

WESTERN STATE UNIVERSITY COLLEGE OF LAW

CRIMINAL PROCEDURE – SPRING 2025

LAW 311 B – Room *Currently Unknown*

Professor: Cassandra Mellas, Esq.
Email: cmellas@wsulaw.edu
Class Time: Tuesday 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 individual citizens while still providing a pathway for adequate investigation of criminal cases the government? 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 immense 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. Similarly, to Constitutional law, the rights of individual citizens *MUST* be balanced against the interests of the government and at times, sometimes even society at large. A nuanced discussion attempting to balance the interests of the individual and the government, requiring a robust knowledge of the rules (*case law*) themselves *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 driving the 4th, 5th, and 6th amendments,
- Further developing legal & constitutional analysis skills,
- Expanding legal analysis and oral communication skills during class debates,
- Articulate understanding of the legal (& cultural) importance of these rules,
- 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

Class Preparation - You are expected to spend, at minimum, 2 hours of preparation for every one hour of official class time. *This is not a quippy suggestion to instill fear, rather, the reality for those seeking to thrive in Criminal Procedure.* This means you should expect to spend a **minimum** of 6 hours per week preparing for class. This 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 of 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 thoughts.*** You are expected to have a prepared answer to each question assigned in *Dressler*. 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.

- You are expected to complete **EACH** problem or question in your reading from Dressler starting with **Class 1**. You **MUST** bring a handwritten or printed copy of an summation of all reading assignments for each class, **in your own words.** (*Briefs.*) This may be an overall summary **or** smaller summaries for each sub-portion of the assignment. The requirement is your **good faith effort** to show you have completed and synthesized the reading from each class. There is no page minimum or maximum expectation.
- Each item **MUST** be printed & turned in for credit at the start of **Class 1**, email is not adequate.

Participation - Participation, is meaningful contributions to class time, discussions, office hours, thoughtful questions, and the like. Participation is not, asking an abundance of questions attempting to gain participation points. 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, and you will leave the classroom session. ****There is a difference between being unprepared and struggling to answer difficult class questions. Getting a question incorrect is not a problem, put forth a good-faith effort in the class. 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 will 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 are expected to be completed, in full. Assignments are expected to be completed using your good faith efforts. Unofficial Assignments are also expected to be conducted in good faith. **Assignment/Turn-In Guidelines** – all assignments ***must*** be printed hard-copy by the start of class. Email is not adequate. ****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, if possible.*

***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.

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 phones, 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, photographic, or any other recording shall take place without express permission of the Professor. ***CA requires 2-party consent. Recording 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.

Basic definition - Plagiarize: to steal and pass off (the ideas or words of another) as one's own: use (another's production) without crediting the source. (*Webster's, 2022*)

Nuanced definition - “**Plagiarism** is the act of taking a person’s original work and presenting it as if it was one’s own. Plagiarism is not illegal in the United States in most situations. Instead, it is considered a violation of honor or ethics codes and can result in disciplinary action from a person’s school or workplace. However, plagiarism can warrant legal action if it infringes upon the original author’s copyright, patent, or trademark. Plagiarism can also result in a lawsuit if it breaches a contract with terms that only original work is acceptable. Email, “I read it all!” to cmellas@wsulaw.edu for bonus points by 6:30 PM the first day of class. But, shh! To avoid plagiarism, a person should always properly attribute any information they use to the original author through quotes or citations. Further, there are free online plagiarism checkers to ensure that a person’s work is free of plagiarism such as Grammarly, Duplichecker, or Quetext.” (*Updated in November of 2021, Wex Definitions Team for Legal Information Institute.*)

For more information on plagiarism, please see: [https://www---stagingmp6ykpkm7cbbg.us.platform.sh/sites/default/files/policy%20\(1\).pdf](https://www---stagingmp6ykpkm7cbbg.us.platform.sh/sites/default/files/policy%20(1).pdf)

