

**Course Outline**

**COURSE:** AJ 16                      **DIVISION:** 50                      **ALSO LISTED AS:**

**TERM EFFECTIVE:** Spring 2018                      **CURRICULUM APPROVAL DATE:** 04/24/2017

**SHORT TITLE:** INTRO TO EVIDENCE

**LONG TITLE:** Introduction to Evidence

<u>Units</u>	<u>Number of Weeks</u>	<u>Type</u>	<u>Contact Hours/Week</u>	<u>Total Contact Hours</u>
3	18	Lecture:	3	54
		Lab:	0	0
		Other:	0	0
		Total:	3	54

**COURSE DESCRIPTION:**

This course covers the origin, development, philosophy and basis of evidence; constitutional and procedural considerations affecting arrest, search and seizure; types of evidence and rules governing admissibility; judicial decisions interpreting individual rights and case studies. In addition to the Federal Rules of Evidence, the course also includes the California law regarding the rules of evidence. (C-ID: AJ 124)  
**ADVISORY:** AJ 10 and Eligible for English 250 and English 260.

**PREREQUISITES:**

**COREQUISITES:**

**CREDIT STATUS:** D - Credit - Degree Applicable

**GRADING MODES**

L - Standard Letter Grade

**REPEATABILITY:** N - Course may not be repeated

**SCHEDULE TYPES:**

02 - Lecture and/or discussion

05 - Hybrid

72 - Dist. Ed Internet Delayed

**STUDENT LEARNING OUTCOMES:**

1. Identify and differentiate various types of evidence.

Measure of assessment: written exam, worksheet, discussion, paper

Year assessed, or planned year of assessment: 2018

Semester: Fall

2. Define and describe key rules of evidence.

Measure of assessment: written exam, worksheet, discussion, paper, case study

Year assessed, or planned year of assessment: 2018

Semester: Fall

3. Critically evaluate and apply the rules of evidence to specific case facts.

Measure of assessment: written exam, discussion, case study report

Year assessed, or planned year of assessment: 2018

## CONTENT, STUDENT PERFORMANCE OBJECTIVES, OUT-OF-CLASS ASSIGNMENTS

Curriculum Approval Date: 04/24/2017

3 Hours

CONTENT: Course Outline. INTRODUCTION TO THE LAW OF EVIDENCE AND THE PRETRIAL PROCESS.

Introduction to the rules of evidence: definition of evidence. The rules of evidence. Introduction to the law of evidence and the pretrial process. Overview of the court process: the pretrial process. Participants in the criminal justice system. The pretrial court process.

STUDENT PERFORMANCE OBJECTIVES (SPO): Explain what constitutes evidence. State the objectives of the rules of evidence. Name the most common version of evidence law in the United States. Describe the three basic police functions. Contrast the jobs of the prosecuting attorney and the defense attorney. Describe the dual court system in the United States. Define probable cause to arrest. State the two alternative ways that a defendant can be formally charged with a serious crime in the United States.

3 Hours

CONTENT: THE TRIAL PROCESS.

Jury or court trial. The jury. The judge. Prosecuting attorney's responsibility and the burden of proof beyond a reasonable doubt. Role of the defense attorney. Opening statement. Making the record. The prosecution's case-in-chief. Witness requirements. Examination of witnesses. Defense presentation. Prosecution's rebuttal. Defense's surrebuttal. Closing arguments. Instructions, or charge, to the jury. Deliberation and verdict. Sentencing the defendant.

SPO: Describe the sequence of events in a typical criminal trial. Contrast the level of proof required in a criminal case with the level of proof required in a civil case. Name the two types of challenges of a juror used during voir dire. Describe the various duties of a judge in a criminal trial. Cite a working definition of reasonable doubt. Contrast the roles of the prosecuting attorney and defense attorney. Describe the burden upon the prosecution in its case-in-chief. List the five requirements for being a witness. State the difference between the types of questions allowed on direct and on cross-examination. Identify the order of presentation of closing argument.

3 Hours

CONTENT: EVIDENCE - THE BASIC CONCEPTS. Quiz.

Describing evidence. Judicial notice. Presumptions. Burden of proof. Stipulations.

SPO: List the four general categories of evidence. Define relevant evidence. Discuss some of the reasons relevant evidence may be excluded. Explain the difference between contradictory and corroborative evidence. Define judicial notice. Describe four examples of facts that a court may judicially notice. List the two factual components of a true presumption. Describe the relationship of a presumed fact to a basic fact. Describe two examples of rebuttable presumptions. Explain what a stipulation is.

3 Hours

CONTENT: WITNESSES - LAY AND EXPERT.

Becoming a witness. Lay, or ordinary, witnesses. Expert witnesses. Refreshing recollection.

