

**I. CATALOG DESCRIPTION:**

- A. Department Information:  
Division: Criminal Justice  
Department: Criminal Justice  
Course ID: POLICE 101  
Course Title: Procedure and Evidence  
Units: 3  
Lecture: 48 hours  
Laboratory: None  
Prerequisite: None  
Corequisite: Must also enroll in POLICE 002, 100, 102 and 103.
- B. Catalog and Schedule Description:  
This course will address the origin, concepts and philosophy of evidence, search and seizure, degrees of evidence, case studies, evidence procedures, judicial theories and decisions interpreting individual rights. **ENROLLMENT IS LIMITED TO THOSE STUDENTS WHO MEET THE SCREENING REQUIREMENTS AS OUTLINED IN THE GOVERNMENT CODE, CALIFORNIA PENAL CODE AND THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING ADMINISTRATIVE MANUAL.**  
*Associate Degree Applicable*  
*Course transfers to CSU*

**II. NUMBER OF TIMES COURSE MAY BE TAKEN FOR CREDIT: One**

**III. EXPECTED OUTCOMES FOR STUDENTS:**

Upon completion of the course, the student will be able to:

- A. Understand and apply the rules of evidence and applicable legal definitions as enacted in the California Evidence Code.
- B. Apply relevant case law decisions interpreting the admissibility of testimonial, documentary, real and physical evidence in a criminal trial.
- C. Distinguish the constitutional basis of evidence through review of judicial decisions from appellate courts covering search and seizures, admissions and confessions, methods of identification and the collection and preservations of evidence.
- D. Compare and contrast the adversarial examination of evidence and the roles of the District Attorney and Defense Counsel in the presentation of evidence.
- E. Read and understand the protection provided by the United States and California Constitution against unreasonable searches and seizures of people, house and personal property.
- F. Recognize the circumstances under which searches and seizures can be conducted.
- G. Apply the principals specified by the California Commission on Peace Officer Standards and Training for basic law enforcement course. (LD17 - Presentation of Evidence, LD16 – Search & Seizure and Methods of Identification).

**IV. CONTENT:**

- A. Overview  
An introduction of the California Judicial System process. Understand and apply the procedures and rules introducing evidence into court during a criminal proceeding. This course will cover the examination of crimes, evidence procedures, and police procedures investigating crime.

- B. Introduction of Evidence
  - 1. History of Evidence
  - 2. Source of Evidence Law
  - 3. Burden of Proof
  - 4. Terminology (LD17)
  
- C. Definition of Evidence
  - 1. Fruits of the Crime
  - 2. Instrumentality of a Crime; means by which the defendant committed the crime.
  - 3. Contraband; an item, which by mere possession is a crime.
  
- D. Direct/Circumstantial Evidence
  - 1. Types of Evidence
    - a. Testimonial (testimony)
    - b. Documentary (writings)
    - c. Real (material objects)
    - d. Demonstrative evidence
    - e. Physical Evidence
    - f. Relevant Evidence
    - g. Admissions and Confessions
  - 2. Distinguishing between Evidence and Proof
  - 3. Direct Evidence
  
- E. Reason for the Rules of Evidence
  - 1. Reason for Rules of Evidence
    - a. Rules are designed to protect jurors from being confused or misled.
    - b. To expedite the trial.
  - 2. Scope of Rules of Evidence
  - 3. Reasons for excluding evidence
    - a. Evidence is excluded even though it would help the jury or court to determine true facts
    - b. General reasons;
      - 1. To reduce violations of constitutional safeguards
      - 2. To avoid undue prejudice to the accused
      - 3. To prohibit consideration of unreliable evidence
      - 4. To protect valued interest in relationships
  
- F. Ways of Presenting Evidence
  - 1. Direct Evidence
  - 2. Circumstantial Evidence
  - 3. Presumption
  - 4. Inference
  - 5. Judicial notice
  - 6. Stipulation
  
- G. Tests for Introducing Evidence in Court
  - 1. Burden of proof
  - 2. Preponderance
  - 3. Reasonable Doubt Standards

