COLLEGE OF LAW

SPRING 2016

FIRST WEEK ASSIGNMENTS
First Week Assignment:

1. Class introduction.
   
   a. Read the class syllabus.
   
   b. Read the excerpt from *Expertise, Jurisdiction, and Legitimacy of the Military Profession* by James Burk and the excerpt from the Preamble to the Model Rules of Professional Conduct (available in TWEN). Be prepared to answer these questions: Where do paragraphs 1, 6, and 13 of the Preamble fit into Burk's definition of professionalism? Where do paragraphs 10, 11, and 12 fit in?
   
   c. Watch the first four parts (about 30 minutes), *How to Study Long and Hard and Still Fail . . . Or How to Get the Most Out of Studying*, available at [https://www.youtube.com/watch?v=RH95h36NChI](https://www.youtube.com/watch?v=RH95h36NChI). This video is aimed at undergraduate students but it still has a lot of useful information. While you are watching this, think about what you can be doing to be successful in this class. How does outlining fit it?

2. Criminal law introduction.
   
   a. Punishment theories. UCL § 2.03[A]-[B].
   
   b. Criminal law compared to torts. UCL § 1.01[A][1].
   
   c. Sources of criminal law. UCL ch. 3.
   
   d. Substantive crimes overview. UCL § 7.01-7.03[B][1], 7.01[B][4][a], 701[C]-[D].
   
   e. Substantive defenses overview. UCL § 16.01-04.
LAW 5100- Criminal Law B  
Professor Fairlie

First Week Assignment:

**Casebook:** Dressler & Garvey, Cases and Materials on Criminal Law (6th ed. 2012)

**Note:** In an effort to save you money, we will be using the 6th edition of this book (substantive criminal law changes very little over time). Please be sure to purchase or rent this edition (NOT the Dec. 2015 7th ed.), and to have a hard copy. (Laptops are not permitted in class).

**Assignment 1:**
- Ch. 2 pp. 29-41 (A: Theories of Punishment; up to and including note 2)
- Ch. 2 pp. 49-51 (B.1.: The Penal Theories in Action: Who should be punished?)

While thought should be given to all of the notes that appear in the assigned material, be sure to prepare full answers to the notes and questions that follow the Dudley and Stephens case (these appear on pp. 50-51).

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LAW 5259- Introduction to International and Comparative Law A  
Professor Jalloh

First Week Assignment:

Welcome to International Law.

Please carefully review and comply with the following ground rules for our first two class meetings. They are important.

3. Register on the TWEN site for this course using your Westlaw password. It will be available the first week of classes. Check the website the day before the first class for the electronic version of the syllabus: http://lawschool.westlaw.com. It will be posted there at 9 a.m. EST. I will also supply a printed copy on the first day of class.
LAW 5259- Introduction to International and Comparative Law B  
Professor Román  

First Week Assignment:  

Read the first five cases.  

LAW 5300- Civil Procedure A and B  
Professor Wasserman  

First Week Assignment:  

Go to: fiucivpro.blogspot.com  

LAW 5300- Civil Procedure C  
Professor Foley  

First Week Assignment:  

Class 1: read pp. 59-78 Yeazell casebook (Pennoyer v. Neff and related materials)  

Class 2: read pp. 79-91 (Int'l Shoe; McGee; and Hanson cases & related materials)  

LAW 5400- Property A  
Professor Rodriguez-Dod  

First Week Assignment:  

I. Required Book  

There is one required casebook for this course: Bruce and Ely, MODERN PROPERTY LAW (6th ed., 2007) (ISBN # 0-314-16898-2 or 9780314168986) ("Casebook").  

II. TWEN  

Additional materials and questions may be posted on TWEN. Students must enroll in the Westlaw TWEN course created for this class (“TWEN”). This course is password protected. Students will be given the password on the first day of class. Once students have the password,
they should go to www.lawschool.westlaw.com click on “My Courses” and scroll to the “Property” Course.

III. Class

Class meets on Tuesdays and Thursdays from 10:00am to 11:50pm in RDB 2005.

IV. Participation, Preparation and Class Attendance

1. Attendance. This course will follow the rules set forth in the law school’s Academic Policies and Regulations. Students are responsible for signing the attendance sheet. Those who do not sign the attendance sheet shall be presumed absent from class.

2. Standard Preparation for Class. Students will be expected to be prepared for every class and to participate actively in each class. Students will be called on without notice to answer questions, support or critique positions, and analyze cases. Students are also responsible for the notes, problems, and questions in the pages assigned in the Casebook and for the quizzes and assignments that I may post on TWEN.

3. Poor Participation Will Affect Grades. TWEN quizzes will be assigned throughout the semester. Completion of the TWEN quizzes will count toward the student’s participation score. The participation score can result in a student receiving a bump up (or down) to the next available grade if the participation is particularly superior (or poor). Note that many students’ grades will be determined solely by their final examination because their participation will be a neutral factor.

4. Targeted Use of Laptops and other Electronic Devices During Class. Students may only use laptops and other electronic devices (notebooks, iPads, etc.) during class for purposes directly related to the course (e.g., taking notes, reviewing briefs, responding to TWEN or other assignments). Accordingly, during this class students are specifically prohibited from (1) emailing, texting, and messaging or (2) accessing any file, program, or website other than those assigned by the professor. If, in the opinion of the professor, a student is distracted from class participation by a laptop or other electronic device, or if a student’s use of such a device is interfering with the classroom experience of any other student, the professor may prohibit use of electronic devices entirely during the course. In addition, students may not record or capture this class, or any portion thereof, without the professor’s prior written permission. Students’ attendance in class constitutes their agreement to abide honestly by these terms.

5. Standard Format for “briefing” Cases

Students are required to "brief" in writing each case in the pages assigned in the Casebook using the following format:

(1) What is the case name?
(2) Which Court decided this case?
(3) What is the date of the decision?
(4) Who are the parties?
(5) What is the procedural posture of the case?
(6) What are the essential facts?
(7) What is the issue(s) (i.e., what question(s) did the court have to answer in order to decide the case)?
(8) What conclusions did the court reach (i.e., how did it answer the question posed above)?
(9) What is the method by which the court reached those conclusions (i.e., what law did the court use and how did it apply that law to the facts of the case)?
(10) Did the Court avoid any issues (i.e., did it sidestep any questions which it initially appeared that it would have to answer)?
(11) Was there any interesting dicta (i.e., did the court make any statements about the law beyond what was needed in this case)?
(12) What are the possible effects of this decision?

V. Examinations

The examination for this course will be closed-book. The questions may cover (1) any material in any of the assignments, even if it was not discussed in class, and (2) any material discussed in class, even if it was not covered in any reading assignment. The exam may include essay questions, objective questions, multiple-choice questions, or any combination of questions.

VI. Learning Outcomes.

Upon completing this course students will be able to 1) synthesize property law from primary sources; 2) solve problems using property law; 3) demonstrate an understanding of the basic principles and concepts of property law; and 4) identify and explain issues involving property law.

VII. Reading Assignments

Pages refer to the Casebook unless otherwise noted. Additional materials may be assigned in class, by e-mail, or on TWEN.

**Week 1:**

Property Law – Pages 1-4 and Realty v. Personalty and Wild Animals – Pages 143-149

Found Property – Pages 149-161

**Week 2:**

Bailments – Page 161-175

Gifts – Pages 177-186 (stop at In re Estate of Gladowski); and Pages 189-194

Establishing Title by Adverse Possession – Pages 496-503
Additional assignments to be posted on updated syllabus on TWEN.

**LAW 5400 - Property B and C**  
*Professor Robbins*

First Week Assignment:

Class 1: A Guide to the Book, pp. xxxi-xlvi; Trespass, pp. 3-30

**LAW 5781 – Legal Reasoning U01, U10**  
*Dean Schulze*

First Week Assignments:

Week of 1/11: Forms of Legal Reasoning.

Topics Covered: (1) Course Introduction; (2) Rule-Based Legal Reasoning; (3) Analogy-Based Legal Reasoning; (4) Policy-Based Legal Reasoning.

Assignments for Class:

1. On TWEN, sign-up for the “Legal Reasoning” webcourse, and read the course syllabus in its entirety.

2. Read: Handout “Forms of Legal Reasoning” posted on Legal Reasoning TWEN course page.

3. Read: Ashcroft v. Iqbal (available on course TWEN page);

4. Read: Kourouvacilis v. General Motors Corp. (available on course TWEN page);

5. Attend class prepared to discuss which cases provide examples of each form of legal reasoning. Please note that I have posted all cases noted on the syllabus on the Legal Reasoning course TWEN page. I have redacted each case to make them more suitable for our purposes and quicker to read. Do not read them from reporters, but instead read the redacted versions on TWEN.
Legal Skills and Values II

LAW 5793- Legal Skills and Values II
All Sections (U01, U02, U03, U04, U10)
All Professors: Lozada Schrier, Hayes, Rosenthal, Klion

First Week Assignment:

Monday, January 11:
Topic: Introduction to Course; Introduction to Advocacy and Advocacy Ethics

Assignment:

(1) Read Rules Regulating the Florida Bar:
   - Rule 4-3.1: Meritorious Claims and Contentions
   - Rule 4-3.3: Candor Toward the Tribunal
   - Rule 4-3.4: Fairness to Opposing Party and Counsel
   - Rule 4-3.5: Impartiality and Decorum of the Tribunal

To locate the assigned Rules Regulating the Florida Bar, go to www.floridabar.org. In the links along the top of the page, click on “Rules,” then click on “Rules Regulating the Florida Bar.” From the menu that appears, click on “4 Rules of Professional Conduct” and then on “4-3 Advocate.” Finally, click on each assigned rule. Be sure to read the comments.

(2) In the assigned textbook (Mary Beth Beazley, A Practical Guide to Appellate Advocacy (4th ed. 2014)), read pages xxi-xxiii (“Using the Examples in This Book”) and Chapter 1 (“Introduction”).

LAW 6010- Sales
Professor Norberg

First Week Assignment:

Casebook pages 1-20; and UCC §§ 2-101, 2-102, 2-105(1), 2-501(1), 2-106(1) in the supplement. The casebook is Benefield & Greenfield, Sales, Cases and Materials (Foundation Press 6th ed. 2011).
LAW 6051- Secured Transactions
Professor Anglade

First Week Assignment:

Course Materials:
- Statutory Supplement: Ronald J. Mann, Elizabeth Warren, Jay Lawrence Westbrook, Comprehensive Commercial Law, 2015 Statutory Supplement (Alternative statutory supplements may be used provided that the supplement contains UCC Article 9 (including 2013 revisions), and the Bankruptcy Code; any of those from the past year or two should suffice. If you have a question about whether a particular statute book will work, I’ll be happy to discuss that with you.

Assignments refer to the textbook:

January 12: Introductory Material, xxxi-xxxvi, and Assignment One, pp. 3-22, including Problem Set One
January 14: Assignment Two, pp. 22-40, including Problems 2.1-2.6

LAW 6052- Bankruptcy Law
Professor Norberg

First Week Assignment:

Casebook pages 1-14; and Uniform Fraudulent Transfer Act §§ 2, 3, 4, 5, 7 and 8 in the supplement. The casebook is David G. Epstein, et. al, Bankruptcy: Dealing with Financial Failure for Individuals and Businesses (4th Ed. West Academic Publishing).

LAW 6060- Business Organizations
Professor Pouncy

First Week Assignment:


Recommended Text: (1) Corporations Statutory Supplement [Any post 2012 collection].
Unit 1

Register at the TWEN Site for this course [after 1 Jan. 2016].

The Nature of the Corporation

Class 1-2 Introduction

Economic Foundations [Lecture] [no readings assigned]

Register at Investor Words to receiver the Term of the Day: http://www.investorwords.com/

Take the Global Economics Quiz at: http://www.pewglobal.org/2013/05/23/global-econ-quiz/


Read: Agency Principles & Partnership

K&R pp. 1-13 – [Who is an Agent?]

Restatement of the Law (Third) Agency, §§1.01; 1.04, 2.01; 2.03; 2.04; 3.01; 3.03; 4.01. [available on WestLaw]

LAW 6105- Death Penalty Law

Professor Harper

First Week Assignment:


Read Chapters 1-3 of Text

Read only Scalia’s concurrence and Breyer’s dissent in Glossip v Gross.

LAW 6106- Death Penalty Clinic  
Professor Harper  

First Week Assignment:  

No Assignment  

LAW 6112- Criminal Procedure: Investigation  
Dean Moreno  

First Week Assignment:  

Please read:  

|   | 1/11 | CB 1-38  
|---|------|--------------------------------------------------|

After reading the casebook [CB] assignment above, read Hudson v. Michigan and answer the following questions in writing.  

Bring your written answers to class on the first day:  

I. What happened in this case?  
   A. What did the police do?  
   B. What did they find?  

II. Where was the search conducted?  
   A. Should this matter?  

III. Did the police have a search warrant?  
   A. Was the warrant valid?  
      A. What are the requirements of a valid warrant?  
      B. Does the validity of the warrant matter in this case?  

IV. Which of Mr. Hudson's constitutional rights were implicated by this search?  

V. What was the specific basis of the defendant’s appeal?  
   A. What is the “knock and announce rule?”  
      1. Why require police to knock and announce?
2. When can police ignore the knock and announce rule?
   a. What previous cases, cited in *Hudson*, addressed the knock and announce rule?
   b. What precedent on the reasonable delay between knock and announce and entry?
      (1) Why didn’t the prosecutor argue that the entry was legal based on the circumstances here?

VI. Which part of the decision reflects the opinion for the Supreme Court?
A. Which parts of the decision have the support of 5+ justices?
   1. Why? Why not?
   2. What are the essential areas of agreement and disagreement?

VII. What is the “exclusionary rule/remedy?”
A. How do the justices define the link between the violation of a constitutional right and the exclusionary rule/remedy?

VIII. List all of the constitutional themes, jurisprudential rationales, and policy concerns you read about in this decision.

Supreme Court of the United States

Booker T. HUDSON, Jr., Petitioner,

v.

MICHIGAN.

No. 04–1360.
Argued Jan. 9, 2006.
Reargued May 18, 2006.

**Background:** Defendant was convicted in the Michigan Circuit Court of drug possession following a bench trial. Defendant appealed. The Michigan Court of Appeals, 2004 WL 1366947, affirmed. Defendant appealed. The Michigan Supreme Court, 472 Mich. 862, 692 N.W.2d 385, declined review. Certiorari was granted.

**Holding:** The United States Supreme Court, Justice Scalia, held that violation of knock-and-announce rule did not require the suppression of all evidence found in the search.

Affirmed.

Justice Kennedy filed opinion concurring in part and concurring in the judgment.
Justice Breyer filed opinion dissenting, in which Justice Stevens, Justice Souter, and Justice Ginsburg joined.

West Headnotes

[1] KeyCite Citing References for this Headnote

$\Rightarrow$ 349 Searches and Seizures
$\Rightarrow$ 349III Execution and Return of Warrants
$\Rightarrow$ 349k143 Manner of Entry; Warning and Announcement
$\Rightarrow$ 349k143.1 k. In general. Most Cited Cases

It is not necessary for police officers to knock and announce their presence when executing a search warrant when circumstances present a threat of physical violence, or if there is reason to believe that evidence would likely be destroyed if advance notice were given, or if knocking and announcing would be futile. U.S.C.A. Const.Amend. 4.

