CONSTITUTIONAL LAW AND GOVERNMENT

Public law plays a central role in the modern U.S. legal system. Statutes have displaced common law regulation in many areas, and supplement it in nearly all. Constitutional law issues, while not central in the daily practice of most lawyers, sporadically arise in nearly all areas of law. And, of course, constitutional law is fundamental to understanding the place of law in our society. As lawyers, you should have a fair understanding of the basic structure of the Constitution and the rights it guarantees.

Basic courses in the field are outlined below. (The basic course in Administrative Law, described in the "Administrative Law, Legislation, and Governance" cluster, is an important complement to study of constitutional law and government.)

The field of constitutional law and government allows students to examine the role of statutes and the Constitution in modern law. First year students study some aspects of constitutional structure in Constitutional Law I and in the courses in Curriculum B. Students interested in civil rights and civil liberties should take Constitutional Law II as soon as they find convenient. In addition, the course in Federal Courts and the Federal System provides a systematic introduction to constitutional litigation in our federal system. Students interested in, or having obtained, judicial clerkships (both state and federal) should be sure to take the Federal Courts course. (Many students and faculty members think it best to take the Federal Courts course in the third year, and preferably after having taken Constitutional Law II.) Specialized courses deal with different aspects of government operations. In general, students should select such courses based on their interests and career plans; none is more basic than any other.

The basic course Lawmaking: Introduction to Statutory and Regulatory Interpretation introduces students to issues about how the statutes are created and interpreted that are at the foundation of many other statutory courses (including tax and government regulation courses).

Students interested in civil rights law (broadly understood) will find several courses in this cluster dealing with statutory protection of civil rights. The course in Civil Rights gives an overview of statutory protection of civil rights. It will be useful to students interested in a survey course and to students who, while interested in the field in general, may not have enough background to make them comfortable in immediately choosing among the specialized courses. Depending on the instructor's interests, these courses may emphasize the connection between civil rights law and constitutional law, or between civil rights law and questions of statutory creation and interpretation. Again, choices among the specialized courses are best made on the basis of a student's interests and plans, rather than on a judgment that some specialized course is more important than another.

Local Government Law integrates issues of administrative, land use, and constitutional law, and questions of civil rights, tax, and labor law. It focuses on issues of state and local power that pervade nearly every lawyer's practice.

A number of advanced courses and seminars offer more historical and theoretical perspectives on constitutional law and government. As with all advanced courses, these augment students' understanding of the field in general. Students interested in pursuing academic careers with a primary or secondary focus on public law should seriously consider taking one of the courses offering such perspectives. Similarly, students interested in international law should consider seminars dealing with the constitutional dimensions of foreign affairs or comparative constitutional law.

The clinic and practicum courses in this cluster provide students with opportunities to learn about the process of adopting and interpreting legislation by engaging in it, through litigation or legislative advocacy. Students interested in the practical and theoretical aspects of this field are encouraged to combine a relevant clinic, practicum, or externship with a combination of the basic courses in the field and some advanced offerings.

Search Constitutional Law and Government Courses (http://curriculum.law.georgetown.edu/course-search/?cluster=cluster_8)

LAW 1716 v00 Advanced Constitutional Law Seminar: Challenges to Liberal Democracies (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201716%20v00)
J.D. Seminar | 2-3 credit hours
This seminar examines the challenges to constitutional democracies from illiberalism, i.e. the concentration of power that relies on elections, limits judicial independence, and abuses the rule of law in the name of the people. Many so-called democracies have serious flaws in their election systems, limited judicial independence, and elected leaders who are not held in check by functioning rule of law processes/checks and balances.

In the United States, efforts have been made to change rules for voting, draw electoral districts to give extreme partisan advantage, and use federal government agencies as weapons to thwart checks and balances. In this seminar we apply a multidisciplinary approach to the American situation, putting legal (in particular constitutional) transformation in the center. Specific topics include constitutional amendment, limitations on judicial independence, control over the media, takings and other restrictions of the free market, voter suppression and gerrymandering, plebiscites (e.g., Brexit), and threats to fundamental rights.

In addition to considering Turkey and the countries of East Central Europe, where voters have chosen autocratic leaders, we will also examine the Russian approach which has served as a model for many emerging illiberal regimes as well as a financial and intellectual support for illiberal movements from France to Italy and elsewhere, to better understand developments in the U.S. In addition, the course will consider how crises, such as public health issues or civil unrest, are used as justification for limiting true democracy.

In addition to examining the legal structures that permit this abuse of the democratic form, this course will also address the critical question of whether a democracy is sustainable in the face of ethno- or religious populism. Are there sources of constitutional resilience to save the remaining constitutional regimes?

Recommended: Prior or concurrent enrollment in Constitutional Law I: The Federal System.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
LAW 1265 v00 Advanced Constitutional Law Seminar: The Creation of the Constitution
J.D. Seminar | 3 credit hours
Few events have had as much impact on American history than the framing and ratification of the Constitution. This seminar is designed to offer students with serious interests in history, political theory, and constitutional law an opportunity to learn more about these events by reading some of the best scholarship on the creation of the Constitution and by writing an original research paper on an appropriate topic of their choosing. The seminar will examine how the Constitution was framed, ratified, and implemented during both the founding of the Republic and the "Second Founding" during and after the Civil War. Special attention will be given to founding-era controversies involving slavery, federalism, and implied powers, and to how these issues influenced the adoption and interpretation of the Reconstruction Amendments.

Prerequisite: Constitutional Law I: The Federal System (or Democracy and Coercion).

LAW 1712 v00 Advanced Evidence
J.D. Course | 3 credit hours
This course will take an in-depth look at issues involving the law of evidence. The topics discussed will likely fall into three categories. This first category concerns constitutional limitations on evidence rules such as the Confrontation Clause, a criminal defendant's constitutional right to present a defense, and the impeachment of jury verdicts. The second category concerns advanced problems involving character, hearsay, experts, and privileges. The third category concerns the process of proof in civil and criminal cases and will focus on topics such as burdens and standards of proof, evidentiary presumptions, and judicial notice.

Prerequisite: Evidence.

Mutually Excluded Courses: Students may not receive credit for this course and Advanced Evidence Seminar.

LAW 168 v00 Advanced Evidence: Supreme Court and the Constitution Seminar
J.D. Seminar | 3 credit hours
This seminar examines advanced subjects in evidence that were not treated or not treated in depth in the basic Evidence course but are important to trial practice.

Prerequisite: Evidence.

LAW 277 v02 Aging and Law Seminar
J.D. Seminar (cross-listed) | 2 credit hours
This seminar explores, through lecture, discussion, role playing, and problem solving, the range of legal challenges and public policy issues affecting older adults. Subject areas include health care benefits (Medicare, Medicaid); long-term services and supports (nursing homes, home and community-based services, long-term care insurance, state-based programs); income security programs (Social Security, SSI); aging and autonomy, including elder abuse, neglect and exploitation and advance planning related to incapacity (powers of attorney, guardianship and its alternatives, choices regarding life-sustaining medical treatment); housing and consumer issues affecting older adults; and ethical issues in representing older adults. Coursework will address systemic inequities faced by older adults of color, older women, LGBTQ older adults, older adults with disabilities, and older adults who are immigrants or have limited English proficiency. The seminar is both practice- and policy-oriented and integrative with respect to other coursework and related disciplines.

Recommended: Prior or concurrent enrollment in one or more of the following courses: Administrative Law; Family Law I: Marriage and Divorce; Constitutional Law II: Individual Rights and Liberties; Professional Responsibility.
**LAW 1771 v00 Arguing Free Speech in the 21st Century Seminar**

This course will explore cutting-edge issues in First Amendment doctrine, policy, and scholarship, through a pedagogical method that emphasizes structured debate and moot court oral arguments. Among the substantive issues we will address include: the effect of social media on free speech; campaign finance reform; compelled speech; data as speech and data privacy; hate speech; student online speech; commercial speech; and speech on campus. The class will feature a mixture of traditional seminar conversation and moot courts or structured debates. Each student will have the opportunity to be an oralist and to be a questioner or judge. Writing requirements will include the preparation of questions for the moot courts/structured debates, and an in-depth analysis of one of the issues we have discussed in class.

**Prerequisite:** Constitutional Law II: Individual Rights and Liberties.

**Note:** LL.M. STUDENTS: THIS COURSE REQUIRES DEPARTMENTAL PERMISSION TO Enroll. LL.M. students cannot register or put themselves on the waitlist for this course through MyAccess. Students interested in taking this course should send an e-mail to llmas@georgetown.edu indicating if they have fulfilled the prerequisite.

This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

**LAW 1710 v00 Campaign Finance 101**

Mark Hanna is famous for saying: “There are two things that are important in politics. The first is money and I can’t remember what the second one is.” The late Supreme Court Justice Robert Jackson remarked about the Supreme Court: "We are not final because we are infallible, but we are infallible only because we are final.”

This course considers money in American politics, and the Supreme Court’s key role in deciding what limits may be placed on campaign financing and what cannot. It also evaluates the political effects of U.S. campaign finance law, as constrained by the Court, in policy areas including incumbency and competition, corruption, and political equality. No background in political science is required, but this course is likely to be of greatest interest to those who pay attention to American politics and policy.

**Recommended:** Constitutional Law II: Individual Rights and Liberties.

**Note:** This course will meet from 9:00 a.m. - 12:15 p.m. in Fall 2020 on the following Fridays and Saturdays: 10/16, 10/17, 10/23 and 10/24. ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety will result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to continue enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.

**LAW 090 v00 Capital Punishment Seminar**

This seminar focuses on the substantive law of capital punishment and on the procedural aspects of post-conviction proceedings. The course will include an examination of the history of death penalty jurisprudence, habeas corpus, recent U.S. Supreme Court cases, public policy issues, and state and federal death penalty statutes. The writing requirement offers students an opportunity to write on a topic of their choice pertaining to the death penalty.

**Mutually Excluded Courses:** Students may not receive credit for this course and The Death Penalty in America Seminar or the Death Penalty Litigation Practicum.

**Note:** This seminar requires a paper. Students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the Upperclass Legal Writing Requirement.
LAW 1079 v00 Child Welfare Law and Practice in the District of Columbia (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201079%20v00) (Fieldwork Practicum)

J.D. Practicum | 4 credit hours
In fieldwork practicum courses, students participate in weekly seminars and conduct related fieldwork at outside organizations. This practicum course will focus on the workings of the child welfare system in the District of Columbia. Students will participate in a two hour/week seminar and also undertake 10 hours/week of fieldwork at a child welfare-related organization.

SEMINAR: Students will study Supreme Court and District of Columbia cases defining the fundamental nature of the parent/child relationship and setting forth when state intervention is warranted to protect the best interests of the child. Students will gain an understanding of the various stages of child protection proceedings and the different roles, responsibilities and professional relationships of the attorneys representing the government, the child and the parents at each stage. Issues concerning interracial and gay adoption will be discussed, as will the overrepresentation of poor and minority youth in the child welfare system. Students will engage in simulation exercises, give an in-class presentation on a topic of their choosing, and will write a final paper.

FIELDWORK: Students will participate in fieldwork with a child welfare-related organization and share their experiences with the class and through written reflection memos. Some fieldwork sites require students to undergo police/background clearances, and others do not. If this is a concern for a student, the student should reach out to the professor before the beginning of the semester to discuss field placement options.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective.)

Recommended: Family Law I: Marriage and Divorce or Family Law II: Child, Parent, and the State; Evidence.

Mutually Excluded Courses: Students may not concurrently enroll in this practicum and an externship or a clinic or another practicum course.

Note: This practicum course is open to LL.M. students, space permitting. Interested LL.M. students should email the Office of the Registrar (lawreg@georgetown.edu) to request admission.

