COURSE SYLLABUS

Faculty: **Professor Carol Weissenborn**

Course: **Criminal Procedure I**

Semester: **Spring**

Meeting Schedule: **Sundays, 8:15 a.m.-11:15 a.m.**

Room: **Room 105**

Textbook	Primary Text	Primary Text	Recommended not required
Author	Tomkovicz & White		
Title and edition of text	Criminal Procedure: Constitutional Constraints Upon Investigation and Proof, 6th Ed.		
Publisher/year	Lexis/Nexis 2008		
ISBN	9781422421727		

Course Description: Criminal Procedure I focuses on constitutional issues (4th, 5th and 6th Amendments) raised by pretrial law enforcement investigatory practices. The principal topics covered are search and seizure, interrogation, pretrial identification procedures and the exclusionary rule. We will study almost exclusively cases decided by the United States Supreme Court. This will allow us to learn the "current law" (what the police can and cannot do) as well as study overarching themes in the Court's (and individual justice's) jurisprudence that hopefully will bring a better understanding of the cases and provide insight into how future cases may be decided.

Finally, there will be a heavy emphasis on analyzing problems, primarily through role plays. Students will play the roles of prosecuting attorney, defense attorney and trial judge to gain an understanding of how the Court's decisions are applied "at the street level" and to develop the skill of articulating arguments that may help clients (criminal defendants or the government) prevail at suppression or (as they're called in Minnesota) omnibus hearings.

Class Rules and Information:

1. Attendance. Class meets on Sundays from 8:15 to 11:15 in Room 105. Regular and punctual class attendance is required; I will take attendance. If you are absent for more than two classes, your absences will be treated as "excessive" in accordance with Hamline University Academic Rule 1-110.

2. Grades. During one of our class sessions in the first third of the semester, practicing attorneys will conduct a mock suppression hearing. Each student will be required to draft a legal memorandum following the argument—either a Memorandum in Support of Motion to Suppress for defense lawyers, or a Memorandum in Opposition to Motion to Suppress for prosecutors (I will be assign students to one of the roles). The evidence upon which you base your argument will be that which comes in at the hearing. The memorandum will constitute 25% of your final grade for the course.

   The remaining 75% of your grade will be determined by an exam at the end of the semester.

   I reserve the right, consistent with Academic Rule 1-107(C)(5) to increase grades based on consistent and high quality class participation, or to lower grades based on excessive absences, consistent late arrivals, lack of preparation or effort in class, or violation of the computer policy.

3. TWEN. You are required to register on the TWEN course page.

4. Laptop policy. Use of a laptop computer during class for purposes unrelated to class (such as checking email, participating in chat rooms, surfing the web, etc.) is prohibited. If you are discovered utilizing the computer for purposes unrelated to class, your grade for the semester may be lowered by one half grade.

5. Assignments. We have 13 weeks of class during the semester. I have divided the course material into 12 assignments. I have left one class session open for the suppression hearing.

   In addition to the reading, I will assign problems, which you will be expected to prepare thoroughly. I will select prosecutors, defense attorneys and judges in class to argue and/or decide the issues presented in the problems.

   During the semester, I will augment the case book readings with materials that I will post on TWEN. I will notify you when materials are posted.

<u>Reading assignments:</u>

1. Introduction pp. ix-xvii
   a) An Overview of the Criminal Justice System
   b) Due Process and the Incorporation of the Bill of Rights

   The Threshold of the Fourth Amendment: Searches & Nonsearches pp. 3-41
   Katz v. United States
   United States v. White
   Smith v. Maryland
   California v. Ciraolo
   Bond v. United States
   Kyllo v. United States
   Prepare Problem 1-8

2. The Requirement of Probable Cause pp. 49-78
   Spinelli v. United States
   Illinois v. Gates
   Whren v. United States
   Prepare Problems 2-5

The Warrant Requirement pp. 101-113
Atwater v. City of Lago Vista
Standing pp. 851-875
Rakas v. Illinois
Minnesota v. Carter
Prepare Problem 14A-4

3. Remedies: The Exclusionary Rule pp. 833-846 (notes 1 & 2 only)
Weeks v. United States
Mapp v. Ohio
Fruit of the Poisonous Tree pp. 900-903; 914-20
Wong Sun v. United States
Hudson v. Michigan (majority opinion only)
Effect of a Warrant: Good Faith Exception pp. 963-970; 980-983; 2010 Supp. 31-42
United States v. Leon (majority opinion only)
Massachusetts v. Sheppard
Herring v. United States
Prepare Problem 14D-7 and 14D-10
Exclusionary Rule Exceptions: Independent Source, Inevitable Discovery pp. 880-894
Silverthorne Lumber Co. v. United States
Murray v. United States
Nix v. Williams

