

**COLLEGE OF CRIMINAL JUSTICE
SAM HOUSTON STATE UNIVERSITY
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**CJ 771 SPECIAL TOPICS-CRIMINAL JUSTICE:
LEGAL LIABILITIES OF CRIMINAL JUSTICE PERSONNEL**

Professor: Dr. Michael S. Vaughn, Ph.D.
Phone: 936.294.1349
Office: 104-C CJ Center
Office Hours: T 3:00-4:30 PM
or by appointment

Credit Hours: 3
Semester/Year: Fall, 2007
Class Day/Time: W 6:00-8:50 PM
Class Location: CJ Center A181
Email: mvaughn@shsu.edu

Course Prerequisites: M.A. or Ph.D. student

Course Abstract: This course provides an examination of civil liability of criminal justice personnel in the United States. While the course focuses primarily on law enforcement liability, it also includes a minor review of the liability risks faced by correctional officers. In addition, the course covers criminal liability, liability under state tort law, liability under federal law, and other administrative sanctions applicable to criminal justice personnel.

Course Objectives: 1- To provide students with a survey of the liability risks facing criminal justice personnel pursuant to statutory law and court cases. 2-To have students acquire and demonstrate critical thinking skills through written work. 3-To have students recognize and understand the landmark liability cases decided by the United States Supreme Court.

Required Texts: (1) Kappeler, V.E. (2006). *Critical Issues in Police Civil Liability* (4th ed.). Long Grove, IL: Waveland. (2) Kappeler, V.E. (2006). *Police Civil Liability: Supreme Court Cases and Materials* (2nd ed.). Long Grove, IL: Waveland. (3) Articles and Cases online in the Library's Electronic Reserves.

How to Access the Library's Electronic Reserves:

Go to SHSU's home page: <http://www.shsu.edu/>

Under Academics, click Newton Gresham Library (last column to the right).

Under Services, click Course Reserves.

Click Electronic Reserves.

Click Electronic Reserves and Reserve Pages.

Click tab that says Course Reserves Pages by Instructor.

From the drop-down menu, select Vaughn and Click View.

Click the Course Number CJ 771.

Enter the password **probono** and Click Accept.

This will bring up a list of documents. In the class, some of the documents will be in folders (i.e., Days 1 & 2, Day 3, Day 4, Day 5, etc.). There is an option to open and close all folders at the top—students may click this or access the documents in a folder by clicking it.

Click the title of the document you want.

Click the pdf file or link at the bottom of the citation

Recommended Text: American Psychological Association. (2001). *Publication manual of the American Psychological Association* (5th ed.). Washington, DC: American Psychological Association.

Attendance: Students are referred to the Sam Houston State University Graduate Catalog, 2005-2007 for the official university policy on class attendance. Students are expected to attend course lectures on a regular basis. Excessive absences will adversely affect a student's grade because in class student participation is required.

Academic Honesty: All students at this University are expected to engage in academic pursuits on their own with complete honesty and integrity. Any student found guilty of dishonesty in any phase of academic work will be subject to disciplinary action. The Graduate Faculty of Sam Houston State University expects students to conduct their academic work with integrity and honesty. Acts of academic dishonesty will not be tolerated and can result in the failure of a course and dismissal from the University. Academic dishonesty includes, but is not limited to, cheating on a test, plagiarism, collusion (the unauthorized collaboration with another person in preparing work offered for credit), the abuse of resource materials, and misrepresentation of credentials or accomplishments as a member of the college. The University's policy on **academic honesty** and appeal procedures can be found in the manual entitled Student Guidelines, distributed by Division of Student Services. (Reference Section 5.3 of the SHSU Student Guidelines).

Disability Student Policy: <http://www.shsu.edu/~vaf> www.aps/811006.html

Services for Disabled Students: <http://www.shsu.edu/~counsel/sswd.html>

Student Absences on Religious Holy Day Policy:

<http://www.shsu.edu/catalog/scholasticrequirements.html#holyday>

Withdrawals: Students wishing to withdraw are cautioned to follow formal procedures outlined by the university. Consult the Sam Houston State University Graduate Catalog, 2005-2007 for official policies under "tuition and fees refund policy" and "dropping courses."

