.

Students are encouraged to join the optional facebook group: "**Professor Kevin Lyles Student Discussion Group**". You are NOT required to "friend" anyone in the class, just encouraged to join the discussion group.

The tape recording of any part of my class (or the use of any other electronic recording device) is strictly prohibited. Students with disabilities who require accommodations for access and participation in this course must be registered with the Office of Disability Services (ODS). Please contact ODS at 312/413-2103 (voice) or 312/413-0123 (TTY). If you have a documented disability and wish to discuss academic accommodations (including electronic recording), please contact me immediately.

Students should be familiar with UIC's policies regarding academic integrity. These guidelines can be found at the following URL: www.uic.edu/depts/sja/integrit.htm

Syllabus Abbreviations Key:

[lyles] = *Civil Liberties and the Constitution* 9th edition textbook

[online]* = <http://www.pearsonhighered.com/barker9e>

[bb] = Blackboard

[mpc] = *May It Please the Court*

[Lexis/Nexis] = Lexis/Nexis database

From time to time you will be required to locate cases on your own online [Lexis/Nexis]. I highly recommend Lexis/Nexis, available online from the UIC library.

Other possibilities include:

<http://www.supremecourtus.gov/>

<http://www.uscplus.com/>

<http://www.findlaw.com/>

<http://supct.law.cornell.edu/supct/index.php>

***Readings preceded by an asterisk (*) are optional, therefore "before-class" preparation is not required. Be warned, however, you are responsible for all optional material on examinations to the extent that optional readings are discussed in class.**

Note: Not all required material listed on the syllabus will be discussed in class; however, all required material—whether discussed in class or not—is appropriate for examinations. In other words, although we may not cover all required material in class, it may still be on the test!

WEEK ONE

Tuesday August 24

Introduction.

Review of course requirements and introductory materials.

Constitutional Law with Lyles [Blackboard]

Political Science 354 Fall 2010 Syllabus [Blackboard]. **Note:** *students are required to check the online syllabus for weekly updates.*

Book Review Guidelines [Blackboard]

Thursday August 26

Note: if you have already taken an undergraduate constitutional law class **with me** [i.e., PoLS 251, 252, 353, 356, 358, 359, 451 or 564], then your attendance on **August 26, 31, September 7 and September 9** is optional. I will cover the structure of the federal courts, types of writs, how to brief a case, judicial review, statutory interpretation, “mechanical” vs. “behavioral jurisprudence,” internal and external limits on the Court, various legal definitions, *Marbury v. Madison*, etc. My lecture is similar (identical) for each of these classes for the first few class periods. Be warned however, this material will be included on the exams. You will not be marked absent on these days if you send an email to Marcie (mreyno8@uic.edu) explaining that you have completed one of the above named classes **with me** prior to taking PoLS 354.

Melone, "Why and How to Brief a Case." [Blackboard]

O'Brien "The How, Why, and What to Briefing and Citing Court Cases" [Blackboard]

The Federal Courts

Nature and Structure of the Legal and Political System

PART I. A FRAMEWORK FOR ANALYSIS, p. 1 [lyles]

CHAPTER 1 LAW AND COURTS IN POLITICAL–SOCIAL CONTEXT, p. 3 [lyles]

Congress, the President, and Administrative Officials, p. 5 [lyles]

Interest Groups and the Dynamics of Civil Liberties, p. 8 [lyles]

More on the Court: Inside the Marble Palace, p. 9 [lyles]

The Rules of the Game and American Political Values, p. 13 [lyles]

**Baum*, ch. 1-3

WEEK TWO**Tuesday August 31**

Courts as policymaking institutions.

*Dahl, Robert. "Decision-making in a Democracy: The Supreme Court as a National Policy-Maker," Journal of Public Law, vol. 6. (1957).

*Casper, Johnathon D. "The Supreme Court and National Policy Making," American Political Science Review 70 (1970): 50-63.a

*Barker, Lucius. "Third Parties in Litigation: A Systemic View of the Judicial Function," Journal of Politics 29 (1967): 41-69.

