
Course Webpage:

http://seanwilson.org/wiki/doku.php?id=crime_prosecution_the_system

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Course Synopsis:

This class is not a “cookie cutter” course; it is not an encyclopedic or standardized arrangement of trivia and information about “criminal justice.” Your professor doesn’t teach courses like that. Instead, this course is fundamentally about how lawyers, “the law” and the legal system function in the area of criminal prosecution. The course is *perspectival* (see Nietzsche). It is taught from a hybrid of two basic world views: that of a criminal defense lawyer and that of a philosopher. This course is not a sociology course. It is not concerned with questions like: what are the causes of crime, why does deviance occur, how does policing work, etc.? Instead, the central concern is to provide an understanding of how power is wielded (and structured) in what Americans call “the criminal justice system.” We will examine this subject through the vantage point of the specific legal mechanisms used by system participants (“rules”); the behavior, tactics or incentives that result; and what all of this means for power, truth and ethics in the larger society. The class teaches its subject from the inside out, but also critiques the system’s significance along the way. Our focus is on such issues as:

- (a) What is the criminal trial for?
- (b) How do criminal-trial judges “judge?”
- (c) When are police officers permitted to search your personal items, what is the political trend of this development in the historical epoch in which we live; and what does this say about the politics of criminal procedural law on the high Court?
- (d) How does grid versus discretionary sentencing effect power relationships within the judiciary and among other branches of government, and how does this affect the fate of the guilty?
- (e) What kinds of excuses will prevent a finding of guilt and should those excuses be broadened or narrowed?
- (f) Why do we use juries in criminal cases and should we abolish them?
- (g) What is the fundamental aim or goal of the adversary system and how does this affect criminal prosecutions?
- (h) What techniques do criminal defense lawyers use when defending criminals, especially when they know their client is guilty?
- (i) How is it that the trial judge can influence the outcome of a criminal case, and what does this say about the “rule by law?”
- (j) Are public defenders better or worse than the private specialized criminal bar, and what does this say about the criminal justice game?
- (k) What is the game of “evidence,” and how do lawyers play it?

Calendar & Agenda:

Below is the tentative course calendar. The agenda has been estimated in good faith. Actual course progression may vary. Topics can change. It is the responsibility of the student to attend class and monitor the actual progression of the course.

Week	Dates	Topics	Exams
Week-1:	Jan 13 – Jan 17	1	
Week-2:	Jan 22 – 24	2 and 3	
Week-3:	Jan 27 – 31	3 and 4	
Week-4:	Jan 28 – Feb. 1	4 and 5	
Week-5:	Feb. 3 – 6	5 and 6	
Week-6:	Feb. 10 – 14		Exam Week
Week-7:	Feb. 17 – 21	7 and 8	
Week-8:	Mar. 24 – 28	9 and 10	
Week-9:	Mar. 10 – 14	11 and 12	
Week-10:	Mar. 17 – 21	13 and 14	
Week-11:	Mar. 24 – 28		Exam Week
Week-12:	31 – April 4	15 and 16	
Week-13:	April 7 – 11	16 and 17	
Week-14:	April 14 – 18	17 and 18	
Week-15:	April 21 -- 25	18 and 19	
Week-16:			Final Exam: Friday, May 2, 2:45 pm

Topics of Study:

Below are the topics of study. Topics can change. It is the responsibility of the student to attend class and monitor the progress of the course.

Part I: Theory and Purpose

1. Course Introduction

Explains course rules, procedures & subject matter. Course rules will be tested on exams.

Reading: *Syllabus & course website*

2. The Purpose of the Trial

This topic begins the course with the story of the trial of Jesus. Several concepts are learned: the purpose of the trial, trial by inquisition (old school), attitudes in judging, and conceptualizing guilt (de jure, de facto, mala prohibita, mala in se). Also, the topic provides an introduction to the idea of the trial as a social ritual. Discusses witch trials (trial by dunking) and considers the extent to which the modern trial process is a cultural ritual.

Reading: *Supplement, Topic-1: Trial of Jesus and Salem Witch Trials*

3. False Cases and the Attorney's Role in the System

This topic continues the inquiry into the role of ritual and "truth" in the adversary system. It looks at the right of lawyers to present theories of the case that they know are false. It examines the duty of the lawyer in the adversary system. The lawyer's role is said to be that of a "soldier," within the bounds of the system. The topic also considers popular cases where the lawyers helped present theories that were "false." At the end, the question is asked: is the adversary system really designed to get at "truth?"

