SYLLABUS*** FIRST HALF OF SEMESTER

CRIMINAL PROCEDURE AND PRACTICE Spring 2022

Professor Anna Saxman

Email: anna.saxman@gmail.com - use this email if you want a quick answer! Work phone: 802 598-3593

Office hours: Before class on Tuesdays or Thursdays or by appointment-You may also send me an email with questions which will generally be answered promptly.

Teaching Assistant: Caitlyn Cournoyer
CaitlynCournoyer@vermontlaw.edu

Caitlyn is available to answer questions and was a student in this class fall semester, and therefore is knowledgeable about the course. She has office hours on TEAMS Tuesdays and Thursdays from 12-2pm, or by appointment, and is generally available by email.

Grading:

- 1 Motion to Suppress physical evidence and statements
- 1 Draft of a Judicial Decision on a Motion for Judgment of Acquittal
- 2+ Oral Arguments
- 2+ Acting as a presiding judge for oral arguments
- 1 or 2 short quizzes/ no midterm
- A Sentencing Memorandum AND Plea Agreement
- No final exam

Class participation is expected and adds to your grade. Extra credit opportunities may be available.

TEXTS:
Brent Newton, Criminal Litigation & Legal Issues in Criminal Procedure (NITA 4th ed. 2014)

Learning objectives:

Students will analyze, evaluate, and learn the substantive law of Criminal Procedure, as well as the procedural process of criminal procedure in practice, and in a trial setting. All material learned is relevant to each stage of a criminal case, including the applicable law of the Fourth, Fifth, and Sixth Amendments.

Students will learn advocacy skills by presenting oral arguments and written motions. Students will present oral arguments on both the prosecution and defense side of a case. Students will identify areas of criminal procedure where reform is needed or occurring.

Students are encouraged to analyze criminal procedure looking at history and current events. Ideas about (for and against) reforms will be expected. All students will be respectful of other students’ opinions and performance in class. Watching other attorneys (or students) argue is a great learning experience and will enable students to learn and understand the black letter law associated with each case- take advantage of it in class!

Class schedule and assigned readings and written assignments:

1. Thursday January 20: Intro to Fourth Amendment – The constitutional rights protected under the Fourth Amendment.
   - ASSIGNMENT: Read Dressler Chapter 4 § 4.02 through § 4.05 and all of Chapter 5.
   - Trial oral arguments teams will be assigned during class

2. Tuesday January 25: SEARCHES Exceptions to the Warrant Clause/What’s covered by the 4th Amendment
   - ASSIGNMENT: Read Dressler, § 6.01 to § end of 6.03; and § 6.05 to end of § 6.08. (Optional reading §6.09).
   - Fact Pattern NITA v. Michael Reynolds posted on TWEN
• All prosecutors be prepared to identify best arguments for the prosecution. All defense attorneys be prepared to identify best arguments for the defense.

3. Thursday January 27: 4th AMENDMENT Seizures: The Road to the Terry Stop

• ASSIGNMENT: Read Terry v. Ohio, 392 U.S. 1 (1967) (majority opinion and J. Harlan’s concurrence). Read the fact patterns and cases assigned and be prepared to discuss and judge them.
• TEAM A State v. Haddon posted on TWEN
• TEAM B HYPO #2 United States v. Peterson p.61 in NITA text.

4. Tuesday February 1: More 4TH AMENDMENT: Reasonable Suspicion to stop/Good faith exception

• ASSIGNMENT: Read Dressler all of Chapter 7. Read the fact pattern and cases assigned and be prepared to discuss and judge it.
• PLEASE NOTE: there are 2 parts to this HYPO- TEAM C argue 1st part.
• Students not assigned to participate in this oral argument:
  o Please be prepared to argue pro and con - does the good-faith exception to the warrant requirement apply here? Read NITA text pages 55-58 and United States v Herring, 555 U.S. 135 (2009).

5. Thursday February 3: EXPANSION OF THE STOP

• ASSIGNMENT: Read Dressler, Chapter 17 § 17.01- up to §17.07 and Rodriguez v. United States, 135 S. Ct. 1609 (2015).
• Read the Hypo below and the cases assigned and be prepared to argue, discuss and judge the hypo.
• TEAM D HYPO #3 State v. McCabe posted on TWEN
6. **Tuesday February 8: Probable Cause**

- **Assignment**: Read Dressler, Chapter 8 §8.01 up to § 8.06
- Read the hypo listed below and the cases cited in preparation for the hypo and be prepared to discuss and judge it.
- **Team E. U.S. v. Myers**, posted on TWEN
- **Team F NITA v. Sawyer** posted on TWEN

7. **Thursday February 10: Searches SILA & Automobile Searches**

- **Assignment**: Read Dressler Chapter §12.01-12.02 and § 12.05 & 12.06 and Chapter 13. Read the hypos listed below and the cases cited in preparation for the hypo and be prepared to discuss and judge it.
- **Team G Hypo**: State v. Mills - posted on TWEN

8. **Tuesday February 15: Fruit of the Poisonous Tree**

- **Consent/Confessions**
  - **Assignment**: Read Dressler, Chapter 20 §20.07 [B]-[E] Read the hypos listed below and the cases cited in preparation for the hypo and be prepared to discuss and judge it.
  - **Team H NITA v. Collins** posted on TWEN
  - **Team I Hypo #3 State v. Tindall, p. 79**

9. **Tuesday February 15: Emergency Exception/ Intro to 5th Amendment**

- **Assignment**: Read Dressler Chapter 11 (It’s short) and Chapter 12 §12.01 and §12.02). Read the hypo listed below, plus *Brigham City v. Stuart*, 547 U.S. 398 (2006); *United States v. Huffman*, 461 F.3d 777 (6th Cir. 2006); and *Canigla v. Strom*, 141 S. Ct. 1596 (2021). Be prepared to discuss and judge it.
- **Team J Hypo #5 United States v. Shaeffer, p.67**

**Motion to Suppress Assignment instructions will be given in class**
10. Thursday February 17: CONFESSIONS - 5TH AMENDMENT AND VOLUNTARINESS

- ASSIGNMENT: Read Dressler, Chapter 22 and the Confessions Outline posted on TWEN. Read the hypo listed below and the cases cited in preparation and be prepared to discuss and judge them.
- TEAM K United States v. Carroll - posted on TWEN

Starting on class 11: TEAMS SWITCH- Prosecutors are now Defense attorneys and vice versa.

11. Tuesday February 22 CONFESSIONS/MIRANDA

- ASSIGNMENT: Dressler Chapter 24 §24.01 through § 24.04 and the Confessions outline. Read the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge them.
- TEAM A State v. Thapa- posted on TWEN
- TEAM B HYPO State v. Romano - posted on TWEN

12. Thursday February 24 Review of Fourth and Fifth Amendment law

***Spring Break NO Classes on March 2 and 3rd***

13. Tuesday March 8: GRADED QUIZ ON 4TH AND 5TH AMENDMENTS

- Please be sure to bring a laptop or applicable device to class to take the quiz
14. Thursday March 10: SIXTH AMENDMENT & INTERROGATION/ EYEWITNESS IDENTIFICATION

ASSIGNMENT: Read Dressler Chapter 25

- Please be prepared to discuss the difference between Miranda versus Sixth Amendment protection and issues with eyewitness identification

***Suppression motion due by 6:00pm Saturday March 12 by email to anna.saxman@gmail.com***