**COURSE SYLLABUS**

**PUBLIC DEFENDER CLINIC**

*LAW 6942 (Class Number 29034) Section R317 - PD Classroom/Lab (2 credits)*

**SPRING 2021**

**INSTRUCTOR’S CONTACT INFORMATION:**

Professor Michelle A. Smith

Office Location: Bruton Geer 2051

Office Phone: (352) 273-0926

Cell Phone: (352) 284-7360

Email: style@ufl.edu

Virtual Office Hours: By appointment

*I am very flexible in my availability, allowing for meetings that fit each of our schedules. As I balance instruction for this course and administrative responsibilities, I ask that you each contact me directly to schedule meetings as the need arises. I can be reached via email, phone, and text. I try to employ healthy work/life boundaries. I ask that phone calls and text messages be utilized Monday through Friday, from 8am – 5pm, and in emergency situations outside of those hours. You may, however, email me at any time.*

**CLASS TIME:**

Tuesdays, 6:05 – 8:05 pm; **ALL CLASSES WILL BE HELD ONLINE**

<https://ufl.zoom.us/j/98705235735>

**COURSE OBJECTIVES & GOALS**

The general learning objectives and goals for this classroom/lab section, consistent with the requirements of the American Bar Association, are as follows:

* To integrate doctrine, theory, and legal ethics in the performance of professional lawyering skills and tasks in a community-based field placement setting;
* Develop cultural competencies in your client counseling and advocacy work; become aware of your unconscious biases and preferences; contextualize biases and preferences to the practice of law; identify ways to overcome them, enhancing your ability to serve in the legal role;
* To develop understanding of the concepts underlying the professional lawyering skills and tasks;
* To allow an opportunity for students to practice different lawyering skills and tasks to improve mastery;
* To provide a classroom instructional component to support the field placement experience throughout the semester; and
* To provide ongoing feedback, as well as ongoing student self-evaluation.

In addition, at the end of this experience, students will emerge as improved advocates, possessing the following skill set:

* Stronger understanding of the ethical obligations regarding clients’ wishes, in addition to concurrent professional responsibilities, such as serving as an officer of the court and a public citizen lawyer with a duty to improve the justice system;
* Ability to provide zealous, holistic, culturally aware, and client-centered representation outside of the courtroom context, which includes (1) conducting effective client interviews to develop trust and rapport, and ascertain important case facts and other information, (2) investigating case facts through witness interviews, community-based work, and formal discovery, and (3) developing sentencing mitigation evidence;
* Ability to carefully analyze elements of a charge, understand strengths and weakness of the adversary’s case, and develop case theories and strategies, given this information;
* Competence advancing rights and interests of indigent accused clients beyond winning at trial, such as seeking pre-trial release and providing other holistic supports throughout the case, including at the time of community re-entry;
* Facility with negotiating outcomes before trial, consistent with the wishes of the client, and duties as zealous advocates, without any conflicts of interest;
* Familiarity with practice of pre-trial motions and hearings, as appropriate, to challenge unconstitutional police actions, such as: (1) unlawful searches and seizures, (2) improper interrogations, and (3) suggestive identification processes;
* Commitment to holistic and client-centered representation during guilty/no contest plea colloquies, which includes advancing the client’s wishes before the bench, ensuring that all client case-related decisions are knowingly, intelligently, and voluntarily made, and advising clients of both direct and collateral consequences of the plea;
* Enhanced oral advocacy and trial advocacy skills, including the ability to thoroughly and timely prepare evidence, your client and witnesses for trial, draft and deploy direct and cross examinations, and argue legal matters to client’s advantage, while being mindful of competing considerations and concerns of the court;
* Confidence and competence as legal writers, produce quality work in the context of real cases, utilize effective large and small scale organization, as well as strong legal analysis;
* Deeper awareness of the role that race, poverty, gender, sexual orientation, language difference, power, privilege and other factors may play in justice system processes and outcomes, particularly within the context of indigent defense work; and
* Stronger communication skills in a range of contexts, including informal classroom discussions, across cultural and other differences, as formal public speakers, and in written documents, such as emails and letters to clients.

**RECOMMENDED TEXTS:**

* Ibram X. Kendi, How to be an Antiracist (2019)
* Robin D’Angelo, White Privilege (2018)
* Angela Davis, Arbitrary Justice (2007)
* Florida Rules of Criminal Procedure
* ABA Standards for Criminal Justice: Prosecution and Defense Functions
* ABA Model Rules of Professional Conduct
* Florida Rules of Professional Conduct

**REQUIRED READING AND VIEWING:**

\*Reading and viewing assignments will be posted in Canvas, prior to the class during which they will be discussed. Occasionally, we will view material as a class, and discuss.

