

COURSE SYLLABUS
INTRODUCTION TO PROSECUTION—LAW 6930
Fall 2021

INSTRUCTOR'S CONTACT INFORMATION:

Sarah H. Wolking

Office Location: 126 Bruton-Geer Hall

Office Phone: (352) 273-0815

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Email: wolking@law.ufl.edu

Office Hours: Tuesdays and Wednesdays 1-2pm. Students should feel free to contact the professor at any time to discuss legal issues or to ask questions. Students are welcome to contact the professor via email, text, or phone.

COURSE OBJECTIVES AND GOALS:

This week-long, 1-credit course is designed to introduce students to the art and craft of prosecution. Prosecutors must learn to wield the power of the state ethically and deliberatively. Students will become familiar with the practices and procedures of prosecutors in the 8th Judicial Circuit so that they are prepared to hit the ground running when the Prosecution Clinic begins. Students will trace the life of a criminal case, learn basic case preparation, and discuss the challenges they will face in the courtroom and in the criminal justice system more broadly. Students will develop insight into the strategy and logic of preparing and presenting cases in this arena.

In this compressed course, students will also tackle the multiplex ethical issues that define prosecutors' fundamental duty to seek justice. Selected readings and recordings will explore the institutional strengths and weaknesses of the players in the criminal justice system, and the impact of race, gender, and class on the quality of justice. Finally, students will begin to think about or refine their professional identity, recognizing a criminal justice system in crisis, and becoming motivated to do something about it. Prosecutors have enormous power to make real and lasting changes and this introductory course will challenge students to think critically about how to solve problems in this system.

LEARNING OUTCOMES:

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

- Demonstrate an understanding of the life of a criminal case—from investigation and charging to interviewing, motion-writing, jury selection and argument;

- Negotiate with opposing counsel in the spirit of a just resolution of cases, with an understanding of Adverse Childhood Experiences (ACEs) and Restorative Justice alternatives to prosecution;
- Identify and work to address brokenness within the criminal justice system including bail reform, prosecution of misdemeanors, implicit bias, police training and resources, extreme prison sentences, racism and over-criminalization;
- Make timely and appropriate legal objections;
- Develop or refine a professional identity which reflects the core values of the legal profession and embraces ethical problem-solving in the criminal justice arena.

CLASSROOM AND CLASS TIME:

This course will meet in *Bruton-Geer Hall room 136* on the following dates and times:

Monday, August 16 - 9am-noon

Tuesday, August 17 - 9am-noon

Wednesday, August 18 - 9am-noon

Thursday, August 19 - 9am-noon

Friday, August 20 - 9am-2pm *at the State Attorney's Office 120 W. University Ave.*

CLASS ATTENDANCE:

Attendance at each session of this compressed course is mandatory. Any missed session will result in a 5-point reduction in a student's final grade (on the 100 point scale) for each missed session. Further information about the Levin College of Law's attendance policy is available here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies#3>

REQUIRED READING AND VIEWING:

- *Victims' Rights from a Restorative Perspective* by Lara Bazelon & Bruce A. Green in Canvas under "Restorative Justice"
- *The Ethics of Charging*, collection of articles, cases and problems in Canvas "files" under "unfiled"
- Adam Foss, *A Prosecutor's Vision for a Better Justice System* https://www.ted.com/talks/adam_foss_a_prosecutor_s_vision_for_a_better_justice_system?language=en (15:50)
- *The Problem of Prisons*, collection of articles, cases and problems in Canvas "files" under "unfiled"
- William Ury, *The Power of Listening* <https://www.youtube.com/watch?v=saXfavo1OOQ> (15:40)
- Gretchen Casey, *Restoring Justice: Repairing the Harm After Sexual Assault*, TedxUF <https://www.youtube.com/watch?v=eGzjM1JEbwo> (12:02)

