

WESTERN STATE UNIVERSITY COLLEGE OF LAW

CRIMINAL PROCEDURE – SPRING 2025

LAW 311 B – Room *Currently Unknown*

Professor: Judge Olga Giller

Email: ogiller@wsulaw.edu

Class Time: Thursday from 6:30 – 9:20 PM

Office Hours: TBD

Required Text

1- Dressler, Thomas, & Medwed, *Criminal Procedure: Investigating Crime, 8th Edition*

ISBN: 9781647087739 // Publication Date: 04/03/2023 // NO E-BOOK, HARD COPY ONLY.

COURSE DESCRIPTION

This course primarily explores the 4th, 5th, and 6th Amendments including their underlying principles and policies. These procedures, policies, and rules are intended (*in part*) to further evenhanded enforcement and promote fairness in government conduct. By its nature, there is tremendous tension present in most criminal procedure cases; how does the government protect the rights of individuals while still providing a pathway for adequate investigation of criminal cases? Society has a vested interest in the governmental investigation of crimes. Where the government is conducting a criminal investigation, there are both rigid **and** flexible constitutional limits to its power during the investigation. A knowledge of individual rights in comparison to governmental power is quickly becoming more serious than “*the framers*” could imagine, especially, considering recent technological advancements. Picture Thomas Jefferson or James Madison (*both critical to the drafting of “The Bill of Rights”*) trying to comprehend the cloud-based warrantless collection of digital cellphone/geo-fence information.

COURSE METHODOLOGY

There are three learning opportunities in preparing for and attending a Criminal Procedure class: **(1)** cases, **(2)** problems, and **(3)** legislative policy. Please be purposeful in your class preparation.

Criminal Procedure is a tremendously complex class, invoking constitutional law questions at every turn. Like constitutional law, the rights of individuals **MUST** be balanced against the interests of the government and at times, even society at large. A nuanced discussion attempting to balance the interests of the individual and the government, requires a robust knowledge of the rules (*case law*) **and** their supporting or underlying policies.

****Best practices suggest reading every syllabus section in full, even ones you think you have read.***

COURSE OBJECTIVES

- Understanding the laws and policies underlying the 4th, 5th, and 6th amendments and further developing legal & constitutional analysis skills
- Expanding legal analysis and oral communication skills during class discussion
- Utilizing critical thinking skills to explore the nuance of human bias within the law
- An understanding of “Crim Pro” sufficient to prepare you for the California Bar Exam

COURSE POLICIES

Overall Grade Composition-

Midterm Examination – 15% /// Final Examination – 70%

Participation & Professionalism – 10% /// Assignments – 5%

Class Preparation - You are expected to spend, at minimum, 2 hours of preparation for everyone hour of official class time. You should expect to spend a *minimum* of 6 hours per week preparing for class. These hours may include briefing, reading official comments, taking notes, writing flashcards, outlining, reading supplements, listening to audio lectures, watching educational videos, or anything else you may need in preparation for class time.

In Class Expectations – You are expected to brief each case – *in your own words* – and be prepared to explain each case to the class. ***DO NOT recite from any brief, outline, resource, brief bank, or any other materials besides your own work.*** I strongly caution against letting work pile up in a course such as Criminal Procedure, as it is voluminous and remarkably easy to fall behind.

Participation – Law school success involves active learning. Participation is expected to be robust, meaningful, and qualitative. ***All views are encouraged and respected in this classroom.*** Disrespect of peers or their ideas will be met with zero tolerance.

****There is a difference between being unprepared and struggling to answer difficult class questions. There is no such thing as “a stupid question.” I encourage participation and bravery.***

Professionalism – Professionalism includes being respectful to your peers, attending class on time, and communicating in a respectful manner. Professionalism includes all conduct or communications pertaining to Criminal Procedure and WSCL. Under no circumstances will any unprofessional, rude, or bad-faith conduct be tolerated. Everyone is expected to be respectful, courteous, and professional. *(Part of being professional is giving class time and peers respect, individuals using computers for non-notetaking or non-class purposes risk losing both participation and professionalism points.)*

Assignments – Assignments (both official and unofficial) are expected to be completed, in full and using your good faith efforts. If you are assigned work that must be turned in, it ***must*** be a printed hard copy turned in at the start of class, email will not be accepted.

****Print Guidelines – Double Space, 12 font, Times New Roman.***

Attendance - No more than **2 (two) absences** are permitted without being withdrawn from the course and receiving a failing grade, under the guiding policies of Western State College of Law. ****2 (two) night classes equal about 16% of class instruction time. Best practices advise attending each class.***

***IMPORTANT NOTES REGARDING ABSENCES – (1)** All assigned work is due at the start of class, whether you are absent or not. Missing class does not excuse assignments. **(2)** If you are absent, you waive the right to participate or view multiple choice, essay, or other class assignments, there will be no second opportunity to review the materials. *(Please contact me if there is an unforeseen emergency, to discuss.)* Assignments & readings are expected to be completed, in full for every class, whether you attend or not.

ELECTRONICS POLICIES

Computer Use – While you are strongly discouraged from any computer use during class, it is permissible to use your computer for note taking or briefing purposes **only**. Tasks including Discord, iMessage, WhatsApp, email, games, texting, sharing briefs, social media, or any non-class related activities, are **prohibited**. You will have approximately 40 hours of in-class time in this course, make it count! ******If this policy is broken, it may become a computer free classroom.***

Cell Phones – Cell phone use will not be permitted during class time. If there is an emergency or other reason to be “on call” during class, please reach out before class time starts to arrange.

