

SOCIOLOGY 1114:

LAW & SOCIETY

Spring 2012, T-Th 10:30am - 11:50am
Smith-Buonanno Hall G13

Professor:

Mark Suchman

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Office Hours: T 2:00-3:00; W 11:00-12:00

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COURSE DESCRIPTION

COURSE SUMMARY: Why do societies have law? What does law do for us and to us? Is law a mechanism for coordinating human activity toward the common good, or a vehicle for conflict and oppression? Does law reflect cultural norms and values, or is law driven by the hard realities of societal survival in the face of scarcity? Why do people obey the law, and why do people punish lawbreakers? When does law stabilize society, and when does law promote social change?

This course examines these and other questions at the core of contemporary social-science scholarship on law and legal institutions. Lectures and discussions cover a wide range of perspectives and draw examples from a wide range of legal settings. The goal is to survey the different ways in which social scientists think about and study legal life, to seek contrasts and commonalities across the various perspectives, and to draw connections between abstract theories and current events.

Structurally, the course divides into four units. The opening unit examines central philosophical debates in sociological scholarship, in order to lay a groundwork for subsequent material. The second unit explores several distinct social-psychological models of rule-following and rule-breaking. The third unit addresses the linkages between law and various aspects of macro-social structure, such as the economy, the stratification system and political ideology. Finally, the fourth unit focuses on the relationship between law and social change -- including the role of lawyers, judges and juries in giving the law "independent causal significance" in the social world.

This course is suitable for any student interested in understanding law as a social institution. There are no specific prerequisites; however, the course moves quickly, and students with little prior exposure to the language and outlook of the social sciences may find the material to be somewhat challenging.

COURSE REQUIREMENTS: Students are expected to complete all required readings, to attend all class sessions, to participate actively in discussions, and to complete the following assignments (for details, see the specific assignment instructions on subsequent pages):

Undergraduates: All undergraduate students will take two examinations -- a take-home mid-term (**March 15-22**) and a final (**May 10**). Each student will also choose one of the following two writing options: (a) a traditional 10-15 page term paper (due on **May 14**, with preliminary materials due on **March 6** and **April 19**), or (b) *two* shorter research/reflection assignments, selected from four topics linked to specific in-class discussions throughout the semester.

Graduate students: Graduate students may not choose the undergraduate "research/reflection" option. Instead, they may choose either to pursue the undergraduate "term paper" option, or to write a single 20-25 page seminar-style term paper in lieu of both the undergraduate term paper and the final exam. A seminar paper should be a serious piece of independent scholarship. The topic can be either theoretical or empirical or both, but it should be well-integrated with issues and materials from the Sociology 1114 syllabus. Students who wish to pursue the graduate seminar paper option must meet with the instructor by **March 6**, to discuss a topic; completed papers are due on **May 14**.

GRADING: Course grades will be based on a 500-point scale, as follows:

| Assignment | Due Date | Points | |
|---|-------------------------|-----------------|----------|
| | | Undergraduate | Graduate |
| Examinations: | | | |
| Midterm | March 15 - March 22 | 100 | 100 |
| Final | May 10 | 150 | 0 |
| Writing Assignments (either of the following): | | | |
| Research/Reflection papers | 2 of 4 opportunities | 2 @ 75pts = 150 | 0 |
| Term Paper | Mar. 6; Apr. 19; May 14 | 150 | 300 |
| Engagement: | | | |
| Attendance | 2pts/class | 50 | 50 |
| Participation | occasional | 50 | 50 |
| Total: | | 500 | 500 |

Grading curve: Point totals will be converted to final letter grades on the following curve (graduate students and undergraduates will be curved separately):

- A 75th percentile and above
- B 25th - 75th percentile
- C 5th - 25th percentile
- NC Below 5th percentile

Note that your final grade will depend on your standing *relative to your classmates*, not on your absolute score (but see the “safe harbor” provisions below).

Safe harbors: Some students find curved grading to be excessively stressful, because no one can be sure of his/her grade until the end of the semester. To reduce this stress, Soc 1114 will employ a set of “safe harbor” provisions, allowing you to guarantee that you will receive at least a B or at least a C, regardless of your position on the curve. (Grades of A will be awarded solely on the basis of the grading curve.)

Guaranteed B: To be guaranteed at least a B, you must accomplish *all* of the following:

- Point total (without extra-credit) of at least 400
- Lecture point total of at least 75
- Extra-credit point total of at least 25

Guaranteed C: To be guaranteed at least a C, you must accomplish *all* of the following:

- Point total (without extra-credit) of at least 325
- Lecture point total of at least 50
- Extra-credit point total of at least 20

Extra-credit: You can earn extra credit by writing up to *three* 2-3 page “thinkpieces” (see p. 3 below). To avoid penalizing students who choose not to write thinkpieces, extra-credit points will *not* be reflected in the “baseline” grading curve. Rather, alongside the baseline curve, I will calculate a second, “extra-credit” curve that includes any thinkpiece points that you and your classmates have earned. You will then receive the *higher* of your two possible letter grades, as calculated from the baseline and extra-credit curves, respectively.

Research/Reflection Assignments

Over the course of the semester, the syllabus lists four "topical discussions" on various contemporary socio-legal issues:

- Topical Discussion #1:** Immigration Policy (2/14)
- Topical Discussion #2:** The Death Penalty (3/13)
- Topical Discussion #3:** Same-sex Marriage (4/12)
- Topical Discussion #4:** Affirmative Action (5/1)

Students who elect the Research/Reflection option (as opposed to the Term Paper option) are expected to write a Research Memo in conjunction with **any one** of these discussions, and a Reflective Essay in conjunction with **any other** of these discussions. (Note: *You must do at least one research memo, and at least one reflective essay*; although you are free to choose which format you want to use for which topic.)

Due Dates: Assignments should be submitted via MyCourses by **10:30am** on the due-dates indicated above. Note that each writing assignment must be submitted *before* the corresponding discussion.

Grading: Research/reflection assignments will be scored on a 75-point scale. Grading will emphasize sociological insight, creativity, and effort. For group Research Memos (see below), all group members will receive the same grade, except in extraordinary circumstances.

