

SYLLABUS

CRIMINAL PROCEDURE I – INVESTIGATIONS

Law 7165 Spring 2010

Professor Caren Morrison

Office: 426

Telephone: (404) 413-9174

e-mail: cmorrison13@gsu.edu

TWEN course website link:

<http://lawschool.westlaw.com/manage/homepage.aspx?courseid=87761>

General Overview

This course covers the constitutional regulation of the police in the area of criminal investigation, focusing particularly on the Fourth and Fifth Amendments. Among other things, the course will cover the exclusionary rule, the meaning of probable cause, the arrest power, the privilege against self-incrimination and police interrogation.

The assigned books for this class are ALLEN, HOFFMAN, LIVINGSTON & STUNTZ, COMPREHENSIVE CRIMINAL PROCEDURE (2d ed. 2005) (“Allen”) and its 2009 Supplement. Reading assignments in the Supplement are designated as “Supp.” I will post reading assignments and announcements on the course TWEN website.

You should read the assignments carefully before class. The assignments typically include 1-3 lead cases with notes following each case. The notes provide historical background and often illuminate points that you may have missed upon your first reading of the case.

I value class participation and I will call on people (including volunteers). If you have been unable to do the reading in advance of class, please let me know at the beginning of class that you are unable to participate.

Our class begins at 10:30 sharp. Please do not come to class late. It is distracting and disrupts the flow of the discussion.

Office Hours: Room 426

I am available by appointment and on Tuesdays from 2:00 to 3:30. I am also happy to see people who just drop by my office if I can stop what I am doing. You should also feel free to ask questions by email, and I will do my best to respond promptly.

Grades and the Exam

Your final grade will be based primarily on your score on the final exam, which will be a three-hour, open book, in-class exam. In addition, depending on the level and quality

of your participation in class, I may also increase your grade by one step (from a B to a B+, for example), consistent with the school's curve requirements. Conversely, if you are frequently unprepared, late, or absent, I may decrease your grade by one step (from a B+ to a B, for example).

Course Website

Every student in the class is required to register to the class website on TWEN, <http://lawschool.westlaw.com/manage/homepage.aspx?courseid=87761>. The course is called "Criminal Procedure I (Investigations)." The TWEN site is accessible by logging on to Westlaw and adding the course to your "My Courses" page. If you have any technical problems, please contact West Group technical support for assistance accessing the site.

Please check the website regularly. There, you will find the reading assignments for the next class, a copy of the class syllabus, links to assigned cases, including those not included in your textbook, and any other materials or handouts that I assign or distribute over the course of the semester.

NB. The following syllabus contains a general plan for the course. At the end of each class, I will announce where you should progress in the reading before the next class. Deviations may be necessary. I will also post the reading assignments for each upcoming class under the "Course Materials" section of the TWEN site, as well as any supplemental reading assignment or problem assigned for upcoming classes.

Reading Assignments

Part I THE FOURTH AMENDMENT

1. **The Exclusionary Rule:** Allen 333-48
2. **Searches**
 - A. Definition of Searches and Expectations of Privacy: Allen 349-79 (skip notes 3, 4, & 5, pp. 356-58) & Supp. 65-74
 - B. Privacy and Technology: 379-94 & Supp. 74
3. **Seizures**
 - A. The Meaning of Seizures: Allen 394-409 & Supp. 75-76
4. **Warrants and Probable Cause**
 - A. The Meaning of Probable Cause: Allen 420-46 & Supp. 77-79
 - B. The Warrant Requirement: Allen 447-62 & Supp. 80-100
 - C. Exceptions to the Warrant Requirement
 - i. Exigent Circumstances: Allen 462-79 & Supp. 100-08
 - ii. Plain View: Allen 479-89
 - iii. Automobiles: Allen 489-509

iv. Searches Incident to Arrest: Allen 509-31 (the arrest power), 531-52 & Supp. 108-28

5. **Reasonableness**

- A. Stops and Frisks: Allen 552-90 & Supp. 128-29
- B. Police Discretion and Profiling: Allen 590-606
- C. Roadblocks: Allen 624-41
- D. Police Use of Force: Allen 658-68 & Supp. 132-44

6. **Consent Searches**

- A. Consent: Allen 668-83 & Supp. 144-62

7. **Remedies**

- A. Good Faith Exception: Allen 683-709 & Supp. 162-69
- B. Fruit of the Poisonous Tree: Allen 709-722 & Supp. 169-86
- C. Other Remedies: Allen 728-50

Part II BOYD v. UNITED STATES

- 8. *Boyd* and its Demise: Allen 277-308

Part III THE FIFTH AMENDMENT

9. **The Privilege Against Self-Incrimination**

- A. Justifications for the Privilege: Allen 751-69
- B. Contours of the Privilege: Allen 769-86
- C. Limiting the Privilege: Allen 798-804

10. **Police Interrogation**

- A. *Miranda v. Arizona* : Allen 805-13, 819-41 & Supp. 188-90
- B. Custodial Interrogation: Allen 841-58
- C. *Miranda's* Constitutional Status: 890-920

Part IV THE SIXTH AMENDMENT

11. **Sixth Amendment Limits on Police Interrogation**

- A. *Massiah v. United States*: Allen 813-19
- B. Right to Counsel Reconsidered: Allen 920-31, 942-44 & Supp. 190-93