

NORTHEASTERN STATE UNIVERSITY

Criminal Justice and Legal Studies Department

Criminal Justice 3083

CRIMINAL PROCEDURE

Fall Semester, 1999
16 August - 10 December

Charles Dreveskracht
Assistant Professor

SYLLABUS

I. COURSE DESCRIPTION:

Rules, principles, and concept governing the enforcement of arrest, search and seizures in the administration of justice.

II. COURSE LEARNING OBJECTIVES:

After completing Criminal Justice 3038, the student will be able to:

1. Define the exclusionary rule and describe its application.
2. Describe the law of arrest and its requirements.
3. Determine when a search warrant is required.
4. Describe the exceptions to the search warrant requirement.
5. Define the privilege against self-incrimination.
6. Describe the pretrial identification procedures.
7. Describe the constitutional issues associated with the defendant's right to counsel.
8. Define probable cause.
9. Explain the requirements for an admissible confession.
10. Recite the 1st, 4th, 5th, 6th, and 8th amendments to the United States Constitution.

III. COURSE PURPOSE:

This course is a required course in Bachelor of Science Degree with a Law Enforcement option and an elective course in the Administration of Justice and Paralegal Studies options.

IV. COURSE TEXT:

The text for this course is **Criminal Procedure for the Criminal Justice Professional**, 7th edition, by John N. Ferdica. The student is expected to have read and be appropriate class meeting (see schedule).

V. COURSE EXAMINATIONS:

There will be **four (4)** examinations in this course (see schedule for dates). Make-up examinations will "**NOT**" normally be given. It is the students responsibility to be at and take the examination at the appropriate times and dates.

Answer Sheets: The second day that you attend class, please give the instructor a package of SCAN-TRON answer sheets (Form 882). These forms may be purchased in the University Bookstore. **Do NOT open the packages;** tape your name, and class name to the outside of the package. **MAKE NO MARKS ON THE ANSWER SHEETS.**

Number 2 Lead Pencils will be REQUIRED for All EXAMS.

VI. COURSE QUIZZES:

There will be **fifteen (15)** quizzes given in this course. The **ten (10)** best scores will count towards the final grade. The quizzes will be given during the classes indicated on the schedule. There are **NO** make-up quizzes.

VII. COURSE SPECIAL REQUIREMENTS:

Each student **will have to pass a written test** on the verbatim knowledge of Amendments 1, 4, 5, 6, and 8 of the United States Constitution in order to pass this course.

VIII. COURSE PARTICIPATION:

A maximum of 10 percent of the final grade will be awarded for class participation including attendance. Students will be evaluated on their contribution to class discussion particularly on their performance during the short review period preceding most lectures. All students including those absent should carefully review material discussed before the next class meeting.

IX. COURSE GRADING:

The student should understand that assignments, papers and presentations are to be turned in on or completed before the class indicated. Papers and assignments that are not turned in by the class period indicated will have a penalty of letter grade per each weekday (Monday-Friday) assigned. Those student not doing a presentation during the assigned time without prior approval will have a penalty of two letter grades assigned per occurrence. Failure to complete a major part of the course (turn papers, take major exams or make presentations) can result in the failure of the course.

The following is a breakdown of the value of each element of the students work as it pertains to the final grade:

Each examination will count 15%	$15 \times 4 = 60\%$
Each quiz will count 3%	$3 \times 10 = 30\%$
Class participation will count 10%	$10 \times 1 = 10\%$
	Total = 100%

Grading System:

90-100 = A
80- 89 = B
70- 79 = C
60- 69 = D
0- 59 = F

X. COURSE FINAL GRADE:

If you would like to know your final grade at end of the semester before the University sends it to you, bring a **self addressed, stamped business sized envelope** to the final examination, and your final grade and final examination grade will be sent to you.

XI. COURSE ETHICS:

A student found to be acting unethically (cheating on tests, quizzes, papers or assignments, plagiarism, etc.) will be failed in this course.

All work submitted to the instructor must be the result of the student's own effort. If it is not it is **PLAGIARISM**. Any instances of plagiarism in any class assignment or test will result in a grade of zero for the assignment or test. The assignment or test will have to be redone as well. To plagiarize is to represent as one's own work the words or ideas of another. Examples of plagiarism include:

- a. Failure to give credit to the person whose words or ideas have been borrowed;
- b. Failure to place quotation marks (or other proper citation forms) around passages that are cited verbatim;
- c. and Minor changes of someone else's sentences and words that do not alter the essential style or meaning of the passage.

