

SYLLABUS

RACE AND LAW

THIS SYLLABUS MAY ALSO BE USED FOR A STUDY GUIDE

RACE AND LAW
Poli Sci 104N
University of California at San Diego
MATTHEUS E. STEPHENS, ESQ.

Fall 2021

INTRODUCTION

The United States is engaged in a nation-wide “racial reckoning” since the brutal murder of George Floyd by law enforcement. This four-credit course will explore the question: Has the law (the US Legal System) helped to end or has it contributed to racism in the United States? Using the US Constitution as a springboard, this course will explore the law and history of slavery (starting with the Civil War), segregation, housing, employment and voting rights, while also studying Equal Protection doctrine, affirmative action, and criminal justice (including hate crimes and First Amendment implications).

The objective of the course is to familiarize students with the historical relationships between the law and race, racism and class in the United States; to introduce students to the historic and current legal doctrine relating to race and racism; to foster independent thinking about the relationship between the law, race and racism; and to enable students to explore interrelationships between the law and ways in which it unwinds and/or contributes to racism.

The course introduces critical constitutional law concepts in the areas of the Thirteenth, Fourteenth, and Fifteenth Amendments, Equal Protection, the First Amendment and the Civil Rights Acts. Specific topics include:

Slavery, legal emancipation, segregation, the Civil Rights Acts, the Voting Rights Act, the criminal justice system including hate crimes, housing, education, employment, affirmative action (including Proposition 209) economic segregation as well as an exploration of the concepts of class/economic justice, “color blind” policies and its intersection with race/racism. The text for the course is: **Bell, *Race, Racism and American Law*, 6th Ed. (2008)**. Because the book is a bit dated and the 7th edition has not yet been published, materials for the course will be supplemented through the class website.

The class meets once a week, on Thursday from 6:00 p.m. to 8:50 p.m. There is so much material to cover that it’s important to start class on time. We will be hard-pressed to finish all the material by the end of the Quarter. To get the most out of this class, you will be required to do a lot of reading, re-reading and case summaries. It is also helpful if you talk in class. I find that students who articulate concepts in class generally do quite well on the exams.

ACADEMIC DISHONESTY

Fair and effective education requires academic honesty, and any violation is a very serious matter. UCSD rules concerning academic dishonesty are spelled out in the General Catalog. Note especially the strict prohibition against plagiarism, i.e., submitting as your own or without proper attribution work done wholly or in part by another person.

Plagiarism includes unauthorized collaboration on course assignments. Exams are *closed-book*, with no aids allowed. These rules will strictly be enforced. Any academic dishonesty will **without exception** be reported to the student's dean for disciplinary action. Please go to the following website for the entire UCSD Policy on Integrity of Scholarship: <http://www.senate.ucsd.edu/manual/appendices/app2.htm#AP14>

CONTROVERSIAL TOPICS

Students of all viewpoints, philosophies, religions, and backgrounds are encouraged to express their thoughts in this class. In fact, it is critical to our success. Open communication between classmates, regardless of your social, political or religious views or status is fundamental to achieving a full dialogue on these contentious and sometimes divisive topics. There is only one rule that **MUST** unequivocally be followed: all class participants must treat each other with courtesy and respect. There will be **ABSOLUTELY** no personal attacks or name-calling. This class will emphasize your reasoning and analysis skills – not the positions you take.

EXAMINATIONS

All exams will be on-line examinations. You will need a lock-down browser. You will have a maximum of three hours to complete the exam. If you start the exam late in the availability window, you may also be limiting your time to take the exam.

Below is information regarding the required LockDown Browser.

LockDown Browser Requirement

This course requires the use of LockDown Browser for online exams. Watch this video to get a basic understanding of LockDown Browser:

<https://www.respondus.com/products/lockdown-browser/student-movie.shtml>

Download Instructions

Download and install LockDown Browser from this link:

<https://download.respondus.com/lockdown/download.php?id=953813920>

Once Installed

- Start LockDown Browser
- Log into to Canvas
- Navigate to the exam

Note: You won't be able to access an exam that requires LockDown Browser with a standard web browser. If this is tried, an error message will indicate that the test requires the use of LockDown Browser. Simply start LockDown Browser and navigate back to the exam to continue.

