



Department of Criminal Justice and Sociology

Constitutional Rights of Inmates  
CJ 355

Fall Semester 2008

CH 206

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**Office Hours:** T-Th 12:30 pm - 2:00 pm; or by appointment  
Closed Sat.-Sun. for mental repairs

**Course Objective:** To analyze the rights of prisoners as guaranteed by the Constitution and interpreted through specific cases.

**Prerequisite:** Introduction to Criminal Justice CJ 100; CJ 125

**Required text:** Palmer, J. and Palmer, S., *Constitutional Rights of Prisoners, 8<sup>th</sup> Edition*, Anderson Publishing.

**Expectations of Students:** (1) Read assigned material; (2) and participate in class forums; (3) submit assigned position papers; (4) complete any class assignments by due dates; (5) complete exam (essay) as scheduled. Assignments may be made up only upon presentation of written evidence of serious injury or illness or a death in the family. Cheating and plagiarism will be handled according to university policy.

**Term Paper:** You will conduct independent research dealing with current issues related to the rights of persons under correctional custody or supervision. You should cover both sides of the issue in your analysis. The paper must be typed, double-spaced, 12-point type size, with margins of 1.0 inches top and bottom, and 1.0 inches on sides, and a 6-8 pages, excluding the title page and bibliography. The paper must include a minimum of ten sources including cases, peer reviewed journals or law reviews, and books. Sources that are **not acceptable** are encyclopedias (including Wikipedia), the course textbook and websites.

Citations must comply with either the APA style, or *The Bluebook: A Uniform Style of Citation* (legal format). Papers which do not meet these requirements, will not be accepted. Preliminary draft must first be submitted to the writing center for review.

The annotated bibliography described below, is a listing of the intended references in APA format. The “annotation” is a brief description of the source and how it advances your paper. The annotation for each source must be at least 100 words. Do not include the annotations in the list of references that must be included with the final manuscript of the paper.

You will find Feedback to the Dropbox assignments, which will be helpful to your progress with the successful completion of the term paper. Please review this Feedback.

Points for research papers will be assigned points as follows:

Topic submitted to Dropbox - 5

Annotated Bibliography submitted to Dropbox - 15

Proof of submission to Writing Lab submitted to Dropbox - 5

Preliminary Draft submitted to Dropbox - 25

Points (up to 200) for Final Submission Draft will be based upon the Southeast Holistic Scoring Guide. Total Points for Final Submission Draft will be awarded up to 100 points

**Westlaw Primer:** You may find cases and law review articles on Westlaw as follows:

Go to the Kent Library web page; then to "Find articles, journals, etc" ; then to "Databases A-Z" ; then to "Westlaw Campus"; then to "Law" ; then to "Caselaw"; then to "Get a Case"; then use the "Citation" option.

For cases go to the "Find" window; if you know the case citation, insert the citation in the "Find a Document by citation: (e.g., 98 S.CT 2733)" window, and select "Go." If you know the case name, but not the citation, insert the name in the "Find a document by title" window. However, this may give you several results from which you must determine which is the correct decision.

**For general research,** go to the "Search" window; insert a word or phrase, and select a database to search. You can search cases (for this course, your searches will usually be more productive if you limit the search to federal cases), or law reviews and journals (select "all journals and law reviews"). Also, available are American Jurisprudence (a legal encyclopedia) and American Law Reports (cases with exhaustive annotations dealing with the subject matter of the featured case). American Jurisprudence (Am Jur) and American Law Reports (ALR) can lead to cases and law review articles and other very good sources.

**Exam:** The class will include a final exam, which consists of essay and discussion questions. The exam is taken with the U-Test program on the class web page. You must use a computer with a secure browser in order to take the exam. The exam is open-book, but is limited in time.

**Forums:** The Forums are the online equivalent of class discussion. There are a total of 13 Forums. Each person must participate in each Forum. Participation requires one initial post and another post which is in response to a post by another student. A maximum of 10 points may be earned in each Forum.