SPO: State the one essential characteristic required before a person may become a witness. Name the two rights the Constitution guarantees to an accused person that assures the accused may call witnesses on his or her behalf. Define a leading question. List five exceptions to the rule prohibiting leading questions on direct examination. Define impeachment. Name the five methods of impeachment. List the subjects typically within the purview of lay opinion. State the circumstances under which testimony may be introduced. Explain

how a witness may be qualified as an expert. List the three foundational requirements for an expert's testimony. State the three bases for expert opinion. Explain when and how a witness's recollection may be refreshed. List the steps that must be taken before a witness's recorded recollection may be admitted into evidence.

6 Hours

CONTENT: WITNESSES - COMPETENCY AND PRIVILEGED COMMUNICATIONS.

Who is a competent witness. Privileged communications. Husband and wife relationship. Parent-child privilege. Attorney-client privilege. Physician-patient and psychotherapist-patient privileges. Clergy-communicant privilege. Identity of informer privilege. Accountant-client privilege. News reporter-news source privilege.

SPO: Explain the qualifications required to be considered competent to be a witness. List the three characteristics that constitute witness capacity. State the rationale for privileged communications. Explain the difference between the spousal incapacity and marital communications privileges. State when the attorney-client privilege is created. Describe two exceptions to the physician-patient privilege that often make the rule irrelevant. Explain why there is no compelling need for a physician-patient privilege, according to the United States Supreme Court. State the strong policy justifications for the psychotherapist-patient privilege. State why the government may refuse to reveal the identity of an informer. Explain when the news reporter-news source privilege yields.

6 Hours

CONTENT: Distribute Hearsay Assignment. DOCUMENTARY EVIDENCE AND THE RIGHT OF DISCOVERY. PHYSICAL EVIDENCE. PHOTOGRAPHIC, RECORDED, AND COMPUTER-GENERATED EVIDENCE. Test.

Documents as a kind of evidence. Authentication. Best evidence rule. The right of discovery in criminal cases. Discovery through preliminary hearing. Growth of the right of discovery. Pretrial discovery. Prosecution's right of discovery. Defendant's right to original investigative notes and recordings. What is physical evidence. Sources of physical evidence. Connecting objects with issues at trial: chain of custody, or possession. Marking objects for identification. Storage of physical evidence. Delivering physical evidence. Preparation of physical evidence for use in court. Gruesome objects. Physical objects not produced in court. Viewing of the crime scene by the jury. Photographs, recordings, and the like as evidence. First rule of admissibility - foundation for relevance. Second rule of admissibility - foundation for authentication. Posed photographs and video recordings. Methods of presentation in the courtroom. Consideration of other matters.

X-ray photographs.

SPO: Name the two classifications of documents and each of their categories. List the six situations in which secondary evidence of the contents of a writing may be introduced. Explain the three foundational elements that must be shown before secondary evidence is admitted. State when a defendant is not required to comply with a subpoena duces tecum and produce a document in his or her possession. Name the three types of discovery the defendant can obtain from the prosecution under FRCrP 16 and which type is granted reciprocal discovery. Describe what statements are covered by the Jencks Act. Identify the range of matters that may be subject to discovery by the defendant in a criminal case. List the defenses that the accused may be required to disclose to the prosecution prior to trial. Name five examples of how authentication can be accomplished. Identify the four general categories of physical evidence. List the order and persons in a typical chain of custody. State the three methods an officer can use to identify positively the object in court as the one that the officer found at the crime scene. Identify the information that should be placed on a typical tag. Describe how items of evidence should be packaged for long-term storage in an evidence locker. Explain the balancing test of FRE 403 for admitting gruesome objects into evidence. Define the kinds of evidence included in the terms "writings" and "recordings" in the FRE. State the circumstances in which video and audio evidence may be used in court. Decide when to use a hard copy or a projected image in presenting evidence. List the various uses of photographic and recorded evidence. State the first rule of admissibility of photographic and recorded evidence. Determine when a gruesome photograph or videotape is likely to be admitted. State the second rule of admissibility of photographic and recorded evidence. Identify those witnesses who can authenticate a photograph or recording. List three methods of authentication of photographs and recordings. List the date to be included on the crime scene identification card. State when a posed or reconstructed scene is acceptable. Identify the methods of presenting photographic or recorded evidence.

3 Hours

CONTENT: Distribute ID Assignment. THE HEARSAY RULE. Turn in and discuss the hearsay assignment.

Rationale for the rule and constitutional considerations. Components of the hearsay rule. Statements that are not hearsay because they are not offered for the truth of the matter asserted. Hearsay exemptions. Specific hearsay exceptions. Statements made under sense of impending death (dying declarations). Declarations against interest. Spontaneous utterances: present sense impressions and excited utterances. State of mind. Former testimony. Business and public records. Pedigree, or family history. Past recollection recorded: only read into the record.