This course is suitable for evening students who can commit to attending class and working 10 hours/week (during business hours) with their field placements. This is a four credit course. Two credits will be awarded for the two-hour weekly seminar and two credits for approximately 10 hours of fieldwork per week, for a minimum of 11 weeks, to be scheduled with the faculty. The fieldwork must be completed during normal business hours. The two credit seminar portion of this practicum will be graded. The two credits of fieldwork are mandatory pass/fail. Students will be allowed to take another course pass/fail in the same semester as the field work. Students who enroll in this course will be automatically enrolled in both the seminar and fieldwork components and may not take either component separately. After Add/Drop, a student who wishes to withdraw from a practicum course must obtain permission from the faculty member and the Assistant Dean for Experiential Education. The Assistant Dean will grant such withdrawal requests only when remaining enrolled in the practicum would cause significant hardship for the student. A student who is granted permission to withdraw will be withdrawn from both the seminar and fieldwork components. Default attendance rule for all practicum courses (unless the professor indicates otherwise): Regular and punctual attendance is required at all practicum seminars and fieldwork placements. Students in project-based practicum courses are similarly required to devote the requisite number of hours to their project. If a student must miss seminars, fieldwork, or project work (out of a total of 11 weeks of fieldwork or project work), may receive a lower grade or, at the professor's discretion, may be withdrawn from the practicum course.

LAW 286 v02 Church-State Law Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20286%20v02)

J.D. Seminar | 2-3 credit hours
This seminar will focus on the major shifts in church-state law over the past decades and key issues the Supreme Court will face in the next several terms. It will analyze and evaluate the various theories proposed by the sitting Justices on both free exercise and establishment clause jurisprudence and place those theories in the historical context of church-state law in America. The seminar will deal with such issues as tensions between the free exercise and establishment clauses, public aid to religious institutions, religion and public education, accommodating religious minorities, and church autonomy. It will also examine tension between demands for religious accommodation and demands for gender and sexual equality, protection of public health, and other social norms. Throughout, current litigation strategies related to these issues will be explored.


Mutually Excluded Courses: Students may not receive credit for this seminar and Religious Liberty on Trial Seminar.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
LAW 1684 v00 Civil Rights and Violence Against Women (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201684%20v00) (Project-Based Practicum)
J.D. Practicum | 4 credit hours
In a project-based practicum course, students participate in a weekly seminar and work on a project under the supervision of their professors. This practicum will focus on innovative efforts to reframe the Violence Against Women Act’s civil rights remedy to withstand constitutional scrutiny. Students will participate in a two-hour/week seminar and carry out 10 hours/week of project work under the direction of the course professor.

The #MeToo movement tells us that the law has been deeply inadequate in responding to sexual assault and harassment. One reason, among others, is that Title VII and Title IX do not provide adequate remedies. They only apply in certain contexts and do not allow suit against the primary person responsible for the sexual assault and/or harassment that occurred.

Once upon a time, a federal remedy did exist to fill these gaps. The Violence Against Women Act’s (VAWA) civil rights remedy was in effect for six years before the U.S. Supreme Court struck it down in United States v. Morrison. During that time, plaintiffs sued for harassment, sexual assault, and/or battering in a variety of contexts, including for example, workplaces, gyms, and doctor’s offices.

Legal Momentum (formerly NOW Legal Defense), who led the effort to pass the original civil rights remedy, is the project partner for the course. Under the supervision of Professor Nourse, students will work on a variety of legal and policy projects throughout the semester that will inform Legal Momentum’s and (and other advocates’) next steps in the effort to revive this important civil rights remedy. This year, the practicum will build on the prior two years research in this practicum, by focusing on a new federal model law, and a new state model law against sexual harassment and assault.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Mutually Excluded Courses: Students may not concurrently enroll in this practicum and a clinic or another practicum course. Students may concurrently enroll in this course and an externship.

Note: THIS COURSE REQUIRES PROFESSOR PERMISSION TO ENROLL. Students must submit a resume and one page statement of interest to Professor Victoria Nourse (vfn@georgetown.edu) by 5:00 pm on Wednesday, June 8, 2022. After June 8, if seats remain open in the course, students will be admitted on a rolling basis.

This course is suitable for evening students; project work does not need to be completed during business hours. This is a four credit course. Two credits will be awarded for the two-hour weekly seminar and two credits will be awarded for approximately 10 hours of supervised project work per week, for a minimum of 11 weeks. Both the seminar portion and the project work will be graded. Students who enroll in this course will be automatically enrolled in both the seminar and fieldwork components and may not take either component separately. After Add/ Drop, a student who wishes to withdraw from a practicum course must obtain permission from the faculty member and the Assistant Dean for Experiential Education. The Assistant Dean will grant such withdrawal requests only when remaining enrolled in the practicum would cause significant hardship for the student. A student who is granted permission to withdraw will be withdrawn from both the seminar and fieldwork components. Default attendance rule for all practicum courses (unless the professor indicates otherwise): Regular and punctual attendance is required at all practicum seminars and fieldwork placements. Students who are absent from seminars or placements without prior permission will be subject to withdrawal from the practicum.

LAW 528 v02 Civil Rights Policy Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20528%20v02)
J.D. Clinic | 12 credit hours
Please see the Civil Rights Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/civil-rights-clinic) for more detailed information about the program.

For registration-specific supplemental materials, please see the Civil Rights PDF (https://georgetown.app.box.com/s/n7c77mlmvv62yjwml/fb/6cm20k0r8y01).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3jvqcuynvip3ytyrl6nj9pyv6).

Mutually Excluded Courses: Students may not concurrently enroll in this clinic and an externship or a practicum course.

LAW 094 v01 Civil Rights Policy Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20094%20v01)
J.D. Seminar | 2-3 credit hours
This seminar studies the statutory, common law, and constitutional issues that arise in federal civil rights litigation. For the spring semester of 2019, the seminar will focus on the primary civil rights statute, 42 U.S.C. § 1983, which is used for constitutional (and some other) claims against state and local governments and their officials. Such constitutional torts include most prison litigation and police misconduct litigation, providing the basic vehicle for claims for both damages and injunctions. Like the course in Civil Rights, the seminar will cover both judicial creation of constitutional claims as well as defenses against those claims. Primary policy attention will be given to police misconduct litigation, an active area with substantial new developments and altered landscape over the past five years. The central policy issues in the area test the breadth of judicially created claims, the offsetting construction of defenses against such claims, and the resulting balance struck by the Court. That balance suggests that the Court is moving rapidly -- and with surprising unanimity -- toward a new view of police misconduct litigation.

Learning Outcomes. You should learn at the highest level of proficiency 1) topics listed in the primary syllabus and the theories and policies justifying them, 2) methods used by attorneys in the area of civil rights for finding or developing “law,” 3) research methods, including appreciation of both theory and practice, for analyzing policy justifications for proposed legal norms, and 4) how to appreciate your own biases and limitations in doing all the above. The primary course evaluation is by the traditional two-credit seminar paper.

Prerequisite: Prior or concurrent enrollment in Constitutional Law II: Individual Rights and Liberties. This prerequisite can be waived by the professor for students who have taken the substantial equivalent or show they have other preparation.

Note: The seminar will meet double-time for the first five weeks of the semester and only a few times thereafter for presentation of papers.

This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement. Students registered in the 2 credit section must write a research paper of at least 4,000 words.
**LAW 1322 v00 Civil Rights Statutes and the Supreme Court Seminar**

- **J.D. Seminar | 2 credit hours**
- This seminar will examine recent litigation in the Supreme Court involving the modern civil rights statutes: Title VII, Title IX, RFRA, the ADEA, the ADA, the Fair Housing Act, and Sections 2 and 5 of the Voting Rights Act. Toward that end, we will read recent cases decided by the Court interpreting theses statutes, and the cases that form the backdrop for those decisions. We will also examine briefs and oral arguments in some of these cases. Finally, we will examine civil rights cases that are scheduled to be heard in the upcoming term, or that may make their way to the Court in the near future. There will be one writing assignment, a paper of approximately 25 pages in length. Two-thirds of the grade will be based on the paper, and one-third will be based on class participation.

  **Recommended:** Constitutional Law II: Individual Rights and Liberties.

**LAW 528 v01 Communications and Technology Law Clinic (IPR)**

- **J.D. Clinic | 12 credit hours**
- Please see the Communications and Technology Law Clinic (IPR) website (https://www.law.georgetown.edu/experiential-learning/clinics/communications-technology-law-clinic-ivr) for more detailed information about the program.

For registration-specific supplemental materials, please see the Communications and Technology Law Clinic (IPR) PDF (https://georgetown.app.box.com/s/u4zs8qrh1x5kyw6x56t9x7gdakvn0gu).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3jycuyvneip3tyry6jn0pyv).

**Mutually Excluded Courses:** Students may not concurrently enroll in this clinic and an externship or a practicum course.

**LAW 091 v11 Comparative Constitutional Law**

- **J.D. Course (cross-listed) | 3 credit hours**
- How do we lose and save a constitutional democracy? How can democratic backsliding be prevented? What should we consider in designing a constitution? Can constitutions exist without constitutionalism? What is an authoritarian constitution? How do constitutions transitions and change occur? What forms of judicial review do courts employ? Is it possible to have an unconstitutional constitutional amendment? How do courts across the world interpret constitutions? Can constitutions be employed abusively?

Comparative constitutional law has exploded in contemporary constitutional practice and as a field of study. Events around the world—from Asia and the Middle East to Europe and Latin America—underscore the importance of understanding how constitutional democracies are born and how they can collapse. In this course, we will explore constitutions in global perspective, examining issues of constitutional structure and rights across comparative constitutional systems. We will cover topics like constitution-making, constitutional change, constitutional amendment, judicial review, and constitutional adjudication. Drawing on examples across the world, we will also examine individual rights issues, such as freedom of religion and freedom of expression, as well as constitutionalism in times of emergency and during the COVID-19 pandemic. We will also consider how constitutions can be abused and the question of whether and how constitutionalism might be able to endure in fragile democracies.

**Mutually Excluded Courses:** Students may not receive credit for both this course and the Comparative Constitutional Law Seminar.
Compare constitutional law has exploded in contemporary constitutional practice and as a field of study. Events around the world—from Asia and the Middle East to Europe and Latin America—underscore the importance of understanding how constitutional democracies are born and how they can collapse. In this course, we will explore constitutions in global perspective, examining issues of constitutional structure and rights across comparative constitutional systems. We will cover topics like constitution-making, constitutional change, constitutional amendment, judicial review, and constitutional interpretation. Drawing on examples across the world, we will also examine individual rights issues, such as freedom of religion, as well as constitutionalism in times of national emergency and in fragile democracies.

J.D. students who wish to write a fulfilling the Upperclass Legal Writing Requirement must register for the 3-credit section of the seminar. J.D. or LLM students taking the seminar for 2-credits will not need to write a paper. There are no prerequisites for taking the class.

**Mutually Excluded Courses:** Students may not receive credit for both this course and the Comparative Constitutional Law course.

**Note:** This seminar requires a paper. J.D. students must register for the 3-credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2-credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

**LAW 080 v00 Computer Crime Law**

J.D. Course (cross-listed) | 3 credit hours

This course will explore the legal issues that judges, legislators, prosecutors, and defense attorneys confront as they respond to the recent dramatic increase in computer-related crime. In particular, we will consider how crimes online challenge traditional approaches to the investigation, prosecution, and defense of crime that have evolved from our experience with crimes in physical space. Topics will include: the Fourth Amendment online, the law of electronic surveillance, computer hacking and other computer crimes, cyberterrorism, the First Amendment and the Internet, and civil liberties online.

Although much of this class involves computer and internet technology, no prior technical background or knowledge is required.

Any technology that needs to be understood will be explained in class, and students should not hesitate to ask for other technical explanations.

**LAW 091 v10 Comparative Constitutional Law Seminar**

J.D. Seminar (cross-listed) | 2-3 credit hours

How to lose and save a constitutional democracy? How to prevent democratic backsliding? How to design a constitution? Can constitutions exist without constitutionalism? What is an authoritarian constitution? How do constitutions transitions and change occur? What forms of judicial review do courts employ? Is it possible to have an unconstitutional constitutional amendment? How do courts across the world interpret constitutions? Can constitutions be employed abusively?

This seminar explores the range of issues involved in congressional investigations, with special attention paid to the differing perspectives of the major players, both inside and outside of Congress, in a congressional investigation. Congressional investigations involve a unique interplay of legal and political issues. Legal issues -- involving such matters as the rights of private institutions and private citizens who may be implicated in a congressional investigation, the legal and political ability of the Executive Branch to resist congressional probes, the authority of the Judicial Branch to interfere with or limit the conduct of congressional investigations, and the relationship of congressional investigations to related criminal and civil inquiries conducted by other governmental entities -- must be factored into the political calculus of the contending political forces involved in a congressional investigation. Political determinations -- which underpin such issues as the scope and duration of an investigation or whether witnesses should be interviewed, deposed or called to testify live at a hearing -- may have significant legal ramifications. This seminar will address these issues at both the practical and the theoretical levels. As part of the course, class members will be asked to participate in mock problems concerning different aspects of the process.

