

COURSE SYLLABUS
PROSECUTION CLINIC

LAW 6942 SAO Field Placement Lab (2 credits)

and SAO Field Placement (6 credits)

Fall 2022

INSTRUCTOR'S CONTACT INFORMATION:

Professor Sarah H. Wolking

Office Location: Bruton-Geer Hall

Office Phone: (352) 273-0815 Cell: (510) 376-7837

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Office Hours: Tuesdays 2-4pm. Students should feel free to contact me at any time to discuss legal issues or to ask questions. Students are welcome to contact me via email, text, or phone.

CLASSROOM AND CLASS TIME:

Wednesdays, 6:00pm – 8:00pm; room 355A Holland Hall

- *Due to guest speakers, possible prison and laboratory tours, and various collaborations with the Defense Clinic, several special meetings will be held throughout the semester and the Course Schedule will be modified accordingly. Please plan to attend class on the following special date, which is already scheduled:*

Jury Selection Practicum: Friday September 16, 2022 12:30pm-5:30pm

COURSE OBJECTIVES AND GOALS:

In this clinical course students will develop a working knowledge of the criminal justice system and become familiar with all aspects of the art and craft of prosecution. Students will explore the unique lawyering role of prosecutors who must wield the power of the state with compassion and integrity. During classroom exercises and work at the State Attorney's Office, students will become equipped with the practical skills necessary to become great prosecutors, including: assessing legal claims, conducting investigations, interviewing witnesses, listening, developing a strategic case plan, identifying ethical issues, maintaining case files, working as part of a team, negotiating with opposing counsel, and representing a party in court. To promote these objectives, students will:

- Demonstrate proficiency in the technical aspects of being a prosecutor, including legal analysis and argument;
- Produce high-quality legal research and writing;
- Examine and put into practice the laws and ethical rules which inform the work of a prosecutor; and

- Review, reflect on, and think critically about the operation of the criminal justice system

LEARNING OUTCOMES:

At the conclusion of this course, students should be able to:

- Demonstrate mastery of the nuts and bolts of presenting a case to a judge or jury, including delivering effective opening statements and closing arguments as well as presenting well-organized direct and cross examinations;
- Select a jury with confidence;
- Conduct accurate legal research and write professional quality legal memoranda;
- Resolve evidentiary issues at trial and pre-trial;
- Explain the role of a prosecutor in our criminal justice system and the relationship between prosecutors, police, defense lawyers and the court;
- Capably interview and counsel witnesses and victims;
- Recognize inequities (race, gender, social class, etc.) and disparate outcomes within the criminal justice system, learning how to sensitively address and challenge them;
- Navigate ethical issues and develop the skills to think like a leader;
- Collaborate with classmates and colleagues to explore and resolve legal issues;
- Make timely and appropriate legal objections;
- Prioritize a busy caseload and meet all deadlines;
- Negotiate with opposing counsel to justly resolve cases; and
- Carry out the job of a prosecutor to create a professional identity

REQUIRED READING AND VIEWING:

- Ingrid Eagly, George Fisher, and Ronald Tyler, *Criminal Practice: A Handbook for New Advocates* (2021)
- Richard J. Crawford and Charlotte A. Morris, *The Persuasive Edge* (2nd ed. 2011)
- Jacob Sullum, *Gun Control is Just as Racist as Drug Control* (in Canvas under "Files")
- Ryan McKinnon and Josh Salman, *Wasted Minds: Inmates Languish in Florida Prisons with Little Access to Education*, <http://gatehousenews.com/wastedminds>
- Scott Shackford, *Innocent Until Proven Guilty, But Only if You Can Pay*, <https://reason.com/2018/07/14/innocent-until-proven-guilty-b/>
- Scott Shackford, *Philadelphia Reduced Use of Cash Bail and the Sky Didn't Fall*, <https://reason.com/2019/02/21/philadelphia-showing-successes-in-reduci/>
- Sarah M. Buel, *Fifty Obstacles to Leaving, aka Why Abuse Victims Stay*, http://www.ncdsv.org/images/50_Obstacles.pdf
- Lara Bazelon, *What It Takes to Be a Trial Lawyer If You're Not a Man*, <https://www.theatlantic.com/magazine/archive/2018/09/female-lawyers-sexism-courtroom/565778/>