*Funston, Richard. "The Supreme Court and Critical Elections," American Political Science Review, 69 (Sept, 1975): 795-811.

**Baum*, ch. 4-6

*Lyles, *The Gatekeepers: Federal District Courts in the Political Process*, ch. 1, p. 1-9.

Thursday September 2

*******No Formal Class: American Political Science Association Meetings*******

WEEK THREE**Tuesday September 7**

Continued....The Federal Courts

Nature, Structure, and Operation of the Supreme Court

"A Brief Overview of the Supreme Court" (pp. 1-2).

<http://www.supremecourtus.gov/about/briefoverview.pdf>

*"Rules of the Supreme Court" <http://www.supremecourtus.gov/ctrules/rulesofthecourt.pdf>

Continued... Courts as policymaking institutions

The Constitution of the United States of America [lyles]

*Alexander Hamilton, et. al. *The Federalist Papers*, No. 78-81 [online]*

*"Understanding the Federal Courts," www.uscourts.gov/UFC99.pdf

Thursday September 9

Marbury v. Madison (1803) [online]*be sure to prepare a written brief.

**The Story of Marbury v Madison*, by Michael W. McConnell, in *Constitutional Law Stories*, edited by Michael C. Dorf (New York: Foundation Press, 2004), pp. 13-31. [Blackboard]

*For extra credit (0-3 points) added to your first exam score, write a short essay/critique (about 3-4 typed pages) summarizing the main points in *The Story of Marbury v. Madison*, by Michael W. McConnell (above). In addition to providing a complete summary of the reading, provide also your own assessment of the material covered; do you agree or disagree, why? Is this discussion relevant today, in 2010? Your extra credit essay is due at the start of class.

Incorporation of the Bill of Rights, Selective Incorporation, Fundamental Rights

The Selective Nationalization of the Bill of Rights and Other Fundamental Rights, in David M. O'Brien, *Constitutional Law and Politics*, vol. 2, pp. 306-315. [Blackboard], quiz today.

CHAPTER 2 CIVIL LIBERTIES IN THE CONTEXT OF FEDERALISM, p. 17 [lyles]

The Supreme Court, the Bill of Rights, and the Fourteenth Amendment, p. 19 [lyles]

State Constitutions, p. 23 [lyles]

State Judicial Selection, p. 26 [lyles]

Conclusion, p. 27 [lyles]

**The Slaughterhouse Cases* (1873)

Barron v. Baltimore (1833) [online]* [skim, no need to write a brief]

**Hurtado v. California* (1884)

**Twining v. New Jersey* (1908)

**Palko v. Connecticut* (1937) [online]*

**Duncan v. Louisiana* (1968) [online]*

Cases Incorporating Provisions of the Bill of Rights into the Due Process Clause of the Fourteenth Amendment [Blackboard].

WEEK FOUR

Tuesday September 14

II. Religious liberty

*The Supreme Court Visitor's Film (C-Span, narrated by A.E. Dick Howard) 30 minute in-class presentation (VHS)

The Emergence of Parochial Controversies; the Lemon Test Emerges

*"The First Amendment: The Establishment Clause." Chapter 4 in *Origins of the Bill of Rights* by Leonard W. Levy. [Blackboard]

CHAPTER 6 THE ESTABLISHMENT CLAUSE, pp.203-209 [lyles]

Everson v. Board of Education (1947), p. 209 [lyles]

Board of Education v. Allen (1968), [online]*

The Lemon Test and More Parochial, p. 213 [lyles]

Parochial and Higher Education, p. 216 [lyles]

Lemon v. Kurtzman (1971) [online]*

"The Lemon Test," by Kermit L. Hall, *The Oxford Companion to the Supreme Court of the United States*, (New York: Oxford University Press, 1992), pp. 499-500. [Blackboard]

Committee for Public Education and Religious Liberty v. Nyquist (1973) [online]*

*Ronald Kahn, "Polity and Rights Values in Conflict: The Burger Court, Ideological Interests, and the Separation of Church and State," *Studies in American Political Development: An Annual* 3 (1989): 279-293.