IMPORTANT NOTE: Regardless of which topics you choose for research/reflection, you are expected to prepare for **all** discussions by completing the required readings and by thinking about the issues that these readings raise. Your ability to discuss these topics will compose a significant portion of your class-participation grade.

Research Memos: Research Memos are short talking-point outlines, presenting background information on various sociological issues related to a particular Topical Discussion. Ideally, teams of three or four students will work together on these memos; however, an individual-research option is available as well (see below).

The Group Research Memo has three parts:

- (1) **Two Sociological Questions:** Each memo should identify two "sociologically interesting" questions or hypotheses, related to the discussion topic. Ideally, these should go beyond simple factual issues, to get at larger themes that link the discussion to the lecture material. For example, rather than asking a factual question like "How many lawyers are there in America?" you should ask a more theoretically-grounded question like "Does the number of lawyers in a society exert a positive, negative or nil effect on that society's economic prosperity?"

These questions/hypotheses will be evaluated on their sociological significance and their linkage to the course material. Consequently, along with each question, you should include a brief (1-2 sentence) explanation of why you feel that this issue is important to the sociology of law.

- (2) **Six Pieces of Evidence:** For *each* sociological question/hypothesis, the team should provide 6 pieces of empirical evidence, *beyond the evidence contained in the assigned readings*. Typically, the evidence in Research Memos will consist of numerical statistics and "factoids." However, you may also include narrative evidence, if you wish (e.g., a summary of an interesting research study). In general, however, you should avoid summarizing landmark court opinions; as sociological evidence, a single court opinion is usually no better than an anecdote.

This section of the Memo will be evaluated on the quality of your research efforts. Consequently, you should be careful to draw your information from *at least* two different sources and to give fair representation to the various sides of the underlying debate. Research Memos should strive to be reasonably objective and even-handed. Don't try to "over-sell" a position; be attentive to the existence of counter-arguments, and only paint a one-sided picture if you find that the evidence really is one-sided. If necessary, you should also provide a brief (1-2 sentence) explanation of why each piece of evidence bears on the question/hypothesis that you have posed.

Note: In counting your "six" pieces of evidence, be aware that it often takes more than one "fact" to make a piece of evidence. For example, to address the question of whether the US is experiencing a litigation explosion, you would probably want to present a time-trend across several years -- and these data points would all count, together, as one "piece of evidence."

(3) **One Open Issue:** For each question, you should also identify one issue that your research could *not* resolve. In a paragraph or so, (a) identify the missing evidence, (b) explain why it is important, and (c) briefly suggest what kind of research one would need to conduct in order to obtain it.

This section of the Memo will be evaluated on the creativity and perceptiveness of your methodological thinking. Consequently, you should be sensitive to the practical constraints of data gathering: Try to propose reasonable research projects, and if the study that you propose is likely to be unusually challenging, explain what the challenges are and how one might address them.

In short, the *group* version of the Research Memo requires you to work in teams to: (a) identify 2 sociologically interesting questions bearing on the discussion topic; (b) collect 12 pieces of evidence -- 6 for each question; and (c) explore 2 open issues -- 1 for each question. Research Memos should not be writing-intensive: Although this assignment has no formal page limit, **4-7 pages** should suffice, in most cases.

Individual Research Option: If you choose to do a Research Memo on your own, your memo should follow the preceding guidelines, as to substance and format. However, you may limit yourself to *one* sociological question, *five* pieces of evidence, and *one* open issue.

WARNING: Finding evidence can be challenging, so you should start work well before these deadlines.

Reflective Essays: Reflective essays are opinion or agenda pieces, in which you reflect on the sociological issues raised or illustrated by a particular discussion topic. Your reflections can be either conceptual or policy-oriented, but the tone should be thoughtful and scholarly. These essays *must* be written individually; there is no "group reflective essay" option. Each essay should be **4-7 pages** long and should follow the "General Guidelines for Written Assignments" (see page 7, below).

Among other things, these Reflective Essays should address:

- (a) the main points, facts and issues covered in the discussion readings -- in enough detail to demonstrate that you have read and understood these materials;
- (b) the sociological concepts, principles and themes involved in the topic -- including both the sociological claims of the various camps, and also the sociological processes illustrated by the debate, itself;
- (c) your own thoughts on the topic -- including either sociological observations or political/philosophical reflections, or both.

The primary goal of these reflective essays is to employ theories from the course to analyze the discussion topic. Although you may choose to advocate a *prescriptive* position (either pro or con) on a particular policy proposal, you do not need to do so. For most topics, you could write an equally excellent *descriptive* analysis of the sociological phenomena involved in (or exemplified by) the debate itself, without advocating one side or the other. In any case, essays will be evaluated primarily on the quality of their *sociological* arguments; therefore, you should explicitly incorporate concepts from the course and cite evidence from the readings wherever possible. Your primary objective should be to show how an understanding of the sociology of law might help to make sense of the topic and of the controversies surrounding it; arguing for or against specific policy initiatives should be of only secondary importance. Moreover, even if you do choose to take sides in a policy debate, you should nonetheless be sure to address competing perspectives and competing arguments.

Extra-Credit Thinkpieces

Students who wish to earn extra credit may write up to *three* short “thinkpieces.” Thinkpieces should be **2-3 pages** in length. They should follow the general guidelines for written assignments (p. 7, below), and they should include a title of some kind.

There are no assigned topics for these thinkpieces, except that they all must address the course material. Each thinkpiece should focus on *one* interesting idea or insight that the course has inspired in you. Thinkpieces may take a wide range of forms, including personal reflections, empirical observations, policy proposals, and reactions to theoretical arguments and debates; thinkpieces should not, however, be simple summaries of the readings.

These short essays should be neither hard to write nor time-consuming, particularly if you give them some thought in advance. In general, thinkpieces will prove easiest if you write them while insights are fresh in your mind. Do not wait until the end of the course to see whether an idea is genuinely “novel” or “correct”; that isn't the goal of these pieces.

Due Dates: To ensure that I can give adequate attention to your thinkpieces, I will accept no more than two thinkpieces from any given student after **February 28**, and no more than one thinkpiece after **April 10**. Your last thinkpieces must be submitted by **May 8**. *You need not wait for these deadlines to submit your thinkpieces, however.* Indeed, the earlier you hand in your thinkpieces, the more attention I will be able to give them.

