

Law and Society
Winter Quarter 2018, January 11 – March 16
Thursdays, 6:30-9:30p, Rm. 311A



Instructor: Dr. Diascro
Office: Room 324
Office Hours: 5:30p-6:30p, by appointment

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Course Instructor

I am an Associate Academic Director of the University of California's Washington Program and a political scientist. I earned my BA in political science from the University of California, San Diego (1990), where I grew up. I earned my PhD in political science from the Ohio State University (1995), and was on the faculty at the University of Kentucky (1995-2002) and American University (2002-2010). In 2000-01, I was a Supreme Court Fellow at the US Sentencing Commission in Washington, DC. Most recently, I was a senior director at the American Political Science Association (2011-2015). I've authored or coauthored peer reviewed journal articles, book chapters, and books, on topics related to American judicial politics.

Course Description

In this class, we will explore the relationship between the law, the judiciary, and society in the United States, with an emphasis on how law and legal institutions affect our lives. Our examination will include the different types of law and the processes by which law is made, adopted, and implemented; the role of social and political institutions in promoting and challenging laws; public perceptions about law; and, the impact that laws and legal institutions have on social and political attitudes and behavior. We will use historical and current social and political issues and controversies to highlight the role of law in our lives, and take advantage of experts in the field and local institutions, when possible, to provide context to our examination. And, we will connect theory to practice by bringing internship experiences into the classroom discussion.

Learning Objectives

Goal #1: Students will gain an understanding of the role of law and legal institutions in American life.

Goal #2: Students will be encouraged to find intersections between their internship experience and the substance of the course.

Goal #3: Students will experience a cultural, historical, policy or other event in the District of Columbia that relates to the course.

Goal #4: Students will be able to communicate persuasively in writing and orally.

Goal #5: Students will be able to critically examine competing arguments, and use empirical evidence to express their arguments in writing and other forms of communication.

Course Materials and Accessibility

Among the materials for this course are a combination of scholarly articles, news articles, blog entries, Youtube videos, congressional hearing and other transcripts. Most of the readings are available on Canvas (C) and online (O).

****Importantly, I reserve the right to make changes to the course materials as the term progresses. This includes, but is not limited to, adding and subtracting articles and other readings.****

Additionally, the syllabus, descriptions of the course assignments, and other announcements about the course will be posted on Blackboard.

Course Responsibilities and Assignments

- **Attendance:** Attendance is required so please be sure that your internship supervisor understands that you will be in class every Thursday 6:30p-9:30p. Excused absences are usually extraordinary events such as the death of an immediate family member (parent, sibling, or grandparent), personal illness, or a major religious holiday that is recognized by the [UCDC calendar](#). **You MUST provide written documentation for each of these absences; and for religious holidays, you must submit your excuse two weeks in advance of the absence to be excused.** On occasion, and with at least 48 hours notice, you may request to be excused for a special internship or other DC event. If granted, it is likely you will be asked to report on your experience in class. For information about missed and late assignments, see below. Each *unexcused* absence will lower your final course grade to the next lower grade (e.g. A- will become a B+).
- **Participation:** Participation is very important for this class, and everyone will be expected to contribute in a substantively meaningful way to the class discussion. With advanced warning, you may be asked to help lead discussion of the weekly readings, review the previous week’s lecture, present relevant current events, provide an update on your research project, among other things. Everyone will share their experience at a cultural, historical, or policy event related to our course (Objective #2). Without warning, you may be asked for your input on any and all things assigned for class, or to take a pop quiz.
- **Reading Assignments:** All the reading assigned in this syllabus and any added throughout the semester is required. This means that you should read all of the material BEFORE the class meeting and be ready to use it for your graded assignments (if relevant) EVEN IF we do not discuss it in class. I reserve the right to change the readings and the schedule if necessary as the term progresses. See the Weekly Schedule below for dates and assignments.
- **Infographic Assignment:** This is an empirical, evidence-based assignment. You will choose a debate related to class material and create an infographic for two sides of the debate. More details about this assignment will be forthcoming. See Weekly Schedule below for deadline.
- **Writing Assignments:** You will write two (2) analytical essays on course topics of your choice, each 4-6 (double spaced) pages long. More details about these assignments will be forthcoming. See Weekly Schedule below for deadlines.

