

Dr. White
Syllabus

CRJU 3315 Criminal Procedure

Welcome to this class; have fun and learn much! This syllabus serves as a contract between the student and the instructor. Enrollment serves as the consent of each student to the terms of this syllabus. In this class, silence by a student is interpreted as agreement and/or understanding. If students have questions about the material, they should seek out the answers. Success in this class requires compliance with this syllabus. Ignorance of the syllabus is no excuse for non-compliance. Students will have the opportunity to make-up for missed points by participating in discussions and writing extra papers. Final grades are *earned*, not *given* or negotiated. Students are responsible for their performance. Success is both possible and encouraged.

Course Information

The class will meet Tuesdays and Thursdays from 11:00 a.m.-12:15 p.m. in the Social Sciences (SO) building, room 3007.

The final exam will be on Thursday, December 6th from 10:30 a.m.-12:30 p.m. in SO 3007.

The instructor is Kenneth White, Ph.D., J.D. Office hours are by appointment in SO 5085. The instructor can be reached in class or at kwhite88@kennesaw.edu.

Course Description

The following is the course description:

“This course addresses the following stages of criminal procedure and evidence: 1) methods and rules of police investigation and arrest; 2) pretrial screening of complaints; 3) formal charging of the accused; 4) adjudication/evidentiary requirements; 5) sentencing; and 6) appellate review by higher courts.”¹

Expected Learning Outcomes

Students are expected to be able to identify the stages of criminal procedure and to explain the significance of each stage. In particular, students are expected to explain the test of whether the Fourth Amendment applies to a given situation; what is reasonable suspicion; what is probable cause; what are the *Miranda* rights; and what is the Exclusionary Rule. Students are expected to write papers in a style of writing called *professional prose*.²

Method of Instruction

This class will consist of reading, writing, listening to lectures, in-class discussion, and networking with classmates.

Method of Assessment

This class will assess students by tracking their attendance and in-class participation, as well as by in-class exams and take-home papers.

Required Text

Students are required to read Matthew Lippman's *Criminal Procedure*.³

Course Policy

The policy of this course is Self-reliance, which means to do one's best. Self-reliance means blaming one's Self for one's circumstances, not other people, e.g., the instructor. Self-reliance means being focused on a purpose and working diligently towards that end. Self-reliance does not mean being alone. Self-reliance means, simply, taking responsibility for one's Self.

Grades

The final grade in the course is based on the student's overall performance, not negotiation or effort on any particular assignment or task (see **Table 1**).

Table 1 CRJU 3315 Grade Scale

Take-Home Papers	25 points	A	89.5-100%	Excellent work
Midterm Exam	25 points	B	79.5-89.49%	Above average work
Final Exam	25 points	C	69.5-79.49%	Average work
Participation	25 points	D	59.5-69.49%	Below average work
Total	100 points	F	0-59.49%	Not good enough

Note: This grade scale is exact. A student that earned 89.49 points has earned a B. After the semester there is nothing that can be done to increase a student's grade. Students have the responsibility of keeping track of their performance in the class throughout the semester.

Take-Home Papers (25%)

The take-home papers must be written in *professional prose*.² The purpose of the take-home papers is to practice one's writing skills. In this class, thinking skills and writing skills are the same things. The mission statement of Kennesaw State University declares that the purpose of the university is in part to develop "critical thinking" skills.⁴ Because *professional prose* develops critical thinking skills, the take-home papers vindicate the mission of the university.

The take-home papers will be graded on two bases; first, the format of *professional prose* must be followed. Format is worth 10% of the paper. The student either earns all or nothing of the format points. An error of format is like a fly in one's soup—i.e., even one fly is too much.

Second, the substance of the take-home paper must comply with *professional prose* (see **Table 2** for the format and substance grading rubric).

In the take-home papers and the exams (see below), “to explain” requires a paragraph (one paragraph per explanation); “to identify” requires a sentence or two (simply name the identified thing in a descriptive statement).

