

POSC 412 (LAW AND SOCIAL CHANGE)
Spring 2015
TTh 2-3:15
SSPA 209

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Regular Office Hours (SSPA 251): W, 11:00-12:30; 2:15-3:45
(book appointments here: www.CSULBPOSCWHITEHEAD.clickbook.net)

Course Description and Goals:

This course deals with the complex relationship between law, courts, the political system and social change. Throughout the course, we will seek to answer three main questions: (1) what promises do law and courts offer to those seeking to produce significant social change? (2) what limits the effectiveness of law and courts in producing such change? And (3) in what areas of law do law and courts offer the most and least opportunity for social change?

Along the way, the course will also emphasize the interaction between judicial institutions (courts) and other political institutions, such as legislatures and executives. It will also provide a basic comparative overview of the United States and other legal systems. Through the course assignments, students will better understand the relationship between law and politics, and will also become better critical readers and thinkers, better analytic writers, and better researchers.

Required Texts:

- *Judicial Process: Law, Courts, and Politics in the United States*, 5th Edition, by David M. Neubauer. Harcourt Brace, 2007.
- Other readings available on BeachBoard

Assignments and Grading:

Your course grade will be based upon your performance on the following assignments:

- **Case Context Paper (15%) – Due Online Mar. 15, 11:59 PM.** This is a 5-page (minimum) description of the factual, doctrinal, institutional, and cultural context of a landmark court decision. See separate instructions posted on BeachBoard.
- **Mid-Term Examination (25%) – Mar. 19.** This is an in-class, closed book, essay examination.
- **Case Analysis Paper (25%) – Due Online May 3, 11:59 PM.** This is an 8-page (minimum) argument about whether the court decision you described in the first paper

illustrates the ability or inability of courts to create social change. See separate instructions posted on BeachBoard.

- **Final Examination (25%) – Thursday, May 14, 12:30-2:30 PM.** This will be an in-class, closed book essay examination.
- **Class Participation and Overall Improvement (10%).** You will be graded on your willingness to respond to questions I pose to the class, as well as your willingness to ask questions or make comments on the issues we cover. I will also grade you on your overall effort to improve your performance in the course throughout the semester. Students who are on the borderline between one final grade and another will receive a “bump” to the higher grade if they are making every effort to succeed.

General Course Expectations:

Class Structure. This is both a lecture and a discussion course. I will do my best to provide you with the proper context for understanding the readings. However, the only way to really understand the readings is to talk about them together. Thus, much of our class time will be devoted to discussion. You will need to take notes on what I say about the readings, and also be ready to discuss them yourself. I will not take attendance. However, your attention to both the lecture and the class discussions will naturally be reflected in your exam grades.

Readings. This is a reading-intensive course. You need to keep up with the assigned readings selections in order to do well. Even if you do not understand them at first glance, you’ll want to at least make an attempt at doing so before coming to class. Often-times, it will also be worth your while to read them again after we discuss them in class. There is too much reading to wait until the last minute, so make sure to be disciplined and keep up.

Outside Research. You must also spend a significant amount of time outside class working on the papers and exams. I will give you as much feedback as I can, if you come to see me during office hours. I will also give you detailed written instructions on how to complete the assignments. However, it is *your responsibility* to find appropriate sources, digest the information contained in those sources, and put that information together in a persuasive, analytic way.

Classroom Behavior. You must be prompt, prepared, and respectful of your fellow students. Among other things, this means: being in your seat promptly when class starts and making the least amount of disruption if you happen to be late; putting electronic devices on silent; and being attentive during class -- either taking notes, listening, or engaging in class discussion, and *not* browsing the internet, messaging, texting, listening to music, or talking to other students. I reserve the right to remove inattentive or disruptive students from class for that particular class session.

E-mail and Office Hours. I will make every reasonable effort to help you understand the material better outside of class. The best way to reach me is almost always through e-mail (address noted at beginning of syllabus). I enjoy discussing these issues with you via e-mail, and I encourage you to take advantage of that opportunity. I will make every effort to reply to class-related e-

mails within 24 hours, EXCEPT on weekends and holidays. I generally have a huge number of e-mails to answer immediately before exam dates or paper deadlines. Thus, I cannot guarantee a timely reply within 48 hours of these events. So, it is in your interest to start studying and working on your papers early so that you can take maximum advantage of my advice and help. I am also available during scheduled office hours, or by appointment when necessary. I love when students come by and chat about course-related issues – it’s one of the most significant things you can do to improve your college experience!

Grade-Related Communication –24-hour Cooling-off Period. I am always happy to review your exams and papers with you in order to help you improve for the future. However, if you are unhappy or dissatisfied with your grade, I require you to wait for at least 24 hours before e-mailing or talking to me in person. The reason for this delay is to allow you time to re-read the exam or paper, read and understand my comments, and otherwise consider your performance in a deliberate, thoughtful way. After 24 hours have gone by, if you have questions or concerns, please don’t hesitate to contact me. Always remember, this is not a game or a competition – it is a learning process. Grades are designed to help you learn the material. If your focus is only on getting a better grade, you are missing the point. I am committed to helping you grow and develop as thinkers and writers, but that will only happen if you approach class the same way.

