

FALL 2011 HONORS THESIS SEMINAR
LEGAL STUDIES PROGRAM
Legal Studies H195A
Wednesdays 10-12pm
136 Boalt

Instructor: Professor Michael Musheno
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OH: Tuesdays, 10am-Noon;
Wednesdays, 1-2pm

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OH: Thursdays 10:30-11:30 in
JSP Library and by Appointment

Course Description

We welcome you to a writing- and research-intensive 4-unit graded seminar designed to guide you in the development and completion of an honors thesis research proposal. We will meet in class for two hours on Wednesdays and introduce you to the conduct of socio-legal inquiry and a wide variety of relevant social science, humanities, and legal research methodologies. While there will be lectures and presentations, we will work substantially in a seminar environment where exchange among us will be a key feature of the learning process.

This course is the first part of the Legal Studies Honors Program with Legal Studies H195B following it. In the Spring Semester, Honors students in H195B will work independently under the supervision of a Legal Studies or Berkeley Law School faculty member, write an honors thesis, and ultimately, when the thesis is judged to be of honors-quality, receive departmental honors at graduation. The grading criteria for the course is listed below. Students must pass H195A in order to be eligible to enroll in H195B and to be eligible for departmental honors.

You should expect to undertake substantial work outside of class in the forms of targeted readings related to your topic, identifying a research question, organizing your research strategy, and completing assignments that will lead to your honors thesis proposal. Students should expect, on average, to work approximately twelve hours per week on this class and continue at that level through the spring to the completion of your honors thesis. All students in this class will receive extensive written and verbal feedback on their assignments.

Grading

The grading for the course is outlined in the table immediately below. Descriptions of and requirements for each assignment are at the end of the syllabus.

	Assignment Name	Percentage of Final Grade
1	Preliminary Research Topic & Annotated Bibliography	10 %
2	Thesis Topic & Research Questions	10 %
3	Literature Review	10 %
4	Statement of Anticipated Methods	10%
5	Preliminary Research Proposals & Abstracts	10%
6	Final Research Proposals & Abstracts	50 %

Assignments

All assignments are due on the date indicated on the syllabus in Microsoft Word only. Reviewed assignments will be returned by the following class. Unless otherwise indicated, assignments must be submitted via e-mail to each of us by the beginning of the class period for which they are due. *Grades on late assignments will be lowered one step, e.g. A to A-, B to C+, etc., for each 24 hours they are late.*

Required Readings

All readings and supporting documents will be available on the course website on bSpace or by following the links listed on this syllabus. The required readings are not substantial. At the same time, you are required to complete the required readings before the class period for which they are listed.

Schedule of Classes

Class 1: Course Introduction & What Do We Mean by Research in Legal Studies?

Wednesday, August 31

In- Class Presentations:

1. Introductions – Professor Musheno, Jamie Rowen, and Legal Studies Honors Seminar Participants
2. Fundamental Ingredients of Legal Studies Research (Musheno)

Reading:

1. Sally Maitlis, “What Do You Care About? Studying What I Love,” in Arene Carles and Jane E. Dutton, eds., *Research Alive: Exploring Generative Moments in Doing Qualitative Research*, Copenhagen Business School Press (2011), 75-77.

Supplemental:

1. Calavita, Kitty. *Invitation to Law and Society: An Introduction to the Study of Real Law*. Chicago: University of Chicago Press, 2010, Chs. 1,8.

Assignments Due: Pre-Survey [Due Date Aug. 31]

Class 2: Legal Research and Legal Scholarship

Wednesday, September 7

In-Class Presentation: Jamie Rowen

Readings: One Case & One Law Review Article: Genocide and War Crimes

1. Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Judgment, P 598 (Sept. 2, 1998), sections 2, 3, 7.8.
2. Ryan Park, “Proving Genocidal Intent: International Precedent and ECCC Case 002, 63 Rutgers L. Rev. 129 (2010).