**Recommended:** Criminal Justice (or Democracy and Coercion) or Criminal Procedure.

**Mutually Excluded Courses:** Students may not receive credit for both this seminar and Congressional Oversight of the Executive Branch or Congressional Investigations and the Modern Government Inquiry.
LAW 103 v00 Conservatism in Law in America Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20103%20v00)
J.D. Seminar | 3 credit hours
This writing seminar explores various themes running through conservatism in American law. In the course of examining the meaning of American legal conservatism, it touches on certain basic questions about the nature and purpose of law both generally and in the United States in particular, as well as assumptions and beliefs about how human beings behave and how they learn to order their dealings with one another. It explores the relationship of conservatism in society to conservatism in American law, occasionally using current and past controversies to illustrate different ways of understanding conservatism in law as well as competing approaches.

**Recommended:** Constitutional Law I: The Federal System or Democracy and Coercion.

**Note:** This seminar is open to J.D. students only and non-degree students may not enroll.

LAW 1609 v00 Constitutional and Statutory Interpretation Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201609%20v00)
J.D. Seminar | 2-3 credit hours
Analyzing text is a deeply important part of legal practice in public law, whether statutory or constitutional law. It cuts across a wide variety of subject matter areas, from very basic aspects of the Constitution to any statutory topic imaginable. Whatever the subject matter, whether health care law, presidential emoluments, or internet privacy, certain problems of legal analysis recur. How should courts analyze legal texts? Where should judges go to look for meaning when the text is vague or ambiguous? Should texts be updated to reflect current norms? What does it mean to look for the drafter’s intent? Should approaches toward statutory and constitutional text be symmetrical or not? This seminar will introduce students to these problems and provide essential skills for reading both constitutional and statutory text. Materials will be provided by the instructor or invited guests. Students will be graded on short reaction papers due every two weeks. *Given the theoretical nature of the topic, law review students are especially encouraged.*

**Note:** This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 089 v00 Constitutional Aspects of Foreign Affairs Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20089%20v00)
J.D. Seminar (cross-listed) | 3 credit hours
This seminar deals with the distribution of powers between the president and Congress in the areas of war, diplomacy, international organizations, foreign assistance, commerce, money, etc. as well as the distribution of powers between the national and state governments. Such related matters as the impact on individual rights and the political question doctrine in this context are also discussed.

**Prerequisite:** Constitutional Law I (or Democracy and Coercion).

**Mutually Excluded Courses:** Students may not receive credit for both this seminar and Foreign Relations Law.

**Note:** FIRST CLASS ATTENDANCE IS MANDATORY. All enrolled and waitlisted students must be in attendance at the start of the first class session in order to be eligible for a seat in the class.

A student who no longer wishes to remain enrolled will not be permitted to drop the class but may request a withdrawal BY PROFESSOR PERMISSION ONLY.
LAW 1601 v00 Constitutional Impact Litigation Practicum (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201601%20v00) (Project-Based Practicum) | 5 credit hours
This project-based practicum course will give students the unique opportunity to be part of the constitutional litigation work of Georgetown Law’s Institute for Constitutional Advocacy and Protection (ICAP). Led by attorneys with deep experience in trial and appellate advocacy, national security law, and federal prosecution, ICAP pursues strategic litigation in federal and state courts at all levels to defend constitutional rights and values while working to restore confidence in the integrity of our governmental institutions. Recent work includes safeguarding rights to free expression, assembly, and democratic participation; combating threats from unlawful private militias and political violence; fighting the criminalization of poverty and other forms of criminal legal system overreach; defending the rights of young people and marginalized communities; and preserving fundamental separation-of-powers principles. ICAP often works in close partnership with non-profit organizations, pro bono teams of law firms, and law school clinics. Students will participate in a two-hour weekly seminar and carry out an average of 15 hours per week of work with ICAP and its partners on strategic litigation and litigation-adjacent policy development.

SEMINAR: Drawing on experience from ICAP’s cases as well as prominent historical and current examples of impact litigation, the seminar will focus on the history of public and social justice litigation and its uses, criticisms, and obstacles. Seminar participants will discuss with the practicum’s Professors and other lawyers on the ICAP team strategies for bringing impact litigation, including identifying and selecting plaintiffs, test cases, venues, and legal theories, as well as engaging the public. Students will receive specific instruction on how to prepare research memoranda useful to litigators exploring which cases to take and which arguments to make; on what makes for successful, persuasive briefing of constitutional arguments; and on how to explain to the public, in forms such as short op-eds, the crux of key legal challenges and the stakes associated with them.

PROJECT WORK: Students will work an average of 15 hours per week on constitutional litigation and related projects handled by ICAP. Work flow will depend on litigation deadlines and demands. Students should not expect the workload to be even from week to week, and some weeks may require a significantly greater number of hours while others may require very few. Students’ roles may include providing litigators with memoranda conveying research on relevant legal issues; drafting portions of briefing materials; mooting oral advocates for argument; drafting press releases and/or op-eds relevant to ICAP’s litigation; and assisting with litigation-adjacent policy development. Students also may be involved in fact gathering related to ICAP’s litigation, including reviewing and analyzing publicly available data.

Prospective students should review ICAP’s website (https://www.law.georgetown.edu/icap) for examples of previous work. Examples include obtaining injunctions against unlawful private paramilitary activity by far-right extremists and militias; challenging bail practices and fines and fees that unconstitutionally discriminate against indigent defendants; representing “sanctuary cities” against challenges to their policies; obtaining an injunction against anti-protest legislation designed to chill First Amendment rights; and representing the U.S. House of Representatives Select Committee to Investigate the January 6 Attack on the United States Capitol in obtaining presidential records relevant to its investigation. Students may undertake multiple projects over the course of the semester, engaging with not only the Professors, but also with ICAP’s other litigators. Students will be expected to work both independently and in teams, just as they would on an impact litigation team.

Prerequisite: Constitutional Law I and Constitutional Law II (or concurrent)

LAW 1359 v00 Constitutional Interpretation Seminar: Originalism and its Rivals (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201359%20v00) | 2 credit hours
This seminar will critically evaluate the “originalist” position that courts should be bound by the “original understanding” or by the “original public meaning” of the constitutional text, or by the “original Framers’ intent. The seminar will then review a variety of alternative approaches, including ones that treat the constitutional text as having evolving meaning, and others that emphasize tradition, democracy, precedent, moral obligation, or other bases for constitutional interpretation, including alternatives that contest the idea that the Constitution should be considered binding or that the judiciary should have ultimate authority for constitutional interpretation. The positions will be identified and evaluated through a focus on Supreme Court decisions and on scholarly commentary. Participants will be expected to write short response papers and to attend the seminar meetings. No paper will be required.

LAW 004 v00 Constitutional Law I: The Federal System (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20004%20v00) | 3 credit hours
This course addresses questions concerning the role of the Supreme Court in resolving legal problems that arise under our fundamental law, as well as issues concerning the Constitution’s distribution of power between the national and state governments and among the branches of the national government.

LAW 004 v01 Constitutional Law I: The Federal System (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20004%20v01) | 3 credit hours
This course is the basic course on United States constitutional law. The course explores the architecture of the United States Constitution and focuses on topics illustrating three core structural aspects of American constitutionalism: (1) the tradition of constitutional review by the judicial branch; (2) the configuration, interaction, and powers of the three branches of the national government; and (3) the Constitution’s distribution of power between the federal and state governments.
Constitutional Law and Government

LAW 215 v00 Constitutional Law II: Individual Rights and Liberties
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20215%20v00)
J.D. Course (cross-listed) | 4 credit hours
This course focuses primarily on the First, Fifth, and Fourteenth Amendments (free speech, due process, and equal protection) and the role of the Supreme Court as ultimate interpreter and guardian of the Bill of Rights.

Note for Professor Barnett’s Fall section: As a way to understand the structure of current doctrines, Professor Barnett's course will stress how and why the doctrines evolved from the Founding through the Civil War, Reconstruction, the Progressive Era, the New Deal, the Warren and Rehnquist Courts to the Roberts Court today. The course will also stress the effect that slavery had on the original Constitution and the Reconstruction Amendments. Coverage will include the Second and Ninth Amendments. Internet access on any device is not allowed during class; all laptop use is disallowed in Professor Barnett’s course (unless necessary to conduct Zoom instruction).

Learning Objectives for Professor Spann’s section

The primary goal of the course is to teach students how to manipulate the doctrinal rules and underlying policy considerations that govern the topics in the course, and to get students to confront the normative implications raised by such vast amounts of doctrinal indeterminacy.

LAW 1538 v00 Constitutional Law: The First and Second Amendments
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201538%20v00)
J.D. Course | 1 credit hour
This course will provide students the opportunity for intense and detailed study of cutting-edge issues arising under the Free Speech Clause of the First Amendment and the right to keep and bear arms under the Second Amendment. Students will be required to read foundational Supreme Court cases in full (including concurrences and dissents) to enable them to discuss and debate the decisions and the analytical approaches used to reach them.

Learning Objectives:

By the end of the week, I hope you will have learned to:

1. Understand more deeply First and Second Amendment jurisprudence;
2. Appreciate how difficult it is for the Supreme Court to decide close cases;
3. Express your thoughts clearly and concisely and to disagree with colleagues without being disagreeable;
4. See virtue in reading cases in their entirety, rather than in excerpt form;
5. Recognize different judicial philosophies in Supreme Court opinions;
6. Identify premises justices use as starting points for their analyses; and
7. Write an exam that reflects command of First and Second Amendment cases.

Prerequisite: Constitutional Law II: Individual Rights and Liberties.

Note:

WEEK ONE COURSE. This seminar will meet for one week only on the following days: Monday, January 9, 2023, through Thursday, January 12, 2023, 1:30 p.m. - 4:50 p.m. The course will have a take-home exam that must be completed during the week of Friday, January 20th through Friday, January 27th, 2023. This course is mandatory pass/fail and will not count toward the 7 credit pass/fail limit for J.D. students.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.
LAW 1512 v00 Constitutional Litigation and the Executive Branch
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW\ %201512%20v00)
J.D. Seminar | 2 credit hours
This seminar will explore the practice and strategy of constitutional litigation through a close study of recent constitutional challenges to Executive Branch action.

We will begin with a brief overview of major trends in constitutional litigation against the Executive Branch. We will then address specific cases, examining the course of each litigation and exploring key strategic judgments made by parties, amici, and judges. Students will leave the course familiar with every stage of a constitutional case, from the initial announcement of an Executive Branch policy, to the decision to file suit and the drafting of a complaint, to litigation at every level of the Judiciary and in the court of public opinion, to the varied challenges that may follow a successful lawsuit. Along the way, we will consider the strategy and incentives of different litigants—including civil rights groups, private parties, cities, states, and legislators. We will also study the goals and strategies of lawyers charged with defending Executive Branch action.

Although this list is subject to change in light of ongoing developments, we likely will cover many of the following topics:

- President Trump's "travel ban"
- The exclusion of transgender persons from military service
- Don’t Ask, Don’t Tell
- The Defense of Marriage Act (DOMA)
- DACA and DAPA
- Threats to revoke federal funds from sanctuary cities
- The (unsuccesful) addition of a citizenship question on the 2020 Census
- Requests by juvenile undocumented migrants to exercise abortion rights
- The challenge to President Trump's policy of blocking critics on Twitter
- President Trump's compliance (or lack thereof) with the Emoluments Clauses
- Efforts by the House of Representatives to compel testimony by former officials
- Efforts by cities, states, and the House to obtain President Trump's tax returns
- The impeachments of President Trump

Each week, students will study relevant court filings and opinions (from district courts all the way to the Supreme Court), complemented by contemporaneous legal commentary. We will expect all students to prepare for—and participate in—classroom discussion.

Prerequisite: Civil Procedure or Legal Process and Society; Constitutional Law I: The Federal System or Democracy and Coercion.

LAW 1727 v00 Constitutional Originalism Seminar
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW\ %201727%20v00)
J.D. Seminar | 2-3 credit hours
This course will explore the scholarly debate surrounding originalism as a theory of constitutional interpretation. There will be some consideration of prominent criticisms of originalism, but the class will mostly focus on the internal developments and debates within the originalism literature. Topics will include the normative justifications for originalism, the role of precedent within originalism, the interpretation/construction distinction, and the relationship between originalism and judicial deference.