*Leonard W. Levy, *The Establishment Clause: Religion and the First Amendment* (1986).

Thursday September 16

Mueller v. Allen (1983) [online]*

**Bowen v. Kendrick* (1988)

Agostini v. Felton (1997) [online]*

Zelman v. Simmons-Harris et al. (2002) [online]*

**Tilton v. Richardson* (1971), p. 63 [lyles]

Prayer and Religion in Public Schools, p. 217 [lyles]

**McCollum v. Bd. of Education* (1948)

**Zorach v. Clauson* (1952)

Engel et al. v. Vitale et al. (1962), p. 218 [lyles]

WEEK FIVE

Tuesday September 21

Cantwell v. Connecticut (1940). Find this case on Lexis/Nexis (the full opinion), read and brief the case and print page one of the case (downloaded from Lexis/Nexis) and turn it in today for one point on the first exam. Just page one.

Transcript: *Abington v. Schempp*, pp. 3-10 [MPC].

School District of Abington Township, Pennsylvania v. Schempp (1963), p. 223 [lyles]

Wallace v. Jaffree (1985) [Lyles, 8th edition or Blackboard]

Board of Education of Westside Community Schools v. Mergens (1990) [online]*

*Lyles, *The Gatekeepers*: ch. 2.

Lee v. Weisman (1992), p. 233 [lyles]

Thursday September 23

**Rosenberger v. The Rector of the University of Virginia* (1995), pp. 231, 245 [lyles]

Edwards v. Aguillard (1987) [online]*

Santa Fe Independent School District v. Doe (2000), p. 243 [lyles]

Good News Club v. Milford Central High School (2001) [online]*

Van Orden v. Rick Perry (2005) [online]*

*Court to Consider Pledge in Schools [Blackboard]

Government-Sponsored Religious Symbols, Traditions, and Tax Exemptions, p. 252 [lyles]

Marsh v. Chambers (1983) [Lexis/Nexis]

Lynch v. Donnelly (1984), p. 253 [lyles]

*Transcript: *Allegheny*, pp. 17-27 [MPC].

**County of Allegheny v. American Civil Liberties Union* (1989), p. 239

CHAPTER 7 THE FREE EXERCISE OF RELIGION, p. 261 [lyles]

Early Free Exercise Jurisprudence, p. 261 [lyles]

The State, Religious Beliefs and Practices, and the Free Exercise Clause, p. 262 [lyles]

Minersville School District v. Gobitis (1940) [online]*

Murdock v. Pennsylvania (1943) [online]*

WEEK 6

Tuesday September 28

- **West Virginia State Bd. of Ed. v. Barnette* (1943) [[Lexis/Nexis](#), repeats week seven]
Sherbert v. Verner (1963), p. 263 [lyles]
Wisconsin v. Yoder (1972), p. 268 [lyles]
Hobbie v. Unemployment Appeals Commission of Florida (1987) [online]*
 **Lyng v. Northwest Indian Cemetery Protective Association* (1988)
Jimmy Swaggart Ministries v. Board of Equalization of California (1990) [online]*
 Transcript: *Smith*, pp. 85-95 [MPC].
Department of Human Resources of Oregon v. Smith (1990), p. 275 [lyles]
 **City of Boerne v. Flores* (1997) [online]*
The Story of Al Smith: The First Amendment Meets Grandfather Peyote, by Garrett Epps, in
Constitutional Law Stories, edited by Michael C. Dorf (New York: Foundation Press, 2004), pp.
 477-503. [[Blackboard](#)]
 *For extra credit (0-3 points) added to your first exam score, write a short essay/critique (about 3-4 typed pages) summarizing the main points in *The Story of Al Smith* (above). In addition to providing a complete summary of the reading, provide also your own assessment of the material covered; do you agree or disagree, why? Is this discussion relevant today, in 2010? Your extra credit essay is due at the start of class.

