

PUBLIC DEFENDER FIELD PLACEMENT

LAW 6942 - PD Classroom/Lab (2 credits graded)

Fall 2024

INSTRUCTOR'S CONTACT INFORMATION:

Assistant Dean M Smith

Office Location: Bruton Geer 205I

Office Phone: (352) 273-0926

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Email: style@ufl.edu

Office Hours: Thursdays and Fridays, 10 am- 12 pm

I can be reached via email, phone, and text. I try to employ healthy work/life boundaries. I ask that phone calls and text messages be utilized Monday through Friday, from 8am – 5pm, and in emergency situations outside of those hours. You may, however, email me at any time.

CLASS TIME:

Wednesdays, 6:00– 8:00 pm, MLAC 213

COURSE OBJECTIVES & GOALS

The general learning objectives and goals for this classroom/lab section, consistent with the requirements of the American Bar Association, are as follows:

- To integrate doctrine, theory, and legal ethics in the performance of professional lawyering skills and tasks in a community-based field placement setting;
- To develop intercultural competencies in your client counseling and advocacy work; become aware of your unconscious biases and preferences; contextualize biases and preferences to the practice of law; identify ways to overcome them, enhancing your ability to serve in the legal role;
- To develop understanding of the concepts underlying the professional lawyering skills and tasks;
- To allow an opportunity for students to practice different lawyering skills and tasks to improve mastery;
- To provide a classroom instructional component to support the field placement experience throughout the semester; and
- To provide ongoing feedback, as well as ongoing student self-evaluation.

In addition, at the end of this experience, students will emerge as improved advocates, possessing the following skill set:

- Stronger understanding of the ethical obligations regarding clients' wishes, in addition to concurrent professional responsibilities, such as serving as an officer of the court and a public citizen lawyer with a duty to improve the legal system;
- Ability to provide zealous, holistic, culturally-aware, and client-centered representation outside of the courtroom context, which includes (1) conducting effective client interviews to develop trust and rapport, and ascertain important case facts and other information, (2) investigating case facts through witness interviews, community-based work, and formal discovery, and (3) developing sentencing mitigation evidence;

- Ability to carefully analyze elements of a charge, understand strengths and weakness of the adversary’s case, and develop case theories and strategies, given this information;
- Competence advancing rights and interests of indigent accused clients beyond winning at trial, such as seeking pre-trial release and providing other holistic supports throughout the case, including at the time of community re-entry;
- Facility with negotiating outcomes before trial, consistent with the wishes of the client, and duties as zealous advocates, without any conflicts of interest;
- Familiarity with the practice of pre-trial motions and hearings, as appropriate, to challenge unconstitutional police actions, such as: (1) unlawful searches and seizures, (2) improper interrogations, and (3) suggestive identification processes;
- Commitment to holistic and client-centered representation during guilty/no contest plea colloquies, which includes advancing the client’s wishes before the bench, ensuring that all client case-related decisions are knowingly, intelligently, and voluntarily made, and advising clients of both direct and collateral consequences of the plea;
- Enhanced oral advocacy and trial advocacy skills, including the ability to thoroughly and timely prepare evidence, your client and witnesses for trial, draft and deploy direct and cross examinations, and argue legal matters to client’s advantage, while being mindful of competing considerations and concerns of the court;
- Confidence and competence as legal writers, produce quality work in the context of real cases, utilize effective large-scale and small-scale organization, as well as strong legal analysis;
- Deeper awareness of the role that race, poverty, gender, sexual orientation, language difference, power, privilege and other factors may play in the legal system processes and outcomes, particularly within the context of indigent defense work; and
- Stronger communication skills in a range of contexts, including informal classroom discussions, across cultural and other differences, as formal public speakers, and in written documents, such as emails and letters to clients.

Lastly, at the end of this experience students will become more contemplative advocates by developing the following skills and capacities:

- To be mindful in the moment;
- Develop equanimity;
- Identify and utilize healthy stress management and self-regulation skills;
- Identify personal and professional values, identify possible scenarios where value “disconnects” may occur, and develop the capacity to navigate and reconcile them to successfully advocate for clients.