Note: This course will enroll via waitlist. Please add your name to the waitlist by 2:45 p.m. on Friday, 8/21. Seats for this course will be awarded at 3:00 p.m. on Friday, 8/21.

This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1805 v00 Courts and Congress
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW\ %201805%20v00)
J.D. Seminar (cross-listed) | 2 credit hours
This course examines the relationship between the federal judiciary and the Congress, and its role in shaping the administration of justice. How do lawmakers exercise effective and appropriate oversight while fostering a system of federal courts that discharges the judicial power of the United States? How does the Judiciary maintain independence within a system in which Congress has so many controls over the Third Branch? How can the two branches work together to sustain and strengthen the federal courts as an essential part of our government?

Anticipated session topics include: the Judicial Conference of the United States, legislative cooperation, appropriations, judgeships, confirmations, and oversight. Most seminar meetings will include discussion with practitioner guests.

Grading will be based on: (1) class attendance and appropriate contributions to seminar discussions, including written questions for guests submitted in advance of each class meeting; (2) two short memo assignments; and (3) a capstone exercise of proposing a congressional action and responding to a classmate's proposal.
LAW 512 v01 Criminal Defense and Prisoner Advocacy Clinic (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20512%20v01)
J.D. Clinic | 14 credit hours
Please see the Criminal Defense & Prisoner Advocacy Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/criminal-defense-prisoner-advocacy-clinic) for more detailed information about the program.

For registration-specific supplemental materials, please see the Criminal Defense and Prisoner Advocacy Clinic PDF (https://georgetown.app.box.com/s/sn7fmbaj0aw7f1db679d9us24vbb).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3jvqcuynev3ytyr6nij9pyv6).

**Mutually Excluded Courses:** Students may not concurrently enroll in this clinic and an externship or a practicum course.

LAW 512 v00 Criminal Justice Clinic (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20512%20v00)
J.D. Clinic | 14 credit hours
Please see the Criminal Justice Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/criminal-justice-clinic) for more detailed information about the program.

For registration-specific supplemental materials, please see the Criminal Justice Clinic PDF (https://georgetown.app.box.com/s/n01smi05y5xibe866tvjqrnhpklj2).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3jvqcuynev3ytyr6nj9pyv6).

**Mutually Excluded Courses:** Students may not concurrently enroll in this clinic and an externship or a practicum course.

LAW 128 v01 Criminal Procedure (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20128%20v01)
J.D. Course | 2 credit hours
An examination of the basic Fourth, Fifth, and Sixth Amendment principles that govern the interaction of the police and suspects in the investigation of crime. From stop and frisks to coerced confessions, the course will examine the constitutional doctrines developed to regulate police behavior and the admissibility of evidence. The core concepts will include the definition of a “search,” the meaning of probable cause and reasonable suspicion, the requirement of a search warrant and the many exceptions to the warrant requirement, Miranda and related limits on interrogation, and the pre-trial right to counsel. The course will also focus on the role of the courts in enforcing the constitutional guarantees, particularly through the exclusionary rule.

**Learning Objectives:**
1. Thorough Understanding of the Primary “Substantive” Fourth Amendment Issues in Criminal Cases and Certain Civil Cases
2. Thorough Understanding of Primary “Remedial” Fourth Amendment Issues in Criminal Cases
3. Thorough Understanding of the Primary “Substantive” Fifth Amendment Issues Related to Interrogations and Confessions
4. Thorough Understanding of the Primary “Remedial” Fifth Amendment Issues Related to Interrogations and Confessions
5. Thorough Understanding of the Sixth Amendment Issues Related to Uncounseled Confessions and Pretrial Line-ups
6. Thorough Understanding of Sixth Amendment Issues Related to the Effective Assistance of Counsel

**Mutually Excluded Courses:** Students may not receive credit for both this course and Criminal Justice or Democracy and Coercion.

**Note:** This course is offered only to transfer students from other law schools who have not had a first year course in constitutional criminal procedure.
COURSE GOALS

By the end of the semester, students will:

1. Understand the role that racism has played in shaping American Legal doctrine in first year subjects.
2. Be equipped to critically evaluate the role of racism in shaping other areas of law.
3. Enhance their critical reading skills.
4. Enhance their critical thinking skills.
5. Enhance their research and writing skills.
6. Enhance their ability to have difficult conversations about racism in a productive manner. Self-reflection is a key ingredient here.

Note: This course is a first-year elective. First-year day students select an elective offered in the spring.
LAW 1783 v00 Decentering the Police in Community Safety Practicum
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW %201783%20v00) (Project-Based Practicum)
J.D. Practicum | 5 credit hours
In a project-based practicum course, students participate in a weekly seminar and work on a project under the supervision of their professors. This practicum will focus on actionable steps to decenter the role of policing in community safety efforts in order to make cities and neighborhoods safer and reduce the harms of policing. Students will participate in a weekly two-hour seminar and carry out approximately 15 hours of project work each week under the direction of the course professors.

SEMINAR: Nationwide, high-profile police killings and the documentation of patterns of police misconduct have brought about broad-based movements for change. There is a growing recognition that even lawful policing causes unnecessary harm and that we have over-relied on policing to meet community safety needs. A modern, evidence-informed approach to community safety requires decentering the role of police to make space for entities that can better carry out some responsibilities currently delegated to police. The seminar portion of this course will provide students an understanding of the history of policing and explore theories of why policing has evolved as it has. We will take close looks at particular harms and inefficiencies of the current public safety system that over relies on policing to meet a broad array of social challenges, from drug addiction and homelessness, to mental health crisis, trauma, and preventing violence. During seminars, students will hear from a broad spectrum of actors and stakeholders in the public safety system.

PROJECT WORK: Through this practicum, students will work on projects that explore and implement innovative approaches to community safety. Projects may involve research to enhance understanding of what is needed to make communities safe; implementing ideas that broaden the scope of who is involved in creating and maintaining community safety; or working directly to reduce the harms of current policing. Students will gain the skills and knowledge lawyers need to play an effective role in the effort to transform policing, community safety, and our criminal legal system. Student projects may be completely individual or in pairs, and may involve working with Georgetown Law’s Center for Innovations in Community Safety on projects currently underway.

Prerequisite: Criminal Justice (or Democracy and Coercion) or Criminal Procedure. Second year evening students can take Criminal Justice concurrently. Transfer students can take Criminal Procedure concurrently.

Mutually Excluded Courses: Students may not concurrently enroll in this practicum course and a clinic or another practicum course.

Note: LL.M. students require permission from the professor to enroll.

This is a five-credit course. Two credits will be awarded for the two-hour weekly seminar and three credits will be awarded for approximately 15 hours of supervised project work per week. Students who enroll in this course will be automatically enrolled in both the seminar and practicum components and may not take either component separately. After Add/ Drop, a student who wishes to withdraw from a practicum course must obtain permission from the faculty member and the Assistant Dean for Experiential Learning. The Assistant Dean will grant such withdrawal requests only when remaining enrolled in the practicum would cause significant hardship for the student. A student who is granted permission to withdraw will be withdrawn from both the seminar and project components. Default attendance rule for all practicum courses (unless the professor indicates otherwise): Regular and punctual attendance is required at all practicum seminars and fieldwork placements. Students in project-based practicum courses are similarly required to devote the requisite number of hours to their project. If a student must miss seminar,
This course will address domestic violent extremism (DVE), an increasingly urgent matter of public concern that raises complex legal and policy issues. The violence at the U.S. Capitol on January 6, 2021, was an unprecedented event. It was, however, the culmination of several years during which domestic violent extremists increasingly organized themselves into paramilitary units, committed racially and politically motivated violence, intimidated people seeking to exercise their constitutional rights, and threatened government officials fulfilling their responsibilities. In March 2021 the Office of the Director of National Intelligence reported that the intelligence community: 

assesses that domestic violent extremists (DVEs) who are motivated by a range of ideologies and galvanized by recent political and societal events in the United States pose an elevated threat to the Homeland in 2021. Enduring DVE motivations pertaining to biases against minority populations and perceived government overreach will almost certainly continue to drive DVE radicalization and mobilization to violence.

In June 2021 the White House issued its Strategy for Countering Domestic Terrorism, recognizing the significance of the threat and the need for a comprehensive approach focused on information sharing, prevention, disruption and deterrence, and resilience. In January 2022 the head of the Justice Department’s National Security Division declared that “attacks in recent years underscore the threat that domestic terrorism continues to pose to our citizens, to law enforcement officers and elected officials, and to our democratic institutions,” and announced the creation of a domestic terrorism unit at the Department.

Addressing domestic violent extremism raises a host of complex questions relating to law enforcement, national security, freedom of speech, freedom of assembly, the right to petition regarding grievances, the right to bear arms, voting rights, and the appropriate scope of counterterrorism operations. This course will introduce students to these issues, enhance their ability to engage in rigorous analysis of them, and enable them to formulate responses consistent with the rule of law and in respect of civil rights and civil liberties. This analysis will be informed by an understanding of the history, nature, and sources of DVE, as well as the organizational and associational structures that it may take.

Assessment will be based on a paper of 3,000 words analyzing a legal or policy issue related to domestic violent extremism and proposing options for addressing it.

The learning objectives for this course are for students to:

1. Become familiar with the history, nature, sources, and structure of DVE in the United States;

2. Understand and be able to analyze the wide range of constitutional issues that policymakers and lawyers must assess in attempting to address such extremism;

3. Understand and be able to analyze the statutory and common law legal considerations that are relevant in addressing DVE;

4. Appreciate the policy considerations that should inform analysis of DVE; and

5. Formulate potential responses to DVE on the federal, state, and local level that appropriately weigh competing considerations based on rigorous analysis of the issues described above.

Note: This course will meet on the following Mondays, 3:30 pm - 5:30 pm: 1/23, 1/30, 2/6, 2/13, 2/23 (Monday classes meet), 2/27 and 3/6.
For their seminar papers, students will write about one figure or one work not covered in class. For example, a student could write on Camus’ The Stranger as a portrait of the existential outlaw and provide an existentialist critique of a classically liberal constitutionalism. Or, a student might focus on an author/work to discuss. Some texts contain offensive language.

Cautionary note: This course deals with sensitive, even volatile, subject matter. Some subjects will be difficult, perhaps even painful, to discuss. Some texts contain offensive language. I expect all discussion to be conducted with courtesy, respect, sensitivity, and compassion. Like all seminars, this ought to be a forum for hard-earned learning: a place where we can consider new ideas and reconsider old ones. I make no claim to expertise in our “lit” subjects. I will be learning along with you. I hope that students will be full participants in suggesting additions to our reading list, in proposing new topical units for consideration, and in thinking boldly about how this seminar may evolve.

Note: FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist.

NOTE: For the Fall 2021 semester, mandatory first class attendance rules will not be enforced for this course. Enrolled students will not be dropped if not in attendance at the start of the first class, and waisted students will remain eligible to be admitted off the waitlist if not in attendance at the start of the first class.
As an instrument of federalism, the U.S. Constitution plays a vital role in defining state and local governments’ taxing powers. In some instances this is accomplished by express Constitutional provisions; in others, by express or implied grants of authority to the legislative, executive or judicial branches of government. This advanced state and local tax course will explore and analyze Constitutional provisions that limit (and sometimes expand) state and local taxing powers. It will include a historical review of Supreme Court jurisprudence that underscores the inherent complexities and tensions precipitated by the intersection of federalism and the underlying goals embodied within the Commerce Clause, Equal Protection Clause, Import-Export Clause, Privileges and Immunities Clause, and Supremacy Clause, among others. The course also will explore how issues of federalism have shaped various Federal statutory enactments, as well as pending pieces of federal legislation. For example, it will analyze how federalist tensions and statutory dynamics were balanced in a proposed congressional bill concerning state and local tax incentives. Additionally, the course will explore the impact of Treaties and international trade laws, as well as their related enforcement mechanisms, which continue to spawn new issues implicating the States’ powers to tax.

Prerequisite: Federal Income Taxation (formerly Taxation I).

Note: Students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the Upperclass Legal Writing Requirement.

