

EVIDENCE
CRM 435-001
Fall 2018

Instructor: Mary B. Bozarth, J.D.
Email: MaryBozarth@MissouriState.edu
Office Hours: Monday and Wednesday, 5:15-6:30pm; By appointment

Class Meetings

Monday and Wednesday, 4-5:15pm
Strong Hall; Room 202

Class Cancellations

If class needs to be cancelled, you will be alerted via your student e-mail. Please check it regularly. If possible, the class meeting will be rescheduled. If it is not possible to reschedule, an outline and/or PowerPoint covering the reading material will be made available for your review.

Course Materials: Regensburger, Derek; *Criminal Evidence: From Crime Scene to Courtroom* (2012). Other readings, which may be assigned throughout the semester, will be given to you.

Course Description

This course critically examines the laws and rules of evidence at trial. Common law rules and the Federal Rules of Evidence are discussed, along with leading court cases.

Grading

This course will follow a standard ten-point grading scale.

90-100 A

80-89 B

70-79 C

60-69 D

0-59 F

Your grade will be divided into five parts:

Exam I: 25%

Written Evidentiary Motion: 15%

Oral Argument: 15%

Final Exam: 25%

Class Participation, Attendance, Quizzes: 20%

Exams

Each exam will consist of multiple choice, short answer, and essay questions covering the previous section's material. No outside material may be used during an exam - they are closed book and closed note. All you will need to bring for the exams is a pen or two. All other materials will be provided.

Motions and Oral Arguments:

You and a partner of your choice will be assigned 2 evidentiary hypotheticals over the course of the semester, and tasked with either moving to admit or suppress the evidence. Written motions must be a minimum of 6 pages in length, and submitted on the day of your scheduled oral arguments, which will be announced in class. You must bring 3 copies: one for me, one for the judge, and one for opposing counsel. No motions will be accepted after this date and time, so please plan accordingly. Your motions will be reviewed by our guest judges in the classroom for reference during your oral arguments.

One person in your group will be tasked with oral argument, while the other will sit as co-counsel. The presenter and the writer cannot be the same person for both assignments; one person needs to write the motion and another needs to argue the motion, and on the second round you must switch. Both team members should be professionally dressed. Oral arguments shall be 10 minutes in length, and shall advocate for your client either the admission or suppression of evidence, citing the case law in your motion, along with the facts of the case, to persuade the judge. **DO NOT JUST READ THE MOTION, OR YOU WILL RECEIVE ZERO (0) POINTS.**

Class Participation, Attendance, and Quizzes

Anyone arriving more than 5 minutes late to class will be counted absent.

Class participation and attendance will account for 20% of your final grade. ***Do not expect to do well in this class if you do not show up.*** Attendance will be taken at each class meeting. Students are expected to read assigned materials in advance of each class and ***be prepared to answer questions on the material.*** While there will be formal lecture on the course reading, it is expected that students will be able to articulate their understanding of the readings to facilitate class discussion. If

class participation and/or attendance become an issue, pop quizzes will be implemented to ensure students are grasping the concepts in the course materials.

Extra Credit Opportunities

Students wishing to improve their grade may attend court sessions and write a 500-word paper on their observations. Extra credit opportunities will be announced throughout the semester as they become available. The last date on which to turn in extra credit papers will be on December 3, 2018. You may e-mail extra credit papers to me at MaryBozarth@MissouriState.edu.

Course Schedule

This schedule is tentative. Each week we will endeavor to cover one chapter's worth of material, although if we finish a chapter early, we may move ahead. After the first exam, we will begin devoting one day each week to oral arguments, so it is possible that we will need to finish covering a chapter on the following week.

Week 1: August 20 & 22

Chapter 1: Introduction to Evidence

Week 2: August 27 & 29

Chapter 2: Physical Evidence

Week 3: September 5 & 7

Chapter 3: Identification Evidence

Week 4: September 10 & 12

Chapter 4: Confessions

Week 5: September 17 & 19

Chapter 5: The Criminal Justice System

Week 6: September 24 & 26

Chapter 6: Discovery

Week 7: October 1 & 3

Monday, October 1: Exam 1 Review Session

Wednesday, October 3: Exam I: Chapters 1-6

Week 8: October 8 & 10

Monday, October 8: Lecture

Wednesday, October 10: Lecture and Oral Arguments (Teams #1-4)

Chapter 7: The Exclusionary Rule

Week 9: October 15 & 17

Monday, October 15: Lecture

Wednesday, October 17: Lecture and Oral Arguments (Teams #5-9)

Chapter 8: Basic Evidentiary Terms

Week 10: October 22 & 24

Monday, October 22: Lecture

Wednesday, October 24: Lecture and Oral Arguments (Teams #10-14)

Chapter 9: Expert and Lay Witnesses

Week 11: October 29 & 31

Monday, October 29: Lecture

Wednesday, October 31: Lecture and Oral Arguments (Teams #15-16; #1-2)

Chapter 10: Witness Competency and Privilege

Week 12: November 5 & 7

Monday, November 5: Lecture

Wednesday, November 7: Lecture and Oral Arguments (Teams #3-7)

Chapter 11: Impeachment and Cross-Examination

Week 13: November 12 & 14

Monday, November 12: Lecture

Wednesday, November 14: Lecture and Oral Argument (Teams #8-12)

Chapter 12: Character Evidence

Week 14: November 19

Monday, November 19: Lecture

Chapter 13: Hearsay

Week 15: November 26 & 28

Monday, November 26: Lecture

Wednesday, November 28: Lecture and Oral Argument (Teams #13-16)

