



MASSACHUSETTS SCHOOL OF LAW at ANDOVER
25 MASSACHUSETTS CASES EVERY CRIMINAL PRACTITIONER SHOULD KNOW
PRELIMINARY FALL 2020 SYLLABUS

Professor Shane Rodriguez

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Welcome to the 25 Massachusetts Cases Every Criminal Practitioner Should Know. This syllabus contains a link to access the Westlaw Law School Portal for TWEN which I will use as a repository for items such as the course syllabus, podcasts, PowerPoint presentations, audio and or video recordings, assignments and quizzes, customized polling, weblinks, forums and discussions boards for this course. Read the syllabus carefully. I hope you enjoy the class and will benefit from taking the class.

Note: This is a preliminary course syllabus meant to provide students with basic information about the course at the time of registration. On Monday, August 24, 2020, I will have a completed course syllabus to provide to students. Once you are registered, I will send an email from TWEN with additional course information.

TWEN: <https://lawschool.thomsonreuters.com/>

Text(s): *No Textbook Required. All twenty-five assigned cases will be accessed using TWEN (Westlaw Edge)*

Class Time: Classes are asynchronous which means you can participate in the class anytime during the week with each week's assigned cases and assignments available online beginning Monday. You must complete one week's work before moving on to the next week. In order to maintain pace, each week's assignments are due by Sunday evening of that week. Anything submitted after that will be late.

Typically, this class would meet two days a week for an hour and fifteen minutes per class. Use this as a guideline as to the amount of time you should spend during the week reading the assigned cases and completing all assignments.

Attendance: Since this is an asynchronous online class, weekly submissions are the key to your participation and earned grade. In order to participate in the course, you will need to have access to the internet, an active TWEN account, access to a computer/laptop/smart device to gain access to the assigned cases, assignments and quizzes, podcasts, audio and or video recordings, weblinks, PowerPoint presentations, forums and/or discussion boards, customized polling and the ability to check your email regularly for course correspondence. You may also need access to a printer.

**Subject Matter
of Class:**

This course will focus on twenty-five of the most carefully selected Massachusetts cases and issues that often arise in both the district and superior courts. After reading, briefing, and discussing these cases, students will have the confidence to anticipate these legal issues and stand before any Massachusetts court and argue these cases and issues successfully.

**Purpose of the
Course:**

The purpose of class is to read the cases to understand the complex legal issues and rules and become adept at applying the rules in your pleadings and before the court. By doing so, you will develop the analytical skills necessary for excellence as a competent attorney. This is unlikely to be achieved if your focus in class is merely being a scribe.

Grading:

I will release on Monday, August 24, 2020 an updated syllabus which will contain a course breakdown of the grading.

Please Note:

(1) Because no one can predict the course of the pandemic, it is possible that the structure and rules of the course will be modified on short notice. We will communicate any changes via TWEN email blasts, but you will need to routinely check the MSL website, Twitter and/or Facebook page for changes in case you miss any of the notifications.

(2) At this point, it is the goal of the administration that everyone will take the 25 Massachusetts Cases Every Criminal Practitioner Should Know final exam on campus rather than online.

The administration has informed us that taking an online class will not excuse you from taking exams live, and you will need to arrange to take the exams in the building.

If you did not sign the Community Agreement Contract that Dean Coyne had disseminated, this will also not excuse you from taking the exams live, and you will need to arrange to take the exams in the building without other students being present. If you take an alternative exam, you will still have to wear a mask or face covering at all times, and otherwise comply with MSL's pandemic rules, while you are in the building.

The administration understands that the course of the pandemic is unpredictable and will continue to monitor the science/medical information with the health and safety of our students foremost in its thoughts. We will notify you if and when circumstances change.

Course Requirements & Class Participation

Class Attendance:

Students must come to class prepared to brief and discuss all assigned cases. You are expected to be in class (either on Zoom or in-person) and to participate. Students who have more than **two** unexcused absences during both summer sessions may have their summer grade lowered by as much as one-third of a grade.

Attendance will be taken at the beginning of each class. You will be marked absent if you are not present when attendance is taken.

Notes And Tape Recorders In Class

I follow the syllabus and I test what I teach. Do all of the assigned readings and attend class and you will be prepared for the practical exercises and the final exams. It is necessary that you develop an effective method of recording and retaining the materials as they are taught and discussed. Because classes are interactive it is not advisable to take copious notes. Research strongly indicates that students who attempt to use word processors to “transcribe” class discussions perform less well on exams than do those students who actively participate in class. Use of tape/digital recorders are allowed in this class and may be preferable for you.

CLASSROOM DECORUM

All students are expected at all times to conduct themselves in a civil manner as follows:

1. **Timeliness.** Arrive on time. Late arrivals are disruptive. Frequent late arrivals will be excluded from the classroom.
2. **Cell Phones and Messaging.** There will be *no cell phone use in class*, with the exception of extraordinary circumstances. All cell phones must be turned off before the class begins.

If there is a family emergency requiring you to be reachable, approach me before class and inform me of the situation. In such an event you may keep your cell phone on if it has a “vibrate” only option.