LAW 1631 v00 Federal Practice Seminar: Contemporary Issues
J.D. Seminar | 2 credit hours
This seminar will explore selected topics in Civil Procedure, Federal Courts, and Administrative Law in depth. The seminar will focus on topics that have recently gained attention in the Supreme Court or that may arrive in the Supreme Court in the near future. Each class will relate to only one or two such topics. Examples of possible topics include nondelegation, federal preemption, arbitration clauses and the Federal Arbitration Act, personal jurisdiction, *Chevron* or other doctrines of deference to agencies, congressional power over Tribes and/or States, Dormant Commerce Clause limits on congressional power, class action scope and limits, and the major questions doctrine. Depending on the topic, we may read Supreme Court decisions, scholarly literature, or Supreme Court briefs. There will be one major writing assignment: a paper of approximately 20-25 pages in length that addresses a topic in civil procedure, federal courts, or administrative law. The grade in the course will be based substantially on the final paper, but may be adjusted upward or downward one-half grade based on class participation. We recommend but do not require completion of or simultaneous enrollment in Administrative Law or Federal Courts. (NB: This two-credit course does not fulfill the J.D. Writing Requirement.)
LAW 1514 v00 Federalism in Practice: The Role of Governors and State Executives in Advancing Public Policy [http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201514%20v00] (Fieldwork Practicum) J.D. Practicum | 5 credit hours

In fieldwork practicum courses, students participate in weekly seminars and conduct related fieldwork at outside organizations. This fieldwork practicum course explores the legal and practical dimensions of policy making at the state level, with a focus on the role of governors and other state executives (e.g., attorneys general, legislators, secretaries of state). Students will participate in a two-hour/week seminar and also undertake 15 hours/week of fieldwork with the National Governors Association, National Association of Attorneys General, National Conference of State Legislatures, or other state and local stakeholder group.

SEMINAR: This seminar will provide an overview of the constitutional underpinnings of federalism and the legal frameworks applicable to policy development and implementation (e.g., in healthcare, homeland security, emergency response, infrastructure and transportation); case studies on the challenges and opportunities of federal, state, and local cooperation; and practical guidance on the operation of governors’ offices and state agencies. It will also examine the role of the “Big Seven” associations in driving state and local interests at the federal level, and in facilitating the adoption of best practices across government. Students will be trained in written and oral communication for an audience of policymakers, and become skilled at distilling complex legal issues into actionable recommendations for executives. During the semester, students will hear from guest speakers who serve or have served in governors’ offices and state agencies, or who otherwise offer unique insight and expertise in topical issues. By the end of the course, students will understand how “good” public policy (ethical and effective) happens in the real world and the practical ways in which research/science, politics, ideology, tradition, and the law help to shape it.

FIELDWORK: Depending on students’ interests and the organization’s needs, students may be placed in NGA’s Center for Best Practices (Homeland Security & Public Safety Division) or one of the other “Big Seven” state/local associations, such as the National Conference of State Legislatures, National Association of Attorneys General, National District Attorneys Association, or Council of State Governments. Students will work with the organization’s staff and state officials to resolve legal questions and develop recommendations for state policymakers, such as: (1) writing a model cyber vulnerability disclosure policy for state agencies; (2) providing guidance on the legal implications of health reform; (3) constructing a model framework for addressing citizen privacy in homeland security policy; (4) updating legal and procedural guidance for governors’ legal counsel; and (5) developing advocacy strategies for federal legislation that affects state interests.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Recommended: No other courses are required, but background coursework in constitutional law, administrative law, and statutory interpretation may be helpful.

Mutually Excluded Courses: Students may not concurrently enroll in this practicum and an externship or a clinic or another practicum course.

Note: This practicum course is open to LL.M. students, space permitting. Interested LL.M. students should email the Office of the Registrar (lawreg@georgetown.edu) to request admission.

This course is suitable for evening students who can attend the weekly seminar and conduct 15 hours of fieldwork/week during normal business hours. This is a five-credit course. Two credits will be awarded for the seminar component and three credits for the fieldwork component.
LL.M Course (cross-listed) | 2 credit hours
This is an advanced course on constitutional principles bearing on U.S. foreign relations: primarily, separation of powers, federalism and judicial review of Executive acts and congressional legislation. It focuses on some of the most challenging issues that have divided the American polity from the inception of the Republic and continue to do so today, e.g., the allocation of foreign affairs power between the Executive and Congress; the scope of Presidential power to protect the nation in times of danger; and the proper role of the courts in deciding legal issues relating to national security. We will study historical materials that inform the legal arguments on both sides of current controversies over Presidential and Congressional power and discuss foreign relations issues under judicial review in 2020. We also study the power to make treaties and executive agreements, the Supremacy clause and application of customary international law by U.S. courts.

Recommended: There are no prerequisites, but familiarity with basic principles of U.S. government is important.

Mutually Excluded Courses: Students may not receive credit for this course and the J.D. courses, Constitutional Aspects of Foreign Affairs Seminar or U.S. Foreign Relations and National Security Law.

Note: FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist.

NOTE: For the Fall 2021 semester, mandatory first class attendance rules will not be enforced for this course. Enrolled students will not be dropped if not in attendance at the start of the first class, and waitlisted students will remain eligible to be admitted off the waitlist if not in attendance at the start of the first class.

LAW 089 v03 Foreign Relations Law (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20089%20v03)
J.D. Course (cross-listed) | 2 credit hours
This seminar is designed to encourage students to think critically and creatively about the appropriate constitutional role for the principles of equality and liberty and, more broadly, about the manner in which Supreme Court functions as an institution. These goals will be accomplished by "reinventing" fourteenth amendment jurisprudence, free from the constraints imposed by the actual decisions of the Court. At the beginning of the semester, students will be assigned to individual "courts," which will meet to decide cases assigned every other week throughout the semester. The "courts" will be expected to vote on how the cases should be decided and to prepare written majority, dissenting, and concurring opinions as appropriate. Each student will be graded in part on the basis of the quality of any opinion that the student agrees to sign. By citing as authority only those cases previously decided by that court, each court will develop a body of hypothetical case law over the semester that must be distinguished, amplified, or, if necessary, overruled in dealing with the next set of cases. Students will be encouraged to remain in role and to attempt to develop a consistent judicial philosophy. Every two weeks, two of the "courts" will become "law firms," which will analyze the case law developed by a third court, write briefs, and conduct an oral argument before the third court. Although little reading will be required for this seminar, students will be expected to produce a substantial amount of written work and to devote a substantial amount of time to meeting with other members of their court.

Note: FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a withdrawal; failure to attend any subsequent class session in its entirety may result in a withdrawal.

Students are not permitted to withdraw from the course after the first class, except for students who receive permission to withdraw from the professor.

LAW 196 v03 Free Press (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20196%20v03)
J.D. Course (cross-listed) | 2 credit hours
"Congress shall make no law . . ." the First Amendment commands, "abridging the freedom . . . of the press." But Congress, the Executive Branch, and the courts have promulgated a host of laws governing both print and electronic media. This survey of mass media law explores such current topics as prior restraints on publication, defamation, privacy, newsgathering liability, media liability for unlawful conduct of third parties, compelled disclosure of sources, and access to information. Practical aspects of representing media clients are examined along with public policy implications of existing legal doctrines and proposals for change. Much of the course is discussion-based, and students will be expected to make meaningful contributions to that discussion, with class participation forming the basis for one-third of the grade for the semester.

LAW 1812 v00 Free Speech on Campus: Law and Policy (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201812%20v00)

J.D. Seminar (cross-listed) | 2-3 credit hours

Our society’s intense polarization has had serious consequences for our campuses, in no arena more significant than freedom of expression. In today’s toxic environment, how can students and faculty, and the numerous other stakeholders, pursue liberal, rational, open learning? How can they speak up without fear? How can campus administrators ensure safety and maintain civility? What speech is protected and what speech is deemed to be hateful? What legal redress can there be for threatening speech? What are the effects on all of us of a lack of free inquiry and civility on campus?

This course seeks to answer those questions as it considers the contours of free expression on campus. We will cover the distinctions between public and private colleges and universities, religion and free expression, and the relationship among free expression, academic freedom, shared governance, and freedom of association. We will consider the limits on expression, and where behavior crosses over the line from being protected to become the proper subject of disciplinary action or removal from the institution. We will also address the way in which the boundaries of free expression are foundational to institutions of higher learning. To say that expression is protected is a threshold issue, not the end of the discussion, bringing us to a compelling topic for the nation generally, and academia particularly: the relationship between free expression and civility in the public square.

Learning Objectives:

Our goal throughout the course will be to understand the breadth of issues faced by higher education institutions in their mission to further free and open debate and discussion, and also maintain a safe and appropriate learning environment for all members of the community. We will focus on applicable legal doctrines as well as the philosophical underpinning of free inquiry and academic freedom. Whether or not students seek to serve as a University Counsel, all need to understand the laws underpinning the fundamental freedom of expression. Our campuses are the places where knowledge is created and transmitted, and therefore what happens on campus matters beyond its confines.

There is also a skill-oriented aim of this course. Students will often be in the position of the college or university’s general counsel, or other members of the administration, having to articulate the standards that apply to the institution, making or recommending decisions in particular cases, or formulate campus policy. Students taking the course for 3 credits, who will write a significant research paper, will have the opportunity to develop their skills in legal research and writing as applied to a particular issue and will present their papers at the final class meeting.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1272 v00 Gender and Sexuality (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201272%20v00)

J.D. Course (cross-listed) | 3 credit hours

This course will provide an introduction to the legal contexts and theoretical debates surrounding sex, gender, sexuality, and their intersections. We will explore the way gender and sexuality have been debated, defined, and redefined in the contexts of gender identity and performance, sexual pleasure, reproductive rights, sexual violence, marriage, family organization, work, and education. In these contexts we will consider the evolution of the law, the discursive effects of law, and the ways feminist and queer theorists have challenged and reimagined prevailing legal rules and cultural norms. In short, the class will probe the ways that law is gendered, sexualized, and raced, and with what overall effects on social institutions and practices.

Key topics will include:

- The Mutual Influence of Identitarian Politics and Law
- Constitutional Law of Sex Equality, Liberty, and Religious Objection
- Regulation of Sexual Conduct
- Regulation of Reproduction
- The Evolving Meanings of Marriage & Family
- Sexual Harm & Consent
- Gender & Sexuality at Work, School and other Institutions

Strongly Recommended: Constitutional Law II.

Mutually Excluded Courses: Students may not receive credit for this course and Sexual Orientation and the Law: Selected Topics in Civil Rights.

LAW 202 v00 Government Contracts (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20202%20v00)

J.D. Course (cross-listed) | 2 credit hours

This course analyzes the basic considerations in contracting with the federal government, including the sovereign’s power to contract, the applicable statutes, regulations and executive orders, and sovereign immunity. Material covers methods of acquisition: sealed bidding or negotiation (competitive proposals); requests for quotations; Multiple Award Schedule (MAS) contracting; the problems of offer, acceptance, and consideration; as well as the authority of government agents to contract. The materials also focus on the problems of contract performance, including changes; delays and suspensions of work; contract termination either for contractor default or for government convenience; and equitable adjustments and allowable costs. There is emphasis throughout the course on the practical as well as the substantive problems, including the dispute procedures before the boards of contract appeals and appeals to the U.S. Court of Federal Claims, as statutorily mandated by the Contract Disputes Act of 1978; extraordinary rights and remedies, including recovery for defective pricing and Public Law 85-804 requests; and bid protest proceedings before the agencies, Government Accountability Office (GAO), and the U.S. Court of Federal Claims. The course also includes a discussion of the changes to the government contracting process, to allow for “commercial item” contracting, as a result of the Federal Acquisition Streamlining Act of 1994 and the Federal Acquisition Reform Act of 1996.

Prerequisite: Contracts (or Bargain, Exchange, and Liability).
LAW 627 v00 Health Justice Alliance Law Clinic (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20627%20v00)
J.D. Clinic | 10 credit hours
Please see the Health Justice Alliance Law Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/health-justice-alliance-clinic) for more detailed information about the program.

For registration-specific supplemental materials, please see the Health Justice Alliance Law Clinic PDF (https://georgetown.box.com/s/sayjo4vhr2wq8zcmdljzesseby6d0opn1).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3yqcyuynvip3ytjr6nj9pv6).

Mutually Excluded Courses: Students may not concurrently enroll in this clinic and an externship or a practicum course.

