Course Description
This course is a hybrid between law and the social sciences. We’ll cover major areas in American criminal procedure, including juries, search and seizure, Miranda rights, and the right to counsel. We’ll read excerpts from major cases and legal scholarship in order to understand the fundamentals of legal areas. We’ll then bring sociology, psychology, and other disciplines to bear in understanding how the law works. The central focus of this class will be the relationship between law and social science: Does the law of criminal procedure line up with the realities of the social world? How, if at all, should social science research be brought to bear on law? What can scholars across disciplines learn from each other and how does that learning and information impact the lives of criminal defendants? We will address these questions by looking at specific topics in criminal procedure, including police interrogation, juries, searches and seizures, indigent defense, and racial profiling.

Course Materials

Required Course Materials: All Course Materials Will Be Posted on Blackboard

Textbook title: Criminal Procedure
Textbook author: Joel Samaha

Required: In addition to the aforementioned books, I will post several articles every week for us to discuss that will be related to the topic at hand. These will mostly be research type articles that will inform our understanding of the cases. I will post these

1 All items on this syllabus are subject to minor modifications including but not limited to course readings, exam times, and course content. In most cases, a change will be in the student’s favor.
articles by Sunday evening for Friday’s class. It is your responsibility to check the http://blackboard.neu.edu website to keep track of and download these readings.

In addition, I will frequently post interesting current events from a variety of sources regarding issues relevant to the week’s topic. For now I am using Evernote to keep track of the articles. Feel free to ask me to be added to my portal.

**Recommended:** *Criminal Procedure for the Criminal Justice Professional*, by John N. Ferdico, Henry F. Fradella and Christopher Trotten (10th Ed.), Wadsworth Publishing

**Attendance and Participation**

All students are expected to do the readings prior to class and come prepared to discuss the material. Class attendance is mandatory and I reserve the right to lower your final course grade in the case of excessive unexcused absence (defined by 3 or more). Participation is very broadly defined. This will include small assignments from students to be done in class on a periodic basis.

**Other required materials:** Articles, book chapters, and other supplementary materials will be available on Blackboard under Course Materials. The week’s reading will be located in a folder for that week. So, for example, assigned reading for week 1 will be found in the folder entitled “Week 1”, etc.

**Grading**

Your course grade will be determined as follows:

- 40% Weekly Case Assessment
- 20% Class Participation
- 20% Midterm Examinations (2)
- 20% Final Exam

I may decide to make one or both of the examinations open book or take home depending on the level and depth of class discourse and participation. Questions could take the form of issue-spotting, long essay, short essay, multiple choice or a combination of the above. Every Friday beginning the week of 9/22 (week 3) we will have a case analysis “quiz.” You will be presented with a hypothetical based on cases we have studied, and you will spot the legal issues involved.

**Course Topic**

**Part I: Preliminaries (Week 1: 9/11)**

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“Open book” means that in taking the exam, students may refer to the textbook, their class notes, any materials passed out in class and any outlines or other materials that they have prepared, by themselves or with the help of others, for the exam.
Week 1 (9/11): Introduction to course: Course expectations, Course Etiquette

Week 2 (9/15 & 9/18) Introduction to Empirical Criminal Procedure: The marriage between social scientific theory and criminal procedure
- Using Social Science Research and Data as Evidence in Criminal Cases

Reading: Criminal Procedure (the textbook, hereafter “CP”) Chapter 1
- Barboza – Making Numbers Count
- Barboza – Sexual Violence Prevalence

Cases: People v. Collins, Regina v. Sally Clark, People v. OJ Simpson

Week 3 (9/22 & 9/25): Introduction to the Constitution
- What rights are constitutionally guaranteed?
- What’s Wrong with Our Rights?
- The liberty interest – What is it and who decides?

Reading: CP chapter 2

Cases: Palko, Adamson, Duncan

Week 4 (9/29 & 10/2): “Started from the Bottom Now We’re Here, Started from the bottom now my whole team f****** here…” The Sentencing Phase
- The vicious cycle of poverty, race and punishment
  - Mandatory maximums – disparities in sentencing and the New Jim Crow
  - Influenza and Affluenza – Does incarceration cause illness, joblessness and crime or does illness, joblessness and crime cause incarceration?

Reading: CP chapter 14
- Reading: Selections from Michelle Alexander’s The New Jim Crow

Film: The plan is to show “Straight Outta Compton” (2015): “The group NWA emerges from the mean streets of Compton in Los Angeles, California, in the mid-1980s and revolutionizes Hip Hop culture with their music and tales about life in the hood.”