Class 3: Socio-Legal Research and Scholarship

Wednesday, September 14

In-Class Presentation: Michael Musheno

Readings: Legal Studies Reading:

1. Morrill, Cal et al, The Paradox of Rights and Race Among Youth, *Law & Society Review*, Volume 44, Issue No. 4, 2010

In-Class Assignment: **Bring written copy of preliminary research question (1-3 sentences), and be prepared to discuss potential research in class.**

Class 4: Law Library Introduction & Research Topics

Wednesday, September 21

In-Class Presentations:

1. Law Library Presentation: I-Wei Wang (iwang@law.berkeley.edu)
2. Introduction to Literature Reviews & Annotated Bibliographies

Readings:

1. Patricia Ewick and Susan Silby, *Common Place of Law: Stories from Everyday Life*, University of Chicago Press, 1998, Ch. 2
2. Kristin Luker, *Salsa Dancing into the Social Sciences*, Harvard University Press, 2008, Ch. 5

Supplemental:

1. Berg, Bruce, *Qualitative Research Methods for the Social Sciences*, Allyn & Bacon, 2006, Chapters. 1,2
2. Lipson, Charles, *How to Write a BA Thesis*. University of Chicago Press, 2005, pp. 23,24, 66-77.

Class 5: Research Question

Wednesday, September 28

In-Class Presentation: Trevor Gardiner and Keramet Reiter

1. JSP Student Presentations I on Developing Research Topics and Questions
2. Discussion of Research Questions/Research Thesis Statements

Readings:

1. Laura Nader, *Harmony Ideology: Justice and Control in a Zapotec Mountain Village*, Stanford, CA, Stanford University Press, 1990, pp. 1-3
2. Kristin Luker, *Salsa Dancing Into the Social Sciences*, Cambridge, Harvard University Press, 2008, Ch. 3.

Supplemental:

3. On-line exercise:
http://www.esc.edu/esonline/across_esc/writerscomplex.nsf/0/f87fd7182f0ff21c852569c2005a47b7

Assignment Due: **#1 Preliminary Statement of a Research Topic and Annotated bibliography of 10 sources (in correct citation form) relevant to the Topic.**

Class 6: Using the Library: Literature Review & Annotated Bibliography

Wednesday, October 5

In-Class Presentation: Librarians Jesse Silva (jsilvaucb@gmail.com) and Theresa Salazar (tsalazar@library.berkeley.edu)

Readings: Sample Literature Reviews (from JSP doctoral students)

Class 7: Quantitative Research Methods

Wednesday, October 12

In-Class Presentation: Su Li

Readings:

1. Royce Singleton and Bruce Straits, *Approaches to Social Research*, Oxford University Press (5th ed. 2009), Ch. 15

Assignment Due: #2 **Thesis Topic and Research Questions.**

Class 8: Qualitative Field Research, Survey and Interview Methods

Wednesday, October 19

In-Class Presentation: Michael Musheno, Jamie Rowen, and Brent Nakamura

Readings:

1. Musheno, Michael C. and Susan Ross. "Deployed Description Honors Seminar"
2. Musheno, Michael C. and Susan Ross, *Deployed: How Reservists Bear the Burden of Iraq*. Ann Arbor: University of Michigan Press, 2009 (Paperback Edition), pp. 1-14, 149-159, 183-191, Appendices A & B
3. Musheno, Michael C. and Susan Ross. "Deployed Interview Protocol"
4. Copy of Rowen Survey Findings

9: Historical & Archival Research

Wednesday, October 26

In-Class Presentation: Charles C. McClain and Ashley Rubin

Reading:

1. Charles McClain, *Of Medicine, Race and American Law: Bubonic Plague Outbreak of 1900*, *Law and Social Inquiry* vol. 13 (1988), pp. 447-513.

Assignment Due: #3 **Literature Review**

Class 10: Theoretical and Normative Approaches

Wednesday, November 2

In-Class Presentation: Megan Wachspres and Stephen Golub

Readings:

1. David Thacher, "The *Normative Case Study*", *The American Journal of Sociology*, vol. 111, no. 6 (2006), pp. 1631-1676

2. Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*, Oxford, Oxford University Press, 2007, Ch. 1

Supplemental:

1. Kristin Luker, *Salsa Dancing Into the Social Sciences*, Harvard University Press, 2008, Ch. 7.

Class 11: Comparative and Cross-Cultural Research

Wednesday, November 9

In-Class Presentation: Jamie Rowen and Larisa Mann

Readings: [Example Readings from Fall 2010 Presenters]

1. Aaron Kupchik, *Homeroom Security: School Discipline in an Age of Fear*, New York University Press, Ch. 2, appendix
2. Rowen, Jamie R. "Research Outline"
3. Reading from Larisa Mann.

