

## **CRIMINAL PROCEDURE: SURVEY FALL 2014**

### **Syllabus**

Professor Omar Saleem

Course no. 6112

Class no. 3737

Sec no. 301

**Class times: Monday & Wednesday 12pm to 1:15pm**

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Office: Room 337

Office Hours: Monday & Wednesday 1:30pm to 3:00pm and by appointment

### **Required Texts:**

Tomkovicz & White, "Criminal Procedure: Constitutional Constraints upon Investigation And Proof" (7<sup>th</sup> Ed. 2012) (ISBN: 978-0-7698-7). Reading assignments are subject to change.

### **Course Goals:**

- 1- Pass Criminal Procedure portion of the Bar Examination
- 2- Improve skills in reading, writing and analyzing (RAP)
- 3- Exposure to basic Constitutional Law practice skills to think tactically and strategically
- 4- Go beyond mere memorization ("Imagination is more important than knowledge" Albert Einstein)

### **Class rules and information:**

1. Regular and punctual class attendance is required. The attendance policy is governed by the rules in the Student Handbook. Late arrivals are not allowed.
2. A student's final grade will be primarily based on the quality of his or her final grade. In class "surprise" exams or assignments are also possible. I reserve the right to increase grades based on consistent and high quality class participation, and to lower grades based on excessive lack of preparation or effort in class, or a lack of professional conduct or discourteous conduct.
3. Examination: There will be a final examination. You will be responsible for all issues raised in the assigned readings, whether or not they are discussed in class. You will also be responsible for all issues raised in class, whether or not they are covered in the assigned readings.

4. Etiquette: Students are expected to refrain from activities that could distract themselves or others from the discussion. These include, among others, e-mail and instant message communication, Internet browsing, side conversations, game playing, and eating. To facilitate compliance, I request that students turn off and put away all electronic devices before class begins. This prohibition includes but is not limited to laptop computers, cell phones, PDAs, and pagers.
5. Failure to complete or submit the entire exam will result in a failing grade in the course
6. External assignments may be assigned
7. You are responsible materials in the notes

### **READING ASSIGNMENTS**

The Threshold of the Fourth Amendment: what is a search?

1. Searches and Non-searches pgs. 3 - 34
  - Katz v. United States
  - United States v. White
  - Smith v. Maryland
  - California v. Ciraolo
  - Oliver v. United States (notes)
  - United States v. Jones (notes)
  
2. Searches (continued) pgs. 34 - 57
  - Bond v. United States
  - Kyllo v. United States
  - Florida v. Jardines**
  - [http://www.supremecourt.gov/opinions/12pdf/11-564\\_5426.pdf](http://www.supremecourt.gov/opinions/12pdf/11-564_5426.pdf)**
  - Problems pgs. 49 - 57
  
3. “Standing” pgs. 1017 - 1050
  - Rakas v. Illinois
  - Minnesota v. Carter
  - Problems pgs. 1045 - 1050

4. The Requirement of Probable Cause pgs. 59 - 102  
Spinelli v. United States  
Illinois v. Gates  
Whren v. United States  
**Florida v. Harris**  
**[http://www.supremecourt.gov/opinions/12pdf/11-817\\_5if6.pdf](http://www.supremecourt.gov/opinions/12pdf/11-817_5if6.pdf)**  
Problems pgs. 94 -102
  
5. The Warrant Requirements pgs. 105 - 167  
Johnson v. United States  
United States v. Watson  
Atwater v. City of Lago Vista  
United States v. Grubbs  
Andersen v. Maryland  
Maryland v. Garrison (notes)  
Wilson v. Arkansas  
**United States v. Bailey**  
**[http://www.supremecourt.gov/opinions/12pdf/11-770\\_j4ek.pdf](http://www.supremecourt.gov/opinions/12pdf/11-770_j4ek.pdf)**  
Problems pgs. 158 – 167
  
6. Stop and Frisk pgs. 381 – 399  
Terry v. Ohio  
Dunaway v. New York  
  
Terry “Seizures” pgs. 400 – 426  
United States v. Mendenhall  
Florida v. Bostick  
California v. Hodari  
Problems pgs. 420 - 426
  
7. Reasonable Suspicion pgs. 426 - 452  
Illinois v. Wardlow  
Alabama v. White  
Florida v. J.L.  
**Navarette v. California**  
**[http://www.supremecourt.gov/opinions/13pdf/12-9490\\_3fb4.pdf](http://www.supremecourt.gov/opinions/13pdf/12-9490_3fb4.pdf)**  
Problems pgs. 447 - 452

8. The Permissible Scope of Stops pgs. 452 - 503
  - Hayes v. Florida
  - United States v. Sharpe
  - United States v. Place
  
  - The Permissible Scope of Frisks
  - Michigan v. Long
  - Minnesota v. Dickerson
  - Maryland v. Buie
  - Problems pgs. 494 - 503
  
9. Special contexts: pgs. 505 - 542
  - New Jersey v. TLO
  - Michigan v. Sitz
  - Indianapolis v. Edmond
  - Illinois v. Lidster
  
