

**DEVELOPMENT OF LAW
JUST 250
Fall 2009**

COURSE SYLLABUS & OUTLINE

INSTRUCTOR: Deborah Periman, JD
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OFFICE: Justice Center, LIB 213
OFFICE HOURS: M/W 10:00 a.m.-12:00 p.m. (Appointments are recommended during office hours and required for conferences at other times)
PREREQUISITE: JUST 110
TIME: M/W 1:00 - 2:15 p.m.
LOCATION: SSB 224
FINAL EXAM: Monday, December 7 (Tentative)

COURSE DESCRIPTION / OVERVIEW

Study of underlying philosophy, development and structure of law with emphasis on the legal system in the U.S. and Alaska. Includes study of constitutional provisions such as "due process" and "equal protection" in the U.S. Bill of Rights, criticisms of law, and procedures for changing law. Course explores the history of law in America as it evolved from legal anthropological roots and from English common law. Students will evaluate the role of law in social control and survey its development from Colonial America up to the Roberts Court, including study of Supreme Court philosophy and social policy as they reflect (or direct) social change.

OUTCOMES AND OBJECTIVES

Students who complete the course will:

- comprehend the historic distinction between common law and civil law systems, and the significance of our common law heritage in American legal development;
- recognize the inherent tension between judicial and legislative lawmaking in the United States;
- be able to identify the role of social, economic, and political conditions on lawmaking and implementation of the law, and the impact of legal change on individual and collective values and behaviors and on economic condition and social status;
- understand the significant eras of American constitutional development and historically important U.S. Supreme Court decisions;
- understand significant eras of legislative and judicial lawmaking and historically important legislation and judicial decisions;
- have developed an analytic foundation on which to evaluate contemporary legal issues;
- recognize the distinction between primary and secondary research resources, be able to evaluate secondary resources, and be able to integrate and credit primary sources and scholarly authorities in their writing.

REQUIRED TEXTS

Hall, American Legal History: Cases & Materials (3d ed.)
Hacker, A Pocket Style Manual (5th ed.)

OPTIONAL TEXT

Friedman, Law in America: A Short History

GRADING POLICY

A letter grade will be issued in conformity with the standards set forth in the University's current

course catalogue.¹ 20% of the course grade will be based on a comprehensive research memorandum. Please note that for each day a paper is late, it will lose 10% of the total points available. **Failure to submit and present the required paper will result in a course grade of “Incomplete” or “F,”** at the instructor’s discretion. The remainder of the course grade will be based on the results of four course examinations, each comprising 20% of the total course grade. Failure to take an exam at the scheduled time will result in an exam grade of “F” unless arrangements are made in advance to take the exam at an alternate time. An exam will be rescheduled only for serious, unavoidable occurrences. **Missed exams may not be made up.** An optional, comprehensive final exam will be given at the end of the course. If you choose to take the final exam, your score on the final may be substituted for the lowest score on any previous exam. The final exam may not be substituted for the research paper and presentation. **No extra credit work will be given in substitution for work assigned.**

EXAMINATION PROCEDURES

Failure to take an exam at the scheduled time will result in an exam grade of “F” unless arrangements are made **in advance** to take the exam at an alternate time. An exam will be rescheduled only for serious, unavoidable occurrences. Students are expected to begin the exam at the scheduled start time, and will not be permitted to continue working past the time scheduled for completion of the exam. No student may begin work on an exam after another student has commenced work on the exam and subsequently left the classroom. No books, notes or consultation with others will be allowed during exams and you will not be allowed to leave the room and return to continue work on an exam. Please plan accordingly. Students who have medical or other conditions that make completion of exams within the scheduled time period difficult are encouraged to consult with the University’s Disability Support Services.

ACADEMIC HONESTY

Academic integrity is a basic principle requiring that students take credit only for ideas and efforts that are their own. Academic dishonesty (cheating) is defined as the use of unauthorized assistance to prepare materials submitted as original work. Instances of academic dishonesty will not be tolerated. Any dishonest behavior associated with your participation in this class may result in a failing grade for the course. Specific instances of academic dishonesty include, but are not limited to, the use of another’s words or ideas, in whole or in part, without adequate citation; submitting your work to anyone else for review, editing or correction without instructor authorization; and the use of electronic recording devices in class without the written permission of the instructor. No books, notes or consultation with others will be allowed during exams and you will not be allowed to leave the room and return to continue work on an exam. You are invited to review the current catalog for further information on academic dishonesty and disciplinary procedures.