The above paragraph is copied from a professional colleague with his permission.

XII. COURSE DECORUM:

The University regulations prohibit the use of tobacco (both smoking and chewing), drinking and eating in the classroom. These regulations will be observed. Tape recorders are **NOT** allowed in this course. Students who disrupt class (talking, pagers, cell phones, watch alarms, ect.) or fail to follow instructions will be warned once without penalty. **Talking during lectures or tests will NOT be tolerated** and students who persist in disturbing the class will be asked to leave and will have 5 points deducted from their cumulative total grade. Additional guidelines regarding classroom behavior will be announced in class.

XIII. COURSE ACCOMMODATIONS:

If any member of the class feels that he/she has a disability and needs special accommodations, please advise the instructor of such disability at the first class attended.

XIV. COURSE WITHDRAWAL:

Students may withdraw with a "W" grade until the last day allowed by the University (**September 24, 1999 This Semester**) regardless of their grade in the course. Students who withdraw after the last day to withdraw with a "W" will receive a "W" grade if they are passing at the time of their withdrawal and have less than ten absences (calculated on the basis of a fifty-minute class period). Students who want to withdraw and have a "F" average and less than ten absences should see the instructor. Students with ten or more absences (calculated on the basis of a fifty-minute class period) who withdraw will receive a "F" grade.

XV. COURSE ATTENDANCE:

A student should recognize that one of the most vital aspects of a college experience is attendance and participation in classes and that the value of this academic experience cannot be fully measured by testing procedures alone. The members of this class are considered sufficiently mature to appreciate the necessity of regular attendances, to accept this as a personal responsibility and to demonstrate the kind of self-discipline essential for such performance.

As a student, one should remember that they are responsible for all material covered in class. If a class should be missed, it is the student's task to find and make-up the missed material. Leaving an electronic mail, voice mail, or written message does **NOT** fulfill this responsibility.

Attendance will count towards the computation of the student's final grade. **Students who came to class late or leave early will be counted absent.**

The objective of this course is to learn the outlined material. Therefore the student instead of having his/her final grade reduced for absences will follow the following procedure when missing a class. The student will answer the Review and Discussion Questions of the chapter assigned for the class missed. **The student will TYPE the answers in proper form and turn them in to the instructor within TWO WEEKS OR BEFORE the Examination in which the chapter is tested which ever is shorter time period.**

XVI. COURSE INFORMATION:

The course will meet from 10:00-10:50 on Mondays, Wednesdays and Fridays in room 203 of Seminary Hall.

XVII. COURSE INSTRUCTOR INFORMATION:

Charles Dreveskracht
303 Seminary Hall
Northeastern State University
Tahlequah, Oklahoma 74464-2399
Telephone (voice): (918) 456-5511 ext. 3505
Telephone (fax): (918) 458-2390
E-Mail(Internet): dreveskr@cherokee.nsuok.edu
URL: <http://arapaho.nsuok.edu/~dreveskr>

OFFICE HOURS:

Monday:	11:00-12:00, 13:30-14:30 & 19:10-20:10
Tuesday:	10:00-11:00
Wednesday:	11:00-12:00 & 16:20-17:20 at RSU
Thursday:	10:00-11:00
Friday:	11:00-12:00 or by appointment

CLASS HOURS:

Monday:	10:00-10:50 & 20:10-22:50
Tuesday:	11:00-12:15
Wednesday:	10:00-10:50 & 17:20-20:00 at RSU
Thursday:	11:00-12:15
Friday:	10:00-10:50

XVIII. COURSE EXCEPTIONS AND CLARIFICATIONS:

Under **EXTREMELY** compelling circumstances, exceptions can be made to some policies in this syllabus. If you have a problem, inform me as soon as possible, preferably beforehand and in person. If I am alerted early, it may be possible to work out a mutually satisfactory solution to the situation. Delay almost always makes resolution more difficult. I prefer to discuss problems in my office rather than in front of the class and find that the students are usually happier about the decisions made there. All exceptions to class policies in this syllabus must be requested in writing and, if approved, will be granted in writing. The instructor, not the students, determines class policy or policies in any instance in which the syllabus does not seem to be clear.