Thursday September 30

CLASS WILL START 5 MINUTES EARLY TODAY.

- **The Devil's Playground* (2002)
 **Gonzales v. O Centro Espírita Beneficente União do Vegetal* [[Lexis/Nexis](#)]
Taxes and Churches: A Continuing Controversy
Walz v. Tax Commission of City of New York (1970) [Lyles 8th edition, Blackboard]
Religious Liberty and Compulsory Military Service, p. 282 [lyles]
Welsh v. United States (1970), p. 284 [lyles]
 **The Year in Review: Law and Religion in 2005* by Marci Hamilton. [[Blackboard](#)]. Also available at
<http://writ.news.findlaw.com/hamilton/20051229.html>
 Find the current (2010) Campus Policy on Observance of Religious Holidays, Academic Calendar

WEEK SEVEN

Tuesday October 5

Catch up and Review for Exam #1 during class time 11-12:15

Exam #1 6:00-7:30 pm tonight.

Location: SEL2249 SEL and SEL2249F

Thursday October 7

- PART II FREEDOM OF EXPRESSION, ASSEMBLY, AND ASSOCIATION, p. 31 [lyles]
 CHAPTER 3 FREEDOM OF EXPRESSION, p. 32 [lyles]
 Development of the Constitutional Law of Speech, p. 34 [lyles]
 Core principles, Subversive Advocacy, and Clear and Present Danger, p. 35 [lyles]
 Alan M. Dershowitz, "Shouting Fire" [[Blackboard](#)].
Schenck v. United States (1919), p. 37 [lyles]
Abrams v. United States (1919), p. 38 [lyles]

Gitlow v. New York (1925), p. 42 [lyles]

Whitney v. California (1927), p. 45 [lyles]

**The Story of Whitney v. California: The Power of Ideas*, by Ashutosh A. Bhagwat, in Constitutional Law Stories, edited by Michael C. Dorf (New York: Foundation Press, 2004), pp. 407-431. [Blackboard]. For extra credit (0-3 points) added to your *second* exam score, write a short essay/critique (about 3-4 typed pages) summarizing the main points in *The Story of Whitney v. California: The Power of Ideas*, by Ashutosh A. Bhagwat (above). In addition to providing a complete summary of the reading, provide also your own assessment of the material covered, do you agree or disagree, why? Is this discussion relevant today, in 2010?

West Virginia State Board of Education v. Barnette (1943) [Lexis/Nexis].

The Story of West Virginia State Board of Education v. Barnette: The Pledge of Allegiance and the Freedom of Thought, by Vincent Blasi and Seana V. Shiffrin, in Constitutional Law Stories, edited by Michael C. Dorf (New York: Foundation Press, 2004), pp. 433-475. [Blackboard]

*For extra credit (0-3 points) added to your *second* exam score, write a short essay/critique (about 3-4 typed pages) summarizing the main points in *The Story of West Virginia State Board of Education v. Barnette*, (above). In addition to providing a complete summary of the reading, provide also your own assessment of the material covered, do you agree or disagree, why? Is this discussion relevant today, in 2010? Your extra credit essay is due *before the next exam*.

WEEK EIGHT

Tuesday October 12

Chaplinsky v. New Hampshire (1942), as discussed class

Dennis v. United States (1951), p. 49 [lyles]

**Beauharnais v. Illinois* (1952) [blackboard] See PoS 358 (w/Lyles)

Brandenburg v. Ohio (1969), p. 57 [lyles]

Public Peace and Order, p. 61 [lyles]

Feiner v. New York (1951), 32, 61, 63, 67, 72, 74 [lyles]

Feiner Cartoon [Blackboard]

Edwards et al. v. South Carolina (1963), p. 71 [lyles]