ATTENDANCE POLICY

Regular, punctual class attendance and participation are required. You will be held responsible on the exams for all material covered in class whether or not the material is included in your class text.

¹ A "satisfactory" grade is a "C." To earn an "A" or "B" a student's performance must go beyond meeting the basic course requirements. As indicated in the current UAA Catalog, an "A" is an honor grade indicating a comprehensive mastery of the required work. This is "excellent" or "superior" work which demonstrates creative and analytical thinking. A "B" indicates a high level of performance in meeting course requirements. This is "above average" or "very good" work which demonstrates a significant understanding of the lecture and reading materials. A "C" indicates satisfactory completion of required work and a basic understanding of lecture and reading materials. Letter grades will correspond to the following percentages:

90-100 = A
80-89 = B
70-79 = C
60-69 = D

ELECTRONIC DEVICES

The use of electronic devices to record or transmit class lectures, discussions, or other activities is prohibited. This course is taught using an interactive approach that requires frequent student participation. Not only is it generally unethical to record others without their consent, but many students are uncomfortable when asked to speak in class, and the use of tape recorders or other recording devices can significantly lower the quality of student participation. If a disability or other unusual circumstance makes electronic recordation desirable, please see the instructor in advance so that appropriate accommodation may be made. In addition, **please turn off your telephone** and any other potentially distracting electronic devices when you come to class. This includes text messaging capability. If a family emergency requires that you leave your phone on during class please let the instructor know in advance so that an accommodation may be made that is fair to other students.

LAPTOP POLICY

The use of laptops for the purpose of note taking or special course projects is permitted. **All other uses are prohibited.** Any student violating this policy will be asked to discontinue use of the device for the remainder of the class period. A second offense will result in the removal of the student's laptop privileges for the remainder of the semester. A student's election to use a laptop in the classroom will signify that the **student consents** to the instructor's periodic review of the laptop screen and contents for compliance with course policies. The instructor reserves the right to prohibit all laptop use for the benefit of the entire class. Students with a disability necessitating laptop use should see the instructor.

GUIDELINES FOR COURSE READINGS

In reading for this course, look for ways in which the materials contribute to your understanding of the following themes:

- The role that religion plays in constructing and forming legal systems
- The connection of economics with the power structure and the rule of law
- The difference between collective (societal) responsibility and individual responsibility
- The ability of law to contribute to social control and the control of conflicts, both personal and societal in scope
- The comparison and contrast between the law of nature and the law of the people (state, society)
- The relationship between the increasing complexity of society and the increased complexity of legal and governmental systems
- The trend toward centralized rather than localized power in government, economics and legal systems

COURSE OUTLINE²

I. Introduction

- 8/24 Course Introduction / Overview / Study Groups Introduced
Assignment: Handout on semester research paper.
- 8/26 Overview of structure of American legal system and periods of American law / Comparative legal traditions / Introduction to English legal heritage
Reading: American Legal History Cases and Materials (C&M) 1-6.
Reserve Reading:
A. Jeffery, "Development of Crime in English Society."
Podcast: Social and Institutional Sources of Early American Law
Podcast: Indigenous Justice Systems and Tribal Society

II. The Beginnings of American Law - Colonial law through the drafting of the Constitution

- 8/31 Colonial law
Reading: C&M, 6-12, 37-67.
Reserve Reading:
B. Ebenstein, William, "The Dilemma of Democracy: Liberty and Equality," Great Political Thinkers, 522-529;
C. Locke, 384-391 (Ebenstein);
D. Hobbes, 357-366 (Ebenstein);
E. Locke, Selections from Two Treatises;
F. Hobbes, Selections from Leviathan;
G. De Tocqueville, Democracy in America, 40-49;
H. Scheiber, "Popular Uprisings and Civil Authority," 69-84 (Maier);
I. Powers, Edwin, Crime and Punishment in Early Massachusetts 1620-62, A Documentary History, 163-211, 252-320.
- 9/2 Working with archival records and secondary sources (subject to rescheduling)
- 9/7 **No Class - Labor Day Holiday**
- 9/9 Continue study of colonial law
- 9/14 Constitutions and law in the new republic
Reading: C&M, 12-37, 80-144.
Reserve Reading:
J. De Tocqueville, 112-170;
K. Scheiber (Levy), 99-106.
- 9/16 Continue study of constitutions and law in the new republic
- 9/21 **Exam 1** / Research Tutorial - Secondary Resources

² Please note that each group of students is different. To the extent necessary, the course schedule may be adjusted to allow extra time on a particular subject. Any changes will be announced in class. Each student is responsible for attending class and remaining aware of course scheduling. The instructor reserves the right to modify or add assignments for the purpose of fostering subject mastery and to make such other changes to the syllabus as are deemed appropriate for instructional purposes.