- Morris Hoffman, *The Injustice of Extreme Prison Sentences*, <https://www.wsj.com/articles/a-judge-on-the-injustice-of-americas-extreme-prison-sentences-11549557185>
- Nazgol Ghandnoosh, *The Next Step: Ending Excessive Punishment for Violent Crimes*, <https://www.sentencingproject.org/wp-content/uploads/2019/03/The-Next-Step.pdf>
- Kamala Harris and Rand Paul, *To Shrink Jails, Let's Reform Bail*, <https://www.nytimes.com/2017/07/20/opinion/kamala-harris-and-rand-paul-lets-reform-bail.html>
- Noam Scheiber and John Eligon, *Elite Law Firm's All-White Partner Class Stirs Debate on Diversity*, <https://www.nytimes.com/2019/01/27/us/paul-weiss-partner-diversity-law-firm.html>
- Collection of readings in Canvas titled "Clinic Readings-Race and Justice" found in the Files section under "unfiled"
- Irving Younger, *The 10 Commandments of Cross Examination at UC Hastings College of Law*, <https://www.youtube.com/watch?v=dBP2if0l-a8> (43:20)
- Collection of readings in Canvas titled "Clinic Readings-Defense Counsel" found in the Files section under "unfiled."
- Collection of readings in Canvas titled "Clinic Readings-Police" found in the Files section under "unfiled."
- Collection of readings in Canvas titled "Clinic Readings-Prisons" found in the Files section under "unfiled."
- Charlayne Hunter-Gault's interview with Professor Derald Sue, *How unintentional but insidious bias can be the most harmful*, <https://www.pbs.org/newshour/show/how-unintentional-but-insidious-bias-can-be-the-most-harmful> (7:57)

RECOMMENDED TEXTS:

- Cynthia Alkon and Andrea Kupfer Schneider *Negotiating Crime* (2019)
- Ibram X. Kendi, *How to be an Antiracist* (2019)
- Angela J. Davis, *Arbitrary Justice* (2007)
- Thomas A. Mauet, *Trial Techniques* (8th ed. 2019)
- Paul Butler, *Chokehold* (2017)
- Florida Rules of Criminal Procedure
- ABA Standards for Criminal Justice: Prosecution and Defense Functions
- NDAA National Prosecution Standards, 3rd Ed.
- ABA Model Rules of Professional Conduct
- Florida Rules of Professional Conduct

Additional readings will be posted in Canvas throughout the semester and students are encouraged to draw the attention of the class to current events and issues in the criminal justice system.

CLASS ATTENDANCE AND PARTICIPATION:

You must of course attend and participate in class. Please bring the insights you have gained during your courtroom work and from assigned readings, and be prepared to share these. The practical exercises and case rounds conducted during class also make attendance and participation extremely important. Absence will be excused for illness or emergencies and for significant educational or career opportunities. If you need to miss a class, please let me know as soon as possible. Unexcused absence from class will result in a 5-point reduction in a student's final grade (on the 100 point scale) for each missed class. Further information about the law school's attendance policy is available here: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#3>.

PERFORMANCE EXPECTATIONS AND INFORMATION ON GRADING:

For this course, you will earn eight (8) total credits. Six (6) of these credits are pass/fail (Satisfactory/Unsatisfactory) and two (2) of these credits are graded. This course follows the grading policies at the Levin College of Law, available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. The law school recognizes the following grades:

A 4.00 (excellent)	C 2.00 (satisfactory)
A- 3.67	C- 1.67
B+ 3.33	D+ 1.33
B 3.00 (good)	D 1.00 (poor)
B- 2.67	D- 0.67
C+ 2.33	E 0.00 (failure)

The aim of this segment is not to focus your attention on grades. Grades can distract from learning, and I hope they won't shadow your clinical experience. It seems only fair, though, to explain the grading system, as clinical grading differs from grading in standard examination and paper courses. Clinical students will be evaluated in three areas: Clinical Coursework, Clinical Methods and Clinical Practice.