Grading: Thinkpieces will be graded on a 15-point scale: Fair = 5 pts.; Good = 10 pts.; Excellent = 15 pts.

Special Reading-Review Thinkpiece: If you wish, you may structure *one* of your three thinkpieces as a series of “thumb-nail reviews” of various course readings. Each review should be no more than a few sentences long. It should: (a) identify the reading, (b) state the reading's central thesis, (c) state why you did or did not find the reading useful/enjoyable, and (d) rate the reading on a “five-star” scale. Reading-review thinkpieces will be graded based on the number of items reviewed -- 1 point for each item. (**Note:** *For the purposes of these thumb-nail reviews, you should treat *Opposing Viewpoints* books as single items, even though they contain multiple short selections.*)

General Guidelines for Discussions

In-class discussions are a ***required*** element of the coursework in Sociology 1114. Although you should certainly feel free to raise questions during lecture, discussions provide an invaluable opportunity to debate the nuances of the course material in conversation with your fellow students, and to explore linkages between theoretical concepts and contemporary policy issues.

Format: Most discussions will explore advanced or applied topics related to -- but not redundant with -- the lectures. Some of these explorations will take the form of open-ended conversations; others will take the form of “staged” debates; and still others may involve various kinds of classroom exercises. Most discussions will have assigned readings of their own, although a few may ask you simply to think about the topic a bit in advance. In all cases, though, the goal is to allow you to wrestle with the complexities, ambiguities and controversies of the course material in a hands-on way, free from the shrink-wrapped pre-packaging that often goes into presenting a tight lecture.

Participation Guidelines: A colleague of mine once drafted the following list of discussion-participation best practices. Although you should certainly feel free to develop your own participation style, these basic guidelines are a good place to start:

- Consistently make valuable contributions about topics under discussion
- Stay focused and on-topic, keeping your comments relevant and succinct
- Demonstrate your listening skills, responding appropriately to others’ comments
- Respectfully help to clarify points that others may not have understood
- Raise good questions about subjects that need further exploration
- Draw creatively on personal experience or opinion, but only when relevant to the discussion
- Demonstrate your ability to analyze, apply, and synthesize course material
- Demonstrate your willingness to take risks (e.g. offer creative speculations, tackle unpopular or difficult questions, recognize and acknowledge good counter-arguments)
- Be cheerful and good-natured; try to make the discussion interesting and enjoyable for yourself and your classmates

Grading: Attendance and participation are worth 100 points toward the final course grade. If you need to miss a scheduled in-class discussion, you may be permitted to write a brief “reaction paper” summarizing your thoughts on the topic. Note, though, that you may ***not*** simply choose on your own to write a reaction paper in lieu of attending class; to get participation credit, you must: (a) have a valid excuse, (b) obtain *prior* permission, *and* (c) complete a reaction paper.

General Guidelines for Written Assignments

Written assignments will be graded primarily on the clarity, comprehensiveness and originality of their substantive arguments. You should address and engage lecture and section materials wherever appropriate, but you should do so creatively and critically, giving a fair presentation of core arguments (and counter-arguments) from prior scholarship, but also trying to make an intellectual contribution of your own. Think before you write, and do not hesitate to discuss your ideas with the instructor in advance.

Bear in mind, though, that some assignments -- particularly exams -- are supposed to be purely *individual* products. So I may be constrained in how much I can tell you. For such assignments, you should work independently, and you should not discuss your ideas with others until after the assignment has been submitted.

Organization and style: Written work should be carefully organized, with a clear thesis (or at least a clear sense of purpose), and a logical progression from point to point. You should adopt a mature, professional tone, but you should try to avoid being oblique or stuffy. Use direct, forceful language wherever possible, and if you need to use jargon, be sure to define your terms and explain the underlying concepts. You should also set aside enough time to proofread your final draft thoroughly before handing it in: Errors in gender-neutrality, grammar and spelling will be frowned upon.

Formatting: All written assignments should employ the following format:

- Type your paper double-spaced, with margins of one-inch on all four sides.
- Number all pages in sequence.
- Avoid “creative typography” (e.g., huge, tiny, or excessively ornate fonts).
- Include a cover page, providing a title, your name, the assignment for which the paper is being submitted, and the date of submission.
- Include citations wherever appropriate. Course readings may be cited in the text -- e.g., “(Weber 1978:3-4)”; other materials should be cited in full, in either a footnote or a reference list.
- Submit your paper electronically, via Brown’s new plagiarism-checking service *TurnItIn.com*, in a standard document format (MSWord .doc, Adobe .pdf, ASCII .txt, etc.). A link to *TurnItIn.com* will be available on the Soc1114 *MyCourses* website.

Assignment lengths: Submissions that violate the assigned length limits may incur a grading penalty. If you cannot fit your argument within the specified guidelines, try to elaborate it if it's too short, or rephrase it if it's too long. If all else fails, ask for permission to stretch the page limit; reasonable proposals will usually be accepted. (Note that assignment lengths do not include cover pages and reference lists.)

Plagiarism: Scholarship is a collective enterprise, and you should take every opportunity to situate your work in the context of what has gone before. Nonetheless, written material that you present as your own should be your own. Although you should not hesitate to make use of other people's research findings and theoretical insights, you should *always* give credit to your sources, unless the point is clearly a matter of common knowledge. You should, of course, explicitly indicate when you are quoting directly from someone else's work; but you should also indicate when you are borrowing ideas, even if you aren't borrowing specific words. Paraphrasing does *not* relieve you of the duty to cite the original author, so when in doubt, err on the side of attribution! In a larger sense, you should be using other peoples' work to make *your own* arguments. No amount of citation justifies simply restating the views of others, unless you are synthesizing them, critiquing them, or expanding upon them in some way.

Note that submitting a paper from another course, or collaborating on an individual-writing assignment also constitute plagiarism. If you have a valid educational reason to engage in either of these activities, you *must* obtain the instructor's explicit permission *first*. For details, please consult Brown's Academic Code, at:

www.brown.edu/Administration/Dean_of_the_College/curriculum/academic_code.php.

