Criminal Procedure: Investigative

Fall 2021

Syllabus

Adjunct Professors: Peter Mazzone & Mary Kay High

Course Overview: This course will focus on the limitations placed on police during their interaction with people. The role of the courts in balancing society’s competing interests in liberty and security will be emphasized. The constitutional doctrines of the Fourth, Fifth, Sixth and Fourteenth Amendments of the United States Constitution will be scrutinized to illustrate how reasonable suspicion and probable cause are used to focus on individuals, how searches and seizures (both with and without warrants) are used to obtain evidence, and how custodial interrogations are used (and abused) to secure convictions.

Class schedule: Class will meet Mondays and Wednesday at 7:30 to 8:45p.m.

Office hours: I will generally be available in the third-floor office for adjunct professors on Mondays from 6 p.m. to 7:30pm (until class begins). Please come by and see me with any questions you may have at that time. If you cannot stop by during those times you can also e-mail me at peterm@mazzonelaw.com, or you can e-mail Mary Kay High at marykay.high@piercecountywa.gov. My phone number is (425) 259-4989. Mary Kay High can be reached at (253) 798-7857. Please DO NOT use my Seattle University e-mail address.


Classroom Participation: Class will be conducted primarily through the Socratic “cold calling” method. A large portion of the class may be called during each session, drawing largely from a randomized list. Hence, being called on does not preclude being called on again later in the same class or the following class. Participation in class will factor into determining your final grade.

Class Attendance: Seattle University School of Law requires that you attend at least 80% of all classes. Since this class meets 27 times, that means you must attend at least 22 classes. I also understand that, sometimes, missing class is unavoidable. If you must miss a class, send me an email, and let me know in advance. I do not need to know why you need to miss the class; I just want notice that you will not be attending. Missing more than 1 or 2 classes is not a good idea. It is recommended that you attend all the classes, since frequently we will cover material
in class which is not discussed in the reading, and you will be responsible for that material as well. Getting copies of someone else’s notes is not an adequate substitute for being there.

**Reading assignments:** Most, but not all, of the material covered in the reading assignments will be discussed in class. You are responsible for all the materials regardless of whether we discuss it in class. In addition, some assigned reading is not included in your case book. You will have to obtain these materials on your own. Sometimes the reading assignments may change. If there is a change in the reading assignments, you will be notified by at least one week before the class associated with the reading. It is important to complete the reading assignment before coming to class. If you come to class without having done the reading, you will be ill equipped to participate in class discussion. If you have not done the reading, you should still come to class, but it is incumbent upon you to let me know before class starts that you have not done the reading.

**Internet Policy:** Use of laptops will not be allowed in class. If special circumstances require you to use a laptop, please let me know. In addition, using the internet, in any form, is prohibited during class.

**Recording Policy:** Recording of the class is prohibited unless absolutely necessary for an accommodation due to a medical condition.

**Final Exam:** The exam will be given on December TBD at TBD. It will be a closed-book exam. Details regarding the final exam will be addressed later in the semester.

**Grade:** Your grade for this class will be determined by your performance on the final exam. Details regarding the final exam will be addressed later in the semester. Class participation will also be considered in determining your final grade. If you are consistently well prepared and actively participate in class discussions, that can help you by bumping up your grade two steps (e.g. B+ to A).

**Assignment for first class (Monday, August 23):** Our first class will focus on the important issues of fundamental fairness, due process, and the need for criminal procedure. The required reading includes the following cases:

1) *Powell v. Alabama*, 287 U.S. 45 (1932)

2) *Brown v. Mississippi*, 297 U.S. 278 (1936)

3) *Rochin v. California*, 342 U.S. 165 (1952)
# Criminal Procedure: Investigative

## Course Outline & Reading Assignments

**Fall 2021**


Cases denoted by double asterisk symbols ** are not included, in their entirety, in your case book and will have to be obtained separately.