Grading Standards and Measurement

Individual assignments in this course will be worth various points but converted to a 100 point scale such that an A=100-93%, A-=92-90%, B+=89-87, B=86-83, B-=82-80, etc. **You should understand that only excellent work will earn an A. If the work is good, it will earn a B, and satisfactory work will earn a C.** You will earn Ds and Fs if your work is less than satisfactory or of poor quality. If you fail to complete the work, you will earn a 0 for the assignment. Incompletes will be allowed only under the most exceptional circumstances.

Final course grades will be proportioned as follows:

In Class Individual and Group Participation	30%
Infographic Assignment	20%
Writing Assignments (2 at 25% each)	50%

According to general university policies, final course grades earned in this class will be worth the following points: A=4.0, A-=3.7, B+=3.3, B=3.0, B-=2.7, C+=2.3, C=2.0, C-=1.7, D=1.0, F=0.

Course Communication Tools

I will use a combination of Blackboard, Turnitin, and email for communicating with you this term. Unless you tell me otherwise, I will be communicating with you using the email address that you included as your primary address

when you enrolled for classes. You are responsible for checking your email, Canvas, and Turnitin regularly for messages and feedback. You are responsible for letting me know if you change your email address.

Canvas is my primary method for posting announcements and assignments. You should set notifications for updates and/or check our course page frequently.

Turnitin may be used for submitting and returning graded writing assignments. We will discuss in class how to create an account if you don't already have one, and how to use the software. Read more about academic misconduct below. Also, I encourage students to use the [Purdue University OWL](#) site for very accessible and useful information about writing styles and rules.

Policy on Attendance

See Course Responsibilities and Assignments (above).

Policy on Missed and Late Assignments

Assignment deadlines are firm, and makeup assignments are permitted only for excused absences (see above). You may submit assignments early, but I do not guarantee early feedback.

Missed assignments. Assignments can be made up only for excused absences (see above). Be aware that you may be asked to turn in a written assignment *before* the deadline, and the makeup assignment may be different than the original assignment. If there is some other reason for you to miss an assignment (e.g. a previously scheduled family engagement), you must inform me within the first week of classes *to be considered* eligible to make up the assignment; this is not a guarantee that you will be allowed to make up the assignment. If you do not meet these conditions, you will receive a zero for the assignment. **IMPORTANT:** You should discuss make up assignments with me as soon as you are aware of them in office hours or by email; I will not discuss these arrangements in class.

Late assignments. All assignments are considered due at the beginning of each class period, even if I don't formally ask for them until later in the class or if they are due through Turnitin. Assignments submitted after the time and date at which they are due, and that are NOT accompanied by an acceptable excuse (as described previously) will be addressed as follows. **For every 24 hour period after the date and time that the assignment is due (including weekends), the grade received for the assignment will be decreased by two (2) parts of a grade.** The 24 hour periods include weekends. For example, if you turn in an A quality assignment on Friday before 11:00a, after it was due on Wednesday at 11:00a, then the assignment will be 2 days late and you will earn a B- on that assignment. If you turn in a B quality assignment at that same time, you will earn a C-.

Statement on Weather Emergencies

In the event of a weather emergency, UCDC follows the [federal government's decisions](#) about delays and closures. We will cross that bridge if/when we get there!

Policy on Academic Misconduct

UCDC has a zero-tolerance policy for cheating, plagiarism, and any other form of dishonesty. Students should refer to their home campus Student Code of Conduct for the regulations that apply to them. The burden is on each student to know what behaviors constitute cheating and plagiarism. Ignorance of these behaviors is not an adequate defense.

