Northeastern University
Criminal Due Process
2100- Course Syllabus
Spring 2016- Sec 01

Instructor: Attorney Krista M. Larsen
Office: 411 Churchill
Office Hours: M 12:00pm – 2:30pm

Class Times: MW 2:50 p.m. – 4:30 p.m.
123 Snell Library

Office Hours: I anticipate having Office hours on Mondays from 12:00p.m. to 2:30p.m.. It is advisable however, to ask me if you plan on coming during the hours so I can make sure I am there. I can be reached via email at K.Larsen@neu.edu. This is the best way to reach me to schedule an appointment or ask any question. You can also leave a message at my Law Office at 781-933-4711. I generally return all phone calls within 24 hours, if you leave a message after regular business hours, it may take a little longer.

Course Description & Overview: This course will focus on the evaluation of the Fourteenth Amendment of the U.S. Constitution and its use in making rights prescribed under the Bill of Rights applicable to the individual states, particularly Massachusetts. Examines constitutional requirements in the administration of criminal justice with emphasis on the 4th and 5th Amendment requirements and their implications in the areas of arrests and searches and seizure.

So in plain English? The cases we will study during this semester are crucial to your understanding of the role of law enforcement in the criminal justice system – as a student, a member of society, a future police officer, future attorney, etc. All of the cases and subjects we are going to cover during the semester are still the foundation for our criminal justice system today – rights that whether you realize it or not are guaranteed to you. Although we will discuss the “bail to jail” part of the system (what happens after a person is charged with a crime), it is not the focus of our studies.

We will center primarily on the opinions of the U.S. Supreme Court to determine whether evidence introduced at Trial was done in violation of the Defendant’s constitutional rights to due process, and whether, if that occurred, the defendant’s conviction should be reversed.

You should also pay attention to current events. “Real life” events, whether in the news or your own experiences, can aid in application of the topics we are discussing as well as your opinions and observations relative to that application.
Required Text:  
*Criminal Procedure: Investigating Crime*
Dressler & Thomas, 5th Edition*
(Referred as Casebook (CB) in syllabus)

Recommended Text:  
*Understanding Criminal Procedure*
*Volume 1: Investigation*
Dressler & Michaels, 5th Edition*
(Referred as SUPP (supplement) in syllabus)

*If you get the 4th edition, it may not include some of the more recent cases however, they are likely available on-line/in other sources.

These textbooks are law school textbooks. They will assist you in reading the often lengthy U.S. Supreme Court decisions we are studying. You must read these decisions carefully. We will focus on the majority opinions and I will advise you when you should pay particular attention to any concurring opinions and dissents. If you have not done this type of reading before, be prepared this may require re-reading.

In doing the readings, you may find it easier to “brief” the cases for class discussion as well as your own benefit for studying later. We will discuss how to do this and I strongly recommend doing this.

**Grading: Scale:**

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<th>Grade</th>
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<td>D-</td>
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<td>60 and less</td>
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**Percentages:**

- Quizzes: 20%
- Short Hypo’s: 15%
- Midterm: 25%
- Cumulative Final Exam: 30%
- Participation: 10%
**Quizzes:** Quizzes will be announced and unannounced throughout the course. There will be at least four (4) through the semester. Quizzes will be short, likely in multiple choice, true/false, short answer or a combination of the three in format. Each quiz will have at least two (2) extra credit questions - they may be from subjects we have covered in the text or they may be random questions about other issues/current events we have discussed.

Quizzes may be given at the beginning or end of class. Missed quizzes will be given a zero and will not be made up.

The lowest quiz grade will be dropped.

**Short Hypo’s:** Short Hypo’s will consist of a fact scenario which you will be asked to identify and argue a particular side/point/legal issue within 1-2 pages. You may be assigned a particular side (defense or prosecution). These will be no longer than two (2) pages typed. There will also likely be three (3) of these throughout the semester.

**Midterm:** The midterm will be given in class on MARCH 2, 2016. The midterm will cover any and all material that we have covered from the beginning of class until the date of the midterm. The midterm will likely be a combination of true/false, multiple choice, and short essays. The midterm too will have extra credit questions.

