

**COURSE SYLLABUS**  
**PROSECUTION CLINIC**

*LAW 6942-5198 (15592) and LAW 6942-4938 (15572)*

**Fall 2019**

**INSTRUCTOR'S CONTACT INFORMATION:**

Professor Sarah H. Wolking

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Office Hours: By appointment, but 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.

**CLASSROOM AND CLASS TIME:**

Wednesdays, 6:00pm – 8:00pm; 2nd floor Classroom, Bruton-Geer Hall

- *Due to guest speakers 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 dates, which are scheduled already:* Friday, September 27th, 9-5pm (Voir Dire with Defense Clinic)  
Thurs, October 3rd, 4-6pm (Mental Health Discussion with Defense Clinic)  
Thurs, October 24th, 3:30-5pm (Mixer with SAO and spring Clinic students)

**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 and appreciate the ethical requirements of being a prosecutor. 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, fact 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 jury, including delivering effective opening statements and closing arguments as well as writing 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 advise witnesses and victims;
- Collaborate with classmates and colleagues to solve legal problems; and
- Carry out the job of a prosecutor to create a professional identity

## RECOMMENDED TEXTS:

- Thomas A. Mauet, *Trial Techniques* (8th ed. 2019)
- 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
- Mark Herrmann, *The Curmudgeon's Guide to Practicing Law* (2006)

## REQUIRED READING AND VIEWING:

*We will discuss in detail many of the previously assigned materials from Introduction to Criminal Practice, listed here for easy reference:*

- 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](https://www.ted.com/talks/adam_foss_a_prosecutor_s_vision_for_a_better_justice_system?language=en) (15:50)
- Ryan McKinnon and Josh Salman, *Wasted Minds: Inmates Languish in Florida Prisons with Little Access to Education*, <http://gatehousenews.com/wastedminds>
- John Oliver, *On Bail*, <https://www.youtube.com/watch?v=IS5mwymTIJU> (17:49)
- 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/>
- William Ury, *The Power of Listening*, <https://www.youtube.com/watch?v=saXfavo1OQo> (15:40)

- Sarah M. Buel, *Fifty Obstacles to Leaving, aka Why Abuse Victims Stay*, [http://www.ncdsv.org/images/50\\_Obstacles.pdf](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/>
- John McWhorter: *America Has Never Been Less Racist*, <https://www.youtube.com/watch?v=O3POpubeoIc> (45:50)
- Morris Hoffman, *The Injustice of Extreme Prison Sentences*, <https://www.wsj.com/articles/a-judge-on-the-injustice-of-americas-extreme-prison-sentences-11549557185>
- John Oliver, *On Municipal Violations*, <https://www.youtube.com/watch?v=0UjpmT5noto> (17:54)
- 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>
- Eric Johnson, *Seattle is Dying*, <https://www.youtube.com/watch?v=bpAi70WWBlw> (1:00:35)
- 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"
- <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](http://law.scu.edu/wp-content/uploads/socialjustice/Catharine_Wells_Paper.pdf)

***In addition, please read/view these assignments:***

- 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)

**CLASS ATTENDANCE:**

You must of course attend 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 conducted during class also make attendance 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 the professor 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. 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:

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

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, Ride-along, Cold Case Review, Supervision Meetings, Quest): 40% 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 after 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.

***Law Enforcement Ride-along:*** Please schedule a ride-along with a local police agency during this course. Spending time with a law enforcement officer engaged in police work is an invaluable experience and will make you a better prosecutor. Former Clinic students report that this is one of the high points of their Clinic experience. Note: Gainesville PD (GPD) and the Alachua County Sheriff's Office (ACSO) can be slow about getting back to you for a ride-along. Be tenacious and schedule this EARLY in the semester!

***Cold Case Review:*** During the semester, each student will have an opportunity to 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 a Cold Case Homicide Review Worksheet and a Disposition Memorandum for the case.

***Quest:*** During the course of the semester, each student will be required to complete a Quest which is designed to expose you to all the aspects of the State Attorney's office. Further instructions will be posted on Canvas. Students should team up in groups of 2-4 to conduct the required interviews.

**Clinical Methods** (Case Preparation at SAO and in-class exercises): 30% of final grade

A component of this clinic is performance of not less than 25 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, 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): 30% of final grade

This category addresses your court appearances and your class performances, including our live jury selection exercises in conjunction with the Defense Clinic and our in-class exercises with local law enforcement agencies. In some ways preparation and on-your-foot 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 laptops will be limited. You may be able to refer to your laptop when presenting to the group or researching an issue requested by the professor, but that's it. Most of the time, laptops and other electronic devices should be closed in class.

**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](mailto:helpdesk@ufl.edu)
- 352-392-HELP
- <http://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 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 assignments for this course are included in this Syllabus 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!