Incompletes: Except for the gravest of emergencies, a grade of "incomplete" will not be allowed for the course. Any missing grades, whether for examination or assignments, will be assumed to be zeros and will be averaged as such.

Weekly Readings and Presentations: Each student is expected to have completed the reading assignments before each class session. Reading the assignments before each class session will enhance students' understanding of daily classes. **20% of the final grade** will be based on the presentation and discussion of cases from Kappeler's book and cases on Blackboard. A schedule of student presentations is listed later in the syllabus. Students will read the decision of the majority opinion from the last appeals court that heard the case prior to U.S. Supreme Court review (located on Blackboard), and they will read the U.S. Supreme Court opinion that resulted (located in the Kappeler book, except *Scott v. Harris* and *Los Angeles County v. Rettele*, both decided by the U.S. Supreme Court in 2007). When summarizing the cases on Blackboard and in the Kappeler *Supreme Court* book, students are expected to speak (informally; sitting in their chair) for 10 minutes and allow for 5 minutes of class discussion; at the end of their presentation students should provide one question based on their reading for the purposes of stimulating class discussion. There is no need to submit anything in writing to the class or submit any documentation to Dr. Vaughn for these weekly cases. However, quality presentations and discussion of cases will be the determinant factor on which students' class participation grade will be based.

Tests: There will be no exams.

Paper Drafts: Students will be required to write a paper on legal liabilities of criminal justice personnel. Students will **submit drafts of their papers to Dr. Vaughn on September 26 and October 31**. A draft is at least 15 to 20 pages in length with an abstract, references, and clear indication where the paper is heading. A paper draft is not an outline with no references. A paper draft is not a 5 to 10 page paper. Students need to make all corrections marked on their papers by Dr. Vaughn, unless the student disagrees with the change, and at that point, the student needs to speak with Dr. Vaughn. **Each draft is worth 15% of the final grade; thus, the two paper drafts are worth 30% of the final grade.**

Course Paper: This course requires students to write a research paper that consists of 30 typewritten, double-spaced pages with an inch margin all the way around. Research paper topics are discussed later in the syllabus, but they should focus on civil liability or a topic has had approved by the instructor. **The paper will comprise 40% of the final grade.** The research paper is **due at 5:00 p.m. on Wednesday, December 12**. All papers must be emailed to Dr. Vaughn; papers may not be submitted to departmental secretaries or receptionists. Late papers will be subject to a letter grade deduction per calendar-day.

A Comment on Student Papers: Dr. Vaughn firmly believes Ph.D. students should be mentored to conduct research and to publish papers while in graduate school. I hope some of the papers in this class can be worked into publishable papers. If students work hard, I pledge to work hard with you on getting your papers published.

Final Paper: The final copy of the student's paper is due **December 12**. It is worth **40% of the final grade**.

Turning in Papers/Assignments: Students must submit papers directly to the professor and not submit them to the receptionists in the college office.

Power Point Presentation: Student power point presentations will represent a graphical and verbal synopsis of their paper. The power point presentations have a time limit of 15-minutes (**10% of final grade**). **December 5**.

Disruptive Student Behavior: Disruptive student behavior in the classroom will not be tolerated.

Grade Distribution: The final grade will be based on the two drafts of the paper (15% each=30%), the final paper (40%), class participation each week of the cases (20%), and the power point presentation (10%). 100-90%=A, 89-80%=B, 79-70%=C, 69-60%=D, 59% and below=F.

Distribution of Grades at the End of the Semester: Students may find out their grades in the course, if they email the instructor Sunday, December 16. According to university policy, grades cannot be posted, nor can grades be given over the telephone. Grades are due to the Registrar's Office at 9:00 a.m. Monday, December 17

NOTE--This syllabus is primarily for planning purposes and the instructor reserves the right to alter it in any fashion.

Course Outline:

August 22-29 (Days 1 & 2)

Introduction to Course—Contours of Legal Liabilities of Criminal Justice Personnel.

Chapter 1 in Kappeler (Critical Issues)—The Scope and Impact of Police Civil Liability.