**Final:** The final exam will be cumulative. It will also likely be a combination of true/false, multiple choice, and short answer essays. I will also include extra credit questions on the final as well. The final exam will be given during final week at the time and place designated by the University. However, if we are ahead in the material, we may have it on the last day of class. We will not know this until we get closer to the end. I usually then do a majority vote to determine your choice.

**Make-up Exams:** Make-up Exams will not be given unless illness and/or accident is verified and then only at my discretion.

**Participation:** THIS DOES NOT MEAN ATTENDANCE. I will not and do not take attendance. Participation includes but is not limited to your questions, input, opinions, and arguments for or against my position. You will be graded on the quality of your participation NOT the quantity. I expect that the subjects we cover will invoke in class discussions. **Please see attendance section below.**

I ask that you raise your hand and not just yell out.

**FACT (Faculty Advisor Communication Tool):** This is a University tool which allows professors to communicate with students and their advisors when a student is not doing well. It is a mechanism to forewarn the parties so everyone is on the same page about where a student is academically and assist that student however necessary. A report is usually done mid-way through the semester and is required for athletes. I will make an announcement when I fill them out so you are not surprised.
Teaching Style: Lecturing with focus on class discussion. I will ask questions geared toward the particular chapter we are studying to facilitate discussion, participation, and analysis of the readings material. *Students are expected be prepared to do this by reading the assigned reading prior to the scheduled class.*

Throughout the syllabus I have listed questions in the CB which I expect you to be prepared to discuss in class. At times, these may be assigned as extra credit.

This also means that I may call on you regardless of whether or not you have your hand raised. **Bottom line – BE PREPARED for class.**

Attendance: I expect that you attend class regularly despite the fact that I do not take attendance. I cannot stress enough that your attendance in class will only help your grade. If you miss a class, it is your responsibility to get what was covered in that class from another student. As indicated above, missed quizzes **will not** be made up. Failure to attend class regularly can negatively impact your grade.

**Absolutely no early departures are permitted unless previously discussed with your instructor. **Systematic tardiness or early departures (defined as being late for class or leaving class early more than 4 times) will lead to a deduction of one grade point from your final course grade. 5 MINUTES IS LATE!**

Class Cancellation: Cancellations due to snow days will be announced per the University policy.

Cancellations due to my schedule will be announced per the University policy which includes posting on Blackboard, an email to you via Blackboard, and/or a notice posted on the classroom door.

I will do my best to make an announcement in class regarding the possibility of my missing a scheduled class due to my work schedule. However, it is your responsibility to check with me and/or via the methods above to confirm whether or not this will happen. Thinking that class was cancelled because I mentioned the possibility of it **will be** considered a “missed” class.

You will still be responsible for the materials scheduled for a particular day even if it is missed due to my schedule.

Student Conduct: Students must abide by the following:

• Punctuality is expected. Late entrances disrupt me as well as your fellow students. Continued late entrances will impact your final grade negatively. Missing a graded assignment is discussed above. **See attendance policy above.**
• All cell phones and pagers must be turned off and/or to silent vibrate during class. If you do not do this and your phone rings, plan on my taking it and returning it at the end of class. **There is NO texting during class.** If there is something that important, walk out of the classroom. I will call you out on it and if you continue to do it I will take your phone until the end of class.

• Use of computers is allowed in class for **class only.** This means no internet, no email, no AIM, etc. Basically if its looks like you are having too much fun with your computer, I’m going to ask to see it, call you out on it, or walk behind you to see it.

• The topics we are discussing often spark debate among students. While this is encouraged and expected, students are to treat everyone in the classroom with respect this includes being tolerant of other student’s questions/comments/ideas.

• Please do not speak out during class and/or hold independent conversations with your friends/neighbors.

• Disruptive behavior will not be tolerated.

• Cheating of any kind including but not limited to plagiarism **will not** be tolerated and will result in a failing grade. This may also result in more serious sanctions from the University.