LAW 311 v01 Higher Education and the Law Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20311%20v01)
J.D. Seminar | 2-3 credit hours
Higher education plays a singular role in our society. Colleges and universities are complex organizations and institutions with unique missions to discover, create and transmit knowledge, and to further social mobility. Higher education intersects with the law in a myriad of ways. This course examines the legal issues that shape higher education, particularly in the United States. The course covers the distinctions between public and private colleges and universities, religious and higher education, accessibility to and financing of higher education, academic freedom, shared governance, admissions, free expression, privacy and freedom of association, campus safety with a particular focus on sexual assault, and issues of race, disability, gender and sexual orientation. We will consider student rights and responsibilities, faculty issues concerning research ethics and the classroom, and the roles of presidents, governing boards, and university general counsel. Materials include relevant statutes and cases as well as readings from related fields. Our goal throughout the course will be to understand the breadth of issues faced by higher education in the United States in pursuing its mission, and the ways in which legal rules and norms relate to these issues.

Recommended: Prior or concurrent enrollment in Constitutional Law II: Individual Rights and Liberties.

Note:
Students may take this seminar for either 2 or 3 credits. All members of the seminar are required to write a number of short reaction papers. Students taking the seminar for 3 credits are also required to write a research paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement.

LAW 037 v00 Immigration Law and Policy (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20037%20v00)
J.D. Course (cross-listed) | 3 credit hours
This course will examine the U.S. immigration system through legal and policy perspectives. We will explore the source, scope and constitutional limits of congressional power to regulate immigration; the executive branch implementation of immigration legislation, particularly procedures for entry and removal, and the extent of, as well as constitutional constraints on, Presidential power; and the administrative and judicial review of executive branch action. Close attention will be paid to how membership laws and policies are established and implemented: What laws and policies govern U.S. citizenship? Who is eligible to become a legal immigrant? How are annual admissions numbers set? How and why are family and employment priorities created? How does the U.S. protect refugees? With respect to the arrival of unaccompanied children from abroad, we will consider the laws and policies that govern how the U.S. government treats them. Unauthorized migration will also be examined to understand why some migrants do not use the legal route into the U.S. and what laws and policies the U.S. has in place to deter such unlawful movements at the border and control unlawful presence in the interior. We will analyze the impact of the major 1996 immigration control legislation and its implementation, with particular attention to detention and removal. We will closely examine the role of the Justice Department's Immigration Courts, with special attention to access to justice issues. We will explore the extraordinary need for, and challenges of, immigration law reform, as well as the particular situation of the Dreamers, children without lawful immigration status brought to and raised in the United States by their parents. Finally, we will assess the various changes implemented by the Trump and Biden Administrations, particularly in connection with the treatment of asylum seekers at the U.S.-Mexico border, the resettlement of refugees from abroad, and the removal of unauthorized immigrants.

LAW 037 v02 Immigration Law and Policy (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20037%20v02)
LL.M Course (cross-listed) | 2 credit hours
This class will cover the constitutional and political framework for the U.S. Immigration System, enforcement and adjudication agencies, immigrants, nonimmigrants, removals and deportations, detention and bond, immigration hearings, judicial review, grounds for removal and inadmissibility, "cirmigration," immigration reform, "Chevron" deference, refugee and asylum status and other international protections. It will also include reading and analyzing major immigration cases like INS v. Cardoza-Fonseca, 480 U.S. 421 (1987) (well-founded fear) and Matter of Kasginga, 21 I&N Dec. 357 (BIA 1996) (female genital mutilation).

Mutually Excluded Courses: Students may not receive credit for both this course and National Security Law Through an Immigration Framework.

Note: Withdrawals are permitted up until the last class for this specific course.
Learning Objectives:

- Develop a better understanding of the historic development of immigration law and policy.
- Become familiar with legal concepts concerning asylum, immigration detention, and executive power over admissions and removal.
- Understand different policy-making options and the tension between discretionary decision-making and compulsory enforcement.
- Appreciate the choices and limitations facing various decision-makers in the immigration context, as well as the experience of migrants and asylum seekers in the immigration system.
- Assess separation of powers concerns using examples from the immigration field.
- Make a nuanced assessment of popular news stories and debates about immigration law, paying special attention to the role of various decision-makers at play.
- Summarize and critically analyze various proposals for reform of the immigration adjudications, deportation proceedings, and the asylum process.
- Master a substantive legal issue related immigration by producing a paper and/or presentation on a legal debate in the area. Develop writing and presentation skills by participating in this exercise.
- Practice critical reading of law review articles and cases.

Recommended: Immigration Law and Policy.

Note: This course requires a paper. Students must register for the 3 credit section of this course if they wish to write a paper fulfilling the J.D. Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
LAW 342 v03 Information Privacy Law (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20342%20v03)
J.D. Course (cross-listed) | 3 credit hours
This course provides an introduction to information privacy law both on the books and on the ground. Topics covered include the constitutional, common law, and consumer protection foundations of U.S. information privacy law; the European approach to privacy and data protection; the "life cycle of data," with particular regard to regulatory issues and new challenges posed by algorithmic and/or data-driven practices; and sectoral privacy regimes in national security, employment, health, education, finance, and communications.

Learning goals for this course: Critical mastery of the existing doctrinal, statutory, regulatory, and policy landscapes and the complex interrelationships among them; critical mastery of the privacy compliance considerations that confront both private- and public-sector organizations; awareness of international differences in the treatment of information privacy issues and some comparative exposure to European information privacy and data protection law in particular.

LAW 342 v05 Information Privacy Law (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20342%20v05)
J.D. Course (cross-listed) | 3 credit hours
This course serves as an introduction to the field of "information privacy law." The goal of the course is to equip students with the vocabulary, legal toolkit, and conceptual knowledge to enter the this rapidly-expanding area of law as a practitioner, an academic, or something in between. The course will trace the development and meanings of privacy in American law from the famous 1890 Harvard Law Review article "The Right to Privacy" by Samuel Warren and Louis Brandeis to the modern problems of privacy in the information age. Particular emphasis will be placed upon modern policy problems involving privacy, including privacy and the media, Fourth Amendment law, health privacy, Internet privacy, FTC regulation, emerging technologies, the problems caused by government and private-sector databases, and the prospects of federal privacy reform in 2021. The focus of the course is on US law, but we will necessarily examine the internationalization of the field, including the European General Data Protection Regulation (GDPR) and the "Right to Be Forgotten." Attendance and participation are essential.

Note: Please note that laptop computers are not permitted in class.

LAW 1626 v00 Internet Law (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201626%20v00)
J.D. Course | 3 credit hours
Everything we do, we do at least some aspect of it online. From commerce to speech, internet companies intermediate our daily activities. In the process, internet companies are changing how we live. Is the internet a free speech zone protected by the U.S. Constitution's First Amendment, or does it heed hate speech or political speech regulations from abroad? Can copyright law survive the worldwide copying machine of the internet? Is privacy dead when corporations know where you are and what you are doing nearly 24/7? Focusing on U.S. case law and statutes, this course examines the evolving law regulating internet enterprises.

Mutually Excluded Courses: Students may not receive credit for this course and Digital Law & Policy (CCTP-658-01), which is offered by the Communications, Culture & Technology department on the Main Campus.
J.D. Seminar (cross-listed) | 1 credit hour
This seminar will address the relationship between courts-martial and civilian judicial proceedings, focusing on the allocation of responsibilities in the military justice system to commanders, judges, and lawyers. Specific topics will include the contemporary debates regarding sexual misconduct and combat-related offenses. The assigned readings will utilize materials available on the internet, including judicial decisions, legislative and regulatory materials, and law review articles. The seminar paper will take the form of a draft judicial opinion based upon topics covered in the course. The seminar is designed for students interested in national security, judicial review, and the constitutional allocation of legislative, executive, and judicial powers.

Learning Objectives:

- Identify the key features of military legal practice, the distinctions between military and civilian jurisprudence, and the primary factors considered by Article III courts in reviewing cases arising in the military justice system.
- Assess the impact of congressional legislation and oversight, as well as the role of the President in the military justice system.
- Enhance research skills through analysis of briefs and source materials.
- Enhance writing skills by preparing a judicial opinion.

Recommended: Constitutional Law I and either Criminal Justice (or Democracy and Coercion) or Criminal Procedure.

Note: WEEK ONE COURSE. This seminar will meet for one week only on the following days: Monday, January 9, 2023, through Thursday, January 12, 2023, 6:00 p.m. - 9:20 p.m. This course is mandatory pass/fail and will not count toward the 7 credit pass/fail limit for J.D. students.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.
The aim of this course is to introduce the students to the ways in which liberal constitutionalism deals with the fact of difference (religious, ethnic, or national). After general theoretical introduction to various branches of government. Students will also explore the role of other government oversight entities, such as the Office of Special Counsel, the Government Accountability Office, and congressional committees, in pursuing government accountability. Students will evaluate the relationship between inspectors general and these other entities, and the challenges in providing independent oversight of government operations. Students will hear from current and former inspectors general and leaders of oversight organizations about the challenges they faced, as well as the satisfaction and benefits of public service.

LAW 1792 v00 Law and Authoritarianism

J.D. Seminar (cross-listed) | 2-3 credit hours

Three decades after the end of the Cold War, authoritarianism remains a major political force across the world. This seminar considers the relationship between authoritarianism and law. It mixes theoretical works with historical and contemporary case studies, drawing on insights from social science, political philosophy, and law. The course will address: the roles of constitutions, courts, lawyers, and legal activists in authoritarian societies; the growing use of digital technologies by autocratic governments; authoritarianism's challenges to American and international law; and the relationship between law and democratic erosion. This course is intended to be inviting to all students, and does not assume any specific knowledge of foreign legal systems.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 045 v03 Law and Multiculturalism Seminar

J.D. Seminar (cross-listed) | 3 credit hours

The aim of this course is to introduce the students to the ways in which liberal constitutionalism deals with the fact of difference (religious, ethnic, or national). After general theoretical introduction to various issues (such as law, culture and difference, politics of recognition and politics of redistribution, the risks of politics of identity, the liberal and feminist critiques of multicultural politics, the analytical problem of group rights), the course will survey the ways that liberal democracies deal with the claims of several groups within society to be different. We will read cases and materials from the United States, Canada, France, Israel, India, and Germany.

LAW 1433 v00 Law and Religion

J.D. Practicum | 4 credit hours

In fieldwork practicum courses, students participate in weekly seminars and conduct related fieldwork at outside organizations. This fieldwork practicum course is designed to give students familiarity with the field of law and religion. Students will participate in a two hour/week seminar and undertake 10 hours/week of fieldwork with organizations that work on issues related to religious freedom.

SEMINAR: President Obama called religious freedom "central to the ability of peoples to live together" Professor Martha Nussbaum observes, "America now contains a religious diversity unparalleled in its history."

This seminar will examine society's ability to enable those with the deepest of differences to live in community peaceably. Substantively, it will promote an understanding of the law that governs the relationship between religion and government, defines protections for the free exercise of religion, and provides the framework for civic life among people of all religions and none. Although law and religion will be the unifying theme of our work, there is a broad range of modalities that we can pursue in this field—litigation in workplace disputes, amicus briefings for the Supreme Court, researching the effect of public policy initiatives—providing a myriad of opportunities to hone professional legal skills.

Seminar participants will gain doctrinal competency in current religious freedom law, engage in a principled examination of religious freedom as an essential Constitutional and basic international human right, and gain experience interacting on a "hot topic" issue in a professional manner by focusing on common ground and building principled consensus.

Interested students who have any questions or would like more information about the seminar or field placements should feel welcomed emailing Professor Inks directly at sci2@law.georgetown.edu.

FIELDWORK: Students will perform legal work under the supervision of an attorney mentor for 10 hours/week with organizations that focus on issues related to religious freedom. Some examples include: the ACLU, the ADL, DOJ, The Interfaith Alliance, Americans United for the Separation of Church and State, Congress, The Christian Legal Society, The Native American Rights Fund, and Alliance Defending Freedom.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Mutually Excluded Courses: Students may not concurrently enroll in this practicum and an externship, clinic, or another practicum course.

Note: Both enrolled AND waitlisted students are encouraged to e-mail Prof. Inks as soon as possible (but a CV is not necessary) to let her know if they have any preferences in where they want to work or the kind of work they would like to do. Students are NOT required to find their own work placements. If a student has a specific request or pre-existing relationship with an organization, every attempt to accommodate that will be made. No special previous experience is required for this practicum.

