Criminal Procedure I
Syllabus and Course Overview

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Room 201
516-463-5882

Fall 2017 Semester
Tues-Thurs 2:10 - 4 pm
Room 230

OBJECTIVES:

The objective of this course is to learn and engage with the law of criminal procedure through an understanding of the principles of law in theory and in practice. We examine the key cases in the field. This course will focus primarily on the constitutional issues confronting law enforcement and suspects during a criminal investigation under the Fourth, Fifth, Sixth and Fourteenth Amendments to the U.S. constitution. Specifically, we will cover the law of search and seizure, self-incrimination, identification procedures and the right to counsel. On a deeper level, students must gain an understanding of the public policy considerations underlying the substantive criminal law and the manner in which such policies are effectuated through criminal procedural requirements.

By the end of this course the student should: 1) learn the law concerning constitutional issues that arise during the investigation of a crime; 2) develop a strong foundation in the area to prepare for the bar examination; 3) learn to brief a court’s written opinion and discuss/debate the legal principles and policies involved and their applicability to different facts; 3) begin to think, speak and act like an attorney; and 4) be exposed to the practical applications and policy issues that confront the criminal practitioner in the real world.

Required Materials

Dressler and Thomas, Criminal Procedure: Principles, Policies and Perspectives (6th ed.). Any additions will be announced well in advance or provided during the course of the term.
Class Participation

Class participation is strongly encouraged. Class participation will be measured not merely by frequency, but by evidence of preparation, discipline and insight brought to bear. It is essential that you are prepared for class and participate in class discussions when called upon. Do not expect to sit in class and absorb information by listening and taking notes alone. Class participation may be used to modify one’s grade upwards.

Examination

The examination for Criminal Procedure will be limited open book. Every student will be permitted to bring in an outline or any other material they choose substantially of their own creation. The exam will be a combination of multiple choice and one essay. The exam has a word limit that is indicated by instructions.

Laptops

Laptops are permitted in class for the purposes of note taking only. Using your computer for other purposes, especially surfing the web, is both distracting and disrespectful to the discussion occurring in the classroom.

If a student is found using their laptop for inappropriate purposes, that student will be asked to close his/her laptop. A second violation will result in that student being excused from the classroom. I reserve the right to prohibit all students from using laptops in class.

I will also reserve the front row of the class for people who will not use laptops. Please arrive early for the first class if you wish to sit in that row.

Attendance

The law school must certify to the Board of Law Examiners that a student was in “good and regular attendance.” You must attend 80% of all scheduled classes to sit for the final exam. Attendance will be taken at all classes by passing around a sign in sheet. It is your responsibility to make sure that you are signed in.

Office Hours

My office hours are Mondays 2-4 pm and Thursdays 2-4 pm. My office is Room 201. You are always welcome to drop by my office or to make an appointment to see me, either in person or by e-mail.
SYLLABUS

Readings:

The following are the anticipated readings for each class. I may change the assignments depending on coverage and class discussion. If we modify this syllabus, I will post the pages for reading for the classes each week.
I expect that you will spend at least 6 hours preparing for each 2-hour class.

Reading cases is more demanding than reading narrative. This is because each sentence in the case may be important. If you skim a case, you could miss the key sentence. You will be expected to know and discuss the facts, legal rules, application of the rules and policy arguments contained in each case. You should read concurrences and dissents equally because today’s minority could be tomorrow’s majority. Insure that you read and are prepared to discuss all of the notes that follow the cases.

Class 1
The Criminal Process: Failure and Legitimacy (pp. 11-48)

Class 2
Incorporation and Fourth Amendment: An Overview (pp. 48-74)

Class 3
Passing the Threshold of the Fourth Amendment; What is a “Search”? (pp. 74-104)

Class 4
Passing the Threshold of the Fourth Amendment; What is a “Search”? (cont.) What is a Seizure? (pp. 104-143)

Class 5
Passing the Threshold of the Fourth Amendment; What is “Search”? (cont.) What is a Seizure? (pp. 144-175)

Class 6
The Substance of the Fourth Amendment; Probable Cause and Arrest Warrants (pp.177-218)

Class 7
Search Warrants (pp. 219-237)

Class 8
Warrant Clause: When are Warrants Required? And Search Incident to Arrest (pp. 238-276)

Class 9
Warrant Clause: When are Warrants Required? Automobile Occupants (cont.) (pp. 276-305)

Class 10
Warrant Clause: When are Warrants Required? Pretextual Stops; Cars and Containers (cont.) (pp. 297-317)
<table>
<thead>
<tr>
<th>Class</th>
<th>Topic</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 11</td>
<td>Warrant Clause: When are Warrants Required?</td>
<td>(pp. 318-338)</td>
</tr>
<tr>
<td>Class 12</td>
<td>Warrant Clause: When are Warrants Required?</td>
<td>Plain View and Consent (cont.) (pp.339-383)</td>
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<tr>
<td>Class 13</td>
<td>The Reasonableness Clause: The Diminishing Role of Warrants and</td>
<td>Probable Cause (pp. 384-411)</td>
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<tr>
<td>Class 14</td>
<td>The Reasonableness Clause: The Diminishing Role of Warrants and</td>
<td>Probable Cause (pp. 412-433)</td>
</tr>
<tr>
<td>Class 15</td>
<td>The Reasonableness Clause: The Diminishing Role of Warrants Probable</td>
<td>Cause (cont.) Reasonable Suspicion (pp. 433-468)</td>
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<td>Class 16</td>
<td>Reasonableness in “Special Needs” Context (pp.469-493)</td>
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<tr>
<td>Class 17</td>
<td>Remedies for Fourth Amendment Violations (pp.493-538)</td>
<td></td>
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<tr>
<td>Class 18</td>
<td>Remedies for Fourth Amendment Violations: Exclusionary Rule Narrowed</td>
<td>(pp. 538-567)</td>
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<tr>
<td>Class 19</td>
<td>The Exclusionary Rule – Narrowed (cont.) (pp. 567-584)</td>
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<tr>
<td>Class 20</td>
<td>Confessions: The Voluntariness Requirement (pp. 585-614)</td>
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<tr>
<td>Class 21</td>
<td>Police Interrogations: The Self-Incrimination Clause (pp. 615-645)</td>
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<tr>
<td>Class 22</td>
<td>Police Interrogations: The Self-Incrimination Clause (cont.) (pp. 646-670)</td>
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<tr>
<td>Class 23</td>
<td>Police Interrogations: The Self-Incrimination Clause (cont.) (pp.) (670-700)</td>
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<tr>
<td>Class 24</td>
<td>Police Interrogations: The Self-Incrimination Clause (cont.) (pp. (700-733)</td>
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<tr>
<td>Class 25</td>
<td>Police Interrogations: The Self-Incrimination Clause (cont.) (pp. and Right to Counsel (733-776)</td>
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<tr>
<td>Class 26</td>
<td>The Right to Counsel (pp. 776-808)</td>
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