**Extra Credit:** In addition to the extra credit questions on quizzes or exams, I generally provide up to 4 extra credit assignments throughout the course for points to be added on to your final grade if you so choose. The EC assignments will be announced and listed on Blackboard.
Please note that the dates for assignments listed are approximate and flexible. If we finish something early, we will move on to the next topic. If a particular subject lasts longer than noted, we will start the new topic on the next date. This requires you to look ahead to assignments. We also may not cover all topics listed due to time.

As we go, I will likely make announcements in class where changes are going to be made. Being prepared for a particular class is your responsibility.

**January 11, 2016**
*Introduction*
*Overview of Course*

**January 13, 2016**
*How to Brief a Case*
*Applicability of Bill of Rights to the States*
*Reading: CB p. 48-51* Duncan *
Q #7 p. 57
Supp. §3.01

*Overview of 4th Amendment*
*Reading: Supp. §19.01-§19.05*
*CB p. 448-452* Rakas v. Illinois *
Q#1, 3, 4

Supp. §5.01-§5.04, §6.01(A)

**January 20, 2016**
*4th Amendment & States*
*Reading: Supp. §4.01 - §4.05*
*CB p. 72-74* Wolf ; Q #1

**Predicates to the Implication of the 4th Amendment**
1. *When does the 4th Amendment apply?*
   A. *What is a Search?*
   1. *Expectation of Privacy*
      Reading: CB p.86-90 Katz & Harlan’s concurrence
      Q# 1, 2, & 10
Supp. §6.03

CB p. 95-98 White;

January 25, 2016
Expectation of Privacy cont’d

CB p. 105-109 Smith
Q #8 p. 105, #3 p. 112
Supp. §6.05 (A) & (B), §6.09(B)

Commonwealth v. Porter P (on Blackboard)

CB p. 118 Q#6 US v. Dunn
CB p. 121 Q#8 Greenwood
Supp. §6.08, §6.10

a. EOP & Technology (Thermal imagining/GPS)
   CB p. 121-126 Kyllo
   Q #3
   Supp. §6.09(D)

EXTRA CREDIT #1 DUE IN CLASS

January 27, 2016

EOP & Technology cont’d
   CB p. 133-139 US v. Jones
   Q#2, 3

   Commonwealth v. Connolly (on Blackboard)

February 1, 2016

a. Expectation of Privacy & Police Dogs

   CB p. 112 Q#4 US v. Place
   Fla v. Jardines (on Blackboard)
   Rodriguez v. US (on Blackboard)

February 3, 2016

Remedy for 4th Amendment Violations
1. The Exclusionary Rule
   Reading: CB p. 67-71 Weeks
   Supp. §20.01(A) & (B)
Q #1, 2, 3, 4 Byars, p. 74 Q#2 Rochin

Cupp v. Murphy (lecture only);
Winston v. Lee (lecture only)
Supp. §20.01(2)

HYPO #1 DUE

February 8, 2016
CB p. 75-79 Mapp
Q #2, 3,
Supp. §20.01(3), §20.02

Remedy for 4th Amendment Violations cont’d
2. Fruit of the Poisonous Tree
CB p. 469-470 Q#2 Silverthorne

Reading: Supp. §20.07 (B), (E)
CB p. 478-482 Wong Sun

February 10, 2016

Wong Sun, cont’d if necessary

Remedy for 4th Amendment Violations cont’d
p. 482 Q# 2 Brown, Ceccolini, Q#4 p. 483

Remedy for 4th Amendment violations cont’d
3. Good Faith Exception
CB p. 513-517 Herring v US

4. End of the Exclusionary Rule?
CB p. 498-504 Hudson v. MI
Supp. §20.05(b)

FEBRUARY 15, 2016 NO CLASS – PRESIDENT’S HOLIDAY

February 17, 2016
IN CLASS – QUIZ #2

February 22, 2016

Warrants
1. Probable Cause
CB p. 151-152 Intro
Reading: *Aguilar* posted on BBoard
*Draper* posted on BBoard
Supp. §8.01-§8.04

IN CLASS EXERCISE/HANDOUT ON BLACKBOARD

CB p.152-156 *Spinelli*
Q #1
CB p. 160-167 *Gates*
Questions 1, 2, 4, 6, 11, 13
Supp. §8.04(2), §8.05(A)