Table 2 Professional Prose

<p>Format Requirements</p>	<ol style="list-style-type: none"> 1. Times New Roman, 12-point font 2. Single space (with a blank space between blocks of information) 3. Identifying information must match this syllabus (name and purpose of paper) 4. Must include bold descriptive title (centered) and headings (left justified) 5. One inch margins, including the header and footers 6. Page number(s) in lower right corner (note: page numbers must comply with Format rules 1 and 5) 7. Must include end notes; be sure to cite <i>every</i> reference, paraphrase, and quote.
<p>Substantive Requirements</p>	<ol style="list-style-type: none"> 1. Correct (each item of incorrect information in a paper is an error); the information must be accurate 2. Complete (the entire question or prompt must be addressed); the paper must not be incomplete 3. Organized (structured logically/lucid/clear); the paper must include citations when necessary and avoid errors of grammar, syntax, punctuation, and spacing 4. On-point (focus on the call of the question); the paper must address the question or prompt

Total Points Possible Each Paper	<ol style="list-style-type: none"> 1. With no format errors=-0% <ol style="list-style-type: none"> a. Substantive errors (-5% each) <ol style="list-style-type: none"> i. -0=6.25 points (100%) ii. -1=5.94 points (95%) iii. -2=5.63 points (90%) iv. -3=5.32 points (85%) v. -4=5.01 points (80%) vi. -5=4.70 points (75%) vii. -6=4.39 points (70%) viii. -7=4.08 points (65%) ix. -8=3.77 points (60%) x. -9=3.46 points (55%) 2. With format error(s)=-10% <ol style="list-style-type: none"> a. Substantive errors (-5% each) <ol style="list-style-type: none"> i. -0=5.62 points (90%) ii. -1=5.31 points (85%) iii. -2=5.00 points (80%) iv. -3=4.69 points (75%) v. -4=4.38 points (70%) vi. -5=4.07 points (65%) vii. -6=3.76 points (60%) viii. -7=3.45 points (55%)
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Note: Each “error” of the substance requirements counts as “-5%” (-0.31 points) on the particular paper. An error of the format requirements counts as “-10%” (-0.63 points) maximum. There is no maximum number of points a student may lose on substantive errors. Students should be frugal with the number of words used in their papers; write defensively.

The take-home papers are assigned according to the course schedule (see **Table 3**). There will be an opportunity for students to submit a take-home paper once every two weeks. Students may submit six papers overall; the top four scores count. Students should understand that papers tend to increase in difficulty as the semester progresses. The papers must be submitted in hardcopy form on the date due during the first 15 minutes of class; email submissions are not accepted.

Midterm and Final Exam (25% each)

There will be both an in-class midterm and final exam. Bring one new and blank large (8.5” x 11”) Blue or Green Book (available at the bookstore) to each exam and something to write with; no exceptions. Both the midterm and final exam are closed note/book, electronic device, etc. The exams will be comprehensive. Students can study for the exams by summarizing their notes on the readings and lectures/discussions, along with their notes on the answers to the take-home papers into one synthesized outline. The substantive requirements of the take-home papers will be used to grade the short-answers, if any, on the midterm and/or final exams (see **Table 2**);

students should expect short answer and/or objective questions. If a student performs better on the final exam than the midterm, then the midterm score will rise to the level of the final exam (students must take the midterm exam).

Participation (25% or more)

Participation is measured in two ways. The first way is by showing up to class and seeming to pay attention. Students can seem inattentive by talking out-of-turn, texting, eating food, drinking, surfing the Internet, being tardy, etc. Inattention is considered an absence under this syllabus. This first way of scoring participation is accomplished solely by the sign-in sheet; students must sign-in or be present when called: *forgetting to sign-in is not an excuse*.