**Position Papers:** Each chapter will include the writing of a short two-page paper covering an assigned topic. You will be asked to state and justify a position on a relevant assigned topic. The papers must include consideration of the applicable cases and Constitutional issues. These papers will be submitted through the course Dropbox. A maximum of 20 points is possible for each paper. Points will be awarded based upon the Southeast Holistic Scoring Guide

## Grading

Grades will consist of the following points:

Exams (2)	200	(100 x 2)
Quizzes	130	(10 x 13)
Forums	130	(10 x 13)
Position Papers	390	(30 x 13)
Paper	250	
Total	1100	

**Disclaimer: (the fine print)** The views and opinions expressed by the text, the class discussions, or any other human or other being are not necessarily those of the professor, the department, the university, the State of Missouri, or the United States of America. The resemblance of any character or person discussed or depicted herein, to actual people, living or dead, is purely coincidental. Furthermore, this publication may be subject to copyright laws of some jurisdiction. Downloads, photocopies or duplication is strictly prohibited and may result in civil or criminal liability to the user and his or her first born child. There are no warranties expressed or implied as to the content of the materials and information included in this course. Retention of course content by the students herein is encouraged, but is by no means guaranteed in any manner. This disclaimer is brought to the readers hereof as a result and consequence of the "Full Employment for Attorneys Act of 1987" and any amendments thereto.

## Tentative Class Schedule Constitutional Rights of Inmates

Week 1 - August 23-39, 2010

Ch. 1 Overview of the judicial system.  
Ch. 2 Administrative Law

Forum: Describe your background, if any, in criminal justice or corrections. What do you expect to gain from this class?

Position Paper: Describe how the Constitutional separation of powers between the executive, the legislative and judicial branches protects the individual rights of citizens.

Chapter Quiz

Week 2 - August 29- September 5, 2010

Ch. 3 Use of force.

Cases:

*Whitley v. Albers*, 475 U. S. 312 (1986) p. 459  
*Hudson v. McMillian*, 503 U. S. 1 (1992) p. 468  
*Hope v. Pelzer*, 536 U.S. 730 (2002) p. 477

Forum: Does the use of less-than-lethal weapons increase or decrease injury or death to prisoners?

Position Paper: Discuss the tests used by the Supreme Court to evaluate the reasonableness of force against detainees and prisoners. Include discussion of applicable case law.

Chapter Quiz

Week 3 – September 5-12, 2010

Ch. 4 Prisoners' rights to visitation/association.

Cases:

*Pell v. Procunier*, 417 U.S. 817 (1974) p. 479  
*Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119 (1977) p. 488  
*Kentucky v. Thompson*, 490 U.S. 454 (1989) p. 496  
*Overton v. Bazzetta*, 539 U.S. 126, (2003) p. 502

Forum: Is it reasonable for prisoners at state prisons to have contact visits while pre-trial detainees at county detention centers are not provided contact visits? What are the practical and Constitutional issues related to each type of visit?

Position Paper: Discuss whether the practice of conjugal visits should be permitted for some inmates. Justify your position. Include reference to Constitutional issues and case law relevant to this type of visit.

Chapter Quiz

[term paper topics due in Dropbox]

Week 4 – September 12-19, 2010

Ch 5 Right to use of mail, internet and telephone.

Cases:

*Procunier v. Martinez*, 416 U.S. 396 (1974) p. 507  
*Wolf v. McDonnell*, 418 U.S. 539 (1974) p. 512  
*Turner v. Safley*, 482 U.S. 78 (1987) p. 514  
*Thornburgh v. Abbott*, 490 U.S. 401 (1989) p. 516

Forum: Should inmates be permitted to have access to the internet? Justify your answer with a discussion of constitutional and policy reasons.

Position Paper: Should the spouses or girlfriends– boyfriends of inmates be permitted to mail nude photos of themselves to inmates? Include discussion of institutional policy concerns, constitutional issues and any relevant cases.

#### Chapter Quiz

Week 5 – September 19-26, 2010

Ch 6 Isolated confinement;

Cases:

*Rhodes v. Chapman*, 452 U.S. 337 (1981) p. 527  
*Boag v. Mac Dougall*, 454 U.S. 364 (1982) p. 531  
*Hewitt v. Helms*, 459 U.S. 103 (1983) p. 531  
*Wilkinson v. Austin*, 545 U.S. 209 (2005) p. 536  
*Johnson v. California*, 543 U.S. 499 (2005) p. 5454  
*Beard v. Banks*, 548 U.S. 521 (2006) p. 552

Forum: Should a state institution be allowed to racially segregate inmates during a 60-day admissions and orientation period? Include discussion of applicable case law.

Position Paper: Does the use of “supermax” facilities violate the Eighth Amendment prohibition against cruel and unusual punishment? Include a description of “supermax” conditions and a discussion of the policy arguments in favor of such facilities.