XVIV. COURSE GENERAL OUTLINE:

- A. The Constitution
 - 1. Individual Rights
 - 2. The Bill of Rights
- B. Criminal Court System
 - 1. Federal System
 - 2. State System
- C. Basic Concepts
 - 1. Exclusionary Rule
 - a. Fruit of the Poisonous Tree Doctrine
 - b. Silver Platter Doctrine
 - c. Good Faith Exception
 - 2. Privacy
- D. Arrest
 - 1. Definition
 - 2. Arrest Warrant
 - 3. Arrest Without a Warrant
 - a. Misdemeanors
 - b. Felonies
 - 4. Use of Force
 - 5. Illegal Arrest
- E. Search Warrants
 - 1. Definition
 - 2. Issuance
 - 3. Contents
 - 4. Execution
 - 5. Electronic Eavesdropping
 - a. Wiretapping
 - b. Electronic Surveillance
 - c. Trespass Doctrine
 - d. Title III, Omnibus Crime Control and Safe Streets Act of 1968
 - (1). Prohibited Activities
 - (2). Exceptions
 - (3). Eavesdrop Order
- F. Probable Cause
 - 1. Definition
 - 2. Information
 - a. Sources
 - b. Own Senses
 - c. Informants
 - 3 4. Totality of Circumstances Test
- G. Exceptions to Search Warrant Requirements
 - 1. Incident to Lawful Arrest
 - 2. Consent
 - 3. Plain View Doctrine
 - 4. Vehicles and Containers
 - 5. Open Fields
 - 6. Abandoned Property
 - 7. Stop and Frisk

H. Admissions and Confessions

1. Miranda
2. Custody
3. Interrogation
4. Warning
5. Waiver

I. Pre-trial Identification

1. Requirement of Counsel
2. Lineup Identification
3. Photo Identification
4. Single Suspect Identification

XX. COURSE DETAILED OUTLINE:

I. Chapter ONE:

A. Chapter 1. Objectives: Upon successful completion of this chapter the student will:

1. Understand the historical context out of which came the concern for the individual rights that are embodied in the United States Constitution.
2. Be able to explain how the legislative, judicial, and executive branches of government are involved in the protection of the constitutional rights of citizens.
3. Understand the individual rights protected by the original Constitution of 1787 and be familiar with the terms habeas corpus, bill of attainder, ex post facto law, and treason.
4. Be able to explain the general nature and limits of the rights embodied in the Bill of Rights, especially: the First Amendment freedoms of religion, speech, press, assembly, and petition; the Fourth Amendment prohibition against unreasonable searches and seizures; the Fifth Amendment protection against double jeopardy and self-incrimination and the right to due process of law; the Sixth Amendment rights to a speedy and public trial, notice of charges, confrontation rights against excessive bail and fines and against cruel and unusual punishment.
5. Have a general understanding of the concepts of due process and equal protection as guaranteed by the Fourteenth Amendment.

B. Chapter 1. Questions:

1. Define Criminal Procedure.
2. What was the first instrument of government of the U.S.?
3. What was the second instrument of government of the U.S.?
4. When was the constitution signed?
5. When was the constitution ratified?
6. When were the first ten amendments proposed?
7. When were the first ten amendments ratified?
8. What is the bill of rights?
9. What are the three branches of government?
10. What do articles I, II, and III deal with?
11. What do each of the first ten amendments deal with?
12. What does the 14th amendment deal with?
13. How are the constitutional rights applied to the states?

II. Chapter **TWO**:

A. Chapter 2. Objectives: Upon successful completion of this chapter the student will:

1. Be able to explain the structure of the court system of the United States and of the student's state.
2. Be able to trace the progress of a criminal case through its various stages from initial complaint through appeal and postconviction remedies.
3. Understand the meanings of the following terms: acquittal; affidavit; appeal; appellate jurisdiction; arraignment; arrest warrant; bench trial; beyond a reasonable doubt; burden of proof; challenge for cause; complaint; court of general jurisdiction; court of limited jurisdiction; cross-examination; deposition; direct examination; discovery; grand jury; habeas corpus; indictment; information; instruction; judgment; jury nullification; motion; nolo contendere; original jurisdiction; peremptory challenge; plea; preliminary examination; probation; rebuttal; rule of four; sentence; subpoena; summons; transactional immunity; true bill; use immunity; venue; verdict; voir dire; writ of certiorari