Adderly v. State of Florida (1966) [online]*

National Socialist Party v. Skokie (1977) [index]

Time, Place, and Manner Restrictions, p. 74 [lyles]

Frisby v. Schultz (1988), p. 79 [lyles]

*Lyles, *The Gatekeepers*: ch. 3

Overview of Current Doctrine, p. 84 [lyles]

Hill v. Colorado (2000) [online]*

Speechmaking, Solicitations, Demonstrations, and Related Problems

**Village of Schaumburg v. Citizens for a Better Environment* (1980)

Ward, et. al., v. Rock Against Racism (1989) [LexisNexis]

Thursday October 14

Symbolic Speech, Hate Speech, and Conduct That Communicates, p. 86 [lyles]

Transcript: *O'Brien*, pp. 249-257 [MPC]

United States v. O'Brien (1968), p. 89 [lyles]

Wooley v. Maynard (1977) [LexisNexis]

Spence v. Washington (1974) [LexisNexis]

Smith v. Goguen (1974) [LexisNexis]
Texas v. Johnson (1989), p. 92 [lyles]
Wisconsin v. Mitchell (1993) [online]*
Virginia v. Black (2003) [online]*
 Transcript: *Texas*, pp. 217-226 [MPC].
United States v. Eichman (1990) [LexisNexis]
 Transcript: *R.A.V.*, pp. 199-209 [MPC].
R.A.V. v. St. Paul, Minnesota (1992), p. 98 [lyles]
Wisconsin v. Mitchell (1993) [online]*
Virginia v. Black (2003) [online]* **Submit typed brief today in class for attendance.**

WEEK NINE

Tuesday October 19

Obscenity and Related Problems [take 356 with Lyles]

Introductory lecture

CHAPTER 4 FREEDOM OF EXPRESSION IN SPECIAL CONTEXTS, p. 108 [lyles]

Obscenity; Sexually Explicit Expression; the Offensive, Indecent, Lewd, and Profane, p. 108 [lyles]

Cohen v. California (1971), p. 109 [lyles]

Transcript: *Cohen*, pp. 67-78 [MPC]

Obscenity, p. 111 [lyles]

“Should Pornography Be Protected by the First Amendment?” *Taking Sides, 5th edition*. Judge Sarah Evans Barker, U.S. Court of Appeals for the Seventh Circuit (1984), and, Andrea Dworkin, “The Oppression of Pornography.” [Blackboard]

***For extra credit (0-3 points) added to your second exam score, write a short essay (about 3 typed pages) summarizing the main points in “Should Pornography Be Protected by the First Amendment?”(above).” [Blackboard. Your extra credit essay is due on the day of the second exam.]**

**Regina v. Hicklin*, 3 Queens Bench 360 (1868).

**Burstyn v. Wilson* (1952) [LexisNexis]

Roth v. United States (1957) [LexisNexis], as discussed in class

**Jacobellis v. Ohio* (1964), as discussed in class

**Memoirs v. Massachusetts* (1966) [LexisNexis], as discussed in class

Transcript: *Miller*, pp. 153-161 [MPC].

Miller v. California (1973), p. 115 [lyles]

Paris Adult Theatre I v. Slaton (1973), p. 118 [lyles]

Erznoznik v. City of Jacksonville (1975), as discussed in class

New York v. Ferber (1982) [LexisNexis] as discussed in class

*Transcript: *Hustler*, pp. 119-128 [MPC].

**Hustler Magazine v. Falwell* (1988) [LexisNexis] see above

Regulating “Indecent” Speech, p. 124 [lyles]

Federal Communications Commission v. Pacifica Foundation et al. (1978), p. 125 [lyles]

Movies and Censorship, p. 132 [lyles]

Nude Dancing, p. 134 [lyles]

Transcript: *Barnes*, pp. 35-46 [MPC].