This practicum course is open to LL.M. students, space permitting. Interested LL.M. students should email the Office of the Registrar (lawreg@georgetown.edu) to request admission. This course is suitable for evening students who can attend the weekly seminar and conduct at least 10 hours of fieldwork/week during normal business hours. This is a four credit course. Two credits will be awarded for the two-hour weekly seminar and two credits for approximately 10 hours of fieldwork per week, for a minimum of 11 weeks, to be scheduled with the faculty. The two-credit seminar portion of this practicum will be graded. The two credits of fieldwork are mandatory pass/fail. Students will be allowed to

Constitutional Law and Government
The course will focus on theories of legal interpretation. Our primary focus will be on theories concerning the interpretation of statutes (e.g., textualism, purposivism) and the Constitution (e.g., originalism, living constitutionalism). But we will also consider perspectives on contract interpretation and treaty interpretation.

Learning Objectives: Students should become familiar with historical and modern debates about legal interpretation. This is a highly interdisciplinary course, introducing students to concepts and skill in analytic philosophy, linguistics, and empirical social science (e.g., competence in reading and evaluating empirical work related to legal interpretation). The course will also raise questions, particularly in our discussion of constitutional interpretation, about law’s claim to neutrality and its impact on different populations, especially as concerns race, gender, native language, and class.

**LAW 304 v06 Legislation**

J.D. Course | 3 credit hours
In the first-year curriculum, you are taught to “think like a lawyer.” Because of the predominance of common-law subjects in your first year, this means you are generally taught to think like a “common-law lawyer.” Moreover, you are taught to think this way at the same time that you are also trying to learn the doctrine in those particular areas.

In upper-level courses, however, you will likely turn from common law to law based in statutes and regulations. From tax law to the criminal code, virtually all of modern American law is based on materials produced by legislatures and agencies. Reading and interpreting these materials also requires you to “think like a lawyer,” but like a different lawyer—a “statutory lawyer.”

This course is about the method of statutory interpretation generally. You will not learn the doctrine of any specific type of law in this class. You will learn the process of how to approach a piece of statutory text, how to diagnose the interpretive problem in the text, and how to answer that problem. You will practice the observant reading of text; you will get a framework for breaking down and thinking about a legal question in any statutory case; and you will practice deploying interpretive tools to answer a question in the way that best “zealously advocates” for your client. This course will prepare you for summer legal work, as well as for upper-level courses that rely extensively on statutory law (such as tax, securities, environmental law, labor law, health law, copyright law, etc.)

The course has three overall goals:

1) To provide you with an understanding of the relationships among legislatures, courts, and agencies. The course will include some basic information on how legislation and regulations get created and on the ways in which power is shared in the “making of law.”

2) To teach you the full toolkit of statutory interpretation so that you can diagnose any interpretation question and bring the right tools to bear on answering that question. This toolkit includes elements of the plain text, canons of interpretation, analysis of intent and purpose, and deference to agencies. By unpacking and analyzing these tools used by courts in various decisions, you will learn how to wield them yourself in order to reach different results.

3) To expose you to the theoretical debates around statutory interpretation. The tools that a judge chooses to use often depend on the judge’s theoretical position on statutory interpretation. Starting with materials that will frame the theoretical debate early in the semester, you will return periodically to questions about theory as you become more proficient in the toolkit.

**Mutually Excluded Courses:** Students may not receive credit for both this course and the upperclass course or the first-year elective, Lawmaking: Introduction to Statutory and Regulatory Interpretation, or the first-year elective, The Regulatory State, or the upperclass course, Statutory Interpretation. Students MAY receive credit for this course and Lawmaking and Statutory Interpretation Seminar.
**LAW 304 v07 Legislation** (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20304%20v07)

J.D. Course | 3 credit hours
Much of the “law” that lawyers work with is statutory. This course will examine both how legislatures go about doing their work (that is, legislative process) and how courts and others utilize legislative output (that is, statutory interpretation). We will begin with legislative process, focusing both on how laws are enacted and on the rules structuring legislative debate and behavior, including campaign finance regulation, lobbying regulation, the conduct of legislative oversight, and issues of “due process of lawmaking.” We will then devote substantial attention to theoretical and practical issues in statutory interpretation, including theories of interpretation generally, the canons of construction, and the use of legislative history.

**Mutually Excluded Courses:** Students may not receive credit for this course and the first year elective course by the same name.

**LAW 304 v08 Legislation** (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20304%20v08)

J.D. Course | 3 credit hours
Lawyers spend a lot of their time analyzing – and sometimes drafting – statutes. In this class, we will focus on the actual process of how a bill becomes a law (e.g., legislative process) but also how those laws are reviewed by courts and other actors (e.g., statutory interpretation). Starting with legislative process, we will take a deep dive into how legislatures go about their work, including the procedural rules that govern debate, with an eye to how laws are enacted and the rules structuring legislative debate and conduct. In addition, the course will examine campaign finance and lobbying rules as well as the “due process of lawmaking.” Later in the course, we will turn to both theory and practice in statutory interpretation, including theories of interpretation generally, canons of construction, and the debate over legislative history. I plan to interweave some of my empirical observations from a career on Capitol Hill, on campaigns, as a lobbyist, and commentator on politics and policy.

**Mutually Excluded Courses:** Students may not receive credit for this course and the first year elective course by the same name.

**LAW 1739 v00 Legislation Colloquium: Advanced Topics in Statutory Interpretation** (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201739%20v00)

J.D. Seminar | 2-3 credit hours
This colloquium provides an exciting opportunity for students to engage with the theoretical debates and methodology underlying the judicial interpretation of statutes. As students in the survey Legislation course learn, the tools that a judge chooses to use when construing a statute often depend on the judge's theoretical position on statutory interpretation. In this colloquium, we will explore in depth different scholarly takes on how courts should interpret statutes, including but not limited to critiques of the U.S. Supreme Court’s current approach to statutory interpretation and suggestions for how that approach could be improved.

After roughly two introductory classes discussing the themes of the course, the professor will invite six outside legal scholars to present papers. For each presentation, some or all of the class will write short “reaction papers” analyzing the presenter’s work. Students will also work on an independent research paper of their own involving a statutory interpretation topic of their choosing. Please note that the reading load for the course is significant, and students must be prepared for every class session – but it is also a rewarding and fun experience.

**Prerequisite:** Legislation, Statutory Interpretation, or the first year elective, Legislation & Regulation.

**Note:** This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
LAW 1720 v00 Police Abolition Seminar

J.D. Seminar | 2-3 credit hours
This course will study policing transformation through an abolitionist framework. The course will first look at abolitionist theory and its application to policing. It will then look at the implications of this framework for immediate and mid-term change-making efforts in policing and beyond. We will explore the interplay between police abolition, the “defund” movement and more “traditional” police reform efforts, critiquing each. We will look at what police currently do and the extent to which current policing promotes, or undermines, public safety. We will question how “public safety” is commonly defined and consider what role law enforcement would play if we were to define public safety differently. We will consider how the role of police (at least as currently constituted) in promoting public safety might be decreased (eliminated?) and how we would protect physical well-being if that were to come about. Throughout this course we will consider whether the police abolitionist framework might help us more effectively address institutionalized racism and entrenched class inequity as we seek to transform policing.

Students may take this course to fulfill Georgetown’s Upperclass Legal Writing Requirement. If you take this class to fulfill your Writing Requirement, you should be prepared to devote a considerable amount of time in the course developing a paper proposal about a conflict, crisis, or controversy within policing; researching your idea in depth; and both drafting and revising a substantial paper of at least six thousand words (exclusive of footnotes) that meets the elements of the Writing Requirement as set out in the Georgetown Law Student Handbook of Academic Policies.

Course Readings

- Chokehold: Policing Black Men by Paul Butler.
- Additional Readings will be listed in the course syllabus and will be posted on/linked to in Canvas

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1750 v00 Police Accountability Seminar

J.D. Seminar | 2-3 credit hours
Alongside newer demands to end our over-reliance on policing to keep us safe, are renewed calls for more effective mechanisms for police accountability. This course will focus on the nuts-and-bolts of police accountability, from exploring the efficacy and costs of the exclusionary rule, prosecutions of individual police officers, and Section 1983 cases, to USDOJ’s reinvigorated pattern-or-practice investigations, civilian oversight, and “front-end” oversight in the form of state and federal regulation of police. Along the way we will consider subsidiary topics like qualified immunity, the Monell doctrine, and even the role of insurance companies in holding police accountable. We will consider how new or pending legislation at the federal, state, and local levels can be expected to improve (or undermine) police accountability, and discuss how this all fits in with efforts to reform, remake, or abolish policing.

Students may take this course to fulfill Georgetown’s Upperclass Legal Writing Requirement. If you take this class to fulfill your Writing Requirement, you should be prepared to devote a considerable amount of time in the course developing a paper proposal about a particular aspect or type of police accountability; researching your idea in depth; and both drafting and revising a substantial paper of at least six thousand words (exclusive of footnotes) that meets the elements of the Writing Requirement as set out in the Georgetown Law Student Handbook of Academic Policies.

Prerequisite: Criminal Justice or Criminal Procedure.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
LAW 508 v02 Policy Clinic (Harrison Institute for Public Law) (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20508%20v02)
J.D. Clinic | 8 or 14 credit hours
Students in the Policy Clinic provide services to make democracy work in several policy themes. Recent projects include:

- **Community equity** – Combat gentrification and displacement in low-income communities of color; develop a community support fund; develop a community resilience hub.
- **Health and food** – Organize a consortium to improve working conditions in university food supply chains, expand access to oral health services, reinvent a better food chain for institutions (universities, hospitals, schools, and shelters), analyze social determinants of health (housing, food security, etc.) for state health officials.
- **Labor and human rights** – Organize a consortium to improve working conditions in university food supply chains (same as health above), protect worker rights in global supply chains for the FIFA World Cup and other mega-sporting events.
- **Trade and climate** – Develop mutually supporting climate and trade policies, develop options for international cooperation on climate policies through “climate clubs,” recommend strategies to decarbonize steel production without violating WTO rules, and identify strategies for reducing greenhouse gas emissions while preserving manufacturing jobs.

Please see the Policy Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/the-policy-clinic-climate-health-food-human-rights-and-trade-harrison-institute) for more detailed information about the program.

For registration-specific supplemental materials, please see the Policy Clinic PDF (https://georgetown.app.box.com/s/dsfc6dup44kfjfwx6pmyyinjw7tfqz04).

For information about clinic registration generally, please see the Clinic Registration Handbook (https://georgetown.box.com/s/y9f8wg3jvqcuynevip3tyty6nj9pyv6).

Learning outcomes for this clinic: Students are supervised, evaluated and graded on three skill sets, each of which has specific evaluation criteria in the Policy Clinic Operations Guide. (https://www.law.georgetown.edu/wp-content/uploads/2022/04/2021-22-Policy-clinic-operations-8-12-21-v3.docx)

1. **Management and professionalism** – includes “managing up” with supervision meetings, initiating self-evaluation, managing effort and deadlines, collaborating, and expectations in a professional culture.
2. **Analysis and strategy** – covers legal, policy and strategic analysis. It includes identifying issues that require analysis, learning the context efficiently, using diverse sources to avoid bias, explaining analytic methods, using a logical framework, and drawing conclusions that meet client needs.
3. **Communication, writing and speaking** – includes organizing documents and presentations, meeting audience needs for context and decision-making, relating analysis through stories and examples, presenting visual information, and editing for plain language, clarity, and English style.

**Recommended:** Legislation and Administrative Law. Also, for climate projects: Local Government Law; and for trade or human rights projects: International Law I, International Trade (various titles), World Trade Organization: Law, Policy and Dispute Settlement, and International Human Rights.

**Mutually Excluded Courses:** Students may not concurrently enroll in this course and:

- **LAW 1288 v00 Politics of Litigation and Litigation of Politics** (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201288%20v00)
  J.D. Seminar (cross-listed) | 2 credit hours
  Many of the most important and intense political disputes in American history have come before the federal courts. From the controversy about the midnight judges reflected in Marbury v. Madison, to the conflict about slavery at the core of Dred Scott, to the rise of interest group litigation by civil rights, religious, environmental, and other organizations, those opposed to prevailing laws and policies have taken their grievances to court. In recent years, a new breed of political litigation has proliferated. Increasingly, the losers in legislative and electoral battles have leapt immediately into the judicial arena, challenging the constitutionality of the laws enacted over their objection or the way elections are run. Increasingly, politicians and the entities they control have deployed litigation as another tool in the partisan arsenal. And increasingly, federal courts have become the arbiters of political disputes between the other two branches of the Federal Government, and between the Federal Government and the States, and between political candidates.