Chapter 1 in Kappeler. (Supreme Court)—Overview of the Court and Case Law.

Chapter 3 in Kappeler (Critical Issues)—The Fundamentals of Federal Liability Law.

Chapter 1 in Wade et al—Development of Liability Based on Fault.

Chapter 12 in Collins—The Correctional Employee and Litigation: How a Lawsuit Works.

Vaughn et al.—Assessing Legal Liabilities in Law Enforcement: Police Chiefs' Views.

Vaughn & Coomes—Police Civil Liability Under Section 1983: When do Police Officers Act Under Color of Law?

Criminal Liability Under Federal Law--Title 18 U.S.C. Section 242—See Vaughn & Coomes

Vaughn, M.S.—Federal Civil Rights History Timeline

Glossary of Legal Terms Used in Legal Research in Mersky & Dunn

Legal Research

Chapter 1 in Acker & Irving—Basic Legal Research—Building Blocks for Legal Research

Chapter 1 in Mersky & Dunn—An Introduction to Legal Research

Chapter 2 in Mersky & Dunn—The Legal Research Process

Chapter 2 in Stevens—Finding, Reading, and Using the Law

Chapter 9 in Elias & Levinkind—Finding Cases

Chapter 3 in Mersky & Dunn—Court Reports

Chapter 4 in Mersky & Dunn—Federal Court Cases

Chapter 5 in Mersky & Dunn—State Court Cases and the National Reporter System

Chapter 6 in Mersky & Dunn—Digests for Court Reports

Chapter 7 in Mersky & Dunn—Fundamentals of Legal Research: Annotated Law Reports

Students who need help with legal research, please come to Dr. Vaughn's Office.

September 5 (Day 3)

Municipality Liability and Immunity

Monroe v. Pape, 272 F.2d 365 (7th Cir. 1959).

Monroe v. Pape, 365 U.S. 167 (1961). (In Kappeler, Supreme Court, p. 17).

Monell v. Department of Social Services of City of New York, 532 F.2d 259 (2nd Cir.1976).

Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978). (In Kappeler, Supreme Court, p. 32).

Owen v. City of Independence, Missouri, 589 F.2d 335 (8th Cir. 1978).

Owen v. City of Independence, Missouri, 445 U.S. 622 (1980). (In Kappeler, Supreme Court, p. 61).

Leatherman v. Tarrant County Narcotics Intelligence and Coordination, 954 F.2d 1054 (5th Cir. 1992).

Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U.S. 163 (1993). (In Kappeler, Supreme Court, p. 85)

September 12 (Day 4)

Individual and Official Capacity Lawsuits

Brandon v. Allen, 719 F.2d 151 (6th Cir. 1983).

Brandon v. Holt, 469 U.S. 464 (1985). (In Kappeler, Supreme Court, p. 93)

Graham v. Wilson, 742 F.2d 1455 (6th Cir. 1984) Unpublished Opinion (Attorney General's Report).

Kentucky v. Graham, 473 U.S. 159 (1985). (In Kappeler, Supreme Court, p. 100)

Smith v. Department of Public Health, 410 N.W.2d 749 (Mich. 1987).

Will v. Michigan Department of State Police, 491 U.S. 58 (1989). (In Kappeler, Supreme Court, p. 108).

Melo v. Hafer, 912 F.2d 628 (3rd Cir. 1990).

Hafer v. Melo, 502 U.S. 21 (1991). (In Kappeler, Supreme Court, p. 112).

Bishop Paiute Tribe v. County of Inyo, 291 F.3d 549 (9th Cir. 2002).

Inyo County, California et al. v. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony et al., 538 U.S. 701 (2003). (In Kappeler, Supreme Court, p. 124).

September 19 (Day 5)

Policy, Custom, and Policymakers

Tuttle v. City of Oklahoma City, 728 F.2d 456 (10th Cir. 1984).

City of Oklahoma City v. Tuttle, 471 U.S. 808 (1985). (In Kappeler, Supreme Court, p. 135)

Pembaur v. City of Cincinnati, 746 F.2d 337 (6th Cir. 1984).