B. Chapter 2. Questions:

1. What is an affidavit?
2. What is a complaint?
3. What is an indictment?
4. What is an information?
5. What is an arraignment?
6. What can a defendant do at an arraignment instead of pleading? Why?
7. What are the three (3) most common pleas?
8. What is a deposition?
9. What is a subpoena?
10. What is meant by venue?
11. Name the two (2) types of trials.
12. What is a verdict?
13. What are the two (2) major forms of relief for a defendant after conviction?
14. What are the two (2) types of Juries?
15. What are the sizes of the two (2) types of juries (both state and federal)?
16. What is meant by unanimity?
17. When is unanimity needed?

III. Chapter **THREE**:

A. Chapter 3. Objectives: Upon successful completion of this chapter the student will:

1. Understand the history of and reasons for the Exclusionary rule and its exceptions and the significance of the Exclusionary rule in the law of criminal procedure.
2. Understand generally the nature of the right of privacy in the law of criminal procedure and how it has affected court resolutions of Fourth Amendment issues.
3. Be able to define probable cause and reasonableness and understand generally their importance in the law of criminal procedure, especially with respect to arrests, searches, and seizures.

B. Chapter 3. Questions:

1. What is the Exclusionary rule?
2. What case first developed the Exclusionary rule?
3. What case applied the Exclusionary rule to the states?
4. What is the fruit of the poisonous tree doctrine?
5. What is the silver platter doctrine?
6. What are three (3) major methods for unpoisoning the fruit?
7. What case developed the good faith exception?
8. What is standing?
9. When is the fourth amendment applicable?
10. What case gave us the decision that determines if the fourth amendment is applicable?
11. Define probable cause.

IV. Chapter **FOUR**:

A. Chapter 4. Objectives: Upon successful completion of this chapter the student will:

1. Be able to define formal arrest.
2. Understand the distinctions between the terms "seizure," "stop," and "seizure tantamount to arrest."
3. Know what an arrest warrant and a summons are and why arrests made pursuant to a warrant are preferred.
4. Know the difference between the warrantless arrest authority for misdemeanors and for felonies.
5. Know the procedures for effecting a formal arrest.
6. Know the law relating to citizen's arrest and fresh pursuit.
7. Know the limitations on the use of force in making arrests, self-defense, and entry.
8. Know the legal requirements and procedures for dealing with an arrested person after the arrest is made.
9. Know the consequences of an illegal arrest.

B. Chapter 4. Questions:

1. What are the four (4) basic elements of an arrest according to your text?
2. What is an arrest warrant?
3. What do you have to do in order to get an arrest warrant?
4. What is a summons?
5. What is the difference in arrest powers of an officer in dealing with a misdemeanor and a felony?
6. Who can execute an arrest warrant?
7. When may an arrest warrant be executed?
8. What makes an arrest warrant invalid on its face?
9. When can a private citizen make a legal arrest?
10. What is fresh pursuit?
11. How much force can be used to make an arrest?
12. What do you have to do after making an arrest?

V. Chapter FIVE:

A. Chapter 5. Objectives. Upon successful completion of this chapter the student will:

1. Know the general history of the development of the Fourth Amendment and of the development of the law of electronic surveillance.
2. Know how to obtain a search warrant including:
 - (a) Who issues search warrants.
 - (b) Grounds for issuance.
 - (c) What may be seized.
 - (d) How to describe the person or place to be searched and the things to be seized.
3. Know how to execute a search warrant including:
 - (a) Who may execute a search warrant.
 - (b) When a search warrant may be executed, allowable delays, and how long the search may last.
 - (c) Gaining entry to premises.
 - (d) Authority to search persons not named in the warrant.
 - (e) Allowable scope of the search and seizure.
 - (f) Duties after the search is completed.
4. Know the differences between an administrative search warrant and a criminal search warrant.
5. Have a general understanding of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 including:
 - (a) Familiarity with the conflicting demands for more effective law enforcement and for individual privacy rights.
 - (b) Knowledge of several ways in which Title III provides for judicial supervision of electronic surveillance.
 - (c) An understanding of the similarities and differences between an interception order under Title III and an ordinary search warrant.
 - (d) A knowledge of specific ways in which Title III protects individual rights, especially privacy rights.
 - (e) An understanding of the types of interceptions of wire, oral, or electronic communications that are excepted from the coverage of Title III.