Everyone starts with 25 points. Each absence after the second one equals -12.5 points. There is a 50% drop in participation after the second absence, because three absences represents more than 50% of four absences, which constitutes being *excessively absent*. A student that misses twice the number of hours the class meets per week is considered *excessively absent*. Such students will have earned zero points for participation and may not earn future points in the class without consultation with the instructor regarding the consequences of poor attendance per university policy.⁵

The other way participation is measured is by actively participating in class discussion in a significant manner. Active participation means more than the occasional remark, but represents a consistent contribution to the class discussion that is informed and respectful of other people's opinions. Failure to participate when called upon may equal the loss of one participation point. Excellent contribution may be worth one point. There is no limit on excellence in this class; students should be as excellent a contributor to class discussion as they can be.

Excused Absences

An absence may be excused if the circumstances are beyond the student's control, e.g., medical necessity, jury duty, or military or university service. An excused absence must be documented, e.g., physician's note (not receipt of services), military or court order, etc. Technical difficulties, transportation, employment, volunteering, personal issues, etc. are not considered to be beyond the ordinary, reasonable, and prudent student's control. Students should plan for Murphy's Law.⁶

Late Work

Late work is strongly discouraged, is at the sole discretion of the instructor and may, if permitted, be worth only (up to) 60% or less.

How to Get Missed Information

Students should constantly have access to at least three of their classmate's names and official Kennesaw State University email addresses. Students should rely on their cohort via email or the

discussion feature on Vista to get missed information from lectures or discussions. If one's classmates cannot be reached, then make new friends, i.e., network with your cohort.

Friend #1: _____

Friend #2: _____

Friend #3: _____

Writing Center

The Writing Center at Kennesaw State University is an excellent resource for students, and the tutors there may help students improve their writing skills. Students are encouraged to take rough drafts of their take-home papers to the Writing Center, along with this syllabus. The purpose of the Writing Center is to help students improve their writing; however, the tutors at the Writing Center (like the instructor) do not serve as copy editors, nor do they certify a student's work as free from error. The tutors at the Writing Center may not be familiar with the unique format rules of this class. But if students can teach the tutors those rules, then the students will likely have improved their own understanding of the rules—i.e., to teach is to know. With these caveats in mind, students are encouraged to visit the Writing Center. To make an appointment visit: <http://www.kennesaw.edu/english/WritingCenter>.

Email Policy

To communicate with the instructor, email him directly at kwhite88@kennesaw.edu.

Grade Dispute

Before the end of the semester (to dispute a grade) students should email the instructor within 48 hours of the grade being posted on Vista. After 48 hours have passed with no inquiry by the student, any interest in the grade is considered waived. Students have an affirmative duty to monitor their own performance in the class and clear up any grade issues in a timely manner.

Academic Integrity

Every KSU student is responsible for upholding the provisions of the Student Code of Conduct, as published in the Undergraduate and Graduate catalogs. Section II of the Student Code of Conduct addresses the University's policy on academic honesty, including provisions regarding plagiarism and cheating, unauthorized access to University materials, misrepresentation/falsification of University records or academic malicious/intentional misuses of computer facilities and/or services, and misuse of student identification cards. Incidents of alleged academic misconduct will be handled through the established procedures of the University Judiciary Program, which includes either an "Informal" resolution by a faculty member, resulting in a grade adjustment, or a formal hearing procedure, which may subject a student to the Code of Conduct's minimum one semester suspension requirement.

Recording Policy

Absent official documentation from DisAbility Services, there is no electronic recording of lectures or discussions permitted. The classroom is a conversation, not a press conference. Handwritten notes or typed notes are not considered to be an electronic recording.

Statement on DisAbilities

KSU, a member of the University System of Georgia, does not discriminate on the basis of race, color, religion, age, sex, or national origin, disability, or sexual orientation in employment or provision of services. Contact DisAbility Services and/or the instructor for more information (for more information, visit: http://www.kennesaw.edu/stu_dev/home/home.html).