Policy on Classroom Conduct

I'm sure it goes without saying that we all must treat others in class with respect. We do not have to agree, but being polite and thoughtful in our interactions with each other is absolutely required. Also, in consideration of your classmates and me, you should observe the following rules: (1) DO set your cell phones to silent and answer them only in an emergency (e.g. child care or medical for you or an immediate family member). If you leave class to answer a call, you may not return to class until we break. (2) Do NOT arrive late to class unless you have advanced approval; you may arrive during the break for the second part of class. (3) Do NOT do homework for other classes or read material not related to this class. (4) Do NOT use a laptop computer, other electronic device, or audio taping equipment unless you have approval from me. For any of these infractions, you will be warned

only once; after the warning, you may be excused from class and will be docked 2 percentage points of your total course grade for each infraction at the end of the term.

[Statement on Sexual Harassment and Sexual Violence](#)

Click on this link for the University of California statement on sexual harassment and sexual violence.

Students who wish to speak confidentially about an incident of sexual misconduct should contact UCDC's Counseling Services at UCDCCounseling@gmail.com. To report sexual misconduct or ask questions about UCDC policies and procedures regarding sexual misconduct, please contact the UCDC Title IX administrator, Josh Brimmeier (202-974-6214 or josh.brimmeier@ucdc.edu). Because the University of California is legally obligated to investigate reports of sexual misconduct, the confidentiality of reported misconduct cannot be guaranteed.

[Statement on Accommodations for Students with Disabilities](#)

Click on this link for the University of California statement on accommodations for students with disabilities.

If you require accommodation for class, please let me know at our first meeting (if not earlier) so the necessary arrangements can be made.

Course Schedule

Session 1: Jan. 11 Introductions

Session 2: Jan. 18 What's the Relationship of Law to Society?

- Lippman, Matthew. 2015. *Law and Society*. Los Angeles, CA: Sage Publications. Chapters 1 and 2, pp. 1-67. (B)
- Coates, Ta-Nehisi. 2012. "Thoughts on Democratic Norms." *The Atlantic*, June 25, 2012 (From <http://www.theatlantic.com/politics/archive/2012/06/some-thoughts-on-democratic-norms/258911/>, accessed January 9, 2017)
- Gopnick, Adam. 2015. "Iran, Inequality, and the Battle of American Norms." *The New Yorker*, March 17, 2015 (From <http://www.newyorker.com/news/daily-comment/iran-inequality-and-the-battle-of-american-norms>, accessed January 9, 2017)
- Pippenger, Nathan. 2016. "Trump and the Fragility of Democratic Culture." *Democracy*, April 11, 2016 (From <http://democracyjournal.org/alcove/trump-and-the-fragility-of-democratic-culture/>, accessed January 9, 2017)
- Beacock, Ian P. 2016. "Trump and the Problem of History." *Chronicle of Higher Education*, March 27, 2016. (From <http://www.chronicle.com/article/TrumpHistory/235808>, accessed January 9, 2017)
- Rogers, Melvin L. 2016. "In Defense of Civility." *Dissent*, March 24, 2016 (From <https://www.dissentmagazine.org/blog/defense-of-civility-donald-trump-fear-white-supremacy>, accessed January 9, 2017)

Session 3: Jan. 25 Making and Implementing Law

Constitution

- *U.S. Constitution and Bill of Rights*, <http://constitutioncenter.org/interactive-constitution>
- Eisen, Norman L., Richard Painter, Laurence H. Tribe. 2016. "The Emoluments Clause: Its Text, Meaning, and Application to Donald Trump." *Brookings Institution*, December 16, 2016 (From https://www.brookings.edu/wp-content/uploads/2016/12/gs_121616_emoluments-clause1.pdf, accessed January 9, 2017)

