Syllabus—Criminal Procedure
Law 534, Section 001
Professor Dawson

Course Time and Room:
Monday and Wednesday, 1:30-2:45, Room 108
(except as noted on weekly schedule below)

Professor's Information:
Professor Edward Dawson
Office #252
Office Phone: 618-453-8735
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Office Hours/ Availability:
My office hours are Monday through Wednesday from 3:00-4:00. You are welcome to come by during office hours with questions without making an appointment. You may also request an appointment outside office hours by sending me an email. You can also send me questions by email, but I may ask you to come by if the question isn't easily answered by email. I check my email regularly during business hours (9 am-6 pm Monday through Friday); outside of those times I may not respond the same day.

Required Course Books:
We have a casebook and the 2016 supplement for the casebook. There are two versions of the casebook; the longer hardbound version has the material for both this class and Crim Pro. 2 (the “bail to jail” class), the shorter paperback version (Basic Criminal Procedure) includes only the material for this class. The page numbers for both versions are the same.

- Kamisar, LaFave, et al., Modern Criminal Procedure: Cases, Comments, and Questions, 14th ed. OR Kamisar, LaFave, et al., Basic Criminal Procedure, 14th ed.
- Kamisar, LaFave, et al. Modern Criminal Procedure 14th ed., 2016 Supplement

I do not require a hornbook or treatise for this class in addition to the casebook; in our first class I will offer suggestions for those who may want to use one in addition to the casebook.

Course Overview:
This course focuses on constitutional limitations on criminal procedure during the early phases of criminal proceedings, including investigation, search, arrest, and interrogation. We will primarily be studying the 4th amendment’s limitations on arrests, searches and seizures, the 5th amendment’s right against self-incrimination, and protections under the 6th and 14th amendments that apply to lineup and showup procedures. The material we cover will also have some connection to the 6th amendment right to counsel, though that is primarily covered in Criminal Procedure 2. That second course on criminal procedure, the “bail to jail” course, covers later stages of the process; you should consider taking that course either if you know you want to be a criminal lawyer or if you want full coverage of the criminal procedure topics on the bar exam.
Learning Objectives:
At the end of this course, a student should be able to:

- Understand a criminal defendant’s fundamental constitutional rights during the investigatory stage of criminal proceedings and explain the content of these rights with reference to specific cases, statutes, and doctrines covered in class.
- Master the fundamentals of constitutional criminal procedure by learning the relevant constitutional provisions and judicial doctrines, and applying the rules to determine whether there is a constitutional violation in a hypothetical case.
- Be able to answer bar-style multiple-choice questions and write bar-style essay answers on criminal law topics covered on the Multistate Bar Exam including “arrest, search and seizure,” “confessions and privilege against self-incrimination,” and “lineups and other forms of identification.”
  - The topics covered on the MEE and MBE in criminal law are listed here and here.
- Orally explain cases and doctrines covered in the class, through practice via call and individual and group problem solving.
- Express and explain a sophisticated understanding of how legal doctrine develops over time through a line of precedents, and how doctrine may change with changes in composition of the Supreme Court.
- Understand and explain how the doctrines covered in the course can affect tactics used by police and investigators in investigating crime, and how police and investigators attempt to work around those doctrines.

Reading:
For each class, you are expected to do the assigned reading, and I will ask you questions about the reading in class according to the call policy described below.

Class Attendance:
You are allowed six absences for this course. Since the material for this course is challenging, I recommend you not miss class unless it is truly necessary. As described in the call policy in the next section, being unprepared in class can count as an absence.

Call and Attentiveness Policy:
I will call on students using a random call list—once you have been called on you won’t be eligible to be called on again until I have been through the entire list. You may “note out” before class by giving me a note or telling me that you are not prepared to be on call; noting out counts as an absence. If I call on you and you are unprepared or have not done the reading, I will mark you as absent for that class, the absence will count towards the limit for the semester, and you will remain on the call list.

If you appear to be using a computer or phone during class for non-class activities in a way that is distracting other students, I will warn you once by email and if I observe it again will disallow your use of the computer during class.

1 On this syllabus, highlighting indicates a clickable hyperlink.
**Recording Policy:**

The course sessions will not be recorded except as needed for disability accommodation.

**Assignments and Problems:**

We may have problems that we may work as group exercises or individual written assignments. These problems will not be graded, but your completion and participation can affect your class participation grade.

**Grades:**

Your grade will be determined by a combination of your performance on a midterm and your performance on the final exam, with possible adjustments for class participation. The midterm counts for 30% of your grade, and the final for 70%. Grades for the course will be assigned based on the law school grading policy, which is available at [http://www.law.siu.edu/_common/documents/rules-code/grading-rules-ay16-17.pdf](http://www.law.siu.edu/_common/documents/rules-code/grading-rules-ay16-17.pdf)

The midterm will be on Wednesday, March 8th, during the normal class period, and will consist of one essay and several multiple-choice questions. I will provide you individual feedback on your essay answers as well as an opportunity to meet with me to discuss your answer. If your answer falls below a certain score, I will require you to meet with me and attending that meeting will be a condition of receiving credit in the course.

The final exam will be on Monday, May 8, at 1:15-4:15 PM. It will consist of one or more essays and several multiple-choice questions. The final exam will be cumulative, that is, it will cover material from the entire semester.

Your class participation may affect your grade. I may adjust your grade =/- .3 points based on your class performance on call, on any in-class assignments, your willingness to volunteer or engage in dialogue, and your willingness to ask questions to clarify material you do not understand. You do not have to volunteer to speak or ask questions outside of class to be considered a good participant; you do have to be prepared when you are called on and participate in or complete exercises and problems during class.