Any violation of these 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

<u>Class #</u>	<u>Information</u>	<u>Reading</u>	<u>Assignments</u>
<u>Class 1</u> 1/14/25	<p><i>-Syllabus Review</i></p> <p><i>-At Home Preparation Expectations</i></p> <p><i>-In-Class Expectations</i></p> <p><i>-Class Offer(s)</i></p> <p><i>-Intro to Criminal Procedure</i></p>	<p><u>64-74</u> Unjust Convictions Fourth Amendment Overview & Clauses Exclusionary Rule Intro</p> <p style="text-align: center;"><u>110-131</u> N&Q Smith v. Maryland / N&Q Other Important Post Katz Cases Dog Sniffs “Open Fields” verses “Curtilages” Aerial Surveillance of Curtilages And, How About Your Garbage?</p> <p><u>93-106</u> 4 A – Threshold Issues What is a Search? Katz v. US / N&Q United States v. White</p>	<p>-Read syllabus in full before class in preparation for in-class discussion</p> <p>-Bring hard-copy briefs and questions from reading</p>
<u>Class 2</u> 1/21/25	<p>Probable Cause</p> <p>K9 & Oath and Affirmation TIPS & PC / N&Q</p> <p>Search Warrants and Scope Elements of Warrant</p> <p>New Search Law & Privacy GPS & Tracking New CSLI Timing</p>	<p>193-196</p> <p>204 n8-215</p> <p>217-221 n8</p> <p>236-243</p> <p>131-167</p>	
<u>Class 3</u> 1/28/25	<p>K9's and Curtilage</p> <p>Warrantless Searches Exigency as an Idea, etc</p> <p>Execution of a Search Warrant Effectuation Issues Warrant Clause Exigent Circumstances SITA SITA and Cell Phones (& Citations)</p>	<p>176 n1-181</p> <p>229-236</p> <p>244-283</p> <p>292 n5-293 n7</p>	<i>Assignment A Due</i>
<u>Class 4</u> 2/4/25	<p>Auto SITA</p> <p>Plain View / Plain Touch</p> <p>Expanding Terry Balancing</p> <p>Pretextual Stops and Arrests (autos) Cars and Containers (CCCCC) Inventories</p> <p>Particularized Mobile PC</p>	<p>295-300</p> <p>352-358 n4</p> <p>449-454</p> <p>305-329</p> <p>339-346</p>	
<u>Class 5</u> 2/11/25	<p>Moving the Suspect</p> <p>Pat-downs & Traffic Stops</p> <p>Reasonableness Terry Stop/Frisk/Stop & Frisk</p> <p>Terry & Pat-downs</p> <p>Consent & Scope of Consent</p> <p>Reasonableness and Authority</p>	<p>413 n2-416 n5</p> <p>408 n10-410 n12</p> <p>390-402</p> <p>404 n4-406 n7</p> <p>358-373</p> <p>379-386</p>	

Class 6 2/25/25 *****	Seizure v. Non-Seizure Encounters Seizure by Force or Authority Reasonable Suspicion Special Needs & Reasonableness Administrative Search Schools Airports Borders Checkpoints – Fixed or Roving	417-448 461-477	Assignment B Due
Class 7 3/4/25	Standing Exclusionary Rule Scope FOTPT, Independent Source, Attenuation Inevitable Discovery Attenuation Doctrine Good Faith K&A & The Exclusionary Rule	481-497 507-530 535-541 <i>*Mini Pre-Exam Review Session – Time Permitting</i>	Assignment C Due
Class 8 3/18/25	MIDTERM EXAMINATION	Post Midterm → In-Class Activities	
Class 9 3/25/25	<i>TBD</i>	<i>TBD</i>	-
Class 10 4/1/25	Miranda Spawns New Laws Miranda v. AZ N&Q / Thinking about Miranda Miranda Custody Miranda Interrogation	620-633 637 n6-640 685-702	
Class 11 4/8/25	Valid Waiver Invocation of Right to Counsel Silence vs. Counsel Public Safety Exception Initiation and Waiver Problems Interrogation Tactics Miranda Nuances	707-713 715 n2 645-650 718 n5-720 672-678 682 n4- 684 n5	Assignment D Due
Class 12 4/15/25	Miranda and Questioning Right to Appointed Counsel Right to Decide to Have Counsel Eliciting Statements in Absence of Counsel Messiah Waiver	702-704 n7 1031-1036 & 1039-1041 1053-1062 745-758	
Class 13 4/22/25	Eyewitness Identification Procedures Right to Counsel Due Process Messiah Fruit, etc	805-834 764 n5 & n6	Assignment E Due
Class 14 4/29/25	Role of Defense Counsel Ethical Concerns	1015-1029 <i>*Final Review Session – Time Permitting</i>	Assignment F Due

OVERALL GRADE COMPOSITION:

Midterm Examination – 15% /// Final Examination – 70%
Participation & Professionalism – 10% /// Assignments – 5%

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:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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).

(6) 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.

(7) 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.

(8) 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 students with disabilities. The Disabilities Services Office assists 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 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 handled in accordance with College of Law's "Policy against Discrimination and Harassment."