HYPO #2 DUE IN CLASS

February 24, 2016
Cont’d from above is don’t finish
2. Arrest Warrants
Reading: CB p. 244 Q#5 *Atwater*
*Watson* (lecture) §9.05(B)
CB 179-184 *Payton*
Q #8 *Steagald* p. 189 Q#9
Supp. §9.01-§9.03, §9.05(C)-(D)

SHORT ANSWER QUESTIONS FOR MIDTERM GIVEN

EXTRA CREDIT #2 DUE IN CLASS

February 29, 2016
IN CLASS REVIEW FOR MIDTERM

March 2, 2016
IN CLASS MIDTERM

MARCH 7-11, 2016 NO CLASS – SPRING BREAK

March 14, 2016
3. Search Warrants
Reading: CB p. 184-186 (before law review)
p. 195-197 *Lo-jii*
Supp. §10.02-§10.04

A. Exceptions to the Warrant Requirements
1. Exigent Circumstances
Reading: CB p.209 Intro Note- *Warden v. Hayden*
Q#7
Supp. § 11.01, §11.04 & §12.01
March 16, 2016
2. Search Incident to Lawful Arrest
Reading: CB p. 221-226 Chimel
Supp. §12.02(A)-(C)(2); §12.03

A. SILA & Cellular Phones
   Riley v. CA & US v. Wrie (on Blackboard)

March 21, 2016

B. SILA & Motor Vehicles
   CB p. 238-243 Belton
   CB p. 248-254 AZ v. Gant
   Supp. §12.02(b); §12.05

March 23, 2016

3. Car Searches and Containers: Motor Vehicle Exception and Inventory Search
Reading: CB p. 268-271 Chambers
Q #2 Coolidge p. 273-275
CB p. 275-279 Carney
Supp. §13.01, §13.02(B)(C), §13.03, §13.04, §13.05(A)(B)

A. Mistake of Law
   Hein v. NC (on Blackboard)

EXTRA CREDIT #3 DUE IN CLASS

March 28, 2016
Car Searches, etc. cont’d

B. Passengers
   PA v. Mims (on Blackboard)
   Commonwealth v. John Gonsalves (on Blackboard)

C. MA, Cars, and Marijuana
   Commonwealth v. B. Cruz (on Blackboard)
   Commonwealth v. Keefner (on Blackboard)
   Commonwealth v. Rodriguez (on Blackboard)

March 30, 2016
Cont’d from Car searches if necessary

4. Plain View & Plain Touch Doctrine
Reading: CB p. 299-305 Horton v. CA
CB p. 305-308 AZ v. Hicks
Supp. §14.01, §14.02, §14.03, & §14.05

When does an encounter become a seizure?

A. Field Encounters and the Stop.
1. Reasonable Suspicion & Pat Frisks
Reading: CB p. 344-358 Terry
Supp. §17.01-§17.02(A), §17.03-(2)
Q #1, Q#7 Dickerson

April 4, 2016

B. Seizure v. Non-Seizure - When is someone seized?
Reading: CB p. 375-381 Mendenhall
Q #2, 5
Supp. §7.03-(C)

Fifth Amendment and Miranda
A. Interrogation
1. Miranda – The Decision
Reading: CB p. 570-583 Miranda
Supp. §24.01, §24.04-(2)§24.05(B)(4)

HYPO #3 DUE IN CLASS

April 6, 2016

1. Custody under Miranda
Reading: CB p. 632-638 Berkemer
CB p. 639 Q#4 Mathiason
Supp. §24.07

2. Interrogation under Miranda
Reading: CB 641-645 Innis
Supp. §24.08

April 11, 2016

B. Waiver and Invocation of Miranda
Reading: CB 650-652 Butler
Q#1, 2, 4, 5, 6, 7
CB p. 667-679 *Berghuis v. Thompkins*
Q#6

SHORT ESSAYS GIVEN FOR FINAL

**April 13, 2016**
QUIZ #4
ALL SEMESTER EXTRA CREDIT DUE IN CLASS

IN CLASS REVIEW FOR FINAL

**APRIL 18, 2016 – NO CLASS – PATRIOT’S DAY HOLIDAY**

**April 20, 2016**
IN CLASS FINAL