Assignment Due: #4 **Statement of Anticipated Research Method(s)**

Class 12: Dealing with Research Challenges

Wednesday, November 16

In-Class Presentations: Alexa Koenig and Doug Spencer

Readings:

1. Koenig, K. Alexa. Doctoral Dissertation Overview. "'The Worst': Institutional Cruelty, Resistance and the Law."
2. Koenig, K. Alexa. Doctoral Dissertation Excerpt. "'The Worst': Institutional Cruelty, Resistance and the Law."
3. Reading from *Doug Spencer*

Class 13: Student Research Proposal Presentations I

[Nov. 29 5-7pm; JSP Seminar Room]

In-Class Presentation: Honors Seminar Students

Readings: Legal Studies Honors Student Abstracts and Research Documents

Assignment Due: # 5 **Preliminary Research Proposals & Abstracts**

Class 14: Student Research Proposal Presentations II

[Nov. 30 5-7pm; JSP Seminar Room]

In-Class Presentation: Honors Seminar Students

Readings: Legal Studies Honors Student Abstracts and Research Documents

Assignment Due: #6 **Final Research Proposals [Deadline Dec. 16]**

Assignment #1

Preliminary Research Topic and Annotated Bibliography

Due: Sept. 28 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_AssignmentOne_[DateOfSubmission]

Document Format: MS Word, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective:

1. To develop a narrative statement of preliminary research topic;
2. To provide preliminary documentation of the topic in scholarly literature.

Assignment Description: Provide a narrative statement about the scope, direction and boundaries of your research topic and an annotated bibliography of 10 academic sources that document the scholarly foundations of the topic.

Assignment Product: 3 word-processed pages (1.5 spacing with standard margins) on your research topic and an annotated bibliography of 10 academic sources (no more than 5 books) in correct citation form with short paragraphs for each citation that summarize and address its significance to your topic.

You must cite to each source using *either* American Psychological Association (APA) or Modern Language Association (MLA). Please choose one format and use that format throughout the annotated bibliography.

Assignment #2

Preliminary Research Question

Due: Oct. 12 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_AssignmentTwo_[DateOfSubmission]

Document Format: MS Word or Equivalent, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective:

1. To develop a research question and/or begin narrowing down a list of research questions and a narrative on how you have gotten to this point;
2. To write about and describe any difficulties you are encountering in the process of converting your research topic to a research question

Assignment Description: Write up a “Preliminary Socio-Legal Research Question” (or “Questions”) and a narrative on the path that has led you to this point, including roadblocks and obstacles along the way in terms of your library research and interactions with others about your project, including us. There is no page limit to this assignment. Proper academic citation, as specified above, is required. As always, and this is especially important at this stage in the research process, the more thought and effort you put into this preliminary research question (and in particular to the topic/issues section below) up front the more you’ll get back from us in valuable feedback.

Assignment Product: At least four word-processed pages (1.5 spacing with standard margins) identifying your research question(s) and how you got to this point, and explaining the continuing challenges you have been/are encountering with your research question and topic. There are two sections to this assignment (I) Research Question(s) and Pathway, however rocky, that has led you to this point; and (II) Research Challenges you are still facing. Submit electronically as an e-mail attachment to Professor Musheno and Jamie Rowen. *You must include a works cited page in APA or MLA format as detailed above. Please **do not** include an annotated bibliography.*

I. Research Question(s): Write out your research question(s) and provide a narrative of the pathway that has led you to it. If you are contemplating several research questions pertaining to one or more topics, include them all. Remember to contemplate a research question that you can answer in the time you have to research and write your thesis (it should be manageable) and one that you feel will build knowledge, theoretically and/or policy wise (it should be important).

II. Research Challenges: What challenge(s) you are still encountering with respect to shaping your project, defining a research question, and/or researching the topic? What factors are you considering in choosing a research question?

Research Question Examples:

1. “Is there some mentalité or idea structure that could explain why the juvenile justice system was created, seemingly with tensions between retribution and rehabilitation, and why these tensions were overlooked? Could changes in mentalité help explain why after seven decades, the legal conception of juvenile justice was dramatically revised?”
2. “How did heightened security measures in Arizona after 9/11 affect the undocumented migrant population in the state?”
3. “How did the concept of the supermax prison emerge in the United States, and how did this emergence shape penological discourse and punishment practice?”
4. “What factors predict the proportion of non-economic damages a plaintiff will receive? And, given the prevalence (and high likelihood of more reform of this sort) of non-economic damage caps, how are plaintiffs/claimants affected by the imposition of these caps?”
5. “How do parents, teachers, students and administrators perceive of their legal rights in inner-city schools?”
6. “What are the motivating factors behind the practice of cyber-bullying and what can the law do about it?”
7. “Why do some urban municipalities adopt modern banishment practices and others do not?”

