SYLLABUS

CRIMINAL PROCEDURE II -- ADJUDICATION

Law 7167 Spring 2010

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TWEN course website link:

General Overview

This course covers the adjudication of criminal cases after a defendant has been
arrested, including the charging decision, setting of bail, the grand jury, discovery, guilty
pleas and plea bargaining, right to trial by jury and jury selection, effective assistance of
counsel, sentencing, and double jeopardy. There is no prerequisite for this course.

The assigned books for this class are ALLEN, HOFFMAN, LIVINGSTON & STUNTZ,
Reading assignments in the Supplement are designated as “Supp.” I will post reading
assignments and announcements on the course TWEN website.

You should read the assignments carefully before class. The assignments typically
include 2-4 lead cases with notes following each case. The notes provide historical
background and often illuminate points that you may have missed upon your first reading
of the case.

I value class participation and I will call on people (including volunteers). If you
have been unable to do the reading in advance of class, please let me know at the beginning
of class that you are unable to participate.

Our class begins at 6:00 p.m. sharp. Please do not come to class late. It is
distracting and disrupts the flow of the discussion.

Office Hours: Room 426

I am available by appointment and on Tuesdays from 2:00 to 3:30. I am also happy
to see people who just drop by my office if I can stop what I am doing. You should also feel
free to ask questions by email, and I will do my best to respond promptly.

Grades and the Exam

Your final grade will be based primarily on your score on the final exam, which will
be a three-hour, open book, in-class exam. In addition, depending on the level and quality
of your participation in class, I may also increase your grade by one step (from a B to a B+, for example), consistent with the school's curve requirements. Conversely, if you are frequently unprepared, late, or absent, I may decrease your grade by one step (from a B+ to a B, for example).

**Course Website**

Every student in the class is required to register to the class website on TWEN, http://lawschool.westlaw.com/manage/homepage.aspx?courseid=79673. The course is called “Criminal Procedure II (Adjudication).” The TWEN site is accessible by logging on to Westlaw and adding the course to your “My Courses” page. If you have any technical problems, please contact West Group technical support for assistance accessing the site.

Please check the website regularly. There, you will find the reading assignments for the next class, a copy of the class syllabus, links to assigned cases, including those not included in your textbook, and any other materials or handouts that I assign or distribute over the course of the semester.

NB. The following syllabus contains a general plan for the course. At the end of each class, I will announce where you should progress in the reading before the next class. Deviations may be necessary. I will also post the reading assignments for each upcoming class under the “Course Materials” section of the TWEN site, as well as any supplemental reading assignment or problem assigned for upcoming classes.

**Reading Assignments**

1. **Introduction**
   Steps in the Process and Statistical Overview: Allen 3-21
   Dershowitz's Rules: Allen 34-35

2. **The Screening and Charging Process**
   A. Prosecutorial Discretion: Allen 1045-78 & Supp. 211-12
   B. Screening the Charging Decision:
      1. Grand Jury: Allen 80-85, 1078-95 ; Fed. R.Crim. P. 6(d) and (e) at Supp. 344-47
      2. Preliminary Hearings: Allen 1095-99

3. **Right to the Assistance of Counsel at Trial**
   Allen 115-39

4. **Bail, Detention, and the Right to a Speedy Trial**
   A. Bail and Detention: Allen 1113-35
   For entire Speedy Trial Act, see Supp. 375-82.
5. **Discovery and Disclosure**
   A. Disclosure by the Government
      18 U.S.C. § 3500 (on TWEN)
   B. Disclosure by the Defense: Allen 1290-1309

6. **Guilty Pleas and Plea Bargaining**
   A. Guilty Pleas as Substitutes for Trials: Allen 1161-80 and Supp. 215-16
   B. Plea Bargaining: Allen 1189-1239 & Supp. 218-25 (disclosure in connection with bargaining)
   C. Plea Bargains as Contracts: Allen 1239-58

7. **The Jury and the Criminal Trial**
   A. The Right to a Trial by Jury: *Duncan v. Louisiana*: Allen 93-97 & 1311-23

8. **Effective Assistance of Counsel**
   A. The Lawyers and the Trial Courts: Allen 55-65
   B. Effective Assistance of Counsel, Standards: Allen 168-93 & Supp. 29-43; Allen 1180-89 (plea context)
   C. Multiple Representation, and Other Conflicts of Interest: Allen 196-214
   D. Right to Counsel of One's Choice: Supp. 50-61

9. **Sentencing**
   A. Introduction to Sentencing: Allen 1421-41
   B. Discretion and Rules in Sentencing: Allen 1441-45

10. **Double Jeopardy**
    B. "For the Same Offense": Allen 1506-27
    C. "Dual Sovereignty" Doctrine: Allen 1527-39

11. **Appellate Review** (if time permits)
    Allen 1559-74 & Supp. 341