Clinical Coursework (Weekly Reflections, Class Participation, Cold Case Review, Supervision Meetings): 50% of final grade

Reflection papers, readings, and in-class discussions challenge you to think about and form opinions about the way the criminal justice system works. This kind of critical reflection is essential for any lawyer who wants to be an ethical force in the profession. Clinical coursework also includes the feedback students give one another, class performances, and court appearances. Such feedback need not be exhaustive, but should reflect close attention and thought.

Weekly Reflection Papers: Beginning in the second week of the semester, you must write a paper reflecting on your experiences in the clinic over the previous week or on the criminal justice system more broadly. Reflection papers are due each Sunday by 11:59pm. Delivery via Canvas upload is best, but email is also acceptable. You may take off one free week during the semester. It is helpful—but not required—to begin these papers with a brief description of what you did or saw in the previous week. Please do not merely recite events. The purpose of these papers is to encourage you to comment on the justice system as you see it. Ask yourselves whether the system is working, whether the various players are doing their jobs, and whether defendants are getting a fair shake. How could the system work better? Do you like your role?

If it's been a slow week at the office or if something else in the news or in the class readings or in your life experience bearing on the criminal justice system has grabbed your attention, please feel free to discuss these other matters. Again, the aim is to reflect on the justice system. Within that realm you are free to explore widely. These papers also may serve as a forum for you to air suggestions about the Clinic. You may note that you would prefer a different classroom focus; that you would like different kinds of cases; or that you are having difficulties and want extra guidance. There is no page restriction on these papers, but it is unlikely you could reflect well on a week's work in less than three double-spaced pages. Please be sure to include your name and indicate the dates covered in your report.

Supervision Meetings: You must meet with the professor periodically to review your past work and plan your future work. These meetings should take about thirty minutes. Shortly after the start of the semester, we will set a schedule of meetings for the rest of the term. Please come prepared to give a progress report on old cases and to set out a plan of action for new cases. Try to become familiar with the facts of your cases and to read the relevant law in advance. If you have no pressing cases, this time may be used any way you choose. You may find it useful to practice direct or cross-examinations or

other trial skills or to discuss issues that have arisen in the Clinic. Please come to the meetings prepared to say how we should use the time.

Cold Case Review: During the semester, each student will review at least one cold, or unsolved, case from the State Attorney's Office in the 4th Judicial Circuit as part of State Attorney Melissa Nelson's Cold Case Initiative. Students will complete at least one Cold Case Homicide Review Worksheet and write a Disposition Memorandum for the case.

Clinical Methods (Case Preparation at SAO and in-class exercises): 25% of final grade

A component of this clinic is performance of not less than 20 hours per week satisfactory work as a Certified Legal Intern (CLI) in the assigned State Attorney's Office (SAO). While working at the assigned SAO, the CLI will conform to all canons of ethics and disciplinary rules of the Florida Bar, adhere to all performance requirements set by the assigned State Attorneys and perform to the satisfaction of the assigned SAO supervisor. Your professor and in-court supervisors at the SAO will assess both the energy you invest in preparing your cases and the initiative you show in setting tasks for yourselves and doing them. These tasks include researching the law, contacting and preparing your witnesses, contacting (when appropriate) opposing counsel, filing written materials, reviewing in-car and body-worn camera footage, listening to jail calls, and searching out and weighing ethical issues presented in your cases. We recognize that you are just starting out and can't always know what needs to be done, and we don't expect you to work without guidance. But it's very important that you read the materials and look at the law and try to figure out for yourselves what needs to be done. And it's important that you have the energy and determination to follow through on tasks.