Pembaur v. City of Cincinnati, 475 U.S. 469 (1986). (In Kappeler, Supreme Court, p. 146)

Praprotnik v. City of St. Louis, 798 F.2d 1168 (8th Cir. 1986).

City of St. Louis v. Praprotnik, 485 U.S. 112 (1988). (In Kappeler, Supreme Court, p. 157).

Failure to Train & Municipal Liability

Harris v. Cmich, 798 F.2d 1414 (Table, unpublished opinion) (6th Cir. 1986).

City of Canton v. Harris, 489 U.S. 378 (1989). (In Kappeler, Supreme Court, p. 233).

Collins v. City of Harker Heights, Tex., 916 F.2d 284 (5th Cir. 1990).

Collins v. City of Harker Heights, Texas, 503 U.S. 115 (1992). (In Kappeler, Supreme Court, p. 243).

September 26 (Day 6)

First Draft of Paper Due—No Class

October 3 (Day 7)

Individual Tutorials with Dr. Vaughn in his Office—No Class (Make Appointments)

October 10 (Day 8)

Policy, Custom, and Policymakers (Continued)

Brown v. Bryan County, Okl., 67 F.3d 1174 (5th Cir. 1995).

Board of the County Commissioners of Bryan County, Oklahoma v. Brown, 520 U.S. 397 (1997). In Kappeler, Supreme Court, p. 170).

McMillian v. Johnson, 88 F.3d 1573 (11th Cir. 1996).

McMillian v. Monroe County, Alabama, 520 U.S. 781 (1997). (In Kappeler, Supreme Court, p. 182).

Scope of Individual Immunity

Nixon v. Fitzgerald, 457 U.S. 731 (1982). (First supreme court case to provide background information).

Harlow v. Fitzgerald, 457 U.S. 800 (1982). (In Kappeler, Supreme Court, p. 345).

Briscoe v. LaHue, 663 F.2d 713 (7th Cir. 1981).

Briscoe v. LaHue, 460 U.S. 325 (1983). (In Kappeler, Supreme Court, p. 359).

Briggs v. Malley, 748 F.2d 715 (1st Cir. 1984).

Malley v. Briggs, 475 U.S. 335 (1986). (In Kappeler, Supreme Court, p. 373).

October 17 (Day 9)

Scope of Individual Immunity (Continued)

Creighton v. City of St. Paul, 766 F.2d 1269 (8th Cir. 1985).

Anderson v. Creighton, 483 U.S. 635 (1987). (In Kappeler, Supreme Court, p. 380).

Bryant v. U.S. Treasury Dept., Secret Service, 903 F.2d 717 (9th Cir. 1990).

Hunter v. Bryant, 502 U.S. 224 (1991). (In Kappeler, Supreme Court, p. 388).

Wilson v. Layne, 141 F.3d 111 (4th Cir. 1998).

Wilson v. Layne, 526 U.S. 603 (1999). (In Kappeler, Supreme Court, p. 270).

Katz v. U.S., 194 F.3d 962 (9th Cir. 1999).

Saucier v. Katz et al., 533 U.S. 194 (2001). (In Kappeler, Supreme Court, p. 220).

Haugen v. Brosseau, 339 F.3d 857 (9th Cir. 2003).

Rochelle Brosseau v. Kenneth J. Haugen, 543 U.S. 194 (2004). (In Kappeler, Supreme Court, p. 392).

October 24 (Day 10)

Police Use of Force

Garner v. Memphis Police Dept., 710 F.2d 240 (6th Cir. 1983).

Tennessee v. Garner, 471 U.S. 1 (1985). (In Kappeler, Supreme Court, p. 195).

Graham v. City of Charlotte, 827 F.2d 945 (4th Cir. 1987).

Graham v. Connor, 490 U.S. 386 (1989). (In Kappeler, Supreme Court, p. 209).

Heller v. Bushey, 759 F.2d 1371 (9th Cir. 1985).

City of Los Angeles v. Heller, 475 U.S. 796 (1986). (In Kappeler, Supreme Court, p. 217).

Brower v. Inyo County, 817 F.2d 540 (9th Cir. 1987).