**CLASS ATTENDANCE AND PARTICIPATION:**

Students are expected to bring the insights gained during courtroom work, from assigned readings, and be prepared to share these. Since this is an online class, students must be on video in order to be counted as in attendance and should be prepared to participate in class discussion on the same terms as if they were physically in the classroom. The ABA requires that remote participants are actually in attendance and engaged with course material. 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 absences from class will result in reduction in a student’s final grade. Further information about the law school’s attendance policy is available here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>

**PROHIBITION ON STUDENT RECORDING, PHOTOGRAPHY & SOCIAL MEDIA POSTING:**

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and UF’s Office of Student Conduct and Conflict Resolution.

**PERFORMANCE EXPECTATIONS & INFORMATION ON GRADING:**

For this course, your will earn eighth (8) total credits. Six (6) of these credits are pass/fail (Satisfactory/Unsatisfactory), and two (2) of these credits are graded. The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the speciﬁc letter grade/grade point equivalent:

Letter Grade Points Letter Grade Points

A (Excellent) 4.00 C (Satisfactory) 2.00

A- 3.67 C- 1.67

B+ 3.33 D+ 1.33

B (Good) 3.00 D (Poor) 1.00

B- 2.67 D- 0.67

C + 2.33 E (Failure) 0.00

The law school grading policy is 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 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 (50%), Clinical Methods (25%), and Clinical Practice (25%).**

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

Your reﬂection journal, 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 after class performances and court appearances. Such feedback need not be exhaustive, but should reﬂect close attention and thought.

***Weekly Reﬂection Journal:*** Beginning in the second week of the semester, you must write a journal entry each week, reﬂecting on your experiences in the clinic over the previous week or on the criminal justice system more broadly. Journal entries 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 entries with a brief description of what you did or saw in the previous week. Please do not merely recite events. The purpose of maintaining your journal 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 journal entries also may serve as a forum for you to provide 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

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

A component of this clinic is performance of not less than 21 hours per week of satisfactory work as a Certiﬁed Legal Intern (CLI) in the assigned Public Defender’s Office (PDO). While working at the assigned PDO, 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 Assistant Public Defender, and perform to the satisfaction of the assigned PDO supervisor.  Your professor and in-court supervisors at the PDO 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 client and witnesses, contacting (when appropriate) opposing counsel, ﬁling written materials, 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. To whatever extent possible, your in-class exercises will be based on the cases you are actually assigned at the PDO, as opposed to hypothetical scenarios. Opening statements, closing arguments, motion practice, cross and direct examinations, will be based on real cases. If, for some reason, your case assignments do not lend themselves to your performing these, or related exercises, a hypothetical scenario will be provided to the class in advance of the exercise. There is a possibility that we may be able to collaborate with the Prosecution Clinic for a jury selection exercise.

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. 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 PDO. Your ﬁnal grades will reﬂect your performance in class, in the ofﬁce, and in court. I’m generally not a fan of a grading structure. And, this class should be one of the most enjoyable, and most useful experiences of your time in law school. But, a grading structure is the reality we live in for the lab/classroom section of this course. Please keep in mind that grades are an imprecise tool for judging things that are hard to judge. My intent is that my grades reward effort more than raw talent, and will provide feedback for your growth as a litigation attorney.

**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.

**LEARNING ENVIRONMENT AND PREFERRED NAME:**

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class.  If your preferred name is not the name listed on the ofﬁcial UF roll, please let me know as soon as possible by e-mail or otherwise.  I would like to acknowledge your preferred name, and pronouns that reﬂect your identity.  Please let me know how you would like to be addressed in class, if your name and pronouns are not reﬂected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

You may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL.  The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison."   To update your display name, go to one.uﬂ.edu, click on the dropdown at the top right, and select "Directory Proﬁle." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom.  This change may take up to 24 hours to appear in Canvas.   This does not change your legal name for ofﬁcial UF records.

**NETIQUETTE: COMMUNICATION COURTESY:**

Please follow rules of common courtesy in all email messages, threaded discussions and chats. See <http://teach.ufl.edu/wp-content/uploads/2012/08/NetiquetteGuideforOnlineCourses.pdf>

**UF LAW HONOR CODE:**

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. Further information may be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>

**GETTING HELP:**

For technical difﬁculties with E-learning in Canvas, please contact the UF Help Desk at: • helpdesk@ufl.edu

• 352-392-HELP

• <https://elearning.ufl.edu/> (See “Message Us” at the top of the page)

**STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES:**

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

**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. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/>.

**ASSIGNMENTS:**

Reading and supplemental assignments for this course will be posted in Canvas, generally on a week-to-week basis, 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!