Syllabus

Class Schedule:

Class meets Mondays and Wednesdays at 6:00 to 7:15 p.m. in Hazel Hall 225.

Contact Information and Availability:

My office is Room 310; my office phone number is 702-993-9556.

I will not hold pre-scheduled office hours, but I am available to meet with you almost anytime at your request. Please request appointments and direct other class-related questions or concerns via email (etreyger@gmu.edu).

Required Course Material:


Note: this is a softbound book; if you are purchasing the book on the internet, please note that I am not assigning Criminal Procedure: Principles, Policies and Perspectives, which is a more expensive hard-cover book. You are also not required to purchase the supplement.

I will occasionally supplement the casebook with outside materials, which will be made available to you. Unless otherwise indicated, all reading assignments are from the casebook. The assignments will be adjusted from time to time to reflect the natural pace of the course and additional materials may be added. Most reading assignments are under 30 pages per class; pay attention to the particular Notes assigned within the stated page range (e.g., Notes 1, 4 (1-10) means read Notes 1 and 4 that are within the page range given, and does not mean read all the material from page 1 through 10). The syllabus will be posted and updated on the course TWEN page: please pay attention to your email for assignment adjustments.

Classroom Participation and Attendance:

Classroom participation is part of the course requirements. I will regularly take volunteers but will also call on students randomly. My purpose is never to embarrass you, but to draw as much of the class into our discussion as possible; therefore, if you know that you will be absent or
unable to prepare (for medical, family or other serious reasons), please let me know by email
prior to class. Final grades will be raised or lowered by a third of a grade (i.e. from A to A- or vice versa) to reflect your class participation.

Academic Regulation 4 governs attendance. An attendance sheet will be available for your signature during each class.

**Power Point Slides:**

I will make the class power point slides available via the courseTWEN site at some intervals throughout the semester. You should keep in mind that slides will often contain minimal substantive information and cannot serve as a substitute for notes or attending class.

**Final Exam:**

The exam will take place on December 16, 2013, at noon. The exam will be open-book and open-notebook (details to follow).

**Internet and Phone Policy:**

I ask that you refrain from using the internet in any form, as well as phone messaging, during class time.

**Food Policy:**

Please check with me if you need to bring food into the classroom; on account on severe allergies, I must ask you to refrain from bringing certain foods into the room.

<table>
<thead>
<tr>
<th>Assignment #</th>
<th>Assignment</th>
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| 1            | **INTRODUCTORY MATERIAL:**
|              | Herbert Packer, Two Models of the Criminal Process (excerpt) |
| 2            | **Incorporation:**
|              | Dressler & Michaels (45-46); Notes 1, 2, 4-6 (46-48); Duncan (48-55); Note 7 (57) |
|              | **Overview of the Fourth Amendment:**
|              | Sec. A (64-65); Sec. C (67-68); Weeks (69-71) |
| 3            | **WHAT IS A SEARCH OR SEIZURE?**
|              | Katz (86-92); Notes 1-4, 6, 9 (92-94) |
4 What is a search? Applications of Katz
Smith (105-111); Notes 1, 3, 4 (111)

5 What is a search? Beyond Katz
“Open Fields,” Notes 5-8 (114-121)
Kyllo (121-130); Notes 1, 3; Knotts & Karo, Note 5 (130-134)

6 What is a search? The Final Chapter
Jones (133-146), Notes 2, 3 (146-47)
What is a seizure?
Karo (147-149)

7 PROBABLE CAUSE AND WARRANTS:
Introduction (151-152); Spinelli (152-159); Gates (160-171); Notes 1-13 (163-171)

8 Arrest Warrants:
Payton (179-186); Notes 1-7 (186-189)
Search Warrants:
Introduction (191-193); Notes 1, 3 (193-194); Lo-Ji Sales (195-197); Note 2 (198)

9 Execution of a Search Warrant:
Introduction (199-200); Richards (200-204); Notes 1, 4, 7-9 (204-209)
WARRANT REQUIREMENT?
Exigent Circumstances:
Warden v. Hayden (209 – 210);

10 WARRANT REQUIREMENT?
Exigent Circumstances:
Kentucky v. King (210-217)
Searches Incident to An Arrest:
Chimel (221-228); Notes 1, 2, 4-6 (228-229); Robinson (229-237); Note 3 (237-238)