Reading: *Supplement, Topic-2: The Right to Present a False Case*

Text, Role of the Defense Attorney, p. 11-12

4. Layperson Justice & The Role of Juries

The topic builds upon the last. It begins with the consideration of two kinds of authority systems: integrated and disintegrated. The argument is that each has a different approach toward "getting truth." Next, the topic considers what juries are for. Students are shown the poor reasons why juries are said to be used, versus the "good reason." Students learn the idea of "layperson justice" and seeing the trial as a social ritual summoned for purposes of having a lay workgroup choose the theory of a case they think "won" (or "proved."). The topic will also examine the trial of Leo Frank.

Reading: Supplement, Topics 3 and 4: Should the Jury System be Reformed?

Text, History and Development of the Rules of Evidence, p. 13-14.

Text, Dress and Demeanor, p. 514-516.

5. Court Organization, Culture and Function

This topic covers the structure, organization and culture of the court system, both federal and state. It also begins with an explanation of the "separate sovereign" rule and how it is that multiple prosecutions could theoretically occur from the same basic behavior.

Reading: Text:

Petit Murders, p. 1-2

What is Evidence, p. 3-4.

Court Organization, p.26-27

Functions of Various Levels of Courts, p. 28-31

Impact of Case Law, p. 31-32

Post-Conviction Proceedings, p. 35-40 (stop at Habeas Corpus)

Text: Geographic Jurisdiction, p. 27

Part II: Process and Transaction

6. The Definition of Crime; Affirmative Defenses and Mental State.

This topic discusses crimes and their defenses. After introducing the idea of "elements" of a crime, it covers affirmative defenses and defenses that negate the mental state. There is also an explanation of how modern legislatures have learned to turn general behavior constituting a single felony into multiple felonies through criminalizing distinct aspects of that behavior.

Reading: Text:

Statute of Limitations, p. 27-28

The Death of Nick Adenhardt, p. 105-106.

Right to Use Force to Detain or Arrest, p. 357-361

BART Officer Convicted of Manslaughter, p. 355-356

7. Pleadings & Preliminary Process

This topic looks at charging instruments (Indictments, Informations and Complaints). Finally, it examines how the criminal justice system handles "frivolous charges," paying particular attention to Grand Juries and Preliminary hearings.

Reading: Supplement, Topic 6

Text: Chapter 3 (first portion), p. 49-57 (stop at Suppression Hearing)

8. How Lawyers Discover Evidence

This topic covers the criminal discovery process, plea agreements, picking juries, and trial procedure. With respect to "discovery," it pays particular attention to the tactics good lawyers use to make up for the deficiencies in the system. Students are shown how lawyers use pre-trial hearings to discover information about the case.

Reading: Supplement, Topic 7

Text, Suppression Hearing, p. 57-58

Text, Discovery, p. 58-60

9. Expert and Lay Witnesses; Privileges & the Duty to Investigate.

This topic begins the process of showing how lawyers build their case theories. Students are given a case file and are shown how lawyers "work it up." The topic covers the need for, and the difference between, lay and expert witnesses. It also covers witness privileges. Also, special attention is paid to the Casey Anthony case, for showing how theory development occurs and how experts are used.

Reading: Text:

Federal Rules of Evidence & State Rules of Evidence, p. 15-17

Opinion Rule, p. 156-163

Andrea Yates, p. 133-134.
Chapter 10 (all)

10. Settlement, Plea Agreement & Type of Lawyer;

This topic covers plea agreements and public defenders. Types of agreements, procedure and the role of the judge is examined. This process is compared with settlement in civil trials. Also, the topic explores the issue of public defenders and whether poor people can receive an adequate defense.

Reading: Supplement, Topic 8.

Text, Role of the Prosecutor, p. 9-11.

Text, Habeas Corpus, p. 40-42.

Text, Plea Bargaining, p. 60-62

11. The Trial Process

This topic covers trial procedure, including jury selection and burdens of proof. It emphasizes how lawyers can shape who is selected for the jury and stresses the importance of jury instructions and closing argument. Students go through an exercise where they pick a jury.

Reading: Text:

Burden of proof, p. 4-6

Evidentiary Standards Used by Courts, p. 32-35.

