SYLLABUS
CRIMINAL PROCEDURE - ADVERSARY SYSTEMS
(LAW 6112)
Spring Semester 2016
Professor Kenneth Nunn

Professor’s contact information
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Phone: 273-0660
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Office Hours: Fri. 10 am to 11 am and by appointment

Required and recommended textbooks and other course materials

Required:
2. Federal Rules of Criminal Procedure

Course objectives

This course is intended to acquaint you with the basic attributes of the adversarial criminal justice system. The course is designed to develop a basic familiarity with the procedures used in the criminal justice system, the issues raised by those procedures, and practical guidance on how to utilize those procedures to your best professional advantage.

Evaluation

Your grade for the course will be based predominately on the grade you receive on your final examination. Each student will be expected to comment on at least one case or problem during the course of the semester. Class participation and preparation are factors which may count for up to 0.75 grade points on your final grade.

Final examination

The final examination may contain multiple-choice, short answer or traditional law school essay questions. All material and concepts covered in the course may be tested on the exam, including matters discussed in class for which there are no specific readings and assigned readings not specifically discussed in class. Exams will be graded anonymously by exam number.

Policy related to Make-up exams or other work
The law school policy on delay in taking exams can be found at: http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form.
Statement related to accommodations for students with disabilities
Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

Information on UF Law grading policies

<table>
<thead>
<tr>
<th>Grade</th>
<th>Points</th>
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<tr>
<td>A (Excellent)</td>
<td>4.0</td>
<td>C+</td>
<td>2.33</td>
<td>D-</td>
<td>0.67</td>
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<tr>
<td>A-</td>
<td>3.67</td>
<td>C (Satisfactory)</td>
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<td>E (Failure)</td>
<td>0.0</td>
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<tr>
<td>B+</td>
<td>3.33</td>
<td>C-</td>
<td>1.67</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B (Good)</td>
<td>3.00</td>
<td>D+</td>
<td>1.33</td>
<td></td>
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</tr>
<tr>
<td>B-</td>
<td>2.67</td>
<td>D (Poor)</td>
<td>1.00</td>
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</tr>
</tbody>
</table>

The law school grading policy is available at: [http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9](http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9).

Class attendance policy

Please note that the American Bar Association requires "regular and punctual class attendance... to satisfy residence and class hours requirements." A sign in sheet will be used to record attendance for each class. Falsifying the sign in sheet will considered a violation of the Honor Code. Students are allowed three unexcused absences. If you are absent more than three times, your absence will need to be excused. Students with more than six absences in total will be referred to student affairs and may be dropped from the class. Class will start promptly at the announced time. Students who are repeatedly tardy may not be permitted to enter once class has begun.

Computer and cell phone use

The use of laptops, tablets or other electronic devices used for notetaking, communication and/or access to the internet (“computers”) will be provisionally permitted in this class. Computers are not to be used for email, chat or web surfing unrelated to class. Abuse of this policy will result in computer use being suspended. Computer use will also be suspended if it appears to that students are not paying attention to the lecture or that the use of computers is a distraction. If the use of computers is suspended then continued use of such devices will result in the student being asked to leave class and counted absent. Computers will be allowed during drop/add and when course evaluations are completed. Computer use
will also be allowed when we cover pre-trial publicity and other selected topics, as announced in class. Use of IPhones, “smartphones” and other electronic devices used primarily for communication (“cell phones”) is not permitted. Texting is not permitted. Use of such devices will result in the student being asked to leave class and counted absent. Cell phones and other sound emitting devices should be silenced. Students whose cell phones ring in class will also be asked to leave class and counted absent.

**Taping**

You may not tape or otherwise record classes without my prior approval.

**TWEN**

You will need to sign up for the TWEN site for this course. Go to lawschool.westlaw.com. Click on link for TWEN. Click on “drop/add course”. You will need a password to sign up for this course. The password is case sensitive. The password is: “AdSysNunnS16” (not including quote marks).

**Subjects to be covered and assigned readings (Tentative)**

Readings are from the assigned text for the course, Dressler and Thomas, *Criminal Procedure: Prosecuting Crime* (5th ed. 2013). Reading assignments will be subject to changes announced periodically in class or posted on TWEN.

