

DEPAUL UNIVERSITY COLLEGE OF LAW

LITIGATION STRATEGY: PRE-TRIAL CRIMINAL PROCEDURE

INSTRUCTORS:

Robert A. Loeb
190 S. LaSalle St.
Suite 520
Chicago, IL 60603
312-368-0611
robertloeb@att.net

Brian M. Collins
70 W. Hubbard St.
Suite 302
Chicago, IL 60610
312-755-0303
briancollins302@sbcglobal.net

Litigation Strategy: Pre-trial Criminal Procedure is a “learn-by-doing” class, a part of the Lawyering Skills curriculum, in which students will prepare and litigate a variety of exercises, motions, and hearings in a courtroom setting. The primary focus will be on Illinois state criminal proceedings, although the federal system will be discussed as well. Although not pre-requisites per se, courses in Evidence and Trial Advocacy provide a helpful background for this course.

Students will litigate bond hearings preliminary hearings, grand jury proceedings, 4th Amendment motions (to quash arrest and suppress evidence), and 5th Amendment motions (to suppress statements). These motions are often the dispositive issue in criminal cases. Actual and hypothetical cases will be used to give a real-life perspective to pretrial litigation in criminal cases.

Students will be graded on their participation and performance in class, including exercises, hearings, discussion, and on the presentation of a written memorandum on one of a variety of topics. There is no final exam in this class. No textbook will be required for the course. Students are expected, as young lawyers, to find the needed research and resources to prepare for each week. Reference materials may be suggested from time to time, and independent research on the motions to be litigated, and on the memorandum topics, will be expected.

In addition to performing the exercise and assigned motions “in court” each student will research, write, and present a paper on one of a variety of topics in pre-trial criminal procedure. A sampling of such topics includes ethical issues such as witness preparation and duties to disclose, identification procedures, search warrant procedures, attenuation motions, immigration and license consequences to convictions, discovery, prosecution and defense functions, eavesdropping, witness interviews, expert witnesses, and evidentiary considerations. Because plea negotiations are part of the pre-trial process, sentencing laws will also be discussed.

The instructors are practicing lawyers. As such, they do not maintain offices at the College of law, but if you have questions or comments concerning the assignments, exercises, or any issue in class, please feel free to contact either of the instructors by email or telephone, as provided above.

I. Required Materials

All Materials will be provided by the instructors or be available in the library.

II. Method and Format

Class Meetings

The class meets Monday evenings from 5:50 p.m. to 8:30 p.m., DePaul Law School courtroom, Room 632.

Simulation and Critique Method

The course will be conducted by the simulation and critique method, similar to Trial Advocacy. Students will be required to prepare simulated pre-trial exercises for each class session. During the class time, the instructor will call upon the students, individually or in teams, to assume the role of prosecutor or defense counsel. The students will then perform the assigned exercise, which will be followed by discussion and critique. The purpose of the critiques are to help the individual student, and the class as a whole, to improve litigation skills such as direct and cross examination, and to develop theories of the case, of the exercise, and of each witness.

III. Method of Evaluation

Students will be graded on their performance in each class simulation. They will also be graded on overall classroom participation and performance during the semester. While instructors will not divulge weekly numerical grades, students are encouraged to discuss their progress and work with the instructors. Students will also be graded on their preparation and presentation of an assigned research paper; topics will be discussed in class. Finally, because this class is based upon participation in the classroom exercises, attendance is fundamental to the grades which students receive.

IV. Professional Responsibility Issues

A thorough understanding of the role of professionalism in the trial system is an essential part of preparation for trial and pre-trial advocacy. A first step toward developing this understanding is to know the provisions of the Rules of Professional Responsibility bearing upon the advocate's responsibility as a representative of the client and as an officer of the court. Students will develop an ability to recognize the meaning of these provisions in those practical contexts for which the Rules provide clear answers, and to know and understand the different professional opinions regarding issues that are not clearly answered under the Rules. Some of the problem materials in this course are designed to confront student counsel with issues of professional responsibility in circumstances typical of those in which the issues are likely to arise in practice. In addition, issues of professional responsibility will arise in some of the exercises and presentations, and will be discussed regularly by the faculty and students.

V. Recommended Optional Materials

The following texts are available in the library and relate to the various topics that will be discussed on particular weeks.

1. Illinois Criminal Procedure, Ralph Ruebner
2. Illinois Criminal Law, John Decker
3. Pretrial Motions in Criminal Prosecutions, James A. Adams, Daniel Blinka
4. Illinois Criminal Defense Motions, Richard S. Kling.
5. Handbook of Illinois Evidence, Michael H. Graham
6. Illinois Evidentiary Foundations
7. Trial Handbook for Illinois Lawyers: Criminal, Robert Hunter.
8. Illinois Compiled Statutes:
 - Chapter 720 Criminal Code
 - Chapter 725 Code of Criminal Procedure
 - Chapter 730 Code of Corrections

Schedule of Classes, Pre-Trial Criminal Litigation

August 25	Class Overview, Police Station Encounter	
September 8	Bond Hearings	
September 15	Bond and Preliminary Hearings	Motion to Reduce Bond*
September 22	Preliminary Hearings, Grand Jury	
September 29	MTQA & SE	David Carter*
October 6	MTQA & SE	Elizabeth Borden*
October 13	MTQA & SE	Maryann Coleman
October 20	MTSS	Skip Dillard*
October 27	Presentations	
November 3	Presentations	
November 10	Presentations	
November 17	MTQA & SE*	Michael Peterson, Cynthia Kidd
November 24	MTQA & SE*, Attenuation	Mark Vega
December 1	Vega Attenuation Argument and Memo Due	

*Prepare that Motion in Writing