#### Chapter Quiz

Term paper annotated bibliography due in Dropbox

Week 6 – September 26-October 3, 2010

Ch 7 Religion in prison.

Cases:

*O’Lone v. Shabazz*, 482 U.S. 342 (1987) p. 561  
*Cutter v. Wilkinson*, 544 U.S. 709 (2005) p. 571

Outside sources:

John Popeo, Combating Radical Islam in Prisons Within the Legal Dictates of the Free Exercise Clause

<file:///Users/andrewfulkerson/Southeast/Classes/Prisoners%20Rights%20Online/Radical%20Islam/Pompeo%20article.lexis.webarchive>

OIG Review of BOP Chaplain Selection

Out of the Shadows

Forum: What constitutes a “religion” for the purpose of First Amendment protection in an institutional setting? Include discussion of applicable case law.

Position Paper: Discuss the problems faced by correctional administrators in dealing with radicalization of inmates by Islam. Include discussion of the conflict between need for institutional security and the Constitutional protection of the right of free exercise of religion under the First Amendment.

#### Chapter Quiz

Proof of Writing Lab submission due in Dropbox

Week 7 – October 3-10, 2010

Ch 8 Legal services.

Cases:

*Johnson v. Avery*, 393 U.S. 483 (1969) p 579  
*Cruz v. Beto*, Civil No. 71-H-1371 (S.D. Tex. 1976) p. 581  
*Cruz v. Beto*, 405 U.S. 319 (1972) p. 588  
*Bounds v. Smith*, 430 U.S. 817 (1977) p. 590  
*Murray v. Giarratano*, 492 U.S. 1, (1989) p. 593  
*Casey v. Lewis*, 518 U.S. 343 (1996) p. 596  
*Shaw v. Murphy*, 532 U.S. 223 (2001) p. 605

Forum: How can a state ensure that inmates have access to the courts for the purpose of seeking a redress of grievances under the law. Include discussion of constitutional issues and case law.

Position Paper: What is a “jailhouse lawyer”? Under what circumstances may a state limit “jailhouse lawyers” from plying their craft?

Chapter Quiz

Week 8 – October 10-17, 2010 (Fall Break is Oct. 14-15)

Term paper preliminary draft due in Dopbox

Mid-Term Exam

Week 9 – October 17-24, 2010

Ch 9 Prison disciplinary proceedings.

Cases:

*Baxter v. Palmigiano*, 425 U.S. 308 (1976) p. 609  
*Wolff v. McDonnell*, 418 U.S. 539 (1974) p 611  
*Sandin v. Conner*, 515 U.S. 472 (1995) p. 617

Forum: Discuss the role of informants in correctional facilities, and how they may used in a disciplinary hearing. Include consideration of relevant constitutional issues.

Position Paper: Define procedural due process. Describe an institutional disciplinary system which will satisfy procedural due process. Include a discussion of applicable case law.

Chapter Quiz

Week 10 – October 24- 31, 2010

Ch 10 Right to Rehabilitation Programs, Medical Care and Life

Cases:

*Coker v. Georgia*, 433 U.S. 584 (1977) p. 629  
*Lockett v. Ohio*, 438 U.S. 586 (1978) p. 633  
*Gregg v. Georgia*, 428 U.S. 153 (1976) p. 640  
*Proffitt v. Florida*, 428 U.S. 242 (1976) p. 664  
*Mills v. Rogers*, 457 U.S. 291 (1982) p. 670  
*Youngberg v. Romeo*, 457 U.S. 307 (1982) p. 672  
*Turner v. Safley*, 482 U.S. 78 (1987) p. 677  
*Estelle v. Gamble*, 429 U.S. 97 (1976) p. 680  
*Helling v. McKinney*, 509 U.S. 25 (1993) p. 684

Forum: Should state correctional institutions offer educational and rehabilitation programs to inmates? Justify your answers.

Position Paper: Describe and discuss the obligation of a correctional facility to provide medical care for prisoners. Include a discussion of applicable constitutional issues and case law.

