

## CCPII Warnken Spring 2017

### First Class Assignment

#### **Course Materials**

All course materials are online in TWEN. Please register for this class. If you have any problems doing so, please contact the technical support at TWEN at 1-800-486-4876. All other inquiries should be directed to Shavaun O'Brien, my administrative assistant (AL 1112; 410-837-4635; [sobrien@ubalt.edu](mailto:sobrien@ubalt.edu)). In October 2013, after many years of work, I published a three-volume, 34-chapter, 1,769-page treatise, titled Maryland Criminal Procedure. All classes in CCPI and CCPII are taught from the treatise. The treatise is available from Amazon.com in digital form for \$99. I have a co-author, G. Adam Ruther, Esq., for the second edition, which is anticipated to be published in 2018. Adam and I published a 132-page supplement, covering 2013 to 2016, which is provided to you on TWEN at no cost.

#### **First Class Assignment**

The first class is Tuesday, January 10, from 3:00 to 4:15 p.m., in room 803 of the Law Center. The first class – and every class – starts with a seven-minute, seven-question, multiple-choice Daily Quiz. Thus, it is essential to obtain & prepare the materials for the first class as soon as possible. Every student will take the Daily Quiz, regardless of whether that student is prepared for class. Just prior to 3:00 p.m., I will instruct you to open your laptop, sign onto TWEN, and find the Daily Quiz. I will tell you the password. At 3:07 p.m., you will lose access to TWEN. **IT IS AN HONOR CODE VIOLATION TO ACCESS ANY MATERIAL DURING THE DAILY QUIZ.** There is a practice quiz in TWEN if you would like to see how the process works.

Prior to taking the first Daily Quiz on January 10, please download the Honor Code policy from the assignment dropbox, digitally sign it, and re-upload it, acknowledging that you have read, understand, and will comply with the Honor Code policy, which provides: “I have read the Course Manual, & I know that it is an Honor Code violation to access any material during the Daily Quiz, including anything on a computer, any notes, any text, any materials, or anything.”

#### **Class Dates, Times, & Attendance**

If you arrive for class after 3:00 p.m., you are precluded from taking the Daily Quiz, and you will receive a “zero” for that Daily Quiz, and you will be “absent” for that class. To be eligible to take the Daily Quiz, you must be in class for the entire 75 minutes. The reason for your absence or your lateness is immaterial because, in this course, there are no excused absences or unexcused absences – only absences. Moreover, there is no make-up for a Daily Quiz that is missed. Period. Do not ask.

Students should bring a laptop to class. The laptop is for the limited purposes of (1) taking the Daily Quiz, and (2) taking notes. If you are caught, even once, using a laptop for any other purpose, you will be admonished, and you will receive a one-third letter grade reduction for the course. If you are caught twice using a laptop for any other purpose, you will be required to withdraw from the course with an “F.” Students are permitted to bring a tape recorder to audiotape the class.

Students take the seven-question, multiple-choice Daily Quiz on TWEN. Just prior to 3:00 p.m., make sure that (1) your laptop is closed on your desk; (2) TWEN is easily accessible (I

recommend an icon on your desktop or listing in your favorites), and (3) your laptop is plugged in or has sufficient battery. If you do not have a laptop, or you have a laptop that is broken, see me in class at least five minutes before class, and I will give you a hard copy, which you must submit to me at the end of the Daily Quiz. The Daily Quiz is timed for seven minutes. Daily Quiz question #6 and question #7 are taken from the Problem for that class. A copy of the problem is provided. I will instruct you to open your laptop, sign onto TWEN, and find the Daily Quiz. I will inform you of the password for that Daily Quiz for that day. At 3:07 p.m., you will no longer have access to the Daily Quiz.

### **Class Format & Preparation**

When you prepare for class, I recommend the following: (1) read the treatise to learn the law; (2) for each of the two assigned cases, (a) read the analysis questions for a perspective on the issues, (b) make a written case brief, and (c) create an outline for discussion of the analysis questions; (3) create an outline for discussion of the hypothetical problem; and (4) prior to class, review the class preview, your case briefs, your written answers to the analysis questions, and your outline of the analysis for the hypothetical problem. The class structure is more like a “workshop” than a lecture. Consequently, class time is spent more “at work” than in note taking, which is why you are permitted – even encouraged – to audiotape the classes.

### **Class Phase One**

The first three questions on the Daily Quiz test your understanding of treatise and the class preview outline, i.e., the law. Two questions test your understanding of the two assigned cases, with one question based on each case. Two questions test your understanding of the hypothetical problem. To be eligible to take the Daily Quiz, you must (1) be in your seat and ready to go at 3:00 p.m., and (2) remain in class until 4:15 p.m. Seven minutes after the start of the Daily Quiz, you will be instructed to “stop now please.” It is an Honor Code violation to fail to stop when instructed. If I think that there might be an Honor Code violation, I will submit the student’s name to the Honor Board. Like the Multistate Bar Exam, the Daily Quiz seeks the “best answer” among four answers, recognizing that there may be no correct answer, four correct answers, or somewhere in between.