Barnes v. Glen Theatre, Inc. (1991), p. 135 [lyles]

**Sable Communications v. FCC* (1989), as discussed in class

**City of Erie v. Pap's Kandyland* (1999) [LexisNexis], as discussed in class

Reno v. American Civil Liberties Union (1997), 314-320

United States v. Playboy (2000) [LexisNexis], as discussed in class

**Ashcroft v. American Civil Liberties Union*, 535 U.S. 564 (2002) and 542 U.S. 656 (2004)

For extra credit (0-2 points added to the second exam), prepare a typed brief for *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564 (2002) and 542 U.S. 656 (2004) and turn it in at the start of class on the day of the second exam. You will need to use LexisNexis. You should summarize both cases in the same (single) brief.

Thursday October 21

Internet 143 [Lyles]

Reno v. American Civil Liberties Union (1997), p. 144 [Lyles]

Commercial Speech and Corporate Speech, p. 151[Lyles]

Student Rights and Free Expression

*Lyles, *The Gatekeepers*: ch. 5.

Student Rights and Free Expression, p. 156 [Lyles]

Transcript: *Tinker*, pp. 233-243 [MPC].

Tinker v. Des Moines Independent Community School District (1969), p. 157 [Lyles]

Bethel School District No. 403 v. Fraser (1986) [online]*

Transcript: *Hazelwood*, pp. 101-111 [MPC].

Hazelwood School District v. Kuhlmeier (1988) [online]*

Morse, et al., Petitioners v. Joseph Frederick (2007), p. 162 [Lyles]

WEEK TEN

Tuesday October 26

CHAPTER 5 FREEDOM OF THE PRESS AND ASSOCIATION, p. 169 [Lyles]

Prior Restraint, p. 170 [Lyles]

Near v. Minnesota (1931) [online]*

Transcript: *New York Times v. the United States*, pp. 185-198 [MPC].

New York Times v. United States [The Pentagon Papers Case] (1971), p. 170 [Lyles]

“U.S. Reclassifies Documents” [Blackboard]

Discuss Obama and “Wikilinks”

The Various Media, p. 179 [Lyles]

Is the Press “Special”?, p. 180 [Lyles]

**Cohen v. Cowles Media Co.* (1991), pp. 182, 186 [Lyles]

Freedom of the Press and the Judicial Process, p. 182 [Lyles]

Thursday October 28

Freedom of the Press and the Judicial Process, p. 182 [Lyles]

Confidentiality of News Sources, p. 185 [Lyles]

Branzburg v. Hayes (1972) [online]*

Nebraska Press Association v. Stuart (1976) [online]*

The Press and Damage to Reputation, p. 186 [Lyles]

Transcript: *New York Times v. Sullivan*, pp. 169-177 [MPC].

New York Times v. Sullivan (1964), p. 189 [Lyles]

Freedom of Association, p. 196 [Lyles]

National Association for the Advancement of Colored People v. Alabama (1958), p. 198 [Lyles]

Boy Scouts of America v. Dale (2000) [online]*

Assembly and Association [take 358 with lyles]**Freedom of Association, p. 196 [lyles]**

**National Association for the Advancement of Colored People v. Alabama* (1958), p. 198 [lyles]—
for this case, take PoIS 358

**Adderly v. Florida* (1966), as discussed class, take PoIS 358

**Walker v. Birmingham* (1967) p. 66 [lyles] take PoIS 358

**Shulltesworth v. Alabama* (1969), take PoIS 358

**New York State Club Association v. City of New York* (1988)

Chicago v. Morales (1999) [Blackboard]

Boy Scouts of America v. Dale (2000) [online]*

Commercial Speech and Corporate Speech 151 [lyles]

**Consolidated Edison Company of New York, Inc. v. Public Service Commission of NY* (1980)

**McConnell v. FEC* (2003)

***Rights of Public Employees: Free Speech Issues**

**Connick v. Myers* (1983)

***From Symbolic Speech to Bias-Motivated Crimes**

*CL&C, 200-202 (SKIM)

**United States v. Eichman* (1990), p. 88, 139 [lyles]

*Lyles, *The Gatekeepers*: ch.4.