The Trial, p. 62-67 (stop at Prosecution's Case in Chief)

The Trial p. 73-78 (start with Rebuttal and Rejoinder)

Figure 3-5, The Trial, p. 80.

12. Questioning Witnesses: Format and Style

This topic covers what lawyers do to, and with, witnesses -- and why. It covers both the rules for interrogating witnesses (the form of the question), as well as the techniques and strategies lawyers use when conducting direct and cross-examination. Students are also shown the difference between "ordinary cross-examination" versus impeachment.

Reading: Text:

Prosecution's Case in Chief, p. 67-72

Impeachment, 138-152

Corroboration & Memory Failure, 152-155

13. Miranda

The topic introduces students to the basic operation of the Miranda rule. Students are shown what police officers are allowed to do and how they can get around various obstacles to obtaining information from a criminal defendant.

Reading: Supplement, Topic 5

Text, Chapter 15 (all)

14. Search and Seizure

The topic introduces students to 4th Amendment search-and-seizure law. Students are shown how to diagnose a search and seizure problem. The point of the topic is to show not only "black letter law," but to show how the capacity of the police state to detect crime and gain information has been enhanced over the last 30 or so years

Reading: Supplement, Topic 5

Text, Chapter 11 (all portions)

Text, Chapter 13 (all)

Text, Chapter 12 (back portion), p. 361-381.

Part III: Judges and Judgments

15. Relevance: Non-Litigated Events and Defendant Character

This topic explains the concept of relevance and examines how the system attempts to police non-litigated events being proven at the trial for purposes of inference about the litigated event. Also, the issue of the defendant's character, and whether to put it in issue, is explored.

Reading: Text:

Defense's Case in Chief, p. 72-73

Circumstantial Evidence of Ability/Intent, p. 108-115.

16. Relevance and Hearsay

This topic covers the basics of relevance and hearsay, but it does so through a particular vantage point. It is concerned with how the structure of certain rules of evidence allow for judges to use discretion, pretending they are following "rules." Particular attention is paid to the balancing test for relevant evidence, and to the complicated nature of the hearsay rule.

Reading: Text:

Chapter 4 (all)

Chapter 9 (all)

17. How Trial Judges Have So Much Discretion

This topic covers the four basic standards of review under which rulings in a trial are appealed. Particular attention is paid to: (a) abuse of discretion; (b) clearly erroneous; and (c) harmless error. When combined with the fact that trial judges do not create precedent, the topic argues that trial judges are vested with a significant amount of local power over many issues in the cases in which they preside. The discretion of trial judges is characterized as a "local power" configured into the judicial system, but which can only be legitimate if its use is "principled" (Dworkin).

Reading: Text, Role of the Judge and Jury, p. 7-9.

18. Mike Tyson Trial

This topic covers the Mike Tyson trial, as told through the accounts of Alan Dershowitz. Students are shown how the suspicious nature of the allegations made against Tyson by Desiree Washington were never able to be shown to the jury, because of the terrible trial judging. Tyson's lawyers were forbidden from presenting their theory of the case. All of the negative trial rulings were protected by discretionary doctrines. Jurors were not allowed to hear the evidence that in all likelihood would have acquitted Tyson. The moral of the story: the system fails when judges don't behave. The system can't properly police poor judging.

Reading: Supplement, Topic 9

19. Sentencing -- Discretionary and Grid Regimes

This topic covers two basic ways to sentence defendants: discretionary and non-discretionary. The two systems are compared and contrasted. Particular attention is paid to the Federal Sentencing Guidelines and their judicial reformation.

Reading: Supplement, Topic 10

Text, Sentencing, p. 78-79

Required Texts.

The reading for the course is indicated below. Please be aware that there is an online supplement, free of charge, which contains required readings.

Textbook: The text is *Criminal Evidence*, by Judy Hails (7th Edition, Wadsworth, 2011).

Supplement: Online: <http://wright.docutek.com/eres/coursepass.aspx?cid=4668> Password: "Justice"

"Clickers"

Students are required to obtain Turning Technologies RF Response-Card "clickers" for this course. They are available for purchase at the bookstores or online. Students can purchase new or used clickers and can receive a substantial discount for selling their undamaged clicker back to the bookstore at the end of the quarter. *Failure to obtain a clicker will result in a serious class penalty.*

Use only your own clickers: If you use someone else's clicker in class, it is considered "cheating." You can face substantial penalties and be referred for "academic discipline." You may receive an F for the entire course or for a syllabus item (e.g., attendance). You may also be removed from the roll.