Brower v. County of Inyo, 489 U.S. 593 (1989). (In Kappeler, Supreme Court, p. 299).

Scott v. Harris, ___ U.S. ___, 127 S.Ct. 1769 (2007). Slip Opinion online at Supreme Court Website

Harris v. Coweta County, Ga., 433 F.3d 807 (11th Cir. 2005). (On Westlaw)

Chapter 4 in Kappeler—Critical Issues Civil Liability for Police Use of Excessive Force

October 31 (Day 11)

Second Draft of Paper Due—No Class

November 7 (Day 12)

Tutorials with Dr. Vaughn as Needed Before, After Class, or Sometime During the Week (Make Appointments)

Due Process

Lewis v. Sacramento County, 98 F.3d 434 (9th Cir. 1996).

County of Sacramento v. Lewis, 523 U.S. 833 (1998). (In Kappeler, Supreme Court, p. 304).

Martinez v. City of Oxnard, 270 F.3d 852 (9th Cir. 2001).

Chavez v. Martinez, 538 U.S. 760 (2003). (In Kappeler, Supreme Court, p. 318).

Gonzales v. City of Castle Rock, 366 F.3d 1093 (10th Cir. 2004).

Town of Castle Rock, Colorado v. Gonzales, 545 U.S. 748 (2005). (In Kappeler, Supreme Court, p. 328).

Remedies Available at the State Level: State Tort Law

Chapter 2 in Kappeler—Critical Issues—The Fundamentals of State Tort Law

Chapter 6 in Kappeler—(Critical Issues)—Police Civil Liability for Failure to Protect

Chapter 7 in Kappeler—(Critical Issues)—Police Civil Liability for Negligent Pursuits

Chapter 8 in Kappeler—(Critical Issues)—Police Civil Liability for Failure to Arrest Intoxicated Drivers

Chapter 9 in Kappeler—(Critical Issues)—Liability of Traffic Officers: Negligence at Accident Scenes

November 14— American Society of Criminology in Atlanta—No Class. (Day 13)

November 21— Thanksgiving Holiday—No Class. (Day 14)

November 28 (Day 15)

Fourth Amendment Violations

Soldal v. County of Cook, 942 F.2d 1073 (7th Cir. 1991).

Soldal v. Cook County, 506 U.S. 56 (1992). (In Kappeler, Supreme Court, p. 253).

Albright v. Oliver, 975 F.2d 343 (7th Cir. 1992).

Albright v. Oliver, 510 U.S. 266 (1994). (In Kappeler, Supreme Court, p. 264).

Ramirez v. Butte-Silver Bow County, 298 F.3d 1022 (9th Cir. 2002).

Groh v. Ramirez et al., 540 U.S. 551 (2004). (In Kappeler, Supreme Court, p. 279)

Mena v. City of Simi Valley, 332 F.3d 1255 (9th Cir. 2003).

Muehler et al. v. Mena, 544 U.S. 93 (2005). (In Kappeler, Supreme Court, 288)

Rettele v. Los Angeles County, 186 Fed.Appx. 765 (9th Cir. 2006).

Los Angeles County v. Rettele, ___ U.S. ___, 127 S.Ct. 1989 (2007). Slip Opinion online at Supreme Court Website

December 5 (Day 16)

Power point Presentations of Course Papers

December 12—Final Paper Due at 5:00 p.m. Email to Dr. Vaughn. **(Day 17)**

GUIDELINES FOR PAPER ASSIGNMENTS FALL 2007**CJ 771 SPECIAL TOPICS-CRIMINAL JUSTICE:
LEGAL LIABILITIES OF CRIMINAL JUSTICE PERSONNEL
Professor: Dr. Michael S. Vaughn, Ph.D.**

The papers will be graded based on the following criteria:

1-30% content

2-25% organization and presentation

3-25% grammar, spelling, punctuation, and readability

4-20% citation and reference style (See APA Manual)

1-Content

The paper should address the issue(s) of the assignment and answer directly the question(s) posed.

2-Organization and presentation

The paper should be presented in a neat and professional fashion. The paper also should be well organized.

3-Grammar, spelling, punctuation, and readability

The paper should use correct grammar and punctuation. The paper should contain no spelling errors and read well.