Student Success Services

Student Success Services offers a range of services to help Kennesaw State University students succeed, including psychological counseling (for more information, visit: <http://www.kennesaw.edu/studentssuccessservices/>).

Technical Support

If students have a question requiring tech support, contact the student support desk at Kennesaw State University by phone: 770-499-3555.

Advising

The College of Humanities and Social Sciences opened a new Undergraduate Advising Center in Spring 2012. This advising center employs student peer advisors who will sit down one-on-one with students for an in-depth analysis of their transcript and graduation plan. If students have not yet visited the center, they should make an appointment. The center serves undergraduates who have declared or are considering declaring a major in the College of Humanities and Social Sciences (for more information, visit: <http://www.kennesaw.edu/hssadvising/home.php>).

Hours of Study

Benjamin Franklin once said that the Constitution does not guarantee happiness; rather he said that the Constitution merely guarantees the pursuit of happiness.⁷ In this sense, students who pay tuition here at Kennesaw State University have purchased the opportunity to succeed in this class. There is no guarantee that students will take advantage of the opportunities given to them to succeed. Some students sabotage their chances of success by not purchasing the text book, not reading the assigned material, and/or paying attention to other matters, e.g., work, personal relationships, hobbies, etc. A university class is a part-time job in terms of the hours of study required per week. According to Gibbs and Simpson, “Students are normally expected to spend between about one and four hours out of class for each hour in class.”⁸

How many hours do Gibbs and Simpson suggest that students should study per week outside of class in this class? Answer: _____

Questions? Comments?

Students are encouraged to ask questions or make comments at the beginning of class and/or during discussion when invited (or by email). Remember that in class only one student can talk at once during a discussion or conversation. Conversation requires that people be able to disagree without being disagreeable—i.e., reasonable minds can disagree and still be reasonable. Ergo, a conversation in this class is different from an argument; the instructor does not argue with students. The instructor should be viewed as a *tool*, i.e., something to be used as a means to arrive at an end (the truth of the matter).⁹

The instructor promises to be helpful and do no harm: teachers can only open doors, students must decide whether to walk through them.¹⁰

Course Schedule

Students should refer to **Table 3** for the schedule of assigned reading. The class conversation will follow this course schedule, which is subject to change. Notice of any changes to this schedule or the syllabus will be given in class orally or through Vista (see Announcements).

Table 3 Course Schedule

Week One: <u>8/21</u> , 8/23	Making three friends; the sign-in sheet; take-home paper format <u>Paper #1: Out</u>
Paper #1 Directions	Identify the name and email of three friends in the class. Identify the course policy. Identify the recommended range of study hours outside of class per week.
Week Two: 8/28, 8/30	Chapter 1: Introduction to Criminal Procedure Chapter 2: Sources of Criminal Procedure
Part One: Review Questions	What is justice? What is separation of powers, checks and balances, federalism, <i>stare decisis</i> , and precedent? What is the structure of the courts? What are the sources of law? What are the textual provisions in the Constitution that protect individual liberty? What amendments in the Bill of Rights relate most to criminal procedure? What are America’s core values? What is due process?
Week Three: <u>9/4</u> , 9/6	Chapter 3: Searches and Seizures <u>Paper #1: In; Paper #2: Out</u>
Paper #2 Directions	Identify the sources of law (in order of authority). Identify the definition of justice. Identify the definition of separation of powers. Identify the definition of checks and balances.