[2] KeyCite Citing References for this Headnote

$\Rightarrow$ 349 Searches and Seizures
$\Rightarrow$ 349III Execution and Return of Warrants
$\Rightarrow$ 349k143 Manner of Entry; Warning and Announcement
$\Rightarrow$ 349k143.1 k. In general. Most Cited Cases

Police must have a reasonable suspicion under the particular circumstances that one of the grounds for failing to knock and announce their presence before executing a search warrant exists, and this showing is not high. U.S.C.A. Const.Amend. 4.

[3] KeyCite Citing References for this Headnote

$\Rightarrow$ 110 Criminal Law
$\Rightarrow$ 110XVII Evidence
$\Rightarrow$ 110XVII(1) Competency in General
$\Rightarrow$ 110k392.1 Wrongfully Obtained Evidence
$\Rightarrow$ 110k392.16 Search or Seizure Under Warrant
$\Rightarrow$ 110k392.16(6) k. Knock and announce requirement. Most Cited Cases
(Formerly 110k394.4(8))

Violation of requirement that police officers knock-and-announce their presence before executing a search warrant did not require the suppression of all evidence found in the search, since the interests violated had nothing to do with the seizure of the evidence. U.S.C.A. Const.Amend. 4.
The exclusionary rule generates substantial social costs which sometimes include setting the guilty free and the dangerous at large.

Whether the exclusionary sanction is appropriately imposed in a particular case, is an issue separate from the question whether the Fourth Amendment rights of the party seeking to invoke the rule were violated by police conduct. U.S.C.A. Const.Amend. 4.

The penalties visited upon the Government, and in turn upon the public, because its police officers have violated the law must bear some relation to the purposes which the law is to serve.
One of the interests protected by the knock-and-announce rule is the protection of human life and limb, because an unannounced entry may provoke violence in supposed self-defense by the surprised resident. *U.S.C.A. Const.Amend. 4.*

[8]  KeyCite Citing References for this Headnote

The knock-and-announce rule gives individuals the opportunity to comply with the law and to avoid the destruction of property occasioned by a forcible entry. *U.S.C.A. Const.Amend. 4.*

[9]  KeyCite Citing References for this Headnote

The knock-and-announce rule gives residents the opportunity to prepare themselves for the entry of the police. *U.S.C.A. Const.Amend. 4.*

**2160 *586 Syllabus FN**
The judgment is affirmed.

Affirmed.

Justice SCALIA delivered the opinion of the Court with respect to Parts I, II, and III, concluding that violation of the “knock-and-announce” rule does not require suppression of evidence found in a search. Pp. 2162 – 2168.

(a) Because Michigan has conceded that the entry here was a knock-and-announce violation, the only issue is whether the exclusionary rule is appropriate for such a violation. Pp. 2162 – 2163.

(b) This Court has rejected “[i]ndiscriminate application” of the exclusionary rule, United States v. Leon, 468 U.S. 897, 908, 104 S.Ct. 3405, 82 L.Ed.2d 677, holding it applicable only “where its deterrence benefits outweigh its ‘substantial social costs,’ ” Pennsylvania Bd. of Probation and Parole v. Scott, 524 U.S. 357, 363, 118 S.Ct. 2014, 141 L.Ed.2d 344. Exclusion may not be premised on the mere fact that a constitutional violation was a “but-for” cause of obtaining the evidence. The illegal entry here was not the but-for cause, but even if it were, but-for causation can be too attenuated to justify exclusion. Attenuation can occur not only when the causal connection is remote, but also when suppression would not serve the interest protected by the constitutional guarantee violated. The interests protected by the knock-and-announce rule include human life and limb (because an unannounced entry may provoke violence from a surprised resident), property (because citizens presumably would open the door upon an announcement, whereas a forcible entry may destroy it), and privacy and dignity of the sort that can be offended by a sudden entrance. But the rule has never protected one's interest in preventing the government from seeing or taking evidence described in a warrant. Since the interests violated here have nothing to do with the seizure of the evidence, the exclusionary rule is inapplicable. Pp. 2163 – 2165.

(c) The social costs to be weighed against deterrence are considerable here. In addition to the grave adverse consequence that excluding relevant incriminating evidence always entails—the risk of releasing dangerous criminals—imposing such a massive remedy would generate a constant flood of alleged failures to observe the rule, and claims that any asserted justification for a no-knock entry had inadequate support. Another consequence would be police officers' refraining from timely entry after knocking and announcing, producing preventable violence against the officers in some cases, and the destruction of evidence in others. Next to these social costs are the deterrence benefits. The value of deterrence depends on the strength of the incentive

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U.S. 321, 337, 26 S Ct. 282, 50 L.Ed. 499.

Detroit police executing a search warrant for narcotics and weapons entered petitioner Hudson's home in violation of the Fourth Amendment's “knock-and-announce” rule. The trial court granted Hudson's motion to suppress the evidence seized, but the Michigan Court of Appeals reversed on interlocutory appeal. Hudson was convicted of drug possession. Affirming, the State Court of Appeals rejected Hudson's renewed Fourth Amendment claim.

Held: The judgment is affirmed.
to commit the forbidden act. That incentive is minimal here, where ignoring knock-and-announce can realistically be expected to achieve nothing but the prevention of evidence destruction and avoidance of life-threatening resistance, dangers which suspend the requirement when there is “reasonable suspicion” that they exist. Richards v. Wisconsin, 520 U.S. 385, 394, 117 S.Ct. 1416, 137 L.Ed.2d 615. Massive deterrence is hardly necessary. Contrary to Hudson's argument that without suppression there will be no deterrence, many forms of police misconduct are deterred by civil-rights suits, and by the consequences of increasing professionalism of police forces, including a new emphasis on internal police discipline. Pp. 2165 – 2168.


SCALIA, J., delivered the opinion of the Court with respect to Parts I, II, and III, in which ROBERTS, C. J., and KENNEDY, THOMAS, and ALITO, JJ., joined, and an opinion with respect to Part IV, in which ROBERTS, C. J., and THOMAS and ALITO, JJ., joined. KENNEDY, J., filed an opinion concurring in part and concurring in the judgment, post, p. 2170. BREYER, J., filed a dissenting opinion, in which STEVENS, SOUTER, and GINSBURG, JJ., joined, post, p. 2171.

David B. Salmons, for the United States as amicus curiae, by special leave of the Court, supporting the respondent.

David A. Moran, Counsel of Record, Wayne State University Law School, Detroit, Michigan, Timothy O'Toole, Washington, DC, Steven R. Shapiro, American Civil Liberties Union Foundation, New York, New York, Michael J. Steinberg, Kary L. Moss, American Civil Liberties Union Fund of Michigan, Detroit, Michigan, Richard D. Korn, Detroit, Michigan, Counsel for Petitioner.

Kym L. Worthy, Prosecuting Attorney, County of Wayne, Attorney of Record, Timothy A. Baughman, Chief, Research, Training, and Appeals, Detroit, MI, Brief for Respondent.

Justice SCALIA delivered the opinion of the Court, except as to Part IV.

*588 We decide whether violation of the “knock-and-announce” rule requires the suppression of all evidence found in the search.
Police obtained a warrant authorizing a search for drugs and firearms at the home of petitioner Booker Hudson. They discovered both. Large quantities of drugs were found, including cocaine rocks in Hudson's pocket. A loaded gun was lodged between the cushion and armrest of the chair in which he was sitting. Hudson was charged under Michigan law with unlawful drug and firearm possession.

This case is before us only because of the method of entry into the house. When the police arrived to execute the warrant, they announced their presence, but waited only a short time—perhaps “three to five seconds,” App. 15—before turning the knob of the unlocked front door and entering Hudson's home. Hudson moved to suppress all the inculpatory evidence, arguing that the premature entry violated his Fourth Amendment rights.


II

The common-law principle that law enforcement officers must announce their presence and provide residents an opportunity to open the door is an ancient one. See Wilson v. Arkansas, 514 U.S. 927, 931–932, 115 S.Ct. 1914, 131 L.Ed.2d 976 (1995). Since 1917, when Congress passed the Espionage Act, this traditional protection has been part of federal statutory law, see 40 Stat. 229, and is currently codified at 18 U.S.C. § 3109. We applied that statute in Miller v. United States, 357 U.S. 301, 304–305, 78 S.Ct. 1190, 2 L.Ed.2d 1332 (1958), and again in Sabbath v. United States, 391 U.S. 585, 88 S.Ct. 1755, 20 L.Ed.2d 828 (1968). Finally, in Wilson, we were asked whether the rule was also a command of the Fourth Amendment. Tracing its origins in our English legal heritage, 514 U.S., at 931–936, 115 S.Ct. 1914, we concluded that it was.

[1] [2] We recognized that the new constitutional rule we had announced is not easily applied. Wilson and cases following it have noted the many situations in which it is not necessary to knock and announce. It is not necessary when “circumstances presen[t] a threat of physical violence,” or if there is “reason to believe that evidence would likely be destroyed if advance notice were given,” id., at 936, 115 S.Ct. 1914, or **2163 if knocking and *590 announcing would be “futile,” Richards v. Wisconsin, 520 U.S. 385, 394, 117 S.Ct. 1416, 137 L.Ed.2d 615 (1997). We require only that police “have a reasonable suspicion ... under the particular circumstances” that one of these grounds for failing to knock and announce exists, and we have acknowledged that “[t]his showing is not high.” Ibid.
When the knock-and-announce rule does apply, it is not easy to determine precisely what officers must do. How many seconds' wait are too few? Our “reasonable wait time” standard, see United States v. Banks, 540 U.S. 31, 41, 124 S.Ct. 521, 157 L.Ed.2d 343 (2003), is necessarily vague. Banks (a drug case, like this one) held that the proper measure was not how long it would take the resident to reach the door, but how long it would take to dispose of the suspected drugs—but that such a time (15 to 20 seconds in that case) would necessarily be extended when, for instance, the suspected contraband was not easily concealed. Id., at 40–41, 124 S.Ct. 521. If our ex post evaluation is subject to such calculations, it is unsurprising that, ex ante, police officers about to encounter someone who may try to harm them will be uncertain how long to wait.

Happily, these issues do not confront us here. From the trial level onward, Michigan has conceded that the entry was a knock-and-announce violation. The issue here is remedy. Wilson specifically declined to decide whether the exclusionary rule is appropriate for violation of the knock-and-announce requirement.514 U.S., at 937, n. 4, 115 S.Ct. 1914. That question is squarely before us now.

III

A

[3] In Weeks v. United States, 232 U.S. 383, 34 S.Ct. 341, 58 L.Ed. 652 (1914), we adopted the federal exclusionary rule for evidence that was unlawfully seized from a home without a warrant in violation of the Fourth Amendment. We began applying the same rule to the States, through the Fourteenth Amendment, in Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

[4] *591 Suppression of evidence, however, has always been our last resort, not our first impulse. The exclusionary rule generates “substantial social costs,” United States v. Leon, 468 U.S. 897, 907, 104 S.Ct. 3405 (1984), which sometimes include setting the guilty free and the dangerous at large. We have therefore been “cautio[us] against expanding” it, Colorado v. Connelly, 479 U.S. 157, 166, 107 S.Ct. 515, 93 L.Ed.2d 473 (1986), and “have repeatedly emphasized that the rule's 'costly toll' upon truth-seeking and law enforcement objectives presents a high obstacle for those urging [its] application,” Pennsylvania Bd. of Probation and Parole v. Scott, 524 U.S. 357, 364–365, 118 S.Ct. 2014, 141 L.Ed.2d 344 (1998). We have rejected “[i]ndiscriminate application” of the rule, Leon, supra, at 908, 104 S.Ct. 3405, and have held it to be applicable only “where its remedial objectives are thought most efficaciously served,” United States v. Calandra, 414 U.S. 338, 348, 94 S.Ct. 613, 38 L.Ed.2d 561 (1974)—that is, “where its deterrence benefits outweigh its 'substantial social costs;’” Scott, supra, at 363, 118 S.Ct. 2014 (quoting Leon, supra, at 907, 104 S.Ct. 3405).

[5] We did not always speak so guardedly. Expansive dicta in Mapp, for example, suggested wide scope for the exclusionary rule. See, e.g., 367 U.S., at 655, 81 S.Ct. 1684 (“[A]ll evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court”). **2164 Whiteley v. Warden, Wyo. State Penitentiary, 401 U.S. 560, 568–569, 91 S.Ct. 1031, 28 L.Ed.2d 306 (1971), was to the same effect. But we have long
since rejected that approach. As explained in *Arizona v. Evans*, 514 U.S. 1, 13, 115 S.Ct. 1185, 131 L.Ed.2d 34 (1995): “In *Whiteley*, the Court treated identification of a Fourth Amendment violation as synonymous with application of the exclusionary rule to evidence secured incident to that violation. Subsequent case law has rejected this reflexive application of the exclusionary rule.” (Citation omitted.) We had said as much in *Leon*, a decade earlier, when we explained that “[w]hether the exclusionary sanction is appropriately imposed in a particular case ... is ‘an issue separate from the question whether the Fourth Amendment rights of the party seeking to invoke the rule were violated by police conduct.’” 468 U.S., at 906, 104 S.Ct. 3405 (quoting *Illinois v. Gates*, 462 U.S. 213, 223, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983)).

In other words, exclusion may not be premised on the mere fact that a constitutional violation was a “but-for” cause of obtaining evidence. Our cases show that but-for causality is only a necessary, not a sufficient, condition for suppression. In this case, of course, the constitutional violation of an illegal manner of entry was not a but-for cause of obtaining the evidence. Whether that preliminary misstep had occurred or not, the police would have executed the warrant they had obtained, and would have discovered the gun and drugs inside the house. But even if the illegal entry here could be characterized as a but-for cause of discovering what was inside, we have “never held that evidence is ‘fruit of the poisonous tree’ simply because ‘it would not have come to light but for the illegal actions of the police.’” *Segura v. United States*, 468 U.S. 796, 815, 104 S.Ct. 3380, 82 L.Ed.2d 599 (1984). See also *id.*, at 829, 104 S.Ct. 3380 (STEVENS, J., dissenting) (“We have not ... mechanically applied the [exclusionary] rule to every item of evidence that has a causal connection with police misconduct”). Rather, but-for cause, or “causation in the logical sense alone,” *United States v. Ceccolini*, 435 U.S. 268, 274, 98 S.Ct. 1054, 55 L.Ed.2d 268 (1978), can be too attenuated to justify exclusion, *id.*, at 274–275, 98 S.Ct. 1054. Even in the early days of the exclusionary rule, we declined to

“...hold that all evidence is ‘fruit of the poisonous tree’ simply because it would not have come to light but for the illegal actions of the police. Rather, the more apt question in such a case is ‘whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.’” *Wong Sun v. United States*, 371 U.S. 471, 487–488, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963) (quoting J. Maguire, Evidence of Guilt 221 (1959); emphasis added).