Guidelines for On-Line Exams (i.e. Midterm and Final)

When taking an online exam follow these guidelines:

- Select a location with a strong internet connection where you won't be interrupted
- Before starting the test, know how much time is available for it, and also that you've allotted sufficient time to complete it
- Turn off all mobile devices, phones, etc. and don't have them within reach. [It would be cheating if you use them and I expect better of you.]
- Clear your area of all external materials - books, papers, other computers, or devices
- Remain at your desk or workstation for the duration of the test
- LockDown Browser will prevent you from accessing other websites or applications; you will be unable to exit the test until all questions are completed and submitted

Getting Help

Several resources are available if you encounter problems with LockDown Browser:

- The Windows and Mac versions of LockDown Browser have a "Help Center" button located on the toolbar. Use the "System & Network Check" to troubleshoot issues. If an exam requires you to use a webcam, also run the "Webcam Check" from this area
- Respondus has a Knowledge Base available from support.respondus.com. Select the "Knowledge Base" link and then select "Respondus LockDown Browser" as the product. If your problem is with a webcam, select "Respondus Monitor" as your product
- If you're still unable to resolve a technical issue with LockDown Browser, go to support.respondus.com and select "Submit a Ticket". Provide detailed information about your problem and what steps you took to resolve it

OFFICE HOURS AND CONTACT INFORMATION

I am not a full-time professor. I am a practicing lawyer, which makes regular office hours challenging. Unless otherwise indicated, on-campus office hours will be each Thursday before class from 5:00 to 5:50 at a location to be determined, and by appointment. My office address, phone number and e-mail address are listed below. The TA's will post office location and hours on the first night of class and will list them on the course website.

Office: (619) 906-2400 x 308; Email: Matt@progressivelawgroup.com. My office is located at 2170 Fourth Avenue, San Diego, CA 92101 (on the corner of Fifth and Ivy in Bankers Hill). There are meters along the streets and a flat lot across the street.

You are not permitted to record the lectures. Please respect this request. This is one of the most important discussions that needs to take place in this Country now and it must be without concern of publication.

READING ASSIGNMENTS

YOU ARE ENCOURAGED TO USE THE BELOW AS YOUR STUDY GUIDE

September 23 [Class One]

- Overview of the Class / Syllabus
 - How to read case law and prepare case briefs
 - Common legal terms and IRAC
 - Talking About Race (Tatum)
 - Film: 1861, The Cause (A Film by Ken Burns)

September 30 [Class Two]

- Introductory Materials
- **Race and American History**
- *Bell, Race, Racism and American Law, Chapter 2: Race and American History, pg.19-40*
 - The Emancipation Proclamation
 - The Fourteenth Amendment
 - *Dred Scott v. Sandford (1857)*

- **Race and Realism:** *Bell, Race, Racism and American Law, Chapter 2: Race and American History, pg.40-69*
 - The Thirteenth Amendment
 - The Civil Rights Acts
 - *Giles v. Harris* (1903) p.53
 - Confederate Statues and Reparations

October 7 [Class Three]

- **Equal Schooling and Strict Scrutiny**
- *Bell, Chapter 3, pp. 73-91*
 - *Roberts v. City of Boston* (1850)
 - *Cumming v. Richmond County Bd. of Ed.* (1897)
 - *Brown v. Board of Education* (1954), pg. 85
 - *Green v. County School Bd. of New Kent Cty* (1968)
 - *Community Schools v. Seattle School District No. 1* (2007)
 - *Swann v. Charlotte-Mecklenburg Bd. of Ed.* (1971)
- **Neutral Principals? Charter Schools: A Savior?**
- *Bell, Chapter 3, pp. 91-111; 127-146*
 - Post-*Swann*
 - Charter Schools and Vouchers
 - Black schools: *Bakke* to *Bazemore*
 - *United States v. Fordice* (1992)
 - *Fisher v. Univ. of Texas at Austin* (2016)(HO)