Week Four: 9/11, 9/13	Chapter 4: Stop and Frisk
Week Five: <u>9/18</u> , 9/20	Chapter 5: Probable Cause and Arrests <u>Paper #2: In; Paper #3: Out</u>
Paper #3 Directions	Explain the test for determining whether the 4 th Amendment applies to a search or seizure.
Week Six: 9/25, 9/27	Chapter 6: Searches and Seizures of Property Note: <i>no class</i> on 9/27
Week Seven: <u>10/2</u> , 10/4	Chapter 6: Cont'd <u>Paper #3: In; Paper #4: Out</u>
Paper #4 Directions	Identify the definition of reasonable suspicion. Identify the effects of reasonable suspicion, i.e., what can law enforcement do with reasonable suspicion?
Part Two: Review Questions	Why does the 4 th Amendment require a warrant? What are the exceptions to the warrant requirement? What is the test for whether the 4 th Amendment applies to a search or seizure? What is reasonable suspicion? What is probable cause? What is a search incident to arrest? When is a person “seized” under the 4 th Amendment? What is the drug smuggling profile? What is the precedential value of <i>Tennessee v. Garner</i> ? <i>Terry v. Ohio</i> ?
Week Eight: <u>10/9</u> , 10/11	MIDTERM EXAM <u>10/9</u> Chapter 8: Interrogations and Confessions
Week Nine: <u>10/16</u> , 10/18	Chapter 9: Eyewitness and Scientific Identifications <u>Paper #4: In; Paper #5: Out</u>
Paper #5 Directions	Identify the definition of probable cause. Identify the effects of probable cause.
Week 10: 10/23, 10/25	Chapter 10: Exclusionary Rule Note: <i>no class</i> on 10/25
Week 11: <u>10/30</u> , 11/1	Chapter 10: Cont'd <u>Paper #5: In; Paper #6: Out</u>
Paper #6 Directions	Identify the <i>Miranda</i> warnings. Explain when <i>Miranda</i> applies to the questioning of a person. Explain what the exclusionary rule is. Identify at least three non-exclusionary rule remedies.
Week 12: 11/6, 11/8	Chapter 11: Civil and Criminal Remedies
Week 13: <u>11/13</u> , 11/15	Chapter 12: Initiation, Bail, and Right to Counsel <u>Paper #6: In</u>
Week 14: 11/20, 11/22	Chapter 13: Pretrial and Trial Process Note: <i>no class</i> on 11/22

Week 15: 11/27, 11/29	Chapter 13: Cont'd Chapter 14: Sentencing and Appeals
Part Three: Review Questions	What are the <i>Miranda</i> warnings? When do the <i>Miranda</i> warnings have to be given? What is the exclusionary rule? What other remedies are there beyond the exclusionary rule? What is the ticking-time-bomb scenario and how the Constitution as understood by reference to The Declaration of Independence resolve that scenario? What are the different types of identifications? What is the purpose of an identification? What is the test(s) for the defense of entrapment? What is the test(s) for whether scientific evidence is admissible in a criminal trial? What is a 42 U.S.C. 1983 claim? What is a probable cause hearing? What are the reasons for the First Appearance? What is a preliminary hearing? What is jury nullification? What is the test for whether the 6 th Amendment right to counsel requires a reversal of a conviction? What are the reasons for sentencing a criminal defendant?
Week 16: 12/4, <u>12/6</u>	Chapter 14: Cont'd FINAL EXAM: <u>12/6</u> (10:30 a.m.-12:30 p.m.)

Note: Please complete the Digital Measures survey (check university email account for link).¹¹

