

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

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Office Hours: Tuesdays and Thursdays 10:00 to 10:30 and 12:30 to 1:30; Tuesdays 3:00 to 5:00

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 status or consent of the instructor.

Course Requirements:

Required Texts:

1. David W. Neubauer, **American Courts and the Criminal Justice System (with CD-ROM, InfoTrac, and Study Guide**, 8th edition (2004), available at the campus bookstore, with further supplementary handouts and readings as appropriate (also on 2-hour reserve in MLK Library).
2. Richard Perry, JS 103 Packet of Supplementary Readings, available from the printer, or on 2-hour reserve at MLK Library, and which will also be accessible (given the limits of the portal) through the MLK Library database portal.

Reading Assignments: Students shall complete all reading assignments before the class in which they are to be discussed. All class discussions and subsequent tests will be based on these readings.

Testing and Evaluation: There will be two in-class midterm examinations and a final examination at the last class meeting. There is also a requirement of at least four hours of court observations and a 4 to 5 page descriptive paper to be submitted at the fourteenth week. Individual class participation and general preparedness for class discussion is required, and will be evaluated by the professor at the end of the course. The two in-class mid-terms will each count for 20% of the course grade, the observation paper will count for 20%, class participation will count for 10%, and the final exam will count for 30%. The professor reserves the right to administer additional unannounced quizzes if this appears necessary to encourage students to come to class prepared to discuss the material.

Other: All regulations in the current SJSU Catalog will be followed in regard to Add/Drop policies, Incomplete grades, and all questions of plagiarism and other issues of academic conduct. Those who desire disability-related accommodation should speak to the instructor at the beginning of the term. Emergency evacuation routes and procedures are posted adjacent to the classroom.

Schedule of Reading Assignments:

Thursday August 26: Introductions; explanation of course structure and requirements.

Week 2, August 31 and September 2: Neubauer – Preface and Chapter 1: Courts, Crime, and Controversy; the “fragmented non-system” of justice; the court and its actors; law on the books and law in action;

Week 3, Sept. 7 & 9: Ch. 2 Law and Crime; sources of the law; Anglo-American common law, statutes, and administrative law; the common law adversarial model compared with the inquisitorial model; criminal and civil law systems contrasted.

Week 4, Sept. 14 & 16: Ch. 3 Federal Court history, organization, and jurisdiction; federal magistrates; federal district courts; federal appellate courts; courts of specialized subject-matter jurisdiction; Ch. 4 State Court history, organization, and jurisdiction; courts of limited jurisdiction, major trial courts, appellate courts, and courts of last resort; the politics of court reform and reorganization.

Week 5, Sept. 21 & 23: Neubauer Ch. 17 Appellate Courts; the appellate functions of error correction and sociolegal policy determination; civil and criminal appeals; post-conviction review; state supreme courts; the U.S. Supreme and the evolution of criminal justice policy; Ch. 18 Lower Courts’ magistrate functions; rural versus urban courts; small claims courts; the question of access to justice and the possibilities of alternative dispute resolution and community justice; Supplementary readings on universal jurisdiction.

Week 6, Sept. 28 **First Mid-term**; Sept. 30: Discussion of first mid-term; Neubauer : Epilogue (pp. 472-476) and begin Ch. 5 – Institutional Dynamics of the Courthouse; social roles – professional repeat players and the walk-on roles of parties, victims, and witnesses; system pressures and “assembly line justice”; prosecutorial and judicial discretion; delay; crowded dockets and administration of justice;

Week 7, Oct. 5 & 7: Ch. 6 Prosecutors; prosecutorial discretion, the gate-keeping function and criminal policy and politics; state and federal prosecutorial roles and functions; career incentives and trajectories; Ch. 7 & Defense and Other Attorneys; (Supplementary reading, Abraham Blumberg, “The Practice of Law as a Confidence Game” – the defense lawyer as “double agent”); the adversarial system and the right to counsel; system pressures, work loads, rewards and sanctions; stratification of the profession; diverse systems to provide counsel for indigent defendants; lawyer-client relations;

Week 8, Oct. 12 & 14: Ch. 8 Introduction to the Judiciary; state and federal judiciary; career incentives and trajectories; diversity and the bench; modes of judicial selection; modes of judicial discipline; the judge as referee and as administrator.

Week 9, Oct. 19 & 21: Ch. 9, Defendants, Plaintiffs, Witnesses and Victims; demographic profile of defendants; demographic profiles of victims and witnesses; the trial experience for those who do not work there; the rise of victims rights advocacy.

Week 10, Oct. 26: **Second Mid-term**; Oct. 28: Discussion of second mid-term; Neubauer Ch. 10 Introduction to the Trial Process; criminal procedure in doctrine and practice from arrest to arraignment; sorting cases, case diversion and attrition.

Week 11, Nov. 2 & 4: Ch. 11 & 12 Pre-trial processes; bail, discovery, the evidentiary Process; the principles and practices of bail determination; on the process of discovery and the law of evidence; the exclusionary rule as practice and politics.

Week 12, Nov. 9 & 11: Neubauer Ch 13. Plea Bargaining,; video *The Pleal/ Snitch*, the presumption of innocence versus the dynamics of plea bargaining; Supplementary reading, Albert Alschuler "Plea Bargaining and Its History."

Week 13, Nov. 16 & 18: Ch. 14 Trials, and Juries; the adversarial trial as political and moral theater; the stages of trial; formal justice, managerial justice, popular justice. Sally Merry "Courts as Performances"

Week 13 1/2, Nov. 23: Neubauer Ch.apters 15 & 16 Sentencing Options; Retribution, Incapacitation, Deterrence; Sentence Decision Processes, Equal justice; Capital Punishment Processes and debates. Supplementary readings by Mona Lynch, Radelet & Pierce, Simon & Spaulding.

Week 14, Nov. 30 & Dec. 2; **Court Observation Papers Due**; Chapters 15 & 16 continued discussion. Supplementary reading: Sally Merry "Strategies of Dispute Resolution."

Week 15, Dec. 7 & 9; Chapter 19 Juvenile Courts, Therapeutic Jurisprudence, Drug Courts; Course Review.

Thursday December 16: 9:45-12:00: FINAL EXAM (note the different time slot, in the same room)