4-Citation and reference style

The paper should conform to the latest edition of the American Psychological Association (APA) citation and reference style as outlined in the APA Style Manual (5th ed.).

STUDENTS SHOULD COME TO DR. VAUGHN'S OFFICE FOR HELP AND GUIDANCE BEFORE STARTING TO WRITE THE RESEARCH PAPER

Each student will write a 30 page paper in this course that is of publishable quality. This will be done by students submitting drafts of their paper to Dr. Vaughn for him to correct and return to the student. **Drafts are due September 26 and October 31.** Each student will focus on a different criminal justice event, and the events are detailed in various court cases. A brief description of the event is required to analyze it properly, papers should not rely too heavily on event description. Rather, papers should be analytical in nature and apply in the introduction the social science research on the topic to the issue to be discussed later with the case law. Students should select specific descriptive examples from the event (i.e., police first amendment violations of suspects' rights) and explain how social science research helps us understand these events more completely. To adequately address their topics, students must conduct significant research (online or in the library) to get the legal cases and social science research on their topic.

Potential Paper Topics for CJ 771

Various Court Cases that Detail U.S. Court Involvement in Criminal Justice Issues (strip searches, sexual violence committed by criminal justice personnel, inmate-on-inmate assault in jail/prison, failure to delivery adequate medical care to prisoners, failure to train, failure to discipline, failure to protect, failure to supervise, failure to investigate, etc.)

Access to Courts in Jail/Prison

Medical Care in Jail/Prison

Overcrowding in Jail/Prison

Suicide in Jail/Prison

Good Time in Prison

State Created Liberty Interests

ADA (Disability Discrimination)

Prison Transfers

18 U.S.C. Section 242 (Criminal Liability)

Probation and Parole Liability

Municipal Liability under Section 1983 (Jails or Police)

Sexual Violence Committed by Prison Staff/Police

Visitation in Jail/Prison

Forced Medications in Jail/Prison

Prison Mail

Prison Exercise

Prison Mental Health Treatment

Prison Dental Care

Retaliation Against Citizens, Prisoners, or Staff

Fireman's Rule

Religion and the Workplace

Working Overtime

Use of Nondeadly Force by Police

ADEA (Age Discrimination in Employment Act)

Strip Searches by Police Officials

Failure to Investigate Adequately

Failure to Arrest Drunken Drivers

Liability for, Stops, Searches & Seizures

Failure to Train/Supervise

Canine (K-9) Liability

Emotional Stress Caused by Police

Police Intentionally Submitting False Warrant Application

Duty of Police to Provide Medical Care

Liability for Police Policymakers

Liability Under Independent State Grounds

Other Topics with the Approval of Dr. Vaughn.

Freedom of Association

Prison Searches and Seizures

Prisoner Discipline

Prisoner Religion

Inmate-on-Inmate Assault

Use of Nondeadly Force by Prison Officials

Use of Deadly Force by Prison Officials

Segregation of Prisoners (violence/racial/gang)

Strip Searches of Visitors/Inmates in Jail/Prison

Bivens Actions

(Federal Tort Claims Act) 28 U.S.C. Section 2674

Color of Law Requirement under Section 1983

Respondeat Superior Liability Under State Tort Law

Smoking in Prison

Prison Publications

Prison Treatment Programs

Prison Diet

HIV/AIDS Care in Prison

Hot Pursuit by Police

Disciplining Police/Prison Employees

Protective Custody in Jail/Prison

Police/Prison Grooming Policies for Staff

Use of Deadly Force by Police

Sexual Harassment

Police Supervisors Failure to Direct Adequately

False Arrest/False Imprisonment by Police

Danger Creation by Police

Creation of Special Relationship by Police

War on Drugs

Failure to Protect by Police

Racial Discrimination by Police

Failure to Discipline Wayward Police

Negligent Police Driving

Scope of Police Immunity

State Statute Analysis

aele is also a fabulous source as distributed in class

How to Write a Paper

The assignment requires students to integrate some social science research with the legal case law and produce a hybrid paper that is primarily legal in scope but it is informed by social science research on the topic.

