

# **POLICE LAW & POLICY**

## **SPRING 2025 -- PROF. SETH STOUGHTON**

### **COURSE DESCRIPTION**

This course explores the roles that police play in our society; the ways in which police agencies and officers are regulated by federal, state, and local law; and how those regulations translate into police policy and officer behavior. This course will examine the historic and contemporary intersection of regulation and behavior, investigating how laws, administrative directives, and other factors can both contribute to and resolve problematic aspects of policing.

### **Goals & Objectives**

By the end of this course, you will:

- Be aware of the theoretical and practical implications of policing in contemporary society;
- Be familiar with different legal and administrative regulations that shape police agency policy and officer behavior; and
- Be conversant with the aspects of policing that have been identified as problematic, the causes of those problems, and the different solutions that have been proposed to resolve them.

### **COURSE INFORMATION**

**Professor:** Seth Stoughton  
**Office:** Room 325  
**Telephone:** (o) 803-777-3055  
(c) 434-262-2484  
**Email:** [SWStough@law.sc.edu](mailto:SWStough@law.sc.edu)  
**Course Website:** TWEN

**Class Meetings.** We meet in room 131 from 2:40-3:40pm on Monday afternoons and from 1:30-2:55pm on Fridays..

**Office Hours.** I do not have set office hours; feel free to drop by any time! I'm not always in the office, but I usually get here around 8:45am on Mondays and Fridays and mid-morning on Tuesdays and Thursdays. I am also available via email and by phone if you have questions or concerns or if you wish to schedule a specific appointment. Please use your best judgment about calling or texting after hours (and remember to tell me who you are if you text me!).

### **Casebook & Materials**

- Harmon, THE LAW OF THE POLICE (2024), ISBN 979-8889063087; and
- Supplemental reading materials that will be made available on TWEN

## Classroom Expectations

**Attendance & Preparation.** Law school is a professional school, and you are expected to comport yourselves accordingly. That means, *inter alia*, attending every class that your health and personal circumstances allow (see Contagious Illnesses, below) **and** being fully prepared in every class you attend. Missing class or being un- or under-prepared without a professionally appropriate justification and appropriate notice can negatively impact your grade (see Grade Penalties, below)

Law school policy prohibits you from missing more than 10% of regularly scheduled classes. Regardless of the reasons for the absences, students with more absences must apply to the Dean of Academic Affairs for a waiver. Students who miss more than thirty percent of our class meetings must apply to the full faculty of the law school for a waiver. Please note that you are responsible for tracking your own attendance.

**Contagious Illnesses.** If you are experiencing or have recently experienced symptoms of any contagious illness (including, but not limited to any variant of COVID-19), please do not attend class. Current or recent symptoms are a professionally appropriate justification to miss class. Take your health—as well as the health of your classmates and law school faculty and staff—seriously throughout law school. You can make an appointment online at Student Health Services through MyHealthSpace.

**Advance/Prompt Notice.** I expect you to attend and be fully prepared for each class, but sometimes life gets in the way. If you are unable to be fully prepared for class, let me know as soon as possible *before* class (once class starts, I will assume everyone in the room is fully prepared). If you are unable to attend class or to be fully prepared for class, let me know as soon as circumstances allow.

**No Laptops.** For andragogical reasons, I prohibit laptops, tablets, and similar devices. The relevant research generally finds that laptops tend to diminish attention and learning while significantly increasing distractions for both students using the laptop and students sitting nearby.<sup>1</sup> Additionally, students who take handwritten notes retain, on average, more material and better understand the material compared to students who take notes on laptops.<sup>2</sup> If this presents any issue, please either communicate with me or contact the appropriate university office (see Disability Accommodations, below).

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<sup>1</sup> Richard W. Patterson & Robert M. Patterson Computers and Productivity: Evidence from Laptop Use in the College Classroom, 57 ECON. EDUC. REV. 66 (2017); Faria Sana et al., Laptop Multitasking Hinders Classroom Learning for Both Users and Nearby Peers, 62 COMP. & EDUC. 24 (2013); Erping Zhu, et al., Use of Laptops in the Classroom: Research and Best Practices, 30 U. MICH. CENTER FOR RESEARCH ON LEARNING AND TEACHING 1 (2012); Carrie B. Fried, In-Class Laptop Use and its Effects on Student Learning, 50 COMPUTERS & ED. 906 (2008); Helene Hembrooke and Geri Gay, The Laptop and the Lecture: The Effects of Multitasking in Learning Environments, 15 J. COMPUTING IN HIGHER ED. 46 (2003).