REQUIRED TEXT:

- Criminal Practice: A Handbook for New Advocates

RECOMMENDED TEXTS:

- Florida Rules of Criminal Procedure
- ABA Standards for Criminal Justice: Prosecution and Defense Functions
- ABA Model Rules of Professional Conduct
- Florida Rules of Professional Conduct
- Rhonda V. Magee, The Inner Work of Racial Justice

REQUIRED READING AND VIEWING:

Reading and viewing assignments will be posted in Canvas prior to the class during which they will be discussed. Occasionally, we may view material as a class, and discuss.

CLASS ATTENDANCE AND PARTICIPATION:

Students are expected to bring the insights gained during PD office and courtroom work, from assigned readings, and all other insights related to their field placement experience and be prepared to share these. The practical exercises and case rounds conducted during class also make attendance and participation extremely important. Absence will be excused for illness or emergencies, and for significant educational or career opportunities. If you need to miss a class, please let me know as soon as possible. Unexcused absences from class will result in reduction in a student's final grade. Further information about the law school's attendance policy is available here:

<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uflaw-student-handbook-and-academic-policies>

STUDENT RECORDING, PHOTOGRAPHY & SOCIAL MEDIA POSTING:

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

PERFORMANCE EXPECTATIONS & INFORMATION ON GRADING:

For this course, you will earn eight (8) total credits. Six (6) of these credits are pass/fail (Satisfactory/Unsatisfactory), and two (2) of these credits are graded. The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent:

| Letter Grade | Point Equivalent |
|--------------|------------------|
| A | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |

The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uflaw/office-of-student-affairs/current-students/uf-law-student-handbook-and-academicpolicies>

The aim of this segment is not to focus your attention on grades. Grades can distract from learning, and I hope they won't shadow your clinical experience. It seems only fair, though, to explain the grading system, as clinical grading differs from grading in standard examination and paper courses. Clinical students will be evaluated in three areas:

Clinical Coursework (50%)

- Weekly reflection journals
- Class participation
- One-on-One supervision meetings

Clinical Methods (25%)

- Case preparation at the PDO
- In-class exercises

Clinical Practice (25%)

- Performance on your feet (court appearances and classroom exercises)

Clinical Coursework (Weekly reflection journals, class participation, On-on-one supervision meetings): **50% of final grade**

Your reflection journal, readings, and in-class discussions challenge you to think about and form opinions about the way the criminal legal system works. This kind of critical reflection is essential for any lawyer who wants to be an ethical force in the profession. Clinical coursework also includes the feedback students give one another after class performances and court appearances. Such feedback need not be exhaustive, but should reflect close attention and thought.

Weekly Reflection Journal: Beginning in the second week of the semester, you must write a journal entry each week, reflecting on your experiences in the clinic over the previous week or on the criminal legal system more broadly. **Journal entries are due each Sunday by 11:59pm.**

Delivery via Canvas upload is best, but email is also acceptable. You may take off one free week during the semester. It is helpful, but not required, to begin these entries with a brief description of what you did or saw in the previous week. Please do not merely recite events. The purpose of maintaining your journal is to encourage you to comment on the legal system as you see it. Ask yourselves whether the system is working, whether the various players are doing their jobs, and whether defendants are getting a fair shake. How could the system work better? What can you do to improve it, in your role? Do you like your role?

If it's been a slow week at the office, or if something else in the news or in the class readings or in your life experience bearing on the criminal legal system has grabbed your attention, please feel free to discuss these other matters. Again, the aim is to reflect on the legal system. Within that realm, you are free to explore widely. These journal entries also may serve as a forum for you to provide suggestions about the clinic. You may note that you would prefer a different classroom focus; that you would like different kinds of cases; or that you are having difficulties and want extra guidance. There is no page restriction on these papers, but it is unlikely you could reflect well on a week's work in less than three double-spaced pages. Please be sure to include your name and indicate the dates covered in your report.