Late work: Late assignments will be penalized 5 points per business day. Although extensions may be granted in cases of unusual hardship, extensions will *not* be considered routine. In particular, extensions will rarely be granted retrospectively, after a deadline has passed.

Miscellaneous Notes

Readings: The assigned readings for this course are intended to place the lectures in context and to help you engage with classroom activities as an informed listener and an empowered contributor. Toward this end, the reading load strikes a balance between, on the one hand, being extensive enough to provide a solid grounding in key concepts and applications and, on the other hand, being manageable enough to allow all students to keep pace with the material. You should plan to average approximately 40-50 pages of reading per class, although the load may vary somewhat from session to session.

All students should obtain the following text, which is available for purchase at the Brown Bookstore:

Macaulay, Stewart, John Stookey, and Lawrence M. Friedman, eds., (1997), *Law & Society: Readings on the Social Study of Law*. New York: W.W. Norton & Company.

Additional readings will be posted online, on the Soc 1114 *MyCourses* website.

i-Clickers: This semester, we will be making extensive use of “i-Clickers,” a technology for allowing real-time in-class group feedback. All students should obtain an i-Clicker and should bring it to *every* class session. Participation in i-Clicker exercises will count for a portion of the final course grade. i-Clickers are available without charge from the **Friedman Center**, on Level A of the Science Library. Once you have obtained your i-Clicker, you should register it online at www.iclicker.com in order to get credit for your responses throughout the semester.

Public Emergencies: In the event of an H1N1 outbreak or other public emergency, elements of the course may need to be changed on relatively short notice. If this occurs, e-mail will be our primary means of communicating with you about class cancellations, assignment changes, etc. So please be sure to check your e-mail regularly. If you yourself are quarantined because of H1N1 influenza at any time during the semester, please be sure to make use of whatever system the university establishes for reporting and recording illnesses. Also, please notify your TA (by e-mail!) immediately, so that we can begin making appropriate plans for make-up work, etc.

Course Outline**UNIT I: CENTRAL DEBATES IN THE SOCIOLOGY OF LAW**

| | | |
|----------------------|---|--------------------------|
| Thursday, January 26 | Introduction | |
| Tuesday, January 31 | A Brief History of Legal Thought | |
| Thursday, February 2 | Cultural vs. Material Models I: Culturalism | |
| Tuesday, February 7 | Cultural vs. Material Models II: Materialism | |
| | <i>Discussion: Cultural vs. Material Explanations</i> | |
| Thursday, February 9 | Consensus vs. Conflict Models | |
| Tuesday, February 14 | Miscellaneous Metatheoretical Debates | |
| | Topical Discussion #1: Immigration Policy | Immigration RM/RE |

UNIT II: MICRO FOUNDATIONS OF LEGAL BEHAVIOR

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|-----------------------------|---|---------------------------------|
| Thursday, February 16 | Rational Choice and Deterrence | |
| Tuesday, February 21 | LONG WEEKEND | |
| Thursday, February 23 | Normative Decision-Making and Moral Suasion | |
| Tuesday, February 28 | Cognitive Decision-Making and Labeling | Thinkpiece #1 (optional) |
| | <i>Discussion: To Cheat or Not To Cheat?</i> | |
| Thursday, March 1 | Procedural Justice & Legitimacy | Paper proposal |
| Tuesday, March 6 | Power and Authority | |
| | <i>Discussion: Recognizing Power</i> | |
| Thursday, March 8 | Social Responses to Crime | |
| Tuesday, March 13 | Symbolic Law | |
| | Topical Discussion #2: The Death Penalty | Death Penalty RM/RE |

UNIT III: LAW AND SOCIAL STRUCTURE

| | | |
|---------------------------|--|---------------------------------|
| Thursday, March 15 | Law and the Economy I | Midterm distributed |
| Tuesday, March 20 | Law and the Economy II | |
| Thursday, March 22 | <i>Discussion: Are We Too Litigious?</i> | Midterm due |
| March 24 - April 1 | SPRING BREAK | |
| Tuesday, April 3 | Law and Stratification I | |
| Thursday, April 5 | Law and Stratification II | |
| | <i>Discussion: Is Justice Blind?</i> | |
| Tuesday, April 10 | Law and Ideology | Thinkpiece #2 (optional) |

UNIT IV: LAW AND SOCIAL CHANGE

| | | |
|--------------------|--|-----------------------------|
| Thursday, April 12 | Can Law Change Society? | |
| | Topical Discussion #3: Same-Sex Marriage | Marriage RM/RE |
| Tuesday, April 17 | Institutional Filters I: The Judiciary | |
| Thursday, April 19 | Institutional Filters II: The Jury | Paper outline |
| | <i>Discussion: Jury Reform</i> | |
| Tuesday, April 24 | Institutional Filters III: The Legal Profession | |
| Thursday, April 26 | Law & The Transformation of Disputes | |
| Tuesday, May 1 | Law & The Transformation of Politics | |
| | Topical Discussion #4: Affirmative Action | Affirm. Action RM/RE |
| Thursday, May 3 | Video: <i>The Road to Brown</i> | |

CONCLUSION: December 10

| | | |
|------------------|------------|---------------------------------|
| Tuesday, May 8 | Conclusion | Thinkpiece #3 (optional) |
| Thursday, May 10 | | Final Exam |
| Monday, May 14 | | Term Paper |

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COURSE SYLLABUS**SOCIOLOGY 1114: LAW & SOCIETY**

Spring 2012, T-Th 10:30am - 11:50am

Smith-Buonanno Hall G13

Readings marked "***" are required
 Readings marked "*" are required *only* for students submitting assignments
 All other readings are optional

MF&S = Macaulay, Friedman & Stookey (1995), *Law & Society: Readings on the Social Study of Law*.

Kidder = Kidder, Robert L. (1983), *Connecting Law and Society*.

Treviño = Treviño, A. Javier (1996), *The Sociology of Law: Classical and Contemporary Perspectives*.

Friedman = Friedman, Lawrence M. (1984), *American Law*.

F&M = Friedman & Macaulay (1977), *Law and the Behavioral Sciences*, 2d edition.

