COMPARATIVE CRIMINAL CONFESSION LAW
Professor Byron L. Warnken
COURSE MANUAL & SYLLABUS
CURACAO – WINTER 2016-17
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Professor’s Perspective

I am in the middle of my 40th year as a law professor. Unlike many academics, I have practiced the subjects I teach. 25 years ago, after I had been a law professor for 15 years, my wife and I started Warnken, LLC, Attorneys-at-Law. In December 1996, I briefed and argued in the Supreme Court of the United States against U.S. Attorney General, Janet Reno, Esq. In November 2013, I mostly retired from private practice. By the time we meet in Curacao, I will have argued my last case (December 2). My son, Byron B. Warnken, Esq., now owns Warnken, LLC. In 2013, I published a three-volume, 34-chapter, 1,769-page treatise, titled “Maryland Criminal Procedure,” which now has a 2013-16 132-page supplement. Twice before (1989 and 2000), I taught a comparative criminal justice course overseas, at the University of Aberdeen in Scotland.

Course Name & Description

The site of the program is the University of Curacao. The program is sponsored by the University of Baltimore, Hofstra University, and Erasmus University (Netherlands). The program consists of three two-credit courses. Students must take two courses, one of which is my course, titled “Comparative Criminal Confession Law.” Tuition and fees total $3,800. Breakfast is provided, as well as some dinners, at a cost of $1,900.

The course description of my course is as follows: “An examination and analysis of the law controlling confessions in the United States, the United Kingdom, Canada, Australia, and the Netherlands. The course compares and contrasts American law and foreign law. For American law, the study includes the U.S. Constitution, the common law, and Supreme Court cases interpreting the law of confessions. This course includes discussion of the comparisons and contrasts between American law and the law of the other four jurisdictions.”

The course consists of 13 classes. Each class is 110 minutes in length with a five–minute break in the middle. Class #1 is an overview, with no reading. The material for class #2 through
class #5 is 102 pages of my treatise, plus 4 supplement pages, with two cases each class. Class #6 is a review of U.S. confession law. Class #7 through class #10 addresses the material in the 231-page text, titled “Silence & Confessions: The Suspect as the Source of Evidence,” which covers confession law in the United Kingdom. The material for class #11 is a 34-page 2005 article, titled “The Art of Confessions: A Comparative Look at the Law of Confessions – Canada, England, the United States, and Australia.” The material for class #12 is a 25-page 2012 article, titled “Wrongful Convictions and Inquisitorial Process: The Case of the Netherlands.” Class #13 is a review of the entire course in preparation for the final exam. The course material will be posted on TWEN.

Students who have taken a course with me before know that, in all of my courses, each class starts with a seven-minute, seven-question daily quiz. The three-week course this winter has no daily quizzes and has no midterm exam. The course grade will be based on (1) a two-hour take home final exam (counting for 85% of the grade), and (2) in-class “cold calls” (counting for 15% of the grade).

My office number at the Law School is 410-837-4640. My cell phone number is 410-868-2935. My email address is bwarnken@ubalt.edu. My administrative assistant is Shavaun O’Brien, whose office number is 410-837-4635. Her email address is sobrien@ubalt.edu.

Student Learning Outcomes

Students will learn confession law under the U.S. Constitution, the common law, the Fifth Amendment prohibition against compelled self-incrimination, and the laws of Canada, the United Kingdom, Australia, and the Netherlands.

Class Dates & Times

This two-credit course has 13 classes – five in the week of December 19 (December 19, December 20, December 21, December 22, and December 23); five in the week of December 26 (December 26, December 27, December 28, December 29, and December 30); and three in the week of January 3 (January 3, January 4, and January 5). Each class is 110 minutes, with a five-minute break in the middle. Under both the ABA policy and the UofB policy, attendance (which means timely attendance) is required. To be eligible to take the final exam, students are permitted to miss no more than two classes.

Class Format

The class format is primarily discussion. I will “cold call” students. Each student will be “cold called” approximately twice during the course, and the student’s performance will be graded, counting for 15% of the course grade.