B. Chapter 5. Questions:

1. What is a writ of assistance?
2. What are the six (6) elements of a search warrant?
3. Who may issue a search warrant?
4. What is a Franks hearing?
5. What are the grounds for the issuance of a search warrant?
6. What are the four (4) types of items subject to seizure under a search warrant?
7. What is reduction of search warrants?
8. What is an anticipatory search warrant?
9. Who may execute a search warrant?
10. When may a search warrant be executed?
11. What may be searched with a search warrant?
12. What may be seized with a search warrant?
13. What is an administrative search warrant?
14. What is the Act that controls electronic surveillance?
15. What four (4) things must the court find in order to issue an intercept order?

16. What are the three (3) grounds for suppression of evidence obtained under an intercept order?
17. What are the exceptions to the Act?
18. What five (5) things must each order specify in order for the order to be issued?

VI. Chapter **SIX**:

- A. Chapter 6. Objectives: Upon successful completion of this chapter the student will:
1. Be able to define probable cause to search and to arrest.
 2. Know the indications of criminal activity that support probable cause.
 3. Understand the two-pronged test of the *Aguilar* case for establishing probable cause through the use of an informant's information.
 4. Understand how an informant's information can be bolstered by corroboration in order to establish probable cause.
 5. Understand what is required by the *Gates* "totality of the circumstances" test for determining probable cause.

B. Chapter 6. Questions:

1. Define probable cause.
2. What are some of the indicators of probable cause?
3. What are the two (2) sources of information for probable cause?
4. What are the two (2) prongs of the *Aguilar-Spinelli* two prong test?
5. Explain the two (2) prongs.
6. What is corroboration?
7. What is the totality of the circumstances test?

VII. Chapter **SEVEN**:

- A. Chapter 7. Objectives: Upon successful completion of this chapter the student will:
1. Understand the law's preference for search warrants and the reasons for the allowance of exceptions to the warrant requirement.
 2. Know the distinctions between a stop, a formal arrest, a seizure tantamount to a n arrest, and minimal non-intrusive contact between a citizen and a law enforcement officer.
 3. Know the distinctions between a frisk and a full search.
 4. Understand the competing interests that need to be balanced in determining the reasonableness of a stop and frisk.
 5. Know the circumstances that justify a law enforcement officer in stopping a person and the extent of the interference with the person's freedom of action permitted by the law.
 6. Know the circumstances that justify a law enforcement officer in frisking a person and the scope of the search permitted by the law.
 7. Be able to apply the legal principles governing stop and frisk to analogous situations such as detentions examinations of luggage, mail, and other containers.

B. Chapter 7. Questions:

1. What are the two (2) competing interests in a particular situation that need to be balanced in determine whether a stop and frisk is justified?
2. What is the standard used in determine whether to stop and to frisk?
3. What are the two (2) separate decisions that need to be made during a stop and frisk?
4. What are the two (2) things to consider when determine whether to frisk?
5. What is the case that developed the stop and frisk exception?

6. What is the scope of a frisk search?

VIII. Chapter **EIGHT**:

A. Chapter 8. Objectives: Upon successful completion of this chapter the student will:

1. Understand the allowable purposes of a search incident to arrest as set forth in the holding of *Chimel v. California*.
2. Know the limits on the allowable scope of a search incident to arrest with respect to :
 - (a) Property that may be searched for and seized.
 - (b) Search and seizure of the arrestee's body and items in or on the body or associated with or carried on the body.
 - (c) Search of the area into which the arrestee might reach.
 - (1) Motor vehicles.
 - (2) Other persons.
 - (d) Search of other areas of the premises.
3. Be familiar with other requirements of a valid search incident to arrest such as:
 - (a) Lawful custodial arrest.
 - (b) Contemporaneousness of arrest and search.
 - (c) Who may conduct the search.
 - (d) Limitations on use of force.

B. Chapter 8. Questions:

1. What is the importance of *Chimel v. California*?
2. What are the two (2) purposes for which an officer can search a person incident to a lawful custodial arrest?
3. What are the five (5) types of property that an officer may search and seize in a search incident to a lawful custodial arrest?
4. What is the scope of a search incident to a lawful custodial arrest?
5. What is the scope of a search of a motor vehicle in a search incident to a lawful custodial arrest?
6. Who may conduct a search incident to a lawful custodial arrest?