UNIT I: CENTRAL DEBATES IN THE SOCIOLOGY OF LAW

January 26 **Introduction**

17 pp. ** MF&S, "Introduction," pp. 1-17.
 Kidder, chapters 1 and 2, pp. 1-35.
 Friedman, chapters 1 and 2.

January 31 **A Brief History of Legal Thought**

21 pp. ** Treviño, "The Sociological Movement in Law," pp. 55-75.
 Friedman, chapter 3.

February 2 **Cultural vs. Material Models I: Culturalism**

34 pp. ** Kidder, "The Origins of Law: Custom," ch. , pp. 36-57.
 ** Bohannon, Paul (1965), "The Differing Realms of Law," *American Anthropologist*,
 67(6):33-42. [excerpt]
 ** Sumner, W.G. (1940), "Folkways and Mores," [excerpt in Treviño, pp. 50-54.]

February 7 **Cultural vs. Material Models II: Materialism**

40 pp. ** Kidder, "The Origins of Law: Structure," ch. 4, pp. 58-82.
 ** Schwartz, Richard (1954), "Social Factors in the Development of Legal Control: A
 Case Study of Two Israeli Settlements," *Yale Law Journal*, 63:471-491. [excerpt
 and notes in MF&S:171-185]

Discussion: Cultural vs. Material Explanations

February 9 **Consensus vs. Conflict Models**

- 33 pp. ** Kidder, "The Origins of Law: Conflict, The Critical Perspective," ch. 5, pp. 83-110.
 ** Turk, Austin (1976), "Law as a Weapon in Social Conflict," *Social Problems* 23:276-291. Excerpted in Austin Sarat (ed.), *The Social Organization of Law*, pp. 43-47.
 Treviño, "Structural Functionalism," "Conflict Theory," pp. 311-323, 349-372.
 Parsons, Talcott (1962), "The Law and Social Control," pp. 56-72 in W. Evan (ed.) *Law and Sociology*. New York: Free Press. [excerpt in Treviño, pp. 334-339]
 Cain, Maureen (1974), "The Main Themes of Marx' and Engels' Sociology of Law," *British Journal of Law and Society* 1:136-148.

February 14 **Law on the Books vs. Law in Action;
Law as Dependent vs. Independent Variable;
Law and Society vs. Critical Legal Studies**

- 42 pp. ** Kidder, "Legal Impact: Does Law Make Any Difference?" chapter 6, pp. 112-143
 ** Treviño, "Critical Legal Studies," pp. 391-396 (top), 411-414.
 Treviño, "Critical Legal Studies," pp. 396-411.
 Gordon, Robert W. (1998) "Some Critical Theories of Law and Their Critics." pp. 641-661 in David Kairys, ed. *The Politics of Law: A Progressive Critique*. 3rd ed.. New York: Perseus.

Topical Discussion #1: Immigration Policy (RM/RE due February 14)

- 55 pp. ** Cooper, Mary (1993), "Immigration Policy: A Historical Overview," pp. 11-16 in B. Scott, ed. (1995), *Immigration Policy*. San Diego, CA: Greenhaven Press.
 ** Williams, Mary E., ed. (2004), *Immigration: Opposing Viewpoints*. San Diego, CA : Greenhaven Press, pp. 71-102, 153-166.
 ** Leiterman, Hannah and John Paul Ryan, eds. (1999), "Immigration: A Dialogue on Policy, Law, and Values," *Focus on Law Studies*, vol. XIV(2), ABA Division for Public Education.
 Williams, Mary E., ed. (2003), *Immigration: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 17-50, 167-174.

UNIT II: MICRO FOUNDATIONS OF LEGAL BEHAVIOR
February 16 Decision-Making I: Rational Choice and Deterrence

- 61 pp. ** Suchman, Mark (1997), "On Beyond Interest: Rational, Normative and Cognitive Perspectives in the Social Scientific Study of Law," *Wisc.L.Rev.* 1977:475-501.
 ** Nagin, Daniel S. (1998), "Criminal Deterrence Research at the Outset of the Twenty-first Century," in M. Tonry (ed.), *Crime and Justice: A Review of Research*. 23:1-42. [excerpt pp. 1-23, 33-42.]
 Friedman, chapter 11.
 Chambliss, William J. (1967), "Types of Deviance and the Effectiveness of Legal Sanctions," *Wisconsin Law Review* 703-719.
 Friedman, Lawrence (1975), "The Deterrence Curve," in *The Legal System*. New York, NY: Russell Sage. [excerpt and notes in MF&S:440-444]
 Gibbs, Jack (1986), "Deterrence Theory and Research," in G. Melton (ed.), *The Law as a Behavioral Instrument*. [excerpt and notes in MF&S:417-421]

February 21 NO CLASS (Long Weekend)
February 23 Decision-Making II: Normative Decision-Making and Moral Suasion

- 24 pp. ** Tyler, Tom (1990), *Why People Obey the Law*. New Haven, Connecticut: Yale University Press. [excerpt and notes in MF&S:474-497]
 Friedman, chapter 12, pp. 205-236.
 Schwartz, Richard and Sonja Orleans (1967), "On Legal Sanctions," *Chi. L. Rev.* 34:274-300.
 Berkowitz, Leonard and Nigel Walker (1967), "Laws and Moral Judgements," *Sociometry* 30:410. [excerpt in F&M:195-212]
 Grasmick, Harold G. and Robert J. Bursik, Jr. (1990), "Conscience, Significant Others, and Rational Choice: Extending the Deterrence Model," *Law & Society Review*, 24:837-861. [excerpt and notes in MF&S:461-464]
 Milgram, Stanley (1978), *Obedience to Authority*. [excerpt in MF&S:498-504]
 Griffiths, John (1995), "Normative and Rational Choice Accounts of Human Social Behavior," *European Journal of Law and Economics* 2:285-299.

February 28 * OPTIONAL THINKPIECE #1 DUE *****
February 28 Decision-Making III: Cognitive Decision-Making and Labeling

- 13 pp. ** Scott, W. Richard (1995), "Contemporary Institutional Theory," in *Institutions and Organizations*. Thousand Oaks, CA: Sage, pp. 33-45, 49-52.
 Berger, Peter L. and Thomas Luckmann (1966), *The Social Construction of Reality*. New York: Anchor, esp. pp. 53-92, 129-173.
 DiMaggio, Paul (1997), "Culture and Cognition," *Ann. Rev. of Sociol.* 23:263-287.