#### Chapter Quiz

Week 11 – October 31 - November 7, 2010

#### Ch 11 Additional Litigation.

##### Cases:

*Montanye v. Haymes*, 427 U.S. 236 (1976) p. 691  
*Meachum v. Fano*, 427 U.S. 215 (1976) p. 694  
*Bell v. Wolfish*, 441 U.S. 520 (1979) p. 699  
*Vitek v. Jones*, 445 U.S. 480 (1980) p. 714  
*Cuyler v. Adams*, 449 U.S. 433 (1981) p. 721  
*Howe v. Smith*, 452 U.S. 473 (1981) p. 726  
*Olim v. Wakinekona*, 461 U.S. 238 (1983) p. 731  
*Hudson v. Palmer*, 468 U.S. 517 (1984) p. 734  
*Wilson v. Seiter*, 501 U.S. 294 (1991) p. 738  
*Farmer v. Brennan*, 511 U.S. 825 (1994) p. 744

Forum: Discuss the duty of correctional staff and administrators to protect prisoners from sexual assault by other inmates or staff. Include discussion of applicable constitutional issues and relevant case law.

Position Paper: Define “deliberate indifference” as the level of culpability for liability on the part of government officials (including correctional officers) for violating the constitutional rights of persons (including prisoners). Include a discussion of applicable case law.

#### Chapter Quiz

Week 12 – November 7-14, 2010

#### Ch 12 Parole and Probation

##### Cases:

*Morrissey v. Brewer*, 408 U.S. 471 (1972) p. 757  
*Gagnon v. Scarpelli*, 411 U.S. 778 (1973) p. 770  
*Greenholtz v. Inmates of the Nebraska Penal and Correction Complex*, 442 U.S. 1 (1979) p. 775  
*Connecticut Board of Pardons v. Dumschat*, 452 U.S. 458 (1981) p. 781  
*Griffin v. Wisconsin*, 483 U.S. 868 (1987) p. 797  
*Samson v. California*, 547 U.S. 843 (2006) p. 805

Forum: Why or why should a state not have a parole system for persons sentenced to a term in a state correctional facility?

Position Paper: Describe and discuss the differences between a parole granting hearing and a parole revocation hearing. Include discussion of the rights of the offender and applicable case law.

#### Chapter Quiz

Week 13 – November 14-21, 2010

#### Ch 13 Civil and Criminal Liabilities of Prison Officials

##### Cases:

*Scheuer v. Rhodes*, 416 U.S. 232 (1974) p. 813  
*Daniels v. Williams*, 474 U.S. 327 (1986) p. 820  
*Harlow v. Fitzgerald*, 457 U.S. 800 (1982) p. 831  
*Smith v. Wade*, 461 U.S. 30 (1983) p. 835  
*Saucier v. Katz*, 533 U.S. 194 (2001) p. 840  
*Correctional Services Corporation v. Malesko*, 534 U.S. 61 (2001) p. 842  
*Hope v. Pelzer*, 536 U.S. 730 (2002) p. 843

Forum: Should correctional officers be liable for civil damage suits brought by prisoners who claim that the officers have violated the constitutional rights of the prisoner? Justify your answers.

Position Paper: Describe and discuss the concept of qualified immunity as a defense for correctional officers and administrators when prisoners have sued them for constitutional torts. Include a discussion of applicable case law in your paper.

#### Chapter Quiz

Week 14 - November 21-28, 2008

Thanksgiving

Week 15 – November 28-December 5, 2010

Ch 14 Prison Litigation Reform Act.

Cases:

*Booth v. Churner*, 532 U.S. 731 (2001) p. 855  
*Porter v. Nussle*, 534 U.S. 516 (2002) p. 857  
*Woodford v. Ngo*, 548 U.S. 81 (2006) p. 858  
*Jones v. Bock*, 549 U.S. 199 (2007) p. 868

Forum: Discuss the “three-strikes” provisions of the PLRA and the policy reasons behind this part of the PLRA.

Position Paper: Describe the general provisions of the PLRA. Has the PLRA been successful in reducing the number of meritless prisoner suits? Include discussion of applicable cases.

#### Chapter Quiz

Week 16 – December 5-12, 2010

Final Manuscript of Term Paper due in Dropbox

December 12-16 Final Exam

#### Alternate forums/papers

What is justification of the practice of the Federal Bureau of Prisons and most states of having chaplains for some religions and not others as paid members of the institutional staff?

Discuss the problems faced by correctional administrators in dealing with radicalization of inmates by Islam. Include discussion of the conflict between need for institutional security and the Constitutional protection of the right of free exercise of religion under the First Amendment.

Outside sources:

John Popeo, Combating Radical Islam in Prisons Within the Legal Dictates of the Free Exercise Clause

<file:///Users/andrewfulkerson/Southeast/Classes/Prisoners%20Rights%20Online/Radical%20Islam/Pompeo%20article.lexis.webarchive>

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