Chapter 14: Documents – Authentication and Best Evidence Rule

Week 16: December 3 & 5

Monday, December 3: Catch up **LAST DAY TO TURN IN EXTRA CREDIT PAPERS**

Wednesday, December 5: Final Exam Review – Chapters 7-14

Final Exam:

Monday, December 10, 3:30 pm to 5:30 pm

University Policies:

Statement on Academic Dishonesty

Missouri State University is a community of scholars committed to developing educated persons who accept the responsibility to practice personal and academic integrity. You are responsible for knowing and following the university's student honor code, Student Academic Integrity Policies and Procedures and also available at the Reserves Desk in Meyer Library. Any student participating in any form of academic dishonesty will be subject to sanctions as described in this policy.

Statement of Non-Discrimination

Missouri State University is an equal opportunity/affirmative action institution, and maintains a grievance procedure available to any person who believes he or she has been discriminated against. At all times, it is your right to address inquiries or concerns about possible discrimination to the Office for Institutional Equity and Compliance, Park Central Office Building, 117 Park Central Square, Suite 111, 417-836-4252. Other types of concerns (i.e., concerns of an academic nature) should be discussed directly with your instructor and can also be brought to the attention of your instructor's Department Head. Please visit the OED website at www.missouristate.edu/equity/.

Statement of Disability Accommodation

If you are a student with a disability and anticipate barriers related to this course, it is important to request accommodations and establish an accommodation plan with the University. Please contact the Disability Resource Center (DRC) (<https://www.missouristate.edu/disability/>), Meyer Library, Suite 111, 417-836-4192, to initiate the process to establish your accommodation plan. The DRC will work with you to establish your accommodation plan, or it may refer you to other appropriate resources based on the nature of your disability. In order to prepare an accommodation plan, the University usually requires that students provide documentation relating to their disability. Please be prepared to provide such documentation if requested. Once a University accommodation plan is established, you may notify the class instructor of approved accommodations. If you wish to utilize your accommodation plan, it is suggested that you do so in a timely manner, preferably within the first two weeks of class. Early notification to the instructor allows for full benefit of the accommodations identified in the plan. Instructors will not receive the accommodation plan until you provide that plan, and are not required to apply accommodations retroactively.

Suicide Prevention, Available Suicide Programs & Related Procedures

Suicide Prevention Programs are available to Students, Faculty and Staff, please visit https://www.missouristate.edu/policy/Op1_08-suicide-prevention-available-suicide-programs-and-related-procedures.htm for more information.

Cell Phone Policy

As a member of the learning community, each student has a responsibility to other students who are members of the community. When cell phones or pagers ring and students respond in class or leave class to respond, it disrupts the class. Therefore, the Office of the Provost prohibits the use by students of cell phones, pagers, PDAs, or similar communication devices during scheduled classes. All such devices must be turned off or put in a silent (vibrate) mode and ordinarily should not be taken out during class. Given the fact that these same communication devices are an integral part of the University's emergency notification system, an exception to this policy

would occur when numerous devices activate simultaneously. When this occurs, students may consult their devices to determine if a university emergency exists. If that is not the case, the devices should be immediately returned to silent mode and put away. Other exceptions to this policy may be granted at the discretion of the instructor.

Emergency Response Statement

At the first class meeting, students should become familiar with a basic emergency response plan through a dialogue with the instructor that includes a review and awareness of exits specific to the classroom and the location of evacuation centers for the building. All instructors are provided this information specific to their classroom and/or lab assignments in an e-mail prior to the beginning of the fall semester from the Office of the Provost and Safety and Transportation. Students with disabilities impacting mobility should discuss the approved accommodations for emergency situations and additional options when applicable with the instructor.

Shelter information: Evacuate the fourth floor using north and south stairs. Faculty office wing occupants may shelter in interior halls of their area. All other occupants move to basement level using north and south stairwells.

Evacuation Instructions (in case the building needs to be evacuated for events such as fire, gas leak, etc.): Northeast to Glass Hall Room 101; Overflow to rooms 102 and 108

Religious accommodation

The University may provide a reasonable accommodation based on a person's sincerely held religious belief. In making this determination, the University reviews a variety of factors, including whether the accommodation would create an undue hardship. The accommodation request imposes responsibilities and obligations on both the individual requesting the accommodation and the University. Students who expect to miss classes, examinations, or other assignments as a consequence of their sincerely held religious belief shall be provided with a reasonable alternative opportunity to complete such academic responsibilities. It is the obligation of students to provide faculty with reasonable notice of the dates of religious observances on which they will be absent by submitting a Request for Religious Accommodation Form to the instructor by the end of the third week of a full semester course or the end of the second week of a half semester course.

Audio and Video Recording Course Activity

Students who wish to record lectures or class activities for study purposes should inform the faculty member first. Distribution or sale of recordings or other course

materials is prohibited without the written permission of the instructor and other students who are recorded. Distribution without permission is a violation of copyright law and the Code of Student Rights and Responsibilities (Sections 4.6, 4.8, 4.9).

Mental Health and Stress Management

As a student you may experience a range of personal issues that can impede learning, such as strained relationships, increased anxiety, alcohol/drug problems, feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance and may reduce your ability to participate in daily activities. You can learn more about free and confidential Missouri State University Counseling Center services available to assist you at <https://counselingcenter.missouristate.edu/>.