Who Benefits?

Students who will find this course interesting are those who are contemplating a career in law, law enforcement, criminal justice, judicial politics, criminology or jurisprudence. Students who are not interested in a law-related field *may* find this course fulfilling so long as they understand that this course will examine legality with a degree of rigor and detail. It is strongly suggested that students who do not have a serious interest in the criminal legal system not remain in the course.

Grades

Grades are based upon the following criteria. Your final course grade is the *highest* of the following five grading plans. There is no rounding. You simply get the highest of the five calculations:

Scale	Items:	Plan-A:	Plan-B:	Plan-C:	Plan-D:	Plan-E:
A = 90% and above;	Exam-1	20%	22%	20%	16%	14.3%
B = 80% - 89.9%;	Exam-2	20%	22%	20%	16%	14.3%
C = 70% - 79.9%;	Exam-3	20%	22%	20%	16%	14.3%
D = 60% - 69.9%;	Field Paper	20%	22%	20%	19%	14.3%
F = 59.9% and below	Attendance	10%	--	--	16%	14.2%
	Quality Points	10%	12%	20%	17%	14.3%
	Reading	--	--	--	--	14.3%

- **Graded Assignments:** Assignments are returned two weeks after completion. Students should take note of this rule when the drop deadline approaches. If an exam is administered within two weeks of the drop deadline, it will *not* be returned prior to the deadline.
- **Grade Posting:** Grades will never be *individually* emailed to students by the instructor. Grades are communicated to the class as a group.
- **No Rounding:** Because of the numerous grade plans, no rounding occurs. If, at the end of the course, your highest score on all of the grading plans is 89.99, your grade is **B**.
- **Grade "Favors:"** If a student is close to a grade, but misses it, do not ask at the end of the semester to receive the higher mark. Grades are like points on a football scoreboard. Whenever the game ends, your score is what is on the board. Plenty of games are played where a team should have had more points. The remedy here is to fire the coach (your approach) or to prepare better for the next set of games. Grades are not a fiefdom, and the professor does not adjust scores for reasons of humanity, friendship, dislike or pleasantry. When the game ends, your score is your score.
- **I think I deserve a better grade:** Students should keep in mind that they are graded according to syllabus criteria, not according to their own assessment of fairness. It doesn't matter what expectation you have for "just passing." Follow the syllabus.
- **I'm just trying to graduate and get a C.** Students should keep in mind that there is no special standard for students who "just want a C" and are "just trying to graduate." Grades of F are given to everyone who earns them. This is so even if it stops your graduation or otherwise hurts.
- **Scale Adjustment:** As a general rule, there is no right to have class scale dropped. The grading scale is firm. Scales are only adjusted if the professor believes at the end of the term that the class performance in light of the difficulty of assignments warrants some correction. Recourse may take the form of rounding or dropping down a percent. With respect to these judgments, three rules apply: (1) any adjustment applies to all grade levels (if **As** are rounded, so are **Es**); (2) if made, adjustment occurs at the time the professor is calculating final grades, and hence is not a matter for student input or "lobbying;" and (3) adjustment is *extremely rare*. Once again, the scale is firm. Students should not expect any rounding or drops, and should not ask for any such thing.
- **Zero Percent F:** The grade of F on course assignments can fall below 50% if the work deserves an especially low mark. The failure to complete an assignment results in a 0%, not a 50%.
- **Late Assignments:** Late assignments are penalized half a grade (5 percentage points) per day, unless a different penalty policy is announced in class or herein.

Course Paper

Students are required to undertake a “field research project.” It is due on the last day of scheduled class lecture, before finals week. The project will ask you to either interview two members of the legal profession who have opposing occupational experiences, or to observe two different kinds of court proceedings in your home town. After you collect the interview or observation data, you must then write a ten (10) to fifteen (15) page paper about your experiences, and correctly complete a paper cover form. You should spend a portion of the paper describing your experience and a portion relating it to course material. You should also offer your own insights about what you observed or discovered versus what you were taught in class. Students must have their paper subjects lined up by April 29th or face a grade penalty. The paper will be graded upon the following criteria: http://seanwilson.org/wiki/doku.php?id=field_papers.