Exam 1
Part II: Poverty, Race and the Fourth Amendment (Weeks 5 - 8 weeks) (10/6 – 10/30)

Week 5 (10/6 – 10/9): The Framework of the Fourth Amendment: Search and Seizure
- Search and Seizure what is it?
- Is hip hop getting a bad rap – Rap on Trial
- Special Needs Searches
- Crack Babies, Race and the meaning of a Fourth Amendment Search
- Regulatory searches and the poor.

Reading: CP, chapter 3, selections on blackboard


Week 6 (10/13 – 10/16): Stop and Frisk
- Who gets searched?: Social psychology and the Doctrine of Stop and Frisk – who gets stopped, who gets frisked and why?
- Special situation to stop and frisk
  - Automobile Searches & The phenomenon of driving while black
  - The criminalization of immigration and immigration reform

Reading, CP Ch. 4 & 5
- Barboza - The criminalization of Immigration reform
- selections on blackboard

Cases: Terry, JL, Wardlow, Royer, Drayton, Place, Bustamonte, Rodriguez

Week 7 (10/20 – 10/23): Administrative Searches
- The school to prison pipeline and the limits of reason
- Government Surveillance, Technology and Youth

Reading
- selections on blackboard

Reading: CP Chapter 7

Film: The plan is to show “Inside Peace” (2014) : “Criminal offenders, plagued by a lifetime of violence, addiction and bad choices, find their way to the Peace Class in a Texas prison where they discover their humanity and struggle to change. Inside Peace follows Trinidad, David and Jake for four years from their time in prison to their return to
the outside world. They begin to drop their tough facades and transform the way they interact with people and their surroundings, as they put their lives back together from the inside out.”

**Week 8 (10/27 – 10/30):** When is illegal evidence suggestive of guilt
- The Exclusionary Rule and The Fruit of the Poisonous Tree
- Double Jeopardy as Double Entendre? When can a defendant be tried twice for the same criminal event?

**Reading:** CP Chapter 10, selections on blackboard

**Exam 2**

**PART III: Cognition, Rationality and the 5th & 6th Amendments**

**Week 9 (11/3 – 11/6): The Fifth Amendment**
- The Psychology of Interrogation & Self-Incrimination: Silence as Guilt
  - Custodial Interrogation and Confessions
  - Interrogation Techniques

**Cases:** Wade, Gilbert, Kerby, Miranda, Ashcraft, McCarty, Innis, Perkins

- **Our Right to (In)Effective Counsel**
  - When is “good lawyering” an oxymoron?
  - Providing Counsel to Indigent Defendants
  - How “Effective” Does Assistance Have to Be?
  - Is pro per Constitutionally impro per?

**Reading:** CP chapter 8, selections on blackboard

**Cases:** Massiah, Escobedo, Betts, Giddeon, Shelton

**The American Jury System and Jury Psychology**
- Jury Selection
  - [http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=4500&context=fss_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=4500&context=fss_papers)
- A Jury of your Peers and Conviction

**Cases:** Batson

**Reading:** CP chapter 9
**Film:** The plan is to show “Broken on all sides: race, mass incarceration & new visions for criminal justice in the U.S.” (2012): “The project began as a way to explore, educate about, and advocate change around the overcrowding in the Philadelphia jail system. It has come to focus on mass incarceration across the nation and the intersection of race, poverty, and the criminal justice and penal systems. The documentary centers around Michelle Alexander's theory in her book, The New Jim Crow: since the rise of the drug war and explosion of prison populations, because discretion within the system allows for prosecution of people of color at disproportionately high rates, mass incarceration is a new version of Jim Crow. The movie also dissects the War on Drugs and 'tough on crime' movement, and offers possible reforms and solutions to ending mass incarceration and this new racial caste system.”

- Jurors and Scientific Evidence
- selections on blackboard

11/27 -- No class, Thanksgiving

**Week 13 – 12/2 – 12/4: the Future of Criminal Procedure**
- 12-2: Policy, Practice and Reform: Forging Systems Change
- 12-4: Review for exam

**Week 14 -- 12/8: Final Exam (Last Day of Class)**

A partial list of socio-legal questions that will be explored:
- Implicit associations and the implications for crim pro
- The phenomenon of “Driving While Black”
- Immigration, Crime and the effect on law enforcement
- Jury nullification and the legitimacy of the criminal justice system
- “Suspect” classifications in determining reasonable suspicion
- Does the exclusionary rule deter constitutional violations?
- Social networking and our reasonable expectations of privacy
- The “problem” of pretextual searches
- Is pro per constitutionally impro per?
- An indigent’s right to experts, investigators and other necessary support
- Equality, Power and Consent searches: When does yes mean no?
- The utility of Bateson v. Kentucky -- Is there a better approach?
- The Death Penalty, Disparate Impact and Community Norms