Assignment #3 Literature Review

Due: Oct. 26 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_AssignmentThree_[DateOfSubmission]

Document Format: MS Word or Equivalent, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective: To draft the first portion (or more) of your literature review.

Assignment Description: Provide a draft of the first portion (or more) of your literature review. Your literature review should be five pages or more. Please feel free to write more if you wish. Please note that the actual structure of the review, *e.g.* any headings and subheadings, depends on the theories and works with which you are engaging and will differ from student to student.

Examples of various literature reviews are available on the class bSpace site (Resources → LiteratureReviewExamples) and as are previous Highest Honors theses, which also include literature reviews (Resources → Example_Highest_Honors_Theses).

Your literature review should be arranged in such a way to logically (and sectioned off, if appropriate, but these questions should not be listed as section headers) address the following questions:

1. What theory/theories will you be using, challenging, and/or augmenting in your thesis?
2. *How* does the theory you describe account for (or fails account for) the case(s) or ideas you're examining? What are the gaps in the theories/literatures you're addressing?
3. What are the key/seminal works relevant to your thesis (both in terms of examining the particular case(s) you are studying and the theories you're working with)?
4. *How* does your research, based on the works you've cited and examined above, address the theoretical or empirical shortcomings you've just identified?

Assignment Product: **At least five word-processed pages** following the formatting instructions in the document header. *You must include a works cited page in APA or MLA format as detailed above. Please **do not** include an annotated bibliography.*

Assignment #4 Statement of Anticipated Methods

Due: Nov. 9 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_AssignmentFour_[DateOfSubmission]

Document Format: MS Word or Equivalent, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective: To provide a preliminary statement of your anticipated research method(s) and, in doing so, to draft your methodology section.

Assignment Description: Drawing from the seminar sessions/readings on inquiry and methods (classes 7-11), other methods/inquiry classes you have taken, and interactions with Professor Musheno/Jamie/GSIs/other faculty advisors, explain what method(s) you anticipate using. If your project is philosophical and/or theoretically-oriented, explain the theoretical bent of your inquiry (e.g., social and moral theories of justice) and what texts (e.g., cases, archives, writings of theorists) will anchor your project.

In your discussion, please address why you chose your method over others, what the strengths are of your method, what are the limitations of your method, and, if you are in a position to comment on this issue, please describe and/or attach any survey, interview, or other instruments you will be using. This section and any attachments should be a first step on the way to the methodology section in your thesis.

Assignment Product: **Word-processed pages** following the formatting instructions in the document header. *You must include a works cited page in APA or MLA format as detailed above. Please **do not** include an annotated bibliography.*

Assignment #5 Preliminary Research Proposals & Abstracts

Due: Nov. 29 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_PreliminaryProposal_[DateOfSubmission]

Document Format: MS Word or Equivalent, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective: To provide a first draft of your preliminary research proposal, including an abstract, an introduction that establishes the topic and your research question/s, a literature review, methodology/logic of inquiry section, a preliminary timeline of your research and thesis writing process, and any anticipated/hypothesized findings.

Assignment Description: Your assignment is to write up a Preliminary Research Proposal, which must incorporate the items listed below. There is no page limit to the proposal but you should write no less than six 1.5 spaced pages. At the beginning of your preliminary proposal you must include an abstract of 100-300 words (please do *not* exceed 300 words). A guide to abstract formatting and example abstracts is below.

Elements of Preliminary Research Proposal:

- I. Abstract**
- II. Introduction (to topic and research question/s)**
- III. Literature Review**
- IV. Methodology/Logic of Inquiry**
- V. Preliminary Thesis Research & Writing Timeline**
- VI. Anticipated Findings**
- VII. Works Cited**

Assignment Product: Six or more (preferably more) word-processed 1.5 spaced pages. *You must include a works cited page in APA or MLA format as detailed above. Please **do not** include an annotated bibliography.*

Abstract Formatting

An abstract is a 100-300 word summary of your preliminary research proposal and thesis. It is intended to provide a reader (even one unfamiliar with your subject area) with a brief overview of your research and specifically what you're examining, your (anticipated) findings, and the importance of your research.

Additionally, in preparation for your class presentation, each of you will be assigned discussants who will have read your revised research proposals and will be ready with a question or two on your research. Brent will notify you of your discussants and their e-mail addresses. You must send your revised research proposal to them by the due date indicated above.