IX. Chapter **NINE**:

A. Chapter 9. Objectives: Upon successful completion of this chapter the student will:

1. Be able to explain the benefits, to the law enforcement officer and to the person being searched, of a consent search.
2. Understand the circumstances that are considered in determining whether a consent search is voluntary.
3. Understand the difference between a consent to enter premises and a consent to search the premises.
4. Understand how the scope of a consent search is limited by:
 - (a) The person giving consent.
 - (b) The area to which consent to search is given.
 - (c) Time.
 - (d) The object searched for.
5. Understand when a third person may be authorized to consent to a search of a person's property and how third party consent is affected by the person's reasonable expectation of privacy.

B. Chapter 9. Questions:

1. What is the requirement for a consent search?
2. What is the scope of a consent search?
3. How may a consent search be limited?
4. How and when may a consent search be revoked?
5. Who may give consent?
6. What is considered in determining if the consent was voluntary?

X. Chapter TEN:

A. Chapter 10. Objectives: Upon successful completion of this chapter the student will:

1. Understand why the plain view doctrine is not a true exception to the search warrant requirement.
2. Be able to distinguish the plain view doctrine from the law of search incident to arrest.
3. Be able to give examples of prior valid intrusions into constitutionally protected areas.
4. Understand how the plain view doctrine is affected by the reasonable expectation of privacy of the person against whom a search or observation is directed.
5. Understand the demarcation between:
 - (a) A plain view observation and probable cause to believe that an item of evidence is in a certain place; and
 - (b) A plain view observation and a search, especially with respect to closer examinations of items and examinations of containers.
6. Understand the so-called "plain touch" or "plain feel" doctrine.

B. Chapter 10. Questions:

1. Is plain view a search?
2. What are the requirements of plain view?
3. What are some of the conditions of a prior valid intrusion?
4. Can you use mechanical or electronic aids to help you in observing?
5. What are the types of property subject to seizure under plain view?
6. What do we mean by the statement "the discovery need not be inadvertent"?

XI. Chapter ELEVEN:

A. Chapter 11. Objectives: Upon successful completion of this chapter the student will:

1. Understand the rationale behind and the scope of search allowed under the *Carroll* Doctrine or automobile exception to the search warrant requirement.
2. Understand what types of exigent circumstances will justify the search of a motor vehicle on probable cause.
3. Understand the differences between a motor vehicle and a movable container with respect to expectations of privacy and the ramifications of those differences for purposes of a warrantless search.
4. Understand the circumstances under which a motor vehicle may be impounded and the requirements that must be met before an inventory of the vehicle's contents may be conducted by law enforcement officers.
5. Be able to analyze any search and seizure situation involving a motor vehicle in terms of the reasonable expectation of privacy of the vehicle's owner and occupants.

B. Chapter 11. Questions:

1. What is the Carroll Doctrine?
2. What are exigent circumstances?
3. Can you search movable containers under the Carroll Doctrine?
4. What is the scope of a search under the Carroll Doctrine?
5. What are the three (3) limited purposes in the inventory of a vehicle?
6. Can an electronic beeper be placed on a vehicle without a court order?

XII. Chapter **TWELVE**:

A. Chapter 12. Objectives: Upon successful completion of this chapter the student will:

1. Understand the interrelationship of the concepts of "open fields," "curtilage," and reasonable expectation of privacy" and discuss their importance to the law of search and seizure.
2. Be able to analyze a fact situation involving a description of a place and determine whether the place is located in the open fields or is within the curtilage.
3. Know the differences between the open fields doctrine, the plain view doctrine, and observations into the curtilage from a vantage point in the open fields or a public place.
4. Know the factors considered by courts in determining whether premises, objects, or vehicles have been abandoned and the significance of abandonment in the law of search and seizure.

B. Chapter 12. Questions:

1. What is an open field?
2. What are the four (4) factors that determine curtilage?
3. What does abandonment mean?
4. What are the three (3) broad categories of factors that determine abandonment?
5. What is meant by curtilage?