10. Special context continued: pgs. 568 -605
  - United States v. Flores-Montano
  - Problems pgs. 571 – 580
  - Tennessee v. Garner
  - Schmerber v. California
  - Winston v. Lee
  - Missouri v. McNeely**
  - [http://www.supremecourt.gov/opinions/12pdf/11-1425\\_cb8e.pdf](http://www.supremecourt.gov/opinions/12pdf/11-1425_cb8e.pdf)**
  - Problems pgs. 599-605
  
- 11 . Exceptions to the Warrant Requirement: Search Incident to Lawful Arrest
  - pgs. 169 - 233
  - Chimel v. California
  - United States v. Robinson
  - Riley v. California**
  - [http://www.supremecourt.gov/opinions/13pdf/13-132\\_819c.pdf](http://www.supremecourt.gov/opinions/13pdf/13-132_819c.pdf)**
  - New York v. Belton
  - Arizona v. Gant
  - Payton v. New York
  - Steagald v. United States
  - Problems pgs. 226 - 233

12. More Exceptions: Exigent Circumstances pgs. 234 - 252  
Warden v. Hayden  
Vale v. Louisiana  
Kentucky v. King  
Problems pgs. 245 - 252
- More Exceptions: Inventory Searches pgs. 293 - 317  
South Dakota v. Opperman  
Illinois v. Lafayette  
Colorado v. Bertine  
**Maryland v. King**  
**[http://www.supremecourt.gov/opinions/12pdf/12-207\\_d18e.pdf](http://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf)**  
Problems pgs. 310 - 317
13. More Exceptions: The Automobile Exception pgs. 253 - 292  
Chambers v. Maroney  
California v. Carney  
United States v. Chadwick  
California v. Acevedo  
Problems pgs. 286 - 292
14. More Exceptions: Consent Searches pgs. 317 - 360  
Schneckloth v. Bustamonte  
United States v. Matlock  
Georgia v. Randolph  
Illinois v. Rodriguez  
**Fernandez v. California**  
**[http://www.supremecourt.gov/opinions/13pdf/12-7822\\_he4l.pdf](http://www.supremecourt.gov/opinions/13pdf/12-7822_he4l.pdf)**  
Problems pgs. 353 - 360
- More Exceptions: The Plain View Doctrine pgs. 361 - 380  
Horton v. California  
Arizona v. Hicks  
Problems pgs. 374 - 380

15. Remedies: The Exclusionary Rule pgs. 995 - 1014

Weeks v. United States

Mapp v. Ohio

Exclusionary Rule Exceptions:

Independent Source; Inevitable Discovery pgs. 1051 - 1091

Silverthorne Lumber Co. v. United States

Murray v. United States

Nix v. Williams

Problems pgs. 1068 - 1074

Wong Sun

Brown v. Illinois

16. Exclusionary Rule Exceptions continued: pgs. 1091 - 1112

Hudson v. Michigan

Problems pgs. 1108 - 1112

Good Faith Exception pgs. 1113 - 1156

United States v. Leon

Massachusetts v. Sheppard

Herring v. United States

problems pgs. 1149 – 1156

17. Confessions: Due Process Limits pgs. 651 - 685

Ashcroft v. Tennessee

Spano v. New York

Colorado v. Connelly

Problems pgs. 677 - 685

18. Confessions: The Privilege Against Self Incrimination pgs. 687 - 731

Miranda v. Arizona

New York v. Quarles

Dickerson v. United States

Problems pgs. 728 – 731

19. Custody pgs. 731 - 760  
Berkemer v. McCarty  
J.D.B v. North Carolina  
Problems pgs. 753 – 760  
Interrogation  
pgs. 760 - 783  
Rhode Island v. Innis  
Illinois v. Perkins  
Problems pgs. 778 - 783
20. Warnings and Waiver pgs. 783 -801  
Berghuis v. Thompson  
Colorado v. Spring  
Problems pgs. 796 - 801  
Invoking the Miranda Protections pgs. 801 - 843  
Michigan v. Mosley  
Edwards v. Arizona  
Davis v. United States Problems pgs. 832 - 843

21. Miranda Exclusion Doctrine pgs. 1157 - 1197
- Oregon v. Elstad
- Missouri v. Seibert
- United States v. Patane
- Problems pgs 1189 – 1193
- Harris v. New York pgs 1194 - 1197
- 
22. The Right to Counsel: At Trial pgs. 845 - 864
- Betts v. Brady
- Gideon v. Wainwright
- Scott v. Illinois
- Problems pgs. 859 - 864
- 
23. The Right to Counsel: During Pretrial Questioning pgs. 867 - 918
- Massiah v. U. S.
- United States v. Henry
- Kuhlmann v. Wilson
- Fellers v. United States
- Brewer v. William
- Problems pgs. 911 - 918



24. The Right to Counsel: Pretrial Identification Procedure pgs. 923 - 961

U.S. v. Wade

Kirby v. Illinois

United States v. Ash

Problems pgs. 958 - 961

Pretrial Identification Procedures: Due Process pgs. 963 - 991

Stovall v. Denno

Manson v. Brathwaite

Problems pgs. 983 - 991