### **Class Phase Two**

Phase two of each class includes my answers to all seven questions on the Daily Quiz. If you would like to challenge my answer to a Daily Quiz question, send me an email, no later than 24 hours after the Daily Quiz, explaining why you believe that another answer is the best answer. You may only submit one Daily Quiz challenge during the semester. I will not entertain any question about the Daily Quiz at the time that I provide the answers and the analysis to the Daily Quiz, because I do not want to compromise any Daily Quiz question in the event that one or more students may wish to challenge that answer. If you wish to discuss, but not challenge, a Daily Quiz question and/or answer, after class, waive your right to challenge the Daily Quiz, and I will be happy to discuss any Daily Quiz question.

### **Class Phase Three**

Phase three of each class is a Socratic dialogue, covering the analysis and arguments relating to the two cases and the hypothetical problem. I will “cold call” individual students to discuss (1) their analysis for the questions following the assigned cases, and (2) their analysis and arguments for the hypothetical problem, making appropriate arguments on behalf of the State and/or the Defendant.

You will be “cold called” approximately three times during the semester, and your performance will be graded. If I call on you, do not read your answer or your analysis to the class. Instead, understand your answer and analysis well enough that you and I can have a dialogue.

### **Students Contacting the Professor**

I am willing to discuss with you any academic or non-academic topic, except I will not discuss course material that we have not yet covered in class, because that might place other students at a disadvantage. I recognize “professor-student” confidentiality. If you would like to meet with me, please use one of the following methods. (1) Sign up for a 20-minute appointment, using the office hour sign-up sheet on my office door (room 1109). Office hours are on Tuesday from 10:00 a.m. to 1:00 p.m.; on Wednesday from 4:00 to 7:00 p.m.; and on Thursday from 10:00 a.m. to 1:00 p.m. Please stop by and introduce yourself. If my office hours do not work for you, please email me at [bwarnken@ubalt.edu](mailto:bwarnken@ubalt.edu), requesting a day and time. (2) Call me to ask a question (410-837-4640 (UofB) or 410-868-2935 (cell)). (3) Identifying yourself by name, email me at [bwarnken@ubalt.edu](mailto:bwarnken@ubalt.edu) to ask a personal question or a course-related question about material we have already covered.

### **The Professor’s Eight “Pet Peeves”**

“Pet peeve” (1): Do not ask a question until you have read the Course Manual thoroughly and have determined that the Course Manual does not provide the answer, which it probably does.

“Pet peeve” (2): Do not request to make up a Daily Quiz because the Course Manual makes it clear that there is no make-up of a Daily Quiz, regardless of the reason you missed the Daily Quiz.

“Pet peeve” (3): Do not take the Daily Quiz and then leave before the class concludes, which is an Honor Code violation, as set forth in the Course Manual.

“Pet peeve” (4): Do not fail to identify yourself in class, which is required by the Course Manual.

“Pet peeve” (5): Unless you expressly waive your right to challenge a Daily Quiz question, do not attempt to discuss a Daily Quiz question prior to the expiration of the 24-hour period for submitting a challenge because the Course Manual prohibits that.

“Pet peeve” (6): I am the equivalent of a judge in a courtroom. Do not interrupt me in class or try to talk over me in class because the Course Manual prohibits that.

“Pet peeve” (7): If I call on you, you must answer my question. Do not answer my question by asking a question.

“Pet peeve” (8): Do not attempt to discuss course material with me before that material is covered in class because the Course Manual prohibits that.

### **Information for the First Class**

Students take the seven-question, multiple-choice Daily Quiz on TWEN. Just prior to class, make sure that (1) your laptop is closed on your desk; (2) TWEN is easily accessible, i.e., there is an icon on the desktop; and (3) your laptop is plugged in or there is sufficient battery. The Daily Quiz is timed for seven minutes. Daily Quiz questions #6 and #7 are taken from the Problem. The problem is posted in TWEN with the questions and is printed for hard copy takers on the second page of the Daily Quiz. IT IS AN HONOR CODE VIOLATION TO ACCESS ANY MATERIAL DURING THE DAILY QUIZ. At 3:00 p.m., I will instruct you to open your laptop, sign onto TWEN, and find the Daily Quiz. I will inform you of the password for that Daily Quiz. At 3:07 p.m., you will be

locked out of TWEN. Your computer will inform you of your score for that Daily Quiz.

## Syllabus

Date   Class   Topic

**1/10 #1 Initial Appearance before a District Court Commissioner and Preliminary Hearing Before a District Court Judge**

## Mandatory reading: Course Manual

## Optional reading: Steps in the Criminal Justice System

## About Professor Byron L. Warnken

# Curriculum Vitae of Professor Byron L. Warnken

## Writings of Professor Byron L. Warnken

Warnken ch. 19 & Supp. 43-48

DeWolfe v. Richmond, 434 Md. 444 (2013).

Wheeler v. State, 160 Md. App. 566 (2005).

## Class preparation

## Pre-Class Review 1-11