[6] *593* Attenuation can occur, of course, when the causal connection is remote. See, e.g., *Nardone v. United States*, 308 U.S. 338, 341, 60 S.Ct. 266, 84 L.Ed. 307 (1939). Attenuation also occurs when, even given a direct causal connection, the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained. “The penalties visited upon the Government, and in turn upon the public, because its officers have violated the law must bear some relation to the purposes which the law is to serve.” *Ceccolini, supra*, at 279, 98 S.Ct. 1054. Thus, in *New York v. Harris*, 495 U.S. 14, 110 S.Ct. 1640, 109 L.Ed.2d 13 (1990), where an illegal warrantless arrest was made in Harris's house, we held:

“[S]uppressing [Harris's] statement taken outside the house would not serve the purpose of the rule that made Harris' in-house arrest illegal. The warrant requirement for an arrest in the
home is imposed to protect the home, and anything incriminating the police gathered from arresting Harris in his home, rather than elsewhere, has been excluded, as it should have been; the purpose of the rule has thereby been vindicated.” *Id.*, at 20, 110 S.Ct. 1640.

For this reason, cases excluding the fruits of unlawful warrantless searches, see, e.g., *Boyd v. United States*, 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746 (1886); *Weeks*, 232 U.S. 383, 34 S.Ct. 341; *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. 319 (1920); *Mapp*, supra, say nothing about the appropriateness of exclusion to vindicate the interests protected by the knock-and-announce requirement. Until a valid warrant has issued, citizens are entitled to shield “their persons, houses, papers, and effects,” U.S. Const., Amdt. 4, from the government's scrutiny. Exclusion of the evidence obtained by a warrantless search vindicates that entitlement. The interests protected by the knock-and-announce requirement are quite different—and do not include the shielding of potential evidence from the government's eyes.

One of those interests is the protection of human life and limb, because an unannounced entry may provoke violence in supposed self-defense by the surprised resident. See, e.g., *McDonald v. United States*, 335 U.S. 451, 460–461, 69 S.Ct. 191, 93 L.Ed. 153 (1948) (Jackson, J., concurring). See also *Sabbath*, 391 U.S., at 589, 88 S.Ct. 1755; *Miller*, 357 U.S., at 313, n. 12, 78 S.Ct. 1190. Another interest is the protection of property. Breaking a house (as the old cases typically put it) absent an announcement would penalize someone who “‘did not know of the process, of which, if he had notice, it is to be presumed that he would obey it ... ’ ” *Wilson*, 514 U.S., at 931–932, 115 S.Ct. 1914 (quoting Semayne's Case, 5 Co. Rep. 91a, 91b, 77 Eng. Rep. 194, 195–196 (K.B.1603)). The knock-and-announce rule gives individuals “the opportunity to comply with the law and to avoid the destruction of property occasioned by a forcible entry.” *Richards*, 520 U.S., at 393, n. 5, 117 S.Ct. 1416. See also *Banks*, 540 U.S., at 41, 124 S.Ct. 521. And thirdly, the knock-and-announce rule protects those elements of privacy and dignity that can be destroyed by a sudden entrance. It gives residents the “opportunity to prepare themselves for” the entry of the police. *Richards*, 520 U.S., at 393, n. 5, 117 S.Ct. 1416. “The brief interlude between announcement and entry with a warrant may be the opportunity that an individual has to pull on clothes or get out of bed.” *Ibid*. In other words, it assures the opportunity to collect oneself before answering the door.

What the knock-and-announce rule has never protected, however, is one's interest in preventing the government from seeing or taking evidence described in a warrant. Since the interests that *were* violated in this case have nothing to do with the seizure of the evidence, the exclusionary rule is inapplicable.

B

Quite apart from the requirement of unattenuated causation, the exclusionary rule has never been applied except “where its deterrence benefits outweigh its ‘substantial social costs,’ ” *Scott*, 524 U.S., at 363, 118 S.Ct. 2014 (quoting *Leon*, 468 U.S., at 907, 104 S.Ct. 3405). The costs here are considerable. In addition to the grave adverse consequence that exclusion of relevant incriminating evidence always entails (viz., the risk of releasing dangerous criminals into
society), imposing that massive remedy for a knock-and-announce violation would generate a constant flood of alleged failures to observe the rule, and claims that any asserted Richards justification for a no-knock entry, see 520 U.S., at 394, 117 S.Ct. 1416, had inadequate support. Cf. United States v. Singleton, 441 F.3d 290, 293–294 (C.A.4 2006). The cost of entering this lottery would be small, but the jackpot enormous: suppression of all evidence, amounting in many cases to a get-out-of-jail-free card. Courts would experience as never before the reality that “[t]he exclusionary rule frequently requires extensive litigation to determine whether particular evidence must be excluded.” Scott, supra, at 366, 118 S.Ct. 2014. Unlike the warrant or Miranda requirements, compliance with which is readily determined (either there was or was not a warrant; either the Miranda warning was given, or it was not), what constituted a “reasonable wait time” in a particular case, Banks, supra, at 41, 124 S.Ct. 521 (or, for that matter, how many seconds the police in fact waited), or whether there was “reasonable suspicion” of the sort that would invoke the Richards exceptions, is difficult for the trial court to determine and even more difficult for an appellate court to review.

Another consequence of the incongruent remedy Hudson proposes would be police officers’ refraining from timely entry after knocking and announcing. As we have observed, see supra, at 2163, the amount of time they must wait is necessarily uncertain. If the consequences of running afoul of the rule were so massive, officers would be inclined to wait longer than the law requires—producing preventable violence against officers in some cases, and the destruction of evidence in many others. See Gates, 462 U.S., at 258, 103 S.Ct. 2317 (White, J., concurring in judgment). We deemed these consequences severe enough to produce our unanimous agreement*596 that a mere “reasonable suspicion” that knocking and announcing “under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime,” will cause the requirement to yield. Richards, supra, at 394, 117 S.Ct. 1416.

Next to these “substantial social costs” we must consider the deterrence benefits, existence of which is a necessary condition for exclusion. (It is not, of course, a sufficient condition: “[I]t does not follow that the Fourth Amendment requires adoption of every proposal that might deter police misconduct.” Calandra, 414 U.S., at 350, 94 S.Ct. 613; see also Leon, supra, at 910, 104 S.Ct. 3405.) To begin with, the value of deterrence depends upon the strength of the incentive to commit the forbidden act. Viewed from this perspective, deterrence of knock-and-announce violations is not worth a lot. Violation of the warrant requirement sometimes produces incriminating evidence that could not otherwise be obtained. But ignoring knock-and-announce can realistically be expected to achieve absolutely nothing except the prevention of destruction of evidence and the avoidance of life-threatening resistance by occupants of the premises— dangers which, if there is even “reasonable suspicion” of their existence, suspend the knock-and-announce requirement anyway. Massive deterrence is hardly required.

It seems to us not even true, as Hudson contends, that without suppression there will be no deterrence of knock-and-announce violations at all. Of course even if this assertion were accurate, it would not necessarily justify suppression. Assuming (as the assertion must) that civil suit is not an effective deterrent, one can think of many forms of police misconduct that are similarly “undeterred.” When, for example, a confessed suspect in the killing of a police officer, arrested (along with incriminating evidence) in a lawful warranted search, is subjected to
physical abuse at the station house, would it seriously be suggested that the evidence must be excluded, since that is the only “effective deterrent”? *597 And what, other than civil suit, is the “effective deterrent” of police violation of an already-confessed suspect's Sixth Amendment rights by denying him prompt access to counsel? Many would regard these violated rights as more significant than the right not to be intruded upon in one's nightclothes—and yet nothing but “ineffective” civil suit is available as a deterrent. And the police incentive for those violations is arguably greater than the incentive for disregarding the knock-and-announce rule.

We cannot assume that exclusion in this context is necessary deterrence simply because we found that it was necessary deterrence in different contexts and long ago. That would be forcing the public today to pay for the sins and inadequacies of a legal regime that existed almost half a century ago. Dollree Mapp could not turn to Rev.Stat. § 1979, 42 U.S.C. § 1983, for meaningful relief; *597 Monroe v. Pape, 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed.2d 492 (1961), which began the slow but steady expansion of that remedy, was decided the same Term as *Mapp*. It would be another 17 years before the § 1983 remedy was extended to reach the deep pocket of municipalities, *Monell v. New York City Dept. of Social Servs.*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978). Citizens whose Fourth Amendment rights were violated by federal officers could not bring suit until 10 years after *Mapp*, with this Court's decision in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971).

Hudson complains that “it would be very hard to find a lawyer to take a case such as this,” Tr. of Oral Arg. 7, but 42 U.S.C. § 1988(b) answers this objection. Since some civil-rights violations would yield damages too small to justify the expense of litigation, Congress has authorized attorney's fees for civil-rights plaintiffs. This remedy was unavailable in the heydays of our exclusionary-rule jurisprudence, because it is tied to the availability of a cause of action. For years after *Mapp*, very few lawyers would even consider representation of persons who had civil rights claims against the police,” but now “much has changed. Citizens and lawyers *598 are much more willing to seek relief in the courts for police misconduct.” M. Avery, D. Rudovsky, & K. Blum, Police Misconduct: Law and Litigation, p. v (3d ed.2005); see generally N. Aron, Liberty and Justice for All: Public Interest Law in the 1980s and Beyond (1989) (describing the growth of public-interest law). The number of public-interest law firms and lawyers who specialize in civil-rights grievances has greatly expanded.

Hudson points out that few published decisions to date announce huge awards for knock-and-announce violations. But this is an unhelpful statistic. Even if we thought that only large damages would deter police misconduct (and that police somehow are deterred by “damages” but indifferent to the prospect of large § 1988 attorney's fees), we do not know how many claims have been settled, or indeed how many violations have occurred that produced anything more than nominal injury. It is clear, at least, that the lower courts are allowing colorable knock-and-announce suits to go forward, unimpeded by assertions of qualified immunity. See, e.g., *Green v. Butler*, 420 F.3d 689, 700–701 (C.A.7 2005) (denying qualified immunity in a knock-and-announce civil suit); *Holland ex rel. Overdorff v. Harrington*, 268 F.3d 1179, 1193–1196 (C.A.10 2001) (same); *Mena v. Simi Valley*, 226 F.3d 1031, 1041–1042 (C.A.9 2000) (same); *Gould v. Davis*, 165 F.3d 265, 270–271 (C.A.4 1998) (same). As far as we know, civil liability is an**2168 effective deterrent here, as we have assumed it is in other contexts. See, e.g., *Correctional Services Corp. v. Malesko*, 534 U.S. 61, 70, 122 S.Ct. 515, 151 L.Ed.2d
The threat of litigation and liability will adequately deter federal officers for Bivens purposes no matter that they may enjoy qualified immunity” (as violators of knock-and-announce do not)); see also Nix v. Williams, 467 U.S. 431, 446, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984).

Another development over the past half-century that deters civil-rights violations is the increasing professionalism of police forces, including a new emphasis on internal police discipline. Even as long ago as 1980 we felt it proper to *599 “assume” that unlawful police behavior would “be dealt with appropriately” by the authorities, United States v. Payner, 447 U.S. 727, 733–734, n. 5, 100 S.Ct. 2439, 65 L.Ed.2d 468 (1980), but we now have increasing evidence that police forces across the United States take the constitutional rights of citizens seriously. There have been “wide-ranging reforms in the education, training, and supervision of police officers.” S. Walker, Taming the System: The Control of Discretion in Criminal Justice 1950–1990, p. 51 (1993). Numerous sources are now available to teach officers and their supervisors what is required of them under this Court's cases, how to respect constitutional guarantees in various situations, and how to craft an effective regime for internal discipline. See, e.g., D. Waksman & D. Goodman, The Search and Seizure Handbook (2d ed.2006); A. Stone & S. DeLuca, Police Administration: An Introduction (2d ed.1994); E. Thibault, L. Lynch, & R. McBride, Proactive Police Management (4th ed.1998). Failure to teach and enforce constitutional requirements exposes municipalities to financial liability. See Canton v. Harris, 489 U.S. 378, 388, 109 S.Ct. 1197, 103 L.Ed.2d 412 (1989). Moreover, modern police forces are staffed with professionals; it is not credible to assert that internal discipline, which can limit successful careers, will not have a deterrent effect. There is also evidence that the increasing use of various forms of citizen review can enhance police accountability.

In sum, the social costs of applying the exclusionary rule to knock-and-announce violations are considerable; the incentive to such violations is minimal to begin with, and the extant deterrances against them are substantial—incomparably greater than the factors deterring warrantless entries when Mapp was decided. Resort to the massive remedy of suppressing evidence of guilt is unjustified.

IV


Like today's case, Segura involved a concededly illegal entry. Police conducting a drug crime investigation waited for Segura outside an apartment building; when he arrived, he denied living there. The police arrested him and brought him to the apartment where they suspected illegal activity. An officer knocked. When someone inside opened the door, the police entered, taking Segura with them. They had neither a warrant nor consent to enter, and they did not announce themselves as police—an entry as illegal as can be. Officers then stayed in the apartment for 19 hours awaiting a search warrant.468 U.S., at 800–801, 104 S.Ct. 3380; id., at 818–819, 104 S.Ct.
3380 (STEVENS, J., dissenting). Once alerted that the search **2169 warrant had been obtained, the police—still inside, having secured the premises so that no evidence could be removed—conducted a search. Id., at 801, 104 S.Ct. 3380. We refused to exclude the resulting evidence. We recognized that only the evidence gained from the particular violation could be excluded, see id., at 799, 804–805, 104 S.Ct. 3380, and therefore distinguished the effects of the illegal entry from the effects of the legal search: “None of the information on which the warrant was secured was derived from or related in any way to the initial entry into petitioners' apartment ...” id., at 814, 104 S.Ct. 3380. It was therefore “beyond dispute that the information possessed by the agents before they entered the apartment constituted an independent source for the discovery and seizure of the evidence now challenged.” Ibid.

If the search in Segura could be “wholly unrelated to the prior entry,” ibid., when the only entry was warrantless, it would be bizarre to treat more harshly the actions in this case, where the only entry was with a warrant. If the probable cause backing a warrant that was issued later in time could be an “independent source” for a search that proceeded after the officers illegally entered and waited, a search warrant*601 obtained before going in must have at least this much effect.

FN1. Justice BREYER's insistence that the warrant in Segura was “obtained independently without use of any information found during the illegal entry,” post, at 2178 (dissenting opinion), entirely fails to distinguish it from the warrant in the present case. Similarly inapposite is his appeal to Justice Frankfurter's statement in Wolf v. Colorado, 338 U.S. 25, 28, 69 S.Ct. 1359, 93 L.Ed. 1782 (1949), that the “‘knock at the door, ... as a prelude to a search, without authority of law ... [is] inconsistent with the conception of human rights enshrined in [our] history,’” see post, at 2180. “How much the more offensive,” Justice BREYER asserts, “when the search takes place without any knock at all,” ibid. But a no-knock entry “without authority of law” (i.e., without a search warrant) describes not this case, but Segura—where the evidence was admitted anyway.