Attendance

One week’s worth of misses will put you at 93%, the next week at 83%, and so on. *Failure to sign the attendance sheet will result in no attendance credit.* The attendance grade is calculated as follows:

<u>Misses</u>	<u>Grade</u>	<u>Misses</u>	<u>Grade</u>	<u>Misses</u>	<u>Grade</u>	
0	100%	11	66%	21	33%	<i>Never Sign Someone Else’s Name:</i> Student attendance is taken in class. Signing a name other than you own on the daily attendance sheet is considered academic dishonesty and subject to discipline. <i>Leaving Early:</i> Please be aware that leaving class early may not get you full credit for attending <i>Final Exam Absences:</i> Students who fail to attend the final exam will have their exam grade penalized 1 grade step for each day you have failed to take it. Hence, if you take it one day late and receive a B, your grade will be C.
1	98%	12	63%	22	28%	
2	96%	13	58%	23	26%	
3	93%	14	56%	24	23%	
4	88%	15	53%	25	18%	
5	86%	16	48%	26	16%	
6	83%	17	46%	27	13%	
7	78%	18	43%	28	8%	
8	76%	19	38%	29	6%	
9	73%	20	36%	30	3%	
10	68%			31	0%	

Excused Absences

Please carefully note the following about absences: *there are no excuses.* “Attendance” measures how many times you are in your seat, period, whether or not it is your fault. The measure is not fault-based. Students who cannot attend because of health reasons, the military, church, family, work, etc., have the choice of using an alternate grading plan that does not use attendance as a criterion. Thus, if you cannot attend well, your performance in the course will simply be assessed using the no-attendance grading criteria.

With respect to missed exams, please note the following. If a student misses the final exam, the grade is penalized 1 grade per day. The course ends during the Friday of finals week at 5:00 p.m., sharp. All exams must be completed by then. Grades of 0 are given to people who miss exams and fail to retake them before the course ends.

Quality Points

Quality Points are earned for the following activities:

- ***Clicking:*** Make sure you are signed in and have your clicker. Click when prompted by a slide, according to the rules. Points are always given for some slides (e.g., polls). For others, you only get the point for answering correctly (quiz slides). Class participation is also recorded by clicking. If you don’t have your clicker and don’t sign the attendance sheet

at the start of class, your class participation does not count. Please note: participation that isn't helpful or is in bad faith does not receive any value. "Bad faith" means that the student is just trying to talk to get points. Students should only participate in class discussion on the merits and in good faith.

- **Homework Assignments.** When students are asked to perform tasks, such as registering clickers or codes, they get quality points for doing the task on time.
- **Course Wiki.** Students who participate in the wiki will receive bonus points
- **Student-Drafted Reading Questions.** Students who draft good multiple choice and true false questions from the assigned reading will receive substantial quality points.

Tasks/Homework

You must complete the following tasks when announced in class:

1. Register the clicker serial number on your clicker before the deadline indicated in class
 2. Register your 5-digit grading codes before the deadline indicated in class
- (note: other tasks may be assigned in class)*

Quality Point Bonus

Quality point grades can exceed 100%. They can be as high as 150%. This has the effect, arithmetically, of making quality points worth a greater percent of your grade (for those who can do it). To obtain bonus, do any of these tasks:

1. Edit the Student Topic Notes so that the notes have readable, accurate content. Make the notes into readable paragraphs, add headings, include more content, get rid of inaccuracies, etc. In short, do your part to improve the page. Every improvement you make is logged.
2. Think of new pages to create that would be helpful to the class. After running your idea by the professor, start creating those things!
3. Become a Master Jedi Knight Wiki Editor (MJKWE). To do this, your contributions to the commons area of the Wiki (not your personal page) should have shown that you mastered the following Wiki formatting skills:
 - (a) images,
 - (b) html tables that center or flush content to the right (ask professor for help)
 - (c) different kinds of links, lists (bullets or numbers), multiple headings, typeface manipulation (e.g., bold), etc.

Social Justice, Openness and Disability

This class is expected to provide a positive learning environment based upon open communication, mutual respect and nondiscrimination. Also, if you are a person with a disability and anticipate needing any type of accommodation for this class, please advise the instructor and make appropriate arrangements with the Office for Disability Services.

