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Fall 2018
TuWTh 10:00–10:50 AM
285D Holland Hall

SOCIAL SCIENCE, CRIME, AND LAW

LAW 6930, section 097F

3 credits

COURSE DESCRIPTION

This course examines and explores the relationship between law and social science. Course material includes the following focal points: how social science evidence has been used and viewed historically by the courts; identification of social science methods, compared with legal methods; analysis of how social science data is used by the courts (e.g., to establish facts or to make law); and an assessment of the policy implications of using and not using social science data. Several areas of law are covered, including capital punishment (death qualification and racial discrimination), segregation in school (race and gender), cultural defenses, racial profiling, obscenity, and jury size. The assigned readings primarily focus on the use of social science data in criminal cases.

REQUIRED MATERIAL*

- John Monahan & Laurens Walker (2014) Social Science in Law: Cases and Materials (8th Ed.)

*Please note that some course material will be assigned (TWEN & handouts).

COURSE REQUIREMENTS

Group Project Presentation	40 percent
Class Participation	10 percent
Take-Home Final Examination	50 percent

The expectation is that students will attend each class, read all assigned materials prior to class discussion, and participate regularly in class discussions.

GROUP PROJECT PRESENTATIONS

Each student is required to participate in a Group Project Presentation. Students will work in two-person teams (depending on the final class enrollment numbers, there may be one or more groups with three members). Each team will select a topic, identify a trial or appellate court criminal case (a state or federal case that is not assigned reading for this course) that addresses the topic, identify a research question, locate legal and social science research on the topic; and discuss findings from at least three social science studies that would assist a court in addressing the research question. Groups must receive advance approval for their group topic.

FINAL EXAMINATION

The final examination for this course is a written Take-Home Exam. **The Final will be available on Friday, November 30, 2018 at 9:00 AM. It is due on Friday, December 7, 2018 at 12 PM Noon.**

COURSE WORKLOAD

Students should expect to spend, on average, approximately two hours preparing for every hour of class.

GRADING SCALE

Grading for this course will adhere to the Levin College of Law's mean and mandatory distributions, detailed in the below chart. For further information, visit <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

ACCOMODATIONS, ACADEMIC CONDUCT & OTHER POLICIES

Requests for classroom accommodations must be made with the Office of Disability Resources. The UF Office of Disability will provide documentation to the student who must then provide documentation to the Law School's Office of Student Affairs.

For information on UF Law grading policies, visit:

<http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>

Academic honesty and integrity are fundamental values of the University community.

Please review the UF Student Honor Code: <http://www.dso.ufl.edu/students.php>

Please plan to remain in class for the entire time period. If you need to leave class before the end time, or arrive after the start time, please notify the professor in advance.

LEARNING OBJECTIVES

After completing this course, students should be able to:

1. List historical approaches to the use of social science evidence
2. Identify and discuss seminal Supreme Court cases on use of social science evidence
3. Discuss how social science evidence is used to determine facts
4. Provide examples of how social science is used to make law
5. State how social science evidence is used to provide context
6. Discuss how social science evidence is used in litigation strategy
7. Discuss how expert witnesses are used in court to offer (and refute) social science evidence

COURSE OUTLINE

Week of August 13

TOPIC: Course Overview and Approach

TOPIC: Early Developments in Social Science in Law

M/W Ch. 1, pp. 1-32

- *Muller v. Oregon* (1907) [2]
- Theoretical Origins of Social Science & Law Approach
 - Formal/Classical Approach
 - Sociological Jurisprudence Approach
 - Realist Movement
- Supreme Court Justices & Philosophy of Law Confirmation Hearings

Week of August 20

REMINDER: Arrange a time to meet with the professor during office hours, or by appointment, no later than Thursday, September, 13 2018.