SPO: Define hearsay. Explain the rationale for the hearsay rule. Explain the FRE's assertion-based definition of a statement. List the five subcategories of statements that are Not Offered for the Truth of the Matter Asserted. Name the two general categories of exemptions from the hearsay rule under the FRE. List the three types of prior statements by witnesses that are exempt from the hearsay rule. Identify the five types of admissions by a party opponent that are exempt from the hearsay rule. List the four foundational requirements for the dying declaration exception to the hearsay rule. Name the two species of spontaneous declarations exceptions to the hearsay rule and state the difference between them. Identify a major limitation upon the state of mind exception to the hearsay rule. List the foundational requirements for the statements for purposes of medical diagnosis exception to the hearsay rule. Name the foundational requirements for the former testimony exception to the hearsay rule. State the foundational requirements for the business records exception to the hearsay rule.

3 Hours

CONTENT: EXCLUSIONARY RULE - IDENTIFICATION PROCEDURES. Turn in and discuss the ID assignment.

Identification procedures and the exclusionary rule. Identification procedures and the right to counsel. Identification procedures and due process. Types of suggestive identification procedures. Determining the reliability of a suggestive identification: the five factors of the Biggers case.

SPO: Name three types of identification procedures. Explain when an accused is entitled to counsel at an identification procedure. Explain when an accused is not entitled to counsel at an identification procedure. Identify the constitutional grounds for an accuser's claim of misidentification before trial and at trial. Explain the test for allowing an in-court identification by a witness whose pretrial identification was tainted. State the test for excluding evidence of a pretrial identification on grounds of suggestiveness. List the five factors set forth in the Biggers case. Summarize the law applicable to identifications when there is a claim that a pretrial identification procedure was suggestive. Name several situations that the law enforcement officer should avoid with respect to the makeup of a lineup or photographic array. State the purpose of the Biggers five factors analysis.

9 Hours

CONTENT: Discussion of Appellate Courts. Distribute take home test. Discuss writing assignment, which includes the issue of allowing police to collect "abandoned" DNA evidence without a warrant. Cite case studies.

CIRCUMSTANTIAL EVIDENCE.

Direct evidence versus circumstantial evidence. Admissibility of other crimes, acts, or wrongs. Means or capability to commit a crime. Consciousness of guilt. Character of the defendant. Character of victims. Character of witness.

CREDIBILITY AND IMPEACHMENT.

Credibility. Basic methods of impeachment. Contradiction. Bad character for truthfulness. Prior inconsistent statements. Bias or motive to falsify. Witness incapacity. Impeachment: other issues. Self-incrimination.

SPO: Distinguish between direct and circumstantial evidence. State when and how the trial judge determines the relevancy of circumstantial evidence. Explain why the law generally prohibits evidence of the defendant's character. Name the principal noncharacter uses of "other crimes" evidence. Explain how motive and intent differ. Describe how the prosecution might use "other crimes" evidence. State how the prosecution may use another act of the defendant to refute a claim of mistake. Explain what modus operandi means in the context of the "other acts" evidence rule. Give several examples of circumstantial evidence that may be admitted to prove the accuser's consciousness of guilt. Explain when the prosecution might prove the defendant's bad character. Explain when a victim's character is at issue. Describe the laws shielding victims of sex offenses and why lawmakers have enacted them. Identify how a witness's character may be attacked. Describe the test used to evaluate the admissibility of a defendant's prior uncharged felony convictions. Name the four components of witness capacity. List the five basic methods of impeaching a witness. Name the two types of criminal convictions that may be admitted to impeach a witness. Explain the difference between the balancing test applied to the admission of evidence of a conviction of a criminal defendant who testifies and the balancing test of FRE 403. Describe the types of crime that are

automatically admissible to impeach a witness. Explain the principal restriction upon impeachment by the use of evidence of misconduct not resulting in a conviction of a witness. Name the one requirement for the introduction of extrinsic evidence of a prior inconsistent statement. State the rule governing the impeachment of a witness on the grounds of bias. State the rule governing the impeachment of one's own witness. Describe when a witness may invoke the privilege against self-incrimination. Name the prevailing form of witness immunity in the United States.