Make sure you either do Section 1983 or state tort law. Mixing of the two is easy to do, but this should be avoided since standards of liability and the precedents differ for each.

Know the difference between Section 1983 cases and criminal cases. Do not get cases that pertain to motions to suppress evidence – these are criminal cases and this paper deals with civil liability. Know the difference between motion to suppress and motion for dismissal and motion for summary judgment. For this reason, in the search strategy of Westlaw and Lexis-Nexis Academic, you should use "Section 1983" as one of the search terms.

Keep the paper narrowly focused on the topic; you are not writing a book so don't get too carried away.

Take each of the four sections below and treat each section as a discrete entity. This assignment requires time and organization and it can seem overwhelming at first, but if you take each part of the paper and complete one and then move on to the next, it can be more manageable.

Introduction

The introduction should introduce the problem to readers. It should draw on the social science literature (Academic Search Premier, Criminal Justice Abstracts, Criminal Justice Periodical Index, Sage Criminology Collection, Science Direct, Wilson Omni-File, JSTOR, the EBSCO databases, Index to Legal Periodicals, PSYCH INFO, Psychiatry Online, Sociological Abstracts, Social Sciences Full-Text, Social Service Abstracts). This part of the paper is not legal; this part of the paper frames the issue based on the social science literature for an understanding to be achieved through legal analysis. At the end of the introduction, the paper should include a brief paragraph (4 sentences) that tells readers what the rest of the paper is about.

U.S. Supreme Court Precedent

This part of the paper should briefly tell readers what the U.S. Supreme Court has said about the area and articulate the standard for liability (i.e., in prison medical care cases, in *Estelle v. Gamble*, the Court said the standard for liability is deliberate indifference; in police use of force cases, the Court in *Graham v. Connor* said the standard for liability is objective reasonableness). Give readers the highlights of what the Court has said in the area. If there are no U.S. Supreme Court cases on the issue, then discuss what standards lower courts are using. Don't get too carried away with this part of the paper, for this could be the entire paper if you write too much here, and this assignment is not about Supreme Court precedent, so this needs to be limited.

Lower Court Interpretation of U.S. Supreme Court Precedent

(Heart of the paper)

Here, you must locate lower court cases on their topical areas (Westlaw and Lexis-Nexis Academic). 15-30 (or more depending on your topic; or less depending on your topic—if too few lower court cases you have picked the wrong topic) lower court cases should be used here (U.S. Court of Appeals or U.S. District Court Cases if 1983 actions is the focus and for most it should be. Some may want to get into state tort law, but if you do not mix Section 1983 cases with state tort cases as they are different causes of action based on different precedents. If you are writing about liability under state law then obviously you will be using state cases. Break this discussion into two broad areas: cases where the defendants are possibly liable and cases where the defendants are not liable. Students should not mix cases of possible

liability with cases of no liability. Under each of these two areas, further organize the material into categories and subcategories. If use of nondeadly force is the topic, then cases on potential liability and no liability would make up two separate categories and under each category, further break the cases into meaningful categories: group 4-5 cases together that focus on force with batons, another 4-5 on chemical agents, another 4-5 on bodily restraint holds, etc. Categories could also be related to use of force at traffic stops, use of force during arrests, use of force at domestic disturbances, use of force at jail, etc. OR, use of force with juveniles, use of force with adults, use of force with foreign nationals, use of force with the elderly, use of force with the mentally ill, use of force with the mentally challenged, use of force with the intoxicated, etc. Since creating the categories is an **inductive process** and the specific factual situations of the cases will drive what type of categories one develops, it is difficult to precisely say what the categories will be. Creating the categories within each of the broader areas of possible liability and no liability is part of the creative process and students must read several cases before getting discouraged because the categories only come from what the factual situations in the cases dictate. **Do not write more than 1 or 1.5 page per case in this lower court section.** Some of these cases are complex and students could write several pages per case, but this is not the point of the paper. The point of the paper is for students to integrate several cases into a cohesive body of work. You should find commonalities and differences between cases and then group these similarities and differences into categories. At the end of the section on possible liability, students are required to write a brief paragraph (4 sentences) to summarize the section; at the end of the section on no liability students are required to write a summary paragraph that summarizes this section.