TOPIC: Legal & Social Science Methods

M/W: Ch. 2, pp. 33-83, “A Primer of Legal and Social Science Methods”

- *Frye v. U.S.* (1923)
- FRE 702 (pre-*Daubert*)
- *Daubert v. Merrell Dow Pharmaceuticals* (1993, 1995)[2]
- *General Electric Co. v. Joiner* (1997)
- *Kumho Tire Co. v. Carmichael* (1999)
- FRE 702 (post-*Daubert*)

Social Science Methods, pp. 52-83

Week of August 27

TOPIC: Social Science Used to Determine Facts

M/W Ch. 3, pp. 129-150

The below cases (brief excerpts) explore language courts have used to determine whether the prosecution is required to offer expert testimony and whether the defense should be allowed to offer expert evidence.

Admissibility of Evidence of Obscenity

- *People v. Muller* (1884)
- *Jacobellis v. Ohio* [2] (1964)
- *Smith v. California* (1959)
- *Miller v. California* (1973)
- *Paris Adult Theatre I v. Slaton* (1973)
- *Kaplan v. California* (1973)
- *Hamling v. U.S.* (1974)

Social Science Evidence of “Community Standards”

- *People v. Nelson* (1980)
- *Commonwealth v. Trainor* (1978)
- *U.S. v. Pryba* (1988)
- *St. John v. North Carolina Parole Commission* (1991)

Week of September 3

NOTE: On Tuesday, Sept. 4, Shamika Dalton (UF Law Library, Head of Reference and Instructional Services), will provide an in-class tutorial on how to conduct social science research. For this class session, read, “For Lawyers: How to Find Social Science” (p. 581).

REMINDER 1: Meet with professor no later than **Thursday Sept. 13** for approval of topic for the Group Project Presentation.

REMINDER 2: Group Project Presentation topics are due on **Tuesday, Sept. 18.** Submit a typewritten sheet with the following information: name of each group member, group topic, and date of meeting with professor to discuss and approve your presentation topic.

TOPIC: Social Science Used to Make Law

Constitutional Law

Fourteenth Amendment: Segregation by Race

M/W Ch. 4, pp. 175-198

- *Plessy v. Ferguson* (1896)
- *Brown v. Board of Education* (1954) [2]
- *Stell v. Savannah-Chatham County Bd. of Education* (1963, 1964) [2]
- *Morgan v. Kerrigan* (1975, 1976) [2]

Week of September 10

DUE: Group Presentation topics must be approved no later than **Tues. Sept. 13.** Group members must meet with the professor by or before this date.

REMINDER: Topic selection for the Group Project Presentation is due **Tues., Sept. 18.** Submit a typewritten sheet with the following information: Name of each group member, Topic, and Date of group members' meeting with professor to discuss and approve your presentation topic.

TOPIC: Social Science Used to Make Law (cont'd)

Fourteenth Amendment: School Segregation by Race (cont'd)

M/W Ch. 4, pp. 175-198

- *Parents Involved v. Seattle School District* (2007)

Fourteenth Amendment: Segregation by Gender

M/W Ch.4 (pp. 205-223)

- *Mississippi University for Women v. Hogan* (1982)
- *U.S. v. Commonwealth of Virginia* (1991, 1992, 1996) [3]

Fourteenth Amendment: Same Sex Marriage

- *Obergefell v. Hodges* (2015) (2) [Handout]

Week of September 17

DUE: Tues. Sept. 18: Group Project Topic Selection

Submit typed sheet with names of group members, topic and date group members met with professor.

TOPIC: Social Science Used to Make Law (cont'd)

The First Amendment: Obscene or Violent Entertainment
M/W Ch. 4, pp. 225-272

Obscenity

- *United States v. Roth* (1956)
- *Paris Adult Theatre I v. Slaton* (1973)
- *New York v. Ferber* (1982)
- *United States v. Hotaling* (2011)

Violent Video Games

- *American Amusement Machine Assn. v. Kendrick* (2001)
- *Brown v. Entertainment Merchants Assn.* (2011)

Week of September 24

TOPIC: Social Science Used to Make Law (cont'd)

Sixth Amendment Issues
M/W Ch. 4, pp. 260-277

Jury Size

- *Williams v. Florida* (1970)
- *Colgrove v. Battin* (1973)
- *Ballew v. Georgia* (1978)
- *Gonzalez v. Florida* [Brief] (2008)
- *Kakos v. Butler* (2015) [Handout]