III. The Golden Age of American Law - 1800 to the Civil War

- 9/23 Law and the mixed economy in ante-bellum America
Reading: C&M, 145-214.
Reserve Reading:
L. De Tocqueville, 72-80.
- 9/28 Continue study of law and the mixed economy in ante-bellum America
- 9/30 Race and nineteenth century law of personal status
Reading: C&M, 215-331.
Reserve Reading:
M. Scheiber, 219-234 (Bestor);
N. Commager, Schwartz & Warren articles; Wills, "The Words that Changed America."
- 10/5 Continue study of race and law of personal status
- 10/7 The nineteenth century criminal justice system
Reading: C&M, 332-349.
Reserve Reading:
O. Platt, Anthony. "The Rise of the Child-Saving Movement: A Study in Social Policy and Correctional Reform" The Future of Corrections, Annual of the American Academy of Political Science (January, 1969), 21-38;
P. "Violence and Vigilantism," 173-190 (Brown).
Podcast: 19th century criminal law
- 10/12 **Exam 2** / Research Tutorial - Evaluating Primary & Secondary Research Resources

IV. The Formal Period of American Law - The Civil War to World War I

- 10/19 Law, industrialization and the regulatory state
Reading: C&M, 363-382.
- 10/21 Judicial response to industrialization
Reading: C&M, 385-410.
Reserve Reading:
Q. De Tocqueville, 266-280.

V. Modernization of the Legal Culture - World War I and Post-war America

- 10/26 Modern legal culture, the Depression and the World Wars, Aleut Internment
Reading: C&M, 411-492.
Term paper outline / prospectus due in class!
- 10/28 Continue study of modern legal culture, the Depression and the World Wars
- 11/2 **Exam 3** / Outline Review
- 11/4 Rights, liberty and science in modern America
Film: "Road to Brown"
Reading: C&M, 493-570.
- 11/9 Continue study of rights, liberty and science in modern America

- 11/11 Law and the economy in modern America
Reading: C&M, 581-627.
- 11/16 Continue study of law and the economy in modern America; Law, Politics and Terror,
C&M, 628-634, 644-674.
- 11/18 **Exam 4** / Documenting Sources
- 11/23 **Term papers due in class!!** Student presentations / United Nations and the World Court;
Development of law in Alaska
Reserve reading:
R. Janis, Introduction to International Law;
S. Bennett, Search for Justice under Law;
T. Rogers, Principles of Force;
U. Oberg, Kalero - "Crime and Punishment in Tlingit Society";
V. Conn & Moras, No Need of Gold: Alcohol Control Laws and the Alaska
Native Population;
W. Brown, Sources of Alaska and Oregon Code;
X. Wickersham, Old Yukon (excerpts only);
Y. Spicer, Alaska Judicial Administration;
Z. Ernest Gruening readings:
a. The Judicial Branch Establishes a Fact,
b. The Failure of Law Enforcement,
c. The Quest for Statehood;
Z1. Vic Fischer, Alaska's Constitutional Convention
a. Alaska Constitution, 67-68,
b. Popular Rights, Structure of Government, 67-127,
c. Governmental Functions and Responsibilities, 129-155;
Z2. Morehouse, McBeath & Leask, Forms of Rural Government;
Z3. Harrison, Citizen's Guide to the Constitution of Alaska.
- 11/25 **No Class** – UAA Holiday Break
- 11/30 Continue student presentations / Continue Development of law in Alaska
- 12/2 Continue student presentations / Continue Development of law in Alaska
- 12/7 **Final Exam** (Subject to rescheduling.)

UAA Safety

Your safety on campus is important. While relatively safe, the campus is NOT a sanctuary from crime and accidents still occur no matter how hard we try to prevent them. You are encouraged to be responsible for your own safety and to bring safety concerns to the attention of UAA faculty or staff, or to contact Campus Police at 786-1120 when you observe an unsafe environment. For your own safety, please also take the time to locate the nearest exit and emergency telephone when you are in campus buildings.