Clinical Practice (Performance on your feet): 25% of final grade

This category addresses your court appearances and your class performances, including our live jury selection and negotiation exercises in conjunction with the Defense Clinic and in-class exercises with local law enforcement agencies. In some ways preparation and on-your-feet performance merge, because good preparation almost always improves performance in both court and class. Still it's true that by crediting good performance, we reward native talent. Some people find it easier to work on their feet than others. Perhaps it's not fair to reward people for native skill. Like all professors, I hope my grades reward effort more than raw talent. But talent is important: we reward test-taking talent all the time, and talent is one thing prospective employers hope your grades reflect.

A Word on the Process: After reviewing all your work, I will confer with your supervisors in the State Attorney's Office. Your final grades will reflect your performance in class, in the office, and in court. It's a shame that classes have to end with grades. Please keep in mind that grades are an imprecise and heavy-handed tool for judging things that are hard to judge.

CLASS PREPARATION AND ELECTRONIC DEVICE USE:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. This course has 2 "classroom hours" of in-class instruction each week, requiring at least 4 hours per week of preparation outside of class. Assignments will be posted on Canvas prior to the start of class and current events articles and other materials will be added to your assignments periodically throughout the semester.

Clinic classes differ from those in large classrooms and are more like team meetings in the workplace. To encourage discussion and engagement, use of electronic devices will be limited. You may be able to refer to your device when presenting to the group or researching an issue requested by the professor, but that's it. Otherwise, *electronic devices should not be used in class.*

UF LAW HONOR CODE:

Academic honesty and integrity are fundamental values of the University community. The University of Florida College of Law Honor Code represents a commitment by students to adhere to the highest degree of ethical integrity. Teaching and learning flourish best in an environment where mutual trust and respect form the bedrock of relationships. The Honor Code helps create a community in which students can maximize their intellectual and academic potential. Students are bound by the UF Honor Code, which may be found at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES:

Students requesting accommodations for disabilities should first register with the Disability Resource Center (352-392-8565, <https://disability.ufl.edu/>) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Asst. Dean Brian Mitchell). Students with disabilities are encouraged to follow this procedure and to share their accommodation letter with me as early as possible in the semester.

CLASS RECORDING POLICY:

The Office of Student Affairs will continue to record all classes via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when students may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

STATEMENT REGARDING ONLINE COURSE EVALUATION:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

ASSIGNMENTS:

Reading and supplemental assignments for this course will be posted in Canvas and may be supplemented periodically throughout the semester. In addition to completing the assigned reading/viewing, be prepared to discuss your cases during each class. These "case rounds" enable students to form connections with one another and to help you analyze legal, ethical, and practical problems more easily than doing it on your own. Learning by rounds is one of the best aspects of clinical education!

Due by 6pm on Wednesday August 24, 2022:

Please read and be prepared to discuss:

Criminal Practice: A Handbook for New Advocates, Chapters 1-4 (pp. 1-52) and Chapter 14 (pp. 259-269)

Due by 11:59pm Sunday, August 28, 2022:

Prepare a goal statement and upload it in Canvas. This statement should be for the fall semester Prosecution Clinic. See "Developing a Good Goal Statement" in Canvas and please follow the template outlined in "Prosecution Clinic Fall PDP" in Canvas.

Due by 6pm Wednesday, August 31, 2022:

Criminal Practice: A Handbook for New Advocates, Chapters 6-9 (pp. 71-160); The Persuasive Edge, Chapter 1 "Developing a Practical Approach to Persuasion" and Chapter 2 "Building an Honest Relationship with the Jury"

Due by 6pm Wednesday, September 7, 2022:

Criminal Practice: A Handbook for New Advocates, Chapters 10-13 (pp. 161-257)

The Persuasive Edge, Chapters 3-4