Recording – No audio, video, photo taking, or any other recording shall take place without express permission of the professor. ***CA requires 2-party consent and recording of any kind without consent is a crime.***

PLAGIARISM

There is a zero-tolerance plagiarism policy in coursework, exams, briefs (*book, written, digital, audio, or otherwise*), assignments, “group-work,” or **any** other type of verbal or written work. You are not to use AI of any kind to create and/or write any assignments.

Any violation of these above standards may result in the following: being removed from the class or session, being marked absent, losing participation points, and penalties available in the Student Handbook.

COURSE ASSIGNMENTS

*The information listed below is subject to change during the semester and you will be notified of any changes well in advance.

<u>Class #</u>	<u>Information</u>	<u>Reading</u>	<u>Assignments</u>
Class 1 8/14/25	-Syllabus Review -At Home Preparation Expectations -In Class Expectations -Professor/Student Introductions -Intro to Criminal Procedure	pp. 64-74 pp.81-106 pp. 110-131 pp. 409-410 (<i>Rodriguez v. U.S</i>)	-Read syllabus in full before class in preparation for in-class discussion
Class 2 8/21/25	NO CLASS	Download and Read: Jones, Elizabeth N., <i>Crim Pro Rewired: Why Current Police Practices Require Candor in the Classroom</i> . 21 Seattle J. Soc Just. 541 (2023) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4408884	Read and be prepared to discuss Jones article for 8/28/25 class
Class 3 8/28/25	-Probable Cause -K9, Oath & Affirmation, Tips & PC/N&Q -Search Warrants- scope and elements of a warrant -Arrest Warrants -New Search Law & Privacy -GPS & Tracking -New CSLI Timing	pp. 132-167 pp. 193-196 pp. 204 n.8-215 pp. 230-233 pp. 217-221 n.8 pp. 223-243	
Class 4 9/4/25	-K9s and Curtilage -Warrantless Searches & Exigency -Arrest Warrants -Execution of a Search Warrant -SW Effectuation Issues -Warrant Clause -Exigent Circumstances -Search Incident to Arrest (SITA) -SITA & Cell Phones	pp.176 n.1-182 pp. 223-236 pp.244-283 pp.292 n.5-293 n.7	
Class 5 9/11/25	-Auto SITA -Pretextual Car Stops & Arrests -Cars & Containers (CCCCC- Cars, car stops, passengers in cars, containers in cars CARS) -Inventories	pp.295-300 pp.305-329; 414 n.3-415	

	-Particularized Mobile PC -Plain View/Plain Touch -Expanding <i>Terry</i> Balancing	pp. 339-346 n.5 pp.352-358 n.4 pp.449-454	
Class 6 9/18/25	-Consent & it's Scope - Reasonableness & Authority - <i>Terry</i> Stop & Frisk - <i>Terry</i> & Pat-downs - <i>Terry</i> Seizures v. De Facto Arrests	pp. 358-373 pp. 379-386 pp. 390-402 pp. 404 n.4-407 pp.410-416	
Class 7 9/25/25	-Seizure v. Non-Seizure Encounters -Seizure by Force/Authority -Reasonable Suspicion (RS) -Special Needs & Reasonableness -Administrative Searches -Schools; Airports; Borders -Checkpoints (fixed or revolving)	pp. 417-448 pp. 461-477	
Class 8 10/2/25	-Standing -Exclusionary Rule Scope -Fruit of the Poisonous Tree (FOTPT); Independent Source; Attenuation; Inevitable Discovery; Good Faith	pp. 481-497 pp. 507-530; 535-541	
Class 9 10/9/25	MIDTERM EXAM		
Class 10 10/16/25	Guest Speakers Presentation	Perspectives from Prosecution & Defense on 4 th Amendment and Motions to Suppress	
Class 11 10/23/25	NO CLASS	Fall Break 10/20-10/25	
Class 12 10/30/25	- <i>Miranda</i> Spawns a New Law of Confessions -Thinking About <i>Miranda</i> -Public Safety Exception to <i>Miranda</i> <i>Seibert</i> & 2-Step Interrogation <i>Miranda</i> Custody & Interrogation <i>Miranda</i> Waivers	pp. 620-633 pp. 637-640 n.4 pp.645-650 pp. 672-678 pp. 685-700 704-720	Read Handouts: Reid Technique & False Confessions

Class 13 11/6/25	False Confessions & Reid Technique 6 th Amendment Right to Counsel- <i>Massiah</i> Waiver and Fruit -Role of Defense Counsel	Handouts pp. 745-758; 764 n.5 and n.6 pp. 1015-1029	Read Handout: Eyewitness ID Issues
Class 14 11/13/25	-Right to Appointed Counsel -Eliciting Statements w/out Counsel -Eyewitness Identification- Procedures; Right to Counsel and Issues -Discussion: Eyewitness ID issues	pp. 1031-1036; 1039-1041 pp. 1053-1062 pp. 805-834 Handout	
Class 15 11/20/25	LAST CLASS	Final exam review	

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery,

motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."