One-on-One Supervision Meetings: You must meet with the professor periodically to review your past work and plan your future work. These meetings should take about thirty minutes. Please come prepared to give a progress report on old cases and to set out a plan of action for new cases. Try to become familiar with the facts of your cases and to read the relevant law in advance. If you have no pressing cases, this time may be used any way you choose. You may find it useful to practice direct or cross examinations or other trial skills or to discuss issues that have arisen in the Field Placement. Please come to the meetings prepared to say how we should use the time

Clinical Methods (Case preparation at PDO and in-class exercises): 25% of final grade

A component of this field placement is performance of not less than 21 hours per week of satisfactory work as a Certified Legal Intern (CLI) in the assigned Public Defender's Office (PDO). While working at the assigned PDO, the CLI will conform to all canons of ethics and disciplinary rules of the Florida Bar, adhere to all performance requirements set by the assigned Assistant Public Defender, and perform to the satisfaction of the assigned PDO supervisor. Your professor and in-court supervisors at the PDO will assess both the energy you invest in preparing your cases and the initiative you show in setting tasks for yourselves and doing them. These tasks include researching the law, contacting and preparing your client and witnesses, contacting (when appropriate) opposing counsel, filing written materials, and searching out and weighing ethical issues presented in your cases. We recognize that you are just starting out and can't always know what needs to be done, and we don't expect you to work without guidance. But it's very important that you read the materials, look at the law and try to figure out for yourselves what needs to be done. And it's important that you have the energy and determination to follow through on tasks.

Clinical Practice (Performance on your feet): 25% of final grade

This category addresses your court appearances and your class performances. To whatever extent possible, your in-class exercises will be based on the cases you are actually assigned at the PDO, as opposed to hypothetical scenarios. Opening statements, closing arguments, motion

practice, cross and direct examinations, will be based on real cases. If, for some reason, your case assignments do not lend themselves to your performing these, or related exercises, a hypothetical scenario will be provided to the class in advance of the exercise. We will also collaborate with the Prosecution Field Placement for a jury selection exercise and a plea negotiation exercise.

In some ways, preparation and on-your-feet performance merge, because good preparation almost always improves performance in both court and class. Still, it's true that by crediting good performance, we reward native talent. Some people find it easier to work on their feet than others. Perhaps it's not fair to reward people for native skill. But talent is important: we reward test-taking talent all the time, and talent is one thing prospective employers hope your grades reflect. A word on the Process: After reviewing all your work, I will confer with your supervisors in the PDO. Your final grades will reflect your performance in class, in the office, and in court. I'm generally not a fan of a grading structure. And this class should be one of the most enjoyable, and most useful experiences of your time in law school. But a grading structure is the reality we live in for the lab/classroom section of this course. Please keep in mind that grades are an imprecise tool for judging things that are hard to judge. My intent is that my grades reward effort more than raw talent and will provide feedback for your growth as a litigation attorney.

CLASS PREPARATION AND ELECTRONIC DEVICE USE:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. This course has 2 "classroom hours" of in-class instruction each week, requiring at least 4 hours per week of preparation outside of class. Assignments will be posted on Canvas prior to the start of class and current events articles and other materials will be added to your assignments periodically throughout the semester.

Clinic classes differ from those in large classrooms and are more like team meetings in the workplace. To encourage discussion and engagement, use of electronic devices will be limited. You may be able to refer to your device when presenting to the group or researching an issue requested by the professor.

LEARNING ENVIRONMENT, PREFERRED NAME, and PRONOUNS:

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

You may also change your "Display Name" in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

Discourse, Cultural Competency, and the Classroom Ethos

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

NETIQUETTE: COMMUNICATION COURTESY:

Please follow rules of common courtesy in all email messages, threaded discussions and chats.

See <http://teach.ufl.edu/wp-content/uploads/2012/08/NetiquetteGuideforOnlineCourses.pdf>

UF LAW HONOR CODE:

The University of Florida College of Law Honor Code represents a commitment by students to adhere to the highest degree of ethical integrity. Teaching and learning flourish best in an environment where mutual trust and respect form the bedrock of relationships. The Honor Code helps create a community in which students can maximize their intellectual and academic potential. Further information may be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additionalinformation/honor-code-and-committee/honor-code>

GETTING HELP:

For technical difficulties with E-learning in Canvas, please contact the UF Help Desk at:

- helpdesk@ufl.edu
- 352-392-HELP
- <https://elearning.ufl.edu/> (See “Message Us” at the top of the page)

STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES:

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, <https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs. Students with disabilities should follow this procedure as early as possible in the semester.