Discussion: To Cheat or Not To Cheat?

- 23 pp. ** Tittle, Charles and Alan Rowe (1973), "Moral Appeal, Sanction Threat, and Deviance: An Experimental Test," *Social Problems* 20:488 [excerpt in MF&S:465-474]
 ** McCabe, Donald, Linda Trevino, Kenneth Butterfield (2001), "Cheating in Academic Institutions: A Decade of Research," *Ethics & Behavior* 11(3):219-232.

March 1 **Procedural Justice & Legitimacy**

- 17 pp. ** Tyler, Tom R. (2000), "Social Justice: Outcome and Procedure," *International Journal of Psychology* 35(2):117-125.
 ** MacCoun, Robert J. (2005), "Voice, Control, and Belonging: the Double-edged Sword of Procedural Fairness," *Ann. Rev. of Law & Soc. Sci.* 1:171-201. [pp. 186-193].
 Tyler, Tom R. and E. Allan Lind (1988), *The Social Psychology of Procedural Justice*, pp. 61-83, 93-112, 217-220.
 Tyler, Tom R., & Steven L. Blader, (2003), "The Group Engagement Model: Procedural justice, social identity, and cooperative behavior," *Personality and Social Psychology Review* 7:349-361.

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| <p>March 6 *** TERM PAPER PROPOSAL DUE ***</p> |
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March 6 **Power and Authority**

- 35 pp. ** Lukes, Steven (2007), "Power," *Contexts* 6(3):59-61.
 ** Gaventa, John (1980), "Power and Participation," *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley*, pp. 1-32.
 Lukes, Steven (1974), *Power: A Radical View*. New York: Macmillan. [57 pages]
 Weber, Max (1963), [Writings on legitimacy, authority and charisma], *Economy and Society*, pp. 212-227, 241-254.

Discussion: Recognizing Power

- 2 pp. ** "Recognizing Power: Discussion Questions," Sociology 1114 supplement.

March 8 **Social Control**

- 17 pp. ** Lauderdale, Pat (1976), "Deviance and Moral Boundaries," *ASR* 41:660-76.
 Dentler, Robert and Kai Erikson (1959), "The Functions of Deviance in Groups," *Social Problems* 7:98-107.

March 13 **Symbolic Law**

- 14 pp. ** Gusfield, Joseph (1967), "Moral Passage: The Symbolic Process in Public Designations of Deviance," *Soc 'l Probs* 15:175-188. [excerpt in MF&S:509-522]
 van der Burg, Wibren (2001), "The Expressive and Communicative Functions of Law, Especially with Regard to Moral Issues," *Law and Philosophy* 20(1):31-59.

Topical Discussion #2: The Death Penalty (RM/RE due March 13)

- 49 pp. ** Radelet, Michael L. and Borg, Marian J. 2000. "The Changing Nature of Death Penalty Debates," *CKBW* pp. 448-454.
 ** Williams, Mary E., ed. 2002. *The Death Penalty: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 63-82, 99-107, 110-126, 133-138.
 * Winters, Paul, ed. 1997. [viewpoints on cost effectiveness] *The Death Penalty: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 134-144.
 "The Death Penalty" *Focus on Law Studies*, Spring 1997, vol. XII(2), ABA Div. for Public Education. [online at: <http://www.abanet.org/publiced/focus/spr97toc.html>]

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| <p>March 15 - March 22 *** TAKE-HOME MIDTERM EXAM ***</p> |
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UNIT III: LAW AND SOCIAL STRUCTURE

- March 15 **Law and the Economy I (Theory)**
 44 pp. ** Weber, Max (1954 [19??]), "Selections" in Max Rheinstein (ed.), *Max Weber on Law in Economy and Society*. [excerpt and notes in MF&S:185-207]
 ** Coase, Ronald (1960), "The Problem of Social Cost," *J. Law & Econ.* 3:1-44. [excerpt] Friedman, chapter 8, pp. 141-144.
 Hirsch, Werner (1988), "Introduction," pp. 1-22 in *Law & Economics: An Introductory Analysis*. San Diego, CA: Academic Press.
 Trubek, David (1972), "Max Weber on Law and the Rise of Capitalism." *Wisconsin Law Review* 1972:720. [excerpt in Treviño, pp. 220-231]
- March 20 **Law and the Economy II (Research)**
 19 pp. ** Macaulay, Stewart (1963), "Non-Contractual Relations in Business: A Preliminary Study," *Am. Sociol. Rev.* 28:55-66. [excerpt and notes in MF&S:86-104]
 Ellickson, Robert C. (1986), "Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County," *Stanford Law Review*, 38:623-687.
 Mnookin, Robert and Lewis Kornhauser (1979), "Bargaining in the Shadow of the Law: The Case of Divorce" *Yale Law Journal* 88:950. [excerpt and notes in MF&S:111-119]
 Macaulay, Stewart (1977), "Elegant Models, Empirical Pictures, and the Complexities of Contract," *Law & Society Review*, 11:506-528.
 Ross, H. Laurence (1980), *Settled Out of Court: The Social Process of Insurance Claims Adjustment*. New York: Aldine. [excerpt in MF&S:104-111]
 Edelman, Lauren B. and Mark C. Suchman (1997), "The Legal Environments of Organizations," *Annual Review of Sociology* 23:479-515.
- March 22 **Discussion: Are We Too Litigious?**
 69 pp. ** Roleff, Tamara, ed. (1996), *The Legal System: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 55-123.
 * Hayden, Robert M. (1991), "The Cultural Logic of A Political Crisis: Common Sense, Hegemony and the Great American Liability Insurance Famine of 1986," *Studies in Law, Politics and Society* 11:95-117. [excerpt and notes in MF&S:236-258]
 Burke, Thomas F. (2002), *Lawyers, Lawsuits, and Legal Rights: The Battle over Litigation in American Society*. Berkeley, CA: Univ. of California Press.
 Haltom, William and Michael McCann (2004), *Distorting the Law: Politics, Media, and the Litigation Crisis*. Chicago, IL: University Of Chicago Press, pp. 1-30 (esp. pp. 7-25) and 265-306 (esp. 265-281 and 303-306).
- March 27 & **NO CLASS (Spring Break)**
 March 29
- April 3 **Law and Stratification I (Instrumentalism and Structuralism)**
 40 pp. ** Chambliss, William J. (1964), "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 12:67-77.
 ** Galanter, Marc (1974), "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change," *Law & Society Review* 9:95-160. [excerpt]
 Seron, Carroll and Frank Munger (1996), "Law and Inequality: Race, Gender and, of Course, Class," *Annual Review of Sociology* 22:187-212.