October 14 [Class Four]

- **Fair Employment Opportunity:**
 - Discrimination and Economic Impact
- *Bell, Chapters 4, pp. 149-169*
 - Title VII
 - 42 U.S.C § 1981
- **Title VII and the Civil Rights Act of 1991: Helping or Hurting?**
- *Bell, Chapter 4, pp. 169-178* (up to *Price Waterhouse*)

- Disparate Treatment
- *Furnco Construction Corp. v. Waters* (1978)
- *St. Mary's Honor Center v. Hicks* (1993)
- *Ledbetter v. Goodyear* (2007)

October 21 [Class Five]

- **Fair Employment: Con't**
- *Bell, Chapter 4, pp. 178-208*
 - Disparate Impact
 - *Griggs v. Duke Power Co.* (1971)
 - *Wards Cove v. Antonio* (1989)
 - *Washington v. Davis* (1976)
 - Civil Rights Act and other Policies
- Unions and Collective Bargaining
 - *Bell, Chapter 4, pp. 209-227*
- Review for Midterm
 - For Midterm Review students must have prepared questions about the material.
 - The syllabus will serve as your study guide.

October 28 [Class Six]

- **Midterm Exam**

November 4 [Class Seven]

- **Discrimination in the Administration of Justice: Is “the System” Racist?**
- *Bell, Chapter 5, pp. 265-302*
 - *Furman v. Georgia* (1972)
 - *McCleskey v. Kemp* (1987)
 - Jury Nullification
- *Bell, Chapter 4, pp. 302-331*
 - *Swain v. Alabama* (1965)
 - *Batson v. Kentucky* (1986)

- Post-Batson
- Reagan’s “War on Drugs”
- Mass incarceration rates

November 18 [Class Eight]

- **Voting Rights: Post-Reconstruction**
- *Bell, Chapter 6, pp. 341-365*
 - *Gomillion v. Lightfoot* (1960)
 - Poll Tax
 - Criminal Conviction Impact on Voting Rights
- **Voting Rights: A Twentieth Century Issue, Still?**
- *“Bell, Chapter 6, pp. 365-385*
 - Voting Rights Act
 - Gerrymanders
 - *Davis v. Bandimer* (1986)
 - *Vieth v. Jubelirer* (2004)
 - *LULAC v. Perry* (2006)
 - *Shelby County v. Holder* (2013)

December 2 [Class Nine]

- **Property Ownership and Housing: Section 1982 and the Fair Housing Act of 1968**
- *Bell, Chapter 7, pp. 425-428; 438-441;444-460*
 - *Shelley v. Kraemer* (1948)
 - 42 U.S.C. § 1982
 - Fair Housing Act of 1968
- **Continuing Segregation?**
- *Bell, Chapter 7, pp.466-496*
 - Public Housing
 - Urban Renewal
 - *Arlington Heights* (1977)

December 7

- **Final Exam On Line Three Hours**
- **Be Prepared to Use a Lockdown Browser (See details above)**

Midterm & Final Exam

The midterm will be **October 28, 2021**. It will count for 40% of your grade and is an on-line three-hour exam with a mixture of multiple-choice, short answer and fill-in the blank questions. The final exam will use nearly the same format with probably slightly more emphasis on short answers. The Final Exam is scheduled for **December 7, 2021 from 7:00pm to 10:00pm.**

This class is designed to have substantive content and expand your reading and analysis skills. If approached with the right attitude it will also aid your understanding of constitutional law and ease your path in law school (if that is something you are considering.) All that is required is that you do the reading and respectfully participate in the important class discussions.

Mattheus E. Stephens