

FALL 2002

COURTS AND SOCIETY

AJ 103

Instructor: Richard Perry, J.D., Ph.D.

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Office Hours: Tuesday 12:30-5:30

Catalog Course Description:

Structure and functions of the court system. Emphasis on roles of prosecutor, defense attorney, judge, jurors, and witnesses. Dynamics of the court process. Examination of current legislation and Supreme Court decisions.

Course Prerequisites: Upper division major status or consent of the instructor.

Course Requirements:

Required Texts: James Calvi and Susan Coleman, **American Law and Legal Systems**, 4th edition (2000), available at the campus bookstore; also Perry AJ 103 Course Reader, available at Maple Press, 431 East San Carlos (next to Subway, just past 10th Street).

Reading Assignments: Please complete all reading assignments before the class in which they are to be discussed. All tests, class discussions, and the final exams will be based on these readings. There will not be a large number of pages to read for each class, but students will be expected to know the material well.

Testing and Evaluation: There will be two in-class midterm examinations and a final examination at the time assigned to this course section by the University and published in the Fall 2002 schedule of courses. There is also a requirement of at least four hours of court observations and a 3-4 page descriptive paper to be submitted at the last regular class meeting. The two in-class mid-terms will each count for 25% of the course grade, the observation paper will count for 10% and the final exam will count for 30%. Individual class participation and general preparedness for class discussion is strongly encouraged and will count for as much 10%, i.e., as much as a half grade-point upward or downward, as determined by the instructor at the end of the course.

Schedule of Reading Assignments:

Week 1 Calvi & Coleman: Preface and Chapter 1: The functions of law in society, law's sources, public and private law, example case: *Bob Jones University v. United States* (1983).

Week 2 Calvi & Coleman Ch. 2 – History of law and courts in the U.S.; the common law tradition contrasted with Continental and other systems, the doctrine of precedent; American legal training and the sociology of the legal profession.

Week 3: Calvi & Coleman Ch. 3 – Court Organization in the U.S., state and federal jurisdiction; appellate court function, courts of last resort; territorial and subject matter jurisdiction; the process and politics of judicial appointments.

Week 4: Calvi & Coleman Ch. 6 – Constitutional Law in the U.S.; judicial review and constitutional interpretation; state incorporation of federal constitutional protections; major constitutional principles that

affect U.S. courts (*due process, equal protection, cruel and unusual*; the 1st, 4th, 5th, 6th, 8th, and 14th Amendments).

Week 5: Calvi & Coleman Ch. 5 – Limitations: court gatekeeping and access to justice; judicial discretion, restraint, and activism; standing, mootness, venue, forum shopping, statutes of limitation.

Week 6: Calvi & Coleman Ch. 7 – Criminal Law and Procedure: theories of criminal sanction; *mens rea* and blameworthiness; standards of proof; search and seizure, self-incrimination, right to counsel, the exclusionary rule; the particularity of capital trials and the juvenile justice process.

Week 7: Calvi & Coleman Ch. 4 – Procedure and Evidence: mediation, arbitration, and alternate dispute resolution; pre-trial pleadings and discovery; voir dire; presentation of evidence, expert witnesses and other testimony, the hearsay rule.

Week 8: First mid-term exam; Calvi & Coleman Ch. 13– Conclusion, summation of interdisciplinary study of courts and society .

Week 9: Further topic I – The Politics of Court Processes: Video *Eyes on the Prize, episode 1*; Course Reader: Martha Minow “Politics and Procedure” (recommended reading on courts and social change in Course Reader: Sally Engel Merry “Courts as Performances: Domestic Violence Hearings in a Hawai’i Family Court”).

Weeks 10 & 11 Further topic II – Race and Criminal Procedure in U.S. Courts: Course Reader: Michael Tonry “Racial Politics, Racial Disparities and the War on Crime,” Tracy Maclin “Race and the Fourth Amendment”; Video *America in Black and White: Racial Profiling in Law Enforcement*.

Weeks 12 & 13 Further topic III – Lawyers’ Roles in U.S. Criminal Court Process: Course Reader: Abraham S. Blumberg “The Practice of Law as a Confidence Game: The Co-optation of a Profession,” Albert Alschuler “Plea Bargaining and Its History”; Video *Snitch*.

Week 14 Second mid-term exam; Video *The Thin Blue Line*.

Weeks 15 & 16 Further topic IV – Course Reader: Michael Radelet and Glenn Pierce “Race and Prosecutorial Discretion,” Jonathan Simon and Christina Spaulding “Tokens of Our Esteem: Aggravating and Mitigating Factors in an Era of Deregulated Death Penalties,” Mona Lynch “The Disposal of Inmate #85271: Notes on a Routine Execution.” Observation papers due, course review.

December 17, 18: Final Exam.