SYLLABUS

CRIMINAL PROCEDURE – POLICE PRACTICES

(LAW 6111)

Fall Semester 2021

Professor Kenneth Nunn

**Professor’s contact information**

**Office Location:** Rm. 314 HOL

**Phone:** 273-0660

**Email:** nunn@law.ufl.edu

**Office Hours:** Please see below.

**Required and recommended textbooks and other course materials**

**Required:** All required course material will be posted on ChartaCourse and will be available at www.chartacourse.com. You will need to sign up for a ChartaCourse account at www.chartacourse.com.

**Credit hours and class preparation**

This is a three-credit course. Class will be held Wednesdays and Fridays at 8:30 to 9:55 am. Students should expect to spend, on average, approximately two hours preparing for every hour of class. Up to date reading assignments will be posted on the ChartaCourse site.

**Course objectives & student learning outcomes**

This course will explore the constitutional and statutory limitations on the exercise of police powers of investigation, interrogation, arrest, search and seizure. The course is designed to acquaint you with the basic rules governing the investigation of criminal cases and to prepare you to demonstrate your knowledge of these rules on the bar exam.

After completing this course, students should be able to:

1. Describe the constitutional and statutory limitations on police searches and seizures.

2. Describe the constitutional and statutory limitations on police interrogations of suspects.

3. Describe police identification procedures and describe the constitutional and statutory limitations on them.

4. Demonstrate an understanding of the exclusionary rule.

5. Demonstrate an understanding of policy issues relevant to individual rights and liberties raised by the criminal justice system.

6. Demonstrate an understanding of policy issues relevant to public order and safety raised by the criminal justice system.

**Workload**

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

**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. The final exam is currently scheduled to be administered on April 27, 2020 at 8:30 a.m.

**Information on UF Law grading policies**

Grade Points Grade Point Grade Point

A (Excellent) 4.0 C+ 2.33 D- 0.67

A- 3.67 C (Satisfactory) 2.00 E (Failure) 0.0

B+ 3.33 C- 1.67

B (Good) 3.00 D+ 1.33

B- 2.67 D (Poor) 1.00

The law school grading policy is available at: : <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

**Academic honesty /misconduct**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <https://sccr.dso.ufl.edu/process/student-conduct-code/>.

**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 (<https://disability.ufl.edu/>).  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. Do not contact me or have the Disability Office contact me on your behalf. Please work the Assistant Dean for Student Affairs (Brian Mitchell) or your appointed contact in the Office of Student Affairs. Students with disabilities should follow this procedure as early as possible in the semester.

**Course Evaluations**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](https://gatorevals.aa.ufl.edu/students/) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via [ufl.bluera.com/ufl/](file:///C:\Users\nance\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\70WP0DTB\ufl.bluera.com\ufl\). Summaries of course evaluation results are available to students [here](https://gatorevals.aa.ufl.edu/public-results/).

**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 **two** unexcused absences. **If** you are absent more than **two** times, your absence will need to be excused. Students with more than **four** 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.

**Office Hours**

I will have regular office hours on Wednesdays from 3:00 to 4:00 p.m. via ZOOM, starting on Wednesday, September 1, 2021. As mandated by the University, I will also hold in-person office hours on Fridays from 10:00 to 11:00 a.m., starting on Friday, September 3, 2021. In-person office will be held at one of the picnic tables south of the Student Commons. In case of inclement weather, in-person office hours will take place in the Student Commons. In addition, I am happy to meet with you by appointment, if either of these times do not work. Please contact me via email or Canvas to set up an appointment.

**COVID-19 and Heath Safety Policies**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions.

* ***Masks***. "Faculty, staff, and students may wear masks at any point while on campus, including during class or office hours. However, as of now, no one may require or ask students to wear masks on any location on campus [other than during office hours]. Faculty and staff may not otherwise pressure students to wear, or not wear, masks." According to the University's statement of August 6, 2021, "we expect everyone to wear a mask at all times when inside any UF facility, even if you are vaccinated."
* ***Vaccines***. According to the University's statement of August 6, 2021, "students should aim to be fully vaccinated but if unable should strive to have at least one shot of the Pfizer or Moderna vaccine no later than August 22." More information about vaccines and how to get one can be found here: <https://coronavirus.ufhealth.org/vaccinations/>
* ***Please exercise good judgment***. When it comes to the challenges of in person teaching in the middle of a pandemic, we are all in this together. It is very important that we all exercise good judgment and have consideration for others in order to have a healthy and productive semester.
* ***Sanitizing supplies***. Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* ***Physical distancing from me***. The current state of affairs that mandates high-density in-person classes but forbids mask or vaccine requirements is highly irresponsible given the surge in COVID-19 cases, especially in our state and region, and the most recent advice from the CDC that we should all wear masks in settings such as classrooms. I will wear a face mask whenever I am at the College of Law, including the classroom, even though I am fully vaccinated. Since I will not know your vaccination status. students WILL maintain physical distancing from me at all times in and outside of my classroom, especially if you are not wearing a face mask.
* ***Symptoms***. If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  (See <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.)
* ***Absences due to illness.*** Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work. (See <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>).”

