

COURSE SYLLABUS PROSECUTION CLINIC

LAW 6942 SAO Field Placement Lab (2 credits)

and SAO Field Placement (6 credits)

Fall 2021

INSTRUCTOR'S CONTACT INFORMATION:

Professor Sarah H. Wolking

Office Location: Bruton-Geer Hall

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

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.

CLASSROOM AND CLASS TIME:

Wednesdays, 6:00pm – 8:00pm; Virtual and in room 285A 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 scheduled already:*

Jury Selection Practicum: Friday September 10, 2021 12:30pm-6pm

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)
- 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](http://www.ncdsv.org/images/50%20Obstacles.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 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>.

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 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 at least one Cold Case Homicide Review Worksheet and 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 21 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): 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>.

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.

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)

DISCOURSE, INCLUSION, AND THE CLASSROOM ETHOS:

I consider this classroom to be a place where you will be treated with respect, and I welcome individuals of all ages, backgrounds, beliefs, ethnicities, genders, gender identities, gender expressions, national origins, religious affiliations, sexual orientations, ability – and other visible and non-visible differences. All members of this class are expected to contribute to a respectful, welcoming, and inclusive environment for every other member of the class. As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution which can be found at <https://www.law.ufl.edu/law-news/support-the-uf-law-anti-racism-resolution>.

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.

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:

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!