4. Clear and convincing standard

H. Relevance and Competency

1. Evidence is relevant if it logically relates to a legitimate issue in the case.
2. Slight relevancy may cause it to be excluded
3. Problems of relevancy are most important in the area of circumstantial evidence since, when dealing with such evidence, conflicting inference is almost always possible.
4. Competency; this is another test closely related to relevance to be receivable in courts of justice
5. Otherwise relevant evidence is considered incompetent when:
  - a. Offered by an incompetent witness
  - b. Obtained in violation of constitutional provisions or related law
  - c. Best evidence rule – the original must be presented or its absence explained
  - d. It is real (physical) evidence that has been properly prepared and safeguarded
  - e. It is not “authenticated” if the evidence consists of a writing

I. Court Admissibility Test

1. The primarily responsibility of the judge to ensure that all evidence is admitted into the trial was legally obtained and is legally admissible.
2. As a general rule, all evidence is admissible unless there is a rule of exclusion rendering its inadmissibility

J. Witnesses

1. Qualifications
2. Competency of Witnesses
3. California Evidence Code Sections
4. Credibility of Witnesses
5. Determination of Competency
6. Mental Incapacity
7. Children
8. The Opinion Rule
  - a. Non Expert Witness
  - b. Expert Witness

K. Privileges and Privileged Communication

1. Privileges in general
2. Husband/Wife Testimonial
3. Husband/Wife Confidential Communication Privilege
4. Attorney/Client Privilege
5. Clergy/Confessor Privilege
6. Doctor/Patient Privilege
7. New Shield Privilege
8. Officer/Informant Privilege

L. Character, Habit and Custom

1. Character relevancy issues
  - a. Character evidence as item of proof
  - b. Evidence of good character and criminal cases
  - c. Evidence of bad character and criminal cases

- d. Character of victim in criminal cases
  2. Impeachment
  3. Rehabilitation
  4. Use of Priors
  5. Admissibility Issues
- N. Hearsay Evidence
1. Hear Say Defined
    - a. In general hear say is objectionable because it is not trustworthy
    - b. Certain circumstances lend reliability to hear say statements
- O. Exception to Hear Say
1. Spontaneous statements
  2. Admissions and Confessions
  3. Dying declarations
  4. Business and Official Records
  5. When independent basis for admissions does not exist it is necessary to resort to the business record exemption to the Hearsay Rule.
  6. Past recollection recorded, present memory refreshed
- P. Officers Testifying at Preliminary Hearings
1. Proposition 115
  2. Student Workbook
- Q. Documentary Evidence (Writings)
1. Authentication
  2. Best and Secondary Evidence
  3. Gruesome photographs
  4. Video tape
- R. The Exclusionary Rule
1. Definition/Evidence obtained by the government or its agents in violation of the rights and privileges guaranteed by the U.S. Constitution be excluded at trial
  2. Basis for the rule
    - a. Fourth Amendment of the US Constitution Article 1, section 13 of the California Constitution
    - b. Fourteenth Amendment, Section 1
  3. Purpose of the Exclusionary Rule
    - a. To act as a deterrent against unlawful searches and seizures by police officers
    - b. Keep tainted evidence away from the courtroom
- S. Application of Exclusionary Rule in Proceedings other than Criminal Trials
1. Juvenile Proceeding
  2. Narcotic Commitment Proceedings
  3. Admissible and Parole and Probation Hearings
  4. Some courts permit the trial judge to consider illegally obtained evidence and fixing sentence after conviction, even though the same evidence was excluded during the trial.

T. Laws of Arrest

1. Knock and Notice
2. Penal Code 844 and 1531
3. Purposes to avoid a potential violent confrontation in the house and provide time for the suspects to respond to the officers request for entry
4. Elements of compliance with knock and notice
5. Knock or alert the people inside to your presence
6. Identify yourself as a peace officer
7. Explain your purpose in authority
8. Demand entry
9. Wait a reasonable period of time before entering to enable the occupant to respond

U. Stop and Frisk

1. Definition of a stop
2. Examples of temporary detention or stop
3. Definition of a pat down or frisk
4. Transportation non-suspects
5. The Scope of the Frisk

V. Search and Seizure Laws

1. Search & Seizure introduction
2. Plain sight doctrine/non searches
3. Warrant searches
4. Searches incident to a lawful arrest
5. Consent searches
6. Parole/Probation searches
7. Exigent (emergency) searches
8. Vehicle searches