11 Searches Incident to An Arrest (cont’d):
Belton (238-243); Notes 1-5 (243-246); Gant (248-259); Note 1 (259-260)
Pretextual Stops and Arrests:
Whren (261-267); Notes 2-4 (267-268)

12 Cars and Containers:
Chambers (268-272); Notes 1-3 (272-275); Carney (275-279); Notes 1, 2, 4 (279-
Cars and Containers (cont’d):
Notes 7, 9 (289-291); Acevedo (292-298); Notes 2-4 (298-299)

Plain view:
Horton (299-305); Hicks (305-310); Notes 2-4 (310-311)

Consent:
Schneckloth (311-319); Notes 1, 4, 6 (319-320)

Consent (cont’d):
Randolph (322-333); Rodriquez (336-341); Notes 1-3, 5 (341-344)

DECLINE OF WARRANTS AND PROBABLE CAUSE?
Terry seizures:
Dressler and Michaels (347-349); Terry (349-360); Notes 2, 4, 5, 7, 9-11 (360-366)

Terry seizures v. Arrests:
Dunway (367-370); Notes 2-6 (370-375)

Review:
Notes 1, 3, 5, 7, 9-11 (360-366)

Terry seizures v. Arrests:
Dunway (367-370); Notes 2-6 (370-375)

Terry seizures v. Non-seizures:
Mendenhall (375-381); Notes 1, 3, 4 (382-383)

Terry seizures v. Non-seizures:
Drayton (383-390); Hodari D. (391-394); Notes 2, 4 (394-396)

Reasonable Suspicion:
White (396-400); Notes 1-5, 7 (400-405); Wardlow (405-409)

Extending Terry:
Buie (410-415); Note 4 (416-418)

“Special Needs”:
Note1 (422-423); Sitz (426-432); Notes 1, 2 (432)

“Special Needs” Searches:
Edmond (432-439); Note 5, 6 (444)

REMEDIES
Exclusionary Rule:
Mapp (75-84); Note 1 (467);
Standing:
Rakas (448-455); Note 5 (466***-note the page # here)

Scope of the Exclusionary Rule:
Note 2 (469)
Murray (471-475); Note 4 (477-478) [independent source and inevitable discovery]
Wong Sun (478-482); Note 1, 2, 5 (482-484) [attenuation of taint]

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
</table>
| 21   | **Future of the Exclusionary Rule:**
      | Hudson (498-511); Note 1 (511) |
|      | **Future of the Exclusionary Rule (cont’d):**
      | Herring (513-519), Davis (520-527) |
|      | **VOLUNTARINESS**
      | Brown v. Mississippi (12-17); |
| 22   | **VOLUNTARINESS (cont’d)**
      | Lisenba (538-546); Note 2 (546-547); Spano (549-553); Note 5 (555-557) |
|      | **THE FIFTH AMENDMENT SELF-INCrimINATION CLAUSE**
      | Miranda:
      | …Miranda (570-585); |
| 23   | **Miranda (cont’d)**
      | Miranda (570-585) Note 3, 6 (586-589) |
|      | **Miranda Custody:**
      | [Mathiason, Note 4 (639)]; Berkemer v. McCarty (632-638); Note 2, 5A (638-640) |
| 24   | **Miranda Interrogation:**
      | Innis (641-647); Notes 2-5 (648-649) |
|      | **Waiver:**
      | Butler (650-652); Notes 1-3, 5A, 6, 7 (652-657); Edwards (658-661); Notes 1-4 (661-666) |
| 25   | **Miranda’s Status and Exclusionary Rule:**
      | Introduction (593-595); Quarles (596-603); Notes 5, 7-8 (604-605); Elstad (605-611); Notes 2, 6, 7 (611-612); Dickerson (613-619); Seibert (620-629) |
| 26   | **Re-read:**
      | Seibert (620-629) |
|      | **INTERROGATION AND THE SIXTH AMENDMENT RIGHT TO COUNSEL:**
      | **Massiah:**
      | Massiah (692-695); Deliberate Elicitation (696-697); Notes 1-3 (697-699) |
|      | **Massiah Waiver:**
      | Brewer v. Williams (699-709) |
| 27   | **Massiah Waiver (cont’d):**
      | Notes 1, 2, 5, 7 (709-711); Patterson (712-720); Note 4 (721) |
Massiah and Miranda:
McNeil (734-738); Note 3 (739-741)
Scope of Exclusionary Rule:
Ventris (741-746)