The Course Coverage
This course covers topics from the “investigative phase” of the criminal process and thus focuses heavily on the relationship between citizens and the police. (It is probably what many of you thought criminal law would be about before you came to law school.) The materials in this course include many of the famous Supreme Court cases, such as *Mapp v. Ohio*, *Miranda v. Arizona*, and *Terry v. Ohio*. The materials covered in this course are usually intrinsically interesting to students because they often deal with issues, such as privacy, that affect all of us. This course also covers material that is fertile ground for bar exam questions.

Our Casebook
Our casebook is *Dressler & Thomas, Criminal Procedure: Principles, Policies and Perspectives* (3d ed. Thomson/West). (Thomson/West has a 2007 supplement for this casebook, but I am **NOT** assigning the supplement and will simply put on TWEN excerpts of recent cases that bear on topics we will study.) You should, however, print out and put in your book a copy of the Bill of Rights and the 14\(^{th}\) Amendment.

Class Preparation
In preparing each assignment, you are responsible not just for the main cases, but also for the Notes and Questions that follow each case. I purposely chose a book that does not overwhelm readers with tons of notes and questions, so usually the points the authors make in the notes and questions are good ones.

Classroom Responsibilities
Students are also responsible for maintaining the professional and respectful atmosphere of the class. This includes listening to your colleagues’ questions and comments, and refraining from distractions. In class, please refrain from surfing the web, checking your email, using instant messaging or playing games.

Grading
There will be a final exam. It will consist of a combination of multiple choice and essay questions. I will put some sample questions on my TWEN page as the semester progresses.

I do not enforce the 20% rule but I value class participation and I reserve the right to add class participation points to the grade of students who have shown a mastery of the material in class and who have attended regularly. I do pass around an attendance sheet most days. If I add points to a grade, it is usually only one or two points. But in an unusual case, especially where the exam grade does not reflect what the student has
shown in class, I might add three points to a student’s exam grade.

**Tentative Assignments**

**August 27** – Introduction to criminal procedure

Seeking legitimacy in the Fourteenth Amendment, 26-41; the norms of the criminal process, pp. 41-49 (give some thought to problems 2A and 2B on p. 49); the birth of the exclusionary rule 53-74 (*Wolf v. Colorado*, *Weeks v. United States*, and *Mapp v. Ohio*). Please bring a copy of the Bill of Rights and Fourteenth Amendment to class (available many places on the web).

**August 29** – The exclusionary rule debate

Should the exclusionary rule be abolished? 456-64; what is a “search” (or a “nonsearch”) under the 4th Amendment, 75-83.

**Sept 5** – *Katz* in application

There is a lot of important Supreme Court search and seizure law contained in this assignment, including some very important cases dealt with only in the notes. We cannot give in-depth coverage to each case, but we need to know these cases because they are major landmarks for what the Court thinks a citizen’s reasonable expectation of privacy is. Among the important cases in this assignment are *White*, *Smith*, *Oliver*, *Ciralo*, *Greenwood*, *Kyllo*, and *Karo* 83-131.

**September 10** – What is probable cause?

*Gates*, 141-62; the good faith exception for warrants, *Leon*, 464-86.

**September 12** – Two topics

A. Arrests on the street v. arrests in a home

*Payton*, 162-74
B. Exigent Circumstances

Warden v. Hayden 203-09

September 17 - Searches incident to arrest

Chimel, Robinson, Belton, and Thornton 209-44

September 19 – Two topics

A. Searches incident to arrest and pretextual arrests

Whren v. United States, 244-53

B. Cars, containers, and homes that are also cars

Chambers v. Maroney, California v. Carney, United States v. Chadwick, California v. Acevedo, 253-86

September 24 – Catch-up class, if needed. Otherwise, we will move to the next assignment.

September 26 – Two topics

A. Searches of items in plain view


B. Consent searches

Schneckloth v. Bustamonte, Georgia v. Randolph, and Illinois v. Rodriguez, 297-
October 1 – Stop and frisk

*Terry v. Ohio, Dunaway v. New York*, 338-64

October 3 – “Stops” v. “arrests”

*Mendenhall, Drayton*, and *California v. Hodari*, 364-83

October 8 – Two topics

A. “Reasonable suspicion”


B. Extending the *Terry* doctrine to other “reasonable” seizures or searches

*Maryland v. Buie* 400-11

October 10 – Administrative searches

Lots of cases in the notes for this assignment pp. 411-33 including *Camara, TLO, Brignoni-Ponce, Prouse* and *Skinner*. The main cases have to do with roadblocks - *Michigan Dept. of State Police v. Sitz* and *Indianapolis v. Edmond*.

October 15 – The ER and standing

*Alderman* and *Payner*, pp. 434-37; *Rakas v. Ill.*, and *Minn. v. Carter*, 437-56.
(Also a 2007 case, *Brendlin v. Cal* – summary will be posted on TWEN.)

October 19 – Fruits of the poisonous tree - attenuation and inevitable discovery

**October 22** – Torture in a post 9/11 world

Torture and confessions, 505-16. Also recall note 1B, 48 (citing to the Krom case).

**October 24** – Police interrogation without torture

Lisenba, Spano, and Martinez, 516-43

**October 29** – The fifth amendment and famous warnings

Martinez (part 2), 545-53; Notes 5-10, pp. 556-59; Miranda v. Arizona, pp. 559-83.

**October 31** – Custodial interrogation

Oregon v. Mathiasen, Berkemer v. McCarthy, Rhode Island v. Innis, pp. 629-49

**November 5** – Waiver and invocation of the one’s rights

N.C. v. Butler, Edwards v. Arizona, (there is a lot of law in the notes following Edwards) pp. 650-69

**November 7** – Two topics

A. Exceptions to Miranda

   Introductory note, Quarles and Elstad, 587-608; Seibert, 615-29

B. The Court’s Current View of Miranda
Dickerson (majority opinion only) pp. 608-11.

November 12 - Catch-up class, if needed. Otherwise, we will move to the next assignment.

November 14 - Miranda and its critics

David Simon, A Year on the Killing Streets, 669-79.

November 19 – Comparative reflections on Miranda

Consider again notes 3 and 4, 588-89. I will put other English materials on TWEN.

November 21 – Police questioning and the sixth amendment

Massiah, Brewer and Jackson, 680-710.

December 3 – Comparing Massiah and Miranda

McNeil, 710-19.