Justice BREYER's assertion that Segura, unlike our decision in the present case, had no effect on deterrence, see post, at 2183 – 2184, does not comport with the views of the Segura dissent. See, e.g., 468 U.S., at 817, 104 S.Ct. 3380 (STEVENS, J., dissenting) (“The Court's disposition, I fear, will provide government agents with an affirmative incentive to engage in unconstitutional violations of the privacy of the home”).

In the second case, Harris, the police violated the defendant's Fourth Amendment rights by arresting him at home without a warrant, contrary to Payton v. New York, 445 U.S. 573, 100 S.Ct. 1371, 63 L.Ed. 2d 639 (1980). Once taken to the station house, he gave an incriminating statement. See 495 U.S., at 15–16, 110 S.Ct. 1640. We refused to exclude it. Like the illegal entry which led to discovery of the evidence in today's case, the illegal arrest in Harris began a process that culminated in acquisition of the evidence sought to be excluded. While Harris's statement was “the product of an arrest and being in custody,” it “was not the fruit of the fact that the arrest was made in the house rather than someplace else.” Id., at 20, 110 S.Ct. 1640. Likewise here: While acquisition of the gun and drugs was the product of a search pursuant to warrant, it was not the fruit of the fact that the entry was not preceded by knock-and-announce.
FN2. *Harris* undermines two key points of the dissent. First, the claim that “whether the interests underlying the knock-and-announce rule are implicated in any given case is, in a sense, beside the point,” *post*, at 2181. This is flatly refuted by *Harris’s* plain statement that the reason for a rule must govern the sanctions for the rule's violation. 495 U.S., at 17, 20, 110 S.Ct. 1640; see also *supra*, at 2164 – 2165. Second, the dissent's attempt to turn *Harris* into a vindication of the sanctity of the home, see *post*, at 2184–2185. The whole point of the case was that a confession that police obtained by illegally removing a man from the sanctity of his home was admissible against him.

**2170** *602 United States v. Ramirez, supra,* involved a claim that police entry violated the Fourth Amendment because it was effected by breaking a window. We ultimately concluded that the property destruction was, under all the circumstances, reasonable, but in the course of our discussion we unanimously said the following: “[D]estruction of property in the course of a search may violate the Fourth Amendment, even though the entry itself is lawful and the fruits of the search are not subject to suppression.” *Id.*, at 71, 118 S.Ct. 992. Had the breaking of the window been unreasonable, the Court said, it would have been necessary to determine whether there had been a “sufficient causal relationship between the breaking of the window and the discovery of the guns to warrant suppression.” *Id.*, at 72, n. 3, 118 S.Ct. 992. What clearer expression could there be of the proposition that an impermissible manner of entry does not necessarily trigger the exclusionary rule?

* * *

For the foregoing reasons we affirm the judgment of the Michigan Court of Appeals.

*It is so ordered.*

Justice KENNEDY, concurring in part and concurring in the judgment.

Two points should be underscored with respect to today's decision. First, the knock-and-announce requirement protects rights and expectations linked to ancient principles in our constitutional order. See *Wilson v. Arkansas*, 514 U.S. 927, 934, 115 S.Ct. 1914, 131 L.Ed.2d 976 (1995). The Court's decision should not be interpreted as suggesting that violations of the requirement are *603 trivial or beyond the law's concern. Second, the continued operation of the exclusionary rule, as settled and defined by our precedents, is not in doubt. Today's decision determines only that in the specific context of the knock-and-announce requirement, a violation is not sufficiently related to the later discovery of evidence to justify suppression.

As to the basic right in question, privacy and security in the home are central to the Fourth Amendment's guarantees as explained in our decisions and as understood since the beginnings of the Republic. This common understanding ensures respect for the law and allegiance to our institutions, and it is an instrument for transmitting our Constitution to later generations undiminished in meaning and force. It bears repeating that it is a serious matter if law
enforcement officers violate the sanctity of the home by ignoring the requisites of lawful entry. Security must not be subject to erosion by indifference or contempt.

Our system, as the Court explains, has developed procedures for training police officers and imposing discipline for failures to act competently and lawfully. If those measures prove ineffective, they can be fortified with more detailed regulations or legislation. Supplementing these safeguards are civil remedies, such as those available under Rev.Stat. § 1979, 42 U.S.C. § 1983, that provide restitution for discrete harms. These remedies apply to all violations, including, of course, exceptional cases in which unannounced entries cause severe fright and humiliation.

Suppression is another matter. Under our precedents the causal link between a violation of the knock-and-announce requirement and a later search is too attenuated to allow suppression. Cf. United States v. Ramirez, 523 U.S. 65, 72, n. 3, 118 S.Ct. 992, 140 L.Ed.2d 191 (1998) (application of the exclusionary rule depends on the existence of a “sufficient causal relationship” between the unlawful conduct and the discovery of evidence). When, for example, a violation results from want of a 20–second pause but an ensuing, lawful search lasting five hours discloses evidence of criminality, the failure to wait at the door cannot properly be described as having caused the discovery of evidence.

Today's decision does not address any demonstrated pattern of knock-and-announce violations. If a widespread pattern of violations were shown, and particularly if those violations were committed against persons who lacked the means or voice to mount an effective protest, there would be reason for grave concern. Even then, however, the Court would have to acknowledge that extending the remedy of exclusion to all the evidence seized following a knock-and-announce violation would mean revising the requirement of causation that limits our discretion in applying the exclusionary rule. That type of extension also would have significant practical implications, adding to the list of issues requiring resolution at the criminal trial questions such as whether police officers entered a home after waiting 10 seconds or 20.

In this case the relevant evidence was discovered not because of a failure to knock and announce, but because of a subsequent search pursuant to a lawful warrant. The Court in my view is correct to hold that suppression was not required. While I am not convinced that Segura v. United States, 468 U.S. 796, 104 S.Ct. 3380, 82 L.Ed.2d 599 (1984), and New York v. Harris, 495 U.S. 14, 110 S.Ct. 1640, 109 L.Ed.2d 13 (1990), have as much relevance here as Justice SCALIA appears to conclude, the Court's holding is fully supported by Parts I through III of its opinion. I accordingly join those Parts and concur in the judgment.

Justice BREYER, with whom Justice STEVENS, Justice SOUTER, and Justice GINSBURG join, dissenting.

In Wilson v. Arkansas, 514 U.S. 927, 115 S.Ct. 1914, 131 L.Ed.2d 976 (1995), a unanimous Court held that the Fourth Amendment normally requires law enforcement officers to knock and
announce their presence before entering a dwelling. Today’s opinion holds that evidence seized from a home following a violation of this requirement need not be suppressed.

*605 As a result, the Court destroys the strongest legal incentive to comply with the Constitution’s knock-and-announce requirement. And the Court does so without significant support in precedent. At least I can find no such support in the many Fourth Amendment cases the Court has decided in the near century since it first set forth the exclusionary principle in *Weeks v. United States*, 232 U.S. 383, 34 S.Ct. 341, 58 L.Ed. 652 (1914). See Appendix, infra.

Today’s opinion is thus doubly troubling. It represents a significant departure from the Court’s precedents. And it weakens, perhaps destroys, much of the practical value of the Constitution’s knock-and-announce protection.

I

This Court has set forth the legal principles that ought to have determined the outcome of this case in two sets of basic Fourth Amendment cases. I shall begin by describing that underlying case law.

A


“[a]n examination of the common law of search and seizure leaves no doubt that the reasonableness of a search of a dwelling may depend in part on whether law enforcement officers announced their presence and authority prior to entering.” *Id.*, at 931, 115 S.Ct. 1914.

We noted that this “basic principle” was agreed upon by “[s]everal prominent founding-era commentators,” *id.*, at 932, 115 S.Ct. 1914, *606 and “was woven quickly into the fabric of early American law” via state constitutions and statutes, *id.*, at 933, 115 S.Ct. 1914. We further concluded that there was

“little doubt that the Framers of the Fourth Amendment thought that the method of an officer's entry into a dwelling was among the factors to be considered in assessing the reasonableness of a search or seizure.” *Id.*, at 934, 115 S.Ct. 1914.

And we held that the “common-law ‘knock and announce’ principle forms a part of the reasonableness inquiry under the Fourth Amendment.” *Id.*, at 929, 115 S.Ct. 1914. Thus, “a search or seizure of a dwelling might be constitutionally defective if police officers enter without prior announcement.” *Id.*, at 936, 115 S.Ct. 1914; see *United States v. Banks*, 540 U.S. 31, 36,
The second set of cases sets forth certain well-established principles that are relevant here. They include:

Boyd v. United States, 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746 (1886). In this seminal Fourth Amendment case, decided 120 years ago, the Court wrote, in frequently quoted language, that the Fourth Amendment's prohibitions apply

“to all invasions on the part of the government and its employés of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offence; but it is the invasion of his indefeasible right of personal security, personal liberty and private property.” Id., at 630, 6 S.Ct. 524.

Weeks, supra. This case, decided 28 years after Boyd, originated the exclusionary rule. The Court held that the Federal Government could not retain evidence seized unconstitutionally and use that evidence in a federal criminal trial. The Court pointed out that “[i]f letters and private documents” could be unlawfully seized from a home “and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment declaring his right to be secure against such searches and seizures is of no value, and ... might as well be stricken from the Constitution.” 232 U.S., at 393, 34 S.Ct. 341.

Silverthorne Lumber Co. v. United States, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. 319 (1920). This case created an exception to (or a qualification of) Weeks’ exclusionary rule. The Court held that the Government could not use information obtained during an illegal search to subpoena documents that they illegally viewed during that search. Writing for the Court, Justice Holmes noted that the exclusionary rule “does not mean that the facts [unlawfully] obtained become sacred and inaccessible. If knowledge of them is gained from an independent source they may be proved like any others ... .” 251 U.S., at 392, 40 S.Ct. 182. Silverthorne thus stands for the proposition that the exclusionary rule does not apply if the evidence in question (or the “fruits” of that evidence) was obtained through a process unconnected with, and untainted by, the illegal search. Cf. Nix v. Williams, 467 U.S. 431, 444, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984) (describing related “inevitable discovery” exception).

Wolf v. Colorado, 338 U.S. 25, 69 S.Ct. 1359, 93 L.Ed. 1782 (1949), and Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961). Both of these cases considered whether Weeks’ exclusionary rule applies to the States. In Wolf, the Court held that it did not. It said that “[t]he security of one's privacy against arbitrary intrusion by the police ... is ... implicit in ‘the concept of ordered liberty’ and as such enforceable against the States through the Due Process Clause.” 338 U.S., at 27–28, 69 S.Ct. 1359. But the Court held that the exclusionary rule is not enforceable against the States as “an essential ingredient of the right.” Id., at 29, 69 S.Ct. 1359. In Mapp, the Court overruled Wolf. Experience, it said, showed that alternative methods of
enforcing the Fourth Amendment's requirements had failed. See 367 U.S., at 651–653, 81 S.Ct. 1684; see, e.g., People v. Cahan, 44 Cal.2d 434, 447, 282 P.2d 905, 913 (1955) (majority opinion of Traynor, J.) (“Experience [in California] has demonstrated, however, that neither administrative, criminal nor civil remedies are effective in suppressing lawless searches and seizures”). The Court consequently held that “all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court.” Mapp, 367 U.S., at 655, 81 S.Ct. 1684. “To hold otherwise,” the Court added, would be “to grant the right but in reality to withhold its privilege and enjoyment.” Id., at 656, 81 S.Ct. 1684.

II

Reading our knock-and-announce cases, Part I–A, supra, in light of this foundational Fourth Amendment case law, Part I–B, supra, it is clear that the exclusionary rule should apply. For one thing, elementary logic leads to that conclusion. We have held that a court must “consider” whether officers complied with the knock-and-announce requirement “in assessing the reasonableness of a search or seizure.” Wilson, 514 U.S., at 934, 115 S.Ct. 1914; see Banks, supra, at 36, 124 S.Ct. 521. The Fourth Amendment insists that an unreasonable search or seizure is, constitutionally speaking, an illegal search or seizure. And ever since Weeks (in respect to federal prosecutions) and Mapp (in respect to state prosecutions), “the use of evidence secured through an illegal search and seizure” is “barred” in criminal trials. Wolf, supra, at 28, 69 S.Ct. 1359 (citing Weeks, 232 U.S. 383, 34 S.Ct. 341); see Mapp, supra, at 655, 81 S.Ct. 1684.

For another thing, the driving legal purpose underlying the exclusionary rule, namely, the deterrence of unlawful government behavior, argues strongly for suppression. See Elkins v. United States, 364 U.S. 206, 217, 80 S.Ct. 1437, 4 L.Ed.2d 1669 (1960) (purpose of the exclusionary rule is “to deter—to compel respect for the constitutional guaranty ... by removing the incentive to disregard it”). In Weeks, **2174Silverthorne, and Mapp, the Court based its holdings requiring suppression of unlawfully obtained evidence upon the recognition that admission of that evidence would seriously undermine the Fourth Amendment's promise. All three cases recognized that failure to apply the exclusionary rule would make that promise a hollow one, see Mapp, supra, at 657, 81 S.Ct. 1684, reducing it to “a form of words,” Silverthorne, supra, at 392, 40 S.Ct. 182, “of no value” to those whom it seeks to protect, Weeks, supra, at 393, 34 S.Ct. 341. Indeed, this Court in Mapp held that the exclusionary rule applies to the States in large part due to its belief that alternative state mechanisms for enforcing the Fourth Amendment's guarantees had proved “worthless and futile.” 367 U.S., at 652, 81 S.Ct. 1684.

Why is application of the exclusionary rule any the less necessary here? Without such a rule, as in Mapp, police know that they can ignore the Constitution's requirements without risking suppression of evidence discovered after an unreasonable entry. As in Mapp, some government officers will find it easier, or believe it less risky, to proceed with what they consider a necessary search immediately and without the requisite constitutional (say, warrant or knock-and-announce) compliance. Cf. Mericli, The Apprehension of Peril Exception to the Knock and Announce Rule—Part I, 16 Search and Seizure L. Rep. 129, 130 (1989) (hereinafter Mericli) (noting that some “[d]rug enforcement authorities believe that safety for the police lies in a swift, surprising entry with overwhelming force—not in announcing their official authority”).
Of course, the State or the Federal Government may provide alternative remedies for knock-and-announce violations. But that circumstance was true of Mapp as well. What reason is there to believe that those remedies (such as private damages actions under Rev.Stat. § 1979, 42 U.S.C. § 1983), which the Court found inadequate in Mapp, can adequately deter unconstitutional police behavior here? See Kamisar, In Defense of the Search and Seizure Exclusionary Rule, 26 Harv. J.L. & Pub. Pol'y 119, 126–129 (2003) (arguing that “five decades of post- Weeks ‘freedom’ from the inhibiting effect of the federal exclusionary rule failed to produce any meaningful alternative to the exclusionary rule in any jurisdiction” and that there is no evidence that “times have changed” post- Mapp).