Death-Qualification

M/W Ch. 4, pp. 277-295

- *Witherspoon v. Illinois* (1968)
- *Grigsby v. Mabry* (1983)
- *Lockhart v. McCree* (1986)

Week of October 1

TOPIC: Social Science used to Make Law (cont'd)

Eighth Amendment Issues (Capital Punishment)
M/W Ch.4, pp. 295-324

- *Furman v. Georgia* (1972)
- *Gregg v. Georgia* (1976)
- *McCleskey v. Kemp* (1987)

Week of October 8

TOPIC: Social Science Used to Make Law (cont'd)

Eighth Amendment Issues (cont'd)

- *Roper v. Simmons* (2005)
- *Graham v. Florida* (2010)
- *Miller v. Alabama* (2012)
- *State v. Zuber* (2017) [Handout]

TOPIC: Social Science Used to Provide Context

Overview
M/W Ch. 5, pp. 337-339
Capital Punishment

- *Barefoot v. Estelle* (1983)
- *State v. Davis* (1984)
- *Saldano v. Texas* (2000) [2]
- *Buck v. Davis* (2017) [Handout]

“Stop and Frisk” & Racial Profiling
M/W Ch. 5, pp. 389-467

- *Floyd v. City of New York* (2013)
- *U.S. v. Martinez-Fuerte* (1976)
- *New Jersey. v. Soto et al.* (1996)
- *U.S. v. New Jersey* (1999) [Consent decree]

Week of October 15

TOPIC: Social Science Used to Provide Context (cont'd)

Defenses Involving Culture, Subculture, Personality & Life Events
M/W Ch. 5, pp. 410- 453

- *People v. Poddar* (1972)
- *People v. Aphaylath* (1986)
- *Dang Vang v. Vang Xiong X. Toyed* (1991)
- *People v. Wu* (1991)
- *State v. Kargar* (1996)
- *U.S. v. Alexander and Murdock* (1972)
- *State v. Hickman* (1983)
- *Minnesota v. Loebach* (1981)
- *Ibn-Tamas v. United States* (1979)
- *Jahnke v. Wyoming* (1984)

Week of October 22

TOPIC: Social Science Used to Provide Context (cont'd)

Social Frameworks

M/W Ch. 5, pp. 523-532

- *Dukes v. Wal-Mart Stores, Inc.* (2010) [3]

TOPIC: Social Science and Litigation Strategy

Venue

M/W: Ch. 6, pp. 533-542

- *People v. Boss* (1999)
- *State v. Baumruk* (2002)
- *Firestone v. Crown Center Redevelopment Corp.* (1985)

Jury Selection and Instructions

M/W Ch. 6, pp. 543-571

Week of October 29

TOPIC: Class Project Presentations

Week of November 5

TOPIC: Class Project Presentations

Week of November 12

NOTE: There is only one class meeting this week.

TOPIC: Review & Wrap-Up (Tuesday, Nov. 13)

Week of November 19

NOTE: There is only one class meeting this week, on Tues. Nov. 20. This is the last day this class will meet. There are no classes on Wednesday, Nov. 21 or Nov. 22 (Thanksgiving Holiday)

TOPIC: Review and Wrap-Up (Tuesday, Nov. 20)

Week of November 26 [NO CLASS]

NOTE: The last day of UF Law classes for the Fall 2018 semester is Monday, Nov. 26 (constructive Friday)

IMPORTANT DATES:

Tues.	Sept. 4	In-class tutorial on conducting social science research
Thur.	Sept. 13	Receive approval for Group Presentation topic by this date
Tues.	Sept. 18	Submit Group Project Presentation topic
Tues.	10/29- 11/8	Class Presentations (dates may be adjusted)
Tues.	Nov. 20	Last day of class (for this course)
Fri.	Nov. 30	Final Exam available online at 9:00AM
Fri.	Dec. 7	Final exam DUE at 12:00PM Noon

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Levin College of Law
Fall 2018*