Notice of Lecture "Webcasting"

The professor's work product in this course may be "webcast." This does not mean that a camera will be in the classroom. Rather, it means that the audio of the professor's voice and his PowerPoint slide show will be published online at seanwilson.org. With respect to this, students should take note of two things. First, their voices may become audible on the web if one sits close to the front. Students not wanting their voice published on the web should either move back a few rows or notify the professor, who will edit the voice from the audio. Requests should be made promptly. Secondly, students are charged with all course knowledge that is published on the web. If a student misses class, he or she has no excuse for not obtaining the knowledge online. In essence, the content of this class runs 24 hours a day on the internet.

Honesty and Plagiarism:

Students who cheat on examinations, plagiarize papers or other class assignments or commit other serious academic dishonesty will receive a semester grade of "F." In addition, students are warned that copying information from the web (or elsewhere) and passing it off as your own work, or buying fake papers from online sources, will result in a grade of F and a referral for academic discipline.

Email Policy

Students must at all times have an activated, working Wright State email account during the course. It is the student's responsibility to regularly check mail for course messages and to make sure that email accounts are properly working. Students who know or should know that a course communication is expected via email, but who do not receive the message because of some technical problem, have the responsibility to contact the professor immediately to check the status of the matter. It will not be considered excusable for students to miss vital communications because they simply don't check mail regularly, have allowed messages to "bounce" for lack of storage space, or who simply allow too much time to elapse before checking on pending matters.

Notice of Performance Standards:

Attention Students: (1) This professor gives grades of F and D are given to students who earn them. Students who are "just trying just for a C" or "just trying to graduate" are warned that this expectation may result in a failing marks. (2) You must be prepared for, and attend, every class that you are physically able. (3) Expect exams to be rigorous and require substantial effort and preparation.

Other Helpful Information

- ***Emailing the Professor:*** When you email the professor, *indicate what class you are from*. Your professor is a complete nincompoop when it comes to remembering names and where people come from. Do not take the failure of him to know of your name as anything other than the enduring challenges he faces in life. Honestly, no one is more ridiculous in this respect. Do a favor and help him out: when mailing, say what class you are from.
- ***"Curt Mails:"*** Often, your professor receives "tons" of emails a day. It is not uncommon to answer them quickly so that they do not "pile up" or take away from other work. It is very possible that you may receive a one-line or one-word response to an email. This does not suggest impersonality or dislike for you. It simply means that, many times, emails are caught "on the fly." A "curt" reply, therefore, only means your professor is multi-tasking or working when throwing the answer back at you. Emails tend to be short and without formality.
- ***Printed Papers:*** Unfortunately, your professor does not accept material where he has to print the document. Any and all material that gets handed in (papers, documents) ***must*** be printed by the student and physically handed in. There are no exceptions to this ever in the history of the world under pain of death.
- ***Muggings Before Class:*** When your professor enters the classroom, he has to set up several pieces of technology. For example, he needs to get his slide show and audio going, and needs to get his recording equipment working properly. This can take several minutes. Do ***not*** attempt to talk with him about course or personal matters at this time period. He's not able to speak to you about such things then. Instead, wait until after class or come by the office. Once again, do not mug the professor while he is setting up shop.
- ***Charged with Knowledge of Record:*** Students are officially charged with all course knowledge that is "of record." This means that if something is announced in class, through email or on the course website, students are expected to know of it. The student is considered "charged" with the information, meaning that it is no excuse to say that you didn't know.

Warning!

The information given by your instructor is academic in nature and does not constitute specific legal advice. You should never ask your instructor for legal advice about any personal situation whatsoever. You should also not rely upon classroom instruction as though it were the equivalent of information obtained after receiving a professional consultation. Classroom concepts are often simplified and discussion kept at a general level so that your lectures will never be the equivalent of actual, specific legal advice.

Caveat

This syllabus should not be read as a communication which would cause the student to believe that he or she has the power to accept as an offer anything contained herein. The syllabus is not a contract; it is only a good faith estimation of what may or may not occur in the class. Similarly, students are now warned that they should not reasonably rely to their detriment on anything contained in the syllabus, as the instructor explicitly reserves the right and discretion to modify lawfully anything contained herein by his own unilateral act without regard to the expectations students may have formed by reading this document. ... um, in other words: what the creator giveth, he taketh away.

APPENDIX: INTERVIEW QUESTIONS

§ 1. Socialization

- What made you want to become a lawyer?
- How long have you been a lawyer?
- How long have you been practicing this type of law?
- How did you get this job?
- Where did you go to law school?
- Did law school prepare you for this job or did you have to receive a significant amount of on-the-job training?
- If you had to receive a significant amount of job training, what sorts of things did you have to learn that law school neglected to teach you?