The cases reporting knock-and-announce violations are legion. See, e.g., 34 Geo. L.J. Ann. Rev.Crim. Proc. 31–35 (2005) (collecting Courts of Appeals cases); Bremer, 85 A.L.R. 5th 1 (2001) (collecting state-court cases); Brief for Petitioner 16–17 (collecting federal and state cases). Indeed, these cases of reported violations seem sufficiently frequent and serious as to indicate “a widespread pattern.” Ante, at 2171 (KENNEDY, J., concurring in part and concurring in judgment). Yet the majority, like Michigan and the United States, has failed to cite a single reported case in which a plaintiff has collected more than nominal damages solely as a result of a knock-and-announce violation. Even Michigan concedes that, “in cases like the present one ..., damages may be virtually nonexistent.” Brief for Respondent 35, n. 66. And Michigan's amici further concede that civil immunities prevent tort law from being an effective substitute for the exclusionary rule at this time. Brief for Criminal Justice Legal Foundation 10; see also Hope v. Pelzer, 536 U.S. 730, 739, 122 S.Ct. 2508, 153 L.Ed.2d 666 (2002) (difficulties of overcoming qualified immunity defenses).

As Justice Stewart, the author of a number of significant Fourth Amendment opinions, explained, the deterrent effect of damages actions “can hardly be said to be great,” as such actions are “expensive, time-consuming, not readily available, and rarely successful.” The Road to Mapp v. Ohio and Beyond: The Origins, Development and Future of the Exclusionary Rule in Search– and–Seizure Cases, 83 Colum. L.Rev. 1365, 1388 (1983). The upshot is that the need for deterrence—the critical factor driving this Court's Fourth Amendment cases for close to a century—argues with at least comparable strength for evidentiary exclusion here.

*611* To argue, as the majority does, that new remedies, such as 42 U.S.C. § 1983 actions or better trained police, make suppression unnecessary is to argue that Wolf, not Mapp, is now the law. (The Court recently rejected a similar argument in Dickerson v. United States, 530 U.S. 428, 441–442, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2000).) To argue that there may be few civil suits because violations may produce nothing “more than nominal injury” is to confirm, not to deny, the inability of civil suits to deter violations. See ante, at 2167. And to argue without evidence (and despite myriad reported cases of violations, no reported case of civil damages, and Michigan's concession of their nonexistence) that civil suits may provide deterrence because claims may “have been settled” is, perhaps, to search in desperation for an argument. See *ibid.* Rather, the majority, as it candidly admits, has simply “assumed” that, “[a]s far as [it] know[s], civil liability is an effective deterrent,” *ibid.*, a support-free assumption that Mapp and subsequent cases make clear does not embody the Court's normal approach to difficult questions of Fourth Amendment law.
It is not surprising, then, that after looking at virtually every pertinent Supreme Court case decided since *Weeks*, I can find no precedent that might offer the majority support for its contrary conclusion. The Court has, of course, recognized that not every Fourth Amendment violation necessarily triggers the exclusionary rule. *Ante*, at 2163 – 2164; cf. *Illinois v. Gates*, 462 U.S. 213, 223, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983) (application of the exclusionary rule is a separate question from whether the Fourth Amendment has been violated). But the class of Fourth Amendment violations that do not result in suppression of the evidence seized, however, is limited.

The Court has declined to apply the exclusionary rule only:


Neither of these two exceptions applies here. The second does not apply because this case is an ordinary criminal trial. The first does not apply because (1) officers who violate the rule are not acting “as a reasonable officer would and should act in similar circumstances,” *Leon, supra*, at 920, 104 S.Ct. 3405, (2) this case does not involve government employees other than police, *Evans, supra*, and (3), most importantly, the key rationale for any exception, “lack of deterrence,” is missing, see *Pennsylvania Bd. of Probation, supra*, at 364, 118 S.Ct. 2014 (noting that the rationale for not applying the rule in noncriminal cases has been that the deterrence achieved by having the rule apply in those contexts is “minimal” because “application of the rule in the criminal trial context already provides significant deterrence of unconstitutional searches”); *Michigan v. Tucker*, 417 U.S. 343, 447, 94 S.Ct. 2357, 41 L.Ed.2d 182 (1974) (noting that deterrence rationale would not be served if rule applied to police officers acting in good faith, as the “deterrent purpose of the exclusionary rule necessarily assumes that the police have engaged in willful, or at the very least negligent, conduct”). That critical latter rationale, which underlies every exception,*613 does not apply here, as there is no reason to think that, in the case of knock-and-announce violations by the police, “the exclusion of evidence at trial would not sufficiently deter future errors,” *Evans, supra*, at 14, 115 S.Ct. 1185, or “
‘further the ends of the exclusionary rule in any appreciable way,’” Leon, supra, at 919–920, 104 S.Ct. 3405.

I am aware of no other basis for an exception. The Court has decided more than 300 Fourth Amendment cases since Weeks. The Court has found constitutional violations in nearly a third of them. See W. Greenhalgh, The Fourth Amendment Handbook: A Chronological Survey of Supreme Court Decisions 27–130 (2d ed.2003) (collecting and summarizing 332 post- Weeks cases decided between 1914 and 2002). The nature of the constitutional violation varies. In most instances officers lacked a warrant; in others, officers possessed a warrant based on false affidavits; in still others, the officers executed the search in an unconstitutional manner. But in every case involving evidence seized during an illegal search of a home (federally since Weeks, nationally since Mapp), the Court, with the exceptions mentioned, has either explicitly or implicitly upheld (or required) the suppression of the evidence at trial. See Appendix, infra. In not one of those cases did the Court “questio[n], in the absence of a more efficacious sanction, the continued application of the [exclusionary] rule to suppress evidence from the State's case” in a criminal trial. Franks v. Delaware, 438 U.S. 154, 171, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978).

I can find nothing persuasive in the majority's opinion that could justify its refusal to apply the rule. It certainly is not a justification for an exception here (as the majority finds) to find odd instances in other areas of law that do not automatically demand suppression. Ante, at 2166 – 2167 (suspect confesses, police beat him up afterwards; suspect confesses, then police apparently arrest him, take him to station, and refuse to tell him of his right to counsel). Nor can it justify an exception to say that some police may knock at the door anyway (to avoid being mistaken for a burglar), for other police (believing quick entry is the most secure, effective entry) will not voluntarily do so. Cf. Mericli 130 (describing Special Weapons and Tactics (SWAT) team practices); R. Balko, No SWAT (Apr. 6, 2006), available at http://www. cato.org/ pub_ display. php? pub_ id=6344 (all Internet materials as visited June 7, 2006, and available in Clerk of Court's case file).

Neither can the majority justify its failure to respect the need for deterrence, as set forth consistently in the Court's prior case law, through its claim of “‘substantial social costs’”—at least if it means that those “‘social costs’” are somehow special here. Ante, at 2166. The only costs it mentions are those that typically accompany any use of the Fourth Amendment's exclusionary principle: (1) that where the constable blunders, a guilty defendant may be set free (consider Mapp itself); (2) that defendants may assert claims where Fourth Amendment rights are uncertain (consider the Court's qualified immunity jurisprudence), and (3) that sometimes it is difficult to decide the merits of those uncertain claims. See ibid. In fact, the “no-knock” warrants that are provided by many States, by diminishing uncertainty, may make application of the knock-and-announce principle less “cost[ly]” on the whole than application of comparable Fourth Amendment principles, such as determining whether a particular warrantless search was justified by exigency. The majority's “substantial social costs” argument is an argument against the Fourth Amendment's exclusionary principle itself. And it is an argument that this Court, until now, has consistently rejected.
III
The majority, Michigan, and the United States make several additional arguments. In my view, those arguments rest upon misunderstandings of the principles underlying this Court's precedents.

*615 A
The majority first argues that “the constitutional violation of an illegal manner of entry was not a but-for cause of obtaining the evidence.” Ante, at 2164. But taking causation as it is commonly understood in the law, I do not see how that can be so. See W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts 266 (5th ed.1984). Although the police might have entered Hudson's home lawfully, they did not in fact do so. Their unlawful behavior inseparably characterizes their actual entry; that entry was a necessary condition of their presence in Hudson's home; and their presence in Hudson's home was a necessary condition of their finding and seizing the evidence. At the same time, their discovery of evidence in Hudson's home was a readily foreseeable consequence of their entry and their unlawful presence within the home. Cf. 2 Restatement (Second) of Torts § 435 (1963–1964).

Moreover, separating the “manner of entry” from the related search slices the violation too finely. As noted, Part I–A, supra, we have described a failure to comply with the knock-and-announce rule, not as an independently unlawful event, but as a factor that renders the search “constitutionally defective.” Wilson, 514 U.S., at 936, 115 S.Ct. 1914; see also id., at 934, 115 S.Ct. 1914 (compliance with the knock-and-announce requirement is one of the “factors to be considered in assessing the reasonableness of a search or seizure” (emphasis added)); Ker v. California, 374 U.S. 23, 53, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963) (opinion of Brennan, J.) (“[A] lawful entry is the indispensable predicate of a reasonable search”).

The Court nonetheless accepts Michigan's argument that the requisite but-for causation is not satisfied in this case because, whether or not the constitutional violation occurred (what the Court refers to as a “preliminary misstep”), “the police would have executed the warrant they had obtained, and would have discovered the gun and drugs inside the *616 house.” **2178 Ante, at 2164. As support for this proposition, Michigan rests on this Court's inevitable discovery cases.

This claim, however, misunderstands the inevitable discovery doctrine. Justice Holmes in Silverthorne in discussing an “independent source” exception, set forth the principles underlying the inevitable discovery rule. See supra, at 2173. That rule does not refer to discovery that would have taken place if the police behavior in question had (contrary to fact) been lawful. The doctrine does not treat as critical what hypothetically could have happened had the police acted lawfully in the first place. Rather, “independent” or “inevitable” discovery refers to discovery that did occur or that would have occurred (1)despite (not simply in the absence of) the unlawful behavior and (2) independently of that unlawful behavior. The government cannot, for example, avoid suppression of evidence seized without a warrant (or pursuant to a defective warrant) simply by showing that it could have obtained a valid warrant had it sought one. See, e.g., Coolidge v. New Hampshire, 403 U.S. 443, 450–451, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971). Instead, it must show that the same evidence “inevitably would have been discovered by

The inevitable discovery exception rests upon the principle that the remedial purposes of the exclusionary rule are not served by suppressing evidence discovered through a “later, lawful seizure” that is “genuinely independent of an earlier, tainted one.” Murray v. United States, 487 U.S. 533, 542, 108 S.Ct. 2529, 101 L.Ed.2d 472 (1988) (emphasis added); see also id., at 545, 108 S.Ct. 2529 (Marshall, J., joined by STEVENS and O'Connor, JJ., dissenting) (“When the seizure of the evidence at issue is ‘wholly independent of’ the constitutional violation, then exclusion arguably will have no effect on a law enforcement officer's incentive to commit an unlawful search”).

*617 Case law well illustrates the meaning of this principle. In Nix, supra, police officers violated a defendant's Sixth Amendment right by eliciting incriminating statements from him after he invoked his right to counsel. Those statements led to the discovery of the victim's body. The Court concluded that evidence obtained from the victim's body was admissible because it would ultimately or inevitably have been discovered by a volunteer search party effort that was ongoing—whether or not the Sixth Amendment violation had taken place. Id., at 449, 104 S.Ct. 2501. In other words, the evidence would have been found despite, and independent of, the Sixth Amendment violation.

In Segura v. United States, 468 U.S. 796, 104 S.Ct. 3380, 82 L.Ed.2d 599 (1984), one of the “trio of cases” Justice SCALIA says “confirms [the Court's] conclusion,” ante, at 2168 (plurality opinion), the Court held that an earlier illegal entry into an apartment did not require suppression of evidence that police later seized when executing a search warrant obtained on the basis of information unconnected to the initial entry. The Court reasoned that the “evidence was discovered the day following the entry, during the search conducted under a valid warrant”—i.e., a warrant obtained independently without use of any information found during the illegal entry—and that “it was the product of that search, wholly unrelated to the prior [unlawful] entry.” Segura, supra, at 814, 104 S.Ct. 3380 (emphasis added).

In Murray, supra, the Court upheld the admissibility of seized evidence where **2179 agents entered a warehouse without a warrant, and then later returned with a valid warrant that was not obtained on the basis of evidence observed during the first (illegal) entry. The Court reasoned that while the agents' “[k]nowledge that the marijuana was in the warehouse was assuredly acquired at the time of the unlawful entry ... it was also acquired at the time of entry pursuant to the warrant, and if that later acquisition was not the result of the earlier entry there is no reason why the independent*618 source doctrine should not apply.” Id., at 541, 108 S.Ct. 2529 (emphasis added).

Thus, the Court's opinion reflects a misunderstanding of what “inevitable discovery” means when it says, “[i]n this case, of course, the constitutional violation of an illegal manner of entry was not a but-for cause of obtaining the evidence.” Ante, at 2164. The majority rest this conclusion on its next statement: “Whether that preliminary misstep has occurred or not, the police ... would have discovered the gun and drugs inside the house.” Ibid. Despite the phrase “of
course,” neither of these statements is correct. It is not true that, had the illegal entry not occurred, “police ... would have discovered the guns and drugs inside the house.” Without that unlawful entry they would not have been inside the house; so there would have been no discovery. See supra, at 2177.

Of course, had the police entered the house lawfully, they would have found the gun and drugs. But that fact is beside the point. The question is not what police might have done had they not behaved unlawfully. The question is what they did do. Was there set in motion an independent chain of events that would have inevitably led to the discovery and seizure of the evidence despite, and independent of, that behavior? The answer here is “no.”

B

The majority, Michigan, and the United States point out that the officers here possessed a warrant authorizing a search. Ante, at 2164. That fact, they argue, means that the evidence would have been discovered independently or somehow diminishes the need to suppress the evidence. But I do not see why that is so. The warrant in question was not a “no-knock” warrant, which many States (but not Michigan) issue to assure police that a prior knock is not necessary. Richards, 520 U.S., at 396, n. 7, 117 S.Ct. 1416 (collecting state statutes). It did not authorize a search that fails to comply with knock-and-announce requirements. Rather, it was an ordinary search warrant. It authorized a search that complied with, not a search that disregarded, the Constitution's knock-and-announce rule.

Would a warrant that authorizes entry into a home on Tuesday permit the police to enter on Monday? Would a warrant that authorizes entry during the day authorize the police to enter during the middle of the night? It is difficult for me to see how the presence of a warrant that does not authorize the entry in question has anything to do with the “inevitable discovery” exception or otherwise diminishes the need to enforce the knock-and-announce requirement through suppression.

C

The majority and the United States set forth a policy-related variant of the causal connection theme: The United States argues that the law should suppress evidence only insofar as a Fourth Amendment violation causes the kind of harm that the particular Fourth Amendment rule seeks to protect against. It adds that the constitutional purpose of the knock-and-announce rule is to prevent needless destruction of property (such as breaking down a door) and to avoid unpleasant surprise. And it concludes that the exclusionary rule should suppress evidence of, say, damage to property, the discovery of a defendant in an “intimate or compromising moment,” or an excited utterance from the occupant caught by surprise, but nothing more. Brief for United States as Amicus Curiae 12, 28.