**Workload Expectations:**

The American Bar Association standards for accrediting law schools define “a “credit hour” as an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session and 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 9 hours per week (3 in class and 6 preparing for class) on course-related work.

**TWEN Page:**

There is a TWEN page for this course, and you should sign up for it. On that page I will post course documents such as this syllabus, handouts, and any powerpoint slides I use in class.
Weekly Schedule and Outline:

Below is a list of the reading assignments and topics for each course session. The sessions are organized within an outline format that is intended to give you an overview of how each session fits into the larger structure of the course. I may adjust the assignments may change depending on how fast we move through the material; I will give you advance notice of changes and update the syllabus as we go. I may also assign additional reading or distribute problems to be worked in advance of class. When I do I will give you advance notice in class and post the material on TWEN in advance of the day for which it is assigned.

In the schedule below, all page references are to the main casebook except for references preceded by “Supp.,” which refer to the 2016 supplement to the casebook.

In addition to the scheduled classes, we will have one or more videoed makeup or review lectures as needed to make up for missed class days. I will give you more information about these as they are scheduled and become available.

I. Introduction

1. Wednesday, 1/18/17  
   Topic: Introduction to the Course; Introduction to Constitutional Criminal Procedure,  
   Reading: pp. 1-33

2. Supplemental Video Lecture  
   This is a video lecture that makes up for the holiday on Monday, January 16. It covers topics that either are useful background to the doctrine, or may broaden your perspective on the fairness of the system as a whole. I will let you know as soon as the video is available; you don’t have to watch it as soon as it’s posted but I recommend you do because it may help you get a different perspective on the material we cover during the semester.  
   Topics: Constitutionalization of Criminal Procedure, Actual Innocence, Racial Disparities in Criminal Procedure; The Right to Counsel (short overview).  
   Reading: pp. 37-59; Supp. pp. 3-9

II. Arrest, Search and Seizure

3. Monday, 1/23/17  
   Topic: Exclusionary Rule  
   Reading: pp. 202-227; Supp. p. 15 §1

4. Wednesday, 1/25/17  
   Topic: Exclusionary Rule (cont’d); Intro to Expectation of Privacy  
   Reading: pp. 227-247

5. Monday, 1/30/17  
   Topic: Protected Areas and Interests  
   Reading: pp. 247-267; Supp. p. 15 §2
6. Wednesday, 2/1/17  
   Topic: Probable Cause  
   Reading: pp. 267-286; Supp. pp. 15-16 §3

7. Monday, 2/6/17  
   Topics: Search Warrants; Warrantless Arrests and Searches of the Person pt. 1,  

8. Wednesday 2/8/17  
   Topic: Warrantless Arrests and Searches of the Person pt. 2  
   Reading: pp. 314-338; Supp. pp. 18-19 §5

9. Monday 2/13/17  
   Topic: Warrantless Entries and Searches  
   Reading: p. 338-358

10. Wednesday 2/15/17  
    Topic: Warrantless Seizures and Searches of Vehicles and Containers  
    Reading: pp. 358-382

11. Monday 2/20/17  
    Topics: Stop and Frisk pt. 1  
    Reading: pp. 382-405; Supp. p. 20-24 §8

12. Wednesday 2/22/17  
    Topic: Stop and Frisk Cont’d, Administrative Inspections and Searches; Catch-up (as needed)  
    Reading: pp. 405-418; Supp. pp. 24-27

13. Monday 2/27/17  
    Topic: Consent Searches  
    Reading: pp. 418-437 Supp. pp. 27-29 §10

II. Undercover Investigations and Surveillance

14. Wednesday 3/1/17  
    Topic: Undercover Investigations  
    Reading: pp. 437-466

15. Monday 3/6/17  
    Topic: Network Surveillance  
    Reading: pp. 466-486
MIDTERM EXAM and break

16. Wednesday, 3/8/17
   MIDTERM EXAM—Covering Material Through Class #14

SPRING BREAK  Monday, 3/13/17 and Wednesday, 3/15/17

III. Police Interrogation and Confessions

17. Monday 3/20/17
   Topic: Exam Review; Miranda Introduction and Background
   Reading: pp. 505-526

18. Wednesday, 3/22/17
   Topic: Miranda rights
   Reading: pp. 531-550; 640-646

19. Monday 3/27/17
   Topic: Miranda Warnings, Custody, and Interrogation
   Reading: pp. 552-571

20. Wednesday 3/29/17
   Topic: Miranda Exceptions and Waiver
   Reading: pp. 571-595

   Topic: Invocation and Consequences
   Reading: pp. 595-617

22. Wednesday 4/5/17
   Topic: Invocation; Comparison with Right to Counsel
   Reading: pp. 618-636; Supp. pp. 31

23. Monday 4/10/17
   Topic: Due Process; Evidence Derived From Confessions
   Reading: pp. 652-669

   Wednesday 4/12/17
   We will not have class on Wednesday, April 12th

IV. Lineups, Showups, and Other Pretrial Identification Procedures

24. Monday 4/17/17
   Topic: Introduction to Identifications
   Reading: pp. 704-721
25. Wednesday 4/19/17
   Topic: Identifications cont’d
   Reading: pp. 721-746; Supp. pp. 33-34

V. Scope of the Exclusionary Rules

26. Monday 4/24/17
   Topic: Standing
   Reading: pp. 827-842

27. Wednesday 4/26/17
   Topic: Fruits of the Poisonous Tree and Impeachment
   Reading: pp. 842-866

28. Review: TBA
Emergency Procedures:

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Support Services:

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares:

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453–5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618–453–3135.