In the event that your cell phone or other device disturbs the class you will be told to leave the classroom immediately and will be marked as absent for the class.

3. **Laptop Computers.** While many colleges and professional school are banning laptop computers from classroom, I believe that they can be a useful classroom tool. Arrive early enough to start your laptop prior to class such that start up noises will not be disruptive to other students.

If I determine that you are using the computer for other than legitimate classroom purposes you will be immediately told to leave and will be marked absent for the class.

4. **Talking in Class.** This is an interactive class, and it is normal for there to be a bit of a “buzz” while we are discussing a case, a principle or a hypothetical. You are expected to listen while others are talking and to respond when called upon. Civility is expected at all times by all students.
5. **Eating/Drinking in Class.** Eating in class is strongly disfavored. I understand that stressed-for-time students are often unable to take meals at normal hours, and therefore snacks and drinks will be tolerated as long as they are not disruptive. I will not tolerate full meals, full “submarine”

sandwiches, or anything of the like. I also will not tolerate undue noise such as stubborn plastic wrappers. I will ban all foods and drinks in class if, in my opinion, they are becoming a distraction.

6. **Civility Above All Else.** Each of you will be treated at all times with courtesy and respect, and will treat others with equal civility at all times. In our class discussion, we will argue issues but never personalities.

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Preliminary Fall 2020

Note: During fall, I reserve the right to assign new and/or additional cases decided by the Massachusetts Appeals and Supreme Judicial Courts which directly relate to and impact the topical areas of study.

CRIMINAL PROCESS OF THE COMPLAINT/INDICTMENT

1. **Commonwealth v. DiBennadetto**, 436 Mass. 310 (2002)
2. **Commonwealth v. McCarthy Jr.**, 385 Mass. 160 (1982)
3. **Commonwealth v. O'Dell Jr.**, 392 Mass. 445 (1984)

BAIL

4. **Brangan v. Commonwealth**, 477 Mass. 691 (2017)

DISCOVERY AND PRE-TRIAL RELATED ISSUES

5. **Kyles v. Whitley**, 514 U.S. 419 (1995)
6. **Commonwealth v. Dwyer**, 448 Mass. 122 (2006)
7. **Commonwealth v. Lampron**, 441 Mass. 265 (2004)
8. **Commonwealth v. Durham**, 446 Mass. 212 (2006)
9. **Commonwealth v. O'Neal**, 93 Mass. App. Ct. 189 (2018)
10. **Commonwealth v. Reynolds**, 429 Mass. 388 (1999)
11. **Commonwealth v. Martin**, 423 Mass. 496 (1996)
12. **Commonwealth v. Edwards**, 444 Mass. 526 (2005)

ANONYMOUS TIPS & INVESTIGATORY STOPS/FRISKS

13. **Commonwealth v. Lyons**, 409 Mass. 16 (1990)

MOTOR VEHICLE STOPS

14. **Commonwealth v. Gabriel Cordero**, 477 Mass. 237 (2017)

SEARCH INCIDENT TO ARREST

15. **Commonwealth v. Darosa**, 94 Mass. App. Ct. 635 (2019)
16. **Commonwealth v. Barbosa**, 92 Mass. Appt. Ct. 587 (2019)

CONSENT SEARCHES

17. **Commonwealth v. Ortiz**, 478 Mass. 820 (2018)
18. **Commonwealth v. Hernandez**, 93 Mass. App. Ct. 172 (2018)

GELGATT MOTIONS

19. **In the Matter of a Grand Jury Investigation**, 92 Mass. App. Ct. 531 (2017)

TERRY STOP I, II

20. **Commonwealth v. Narcisse**, 457 Mass. 1 (2010)
21. **Commonwealth v. Martin**, 457 Mass. 14 (2010)

MIRANDA

22. **Commonwealth v. LaJoie**, 95 Mass. App. Ct. 10 (2019)

TRIAL ISSUES

23. **Commonwealth v. Adjutant**, 443 Mass. 649 (2005)
24. **Commonwealth v. Latimore**, 378 Mass. 671 (1979)
25. **Commonwealth v. Saferian**, 366 Mass. 89 (1974)

Progeny Cases: **Terry v. Ohio**, 392 U.S. 1, 28 (1968); **Berkemer v. McCarthy**, 468 U.S. 420 (1984); **Commonwealth v. Groome**, 435 Mass. 201 (2001); **Commonwealth v. DePeiza**, 449 Mass. 367 (2007) and **Vanhouton v. Commonwealth**, 424 Mass. 327 (1997).

Commonwealth v. Cawthron, --- N.E.3d ---, 2018 WL 2325777, This recently decided SJC opinion considered whether police officers were required to provide Miranda warnings prior to questioning two individuals who had been detained in a restaurant parking lot as part of a “threshold inquiry” into a street-level drug transaction. The SJC, as part of its holding and analysis focused primarily on the issue of a valid Terry-type stop and whether such a stop results in “custodial interrogation” where Miranda warnings should have been given.