Courts and Judges

- Swers, Michelle. 2013. "The nuclear option will increase polarization in the Senate and shift power to the executive branch." *The LSE US Centre's daily blog on American Politics*, November 24, 2013. (From <http://blogs.lse.ac.uk/usappblog/2013/11/24/use-of-the-nuclear-option-will-increase-polarization-in-the-senate-and-shift-power-to-the-executive-branch/>, accessed on January 10, 2017)
- Tobias, Carl. 2016. "Confirming Judges In The 2016 Senate Lame Duck Session." 19 U. Pa. J. Const. L. Online 1 (2016). (From <http://scholarship.richmond.edu/cgi/viewcontent.cgi?article=2332&context=law-faculty-publications>, accessed January 10, 2017.
- Binder, Sara. 2016. "This is why Senate Republicans might (not) go nuclear." *Washington Post Monkey Cage Blog*, November 14, 2016. (From https://www.washingtonpost.com/news/monkey-cage/wp/2016/11/14/this-is-why-senate-republicans-might-not-go-nuclear/?utm_term=.a6fd11222e33, accessed January 10, 2017)
- Whelen, Ed. 2016. "Shameless Schumer Lies About Supreme Court Filibuster." *National Review*, November 16, 2016. (From <http://www.nationalreview.com/bench-memos/442234/schumer-supreme-court-filibuster>, accessed January 10, 2017)

Department of Justice/Attorney General

- Hudak, John. 2017. "Confirming Team Trump: Interrogating the President's 'enforcer'." *Brookings Institution*, January 9, 2017 (From <https://www.brookings.edu/blog/fixgov/2017/01/09/attorney-general-the-presidents-enforcer/>, accessed January 9, 2017)
- Mann, Thomas E. 2017. "Confirming Team Trump: Jeff Sessions as Attorney General." *Brookings Institution*, January 9, 2017 (From <https://www.brookings.edu/blog/fixgov/2017/01/09/sessions-attorney-general/>, accessed January 9, 2017)
- Delahunty, Robert & John Yoo. 2016. "A Memo for Attorney General Jeff Sessions." *National Review*, November 28, 2016 (From <http://www.nationalreview.com/article/442493/jeff-sessions-and-donald-trump-restore-public-confidence-law>, accessed January 9, 2017)
- Michael D. Tanner. 2017. "Conservatives Should Think Twice before Supporting Jeff Sessions." *National Review*, January 4, 2017. (From <http://www.nationalreview.com/article/443499/donald-trump-jeff-sessions-attorney-general-record-troubling-libertarians-conservatives>, accessed January 9, 2017)

Session 4: Feb. 1

Criminal Justice Reform: Policing, Incarceration, and Sentencing Guidelines

- Teles, Steven. M. 2016. "Why Criminal Justice Reform Still Needs the Right." *Cato Unbound*, November 7, 2016. (From <https://www.cato-unbound.org/2016/11/07/steven-m-teles/why-criminal-justice-reform-still-needs-right>, accessed January 9, 2017)
- Gottschalk, Marie. 2016. "Wrong on Crime." *Cato Unbound*, December 1, 2016 (From <https://www.cato-unbound.org/2016/12/01/marie-gottschalk/wrong-crime>, accessed January 9, 2017)
- Blanks, Jonathan. 2016. "A Pox on Both Your Houses." *Cato Unbound*, November 17, 2016 (From <https://www.cato-unbound.org/2016/11/17/jonathan-blanks/pox-both-houses>, accessed on January 9, 2017)
- Denvir, Daniel. 2016. "The Ferguson effect debunked: The theory not only lacks evidence, it makes no sense." *Salon*, June 3, 2016. (From http://www.salon.com/2016/06/03/the_ferguson_effect_debunked_the_theory_not_only_lacks_evidence_it_makes_no_sense/, accessed January 9, 2017)
- Barone, Michael. 2016. "'Ferguson effect' is real, and it threatens to harm black Americans most." *American Enterprise Institute*, May 19, 2016. (From <http://www.aei.org/publication/ferguson-effect-is-real-and-it-threatens-to-harm-black-americans-most/>, accessed January 9, 2017)
- Toobin, Jeffrey. 2015. "The Milwaukee Experiment: What can one prosecutor do about the mass incarceration of African-Americans?" *The New Yorker*, May 11, 2015. <http://www.newyorker.com/magazine/2015/05/11/the-milwaukee-experiment>