April 5 **Law and Stratification II (Mixed Models)**

- 34 pp. ** Balbus, Isaac (1973), *The Dialectics of Legal Repression: Black Rebels before the American Criminal Courts*. New York: Russell Sage. [excerpt: pp. 1-25, 249-256]
 Tonry, Michael (1997), "Ethnicity, Crime, and Immigration," *Crime and Justice: A Review of Research* 21:1-29 (especially pp. 11-19).
 Duster, Troy S. (1970), *The Legislation of Morality: Law, Drugs and Moral Judgement*. New York: Free Press.

Discussion: Is Justice (Color) Blind?

- 50 pp. ** Roleff, Tamara, ed. (1996), *The Legal System: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 125-163.
 ** Williams, Mary E., ed. (2002), *The Death Penalty: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 173-183.
 * Barkan, Steven E. & Steven F. Cohn (2001 [1994]), "Racial Prejudice Raises Support for the Death Penalty," pp. 233-236 in H. Mitchell (ed.), *The Complete History of The Death Penalty*. San Diego, CA: Greenhaven Press.
 * Jacoby, Jeff (2001 [1997]), "The Death Penalty Ultimately Saves Black's Lives," pp. 240-241 in H. Mitchell (ed.), *The Complete History of The Death Penalty*. San Diego, CA: Greenhaven Press.

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| April 10 | *** OPTIONAL THINKPIECE #2 DUE *** |
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April 10 **Law and Ideology**

- 27 pp. ** Cotterrell, Roger (1992), "Law and Ideology," "Legal Individualism," "Law in Corporate Society," pp. 114-127 in *The Sociology of Law: An Introduction, 2nd ed.* London: Butterworths.
 ** Gabel, Peter & Jay Feinman (1998), "Contract Law as Ideology," pp. 497-510 in D. Kairys (ed.) *The Politics of Law: A Progressive Critique, 3rd ed.*. New York: Basic Books.
 Treviño, "Neo-Marxian Contributions to the Marxian Perspective," pp. 110-125.
 Genovese, Eugene D. (1976), "The Hegemonic Function of Law," pp. 25-49 in *Roll Jordan Roll*. New York: Pantheon Books.
 Thompson, E.P. (1975), "The Rule of Law," *Whigs and Hunters: The Origin of the Black Act*. New York: Pantheon. [excerpt in Bierne & Quinney, pp. 130-137]
 Hunt, Alan (1985), "The Ideology of Law: Advances and Problems in Recent Applications of the Concept of Ideology to the Analysis of Law," *Law & Society Review* 19:11-37.
 Hay, Douglas (1975), "Property, Authority and the Criminal Law," in D. Hay et al., *Albion's Fatal Tree*. New York: Pantheon.
 Stone, Alan (1985), "The Place of Law in the Marxian Structure-Superstructure Archetype," *Law & Society Review* 19:39-68.

UNIT IV: LAW AND SOCIAL CHANGE
April 12 Can Law Change Society?

37 pp.

- ** Friedman, Lawrence and Jack Ladinsky (1967), "Social Change and the Law of Industrial Accidents," *Colum. L. Rev.*, 67:50-82. [excerpt & notes in MF&S:211-232]
- ** Zimring, Franklin and Gordon Hawkins (1971), "The Legal Threat as an Instrument of Social Change," *Journal of Social Issues*, 27:33-48.
- Friedman, chapter 14.
- Friedman, Lawrence M. (1967), "Legal Rules and the Process of Social Change," *Stanford Law Review* 19:786. [excerpt and notes in MF&S:689-703]
- James March & Johan Olsen (1984), "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78:734-749

Topical Discussion #3: Same-Sex Marriage (RM/RE due April 12)

58 pp.

- ** Burns, Kate, ed. (2005), *Gay Marriage: At Issue*. San Diego, CA: Greenhaven Press, pp. 7-41, 54-75.
- ** Ferree, Myra (2004), "The Gay Wedding Backlash," *Newsday*, 5/23/2004, p. A50.
- * Ryan, John Paul, ed. (2003), "Same-Sex Marriage and the Law," *Focus on Law Studies*, vol. XIX(1), ABA Division for Public Education. pp. 1, 4-7, 12-13.
- Burns, Kate ed. (2005), *Gay Marriage: At Issue*. San Diego, CA: Greenhaven Press, pp. 42-53, 76-91.
- Ryan, John Paul, ed. (2003), "Same-Sex Marriage and the Law," *Focus on Law Studies*, vol. XIX(1), ABA Division for Public Education. pp. 2-3, 7-9.
- Roleff, Tamara (1998), *Gay Marriage*. San Diego, CA: Greenhaven Press, pp. 12-22, 30-40, 64-90.
- Web resource: <http://ethics.sandiego.edu/Applied/SexualOrientation/index.html>

April 17 Institutional Filters I: The Judiciary

28 pp.

- ** Grodin, Joseph (1989) "Do Judges Make Law," *In Pursuit of Justice*, Berkeley, CA: University of California Press, pp. 133-161.
- Friedman, chapter 4, pp. 57-64.
- MF&S, "Judges [selected readings]," pp. 732-791.
- Shapiro, Martin (1981) "The Prototype of Courts," *Courts: A Comparative and Political Analysis*. Chicago:University of Chicago Press, pp. 1-64.
- Yngvesson & Mather (1983), "Courts, Moots, and the Disputing Process," pp. 51-83 in Boyum & Mather (eds.), *Empirical Theories about Courts*. NY: Longman.