<sup>2</sup> Pam A. Mueller & Daniel M. Oppenheimer, The Pen is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking, 25 PSYCH. SCI. 1159 (2014).

## Grading

**Grading Format.** This course will follow the School of Law's standard letter grade system. To attain a grade higher than an F, you must:

- Comply with the law school's attendance policy (see Attendance and Preparation, above); and
- Complete the Observation Exercise described below.

**Grading Criteria.** Your grade in this course is based on your performance on a series of response papers. In marginal cases, class participation may be considered in grading.

**Grade Penalties.** Being un- or under-prepared in class can negatively impact your grade by up to one letter grade (e.g., from an A to a B). Missing class without a professionally appropriate justification or without appropriate notice can negatively impact your grade by up to two letter grades (e.g., from a B to a D). Violations of the Honor Code or classroom rules can negatively impact your grade, including by reducing it to an F.

**Observation Exercise.** At any point in the semester **after class 13**, you must complete an observation exercise by going on a ride-along for at least four (4) hours with a police officer. You are responsible for making all necessary arrangements to go on a ride-along. After the ride-along, you must turn in a summary of your observations, which we will discuss in class. Students who are unable to go on a ride-along should contact me as soon as possible to discuss alternatives.

**Short Papers.** You are responsible for writing a total of four (4) papers, of no more than seven (7) pages each. One paper must relate to the material covered from Class 1 to Class 6; the other three must relate to the material covered from Class 7 to Class 26. Papers are due within two (2) weeks of the class covering the relevant material.

This is not intended to be a book report; the papers should **not** just summarize the assigned material or class discussion. Instead, response papers should engage with and go beyond the assigned material and class discussion by, for example:

- Identifying inconsistencies, tensions, and conflicts between the various concepts or doctrines and fully explaining whether and why those inconsistencies are appropriate or problematic;
- Assessing whether the legal doctrines we study adequately regulate the police, supporting your assessment with a full explanation;
- Explaining shortcomings in existing legal regulations and propose specific corrections; or
- Engaging with and fully answering one of the sample problems in the casebook.

## Short Paper Grading Matrix

CRITERIA	EVALUATION				
	Excellent (A)	Good (B)	Fair (C)	Poor (D)	WTF?! (F)
<b>Understanding &amp; Engaging with Legal Concepts</b> (40%)	Demonstrates a complete and thorough understanding of the core principles and concepts relevant to the topic. Goes beyond the assigned readings and class discussions. Incorporates substantial external sources, ideas, or concepts.	Demonstrates a solid understanding of the key concepts, with some incorporation of additional readings or applications. Applies legal principles in a mostly accurate manner but may lack depth or miss some nuanced connections between concepts.	Shows a basic understanding of the main concepts but fails to engage deeply with them. There may be minor errors in applying legal principles or a lack of engagement with sources beyond the required materials.	Limited understanding of the concepts with significant misunderstandings or misapplications. No engagement with additional materials beyond the assigned readings.	Lacks understanding of the legal principles discussed. Misapplies concepts or fails to demonstrate any understanding of how to apply them.
<b>Critical Thinking &amp; Analysis</b> (35%)	Demonstrates advanced critical thinking, showing the ability to analyze and critique legal arguments. Clearly identifies strengths and weaknesses in legal reasoning, and offers original insights or new perspectives. Effectively engages with counterarguments or alternative interpretations.	Offers a good level of analysis with some critical evaluation of arguments. Engages with alternative viewpoints but may not fully explore their implications or complexity.	Provides basic analysis, but lacks depth or nuance. Critical engagement with the material is limited, and counterarguments are either not considered or inadequately addressed.	Shows minimal analysis and critical analysis. Does not address or consider alternative viewpoints, and the argument is largely descriptive or overly simplistic.	Lacks analysis and critical thought.
<b>Originality</b> (15%)	Provides original thought and analysis that adds significant value to the topic. Engages with class materials, but demonstrates a fresh perspective on the material and advances the discussion.	Offers original insights and demonstrates solid independent thought, but relies to a significant extent on class materials.	Demonstrates some originality, but relies heavily on class materials. Substantially summarizes or reiterates existing arguments.	Offers minimal originality, offers little in the way of new contribution or insights. xxor new contribution to the topic.	Lacks originality. The paper is merely a regurgitation of class materials without any meaningful analysis.
<b>Organization &amp; Structure</b> (5%)	Well-organized and logically structured. Clear introduction, body, and conclusion. The argument flows smoothly, with each section contributing to the development of the thesis. Paragraphs are well-developed and focused.	Organization is generally clear and coherent. Most sections are well-structured, but there may be minor issues with flow or transitions between ideas.	The structure is somewhat disorganized, and the paper may lack clear transitions. The argument may be difficult to follow at times, or sections may feel disconnected.	Disorganized or hard to follow. Ideas may be presented in a random order, and the argument is not clearly developed.	Very poorly organized, with little or no structure. The paper is hard to follow and lacks a coherent argument or logical flow.
<b>Clarity &amp; Precision</b> (5%)	Clear, concise, and precise writing. The paper is well-written and free of grammatical errors, with careful attention to sentence structure and word choice. Technical terminology is used correctly.	Writing is mostly clear, though some parts may be awkward or slightly unclear. Few grammatical or stylistic issues.	Writing is generally clear but contains noticeable grammar or stylistic issues. Sentence structure may be awkward at times, and clarity could be improved.	Writing lacks clarity, with frequent grammatical or typographical errors. Sentences may be difficult to understand, and ideas may not be clearly expressed.	Writing is unclear and difficult to understand due to poor grammar, sentence structure, or vocabulary. The paper is hard to follow.