Problems. Come and see me as soon as possible if you are having problems understanding, keeping up, or if there is any reason you cannot be effectively engaged in the course. I will not provide any accommodations for these issues at the last minute, but if you talk to me in advance, we can almost always work something out.

Specific course policies regarding paper submission, exceptions, makeups, late assignments, cheating and plagiarism, students with disabilities and course withdrawal can be seen in the [appendix](#) at the end of this syllabus.

Course Outline, Schedule, and Reading Assignments

Jan. 20: Course Introduction

Part One: Theories of Law & Social Change

I. The Goals of Law

A. First Promise: Orderly Dispute Resolution

Day of Jan. 22 &

Week of Jan. 27: Neubauer & Meinhold, pp. 25-38
Martin Shapiro, “The Prototype of Courts” (**ONLY READ** pp. 1-8)¹
Mario Puzo, “The Godfather” (**ONLY READ** first 2 pages Of Ch. 1)

¹ All other readings listed besides those from Neubauer & Meinhold are available in the “Course Readings” section of BeachBoard.

Donald Black, "On Self-Help in Modern Society"
Background to *U.S. v. Nixon*
The Economist, "And Then There Were Four"

B. Second Promise: Correcting Political Failures

Week of Feb. 3: James Madison, "Federalist No. 10"
James Q. Wilson & John Dilulio, "Civil Rights"
Ruth Bader Ginsburg, "Some Thoughts on Autonomy and Equality in
Relation to *Roe v. Wade*"

C. Third Promise: Correcting Market Failures

Week of Feb. 10: "American Labor Movement"
Stacy J. Silveira, "The American Environmental Movement" (**ONLY
READ** Introduction, Section I, Section III, and Conclusion)
Jennifer Kerr, "FTC: Sketchers Deceived Consumers With Shoe Ads"

II. The Potential Limits of Law

A. Overview: The Dynamic Court View (DCV) vs. the Constrained Court View (CCV)

Week of Feb. 17: Neubauer & Meinhold, pp. 221; 498-505
Gerald Rosenberg, "The Dynamic and the Constrained Court"
Michael McCann, "Reform Litigation on Trial"

B. First Limit: Legal Doctrine

Week of Feb. 24: Neubauer & Meinhold, pp. 38-49
Robert Cover, "Of Creon and Captain Vere"
Eric Parker Babbs, "Pro-life Judges and Judicial Bypass Cases"

C. Second Limit: Political and Legal Institutions

Week of Mar. 3: Neubauer & Meinhold, pp. 211-29
Ex Parte Merryman
Jeremy Peters, "Obama Pick for Court is 3rd in Row Blocked by
Republicans"
Jeremy Peters, "In Landmark Vote, Senate Limits Use of the Filibuster"
A.G. Sulzberger, "Ouster of Iowa Judges Sends Signal to Bench"
Mark Galanter, "Why the 'Haves' Come out Ahead" (**ONLY READ** pp.
95-104; 107-14; 125 (Figure 3))

D. Third Limit: Culture

Week of Mar. 10: Nathan Glazer, “On Subway Graffiti in New York”
David M. Heer and Amyra Grossbard-Shechtman, “The Impact of the Female Marriage Squeeze and the Contraceptive Revolution . . .”
Michael Muskal, “Gay Marriage Dynamic in U.S. Shifted Dramatically in 2014”

Mar. 15, 11:59 PM: Case Context Paper Due Online

Mar. 17: Mid-Term Review

Mar. 19: Mid-Term Exam

Part Two: The Practice of Law and Social Change

I. Criminal Law and Social Change

Week of Mar. 24: Neubauer & Meinhold, pp. 239-65, 270-285
Caleb Foote, “Vagrancy-Type Law and its Administration”
Marvin Zalman & Brad Smith, “The Attitudes of Police Executives
Toward *Miranda* and Interrogation Policies” (**ONLY READ** pp. 1-6; 26-33)
George L. Kelling and James Q. Wilson, “Broken Windows: The Police and Neighborhood Safety”

Week of Mar. 31: No Class – Spring Break

II. Civil Law and Social Change

Week of Apr. 7: Neubauer & Meinhold, pp. 307-315, 330-33; 344-55
Lawrence Friedman, “Total Justice”

A. Compensating Personal Injuries

Week of Apr. 14: Neubauer & Meinhold, pp. 315-30
Stuart Speiser, “How the Entrepreneur-Lawyer Changed the Rules of The Game”
Mike Royko, “A Crash Course in Learning How to Succeed – Chicago Style”

Andrea Gerlin, “A Matter of Degree: How a Jury Decided That a Coffee Spill is Worth \$2.9 Million”

B. Regulating Hazards

Week of Apr. 21: *Versailles Borough v. McKeesport Coal & Coke Co.*
Bardach & Kagan, “The Perverse Effects of Legalism”
Bruce Yandle, “Bootleggers and Baptists in Retrospect”