The majority makes a similar argument. It says that evidence should not be suppressed once the causal connection between unlawful behavior and discovery of the evidence becomes too “attenuated.” Ante, at 2164. But the majority then makes clear that it is not using the word “attenuated” to mean what this Court's precedents have typically used that word to mean,
namely, that the discovery of the evidence has come about long after the unlawful behavior took *620 place or in an independent way, i.e., through ‘means sufficiently distinguishable to be purged of the primary taint.’ ” Wong Sun v. United States, 371 U.S. 471, 487–488, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963); see Brown v. Illinois, 422 U.S. 590, 603–604, 95 S.Ct. 2254, 45 L.Ed.2d 416 (1975).

Rather, the majority gives the word “attenuation” a new meaning (thereby, in effect, making the same argument as the United States). “Attenuation,” it says, “also occurs when, even given a direct causal connection, the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.” Ante, at 2164. The interests the knock-and-announce rule seeks to protect, the Court adds, are “human life” (at stake when a householder is “surprised”), “property” (such as the front door), and “those elements of privacy and dignity that can be destroyed by a sudden entrance,” namely, “the opportunity to collect oneself before answering the door.” Ante, at 2165. Since none of those interests led to the discovery of the evidence seized here, there is no reason to suppress it.

There are three serious problems with this argument. First, it does not fully describe the constitutional values, purposes, and objectives underlying the knock-and-announce requirement. That rule does help to protect homeowners from damaged doors; it does help to protect occupants from surprise. But it does more than that. It protects the occupants' privacy by assuring them that government agents will not enter their home without complying with those requirements (among others) that diminish the offensive nature of any such intrusion. Many years ago, Justice Frankfurter wrote for the Court that the “knock at the door, ... as a prelude to a search, without authority of law ... [is] inconsistent with the conception of human rights enshrined in [our] history” and Constitution. Wolf, 338 U.S., at 28, 69 S.Ct. 1359. How much the more offensive when the search takes place without any knock at all. Cf. Wilson, 514 U.S., at 931, 115 S.Ct. 1914 (knock-and-announce rule recognizes that “the common law *621 generally protected a man's house as 'his castle of defence and asylum’ ” (quoting 3 W. Blackstone, Commentaries *288)); Miller, 357 U.S., at 313, 78 S.Ct. 1190 (federal knock-and-announce statute “codif[ied] a tradition embedded in Anglo–American law” that reflected “the reverence of the law for the individual's right of privacy in his house”).

Over a century ago this Court wrote that “[i]t is not the breaking of his doors” that is the “essence of the offence,” but the “invasions on the part of the government ... of the sanctity of a man's home and the privacies of life.” Boyd, 116 U.S., at 630, 6 S.Ct. 524. And just this Term we have reiterated that “it is beyond dispute **2181 that the home is entitled to special protection as the center of the private lives of our people.” Georgia v. Randolph, ante, at 115, 126 S.Ct. 1515, 1523, 164 L.Ed.2d 208 (quoting Minnesota v. Carter, 525 U.S. 83, 99, 119 S.Ct. 469, 142 L.Ed.2d 373 (1998) (KENNEDY, J., concurring)). The knock-and-announce requirement is no less a part of the “centuries-old principle” of special protection for the privacy of the home than the warrant requirement. See Randolph, ante, at 115, 126 S.Ct., at 1523 (citing Miller, supra, at 307, 78 S.Ct. 1190). The Court is therefore wrong to reduce the essence of its protection to “the right not to be intruded upon in one's nightclothes.” Ante, at 2167; see Richards, 520 U.S., at 393, n. 5, 117 S.Ct. 1416 (“[I]ndividual privacy interest[s]” protected by the rule are “not inconsequential” and “should not be unduly minimized”).
Second, whether the interests underlying the knock-and-announce rule are implicated in any given case is, in a sense, beside the point. As we have explained, failure to comply with the knock-and-announce rule renders the related search unlawful. *Wilson, supra*, at 936, 115 S.Ct. 1914. And where a search is unlawful, the law insists upon suppression of the evidence consequently discovered, even if that evidence or its possession has little or nothing to do with the reasons underlying the unconstitutionality of a search. The Fourth Amendment does not seek to protect contraband, yet we have required suppression of contraband seized in an unlawful search. See, e.g., *Kyllo v. United States*, 533 U.S. 27, 40, 121 S.Ct. 2038, 150 L.Ed.2d 94 (2001); *Coolidge*, 403 U.S., at 473, 91 S.Ct. 2022. That is because the exclusionary rule protects more general “privacy values through deterrence of future police misconduct.” *James v. Illinois*, 493 U.S. 307, 319, 110 S.Ct. 648, 107 L.Ed.2d 676 (1990). The same is true here.

Third, the majority's interest-based approach departs from prior law. Ordinarily a court will simply look to see if the unconstitutional search produced the evidence. The majority does not refer to any relevant case in which, beyond that, suppression turned on the far more detailed relation between, say, (1) a particular materially false statement made to the magistrate who issued a (consequently) invalid warrant and (2) evidence found after a search with that warrant. But cf. *ante*, at 2169–2170, n. 2 (plurality opinion) (citing *New York v. Harris*, 495 U.S. 14, 110 S.Ct. 1640, 109 L.Ed.2d 13 (1990), as such a case in section of opinion that Justice KENNEDY does not join). And the majority's failure does not surprise me, for such efforts to trace causal connections at retail could well complicate Fourth Amendment suppression law, threatening its workability.

The United States, in its brief and at oral argument, has argued that suppression is “an especially harsh remedy given the nature of the violation in this case.” Brief as Amicus Curiae 28; see also id., at 24. This argument focuses upon the fact that entering a house after knocking and announcing can, in some cases, prove dangerous to a police officer. Perhaps someone inside has a gun, as turned out to be the case here. The majority adds that police officers about to encounter someone who may try to harm them will be “uncertain” as to how long to wait. *Ante*, at 2166. It says that, “[i]f the consequences of running afoul” of the knock-and-announce “rule were so massive,” i.e., would lead to the exclusion of evidence, then “officers would be inclined to wait longer than the law requires—producing preventable violence**2182 against officers in some cases.” *Ibid.*

To argue that police efforts to assure compliance with the rule may prove dangerous, however, is not to argue against evidence suppression. It is to argue against the validity of the rule itself. Similarly, to argue that enforcement means uncertainty, which in turn means the potential for dangerous and longer-than-necessary delay, is (if true) to argue against meaningful compliance with the rule.

The answer to the first argument is that the rule itself does not require police to knock or to announce their presence where police have a “reasonable suspicion” that doing so “would be dangerous or futile” or “would inhibit the effective investigation of the crime by, for example,

The answer to the second argument is that States can, and many do, reduce police uncertainty while assuring a neutral evaluation of concerns about risks to officers or the destruction of evidence by permitting police to obtain a “no-knock” search warrant from a magistrate judge, thereby assuring police that a prior announcement is not necessary. *Richards*, 520 U.S., at 396, n. 7, 117 S.Ct. 1416 (collecting state statutes). While such a procedure cannot remove all uncertainty, it does provide an easy way for officers to comply with the knock-and-announce rule.

Of course, even without such a warrant, police maintain the backup “authority to exercise independent judgment concerning the wisdom of a no-knock entry at the time the warrant is being executed.” *Ibid.* “[I]f circumstances support a reasonable suspicion of exigency when the officers arrive at the door, they may go straight in.” *Banks, supra*, at 37, 124 S.Ct. 521. And “[r]easonable suspicion is a less demanding standard than probable cause ....” *Alabama v. White*, 496 U.S. 325, 330, 110 S.Ct. 2412, 110 L.Ed.2d 301 (1990); see *Terry v. Ohio*, 392 U.S. 1, 21–22, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968) (no Fourth Amendment violation under the reasonable suspicion standard if “the facts available to the officer at the moment of the seizure or the search ‘warrant a man of reasonable caution in the belief’ that the action taken was appropriate”).

Consider this very case. The police obtained a search warrant that authorized a search, not only for drugs, but also *624* for guns. App. 5. If probable cause justified a search for guns, why would it not also have justified a no-knock warrant, thereby diminishing any danger to the officers? Why (in a State such as Michigan that lacks no-knock warrants) would it not have justified the very no-knock entry at issue here? Indeed, why did the prosecutor not argue in this very case that, given the likelihood of guns, the no-knock entry was lawful? From what I have seen in the record, he would have won. And had he won, there would have been no suppression here.

That is the right way to win. The very process of arguing the merits of the violation would help to clarify the contours of the knock-and-announce rule, contours that the majority believes are too fuzzy. That procedural fact, along with no-knock warrants, back up authority to enter without knocking regardless, and use of the “reasonable suspicion” standard for doing so should resolve the government's problems with the knock-and-announce rule while reducing the “uncertain[ty]” that the majority discusses to levels beneath that found elsewhere in Fourth Amendment law (e.g., exigent circumstances). *Ante*, at 2166. Regardless, if the Court fears that **2183** effective enforcement of a constitutional requirement will have harmful consequences, it should face those fears directly by addressing the requirement itself. It should not argue, “the requirement is fine, indeed, a serious matter, just don't enforce it.”
110 S.Ct. 1640, 109 L.Ed.2d 13; and Ramirez, 523 U.S. 65, 118 S.Ct. 992, 140 L.Ed.2d 191—do not support his conclusion. See ante, at 2168 – 2170. Indeed, Justice KENNEDY declines to join this section of the lead opinion because he fails to see the relevance of Segura and Harris, though he does rely on Ramirez. Ante, at 2171 (opinion concurring in part and concurring in judgment).

*625* Justice SCALIA first argues that, if the “search in Segura could be ‘wholly unrelated to the prior entry,’ ... when the only entry was warrantless, it would be bizarre to treat more harshly the actions in this case, where the only entry was with a warrant.” Ante, at 2169. Then he says that, “[i]f the probable cause backing a warrant that was issued later in time could be an ‘independent source’ for a search that proceeded after the officers illegally entered and waited, a search warrant obtained before going in must have at least this much effect.” Ibid. I do not understand these arguments. As I have explained, the presence of a warrant that did not authorize a search that fails to comply with knock-and-announce requirements is beside the point. See Part III–B, supra. And the timing of the warrant in Segura made no difference to the case. The relevant fact about the warrant there was that it was lawfully obtained and arguably set off an independent chain of events that led the police to seize the evidence. 468 U.S., at 814, 104 S.Ct. 3380; see also ibid. (“The valid warrant search was a ‘means sufficiently distinguishable’ to purge the evidence of any ‘taint’ arising from the entry”). As noted, there is no such independent event, or intervening chain of events that would purge the taint of the illegal entry, present here. See supra, at 2179. The search that produced the relevant evidence here is the very search that the knock-and-announce violation rendered unlawful. There simply is no “independent source.”

As importantly, the Court in Segura said nothing to suggest it intended to create a major exclusionary rule exception, notwithstanding the impact of such an exception on deterrence. Indeed, such an exception would be inconsistent with a critical rationale underlying the independent source and inevitable discovery rules, which was arguably available in Segura, and which is clearly absent here. That rationale concerns deterrence. The threat of inadmissibility deters unlawful police behavior; and the existence of an exception applicable where evidence is found through an untainted independent route will rarely undercut that deterrence. That *626* is because the police can rarely rely upon such an exception—at least not often enough to change the deterrence calculus. See Murray, 487 U.S., at 540, 108 S.Ct. 2529 (“We see the incentives differently. An officer with probable cause sufficient to obtain a search warrant would be foolish to enter the premises first in an unlawful manner. By doing so, he would risk suppression of all evidence on the premises ...”); Nix, 467 U.S., at 445, 104 S.Ct. 2501 (“A police officer who is faced with the opportunity to obtain evidence illegally will rarely, if ever, be in a position to calculate whether the **2184** evidence sought would inevitably be discovered”); id., at 444, 104 S.Ct. 2501 (“If the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means—here the volunteers’ search—then the deterrence rationale has so little basis that the evidence should be received”).

Segura’s police officers would have been foolish to have entered the apartment unlawfully with the *ex ante* hope that an independent causal chain of events would later occur and render admissible the evidence they found. By way of contrast, today's holding will seriously undermine deterrence in knock-and-announce cases. Officers will almost always know *ex ante* that they can
ignore the knock-and-announce requirement without risking the suppression of evidence discovered after their unlawful entry. That fact is obvious, and this Court has never before today—not in *Segura* or any other post-*Weeks* (or post-*Mapp*) case—refused to apply the exclusionary rule where its absence would so clearly and so significantly impair government officials' incentive to comply with comparable Fourth Amendment requirements.

Neither does *New York v. Harris*, supra, support the Court's result. See ante, at 2164–2165, 2169; but see ante, at 2171 (opinion of KENNEDY, J.) (declining to join section relying on *Harris*). In *Harris*, police officers arrested the defendant at his home without a warrant, in violation of *Payton v. New York*, 445 U.S. 573, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980). Harris made several incriminating*627* statements: a confession in his home, a written inculpatory statement at the station house, and a videotaped interview conducted by the district attorney at the station house. 495 U.S., at 16, 110 S.Ct. 1640. The trial court suppressed the statements given by Harris in the house and on the videotape, and the State did not challenge either of those rulings. *ibid.* The sole question in the case was whether the written statement given later at the station house should also have been suppressed. The Court held that this later, outside-the-home statement “was admissible because Harris was in legal custody ... and because the statement, while the product of an arrest and being in custody, was not the fruit of the fact that the arrest was made in the house rather than someplace else.” *Id.*, at 20, 110 S.Ct. 1640. Immediately after the Court stated its holding, it explained:

“To put the matter another way, suppressing the statement taken outside the house would not serve the purpose of the rule that made Harris' in-house arrest illegal. The warrant requirement for an arrest in the home is imposed to protect the home, and anything incriminating the police gathered from arresting Harris in his home, rather than elsewhere, has been excluded, as it should have been; the purpose of the rule has thereby been vindicated.” *Ibid.* (emphasis added).

How can Justice SCALIA maintain that the evidence here—a gun and drugs seized in the home—is “‘not the fruit’” of the illegal entry? *Ante*, at 2169. The officers' failure to knock and announce rendered the entire search unlawful, *Wilson*, 514 U.S., at 936, 115 S.Ct. 1914, and that unlawful search led to the discovery of evidence in petitioner's home. Thus, *Harris* compels the opposite result than that reached by the Court today. Like the *Payton* rule at issue in *Harris*, the knock-and-announce rule reflects the “reverence of the law for the individual's right of privacy in his house.” *Miller*, 357 U.S., at 313, 78 S.Ct. 1190; cf. *Harris*, 495 U.S., at 17, 110 S.Ct. 1640 (“*Payton* itself *628* emphasized that our holding in that case **2185** stemmed from the ‘overriding respect for the sanctity of the home that has been embedded in our traditions since the origins of the Republic’ ”). Like the confession that was “excluded, as it should have been,” in *Harris, id.*, at 20, 110 S.Ct. 1640, the evidence in this case was seized in the home, immediately following the illegal entry. And like *Harris*, nothing in petitioner's argument would require the suppression of evidence obtained outside the home following a knock-and-announce violation, precisely because officers have a remaining incentive to follow the rule to avoid the suppression of any evidence obtained from the very place they are searching. Cf. *ibid.* (“Even though we decline to suppress statements made outside the home following a *Payton* violation, the principal incentive to obey *Payton* still obtains: the police know that a warrantless entry will lead to the suppression of any evidence found, or statements taken, inside the home”).
I concede that United States v. Ramirez, 523 U.S. 65, 118 S.Ct. 992, 140 L.Ed.2d 191, offers the plurality its last best hope. Ante, at 2170. But not even that case can offer the plurality significant support. The plurality focuses on the Court's isolated statement that “destruction of property in the course of a search may violate the Fourth Amendment, even though the entry itself is lawful and the fruits of the search are not subject to suppression.” Ramirez, supra, at 71, 118 S.Ct. 992 (emphasis added). But even if I accept this dictum, the entry here is unlawful, not lawful. Wilson, supra, at 931, 934, 115 S.Ct. 1914. It is one thing to say (in an appropriate case) that destruction of property after proper entry has nothing to do with discovery of the evidence, and to refuse to suppress. It would be quite another thing to say that improper entry had nothing to do with discovery of the evidence in this case. Moreover, the deterrence analysis for the property destruction cases (where, by definition, there will almost always be quantifiable damages) might well differ.