## **Disability Accommodations**

The University of South Carolina provides high-quality services to students with medically documented disabilities, and I encourage you to take advantage of them. Any student with a documented disability should make arrangements for appropriate accommodations by bringing appropriate documentation to the Student Disability Resource Center in LeConte College Room 112A. Questions may be directed to the Center at (803) 777-6142, or [sadrc@mailbox.sc.edu](mailto:sadrc@mailbox.sc.edu).

## SYLLABUS

TOPICS	CLASS	CASEBOOK ASSIGNMENT(S)	ADDITIONAL ASSIGNMENT(S) Author, Title/Case (# of Pages)
<b>PART I: THE CONCEPT OF POLICING</b>			
A. The Law of the Police	1	1-25	--
B. The Nature of Policing	2	30-33 (notes 1-8)	Bittner, <i>Florence Nightingale in Pursuit of Willie Sutton</i> (13)
	3	33-48	--
C. The Evolution of Policing	4	48-62	--
D. Policing as a Public Good	5	63-75	Stoughton, <i>The Blurred Blue Line</i> (11)
E. Policing in a Democracy	6	--	Marx, <i>Police &amp; Democracy</i> (8) Goldstein, <i>Policing a Free Society</i> (13)
<b>PART II: CONTEMPORARY ISSUES IN THE REGULATION OF POLICING</b>			
A. Traffic Stops 1. Pretextual Traffic Stops	7	237-39 289-306 (thru n.3)	--
B. Racial Profiling	8	333 (Racial Inequality box)	Gross & Livingston, <i>Racial Profiling Under Attack</i> (26)
	9	306-328	--
C. Street Encounters 1. Street Stops	10	241-262	--
2. "Proactive" Policing	11	263-88	Cassidy, <i>The Statistical Debate Behind the Stop-and-Frisk Verdict</i> <a href="https://tinyurl.com/PLPClass12">https://tinyurl.com/PLPClass12</a>
D. Making Arrests	12	335-366	--
E. Policing Resistance 1. Challenging the Police	13	423-43	--
	14	445-57	--
2. Policing Protest	14	445-57	--
3. Recording the Police	15	458-72	--
F. The Use of Force 1. The Constitutional Standard(s)	16	368-88	--
	17	398-408	<i>Armstrong v. Village of Pinehurst</i> , 810 F.3d 892 (2016) (17)
2. State Law 3. Administrative Regulation 4. Reform		409-14	--
	18	413-15	--
		415-19	--
G. Immigration	19	548-63	--

H. Surveillance	20	102-34	--
I. Interrogation & Confessions	21	151-53, 171-86	--
J. Eyewitness Identifications	22	186-200	--
K. Evidentiary Disclosure			
1. Disclosure of Evidence by Police	23	202-223	--
2. Disclosure of Police as Evidence	24	223-35	--
<b>PART III: CIVIL REMEDIES</b>			
A. Suing Officers	25	601-25	--
B. Suing Municipalities	26	625-50	--

\*The assignments set out in this syllabus are not set in stone; we may make adjustments over the course of the semester depending on where our combined interests take us. At various points in the semester, I may assign additional readings that provide different perspectives or raise new questions about the topics we cover in class. I will provide you with as much notice as possible before making any changes.