

Fall 2008

JS 103 COURTS AND SOCIETY

T/TH 12:00-1:15 Clark 302
(Room may change)

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

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Office Hours: Tuesday/Thursday in MH 510 10:00 – 10:30; 11:45-12:00; 1:15-2:00; and Friday in BT 453 10:30-12:30 (except Sept. 12th and Nov. 21st)

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. This a required upper division JS major core course.

Course Prerequisites: Upper division status, JS 10.

Course Requirements:

Required Texts: David W. Neubauer, **American Courts and the Criminal Justice System**, 9th edition, available at the campus bookstore, with further supplementary handouts and readings on e-reserve as assigned by topic. Students also have the option of purchasing the entire book or individual chapters in an electronic format at www.ichapters.com

Note: The textbook publisher provides supplementary internet resources at www.wadsworth.com These resources are an important part of the value (and the price) of this textbook. Students are strongly encouraged to use the chapter by chapter self-tutorial exercises for review at least once per week.

Reading Assignments: Students MUST 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.

Class participation: The professor will run this class as much as possible in a seminar format. **This means that students will be called on by name in class and are expected to be prepared to participate.**

Those students who fail to establish a good record of class participation can expect to lose as much as one whole grade in the final evaluation at the end of the semester.

Testing and Evaluation: There will be three in-class midterm examinations and a final examination at the exam time established by the university and published in the schedule of Spring 2006 classes. There is also a requirement of at least four hours of court observations and a 4-5 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 three in-class mid-terms will each count for 15% of the course grade, the observation paper will count for 15%, 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.

Other: The 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. Emergency evacuation routes and procedures are posted adjacent to the classroom.

Course Add/Drop Policy

For information regarding adding and dropping a course, please refer to the Schedule of Instructions, Policies, and Procedures:

<http://info.sjsu.edu/cgi-bin/socfiles?command=ftok&arg=soc-spring-narrative>

Departmental Compliance with the Americans with Disabilities Act:

“If you need course adaptations or accommodations because of a disability, or if you need special arrangements in case the building must be evacuated, please make an appointment with your professor as soon as possible, during office hours. Presidential Directive 97-03 requires students with disabilities requesting accommodations to register with the Disability Resource Center in order to establish a record of their disability.”

Schedule of Reading Assignments:

August 26: Introductions; explanation of course structure and requirements. Introduction to textbook and on-line resources.

August 28: 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.

September 2: Chapter 1 continued; audiovisual media on court proceedings and principles of legality, due process, and substantive justice; discussion of the Emmett Till trial and retrial.

September 4: 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.

September 9 & 11: 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 reorganization.

September 16 & 18: Neubauer Ch. 17 Appellate Courts; the appellate functions of error correction and sociological 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;

September 23: **First Mid-term**

September 25: 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;

Sept. 30 & Oct. 2: 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; (Abraham Blumberg, “The Practice of Law as a Confidence Game” – the defense lawyer as “double agent”); the adversarial system and the right to counsel (*Gideon v. Wainwright*, etc.); system pressures, work loads, rewards and sanctions; stratification of the profession; diverse systems to provide counsel for indigent defendants; lawyer-client relations;

October 7 & 9: Ch. 8 Introduction to the Judiciary; state and federal judiciary; career incentives and

Professor Richard Perry Fall 2008 JS 103 OBSERVATION PAPER GUIDELINES

In a 3-4 page typewritten paper, briefly describe the type of proceedings you observed, then discuss at length how “courts in action” (as you observed) seemed to fit with what you have learned in class on the particular aspect of the courts that you have selected – or how it differed. In doing so, address whether there appear to be gaps between the ideals and the realities of justice, as practiced in our local courts.

Please begin your paper by stating the date and the time that you made your observations. Please identify the courtroom (e.g., Sentencing, Dept 23 Santa Clara County Superior Court on West Hedding in San Jose). Please identify the case(s) that you observed in the courtroom. These are usually identified on the courtroom docket sheet – often a printed paper on a clip board next to the outside door of the courtroom.

Please write in complete sentences and logically organized paragraphs. Feel free to make use of relevant course materials and/or specific examples from the readings to substantiate your points. You may use outside scholarly material, or materials from other classes in your paper, but you are not expected to do so. Reference all work (in APA style) that does not come from your own original thoughts. Make sure you **proofread** your paper for clarity, grammar, and typos before turning it in. This assignment is due at the beginning of the class period on Tuesday Dec. 2, 2008.

COURT OBSERVATIONS

You should observe a minimum of four hours of a court in session (you may attend one or more courtrooms, if necessary). Here are some suggestions: Make sure to take detailed notes, especially of what you are seeing and hearing, and how what you see relates to the ideals of justice and to the general understandings of the role and functions of courts that we have covered in this course. As you watch, try to connect your observations to the materials and information you have learned in class. NOTE: You may also choose to do your court observation in another county’s courts (i.e., San Mateo, SF, Monterey, Alameda, etc.), or in different branches of Santa Clara courts, or in any of the federal trial or appeals courts.

ARRAIGNMENTS: Hall of Justice, 190-200 West Hedding, everyday beginning at 8:30 AM Department 24; this has been recommended as a good arraignment calendar

SENTENCING: Hall of Justice, 190-200 West Hedding, Fridays, generally beginning at 8:30-9:00 AM. Can be found in any of the courtrooms; Department 23 has been recommended as a good one for sentencing calendar on Friday mornings.

DOMESTIC VIOLENCE COURT: Hall of Justice, 190-200 West Hedding. Proceedings every day beginning at 8:30 AM in departments 45 and 46.

DRUG COURT: 115 Terraine Street. Everyday beginning at 8:30 AM & 1:30 PM.

FELONY TRIALS: Hall of Justice, 190-200 West Hedding, everyday beginning after 8:30 AM & 1:30 PM. Ongoing in various courtrooms, the Court clerk’s office has a schedule of criminal trials at the Hall of Justice.

CALIFORNIA COURT OF APPEALS 6TH DISTRICT: 330 West Santa Clara St., Room 1060, San Jose, CA 95113, (408) 277-1004.

FEDERAL DISTRICT COURT: 280 South 1st Street, San Jose, CA 95113; court sessions start at 9:00 AM and 1 PM. Criminal matters are not centralized in any courtroom, so you need to attend to check the calendar to see what is going on and in which courtroom.