6 Hours

**CONTENT: ADMISSIONS AND CONFESSIONS.** Turn in take home test.

Admissions. Confessions - general principles and considerations. Confessions excluded due to violation of due process of law: coerced confessions. Exclusion of confessions due to violation of rights secured under *Miranda v. Arizona*. Exclusion of confessions due to violation of the Sixth Amendment right to counsel. Confession given after an unlawful search and seizure may be excluded. The continued importance of confessions as evidence. Procedure for introduction of confessions. Wording of confessions. Confession implicating a codefendant. Proof of the crime in addition to a confession - the requirement of *corpus delicti*. SPO: Define an admission. Distinguish between confessions and admissions. State the fundamental requirement for a confession to be usable as evidence. Describe the test for voluntariness of a confession. State the requirements of *Miranda*. Define custody for purposes of *Miranda*. Define interrogation for purposes of *Miranda*. State the burden of proof required to prove a waiver of *Miranda* rights by a suspect. Describe when interrogation of a suspect who has invoked the right to counsel may resume. List the three exceptions to the requirement of *Miranda* warnings. Explain when the Sixth Amendment right to counsel attaches. State the rule governing interrogation of a suspect when right to counsel has attached. Define what constitutes deliberate elicitation. Explain the procedures to determine the admissibility of a confession at trial.

6 Hours

**CONTENT: THE EXCLUSIONARY RULE - SEARCH AND SEIZURE.** Discussion of case studies. Paper due.

Introduction: what is the exclusionary rule? The scope of search and seizure. What is a search? What is a seizure? Ways of making a reasonable search and seizure. Search pursuant to a search warrant. Reasonable searches without warrant: exceptions to the warrant requirement. Search and seizure on less than probable cause: stop and frisk and reasonable suspicion in other circumstances. Suspicionless stops and searches: the special needs exception to the probable cause and warrant requirements. Objecting to the introduction of evidence claimed to be illegally seized.

SPO: State the main purpose of the exclusionary rule. Explain the two-pronged test for determining whether there is a search. Identify the procedure and requirements for obtaining a valid search warrant. Explain the meaning of probable cause and possible ways of establishing probable cause. Discuss the requirements and limitations of a search incident to lawful custodial arrest. List the three ways in which a vehicle may be searched without a warrant. Identify two requirements for a valid consent. Discuss the additional requirement for a valid consent if a third party is giving consent. Review those circumstances that have been recognized as exigent, allowing an officer to search without a warrant. State the elements that must be satisfied before an officer may seize an object pursuant to the plain view doctrine. Discuss the justification needed to conduct a stop and frisk. Explain the standing requirement for a defendant's assertion of a constitutional violation by law enforcement officers.

2 Hours

### **OUT OF CLASS ASSIGNMENTS:**

Required Outside Hours: 50

Assignment Description: Review course syllabus. Fill out questionnaire. Read corresponding chapters. Fill out study guide questions for each chapter. Study for quizzes/midterm/final. **OUT-OF-CLASS-ASSIGNMENTS:** Complete worksheet from class presentation .

Required Outside Hours: 27

Assignment Description: **OUT-OF-CLASS-ASSIGNMENTS:** Answer worksheet handouts from class presentations. **OUT-OF-CLASS-ASSIGNMENTS:** Work on writing assignment, which includes the issue of allowing police to collect "abandoned" DNA evidence without a warrant, including citing and analyzing case studies.

Required Outside Hours: 27

Assignment Description: OUT-OF-CLASS-ASSIGNMENTS: Work on hearsay assignment. OUT-OF-CLASS-ASSIGNMENTS: Work on ID assignment. OUT-OF-CLASS-ASSIGNMENTS: Answer various questions relating to reasonable expectation of privacy and stop and frisk reasonable circumstances. Searching a vehicle, a residence and school searches and collecting evidence will be included. Case studies will be cited and analyzed.

**METHODS OF INSTRUCTION:**

lectures, class discussions, videos

**METHODS OF EVALUATION:**

Writing assignments

Percent of total grade: 40.00 %

Percent range of total grade: 30 % to 60 % Written Homework, Term or Other Papers

Objective examinations

Percent of total grade: 60.00 %

**REPRESENTATIVE TEXTBOOKS:**

Required Representative Textbooks

Norman M. Garland. Criminal Evidence, 7th Edition. McGraw-Hill Education,2015.

Reading Level of Text, Grade: 12th Verified by: Verified by: MS Word

**ARTICULATION and CERTIFICATE INFORMATION**

Associate Degree:

CSU GE:

IGETC:

CSU TRANSFER:

Transferable CSU, effective 201430

UC TRANSFER:

Not Transferable

**SUPPLEMENTAL DATA:**

Basic Skills: N

Classification: Y

Noncredit Category: Y

Cooperative Education:

Program Status: 1 Program Applicable

Special Class Status: N

CAN:

CAN Sequence:

CSU Crosswalk Course Department: AJ

CSU Crosswalk Course Number: 16

Prior to College Level: Y

Non Credit Enhanced Funding: N

Funding Agency Code: Y

In-Service: N

Occupational Course: C

Maximum Hours:

Minimum Hours:

Course Control Number: CCC000184213

Sports/Physical Education Course: N  
Taxonomy of Program: 210500