

Law 200 Law and Society

Syllabus: Fall 2019

This syllabus includes basic readings for the course – particularly the cases we will be discussing. Additional readings shedding light on the interaction between such decisions and the lives we live – society, however you define it – will be added. We will also be using video material. Laptops are permitted, but you have no reasonable expectation of privacy on what you're looking at during class (see Katz v. United States).

Professor Susan R. Estrich

USC Gould School of Law, Room 462

213.740.7578, sestrich@law.usc.edu

Office Hours: Mondays after class, by appointment

Class Meetings

Lecture	Section #02603: Mon & Wed	12:00-1:20pm, THH 301
Discussion 1	Section #02608: Mondays	2:00-2:50pm, WPH 107
Discussion 2	Section #02620: Mondays	2:00-2:50pm, THH 108
Discussion 3	Section #02612: Wednesdays	2:00-2:50pm, WPH 205
Discussion 4	Section #02662: Wednesdays	2:00-2:50pm, SOSB 52
Discussion 5	Section #02606: Mondays	3:00-3:50pm, WPH 107
Discussion 6	Section #02611: Wednesdays	3:00-3:50pm, WPH 207

Assistant

Kathy Susca, katherine.susca@gmail.com

Teaching Assistants

John Oltean, john.oltean.2020@lawmail.usc.edu

Haley Tuchman, haley.tuchman.2020@lawmail.usc.edu

Danielle Luchetta, danielle.luchetta.2021@lawmail.usc.edu

Jacqueline Concilla, jacqueline.concilla.2020@lawmail.usc.edu

INTRODUCTION TO THE CLASS

This is not a course in political correctness. Hooray! I don't expect to change your opinions on matters of faith. Your vote is yours. Your opinion is yours.

But I do expect you to think and to listen and to challenge yourself; I do expect you to push yourself, to stop calling names instead of thinking, to save Instagram for later. I do expect you to take our common project seriously. I want you to come out smarter on the other end. Without the rule of law, I don't know who we are.

Sound boring? No. The only way to do any of this, it seems to me, is to think about problems you can understand, problems you face, the law as it defines your life and mine. Race and sex and gender. The first amendment and the license to lie. Does innocence matter?

This is not a history class. It's not a theory class. General Education, for sure. It's a class on how to think, how to observe, and how to push your brain as far as you can without ever calling anyone a name.

I expect you to show up. I expect you to try. I expect no less of the TA's and of me. We will do our best. In good faith.

REQUIRED TEXT:

Course Reader – all readings are available on Blackboard

REQUIRED COURSEWORK:

- a. Complete all readings and participate in class discussion.
- b. Attend both lecture and discussion. Your attendance is recorded and counts for 10% of your grade.
- c. Complete both the midterm exam (worth 30% of your grade) and the final exam (worth 30% of your grade). This is required for a passing grade.
- d. Complete a 12-page analytical research paper (worth 30% of your grade) relating to a topic discussed in class, approaching it from a global perspective. Both primary and secondary sources are required. You must submit a 1-page proposal by October 21st, as well as a final draft by November 25th.

SCHEDULE:**Week 1 August 26****Introduction: The Rule of Law**

- a. The United States Constitution. 1787.
- b. Holmes, Oliver Wendell. "The Path of the Law." *Harvard Law Review* 10.8 (1897): 457-478. Print.
- c. Fuller, Lon L. "The Case of the Speluncean Explorers." *Harvard Law Review* 62.4 (1949): 616-645. Print.

Week 2 August 28 & September 4**The Criminal Justice System**

- a. *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972)
- b. *McCleskey v. Kemp*, 481 U.S. 279 (1987)
- c. Anderson, David. "The Crime Funnel." *The New York Times* (1994).
- d. Hart, Henry M. "The Aims of the Criminal Law." 23 *Law and Contemporary Problems* 401 (1958).
- e. Posner, Richard A. "An Economic Theory of the Criminal Law." 85 *Columbia Law Review* 1193 (1985).
- f. *Reversal of Fortune* (film), Warner Bros. Pictures (1990).

No Class September 2**Labor Day****Week 3 September 9 & September 11****The Right to Counsel**

- a. *Burdine v. Johnson*, 66 F. Supp. 2d 854 (S.D. Tex 1999)
- b. Lewis, Anthony. "The Gideon Case - I." *The New Yorker*. (April 25, 1964)
- c. Lewis, Anthony. "The Gideon Case -II." *The New Yorker*. (May 2, 1964)
- d. Lewis, Anthony. "The Gideon Case - III." *The New Yorker*. (May 9, 1964)

Week 4 September 16 & September 18**The Limits of Privacy**

- a. *Katz v. United States*, 389 U.S. 347 (1967)
- b. *Olmstead v. United States*, 277 U.S. 438 (1928) (Brandeis, J., dissenting opinion)
- c. *Whalen v. Roe*, 429 U.S. 589 (1977) (Stevens, J.)
- d. Kerr, Orin S. "A Rule of Lenity for National Security Surveillance Law." *Virginia Law Review* 100 (2014): 1513-1543. Print.

