As grammar is the rule of language and fashion is the rule of dressing, so is law the rule of force.


Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress.

Martin Luther King, Jr., “Letter from Birmingham Jail” (1963)

The second most important question to ask about a legal system is, 'What is the law?' The most important question, is 'How is the law applied?'

Oliver Wendell Holmes, "The Path of the Law" (1897)

That’s another way of looking at the system, you know, identifying the right loopholes ... It’s amazing what things can be done and cannot be done with ... within the law.


And paperwork? Oh, you'll fill out a report when you're right, you'll fill out a report when you're wrong, you'll fill one out when you're not sure, you'll fill one out listing your leads, you'll fill one out when you have no leads, you'll fill out a report on the reports you've made! You'll write enough words in your lifetime to stock a library. You'll learn to live with doubt, anxiety, frustration. Court decisions that tend to hinder rather than help you. You'll learn to live with the District Attorney, testifying in court, defense attorneys, prosecuting attorneys, judges, juries, witnesses. And sometimes you're not going to be happy with the outcome.

Joe Friday, Dragnet (1968)

Today you are the law. Not some book. Not some lawyer...Those are just symbols of our desire to be just.

David Mamet, The Verdict (1982)

Can't you people take the law into your own hands? I mean, we can't be policing the entire city!

Chief Wiggums, The Simpsons (1990)

Course Description

Law is a common and yet paradoxical aspect of life in modern society. Law orders the most boring details of daily life, while at the same time it makes grand judgments about life and death. Law is a set of shared aspirations, but it is also a divisive resource for social conflicts. Law is central and imperative, while being distant and intangible. Law is as clear and understandable as a police officer directing traffic and as obtuse and mysterious as the fine print on a contract.
We cannot cover all aspects of the legal system. A set of topics has been selected to focus on the systematic patterns in the uses and consequences of law. To better understand law, this class will look at the following four areas:

1. **The Relation Between Law and Morality**: It seems as if law and morality should be complementary, if not identical. But we know this is not always the case. Sometimes laws are immoral and the *good citizen* is put in the position of resisting the law or ignoring it. More often the relation between law and morality is murky leaving us to accept the laws that are convenient for us, even if they may have immoral consequences for others. Many have come to the conclusion that there simply is no relation between law and morality. Law is nothing but politicized force and morality is nothing but private preferences. Others argue that law and morality must go hand in hand and if they do not, the legal system must be fixed.

2. **Interpreting the Law**: The law exists in books as abstract principles. It must be applied to specific cases. We look at some of the theories of legal interpretation as well as some of the current controversies around these different approaches to interpretations. We will especially look at the accusation of "activist judges."

3. **Criminal System**: Sociologists believe that the "law" takes two different forms. On the one hand, there is law on the books and, on the other hand, there is law in the streets. The two are rarely the same. We will look at law in the streets and see how arrest, trial and punishment really work.

4. **Litigation**: Along with the criminal justice system, there is also a civil justice system where disputes between citizens are resolved. This usually involves a plaintiff who seeks to be paid for damages caused by the defendant. Some feel that these lawsuits are out of control in this country, while others feel that the media, encouraged by corporate interests, has exaggerated the adverse effects of litigation.

5. **Popular Culture and the Law**: In popular culture, law has become the source of plots, the center of dramatic tension, the butt of jokes, and the ultimate narrative resolution. Most of the shows on television have law and the legal system as an important theme...whether it is the ubiquitous Law and Order clones or Kelso becoming a police officer. Indeed, some have argued that Law has gone Pop, which is to say that the distinction between what is legal and what is entertainment has been eroded if not completely washed away. We will try to imagine what a society where popular culture and law are inextricably intertwined would be like.
Grades
Grades will be based on the following:

- Reading Points: 15%
- Law, Morality & Interpretation Paper: 25%
- Exam: 25%
- Spectacular Trials and Reality Paper: 35%

Reading Points: I will provide reading points for most assignments. You will be graded on your ability to provide a summary of the author on those points when called on in class. Only students called on in class will be graded on that day. If you are absent the day that I call on you without a university defined excuse, you will receive an 'F'. I will give everyone one 'free pass' for the quarter on reading points. In other words, you can let me know that you will be unprepared to answer the reading points for that day. However, you must do this before class starts, either in person, phone message or email. You will not be given a free pass after I have called on you.

I will sometimes have you write a short paragraph to answer one of the reading points. That answer should be submitted on Blackboard by 12:30 p.m. the day of class. It will count as one reading point. A free pass for that day will also apply to that.

Exam: The exam will be short essays. I will provide you with a list of study questions and the exam questions will be a subset of the study questions.

Papers: There are two papers. The "Law, Morality & Interpretation" paper does not require any outside research. It should be about 7 pages long. The "Spectacular Trials and Reality" paper requires library research on a well-known trial of your choice. It should be about 10 pages long.

Readings
All readings will be provided as downloadable pdf's on Blackboard. Please let me know if you anticipate any problems with those formats and we will figure out an alternative.

Help
I will hold office hours Tue & Thurs from 12:30 to 2:00 & from 4:00 to 4:30. I can also be reached by phone or email. I check my email often every day and it is my preferred mode of communication. Messages can also be left for me in the Sociology office. Please let me know if you have any disabilities which will affect your participation in this class. I will make every effort to accommodate you.
**Schedule**

**Law & Morality**

3/30: Intro. Legal Movies.

    Reading: "The Split Between the Moral & the Legal" T. Rosenbaum.
    Assignment: A moral principle that should govern the law, with example of how it should be applied.

4/6: Reading: "Legal Positivism" Tebitt
    Reading: "Social Solidarity and the Enforcement of Morality" Hart.
    Reading: Necessary Connection Between Law & Morality. Honore.

4/8: Reading: "Sources of Fundamental Values." J. Ely.

4/13: Reading: "Rites, Rights & Social Institutions" M. Gallagher.
    Reading: "Politics of Same-sex Marriage" M. Smith.
    Reading: "Homosexuality & Law." T. Calvani.

**Interpreting the Law**

4/15: Reading: "Legal Realism" J. Frank
    Reading: "Legal Realism for Lawyers" D. Wilkins

4/20: Reading: "Objectivity & Interpretation" O. Fiss.
    Reading: "Law's Ambitions" R. Dworkin.

4/22: Reading: "Roe v Wade Crying Wolf." J. Ely
    Reading: "Judicial Activism." C. Sunstein & J. Miles.
    Reading: "Lies & Judicial Activism" M. Vitiello.

4/27: Assignment due: "Relation Between Law and Morality" Paper
    Film: Thin Blue Line

**Criminal System**

    Reading: "Police Subculture" S. Herbert.

5/4: Reading: "The Process is the Punishment” M. Feeley.
Reading: "Law as Con Game" A. Blumberg.

5/6: Reading: "Trial: Theater of Justice" S. Kadri.
Reading: "Last Judgment" K. Capek.


Litigation


5/18: Reading: "Death of Common Sense" H. Howard.
Reading: "Distorting the Law" W. Haltom & M. McCann.

5/20: EXAM

Law in Popular Culture

5/25: Reading: "People's Court" Porsdam
Reading: "Justice out of Court: The dangers of trial by media" in Law as Communication, D. Nelken.

5/27: "When Law Goes Pop" Sherwin

6/1: Reading: "Great American Lawyer Joke Explosion" M. Galanter

Final Paper Assignment: "Spectacular Trials and Reality" Due at scheduled time of final.