- Obama, Barack. 2017. "The President's Role in Advancing Criminal Justice Reform." 130 Harv. L. Rev. 811 (From <http://harvardlawreview.org/2017/01/the-presidents-role-in-advancing-criminal-justice-reform/>, accessed January 9, 2017)

****Guest Speaker: TBD**

Due: Monday, February 5, at midnight: Essay #1

Session 5: Feb. 8 Infographics: How to Make Visual Evidence-Based Arguments

Session 6: Feb. 15 **No Class – Diascro out of town**

Session 7: Feb. 22 Access to Justice: Judges, Juries, Litigiousness, and Tort Reform (to be cont'd)

- Elmandorf, Douglas W. 2009. Letter to Senator Hatch about Tort Reform. Congressional Budget Office, October 9, 2009. (From https://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/106xx/doc10641/10-09-tort_reform.pdf, accessed January 10, 2017)
- Peek, Liz. 2013. "Another Big Flaw in Obamacare—Tort Reform." *The Fiscal Times*, December 23, 2013 (From <http://www.thefiscaltimes.com/Blogs/Peek-POV/2013/12/23/Another-Big-Flaw-Obamacare-Tort-Reform>, accessed January 10, 2017)
- Doroshov, Joanne. 2017. "Medical Malpractice And The Mind-Blowing Hypocrisy Of Obamacare Repeal." *Huffington Post*, January 10, 2017 (From http://www.huffingtonpost.com/joanne-doroshov/medical-malpractice-and-the_b_13979616.html, accessed January 10, 2017)
- Terhune, Chad. 2016. "Top Republicans say there's a medical malpractice crisis. Experts say there isn't." *Washington Post*, December 30, 2016 (From https://www.washingtonpost.com/news/to-your-health/wp/2016/12/30/top-republicans-say-theres-a-medical-malpractice-crisis-experts-say-there-isnt/?utm_term=.b515e7d4fefe, accessed January 9, 2017)
- Figman, Alan H. "'The Fallacies of Medical Malpractice "Tort Reform".' *Cardozo Law*. (From <https://cardozo.yu.edu/fallacies-medical-malpractice-tort-reform>, accessed January 9, 2017)
- Toobin, Jeffrey. 2003. "Payday." *The New Yorker*, April 21 & 28, 2003. (From <http://www.newyorker.com/magazine/2003/04/21/payday-2>, accessed January 9, 2017)
- Gawande, Atul. 2009. "The Cost Conundrum." *The New Yorker, Annals of Medicine*, June 1, 2009. <http://www.newyorker.com/magazine/2009/06/01/the-cost-conundrum>

Session 8: March 1 Law and Social Change I

****Guest Speaker: TBD**

Readings Forthcoming

- Abortion
- Race Discrimination: Voting Rights and Criminal Justice
- Gender Discrimination, Harassment, and Violence

Session 9: March 8 Law and Social Change II

Readings Forthcoming

- Immigration and Non Citizen Rights
- Gay Rights

- Privacy and Security

Due: Monday, March 12, at midnight: Essay #2

Session 10: March 15 Reflecting on the Role and Limits of the Law

- Rosenberg, Gerald. 2006. "Tilting at Windmills: Brown II and the Hopeless Quest to Resolve Deep-Seated Social Conflict through Litigation." *Law and Inequality* 24: 31-46. (From http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2921&context=journal_articles, accessed January 10, 2017)
- Borgmann, Caitlin E. 2013. "In Abortion Litigation, It's the Facts That Matter." *Harvard Law Review Forum* 127: 149-152. (From http://cdn.harvardlawreview.org/wp-content/uploads/pdfs/forvol127_borgmann.pdf, accessed January 10, 2017)

Due: Thursday, March 15, by 5p: Infographic (Diascro will print in color for presentation in class)