XIII. Chapter **THIRTEEN**:

A. Chapter 13. Objectives: Upon successful completion of this chapter the student will:

1. Know the history of the development of the test for the admissibility of a defendant's admission or confession.
 - (a) Voluntariness.
 - (b) *Escobedo v. Illinois*.
 - (c) *Miranda v. Arizona*.
2. Be able to determine whether the *Miranda* requirements are applicable to a particular fact situation, i.e., whether the suspect was subject to custodial interrogation.
3. Know under what circumstances further attempts at interrogation may be made after a suspect has exercised his or her right to remain silent, has requested the assistance of an attorney, or has waived the *Miranda* rights and submitted to interrogation.
4. Be able to determine whether the *Miranda* requirements have been satisfied in a case in which they apply, i.e., whether the warnings were adequate, whether the rights were clearly waived, whether the suspect was competent to waive the rights, and whether the suspect's reasonable expectation of privacy was violated.
5. Understand the applicability of *Miranda* to misdemeanors and other miscellaneous situations.
6. Understand the effect of *Miranda* in court.

B. Chapter 13. Questions:

1. What case established the voluntariness test for confessions?
2. What case established the focus of the investigation test for confessions?
3. What case established the custodial interrogation test for confessions?
4. What places of interrogation help determine custody?
5. What questioning does not constitute an interrogation?
6. When do warnings have to be given for the second time?
7. What are the four (4) *Miranda* warnings?
8. What two (2) factors does a waiver have to have in order to be valid?

XIV. Chapter **FOURTEEN**:

A. Chapter 14. Objectives: Upon successful completion of this chapter the student will:

1. Know the meanings of the terms "showup," "lineup," and "confrontation."
2. Understand the reasons why the presence of counsel is required at a pretrial confrontation with witnesses conducted after the initiation of adversary judicial proceedings.
3. Know the proper procedures for conducting a lineup.
4. Know when a one-person showup may be used by a law enforcement officer and the ways in which the inherent suggestiveness of the showup may be reduced.
5. Know the factors that indicate accuracy or reliability of an identification even though the identification procedure was unnecessarily suggestive.
6. Know the proper procedures for conducting a photographic identification procedure.

B. Chapter 14. Questions:

1. What is a showup?
2. What is a lineup?
3. What is a confrontation?
4. What two (2) things form the basis for requiring counsel at a pre-trial identification?
5. What is the requirement of counsel for a pre-trial identification called?
6. What are the exceptions for the need to provide counsel?
7. What are the five (5) factors to be considered in evaluating the likelihood of misidentification?

XXI. COURSE THOUGHT:

When they took the Fourth Amendment, I was quiet because I did not deal drugs.
When they took the Sixth Amendment, I was quiet because I was innocent.
When they took the Second Amendment, I was quiet because I did not own a gun.
Now they have taken the First Amendment, and I can say nothing about it.

XXII. COURSE SCHEDULE:

<u>Dates</u>	<u>Subject</u>	<u>Text Pages</u>	<u>Notes</u>
August 16-20	Introduction & The Constitution	3-30	Quiz #1- August 18
August 23-27	Court System	31-73	Quiz #2- August 23
August 30- September 3	Basic Concepts	75-99	Quiz #3- August 30 Exam #1- September 3 (3-99)
September 8-10	Arrest	103-153	Quiz #4- September 8 Special Quiz- September 10
September 13-17	Search Warrants	155-214	Quiz #5- September 13
September 20-24	Probable Cause	215-247	Quiz #6- September 20 Exam # 2- September 24 (103-153)
September 27- October 1	Stop and Frisk	251-295	Quiz #7- September 27
October 4-8	Search Incident to Arrest	303-325	Quiz #8- October 4
October 11-15	Consent Searches	321-350	Quiz #9- October 11
October 19-20	Plain View	351-373	Quiz #10- October 19
October 25-29	Search of Vehicles	375-401	Quiz #11- October 25
November 1-5	Open Fields	403-430	Quiz #12- November 1 Exam #3- November 5 (297-430)
November 8-12	Admissions & Confessions I	430-465	Quiz #13- November 8
November 15-19	Admissions & Confessions II	465-490	Quiz #14- November 15
November 22- December 3	Pretrial ID	491-516	Quiz #15- November 22
December 6	Exam #4	(433-526)	11:00-12:50

"PLEASE BE PLANNING WELL AHEAD SO THAT YOU ARE PREPARED FOR THE REQUIRED ASSIGNMENTS AND TESTS ON THE ABOVE DATES"