Week 5 September 23 & September 25

Family Law

- a. Tresnak v. Tresnak, 297 N.W.2d 109 (1980)
- b. Lehr v. Robertson, 463 U.S. 248 (1983)
- c. In re Marriage of Lamusga, 88 P.3d 81 (Cal. 2004)

Week 6 September 30 & October 2

Parents and Children

- a. Meyer v. Nebraska, 262 U.S. 390 (1923)
- b. Pierce v. Society of Sisters, 268 U.S. 510 (1925)
- c. Prince v. Massachusetts, 321 U.S. 158 (1944)
- d. Wisconsin v. Yoder, 406 U.S. 205 (1972)
- e. Dworkin, Ronald. *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom*. New York: 1994, Vintage. Print.
Excerpt: "Dying and Living" (Ch 7, 179-217)

Week 7 October 7 & October 9

Students' Rights in Schools

- a. Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969)
- b. Bethel Sch. Dist. v. Fraser, 478 U.S. 675 (1986)
- c. Morse v. Frederick, 551 U.S. 393 (2007)
- d. Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988)

Week 8 October 14 & October 16

*****IN CLASS MIDTERM EXAM*****

Week 9 October 21 & October 23

*****ONE-PAGE RESEARCH PAPER PROPOSAL DUE OCT. 16*****

Money in Politics

- a. Buckley v. Valeo, 424 U.S. 1 (1976)
- b. McConnell v. WRTL and Citizens United (excerpt from casebook)
- c. Citizens United v. Federal Election Commission, 558 U.S. 310 (2010)
- d. After Citizens United (excerpt from casebook)
- e. Wright, J. Skelly. "Politics and the Constitution: Is Money Speech?" *Yale Law Journal* 85.8 (1976): 1001-1021. Print.

Week 10 October 28 & October 30

Freedom of the Press

- a. New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
- b. New York Times Co. v. United States (Pentagon Papers), 403 U.S. 713 (1971)
- c. West, Sonia R. "Awakening the Press Clause." *UCLA Law Review* 58 (2011): 1025-1070. Print.

Week 11 November 4 & November 6

Freedom of Religion

- a. Sherbert v. Verner, 374 U.S. 398 (1963)
- b. Employment Division, Department of Human Resources v. Smith, 494 U.S. 872 (1990)
- c. Lynch v. Donnelly, 465 U.S. 668 (1984)
- d. Hart, H. L. A. "Positivism and the Separation of Law and Morals." *Harvard Law Review* 71.4 (1958): 593-629. Print.

Week 12 November 11 & November 13

Racial Equality

- a. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)
- b. Washington v. Davis, 426 U.S. 229 (1976)
- c. Regents of University of California v. Bakke, 438 U.S. 265 (1978)
- d. Adarand Constructors Inc. v. Peña, 515 U.S. 200 (1995)
- e. King, Martin Luther, Jr. "Letter from Birmingham City Jail" or "The Negro is Your Brother." *The Atlantic Monthly* 212.2 (1963): 78-88. Print.

Week 13 November 18 & November 20

Gender Equality

- a. Craig v. Boren, 429 U.S. 190 (1976)
- b. United States v. Virginia, 518 U.S. 515 (1996)
- c. Sex Equality & Sex Differences
- d. Sex preferences: Affirmative Action for Women

Week 14 November 25 (Monday)

*****RESEARCH PAPER DUE*****

The Limits of International Law

- a. "International Bill of Human Rights." *UN Documents*. The United Nations General Assembly, 1948. Print.
- b. Hart, H. L. A. *The Concept of Law*. Oxford: University Press, 1972. Print. Excerpt: "International Law" (Ch 10, 213-237)

No Class November 27 (Thursday)

Thanksgiving Holiday

Week 15 December 2 & December 4

Sexual Assault

- a. Readings pending

Freedom of Speech

- a. Readings pending

FINAL EXAM December 13

11:00am – 1:00pm
THH 301

GRADING POLICY:

a. General Grading System

Final Grades will be calculated as follows:

Participation	10%
Paper	30%
Midterm	30%
<u>Final</u>	<u>30%</u>
	100%

A	94-100%
A-	90-93.9%
B+	87-89.9%
B	84-86.9%
B-	80-83.9%
C+	77-79.9%
C	74-76.9%
C-	70-73.9%
D	60-69.9%
F	59.9% and below

b. Material Covered on Exams

- a. The *midterm exam* will cover material read and discussed during the first half of the semester.
- b. The *final exam* is not comprehensive. It will cover only material read and discussed during the second half of the semester.

c. Make-Up Exam Policy

- a. Unless you have an exam conflict (another exam at the *exact* same time), you will be expected to take the exam on the scheduled day, at the scheduled hour.
- b. For those with an exam conflict, verified medical excuse, or emergency, there will be only one make-up exam scheduled during the days following the scheduled exam time. Since the midterm exams will be graded before the following lecture, there will be no make-up exam scheduled after that lecture.
- c. If you know that you will be unable to take the exam on the scheduled day, you must inform your TA at least 72 hours before the scheduled test time. If you fail to do so, you must take the make-up exam at whatever time it is scheduled.
- d. To receive a passing grade in this course, you must take both the midterm and the final.
- e. Please note prior experience with the University Registration Office indicates that students who take the make-up final exam do not receive final semester grades until well after the semester's end. During the interim, students' transcripts reflect an Incomplete.

STATEMENT ON ACADEMIC CONDUCT AND SUPPORT SYSTEMS

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

Support Systems:

Student Health Counseling Services - (213) 740-7711 – 24/7 on call

engemannshc.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call

suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-4900 – 24/7 on call

engemannshc.usc.edu/rsvp

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED) | Title IX - (213) 740-5086

equity.usc.edu, titleix.usc.edu

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

Bias Assessment Response and Support - (213) 740-2421

studentaffairs.usc.edu/bias-assessment-response-support

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

The Office of Disability Services and Programs - (213) 740-0776

dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy - (213) 821-4710

studentaffairs.usc.edu/ssa

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC - (213) 740-2101

diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call

dps.usc.edu

Non-emergency assistance or information.