**Make up classes**

Make up classes may be scheduled for this class. Make up classes will not count toward your excused or unexcused absence total, however students will receive extra credit for their attendance. Make up classes will be announced in class and posted via email and the Canvas page.

**Taping or recording of class sessions**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled.  The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding.  All other purposes are prohibited.  Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does notinclude lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

**Canvas**

You need to regularly check the Canvas site for this class. Documents, schedule changes and notices will be posted on Canvas.

**Helpful health and wellness resources**

* *U Matter, We Care*: If you or someone you know is in distress, please contact [umatter@ufl.edu,](mailto:umatter@ufl.edu) 352-392-1575, or visit [U Matter, We Care website](https://umatter.ufl.edu/) to refer or report a concern and a team member will reach out to the student in distress.
* *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](https://counseling.ufl.edu/) or call 352-392-1575 for information on crisis services as well as non-crisis services.
* *Student Health Care Center*: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](https://shcc.ufl.edu/).
* *University Police Department*: [Visit UF Police Department website](https://police.ufl.edu/) or call 352-392-1111 (or 9-1-1 for emergencies).
* *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](https://ufhealth.org/emergency-room-trauma-center).
* *Statement on basic needs assistance*: Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs.  If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

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

This is a summary syllabus of the topics to covered in the class. You may access a full syllabus with links to each reading on the ChartaCourse site. Reading assignments will be subject to changes announced periodically in class or posted on ChartaCourse and/or Canvas.

Day 1 - August 25

Introduction to the Course &

Introduction to the Fourth Amendment

Day 2 - August 27

*Katz* and the Reasonable Expectation of Privacy Test &

Applying *Katz*: Beepers and Bugs

Day 3 - September 1

Applying *Katz*: Beepers and Bugs (cont.) &

Applying *Katz*: Property Intrusions

Day 4 - September 3

Applying *Katz*: Sense Enhancements and New Technology

Day 5 - September 8

What is a Seizure? &

Probable Cause

Day 6 – September 10

Reasonable Suspicion: *Terry* Stop and Frisk &

Reasonable Suspicion: Criminal Activity

Day 7 - September 15

Reasonable Suspicion: Criminal Activity (cont.) &

Reasonable Suspicion: Armed and Dangerous

Day 8 - September 17

Administrative Searches: Special Balancing &

Administrative Searches and Pretext Stops

Day 9 - September 22

The Warrant Requirement &

Exceptions to the Warrant Requirement: Exigent Circumstances

Day 10 - September 24

Exigent Circumstances (Cont.) &

Searches Incident to Arrest

Day 11 - September 29

Mobility Exceptions (aka Automobile Exception)

Day 12 - October 1

Public Arrest and the Plain Feel/Plain View Doctrine &

Protective Sweeps and Administrative/Inventory Searches

Day 13 - October 6

Consensual Encounters

Day 14 – October 8

The Exclusionary Rule &

Standing and the Right to Object

Day 15 – October 13

The Fruit of the Poisonous Tree Doctrine

Day 16 – October 15

Good Faith and Other Exceptions to the Exclusionary Rule

Day 17 – October 20

Due Process: Torture and Confessions &

Voluntariness: Overcoming the Suspect’s Will

Day 18 – October 22

Custodial Interrogation and the Right Against Self-Incrimination

Day 19 – October 27

*Miranda* and Custody

Day 20 – October 29

*Miranda* and Interrogation

The *Miranda* Warnings

Day 21 - November 3

Invocation of Rights

Day 22 - November 5

Waiver of Rights

Day 23 - November 10

Custodial Interrogation Exceptions to the Exclusionary Rule

Day 24 - November 12

Impeachment Use of Custodial Statements

Day 25 - November 17

Statements & the 6th Amendment Right to the Post-Charge Assistance of Counsel

Day 26 – November 19

Eyewitness Identification and the Right to Counsel/

Suggestive Identification Procedures

November 29

TBA