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<tr>
<th>Date</th>
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| August 23rd| **Powell v. Alabama, 287 U.S. 45 (1932)**  
**Brown v. Mississippi, 297 U.S. 278 (1936)**  
**Rochin v. California, 342 U.S. 165 (1952)**  | Fundamental Fairness, Due Process and the Need for Criminal Procedure |
| August 25th| *Hurtado v. California, 110 U.S. 516 (1884)*  
*Duncan v. Louisiana, 391 U.S. 145 (1968)*  
Case Book Page 55-78 | Due Process and the Incorporation Doctrine |
| August 30th| **Medina v. California, 505 U.S. 437 (1992)**  
Case Book Pages 79-104 | Due Process and the Residual Clause |
| September 1st | **Mapp v. Ohio, 376 U.S. 643 (1961)**  
*Herring v. United States, 555 U.S. 135 (2009)*  
Case Book Pages 315-330 & 716-728 | The Exclusionary Rule & The Good Faith Exception |
*Florida v. Jardines, 569 U.S. 1 (2013)*  
Case Book Pages 340-365 | What is a Search? |
Case Book Pages 365-379 | Is it a Search? |
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United States V. Jones, 565 U.S. 400 (2012)  
Case Book Pages 380-417 | Is it a Search?                            |
| September 22nd | **United States V. Kim, 415 FSupp 1252. (D. Hawaii 1976)  
**Minnesota V. Dickerson, 113 S.Ct. 2130 (1993)  
**Smith V. Ohio, 494 U.S. 541 (1990) | Exceptions to Searches                      |
| September 27th | **Florida V. Bostick, 501 U.S. 429 (1991)  
**In the Matter of the Welfare of EDJ, 502 N.W.2d 779 (1993) | What is a Seizure?                         |
| September 29th | California V. Hodari, 499 U.S. 621 (1991)  
United States V. Drayton, 536 U.S. 194 (2002)  
Case Book Pages 421-434 | What is a Seizure?                         |
| October 4th | Draper V. United States, 358 U.S. 307 (1959)  
Case Book Pages 449-467; 517-526 | Warrants, Arrest & Probable Cause.         |
| October 6th | **Stanford V. Texas, 379 U.S. 476 (1963)  
**Horton V. California, 496 U.S. 128 (1990)  
Case Book Pages 434-449 | Searches with Warrants.                    |
| October 11th | Chimel V. California, 395 U.S. 752 (1969)  
Case Book Pages 627-638 | Warrantless Searches:                      |
<p>|          |                                                                        | A) Incident to Arrest                      |</p>
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| October 13th | *Arizona V. Gant*, 556 U.S. 332 (2009)  
*Riley V. California*, 134 S.Ct.2473 (2014)  
Case Book Pages 638-665 | Warrantless Searches:  
A) Incident to Arrest.                                      |
| October 18th | *Mincey V. Arizona*, 437 U.S. 385 (1978)  
*Kentucky V. King*, 563 U.S. 452 (2011)  
*Brigham City V. Stuart*, 547 U.S. 398 (2006)  
Case Book Pages 467-491 | Warrantless Searches:  
B) Exigent Circumstances.                                   |
| October 20th | *Schneckloth V. Bustamante*, 412 U.S. 218 (1973)  
**Illinois V. Rodriguez*, 497 U.S. 177 (1990)  
*Georgia V. Randolph*, 547 U.S. 103 (2006)  
Case Book Pages 526-544 | Warrantless Searches:  
C) Consent Searches.                                      |
Case Book Pages 497-517 | Automobile Searches.                                     |
| October 27th | **South Dakota V. Opperman*, 428 U.S. 364 (1976)  
**United States V. Ramsey*, 431 U.S. 606 (1977)  
Case Book Pages 665-672 | Special Needs Searches  
- Inventory.  
- Border Searches.  
- Airport Searches.  
- Checkpoints.  

**November 1st**  
*Terry V. Ohio*, 392 U.S.1 (1968)  
*Navarette V. California*, 572 U.S. 393 (2014)  
Case Book Pages 550-584 | Stop & Frisk  
and Reasonable Suspicion. |
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Case Book Pages 736-754 | Limits of the Exclusionary Rule.  
- Standing  
- Fruit of the Poisonous Tree |
| November 8th | *Utah V. Strieff*, 136 S.Ct. 2056 (2016)  
*United States V. Havens*, 446 U.S. 620 (1980)  
Case Book Pages 754-772 | Limits of the Exclusionary Rule.  
- Attenuation  
- Independent Source  
- Inevitable Discovery  
- Impeachment |
| November 10th | *Kastigar V. United States*, 406 U.S. 441 (1972)  
*Salinas V. Texas*, 133 S.Ct. 2174 (2013)  
Case Book Pages 830-865 | The 5th Amendment & Self Incrimination. |
| November 15th | *Watts V. Indiana*, 338 U.S. 49 (1949)  
*Massiah V. United States*, 377 U.S. 201 (1964)  
*Escobedo V. Illinois*, 378 U.S. 478 (1964)  
Case Book Pages 883-909 | Police Interrogation & Miranda |
Case Book Pages 915-935 | Detention, Custody & Interrogation |
*Berghuis V. Thompkins*, 560 U.S. 370 (2010)  
Case Book Pages 935-977 | Invocation & Waiver |
| November 29th | *Gideon V. Wainwright*, 372 U.S. 335 (1963)  
**Scott V. Illinois*, 440 U.S. 367 (1979)  
Case book pages 105-127 | The Right to Counsel |
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| December 1st | *Strickland V. Washington, 466 U.S. 668 (1984)*  
              *Rompilla V. Beard, 545 U.S. 374 (2005)*  
              Case book Pages 145-182 | Effective Assistance of Counsel |