§ 2. Daily Tasks

- What tasks do you do most often, on an every-day basis?
- What kinds of persons or entities do you interact with most on a daily basis (e.g., other kinds of professionals, policing agencies, judges, social workers, journalists, etc.)?
- What is the most common type of document that you draft, if any?
- What is the most common kind of case that you handle, if any?
- What is the most common problem you face on a daily basis, if any?
- How often do you go to court?
- How many actual jury trials (not bench trials) do you have per year, if any?
- On average, how much time does it take you to prepare for a case?

§ 3. Attitudes

A. About Law School & Lawyers

- Was law school difficult?
- Would you recommend it to people as a good career option?
- Do you think we have too many lawyers?
- What is wrong, if anything, with the legal profession?
- What, if anything, is wrong with the way law school educates people?

-- Do you think that lawyers should have to go through a "residency" program similar to the way that doctors do before they are allowed to render services to the people?

B. About the System

-- What is wrong with the legal system, if anything?

-- Is the trial process designed to get at the truth, or is some value other than truth-finding more predominate?

-- Do you think the system is slanted in favor of people or interests with significant wealth or assets?

-- Is the system too expensive, and if so, what causes it to be that way?

-- Do you think lawyer services are expensive?. If so, what causes this, and if not, why not?

-- Do experts charge too much money to be experts in court? If so, why does this occur?

-- Do you think juries make good decision makers in a case?

-- Do you think the judge could do just as good a job deciding a case rather than the jury?

-- If juries are so important, why are they rarely used?

-- If you could change one aspect of the court system, what would it be?

C. About Judges

-- Are Judges properly trained, or should they be required to have more training before they become a jurist?

-- Should judges run for election or should they be appointed?

-- Do you think judges have too much discretion?

-- Do judges decide issues or cases based upon their opinion, or based upon adherence to "law."

-- In your opinion, what would be the most common thing that a judge does "wrong"?

-- If you could change one thing about the way judges behave or the way they "do things," what would it be?

-- what kind of person makes the best kind of judge?

-- Are judges in this geographic area scholarly enough to be good judges -- or is it a mistake to think that judges have to be "scholarly" to be good judges?

-- Do you think that judges have to be as passive as possible in a case, or that they should be more active and insert themselves in the controversy?

-- Is it hard to follow the rules of evidence when you hear an objection in court?

-- Are the rules of evidence sort of useless in that the judge will generally ignore the urge to make a "mechanical" ruling in favor of making a ruling on what he thinks is "fair?"

-- What kinds of attributes are need to be a good supreme court judge and what kind of attributes are needed to be a good trial court judge? Are they different?

-- Do you think that the clearly-erroneous standard of review and the abuse-of-discretion standard of review have any real teeth to them? I mean, isn't that just another way of saying that trial judges can do whatever they like?

D. About Your Job

-- What is the hardest aspect of your job?

-- If you could change one thing about your job, what would it be?

-- What is the most important thing you had to learn in order to do a good job at what you do?

§ 4. Criminal Justice

-- do you think that police officers should approve plea agreements?

-- is the relationship between defense lawyers and prosecutors good or bad in this county?

-- Who does a better job at defending a client -- a public defender or a privately-retained lawyer? Why?

-- Does this system protect criminal defendants too much?

-- Do judges give probation too often or not often enough?

-- What is best for the system (and why): locking up offenders and imposing more jail time or giving offenders more alternatives to incarceration, such as probation, home confinement and rehab programs?

-- Do you think judges favor prosecutors over defense lawyers?

-- Can a poor person get the same justice as a rich person?

-- Do you think that police officers have too much discretion over the power to arrest someone? I mean, there really isn't much teeth left to the 4th Amendment anymore. Do you agree or disagree?

-- Do you think that prosecutors have too much discretion in deciding whether to prosecute people or who to give special deals to? Do you think that some prosecutors favor specific defense lawyers when making deals?

-- Do you think that federal criminal court has become too oppressive? How can defendants really have a meaningful right to trial when the Federal Sentencing Guidelines allow you to be punished for counts that a jury has acquitted you? (Or for uncharged or dropped counts, for that matter).

-- Do you think the police state in America has ever been more powerful? If so, should citizens fear this new and more powerful authority?

-- Which value does America favor more: liberty or order?