Money as Speech, p. 153 [lyles]

**Buckley v. Valeo* (1976) [LexisNexis]

**First Nat'l Bank of Boston v. Bellotti* (1978) [LexisNexis]

**Federal Election Commission v. NCPAC* (1985) [LexisNexis]

Citizens United v. Federal Election Commission (2010) [online]*

WEEK Eleven

Tuesday November 2

Catch up and Review for Exam #2 in class today 11-12:15

This is Election Day?

Thursday November 4

*Lyles, *The Gatekeepers*: ch. 6.

PART IV THE RIGHT OF THE ACCUSED AND THE CRIMINAL JUSTICE SYSTEM, p. 291 [lyles]

CHAPTER 8 THE EXCLUSIONARY RULE AND OTHER FOURTH AMENDMENT CONTROVERSIES, p. 295 [lyles]

Fourth Amendment Problems: The Exclusionary Rule Controversy, p. 295 [lyles]

Weeks v. United States (1914) [Blackboard]

Olmstead v. United States (1928) [Blackboard]

Wolf v. Colorado (1949) [Blackboard]

Mapp v. Ohio (1961), p. 297 [lyles]

Katz v. United States (1967) [Blackboard]

Terry v. Ohio (1968) [Blackboard]

Transcript: *Terry*, pp. 199 [MPC], [Blackboard]

WEEK TWELVE

Tuesday November 9

Exam #2 6:00-7:30 pm tonight.

Location: SEL2249 SEL and SEL2249F

Today's in class assignments are below

Today's Quiz: List the Three Exceptions to the Exclusionary Rule [Blackboard]
The Fourth Amendment in Retreat? Expanding Warrantless Searches, p. 301 [lyles]
United States v. Leon (1984) [online]*
 Evaluation of the Exclusionary rule," by Michael Cooke [Blackboard]
California v. Greenwood (1988), 342 (CL&C 8th edition) [Blackboard]
Florida v. Meyers (1984) [Blackboard]
Florida v. Bostick (1991) [online]*
 **Vernonia School District 47J v. Acton* (1995)
 **Maryland v. Wilson* (1997)
City of Indianapolis v. Edmond (2000), p. 311 [lyles]
Kyllo v. United States (2001) [online]*
Hudson v. Michigan (2006) [online]*
Virginia v. Moore (2008), p. 318 [lyles]
District Attorney's Office for the Third Judicial District, et al. v. Osborne (2008) [online]*
Arizona v. Gant (2009), p. 323 [lyles] **submit typed brief today**
 *Lyles, *The Gatekeepers*: ch. 7.

Thursday November 11

CHAPTER 9 PROTECTION AGAINST COMPULSORY SELF-INCRIMINATION AND THE RIGHT TO COUNSEL, p. 336 [lyles]

COMPULSORY SELF-INCRIMINATION

Rochin v. California (1952) [Blackboard]
Malloy v. Hogan (1964) [Blackboard]
 **Powell v. Alabama (The Scottsboro Cases)* (1932) (Take PoS 359)

Betts v. Brady (1942) [Blackboard]

Assistance of Counsel, p. 336 [lyles]

Transcript: *Gideon*, p. 185 [MPC], [Blackboard]

Gideon v. Wainwright (1963), p. 339 [lyles]
Escobedo v. Illinois (1964), as discussed in class
 *Lyles, *The Gatekeepers*: ch. 8.