STATEMENT REGARDING ONLINE COURSE EVALUATION:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.a.a.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals. Summaries of course evaluation results are available to students at <https://gatorevals.a.a.ufl.edu/>.

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES: Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>

HEALTH AND WELLNESS

Being a part of this clinic includes attention to and care of your physical, mental, emotional and physical health. If you do not feel comfortable discussing any of these with Dean Smith, please see the resources below:

Ritz Ettinger, law school mental health counselor (confidential) rettinger@ufl.edu

Cynthia Yanez, LCSW, Virgil Hawkins Civil Clinic, (confidential) 352-363-1101 (call or text) or 352-273-0994

www.mindfulnessforlawyers.com Links to an external site.

<https://www.law.ufl.edu/wellness-at-uf-law> Links to an external site.

U Matter, We Care: If you or someone you know is in distress, please

contact umatter@ufl.edu, 352-392-1575, or visit [U Matter, We Care website](#) Links to an external site. to refer or report a concern and a team member will reach out to the student in distress.

Counseling and Wellness Center: [Visit the Counseling and Wellness Center website](#) Links to an external site. or call 352-392-1575 for information on crisis services as well as non-crisis services.

Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](#) Links to an external site.

University Police Department: [Visit UF Police Department website](#) Links to an external site. or call 352-392-1111 (or 9-1-1 for emergencies).

UF Health Shands Emergency Room / Trauma Center: For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](#) Links to an external site.

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/> Links to an external site.). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs, or if you are comfortable doing so, you

may also notify Dean Smith or Ritzy Ettinger so that they may direct you to further resources.

OUTLINE OF SUBJECTS TO BE COVERED: Because this is a field placement clinic that serves “live” clients, our class outline is somewhat fluid to accommodate the discussion of current cases/issues. Each week students will be informed of the topics and required readings via Canvas assignments. The following is a list of topics that may include, but not limited to:

- Macro, meso, and micro-level evaluation of the criminal legal system
- Understanding criminal defense of clients who are indigent
- Life cycle of a criminal case – misdemeanors
- Arraignment and plea negotiations
- Motion practice – common pre-trial motions and motions in limine
- Jury Selection
- Current controlling and persuasive caselaw on common misdemeanor charges and constitutional issues
- Culturally-competent client interviewing techniques
- Organization, case management
- Self-care and work-life balance
- Evidence refresher
- Criminal Procedure refresher

IN-CLASS EXERCISES

- Jury selection with SAO clinic – Friday, September 6th
- Plea negotiation with SAO clinic – Wednesday, October 30th
- Change of Plea colloquy – TBD
- Mock client interview - TBD

ASSIGNMENT FOR FIRST DAY OF CLASS: First day of class assignment will be emailed to you the week before classes begin.

WEEKLY TOPICS

Below reflects my general plan for schedule of topics and in-class exercises, which may be subject to change due to unforeseeable and/or external factors.

| Week | Date | Exercises/Activities | Lecture |
|--------|---------|--|---|
| Week 1 | 8/21/24 | None | Introduction to the criminal legal system |
| Week 2 | 8/28/24 | None | Jury (de)selection |
| Week 3 | 9/4/24 | Jury selection practicum with SAO clinic on Friday 9/6 | Q&A about jury selection preparation |

| | | | |
|---------|----------|--|---|
| Week 4 | 9/11/24 | *NO CLASS* in consideration of jury selection hours and one-on-ones this week | |
| Week 5 | 9/18/24 | None | Cultural competency and multicultural lawyering |
| Week 6 | 9/25/24 | Mock client interview | Plea Negotiations |
| Week 7 | 10/2/24 | Mock change of plea colloquy | None |
| Week 8 | 10/9/24 | TBD | TBD |
| Week 9 | 10/16/24 | TBD | TBD |
| Week 10 | 10/23/24 | TBD | TBD |
| Week 11 | 10/30/24 | TBD | TBD |
| Week 12 | 11/6/24 | *NO CLASS*in consideration of final One-on-One | None |
| Week 13 | 11/13/24 | *NO CLASS* in consideration of Clinic Capstone Event and final off-site PDO8 meeting | None |
| Week 14 | 11/20/24 | *NO CLASS* Last week of classes (constructive Monday) | None |