- Van Jones, *The Redemption Project* (Ashlee Stokes), https://www.youtube.com/watch?v=fNjXn_V0McQ&t=903s (42:14)
- <https://implicit.harvard.edu/implicit/takeatest.html>
- Catharine Wells, *Microaggressions in the Context of Academic Communities*, http://law.scu.edu/wp-content/uploads/socialjustice/Catharine_Wells_Paper.pdf
- *Developing a Good Goal Statement and Prosecution Clinic Professional Development Plan* in Canvas under “files”
- John Oliver, *On Bail: Last Week Tonight with John Oliver* (HBO) <https://www.youtube.com/watch?v=IS5mwymTIIU> (17:49)
- Petula Dvorak, *Don’t “Defund the police.” Reimagine the police* https://www.washingtonpost.com/local/dont-defund-the-police-reimagine-the-police/2020/06/11/9d827cd0-abe6-11ea-94d2-d7bc43b26bf9_story.html
- Suhail Gharaibeh, *Defund the Pittsburg Police* <https://www.pittsburghcurrent.com/guest-opinion-defund-the-pittsburgh-police/>
- John Oliver, *On Municipal Violations: Last Week Tonight with John Oliver* (HBO) <https://www.youtube.com/watch?v=0UjpmT5noto> (17:54)
- *US District Court Western District of Washington-unconscious bias video* <https://www.wawd.uscourts.gov/jury/unconscious-bias> (10:54) and *Criminal Jury Instructions* <https://www.wawd.uscourts.gov/sites/wawd/files/CriminalJuryInstructions-ImplicitBias.pdf>.
- Eric Johnson, *Seattle is Dying* <https://komonews.com/news/local/komo-news-special-seattle-is-dying> (1:00:35)

RECOMMENDED TEXTS:

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)

Ibram X. Kendi, *How to be an Antiracist* (2019)

Angela J. Davis, *Arbitrary Justice* (2007)

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

PERFORMANCE EXPECTATIONS AND INFORMATION ON GRADING:

The components of the final grade for the course are listed below:

- Comments and written assignments on readings in syllabus: 40% (responses are due prior to class and should be submitted in Canvas)
- Classroom preparation and participation: 60%

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 law school policy on exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

CLASS PREPARATION:

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 17 “classroom hours” of in-class instruction, requiring at least 34 hours of preparation outside of class.

Assignments will be posted on Canvas prior to the beginning of class. Please note that due to the compressed nature of this course, the bulk of your preparation must be done in the days prior to the start of 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>.

COMMUNICATION COURTESY AND CIVILITY:

Please follow rules of common courtesy in all email messages, threaded discussions and chats. Do not arrive late to class, leave early, or leave to take a break during class absent

extenuating circumstances. Please turn off your cell phone during class. I reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates.

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.

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 phone. 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.

GETTING HELP:

For technical difficulties with E-learning in Canvas, please contact the UF Help Desk at: helpdesk@ufl.edu or 352-392-HELP
<http://elearning.ufl.edu/> (See "Message Us" at the top of the page)

CLASS RECORDINGS:

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable

purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, *students may not publish recorded lectures without the written consent of the instructor.*

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

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/>.

HEALTH AND WELLNESS RESOURCES:

U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit U Matter, We Care website to refer or report a concern and a team member will reach out to the student in distress.

Counseling and Wellness Center: Visit the Counseling and Wellness Center website or call 352-392-1575 for information on crisis services as well as non-crisis services.

Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need, or visit the Student Health Care Center website.

University Police Department: Visit UF Police Department website or call 352-392-1111 (or 9-1-1 for emergencies).

UF Health Shands Emergency Room / Trauma Center: For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; Visit the UF Health Emergency Room and Trauma Center website.

BASIC NEEDS ASSISTANCE:

Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

ASSIGNMENTS:

MONDAY TOPICS

The role of the prosecutor and the charging decision

The life of a criminal case

Expectations and goal setting

Due by 9am Monday August 16, 2021

Watch/read and be prepared to discuss:

- William Ury, *The Power of Listening*, TEDxSanDiego (15:40)
- Adam Foss, *A Prosecutor's Vision for a Better Justice System* (15:50)
- Collection of readings in Canvas on "The Ethics of Charging" (in "files" under "unfiled")
- "Tempering the Law: Problems and Questions" in Canvas
 - Upload your written response to these questions: 1) Should the prosecutor have tempered the legislature's judgement regarding the crime of statutory rape? *State v. Bartlett*, and 2) Should the prosecutor have respected the legislature's judgment in this case and gone ahead with the prosecution? *Commonwealth v. Leno*
- Reports by Det. Janice Barth and Sgt. Gregory Buckley in Canvas
 - Upload your written response to the following questions: 1) Would you, on this evidence, prosecute Steve R. for rape? Is there probable cause to believe R raped

D? Are you convinced beyond a reasonable doubt that R raped D? If there is probable cause, is it appropriate to try R for rape and let a jury decide whether the charge has been proved beyond a reasonable doubt? and, 2) Assume you proceed to charge R with rape. Shortly before trial, you learn from one of D's doctors that she has a history of "pre-psychotic" disturbance, including occasional hallucinatory symptoms. Must you disclose this information to defense counsel? Would it matter that the defendant has been charged with rape twice before?