*629 IV

There is perhaps one additional argument implicit in the majority's approach. The majority says, for example, that the “cost” to a defendant of “entering this lottery,” i.e., of claiming a “knock-and-announce” violation, “would be small, but the jackpot enormous”—namely, a potential “get-out-of-jail-free card.” Ante, at 2166. It adds that the “social costs” of applying the exclusionary rule here are not worth the deterrence benefits. Ante, at 2168. Leaving aside what I believe are invalid arguments based on precedent or the majority's own estimate that suppression is not necessary to deter constitutional violations, one is left with a simple unvarnished conclusion, namely, that in this kind of case, a knock-and-announce case, “[r]esort to the massive remedy of suppressing evidence of guilt is unjustified.” Ibid. Why is that judicial judgment, taken on its own, inappropriate? Could it not be argued that the knock-and-announce rule, a subsidiary Fourth Amendment rule, is simply not important enough to warrant a suppression remedy? Could the majority not simply claim that the suppression game is not worth the candle?

The answer, I believe, is “no.” That “no” reflects history, a history that shows the knock-and-announce rule is important. See Wilson, supra, at 931–936, 115 S.Ct. 1914. That “no” reflects precedent, precedent that shows there is no pre-existing legal category of exceptions to the exclusionary rule into which the knock-and-announce cases might fit. See supra, at 2175 – 2176. That “no” reflects empirical fact, experience that provides confirmation of what common sense suggests: without **2186 suppression there is little to deter knock-and-announce violations. See supra, at 2173 – 2175.

There may be instances in the law where text or history or tradition leaves room for a judicial decision that rests upon little more than an unvarnished judicial instinct. But this is not one of them. Rather, our Fourth Amendment traditions place high value upon protecting privacy in the *630 home. They emphasize the need to assure that its constitutional protections are effective, lest the Amendment “sound the word of promise to the ear but break it to the hope.” They include an exclusionary principle, which since Weeks has formed the centerpiece of the criminal law's effort to ensure the practical reality of those promises. That is why the Court should assure itself that any departure from that principle is firmly grounded in logic, in history, in precedent, and in empirical fact. It has not done so. That is why, with respect, I dissent.
APPENDIX TO OPINION OF BREYER, J.

Fourth Amendment decisions from 1914 to present requiring suppression of evidence seized (or remanding for lower court to make suppression determination) in a private home following an illegal arrest or search:


2. *Amos v. United States*, 255 U.S. 313, 41 S.Ct. 266, 65 L.Ed. 654 (1921) (warrantless arrest and search)


8. *Nathanson v. United States*, 290 U.S. 41, 54 S.Ct. 11, 78 L.Ed. 159 (1933) (invalid warrant; insufficient affidavit)


17. *Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964) **2187** (invalid warrant; insufficient affidavit)


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**2188**

**LAW 6116- White Collar Crime**

**Professor Levine**

First Week Assignment:

LAW 6233- Computer and Internet Law
Professor Travis

First Week Assignment:

Assignment 1 (Jan. 12) – Jurisdiction I

Please read Casebook pp. 1-27, while on pp. 1270-82, read the definitions of "cyberspace," ARPA, BBS, CDA, HTML, HTTP, ICANN, Internet, IP Address, Local Area Network, TCP/IP, and URL.

Assignment 2 (Jan. 12) – Jurisdiction II

Please read Casebook pp. 27-37, 331-370.

LAW 6235- Women and the Law
Professor Choudhury

First Week Assignment:

M: Intro to Women in the Law--no assigned reading.

W: Read Chapter 1 of casebook

LAW 6254- Comparative Family Law
Professor Choudhury

First Week Assignment:

M: Read pages 1-19 from Family Law in the World Community Chapter 1 posted to TWEN.

W: Read pages 19-36 (skip problems); Halley and Rittich Introduction on TWEN.
LAW 6264- Immigration Law  
Professor J. Gomez

First Week Assignment:

Students will be contacted directly by the Professor.

LAW 6330- Evidence  
Professor Carpenter

First Week Assignment:

1. Course introduction.

   a. Reading assignment:
      (1) Class syllabus and “Introduction to Evidence” in the Evidence Packet, available on TWEN.

      (2) Skim State v. Mitchell.

      (3) Excerpt from Expertise, Jurisdiction, and Legitimacy of the Military Profession by James Burk and excerpt from the Preamble to the Model Rules of Professional Conduct. Be prepared to answer these questions: Where do paragraphs 1, 6, and 13 of the Preamble fit into Burk's definition of professionalism? Where do paragraphs 10, 11, and 12 fit in?

   b. Watching assignment: Watch the first four parts (about 30 minutes), How to Study Long and Hard and Still Fail . . . Or How to Get the Most Out of Studying, available at https://www.youtube.com/watch?v=RH95h36NChI. This video is aimed at undergraduate students but it still has a lot of useful information. While you are watching this, think about what you can be doing to be successful in this class. How does outlining fit it?

LAW 6350- Law & Procedure US & Florida U01, U10  
Professor Ruiz

First Week Assignment:

**Week of 1/11: Introduction**

Topics Covered: (1) Course Introduction; (2) Introduction to the Florida Bar Exam; (3) Introduction to Essay Writing on the Florida Bar Exam.
Assignments for First Class:

(1) On TWEN, sign-up for the “Law & Procedure: U.S. & Florida” course, and read the course syllabus in its entirety.

(2) Enter your blind grading ID on TWEN.

(3) Register for Adaptibar by completing the form located at http://goo.gl/forms/xN1wAizWnt. A link to this form can be found on the course’s TWEN page as well.

(4) Complete & Submit: Complete the handout “Bar Exam Preparation Plan” posted on Law & Procedure: U.S. & Florida TWEN course page and bring it to the first class. This is your first required assignment.

(5) Be prepared to pay $150 for the course book. Payment is accepted in-class via a check or credit card. Checks should be made payable to Barbri.

(6) Attend class ready to succeed on the bar exam!

LAW 6361- Pre-Trial Practice
Professor Fingerhut

Tuesday, January 12, 2016

1. From our course text, Pretrial Advocacy, please read Chapter 1 (“The Pretrial Advocate’s World”).

2. From the Rules Regulating The Florida Bar, read The Preamble to Chapter 4 ("A Lawyer's Responsibilities").

http://www.floridabar.org/divexe/rrtfb.nsf/FV/7096F0D9580B063C85257170006A9888

3. Please also read the Preamble and Scope of the American Bar Association's Model Rules of Professional Conduct.


4. And read as well the Preamble and General Principles of the Trial Lawyers Section of The Florida Bar's Guidelines for Professional Conduct.
http://www.floridabar.org/tfb/TFBProfess.nsf/5d2a29f983dc81ef85256709006a486a/2f2668cdfd7b99e085256b2f006ccd15

Thursday, January 14, 2016

1. Carefully read through the entire case files (civil and criminal) and supplemental materials contained on the CD accompanying our text, *Pretrial Advocacy*.

Notes: Because we will be working with these case files throughout the semester, you may wish to print these materials out, place them in a binder, and have them in class with you all term long. In addition, *in this class, laptops are permitted solely for the purpose of our classwork*.

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**LAW 6426- Real Estate Transactions**  
**Professor Mesnekoff**

First Week Assignment:

The Syllabus has been posted on TWEN. I have posted a portion of my supplemental materials (the “Packet”) that is to be reviewed as part of the first assignment.

Assignments for every class for the entire semester have been posted on-line. The first assignment is as follows:

**Assignment for January 12 and 14, 2016:**

Packet - Title Terminology (TWEN)

Generally review the Packet and Text (TWEN)

Be prepared to discuss how you expect this course to be of value to you and any areas of real estate transactions that may be of special interest to you.

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**LAW 6430- Wills and Trusts**  
**Professor Rodriguez-Dod**

First Week Assignment:

I. Required Materials

2. In-house, Statutory Supplement Florida Wills, Trusts & Estates Cases and Materials (2015-2016). This spiral-bound supplement will be distributed in class. Please note the in-house spiral-bound statutory supplement will be the only material you will be permitted to bring in and use during the final exam for this course. For the exam, the supplement may be annotated only in the student’s own handwriting.

3. Students must enroll in the Westlaw TWEN Course created for this class (“TWEN course”). The TWEN course for this class is password protected. Students will be given the password on the first day of class.

II. Participation, Preparation and Class Attendance

1. Attendance. This course will follow the rules set forth in the law school’s Code of Academic Regulations. Students are responsible for signing the attendance sheet. Those who do not sign the attendance sheet shall be presumed absent from class.

2. Standard Preparation for Class. Students are expected to be prepared for every class. Preparation includes reading and analyzing the materials assigned and thoughtfully answering the assigned questions in the casebook and the quizzes on TWEN.

3. Poor Participation Will Affect Grades. TWEN quizzes will be assigned throughout the semester. Completion of the TWEN quizzes will count toward the student’s participation score. The participation score can result in a student receiving a bump up (or down) to the next available grade if the participation is particularly superior (or poor). Note that many students’ grades will be determined solely by their final examination because their participation will be a neutral factor.

4. Targeted Use of Laptops and other Electronic Devices During Class. Students may only use laptops and other electronic devices (notebooks, iPads, etc.) during class for purposes directly related to the course (e.g., taking notes, reviewing briefs, responding to TWEN or other assignments). Accordingly, during this class students are specifically prohibited from (1) emailing, texting, and messaging or (2) accessing any file, program, or website other than those assigned by the professor. If, in the opinion of the professor, a student is distracted from class participation by a laptop or other electronic device, or if a student’s use of such a device is interfering with the classroom experience of any other student, the professor may prohibit use of electronic devices entirely during the course. In addition, students may not record or capture this class, or any portion thereof, without the professor’s prior written permission. Students’ attendance in class constitutes their agreement to abide honestly by these terms.

III. Learning Outcomes

By the end of the semester, students will be able to:

1) demonstrate an understanding of the law of intestacy, wills, and trusts.
2) identify issues involved in intestacy, wills, and trusts.
3) apply and interpret the relevant statutes dealing with intestacy, wills, and trusts.
4) formulate and apply legal arguments to problems involving wills, trusts, and intestacy.
5) understand various client options involved in transferring property by way of wills or trusts.

IV. Examinations

The examination for this course will be primarily closed book. Students may have with them only their in-house Statutory Supplement. A student’s Statutory Supplement may be highlighted and may be annotated but only in that student's own handwriting. Except for tabs, no material whatsoever is to be attached, stapled, etc. to the student’s Statutory Supplement. The exam may include objective questions, multiple-choice questions, essay questions or any combination of questions.

V. Reading Assignments

Reading Assignment #1

Read the Preface and Chapter 1 of the Casebook. Also read the following statutes: Fla. Stat. §§222.13; 689.15; 711.507; 711.509; 731.201 (“Beneficiary”), (“Devise”), (“Devisee”), (“Estate”), (“Heirs”), (“Probate”), (“Probate of Will”), (“Trust”), (“Trustee”), (“Will”); 768.20; and 768.21.

Reading Assignment #2

Read pages 21-41 of Chapter 2. Also read the following statutes: Fla. Stat. §§731.103; 731.201 (“Beneficiary”), (“Child”), (“Collateral Heir”), (“Descendant”), (“Heirs”), (“Parent”); 732.101; 732.102; 732.103; 732.104; 732.107; 732.611; and 741.211.

LAW 6515- Disability Law
Professor Anglade

First Week Assignment:

Course Materials:

- Statutory Supplement: Samuel Bagenstos, Disability Rights Law, Selected Statutes

Assignments refer to the textbook:


January 14: Chapter 2, pp. 19 – 29 (up to subsection (b)).
LAW 6520- Administrative Law  
Professor K. Coffey

First Week Assignment:

Kendall Coffey Office: 305-858-2900  
email: kcoffey@coffeyburlington.com

The Administrative Law course will examine the laws controlling executive branch agencies of government. Major topics include rulemaking and adjudication, judicial review and deference, delegation of power to agencies, modes of agency action, legislative control of agencies, constitutional constraints on agency power, appointment and removal of officers, and public access and influence.

TEXT: FUNK, SHAPIRO AND WEAVER, ADMINISTRATIVE PROCEDURE AND PRACTICE: Problems and Cases (5th ed.)

Class schedule: Tuesdays and Thursday, 9:00 PM to 10:15 PM in Room DB 2008.

Assignments may be supplemented with other required cases and readings as announced.

SCHEDULE

1. 1/12/16 Introduction to Course; Overview of Agency Action and the Administrative Procedures Act  
   • Text: pp. 5-32

2. 1/14/16 Rulemaking: Initiation of Administrative Proceedings; Procedures  
   Text: pp. 51-62, 73-85

Comments

Administrative law will be graded based on the final exam. That exam will consist largely of multiple choice along with some short answer questions. The test will not be open book. Extra credit will be requested for students based on participation during class. Attendance is strongly encouraged in accordance with law school policy.
LAW 6561- Securities Law Enforcement  
Professor Roberts and Professor Martin

First Week Assignment:

**Read Prior to the First Class:**

Chapter 1 - Securities Regulation, Palmiter – Introduction to Securities Markets and Regulation

Overview - Brief history of the SEC its purposes and organization topic on SEC website from: [www.sec.gov](http://www.sec.gov) (“About the SEC” [What We Do])

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LAW 6576- Trademarks and GI  
Professor Osei Tutu

First Week Assignment:

No Assignment

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LAW 6583- Education Law  
Professor Strickman

First Week Assignment:


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LAW 6621- Estate & Gift Tax  
Professor Manning

First Week Assignment:

Required Texts:

   Ira Mark Bloom, Kenneth F. Joyce.  
   Publisher: LexisNexis, ISBN: 9781630430535
You will also need access to any recent IRS Estate & Gift Taxes Code & Regulations, including related Income Tax provisions. If you wish a hard copy, CCH publishes a good one-volume version. ISBN 9780808036586. On-line resources of the Code and Regulations are typically used by students.

- Please read all assigned pages, including topics, cases, and problems that do not appear on the chart below. The topics listed below are merely those topics emphasized in the assigned cases and problems. Read about ALL topics discussed in the text on the assigned pages.