Strickland v. Washington (1984), p. 343 [lyles]

From Coerced Confessions to *Miranda* Warnings, p. 349 [lyles]

Transcript: *Miranda*, p. 213 [MPC], [Blackboard]

Miranda v. Arizona (1966), p. 351 [lyles]

Developing *Miranda* Jurisprudence in the Warren, Burger, Rehnquist, and Roberts Courts, p. 357 [lyles]

Argersinger v. Hamlin (1972), as discussed in class
New York v. Quarles (1984), p. 361 [lyles]
Illinois v. Perkins (1990), p. 367 [lyles]
 **Davis v. United States* (1994), p. 360 [lyles]
Dickerson v. United States (2000) [online]*
Wiggins v. Smith (2003) [online]*
Indiana v. Edwards (2008) [online]*
Vermont v. Brillon (2009), p. 371 [lyles]

WEEK THIRTEEN
Tuesday November 16

CHAPTER 10 OTHER CONSTITUTIONAL GUARANTEES IN THE CRIMINAL PROCESS: TRIALS, SENTENCING, AND INCARCERATION, p. 377 [lyles]

Trials, Jury Selection, and Sentencing Problems, p. 377 [lyles]

**Maxwell v. Dow* (1900)

**Norris v. Alabama* (1936), take PoS 358 with me

Swain v. Alabama (1965), only to the extent discussed in class, also take PoS 358.

**Duncan v. Louisiana* (1968), take PoS 358 with me

Batson v. Kentucky (1986), p. 382 [lyles]

**Apodoca v. Oregon* (1972), as discussed in class

Hernandez v. New York (1991) [[LexisNexis](#)]

Georgia v. McCollum (1992) [online]*

Blakely v. Washington (2004) [online]*

Kimbrough v. United States (2007) [online]*

Snyder v. Louisiana (2008), p. 388 [lyles]

Double Jeopardy

Palko v. Connecticut (1937) [online]*

Benton v. Maryland (1969) [[LexisNexis](#)]

Thursday November 18

The Death Penalty Controversy, p. 395 [lyles]

**Louisiana ex. rel. Francis v. Resweber* (1947)

**Furman v. Georgia* (1972)

Transcript: *Gregg*, p. 229 [[MPC](#)], [[Blackboard](#)]

Gregg v. Georgia (1976), p. 401 [lyles]

McCleskey v. Kemp (1987), p. 406 [lyles]

Stanford v. Kentucky/Wilkins v. Missouri (1989) [online]*

Calderon v. Thompson (1998) [online]*

Payne v. Tennessee (1991), p. 415 [lyles]

Hill v. McDonough (2006) [online]*

Kennedy v. Louisiana (2008) [online]*

*Mark Stevens, "Victim Impact Statements Considered in Sentencing: Constitutional Concerns,"

Cal.Crim.L.Rev 3, 2 (2000). [[Blackboard](#)] as discussed in class.

**Calderon v. Thompson* (1998), p. 401 [lyles]

WEEK FOURTEEN
Tuesday November 23

Cruel and Unusual Punishment

Ewing v. California (2003) [online]*

Bail and Preventive Detention, p. 422 [lyles]

**United States v. Salerno* (1987), p. 422 [lyles]

Kansas v. Hendricks (1997) [online]*

Confrontation and Cross-Examination, p. 423 [lyles]

Coy v. Iowa (1988) [online]*

Giles v. California (2008) [online]*

Prisoners' Rights, p. 423 [Lyles]

Wilson v. Seiter (1991) [online]*

Hudson v. McMillian (1992), p. 428 [Lyles]

Johnson v. California (2005) [online]*

*Lyles, *The Gatekeepers*: ch. 9.

*Lyles, *The Gatekeepers*: ch. 10.

**Thursday November 25
(NO CLASS THANKSGIVING DAY)**

WEEK FIFTEEN

Tuesday November 30

Juvenile Rights, p. 434 [Lyles]

In Re Gault (1967), p. 435 [Lyles]

Roper v. Simmons (2005) [online]*

Atkins v. Virginia (2002) [online]*

Thursday December 2

Final Class, makeup, review for final exam and summation.

*******Book reviews are due today at the start of class, no extensions*******

Final Exam

[As scheduled by UIC]

http://www.uic.edu/depts/oar/current_students/calendars/final_exam_schedule.html

Monday December 6, 2010, 10:30 – 12:30.