

**SENIOR RESEARCH SEMINAR
CRIMINAL PROCEDURE: SELECTED PROBLEMS**

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SYLLABUS

Required Texts: (1) Kamisar, LaFare, Israel and King, MODERN CRIMINAL PROCEDURE: CASES-COMMENTS-QUESTIONS, 12th ed. (Thomson West 2008); (2) Kamisar, LaFare, Israel and King, *2008 Supplement* to MODERN CRIMINAL PROCEDURE: CASES-COMMENTS-QUESTIONS, 11th ed. (Thomson West 2008).

Description: This class is offered as a seminar for students who have successfully completed the basic courses in Criminal Law and Criminal Procedure. This seminar will explore a variety of divergent topics which are related to criminal procedure, including statutory as well as constitutional law. The topics that may be explored are reflected in the list below, although this list is not exclusive. *Please understand the list below may (and probably will) be the subject of expansion and contraction.* This is due to several realities: the professor's assessment of the students' familiarity with these topics, the professor's opinion of which subjects are "hot topics" in criminal procedure and the students' expression of interest in exploring additional topics not stated. Faculty, including myself, who have taught advanced criminal procedure classes or seminars have noted the students' strength of understanding of various topics varies to some extent on the approach taken by their instructor in the basic criminal procedure course (e.g., some classes explore certain topics very heavily but exclude others, while other classes study a wider range of subjects but in more limited depth). Thus, some adjustments may occur to bring each student to a relatively similar level of understanding of the particular topic being studied.

Possible Class Discussion Topics:

- Due Process and the War on Terrorism
- The Right to Counsel: Its Scope, Competency Concerns and Conflict in Representation Issues
- A Defendant's Right to Proceed Pro Se: A Constitutional Nightmare?
- The Equality Principle: The Indigent's Right to Experts, Investigators and Other Necessary Support
- A New Look at the Exclusionary Rule: Is *Hudson v. Michigan* the Beginning of the End?
- Fourth Amendment Privacy: A Focus on Sophisticated Sense Enhancing Devices
- Police Power to Arrest and Search: A Focus on Pre-textual and/or Minor Violations
- Searches Incident to an Arrest: Is it Time to Reassess the Doctrine in Light of *Thornton v. U.S.*?
- Warrantless Administrative Searches of Licensed Businesses: Any Limits?
- Consent Searches: Are There Any Limits?
- "Community Caretaking" and The Emergency Exception to the Fourth Amendment: Its Growing Reach -- Is the Screaming Baby in a Home in Need of Emergency Assistance?

- Electronic Eavesdropping: Title III and Beyond
- Is the Entrapment Defense “Dead”?
- Identification Evidence: New Limits
- What’s New in Police Interrogation?
- Prosecutorial Discretion: Any Limits?
- The Charging Instrument: Technical Requirements
- Criminal Jurisdiction: Its Scope -- Is There any Limitation in Drug or Terrorism Cases?
- Discovery: A Detailed Examination of Sanctions for Non-Compliance
- Peremptory Challenges: Has *Batson v. Kentucky* Proved Useless? Is There a Better Approach?
- Jury Deliberations and Verdicts
- Sentencing in the “New World” of *Apprendi v. New Jersey*: What does it Mean Today? What will it Mean Tomorrow?

Requirements and Grading: Students are expected to regularly attend class, read advance reading assignments and be prepared to discuss those assignments in class. Any student who has an excuse for not (1) attending class, or (2) being prepared for class should present such excuse in writing to the instructor before said class, if possible, or as soon as possible after said class.

The research paper, which you will write for this seminar must be original and must be of *publishable quality*. The topic which you choose *must be approved by the instructor*. Students are required to submit (1) an outline of their research paper, (2) a draft, and (3) a final version. ***These assignments must be submitted on time.*** The research paper must be the student’s original work, and should be a minimum of 30 pages, exclusive of notes. Students will also be expected to present and discuss their research in class. The research paper will account for approximately 75% of the student’s grade. The remaining 25% will be based on class preparation and participation, *including* the presentation of the research work in class. The instructor reserves the right to diminish the grade substantially or fail the student if the student is a source of disruption in class.

Laptops: If you bring a laptop computer to class, it is to be used **EXCLUSIVELY** for taking notes. **Students found to be using their laptops in class to surf the internet, to send or receive e-mails or for other non-class-related purposes will be required to leave the class and will not be permitted to return for the remainder of the semester.** Students who do not comply with this classroom requirement will be reported to the Academic Integrity Committee and to the Assistant Dean of Students.

Possible Research Topics (this list is not exclusive): Though U.S. Supreme Court caselaw is certainly important in this seminar, students are encouraged to explore other issues including those arising from an interdisciplinary approach or from State practice. Emphasis in topic selection should be on the timeliness in continuing evolution of the issue.

- A specific topic relating to a Class Discussion Topic (listed above)
- Is *Miranda v. Arizona* in Need of Resuscitation?
- Fifth Amendment Privilege Against Self-Incrimination: The Scope of the Required Records Exception
- Fifth Amendment Privilege Against Self-Incrimination: Reconciling “Act of Production” of Documents and Exclusion of Protection of a Document’s “Content”

- Grand Jury Practice: Should the Target of a Grand Jury Investigation be Permitted to Refuse to Appear Before the Grand Jury to Answer Questions that Could Elicit Incriminating Responses? Be Admonished About the Fifth? Be Warned he or she is the Target of the Investigation? Be Provided Counsel?
- Self-Representation: Should Standby Counsel be a Necessity Rather than a Trial Judge's Option?
- "Misuse" of Grand Jury Subpoena Power: How do you Prove it?
- Grand Jury Subpoena of News Reporters: Too Much Contempt for the First Amendment?
- Cybercrime: Law Enforcement's Response
- The Death Penalty and the Narrowing of the Federal Habeas Corpus Remedy
- The Death Penalty and New Studies of Disparate Racial Impact
- Cross-Racial Identification in Police Auto Stop Cases
- Jury Decision-Making: Invading the Jury Room by Post-Verdict Motion
- Jury Nullification: Should Jurors be Told They Can Ignore the Law?
- Sentencing: The Implications of *Apprendi v. New Jersey* in the New Millennium
- Custodial Arrest in Fine-Only Offenses: *Atwater v. City of Lago Vista* -- A Statutory Solution?
- Discrimination in Jury Selection: Proposals to Rescue *Batson v. Kentucky*
- Seizure of Fees and Prosecution of Defense Attorneys in Drug Cases
- Guilty Pleas: Should Defendants Be Admonished about the Collateral Consequences of a Conviction?

Office Hours: Office hours will normally be Thursday afternoons; appointments outside of regular hours are available by calling 312.362.8740.

ASSIGNMENT SCHEDULE

Week	Topic
1. Jan 15	Introductory Lecture and Discussion; Assignment Schedule
2. Jan. 22	Class Discussion Topic
3. Jan. 29	Class Discussion Topic
4. Feb. 5	Class Discussion Topic
5. Feb. 12	Class Discussion Topic
6. Feb. 19	Class Discussion Topic – Outline Due
7. Feb. 26	Individual Conferences – No class meeting
8. March 5	Individual Conferences – No class meeting
9. March 12	Class Discussion Topic
10. March 19	Class Discussion Topic – Draft Due
11. April 2	Student Presentations
12. April 9	Student Presentations
13. April 16	Student Presentations
14. April 23	Student Presentations – Final Paper Due