TUESDAY TOPICS

Over-criminalization

Alternatives to Prosecution

Guest speaker: Gretchen Casey, President, Florida Restorative Justice Association

Due by 9am Tuesday August 17, 2021

Watch/read and be prepared to discuss:

- *Victims' Rights from a Restorative Perspective* by Lara Bazelon & Bruce A. Green in Canvas
- Gretchen Casey, *Restoring Justice: Repairing the Harm After Sexual Assault*, TedxUF <https://www.youtube.com/watch?v=eGzjM1JEbwo> (12:02)
- Van Jones, *The Redemption Project* (Ashlee Stokes), https://www.youtube.com/watch?v=fNjXn_V0McQ&t=903s (42:14)
- Eric Johnson, *Seattle is Dying* (1:00:35)
- John Oliver, *On Municipal Violations: Last Week Tonight with John Oliver* (HBO) (17:54)
- Upload your 1-2 page written critique of the policies described in these articles:
 - <https://www.sfdistrictattorney.org/press-release/sf-da-boudin-announces-primary-caregiver-diversion-program/>
 - <https://ktla.com/news/local-news/l-a-county-da-george-gascon-faces-blowback-in-first-months-of-launching-ambitious-slate-toward-criminal-justice-reform/>

WEDNESDAY TOPICS

Implicit and unconscious bias

The problem of prisons

Adverse childhood experiences (ACEs)

Guest speaker: Professor Teresa Drake, Director, Intimate Partner Domestic Violence Clinic (IPVAC)

Due by 9am Wednesday, August 19, 2021

- Please take at least one implicit association test (IAT) which can be found here: <https://implicit.harvard.edu/implicit/takeatest.html>. Upload to Canvas 1-2 pages describing your result(s), your reaction to your result(s), or the effectiveness of IATs in training people who work in the criminal justice system (prosecutors, police, judges, defense lawyers, etc.)
- Review video from US District Court Western District of Washington on unconscious bias <https://www.wawd.uscourts.gov/jury/unconscious-bias> (10:54) and read criminal jury instructions <https://www.wawd.uscourts.gov/sites/wawd/files/CriminalJuryInstructions-ImplicitBias.pdf>. Be prepared to discuss.
- Read and be prepared to discuss *The Problem of Prisons*, collection of articles, cases and problems in Canvas "files" under "unfiled."

THURSDAY TOPICS

Microaggressions

Policing—defunding, training, Black Lives Matter

Bail and the beginning of the formal adversary system

Due by 9am Thursday, August 19, 2021

Read and be prepared to discuss:

- Catharine Wells, *Microaggressions in the Context of Academic Communities*, http://law.scu.edu/wp-content/uploads/socialjustice/Catharine_Wells_Paper.pdf
 - Describe a microaggression that you have suffered or made and what lessons you took from it (1-2 pages)-upload to Canvas
- Petula Dvorak, *Don't "Defund the police." Reimagine the police* https://www.washingtonpost.com/local/dont-defund-the-police-reimagine-the-police/2020/06/11/9d827cd0-abe6-11ea-94d2-d7bc43b26bf9_story.html
- Suhail Gharaibeh, *Defund the Pittsburgh Police* <https://www.pittsburghcurrent.com/guest-opinion-defund-the-pittsburgh-police/>
- John Oliver, *On Bail: Last Week Tonight with John Oliver (HBO)* <https://www.youtube.com/watch?v=IS5mwymTIJU> (17:49)

FRIDAY TOPICS

Orientation

Practices and procedures at SAO8

Security/computer training

ADVANCE ASSIGNMENTS FOR PROSECUTION CLINIC:

Due by 6pm on Wednesday August 25, 2021

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 29, 2021

- 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, September 1, 2021

- *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 8, 2021

- *Criminal Practice: A Handbook for New Advocates*, Chapters 10-13 (pp. 161-257)
- *The Persuasive Edge*, Chapters 3-4

All Day Jury Selection Practicum with the Defense Clinic is Friday, September 10th!