Example Abstracts:

Lenin Beltran Imali, "Raising Arizona: How 9/11 Gave Rise to a Police State in Arizona," *Legal Studies Senior Honors Thesis* (2011)

After the passage of the *Support Our Law Enforcement and Safe Neighborhoods Act*, also known as Senate Bill 1070 (SB 1070), allegations claiming that Arizona had turned into a "police state" came in droves. The allegations came from everywhere—from reputable news sources (the *New York Times*) down to political bloggers (*The Atlantic's* Andrew Sullivan)—all demonizing the state for yet another harsh and unforgiving attempt at implementing anti-immigrant policy at the state level. However, these allegations had been made against Arizona before the passage of SB 1070. This project attempted to decipher whether or not there is evidence to give credence to the existence of an Arizona "police state." What was discovered in the process was significant evidence of a physical and political climate that employs extreme policing methods in the name of stemming the flow of undocumented migrants across the Arizona-Mexico border and, more importantly, that all these developments that created said climate arose or were escalated after September 11, 2001. This work presents five findings in relation to this conclusion: the rise in police presence, the rise of policies criminalizing the undocumented, the rise in the detention/prison complex, the rise of influential extremist anti-immigrant groups, and the rise in migrant deaths in post-9/11 Arizona.

Chase Burton, "Spare the Cell, Spoil the Child: Early History and Philosophy of American Juvenile Justice," *Legal Studies Honors Thesis* (2011).

Scholarship has long recognized that the juvenile justice system was founded with a tension between the benevolent welfare concern for youth and its harsh, punitive realities – a system born out of and shaped by contradiction. The system is usually described as dominated by the benevolent *parens patriae* philosophy in its early years, transitioning over time to a more punitive orientation. Against this backdrop, courts generally denied that there was a punitive facet of juvenile justice and treated it as characterized entirely by *parens patriae*, until the Supreme Court suddenly acknowledged the system's punitive underpinnings in *In re Gault*.

I explore the 'how' and 'why' of the early history of juvenile justice from a philosophical and structural standpoint. The self-representations of early juvenile courts and other juvenile justice

practitioners reveal that the system modern scholars describe as having both benevolent and punitive facets was understood instead as harmonious, or at least, not in direct tension. Juvenile justice practitioners in the early years were aware of the similarities between industrial schools and prisons, but that relationship did not pose a serious problem to the philosophy of juvenile justice. Courts repeatedly designated the system as non-punitive, almost universally shutting down legal resistance movements against juvenile justice. How did juvenile justice emerge carrying these tensions, and why was that state of affairs accepted as consistently benevolent? Furthermore, why did courts go so far as to deny that there were punitive aspects to juvenile justice, and why was this position revised seventy years later? I draw upon court cases, institutional records, and sociolegal texts on delinquency to construct a story of American juvenile justice and its changes from 1899 to 1967. I argue there are three mentalités at work in early juvenile justice: Puritanical philosophy, Enlightenment concepts of criminology and rationality, and an expansion of governmental rationality and authority. These ideas, as well as their interaction and relative shifts over time, help explain the seemingly contradictory juvenile justice system and the rise of a legalistic rights concern after the 1940s, which created a tension resolved by *Gault*.

Assignment #6

Final Research Proposals & Abstracts

Due: Dec. 16 via e-mail to Professor Musheno and Jamie Rowen

File Name: [Last Name]_PreliminaryProposal_[DateOfSubmission]

Document Format: MS Word or Equivalent, 1.5 Spacing, left-aligned, submit as attachment

Citation Format: APA *or* MLA (please be consistent)

Please put your name on the assignment itself in the top left corner of the document

Assignment Objective: To write a final Research Proposal.

Assignment Description: Your assignment is to revise your Preliminary Research Proposal and write a Final Research Proposal, which must incorporate the items listed below. There is no page limit to the proposal but you should write no less than six 1.5 spaced pages. **Please note you must include the name of your advisor(s) on the title page of your Final Research Proposal (as indicated below).**

Elements of Preliminary Research Proposal:

- I. Title Page/Name of Advisor**
- II. Abstract**
- III. Introduction (Topic, Research Question and Sub-Questions)**
- IV. Literature Review**
- V. Methodology/Logic of Inquiry**
- VI. Preliminary Thesis Research & Writing Timeline**
- VII. Anticipated Findings**
- VIII. Works Cited/References (not annotated bibliography)**

Assignment Product: Six or more (preferably more) word-processed 1.5 spaced pages. *You must include a works cited page in APA or MLA format as detailed above. Please do not include an annotated bibliography.*