

MEMORANDUM

To: All Criminal Pre-Trial Advocacy Students
From: Profs. Ellen Leonida, Ned Smock & Charles Weisselberg
Date: January 2, 2013
Re: Course Policies and Procedures and First Assignment

Welcome to Criminal Pre-Trial Advocacy—Criminal Procedure Lab! This memorandum reviews several class policies and procedures, and provides the first class assignment.

Overview and structure of the course. As you know, this is a 2-unit class that is intended primarily as a skills lab for students concurrently enrolled in Criminal Procedure—Investigations. The course will be team-taught by Ellen Leonida and Ned Smock (who are both assistant Federal Public Defenders) and Charles Weisselberg. You will plan, research, write, and litigate 3 pre-trial motions during the course of the semester, and participate in group class sessions and exercises. Because Criminal Procedure is a pre-requisite or a co-requisite, we expect that you will have acquired most of the legal knowledge you need in that class, though some additional research will be undoubtedly be necessary. Our hope is that you can focus on the skills aspects of the course and learn about lawyering and real-life practice. In doing so, you will deepen your understanding of the law of criminal procedure.

We will use the class meetings to give background about state and federal practice, pre-trial motions, and the role of counsel. We'll also brainstorm the motions and exercises in class. We will place a fair amount of material on bSpace to serve as resources for you, including the relevant state and federal rules, rules of court, and sample motions. One important resource—the CEB book, “California Criminal Law, Procedure & Practice—is not on bSpace but is available on-line with a Calnet ID. Here is a link:
<http://onlaw.ceb.com/OnLAW/gateway.dll?f=templates&fn=default.htm&vid=OnLAW:CEB>

Class sessions. Class meets on Wednesday evenings from 6:25 to 8:15 in room 140. We will occasionally split into 2 groups, and we have room 145 reserved as a second classroom. We will likely run late on the 4 evenings in which you are litigating motions. Please plan now to stay an hour late on those evenings, which are January 30, March 9, April 10 and April 17.

Some course mechanics. You will serve as a prosecutor or defense counsel in the first motion (a motion for discovery in state court). For the second and third motions, you will be a prosecutor in one and a defense lawyer in the other. The second motion is a federal court motion to suppress physical evidence. The third is a state court motion to suppress a defendant's statement. The last two motions will require brief direct and cross-examinations of witnesses. The person calling the witness will be responsible for finding volunteers to serve as witnesses. The volunteers can be another student so long as the student is not enrolled in this class. We'll discuss this more as the time approaches.

Most of the students will have taken (or are taking) Prof. Weisselberg's Criminal Procedure course. Those students will have a common base of legal knowledge. If you took Criminal Procedure in Fall 2012 at Berkeley or you enrolled in the course at another school, you will have read some different cases and you may have covered the concepts differently. To work around any difficulties, the syllabus for Criminal Procedure is on this course's bSpace page,

along with course handouts. And we will brainstorm the legal and factual issues surrounding the motions before you file them.

Professionalism & work ethic. We are all about helping you to become skilled and highly-ethical professionals. Now is the time for you to work on your craft. You should aim at submitting polished motions and you will have time “on your feet” in court. We expect you to do thorough work. Because you are paired in each exercise, you need to do a thorough job so that your opposing counsel also has a meaningful learning experience.

Office hours. Prof. Weisselberg’s hours are Thursdays from 2-3:30 in 688 Simon; other hours are by appointment. Profs. Leonida and Smock can meet with students after the Wednesday class session.

First assignment. Before the first class, review the Syllabus and the first set of readings. The Syllabus will be on bSpace under the “Syllabus” tab no later than January 7. The readings are now on bSpace under the “Resources” tab, in a folder called “Readings & Handouts.” The ABA materials are lengthy. Please review them but read carefully the parts relating to the overall duties of prosecution and defense counsel, and the pre-trial process. Paper copies of the readings are also now available outside of 688 Simon Hall. Paper copies of the Syllabus will also be available no later than January 7.

We really hope that you enjoy the course.