4. Exceptions to the Warrant Requirement:
Search Incident to Lawful Arrest pp.143-168; 2010 Supp. pp. 2; 4-17
Chimel v. California
United States v. Robinson
New York v. Belton
Virginia v. Moore (2010 Supp. note case)
Arizona v. Gant (2010 Supp.)
Prepare Problem 4A-3
More Exceptions: Exigent Circumstances pp. 170-200; 2010 Supp. p. 3
Payton v. New York
Steagald v. United States
Warden v. Hayden
Vale v. Louisiana
Michigan v. Fisher **(2010 Supp. Note case)**
Prepare Problems 4B-2

5. More Exceptions: The Automobile Exception pp. 207-236
Chambers v. Maroney
Texas v. White
United States v. Chadwick
United States v. Ross (See Supp. Materials on TWEN page)
California v. Carney
California v. Acevedo
Wyoming v. Houghton (note case)
Prepare Problem 4C-2

More Exceptions: Inventory Searches pp. 242-257
South Dakota v. Opperman

Illinois v. Lafayette
Colorado v. Bertine
Prepare Problem 4D-4

6. More Exceptions: Consent Searches pp. 263-296
Bumper v. North Carolina (See Supp. Materials on TWEN page)
Schneckloth v. Bustamonte
United States v. Matlock
Georgia v. Randoph
Illinois v. Rodriguez
Prepare Problems 4E-5 and 4E-7

More Exceptions: The Plain View Doctrine pp. 301-312
Horton v. California
Arizona v. Hicks
Prepare Problem 4F-4

7. The Balancing Approach: Stop and Frisk pp. 319-335
Terry v. Ohio
Dunaway v. New York

Nonseizures, Terry Seizures, and Arrests pp. 335-359
United States v Mendenhall
Florida v. Bostick
California v. Hodari
In re E.D.J. **(See Supp. Materials on TWEN page)**
Prepare Problems 5A-5

Reasonable Suspicion pp. 366-383
Illinois v. Wardlow
Alabama v. White
Florida v. J.L.
Prepare Problem 5A-13

8. The Permissible Scope of Stops pp. 388-407
Hayes v. Florida
United States v. Sharpe
United States v. Place

The Permissible Scope of Frisks pp. 407-424; 2010 Supp. p. 18
Michigan v. Long
Minnesota v. Dickerson
Maryland v. Buie
Arizona v. Johnson (2010 Supp. note case)
Prepare Problem 5A-28

9. Special Balancing Contexts: pp. 445-451; 465-477; 507-508

Michigan v. Sitz
Skinner v. Railway Labor Executives' Association
Schmerber v. California

Entrapment pp. 521-547
Sherman v. United States
United States v. Russell
Hampton v. United States
Jacobsen v. United States
Prepare Problem 6-1

10. Confessions: Due Process as a Limit pp. 567-572
Spano v. New York

Confessions: The Privilege Against Self-Incrimination pp. 589-623
Miranda v. Arizona
New York v. Quarles
Dickerson v. United States
Prepare Problem 8A-3

Custody pp. 626-633
Berkemer v. McCarty
Prepare problem 8B-1

Interrogation pp. 638-654; 2010 Supp. p. 22
Rhode Island v. Innis
Illinois v. Perkins
Prepare Problem 8C-2

11. Waiving the Miranda Protections pp. 658-668; 2010 Supp. p. 23-24
North Carolina v. Butler
Colorado v. Spring
Moran v. Burbine (in Notes)
Berghuis v. Thompkins (2010 Supp. note case)

Invoking the Miranda Protections pp. 672-691; 2010 Supp. 25-28
Michigan v. Mosley
Edwards v. Arizona
Davis v. United States
Maryland v. Shatzer (2010 Supp.)
Prepare Problem 8E-3

Miranda and the Fruit of the Poisonous Tree pp. 929-35; 941-950
Oregon v. Elstad (skip dissents)
Missouri v. Seibert
Prepare Problem 14C-8

12. The Right to Counsel: At Trial pp. 714-717
Gideon v. Wainwright

The Right to Counsel: During Pretrial Questioning pp. 729-741; 2010 Supp. 29

Massiah v. U.S.
Brewer v. Williams (skip dissents)
Montejo v. Louisianna (2010 Supp. note case)
Rothgery v. Gillespie County (2010 Supp. note case)
Prepare Problem 10-4

The Right to Counsel: Pretrial Identification Procedures pp. 773-782; 786 (Note 1); 788-791; 793-798; 2010 Supp. p. 30

U.S. v. Wade (majority opinion)
Kirby v. Illinois (majority opinion)
United States v. Ash (majority opinion)
Prepare Problem 11-2

Pretrial Identification Procedures: Due Process pp. 807-815

Stovall v. Denno
Manson v. Brathwaite (majority opinion)
Prepare Problem 12-2