Students Contacting the Professor

I am willing to discuss any academic or non-academic topic, except I will not discuss course material that we have not yet covered in class. If you would like to meet with me, I will be available each class day when students get out of class at 12:50 p.m. Students may also call me on my cell phone at 410-868-2935 or email me at bwarnken@ubalt.edu to ask a personal question or a course-related question about material that we have already covered.

Course Grade

Eight years ago, the UofB law faculty adopted a mandatory grade range. This course is considered a limited enrollment course. For these courses the mandatory grade range is a section-
wide average of 3.00 to 3.67. Thus, I am required, under the faculty mandated grade range, to grade students in the comparative with their classmates. There will be a two-hour open book final exam, available on TWEN on January 9, 2017. The final exam will consist of four 30-minute essays. Two essays will be based on American confession law. These two essays will each require students to address a hypothetical problem, i.e., a standard law school exam. Two essays will require students to contrast and compare American law with the law of one or more other countries. When the student starts the final exam on TWEN, the student will have two hours before TWEN will close the student out. Students must take the final exam on Monday, January 9, 2017.

**Title IX Sexual Misconduct & Non-discrimination Policy**

UofB’s sexual misconduct and non-discrimination policy is compliant with federal laws prohibiting discrimination. Title IX requires faculty, student employees, and staff members to report any known, learned, or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking based on sex, dating or intimate partner violence, or sexual exploitation and/or related experiences or incidents.

**Accommodations under the Americans with Disabilities Act**

Any student who believes that he or she may be entitled to accommodation under the Americans with Disabilities Act (ADA), please see Catherine Moore, Esq., Coordinator for International Law Programs, Law Center 5th floor (410-837-6784).

**The Professor’s Three “Pet Peeves”**

“Pet peeve” (1): Please do not fail to identify yourself in class.

“Pet peeve” (2): Please do not interrupt me in class or try to talk over me in class.

“Pet peeve” (3): If I call on you, please answer my question, and please do not answer my question by asking a question.

**Syllabus**

<table>
<thead>
<tr>
<th>Date</th>
<th>Class</th>
<th>Topic</th>
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<tbody>
<tr>
<td>12/19</td>
<td>#1</td>
<td>Course Overview</td>
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<td>12/20</td>
<td>#2</td>
<td>5th A Compelled Self-Incrimination – Compliance – Voluntariness vs Compulsion</td>
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<td>Warnken 13-595 to 13-621 (Ch. 13, §§ I.-II. &amp; Supp. 1) (28 pages)</td>
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<td>12/21</td>
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<td>Warnken 13-622 to 13-648 (Ch. 13, III.A.-III.E. &amp; Supp. 1-2) (29 pages)</td>
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<tr>
<td>12/22</td>
<td>#4</td>
<td>5th A Compelled Self-Incrimination – Compliance – Waiver of Miranda</td>
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Rights & Assertion of Miranda Rights
Warnken 13-648 to 13-665 (Ch. 13, III.F.-H. & Supp. 2-3) (20 pages)
Problem to prepare for class

12/23 #5 5th A Compelled Self-Incrimination – Remedy – Exclusion & Limitation on Exclusion
Warnken 14-673 to 14-686 (Ch. 14 & Supp. 3-7) (19 pages)
Class Problem

12/26 #6 United Kingdom Confession Law
Easton, Silence & Confessions: The Suspect as the Source of Evidence 1-60

12/27 #7 United Kingdom Confession Law
Easton, Silence & Confessions: The Suspect as the Source of Evidence 61-127

12/28 #8 United Kingdom Confession Law
Easton, Silence & Confessions: The Suspect as the Source of Evidence 128-93

12/29 #9 United Kingdom Confession Law
Easton, Silence & Confessions: The Suspect as the Source of Evidence 194-231

12/30 #10 Confession Law of Canada, England, & Australia

01/03 #11 Confession Law of the Netherlands
Wrongful Convictions & Inquisitorial Process: The Case of the Netherlands

01/04 #12 Review of U.S. Confession Law

01/05 #13 Review of Non-U.S. Confession Law

01/09 Final Exam on TWEN