

# CRIMINAL PROCEDURE I

## Fall 2008

**Professor Robin K. Magee**

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**Class, Tuesdays and Wednesdays, 9:30 – 11 a.m.**

**Office, Hours, 11-1p, Tuesdays and Wednesdays**

Criminal procedure occurs at an intersection of constitutional law and criminal law. In criminal procedure I, we explore the constitutional rules that govern American criminal justice systems. The police are the gateway into the criminal justice system. In this--the first part of Hamline's criminal procedure offerings--we mostly study the U.S. Constitutional provisions which govern the policing function. These primarily include the Fourth, Fifth, Sixth, and Fourteenth Amendments of the United States Constitution.

You should enjoy criminal procedure I. Criminal procedure I brings into better focus than most courses the fundamental goal of lawyers—to stave tyranny. Criminal procedure also teaches well that law attempts to embody fundamental notions of rectitude and fairness, as well as current public sentiment and policy considerations. Notwithstanding, however, criminal procedure I also is a practical course. The subject matter relates to matters about which most have opinions. It also relates to frequently occurring legal issues. What you learn in this course you will use during the course of your legal careers—no matter your primary area of practice. Many students enter criminal procedure I with a protective sentiment for the police. Hate or love it, I do not pander to such sentiment.

In criminal procedure I, I emphasize knowledge of legal rules, critical thinking, and basic lawyering skills—such as case reading, case synthesis and case analysis. I do enforce an attendance policy. Regular attendance is required. Your absences may not exceed four hours this semester. Excess absences will be penalized. Also, in the way of further words of caution: while I encourage students to voluntarily participate in class, I intend to call on students as well to insure full participation. My habit is to call on students rather randomly. However, if you are absent any day, the likelihood of me calling on you on your return increases. I reserve the right to manage a student's grade for class participation.

The required texts for this class is, **Kamisar, LaFave, Israel & King, Constitutional Criminal Procedure (2008 Ed.)**. The assignments are aspirations. We hope to cover the assigned portion for each class. If not, we will resume with that material and attempt to cover the next week's assignment as well in the next class unless you are otherwise directed. Observe that we are essentially marching through the Kamisar textbook, in the order the material is presented.

Do not hesitate to call, email or stop by to discuss any issue of this class. I am available. My office hours are Tuesdays and Wednesdays 11 -1p, but I am typically available to meet at other times.

**Week One.**                    **An Overview of the Criminal Justice System.**  
**The Nature and Scope of Fourteenth Amendment Due Process;**  
**Retroactivity, Supervisory Powers and State Protections;**  
**Police Practices: Arrest, Search, and Seizure.**

Chapters 1 and 2.

**Week Two.**                    **Police Practices: Arrest, Search, and Seizure.**

Chapter 3, Chapter 3, Cases Wolf, Mapp, & Leon

**Week Three.**                    **Police Practices: Arrest, Search and Seizure.**

Continue with Chapter 3—Sections to be assigned.

**Week Four.**                    **Police Practices: Arrest, Search, and Seizure.**

Continue with Chapter 3—Sections to be assigned.

**Week Five.**                    **Police Practices: Arrest, Search, and Seizure.**

Continue with Chapter 3—Sections to be assigned.

**Week Six.**                    **Police Encouragement and the Defense of Entrapment.**

Chapter 4.

**The Right to Counsel, Transcripts and Other Aids, Poverty,**  
**Equality**

**And the Adversary System**

Chapter 5, Section 1.

**Week Seven.**                    **The Right to Counsel, Transcripts and Other Aids, Poverty,**  
**Equality**

**And the Adversary System**

Chapter 5, Section 2

**Police Interrogation and Confessions.**

Chapter 6, Sections 1-2.

**Week Eight.**      **Police Interrogation and Confessions.**

Chapter 6, Sections 3-4.

**Week Nine.**      **Police Interrogation and Confessions.**

Chapter 6, continue Section 4, Section 5.

**Week Ten.**      **Police Interrogation and Confessions.**

Chapter 6, Section 6.

**Week Eleven.**      **Chapter 7**

Chapter 7

**Week Twelve.**      **Chapter 8.**

Chapter 8.

**Week Thirteen.**      **Police Interrogation and Confessions Continued.**

Chapter 9.