

## CRIMINAL PROCEDURE II

Spring 2011 - University of Cincinnati College of Law

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MTh 10:40-12:05

Room 104

**COURSE DESCRIPTION:** We'll cover the basic rules for post-arrest criminal litigation. Sources include constitutions, statutes, ethical codes, performance standards, research data, and appellate decisions interpreting these primary materials. Topics include the right to counsel; charging decisions; pretrial detention; discovery and investigation; plea bargaining; speedy trial and double jeopardy; trial; sentencing; and appeal/post-conviction. The goal is clear understanding of the rules, their underlying theories, and their real-world consequences.

**TEXTS:** Required readings are assigned from Chemerinsky & Levinson, *Criminal Procedure: Adjudication* (2008) and posted on the course TWEN site. Problem sets will be assigned periodically. If you like hornbooks, LaFave *et al.*, *Principles of Criminal Procedure: Post-Investigation* (2009) and Singer, *Criminal Procedure II: From Bail to Jail* (2008) are good.

**OFFICE HOURS:** MW 2-3:30 PM and by appointment. Stop by, call, or email any time.

**ATTENDANCE & GRADES:** You are expected to be in class, on time, ready to participate actively. Absence, tardiness, or lack of preparation requires a written explanation ahead of time unless you have a sudden emergency (email is fine). 80% of your grade is based on the final exam. The rest is based on attendance and participation.

## ASSIGNMENTS

### Th 1/20      The Players & the Program

C&L:            -Skim pp. 1-11 (Ch. 1A-B)

TWEN:        -Read Mauer, "Comparative International Rates of Incarceration" pp. 1-10  
                  -Skim "Crime, Incarceration, & Programming Statistics"  
                  -Read *Schwarzenegger v. Plata* Thumbnail; listen to first 20-25 minutes of each party's oral argument

Be ready to discuss, in light of the Justices' concerns in *Plata*: Who's missing from C&L's participant list? What do you make of the data in the TWEN materials? Are such data relevant to decision-making by C&L's list of participants? Why or why not? If relevant, how should they be considered, by whom, and when?

### M 1/24      Incorporation & Right to Counsel I (When Do I Get a Lawyer?)

C&L:            Read pp. xxiv, 11-26 & 173-180 (14<sup>th</sup> Amend. cl. 1, Ch. 1C-F & Ch. 7A-C)

TWEN:        Read *Rothgery v. Gillespie County* Thumbnail & concurring opinions  
                  Skim Ohio Public Defender Performance Standards 2.1 - 2.3

Be ready to discuss incorporation's history and supporting theories, and the distinction between "attachment" and "critical phase."