W. Self Incrimination

1. When the Miranda Rule applies
  - a. Adult
  - b. Minor
2. Admonition, Waiver, Assertion
  - a. Admonishment Content
  - b. Waiver/knowingly, intelligently, voluntarily
3. Exception to Miranda
  - a. Contacts
  - b. Traffic stops
  - c. Detentions
  - d. Rescue Doctrine and Public Safety exception
  - e. General on scene questioning
  - f. Voluntary interviews
  - g. Phone calls

X. Body Evidence

1. Strip Searches
  - a. Any search which requires the officer to remove or arrange some or all of that persons clothing so as to permit a visual inspection of the underclothing, breast, buttocks or genitalia of the person
  - b. Visual body cavity search

- c. Physical body cavity search
- d. Condition of strip search
- e. Forcible seizure of evidence
- f. Fingerprint evidence
- g. Handwriting Exemplars
- h. Other types of evidence
  - 1. Voice evidence
  - 2. Photographs

Y. Administrative/Regulatory Searches/Electronic Surveillance

- 1. Searches sanctioned by or conducted pursuant to some statute or ordinance
  - a. Pervasively regulated business
- 2. Other regulatory searches
- 3. Residential areas
- 4. Commercial areas
- 5. Administration and criminal investigation searches
- 6. Vehicle code
- 7. Penal code
- 8. Border searches
- 9. School searches
- 10. Wire tapping
- 11. Electrical surveillance

Z. Subpoenas

- 1. The process by which a witness is commanded to appear before a court or grand jury or proceeding
- 2. Depending on the circumstances involved, different persons may issue a subpoena
  - a. Court Case
    - 1. Judge or Court Clerk
    - 2. District Attorney or his investigator
    - 3. Public Defender or his investigator
  - b. Grand Jury
    - 1. District Attorney or his investigator
    - 2. Judge to the Superior Court upon request of the Grand Jury
- 3. For the Defendants Case
  - a. Attorney of Record
  - b. If the defendant has no attorney, he/she may obtain blank subpoenas from:
    - 1. District Attorney or their investigator
    - 2. Public Defender or their investigator
    - 3. Judge or Court Clerk
- 4. Subpoena Duces Tecum is a process by which the court orders specified evidence to be produced or delivered to court.
- 5. Refusal to comply with the subpoena without showing good cause, may be punished by the court as contempt

**V. METHODS OF INSTRUCTION:**

- A. Lecture
- B. Discussion
- C. Practical Exercises/Demonstration
- D. Audio-Visual

E. Participation/Role Play

**VI. TYPICAL ASSIGNMENTS:**

- A. Reading: Read current Commission on Peace Officer Standards and Training (POST) approved handouts and workbooks related to the Public Safety field.
1. After reading selected chapters on evidence procedures, students will discuss the basic elements of evidence, search and seizure and case law.
- B. Writing: Typical writing assignments include memorandums familiarizing the student with evidence procedures, case laws and other aspects of the evidence code in compliance with the State of California in conjunction with law enforcement.
1. Students will also prepare reports of law enforcement situations including investigative contacts and collection of evidence.
- C. Critical Evaluation of Videotapes: View current POST approved videos related to Procedure and Evidence.
1. Students will interpret and discuss the material presented in the videos

**VII. EVALUATION:**

A. Methods of Evaluation

1. Examinations
  - a. Typical examination questions:  
The purpose of the "Exclusionary Rule" is to deter the unlawful search and seizures and investigation by law enforcement officers.
    - a) True
    - b) False
  - b. The definition of evidence is:
    - a) Proof of guilt or innocence
    - b) Establishment of the burden of proof
    - c) Means to prove or disprove fact
2. Subjective evaluation of student writing. Students are evaluated on their ability to apply course concepts to what they read or experience.

B. Frequency of evaluation

1. Minimum of two (2) examinations per class, or as deemed appropriate throughout the course of the connection with the instruction.

**VIII. TYPICAL TEXT(S):**

Commission on Peace Officer Standards and Training (POST), Performance Objectives for the Regular Basic Course, Sacramento, CA., 2002

Gould's, Penal Code Handbook of California, Longwood, FL., most recent edition  
Handouts provided by the instructor

**IX. OTHER SUPPLIES REQUIRED OF THE STUDENTS: Three ring binder; Book carry case**