April 19 * TERM PAPER OUTLINE DUE *****

April 19 **Institutional Filters II: The Jury**
Video: "Inside the Jury Room"

- 36 pp. ** Eisenberg, Theodore, Paula Hannaford-Agor, Valerie Hans, Nicole Waters, G. Thomas Munsterman, Stewart Schwab, and Martin Wells (2005), "Judge-Jury Agreement in Criminal Cases: A Partial Replication of Kalven and Zeisel's The American Jury," *J. of Empirical Legal Studies* 2(1):171-206.
 Kalven, Harry & Hans Zeisel (1971), *The American Jury*. Chicago, IL: University of Chicago Press. [excerpt in F&M: 418-433].
 Devine, Dennis J., Laura Clayton, Benjamin Dunford, Rasmy Seying, and Jennifer Pryce (2001), "Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups." *Psychology, Public Policy, and Law* 7:622-727.

Discussion: Jury Reform

- 37 pp. ** Bonsignore, John, et al. (1998), "The Jury as a Political Institution," pp. 386-407 in *Before the Law: An Introduction to the Legal Process, 6th ed.*. Boston: Houghton Mifflin. [excerpt pp. 392-407]
 ** Roleff, Tamara, ed. (1996), *The Legal System: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, pp. 16-37.
 * Williams, Mary E. (1997), *The Jury System*. San Diego, CA: Greenhaven Press, pp. 63-73.

April 24 **Institutional Filters III: The Legal Profession**

- 17 pp. ** Spangler, Eve & Peter Lehman (1982), "Lawyering as Work," in C. Derber (ed.), *Professionals as Workers*. Boston, MA: G.K. Hall, pp. 63-73, 94-99 (skim pp. 74-93).
 Friedman, chapter 13.
 MF&S, "Lawyers [selected readings]," pp. 791-902.
 Rosenthal, Douglas (1974), *Lawyer and Client: Who's in Charge*.
 Heinz, John P. and Edward O. Laumann (1982), *Chicago Lawyers: The Social Structure of the Bar*. New York: Russell-Sage.
 Kagan, Robert A. and Robert E. Rosen (1985), "On the Social Significance of Large Law Firm Practice," *Stanford Law Review*, 37:399-443.
 Friedman, Lawrence (1989), "Lawyers in Cross-Cultural Perspective," in R. Abel & P. Lewis (eds.) *Lawyers in Society, vol. iii*. Berkeley: UC Press, pp. 1-26.
 Suchman, Mark C. and W. Richard Scott (2004), "Beyond Pros and Cons: Framing a Social Constructionist Model of the Professions," unpublished manuscript.

April 26 **Law & The Transformation of Disputes**

- 24 pp. ** Felstiner, William, Richard Abel & Austin Sarat (1980), "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...", *Law & Society Review* 15:631-54.
 Blumberg, Abraham (1967), "The Practice of Law as a Confidence Game: Organizational Cooptation of a Profession," *Law & Society Review*, 1:15-39. [excerpt and notes in MF&S:63-85]
 Mather, Lynn and Barbara Yngvesson (1980), "Language, Audience, and the Transformation of Disputes," *Law & Society Review*, 15:775-821.
 Bumiller, Kristin (1986), "Victims in the Shadow of the Law: A Critique of the Model of Legal Protection," *Signs*, 12:3-16.

May 1 **Law & The Transformation of Politics**

- 18 pp. ** Scheingold, Stuart (1974), "Constitutional Values and Political Goals," "Legal Rights and Political Mobilization," in *The Politics of Rights: Lawyers, Public Policy, and Political Change*. New Haven: Yale Press, pp. 97-116, 131-148.
 Galanter, Marc (1983), "The Radiating Effects of Courts," in K. Boyum and L. Mather *Empirical Theories about Courts*. New York: Longman. pp. 117-142.
 Smith, Rogers M. (1988), "Political Jurisprudence, The 'New Institutionalism,' and the Future of Public Law," *Am. Political Science Review*, 82:89-108.
 Kostiner, Idit (2003), "Evaluating Legality: Toward a Cultural Approach to the Study of Law and Social Change," *Law & Society Review* 37(2):323-368.
 Espeland, Wendy (1994), "Legally Mediated Identity: The National Environmental Policy Act and the Bureaucratic Construction of Interests," *Law & Society Review* 28:1149-79.

Topical Discussion #4: Affirmative Action (RM/RE due December 3)

- ** Maltz, Leora, ed. (2005), *Affirmative Action*. San Diego, CA: Greenhaven Press.
 ** Eden, John and John Ryan, eds. (1998), "Affirmative Action: Dialogue on Race, Gender, Equality and Law in America," *Focus on Law Studies*, vol. XIII(2)

May 3 **Video: The Road to Brown**

- 31 pp. ** Rosenberg, Gerald (1993), *The Hollow Hope*. Chicago: University of Chicago Press.
 [excerpt and notes in MF&S:574-591]
 ** McCann, Michael (1993), "Reform Litigation on Trial" [critical review of Rosenberg], *Law & Social Inquiry* 17:715-743. [excerpt, pp. 729-741]
 Friedman, chapter 12, pp. 254-268.
 Ryan, John Paul, ed. (2004), "Brown and Its Impact on Schools and American Life: A Dialogue," *Focus on Law Studies*, vol. XIX(2), ABA Division for Public Education.
 Rosenberg, Gerald (1993), *The Hollow Hope*, esp. pp. 9-30, 35-36, 336-343.

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| May 8 | *** OPTIONAL THINKPIECE #3 DUE *** |
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May 8 **Conclusion**

- 16 pp. ** Friedman, Lawrence M. (2005), "Coming of Age: Law and Society Enters an Exclusive Club," *Annual Review of Law and Social Science* 1:1-16.
 Sarat, Austin and Susan S. Silbey (1988), "The Pull of the Policy Audience," *Law & Policy*, 10:97-166.
 Macaulay, Stewart (1984), "Law and the Behavioral Sciences: Is There Any There There?," *Law & Policy*, 6:149-187.
 Leff, Arthur A. (1978), "Law And...," *Yale Law Journal*, 87:989-1011.

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| May 10 | *** FINAL EXAM (9:00 A.M.) *** |
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| May 14 | *** TERM PAPER DUE *** |
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Have a Good Summer!