**OVERVIEW**

1. Introduction to the Course
   (No readings)

**THE ROLE OF COUNSEL**

2. The Scottsboro Tragedy
   (In-class video)

3. The Doctrine of Incorporation and the Right to Counsel
   Readings: pp. 18-32

4. The Right to Appointed Counsel
   Readings: pp. 957-970
   Suggested Readings: pp. 971-980

5. Provision of Counsel and Right to Self-Representation
   Readings: pp. 980-996
6. Effective Assistance of Counsel  
   Readings: pp. 996-1025

7. Effective Assistance of Counsel II  
   Readings: pp. 32-34; 948-957

8. Initiating the Criminal Process from the Defense Perspective  
   Readings: Handout

IDENTIFYING THE DEFENDANT AND THE CHARGE

9. Pretrial Release  
   Readings: pp. 795-805; FRCP 5

10. Preventive Detention  
    Readings: pp. 805-821

11. Prosecutorial Discretion and Selective Prosecution  
    Readings: pp. 822-837

12. Vindictive Prosecution and the Screening Function  
    Readings: pp. 837-846; 1337-41

13. Grand Jury Screening and Investigation  
    Readings: pp. 846-863; 872-879

PREPARING FOR ADJUDICATION

14. Pretrial Motions, Joinder and Severance  
    Readings: pp. 879-887; 921-928

15. Discovery—Defense  
    Readings: pp. 887-905; FRCP 16

16. Discovery—Prosecution  
    Readings: pp. 905-921; FRCP 12.1, 12.2, 12.3

17. Speedy Trial  
    Readings: pp. 928-941
PLEA BARGAINING

18. Plea Bargaining--Introduction
    Readings: pp. 1026-1037

19. Plea Bargaining--Restraints
    Readings: pp. 1037-1053

20. Attorney Competency in Plea Negotiations
    Readings: pp. 1054-1073

21. Making and Breaking Deals
    Readings: pp. 1073-1089

22. The Procedural Effect of a Guilty Plea
    Readings: pp. 1089-1095; FRCP 11

ADJUDICATION BY TRIAL

23. The Right to a Jury Trial
    Readings: pp. 1096-1109

24. Jury Selection
    Readings: pp. 1109-1124

25. Peremptory Challenges—The Batson Rule
    Readings: pp. 1138-1149 (end of note 3)

26. Peremptory Challenges—Applying Batson
    Readings: pp. 1149 (beginning with note 4)-1160

27. Jury Deliberations & Jury Nullification
    Readings: pp. 1160-1175; 1259-1264

28. Pre-Trial Publicity and the Media
    Readings:
    a. Clear Channel Communications, Inc. v. Murray, 636 So.2d 818 (1st DCA Fla. 1994)
    c. ABA Model Rule of Professional Conduct 3.6, available at:
       http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_6_trial_publicity.html
29. Right to Confrontation  
   Readings: pp. 1175-1189

30. Crawford and Unavailable Witnesses  
   Readings: pp. 1189-1205

31. Crawford and Testimonial Statements  
   Readings: pp. 1205-1223

32. Co-Defendant’s Confessions—The Bruton Rule  
   Readings: pp. 1223-1237

33. Right to Compulsory Process  
   Readings: pp. 1237-1249

34. Defendant’s Right to Testify  
   Readings: pp. 1249-1259

SENTENCING AND APPEALS

35. Sentencing and Sentencing Guidelines  
   Readings: pp. 1265-1282

36. Constitutional Limits on Sentencing  
   Readings: pp. 1282-1294

37. Sentencing and Apprendi I  
   Readings: pp. 1294-1310

38. Sentencing and Apprendi II  
   Readings: pp. 1310-1336

39. Double Jeopardy—Same Offense  
   Readings: pp. 1342-1358

40. Double Jeopardy—Issue Preclusion  
   Readings: pp. 1358-1374

41. Mistrials and Double Jeopardy  
   Readings: pp. 1374-1387

42. Appeals  
   Readings: pp. 1388-1410