Conclusion

Students should sum up their findings and relate their findings back to their social science research discussion back in the introduction of the paper. Report any major trends that have occurred in the law, tell readers what still needs to be known about their topical areas. Most research leads to more questions that need to be answered prior to starting the research project, Students should also discuss needs for future research. Students should identify the policy implications flowing from their research: training, supervision, education, policy development, etc.

GUIDE TO CASE BRIEFING

Below is a sample case brief. Case briefs help the reader to understand court cases better and are used extensively as a learning tool in law schools and in the practice of law. Students read a case, take it apart into classified segments, and then reassemble it in a more concise and organized form so as to facilitate learning.

In order to familiarize students with the basics of case briefing, a sample case brief is presented here. It must be stressed that there are various ways to brief cases, usually depending on what the reader or instructor considers important. For example, some instructors include only the court's majority opinion, while others go into concurring and dissenting opinions. Some require comments concerning the significance of the case, while others want excerpts from the decision. What follows is one of the simplest ways to brief a case.

The basic elements of a simple case brief are

1. Name of the case
2. Citation (telling where the case can be found)
3. Date decided
4. Facts
5. Main issue
6. Decision
7. Principle of law
8. Analysis

Example of a Case Brief: The Case of Miranda v. Arizona

- 1. Name of the Case:** Miranda v. Arizona
- 2. Citation:** 384 U.S. 486
- 3. Date Decided:** 1966

Note: *In your brief, the preceding elements go in this order: Miranda v. Arizona, 384 U.S. 486 (1966).*

4. Facts: Ernesto Miranda was arrested in his home and taken to the police station in Phoenix, Arizona, where he was interrogated by two police officers for two hours. He was not advised of his right to remain silent or of his right to an attorney. Miranda signed a written confession and was later convicted of kidnapping and rape. He appealed his conviction to the U.S. Supreme Court, saying that the evidence against him was obtained in violation of his constitutional right against self-incrimination and therefore should not have been admitted in court.

Note: *The facts section can be too detailed or too sketchy, both of which can be misleading. In general, be guided by this question: What minimum facts must you include in your brief so that a person who has not read the whole case (as you have) will nonetheless understand it? That amount of detail is for you to decide--you must determine what facts are important or unimportant.*

5. Main issue: Are statements made by a suspect during custodial interrogation--where the suspect has not been advised of his right to remain silent or to have an attorney--admissible as evidence in court during the trial?

Note: The issue statement must always be in question form, as here. Be sure that your issue statement is neither too narrow (as to be applicable only to the peculiar facts of that case) nor too general (as to apply to every case even remotely similar in facts), so that it is useless. Also, some cases have more than one issue.

6. Court Decision: The conviction of Miranda was reversed, and the case was sent back to trial court for new trial without using the evidence that was illegally obtained.

Note: The court decision section answers the following questions: Did the court affirm, reverse, or modify the decision of the immediate lower court from which the case came, and what happened to the case? Sometimes this is confused with the principle of law. The difference is that the court decision section simply tells you what happened to the case on appeal and what the court said is to be done with it.

7. Principle of Law (otherwise known as Doctrine or Ruling or Decision): When a suspect is taken into custody or otherwise deprived of freedom in a significant way, he or she must be given the following warnings:

a. You have the right to remain silent; b. Anything you say can be used against you in a court of law; c. You have a right to the presence of an attorney; d. If you cannot afford an attorney, one will be appointed for you by the state.

If these warnings are not given, any evidence obtained by the police cannot be admitted in court during the trial, because it is deemed to have been obtained in violation of a suspect's constitutional right against self-incrimination.

Note: Most cases do not have a principle of law as lengthy as this. In any case, you must be able to state in brief, exact, clear language what the court said. Usually, you can pick the principle of law out from the case itself, particularly toward the end of the court decision. The principle of law is the most important element of the case, because it states the rule declared by the court. Such a rule becomes applicable to similar cases to be decided by courts in that jurisdiction.

Note: Your paper should not be written as a case brief. Your paper should be written as a research paper.