C. Redressing Inequality

Week of Apr. 28 &

Day of May 5: Shep Melnick, “The Two Billion Dollar Judge”
Dorothy Gaiter, “Eating Crow: How *Shoney’s*, Belted by a Lawsuit, Found the Path to Diversity”
Peter Irons, “*Jo-Carol LaFleur v. Cleveland Board of Education* -- There is no Harm in Climbing Stairs”

May 3, 11:59 PM: Case Analysis Paper Due Online

May 7: Review for Final Exam

Thursday, May 14, 12:30-2:30 PM: Final Exam

Appendix: Miscellaneous Course Policies

Paper Submissions. You must upload your paper to the appropriate electronic “dropbox” on BeachBoard in one of the following formats: .doc, .docx, .txt, or .pdf. *I will not accept papers submitted in any other way.* You must save a copy of the electronic notification you receive when you successfully upload your paper to BeachBoard. In the event of a discrepancy as to whether or when you submitted your paper, this electronic notification is the only proof I will accept. You must also keep an electronic or paper copy of your paper.

Exceptions, Make-ups, and Late Assignments. Exam Dates and Paper Deadlines are firm! It is your responsibility to arrange your schedule around your academic responsibilities. In general, **exceptions will only be made for the following reasons, for which satisfactory documentation must be provided:** (1) Illness or injury to the student; (2) Death, injury, or serious illness of an immediate family member or the like; (3) Religious reasons (listed in California Education Code section 89320); (4) Jury duty or government obligation; or (5) University sanctioned or approved activities, such as artistic performances, forensics competitions, participation in research conferences, intercollegiate athletic activities, student government, required class field trips, etc.. **To be excused under #1 or 2, you must provide BOTH satisfactory documentation as soon as possible AND evidence of work completed on**

the assignment at the time of sickness or illness. To be excused under #s 3-5, however, you must provide me with satisfactory documentation at least 1 week prior to the exam or deadline. If you have a legitimate excuse for missing an exam, I will arrange for an appropriate make-up exam. If you have a legitimate excuse for missing a paper deadline, we will work out an appropriate alternative deadline AS LONG AS you can demonstrate that you have already completed an appropriate amount of work on the assignment.

Grade Reduction for Late Papers. Written assignments are due at the *beginning* of the class period on which the deadline falls. **In the event of an unexcused late paper, I will immediately mark it down by a third of a grade for being late on the day it is due. I will then mark it down another third of a grade for every 24-hour period in which it is late.** For example, a paper due on Tuesday but not turned in until Thursday will be reduced by two-thirds of a grade -- a "B" paper would receive a "C+." Note, however, that this does not apply to the required case briefs, which will only receive credit if they are turned in by the deadline. *You will not receive any credit for late briefs.* Make the most of the time you have to complete written assignments; no allowances will be made for last-minute problems with computers, networks, etc..

Cheating and Plagiarism. It is my policy to deal with any form of cheating and/or plagiarism by immediately giving a failing grade on the assignment and reporting you to the department and other administrative authorities for other possible sanctions. If you are having problems with the course material, please come and see me before doing something that could put your academic career in jeopardy.

Please note that "plagiarism" includes *any use* of the ideas or work of others as if they were one's own, without giving appropriate credit. That means that *failing to cite your sources* is more than just a technical glitch -- it is plagiarism and will be handled as such. See separate paper instructions for citation guidelines and please see me if you are having difficulty understanding what is required in this area.

Students with Disabilities. I am completely committed to providing reasonable accommodations for any student with a verifiable physical or other disability. This may include alternative testing or note-taking arranged through Disabled Student Services. However, it is your responsibility to notify me in advance of the need for such an accommodation.

University Withdrawal Policy. It is your responsibility to withdraw from class if you wish to do so. I have no obligation to withdraw registered students who stop attending or completing assignments. **The deadline to withdraw from a class without a "W" for this semester is Feb. 2, 2015.**

Withdrawal from a course after that date requires the signature of the instructor and the department chair, and is permissible only for serious and compelling reasons. For example, severe or extensive medical problems would be serious and compelling, but fear of receiving a final grade lower than desired, or a change in one's work schedule would not be considered serious and compelling. If withdrawal is allowed, a "W" will appear on your transcript.

DURING THE FINAL THREE WEEKS OF INSTRUCTION (**AFTER APRIL 17, 2015**) WITHDRAWALS ARE NOT PERMITTED EXCEPT IN CASES SUCH AS ACCIDENT OR SERIOUS ILLNESS WHERE THE CIRCUMSTANCES CAUSING THE WITHDRAWAL ARE CLEARLY BEYOND THE STUDENT'S CONTROL. THE CAUSE MUST BE DOCUMENTED. ORDINARILY, WITHDRAWALS IN THIS CATEGORY INVOLVE TOTAL WITHDRAWAL FROM THE UNIVERSITY. YOU WILL NEED THE APPROVAL OF THE COLLEGE DEAN AS WELL AS THAT OF THE CLASS INSTRUCTOR AND THE DEPARTMENT CHAIRPERSON FOR EACH CLASS YOU DROP.