End Notes

- ¹ N.a. N.d. "Criminal Procedure." *Course Descriptions* in Department of Sociology & Criminal Justice. Website. Viewed on August 8, 2012 at <<http://scj.hss.kennesaw.edu/courses/descriptions/#crju-3315>>.
- ² *Professional prose* refers to a specific style of writing that is required to be followed on all take-home papers in this class. These rules apply to this class only. The challenge of *professional prose* is following directions and paying attention to details. The syllabus serves as an example of professional prose, and the instructor is happy to help by answering questions. Note that in *professional prose*, the use of citations is necessary. In the take-home papers, students must use the end note system (copy the style of citation used in this syllabus). Students must cite every reference (a mention of information from an outside source), every paraphrase (mixing up words from an outside source), or direct quote (word-for-word copying of an outside source). Students should cite primary sources before citing secondary sources like a lecture. Students should do everything they can to succeed on these take-home papers. Doing all one can on these take-home papers includes attending class and taking notes, as well as reading the assigned material. Doing all one can also includes working on multiple revisions of a paper, as well as working with three friends in the class on editing a paper, as well as visiting the Writing Center for help. *Professional prose* is not hard, but students must pay attention to details and put in a good faith effort. The goal of *professional prose* is to write short papers that are substantively sound in a specific format. The assumption of *professional prose* is that a university student can follow directions and write a short paper without making any errors of grammar, syntax, punctuation, or spacing.
- ³ Lippman, Matthew. 2011. *Criminal Procedure*. Thousand Oaks: SAGE.
- ⁴ N.a. N.d. "Mission Statement." *Kennesaw State University*. Website. Viewed on August 6, 2012 at <<http://www.kennesaw.edu/mission.shtml>>.
- ⁵ As the Undergraduate Catalog states: "Issuance of grades and formulation of individual attendance policies are the prerogative of the instructor...Attendance in classes, laboratories and lectures is important. All students are expected to attend these activities in accordance with their schedule of courses. The instructor determines the attendance policy for each course. All instructors will provide the students, at the beginning of each semester, a clear statement regarding their policies in handling absences. Instructors will also be responsible for counseling their students regarding the academic consequences of absences. Students must not be absent from announced quizzes, laboratory periods or final examinations unless the reasons for the absences are acceptable to the instructors concerned. Students should also understand that they are responsible for all material covered during their absences and that they are responsible for the academic consequences of the absences. Students who are absent because of their participation in university-approved activities such as field trips and extracurricular events will be permitted to make up the work missed during their absences." N.a. 2012-2013.

“Academic Advisement & Academic Policies.” *University Catalog*. Kennesaw State University. Website. Viewed on August 7, 2012 at <<http://catalog.kennesaw.edu/content.php?catoid=12&navoid=573&hl=attendance&returno=search>>.

⁶ Borenstein, Nathaniel. 2012. “No Luck, but Grace Under Turbulence.” *The New York Times*. 12 March. Website. Viewed on August 7, 2012 at <http://www.nytimes.com/2012/03/13/business/a-flying-history-ruled-by-murphys-law.html?_r=1>.

⁷ Franklin is reported to have said: “The U.S. Constitution doesn’t guarantee happiness, only the pursuit of it. You have to catch up with it yourself.” Website. Viewed on August 7, 2012 at <<http://www.brainyquote.com/quotes/quotes/b/benjaminfr141100.html>>.

⁸ Gibbs, Graham and Claire Simpson. 2004. “Conditions Under Which Assessment Supports Students’ Learning.” *Learning and Teaching in Higher Education* (1): 3-31.

⁹ Henry David Thoreau (1993, 75) in his essay, “Life without Principle,” in *Civil Disobedience and Other Essays* (published by Dover, in Mineola, New York), described himself as a “tool” and he wished people would use him as such: “The greatest compliment that was ever paid me was when one asked me what *I thought*, and attended to my answer. I am surprised, as well as delighted, when this happens, it is such a rare use he would make of me, as if he were acquainted with the tool.”

¹⁰ Here are some other interesting quotes: “If you haven’t learned anything new today, then you’ve wasted the day”—U.S. Marine Corps; “The only way to fail is not to try”—Anonymous; “Happiness is not a goal; it is a by-product”—Eleanor Roosevelt; “Whatever can go wrong, will go wrong”—Murphy’s Law; “Let me know how to help you help yourself succeed”—Dr. White.

¹¹ Kennesaw State University uses Digital Measures to survey students on their opinion of the class. Please complete this survey, which will be sent to students near the end of the term (the last few weeks) via a link through university email accounts. Your participation is sincerely appreciated.