- Please be prepared to discuss the cases and problems assigned.

- Volunteers will be taken to lead the discussions of the cases/problems.

<table>
<thead>
<tr>
<th>Class #1</th>
<th>§1.01 - §1.04</th>
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<tr>
<td>History and Policies of Estate &amp; Gift Taxes</td>
<td>Chapter 1</td>
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<tr>
<td>Comm'r v. Estate of Bosch, page 25</td>
<td>Pp. 3-31</td>
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<tr>
<td>Problem, page 31</td>
<td>1. January 11, 2016 (Mon.)</td>
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<tr>
<td>An Overview of the Issues Involved in Transfer Taxation</td>
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<tr>
<th>Class #2</th>
<th>§2.01 - §2.03</th>
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<tr>
<td>Overview: The Gift Tax</td>
<td>Chapter 2</td>
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<tr>
<td>Problems 1-2, pages 38-9</td>
<td>Pp. 33 - 48</td>
</tr>
<tr>
<td>Overview: The Estate Tax</td>
<td></td>
</tr>
<tr>
<td>Problems 1-2 (skip 1c), page 43-4</td>
<td>2. January 13, 2016 (Wed.)</td>
</tr>
<tr>
<td>Overview: Unification of the Transfer Taxes</td>
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<td>Problem 1, page 47</td>
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**LAW 6702- Products Liability**
**Professor Román**

First Week Assignment:

Read the first five cases.
### LAW 6710- Family Law
**Professor Fajardo**

First Week Assignment:

<table>
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<tr>
<th>Date</th>
<th>Assignment Details</th>
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<tbody>
<tr>
<td>January 13, 2016</td>
<td>Case Law Supplement section 1 – all cases.</td>
</tr>
<tr>
<td><strong>January 15, 2015</strong></td>
<td>Overview and Ethics of Family Law: Exploring the modern vision of marriage and family and analyzing an attorney’s role in family law both professionally and ethically. Marriage: Who has a right to marry and what are the constitutional implications to marriage. You should consider how social changes have impacted the legality of marriage and how the law is slow to change.</td>
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*Last day to drop/add/withdraw.*

### LAW 6723- Medical-Legal Clinic
**Dean Mason**

First Week Assignment:

Students will be contacted directly by the Professor.

### LAW 6750- Professional Responsibility
**Professor Fairlie**

First Week Assignment:

**Casebook (must have in hard copy form):**


**Supplemental Material (must have in hard copy form):**

Lerman, Schrag, & Gupta; Ethical Problems in the Practice of Law: Model Rules, State Variations and Practice Questions 2015-2016
Florida Rules of Professional Conduct available at http://www.floridabar.org/ (click on “Lawyer Regulation”, then “Rules Regulating the Florida Bar”)

First Week Assignments:

Class 1: pp 1-56

Class 2: pp. 56-76; with updated material on text website

LAW 6751- Law Firm Management
Professor Salas

First Week Assignment:

No Assignment

Legal Skills and Values III

LAW 6797- Legal Skills and Values III
Sections: U01, U02, U10, U11, U12, U13, U14, U15, U16
All Professors

First Week Assignment:

LSV III - ALL MON/WED SECTIONS

MONDAY, JANUARY 11

Topics: Course Introduction; Cover Letters & Résumés

Assignment -
Before this class session, carefully and fully read the following information: (1) Course Information & Syllabus, (2) First Assignment, and (3) A Professional Development Handbook (re: cover letters and résumés). (Note: The readings listed above will be emailed to the students registered for LSV III about January 7, 2016. You should then draft your Cover Letter & Résumé.)

At the At the beginning of our first class on Monday, January 11, submit your draft Cover Letter & Résumé.
WEDNESDAY, JANUARY 13

Topics: Critiquing & Revising the Draft Cover Letters & Résumés; Introduction to Second Assignment; Contracts & Drafting Contracts; Legal Research – Substance & Contract Forms

Assignment -


Read the Rules Regulating the Florida Bar, Preamble (the Florida rules regulating attorneys and their professional conduct)

Read R. Regulating Fla. Bar 4-1.1 (Competence)

Read R. Regulating Fla. Bar 4-1.3 (Diligence)

Read R. Regulating Fla. Bar 4-1.4 (Communication)

(Note: The Rules Regulating the Florida Bar will be emailed to all students registered for LSV III.)

After this class, conduct your substantive legal research; be prepared to discuss your research findings in class on Wednesday, January 20. **At the beginning of our next class (Monday, January 25), submit your Final Cover Letter & Résumé.**

*******************************************************************************

LSV III - ALL TUES/THURS SECTIONS
TUESDAY, JANUARY 12

Topics: Course Introduction; Cover Letters & Résumés

Assignment -

Before this class session, **carefully and fully read** the following information: (1) Course Information & Syllabus, (2) First Assignment, and (3) A Professional Development Handbook (re: cover letters and résumés). (**Note: The readings listed above will be emailed to the students registered for LSV III about January 7, 2016. You should then draft your Cover Letter & Résumé.**
At the beginning of our first class on Tuesday, January 12, submit your draft Cover Letter & Résumé.

THURSDAY, JANUARY 14

Topics: Critiquing & Revising the Draft Cover Letters & Résumés; Introduction to Second Assignment; Contracts & Drafting Contracts; Legal Research – Substance & Contract Forms

Assignment -

Read the Rules Regulating the Florida Bar, Preamble (the Florida rules regulating attorneys and their professional conduct)

Read R. Regulating Fla. Bar 4-1.1 (Competence)

Read R. Regulating Fla. Bar 4-1.3 (Diligence)

Read R. Regulating Fla. Bar 4-1.4 (Communication)

(Note: The Rules Regulating the Florida Bar will be emailed to all students registered for LSV III.)

After this class, conduct your substantive legal research; be prepared to discuss your research findings in class on Thursday, January 21.

At the beginning of our next class (Thursday, January), submit your Final Cover Letter & Résumé.

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LAW 6993- Fashion and Design Law
Professor Osei Tutu

First Week Assignment:

No Assignment
**LAW 6994- Natural Resources Law**  
*Professor Stoa*

First Week Assignment:

Read pp. 1-31 (Text posted as Stoa’s Natural Resources Law Text), [here](#)

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**LAW 6995- Florida Condominium & Community Association Law**  
*Professor Jurado*

First Week Assignment:

**Class 1  Concept of Condominium Ownership**
- Introduction
- Common-law principles
- Historical foundations
- Florida Statute 718 and 720
- Discuss the Governing Documents

Readings:
Textbook chapter 1, pages 1-21 (Please read these before the first class)

Assignment:
Familiarize yourself with the homeowners’ and condominium association’s governing documents (“Governing Documents”) that will be distributed during the first class. (This assignment is not due for the first class. Please skim through the Governing Documents before the next class.)

**Class 2 (Cancelled – will be made up the following Monday)**

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**LAW 7285- Profesion Juridica Comparada**  
*Professor Gabilondo*

First Week Assignment:

Before our first class on Monday January 11th, please do the following:

- Register on the TWEN site;
- Review the Syllabus;
- In the Introduction and Overview menu on TWEN (far left column):
  - skim pp 5-7 of the European Union language guide;
skim the Spanish assessment grid; and
in the Horwitz Language Beliefs article, read pp. 283-285, skim 286-291, and read from the pedagogy section starting on p. 291 through the end of the article;
• In the Language and Resources menu on TWEN (far left column), please read the instructions on taping your own language history.

LAW 7303- Florida Civil Practice
Professor Rodriguez

First Week Assignment:

Tuesday 1/12 read p. 3 to 30
Thursday 1/14 read p. 30 to 51.

LAW 7308- Complex Litigation
Dean M. Gomez

First Week Assignment:

Complex Litigation: Read and come prepared to discuss the following (available on TWEN)
Week 2: Through the looking glass: Media coverage of the complex case

LAW 7475- Ocean and Coastal Law
Professor Stoa

First Week Assignment:

Read pp. 1-7; 23-39; 48-56; and 69-71 (Text posted as Stoa’s Ocean & Coastal Law Text), here

LAW 7510- Civil Rights
Professor Wasserman

First Week Assignment:

Go to: fiucivilrights.blogspot.com
LAW 7511- First Amendment Law
Professor Baker

First Week Assignment:

**Required Books:** Arthur D. Hellman, William D. Araiza & Thomas E. Baker, First Amendment Law: Freedom of Expression and Freedom of Religion (Lexis Nexis Publishing Co. 3d ed. 2014) and the 2014 Supplement (download the Supplement on TWEN). The casebook also is available from the publisher as an eBook or in a loose leaf format which is less expensive and may be to your liking. (There also are an additional 12 books on reserve for the course; the reserve book list is posted on the TWEN page.)

**For the first day of class, Monday, January 11th:**

1. Read the first amendment — think about it — really, think about what it means. What do you think you know about it?
2. Read the Preface in the casebook.
4. Download and read the “Casebook Problems Assignment” that explains how you will be graded in this course.
5. Download and read the “Checklist for First Amendment Problems.”
6. Download and read “10 Suggestions for Interlocutors” that describes the duties of Interlocutors — three students will sign up in advance to act as Interlocutors for each class meeting.
7. Download and read “Class Participation (Optional) Extra Credit” that describes how you can earn extra participation credit.
8. Bring these four (4) downloaded documents (above) to the first class meeting.

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- Do not speak in class unless you have read at least the asterisk-marked (“*”) Supreme Court’s opinions in the assigned Lesson for that class — that is the required level of preparation for you to exercise “the privilege of the floor”

- Do not come into the classroom if the class session has begun — there will be a brief “intermission” at approximately 5:30 P.M. to allow late students to join the class — the clock in the classroom is the official time

- Use your laptop only for class-related tasks — this privilege will be suspended if there is significant misuse — and be sure to turn off your cell phone.

- Do not wear a hat during class

- Violation of these policies will result in a reduction in your participation grade
**LAW 7575- Entertainment Law**  
*Professor Travis*

First Week Assignment:

Assignment 1 (Jan. 12) - Please read Handout 1 (on TWEN)

Assignment 2 (Jan. 14) - Please read Handout 2

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**LAW 7804- US Law II**  
*Dean M. Gomez*

First Week Assignment:

US Law II: Read and come prepared to discuss the following articles (available on TWEN)


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**LAW 7813- Community Law Teaching**  
*Professor Kotey*

First Week Assignment:

Students will be contacted directly by the Professor.
Trial Advocacy & Advanced Trial Advocacy

LAW 6363- Trial Advocacy
All Sections
All Professors

First Week Assignment

Monday and Tuesday, January 11 and 12, 2016 (first PRACTICE SESSIONS)

1. Students will be given an "Introduction to the Courtroom" by their practice session coach.

2. No advance preparation is required; all materials will be provided in class.

3. Dress is APPROPRIATE COURTROOM ATTIRE (for this and all future practice sessions).

Note: This is a no-laptop learning environment. In general, all materials to be worked on should be printed out before each practice session and placed in your trial notebook (see below).

Wednesday, January 13, 2016 (first LECTURE)

1. ALL STUDENTS must come to class prepared to stand and deliver (WITHOUT NOTES) a favorite/personally meaningful passage from any song, movie, poem, book, etc., and also be prepared to explain its personal significance. The passage selected MUST be a minimum of 10 seconds long.

2. Students MUST bring to this first class a LARGE (3- or 4-inch) 3-RING BINDER which shall serve as your TRIAL NOTEBOOK for the semester.

3. From our course text, Fundamental Trial Advocacy, please read Chapters 1 ("A Different Advocacy Book") and 2 ("Case Analysis").

4. From our other course text, Florida Trial Objections, Fifth Edition, please read up on and be prepared to discuss the concepts of RELEVANCE and UNFAIR PREJUDICE, et al., as provided under Fla. Evid. Code ss. 90.402, 90.401, and 90.403.

6. Dress is APPROPRIATE LAW SCHOOL ATTIRE (for this and all future lectures).

Reminder: Class lecture too is a No Laptop learning environment. All materials to be worked on should be printed out before class and placed in your trial notebook.

LAW 7364- Advanced Trial Advocacy
Professor Smith

First Week Assignment:

**Tuesday, January 12, 2016 (First Performance)**

Each student will present a three (3) to four (4) minute Opening Statement. The case is about a fight between two (2) high school students on campus. The student shall fill in all of the other facts. We will be looking for storytelling skills, a memorable theme and the use of words that help the listener to see the action.

Advocacy Drills will also be performed in this session. Materials will be distributed during the class.

Dress for this and all performance sessions is appropriate courtroom attire.

**Thursday, January 14, 2016 (First Lecture)**

Students must read and outline Chapter 9 (Direct Examination: Building the Case). Students shall turn in a copy of the outline at the beginning of class.

In our supplemental text, Florida Trial Objections, please read pp. 5-7 (Speaking Objections), pp.9-11 (Trial Objections), pp.116-117 (Irrelevant), and pp. 148-149 (Prejudicial or Inflammatory).

Dress for this and all lecture sessions is appropriate law school attire.
Seminars

LAW 6936 - Banking Law and Regulations  
Professor Gabilondo

First Week Assignment:

Please sign up for the course website in TWEN, read the syllabus, and read the material in the folder labeled ‘January 12th Introduction.’

LAW 6936 - Law and Literature  
Dean Ansah

First Week Assignment:

I am delighted that you have chosen Law & Literature this semester. Before our first class on Tuesday, January 12, please do the following:

- Excerpt from Genesis 1-3, King James Version Bible, [here](#);
- Anon, Intervention (one page), [here](#);
- Agamben, Nudities, excerpt (two pages), [here](#).

LAW 6936 - International Criminal Law  
Professor Jalloh

First Week Assignment:

Welcome to the International Criminal Law Seminar! Please carefully review and comply with the following rules for our first meeting.


2. Read pages 1-45 (Cryer); and pages 1-19 (Jalloh). Be prepared. And do remember to bring your books with you to class at all times.
3. Register on the TWEN site for this course using your Westlaw password. It will be available the first week of classes. Check the website the day before the first class for the electronic version of the syllabus: http://lawschool.westlaw.com. It will be posted there at 9 a.m. EST. I will also supply a printed copy of the syllabus on the first day of class.

LAW 6936- How to Write a Sentence  
Professor Fish

First Week Assignment:

1-11, and It Was the Best of Sentences, 1-6—sf”

LAW 6936- Citizenship and Immigration Law  
Professor Román

First Week Assignment:

No Assignment

LAW 6936- Critical Legal Theories- Race & Gender  
Professor Anglade

First Week Assignment:

Reading assignments for the first class meeting will be posted to the TWEN site for the class by January 4, 2016

Clinics

LAW 6943- Immigration Clinic  
Professor J. Gomez

First Week Assignment:

Students will be contacted directly by the Professor.
LAW 7948- Small Business / Community Development Clinic  
Professor Little and Professor Emami

First Week Assignment:

No Assignment

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**Externships**

LAW 6945/6949- Criminal and Civil Externship Placement  
Professor Kotey

First Week Assignment:

Students will be contacted directly by the Professor.

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LAW – 6984- Judicial Externship Placement  
Professor Scola

First Week Assignment:

Students will be contacted directly by the Professor.