This course will use the legal challenges to the Affordable Care Act as an initial case study of how political disputes play out in litigation, from the trial courts to the Supreme Court. We will follow the pattern of political litigation into the Trump and Biden Administrations, and assess the lessons from the partisan shift in the litigation. We will consider how and why partisan disputes generate litigation and discuss the issues this litigation raises regarding the appropriate role of courts in our democratic system. In large part, the perspective will be practical, as we explore the legal, strategic, and tactical choices advocates make in bringing high profile political cases, in framing the legal issues, in harnessing the rules of procedure, and in managing the political features of the case – both offensively and defensively, and both inside and outside the courtroom. We will discuss the hurdles litigants face in seeking to strike down federal laws, the particular challenges of representing the U.S. Government in defending those laws, and the conflicting pressures that bedevil advocates on both sides of the cases. In some of our sessions, students may be asked to strategize or to argue from the perspective of the plaintiffs or the defendant in the cases.

**Prerequisite:** Constitutional Law I: The Federal System (or Democracy and Coercion).

**Recommended:** Prior or concurrent enrollment in Federal Courts and the Federal System.
LAW 408 v03 Poverty Law and Policy (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20408%20v03) (Fieldwork Practicum)
J.D. Practicum | 8-10 credit hours
In fieldwork practicum courses, students participate in weekly seminars and conduct related fieldwork at outside organizations. This fieldwork practicum course is designed for students who wish to work for a public interest law organization that deals with issues connected to poverty. Students will participate in a two hour/week seminar (in both the fall and spring semesters) that focuses on the framework, history, and current issues related to American poverty. Students will also work for a public interest law organization that works on issues connected to poverty; students may work for either 10 or 15 hours/week in both the fall and spring or 30 hours/week in one semester only. In addition, students may work for 10 hours/week in the fall and 15 hours/week in the spring or vice versa.

SEMINAR: Classes in the fall will cover the definition of poverty, the history of anti-poverty policy, welfare, work supports, and safety net issues. Spring classes will feature guest lecturers covering education, health, housing, homelessness, juvenile justice, and child welfare. Students will be involved in participatory exercises in the course of both semesters: in the fall, mock press conferences, testimony to Congress, and meetings with public officials; and in the spring, a group project on developing a plan for neighborhood transformation, using materials studied through the year. A final paper will be required. Students will earn four graded credits for the seminar (two credits each semester); one grade will be provided at the end of the year.

FIELDWORK: In the four, five, or six-credit, mandatory pass-fail, fieldwork portion of the practicum, students will work with a public interest law organization that deals with issues connected to poverty. Students may work for either 10 or 15 hours in both the fall and spring, 10 hours in the fall and 15 hours in the spring or vice versa, or 30 hours/week in one semester only. The host organization may work from either a national or a local perspective on issues connected to poverty. Placements might involve a focus on poverty per se or “poverty and...” e.g., civil rights, women, education, housing, health, juvenile and criminal justice, child welfare or immigration. Depending on the organization, activities at placements could include litigation and/or policy advocacy, including governments on all level and in either the executive branch or the legislative. Students may propose and arrange their own placements; these must be approved by Professor Edelman. Alternatively, Professor Edelman is available to assist in finding and setting up the placements. Depending on the number of hours worked, students will earn four, five, or six pass/fail credits for the fieldwork; one grade will be provided at the end of the year.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Mutually Excluded Courses: Students may not concurrently enroll in this practicum and an externship or another practicum course. If students complete their fieldwork hours for this practicum entirely in one semester, they may be eligible to enroll in a clinic for the other semester.

Note: This course is open to J.D. students only.

This course may be suitable for evening students who can attend seminar and participate in fieldwork during business hours. Students who enroll in this course will be automatically enrolled in both the seminar and fieldwork components and may not take either component separately. A student wishing to withdraw from the course will be withdrawn from both the seminar and fieldwork components.

Default attendance rule for all practicum courses (unless the professor

LAW 1493 v00 Prison Law and Policy (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201493%20v00)
J.D. Course | 3 credit hours
This course focuses on the back end of the criminal justice system. In this class, we will be focusing on the law and policy of incarceration. We will study why the United States is so punitive, how government officials manage prisons, and what protections are in place to prevent harm to prisoners while incarcerated. We will also study whether our current penal system is successful in reducing the recidivism rate of those coming out of prison. These topics are particularly urgent given that the United States leads the world in the rate it imprisons its citizens. Topics to be covered include: the history of prisoners’ rights litigation; the scope of prisoners’ constitutional rights; inmate access to the courts; First Amendment protections for prisoners; the prison disciplinary process; conditions of confinement; medical care; the problems of prison rape and overcrowding. There will also be a focus on legal practice—how lawyers litigate prisoners’ rights suits. There will be a take-home final examination.

Mutually Excluded Courses: Students may not receive credit for both this course and the Prison Reform Advocacy and Litigation practicum.

LAW 586 v00 Race and American Law (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20586%20v00)
J.D. Course | 4 credit hours
With such watershed events in the civil rights movement as Brown v. Board of Education (1954) and the civil rights acts of the 1960s, the eradication of racial subordination in America seemed an achievable goal. Yet, in America today, racial minorities continue to experience social and economic disadvantages, and race relations remain strained in many respects. Whether law has aided or impeded the cause of civil rights in the past and the extent to which law can help to resolve racial issues in the present and future are questions of considerable controversy. This course will examine the response of law to racial issues in a variety of legal contexts. Topics will likely include the meaning of race and racial discrimination, intimate relationships, child placement, employment, education and integration, policing and criminal punishment, free expression, and political participation. Classes will center on candid discussion and participatory exercises about the issues raised by the assigned material. The course will cover most of the seminal “race” cases decided by the U.S. Supreme Court.


Note: Laptops may not be used during class sessions.
LAW 1548 v00 Race and Democracy: Voting Rights in America (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201548%20v00)

J.D. Course (cross-listed) | 3 credit hours
Race and Democracy: Voting Rights in America assesses the impact of white supremacy ideology on American Democracy. The course uses the struggle for Black voting rights as the primary framework for exploring this relationship.

Over the course of the term, students 1) develop a working knowledge of how the ideology of white supremacy has impacted voter registration, participation, and representation 2) acquire critical tools to identify, analyze, and dismantle narratives, policies, and practices rooted in the history of white supremacy and 3) develop an appreciation for the role social movements have played in both reinforcing and disrupting the structural and systemic barriers to a multiracial and multicultural democracy.

Recommended: There are no prerequisite requirements for this course, although courses in constitutional law can be helpful.

Note: NOTE FOR THE SUMMER 2021 SECTION: The professor will teach this course virtually via Zoom. Students may choose to participate from the classroom or via Zoom while the professor is participating remotely. Students who want to participate in person must be in the University's COVID testing protocol (https://www.law.georgetown.edu/covid-19-updates/message-from-the-dean-covid-health-protocols-enforcement-and-discipline) and follow all other safety measures.

Students may not withdraw from this class after the add/drop period ends without the permission of the professor.

LAW 1335 v00 Race, Inequality, and Justice (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201335%20v00)

J.D. Course | 2 credit hours

Course Organization and Overview
This course explores the law’s response to the problem of economic inequality. By 2015, the political and economic conversations have recognized the stark and unacceptable wealth and economic differences that underlie growing political and social instability. We will approach the subject from an interdisciplinary perspective that includes sociology, psychology, history and cultural studies. The course offers an introduction to the work of classic economic thinkers such as Adam Smith, and contemporary economists and legal scholars including Milton Friedman, Gary Becker, Richard Posner and Ian Ayres. The primary focus of the course however will be an exploration of the limits and failures of conventional rational choice approaches to explaining the questions arising from economic inequality for members of groups who have experienced pervasive race, gender and other forms of cultural subordination.

We will explore the conceptual framework of marketplace distribution of commodities, the cultural determinants of market value, and the claims of subordinated communities for economic equality. We will develop an understanding of the silence of the Constitution on questions of economic inequality. We will draw upon the insights of a wide range of social science research to map the consequences of the lack of a coherent legal framework to govern questions of distributive justice.

This course does not require a technical background in quantitative economics. The primary material will be drawn from sociology, history, psychology, narrative economics, and critical race theory.

Theme
The case study for this seminar this year will be the economic and social conditions of the city of Baltimore, Maryland. We will explore the impact of the cumulative economic and social deficits of that city. We will take advantage of our course discussion and research to investigate this dramatic example of economic and social inequality in America. This recent example of the explosive combination of police abuse and the underlying condition of wealth and income inequality is just the most recent example of long term neglect. We will try to figure out what factors surround the anger at the criminal justice process of stop and frisk and the implementation of the “broken windows theory” of police enforcement practices that have created police estrangement from many low wealth communities of color. The Freddy Grey Riots and the long-term political, economic and sociological dynamics of Baltimore provide an important to delve more deeply into the connection between police practices and the economic death of cities such as Baltimore.

We will ask are there important counter examples to Baltimore and Ferguson.
LAW 1728 v00 Reading the Police Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201728%20v00)
J.D. Seminar | 2 credit hours
During this seminar our class will read six books about policing in the United States. We will spend two weeks on each book. The first week we will discuss the book with each other. The second week the author will visit the class to discuss the book. Some author visits will be in person; others will visit via video conference.

Through studying these books and speaking with their authors we will learn how theories of policing have changed over time; how policing is influenced by, and in turn influences, law and politics; the role that race, gender, age and socio-economic status have played in shaping how policing happens; the connection of policing to mass incarceration and its attendant harms; and we will probe some of the biggest challenges facing policing currently, such as combatting gun violence and police interactions with youth.

The books we will read are:

- Uneasy Peace: The Great Crime Decline, the Renewal of City Life, and the Next War on Violence by Patrick Sharkey
- America On Fire: The Untold History of Police Violence and Black Rebellion Since the 1960s by Elizabeth Hinton
- Misdemeanorland: Criminal Courts and Social Control in an Age of Broken Windows Policing by Issa Kohler-Hausmann
- Becoming Abolitionists: Police, Protests, and the Pursuit of Freedom by Derecka Purnell
- The Rage of Innocence: How America Criminalizes Black Youth by Kristin Henning
- Tangled Up in Blue: Policing the American City by Rosa Brooks

**Reflection and Summaries:** All students are required to submit a 500 word reflection paper on each book after we have read the book and before we have discussed it with the author. Reflection papers will be submitted via Canvas by noon two days before class (i.e. every other noon on Monday) so that they can be made available to the authors before our discussion. Reflection papers will be graded and late papers will be penalized. In addition, all students will submit a 500 word summary of the reading before the first week's discussion of each book. Summaries will be graded pass-fail and must be submitted each week by 5pm the day before class (i.e. every other Tuesday at 5pm). I will note these dates on the Canvas calendar for this class.

**Grading**

Your grade for the class will be based upon: 1) attendance and the quality of your participation; 2) reflection papers for each book; and 3) weekly reading summaries.

**Prerequisite:** Criminal Justice or Democracy & Coercion or Criminal Procedure or Instructor Approval. (LL.M.s are welcome).

**Note:** To accommodate author schedules, at least two classes will be held on Wednesday afternoon from 3:30pm-5:30pm, rather than the normally scheduled class time.

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LAW 430 v01 Recent Books on the Constitution Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20430%20v01)
J.D. Seminar | 2 credit hours

This seminar will study six recent scholarly books about constitutional theory and history. The class will spend two weeks on each book. For the second session on each book, the author visits the class in person to discuss the work. This year, the books will be (in this order):

- Helen Norton, *The Government’s Speech and the Constitution* (https://t.co/W64V1e4a4r)
- David Bernstein, *Classified: The Untold Story of Racial Classification in America* (https://t.co/wwsBNOtCbh)

Grades will be based on class participation and a 5500 character “thought paper” for each book. In addition, students will submit a one-page summary of the reading — graded pass/fail — for the first and second week's discussion of each book. All thought papers must be submitted electronically by Monday at noon, so they can be made available to the authors and graded by the following day. Grades for papers submitted late will be lowered.

**Prerequisite:** Constitutional Law I: The Federal System or Democracy and Coercion in Curriculum B.

**Recommended:** Prior or concurrent enrollment in Constitutional Law II: Individual Rights & Liberties.

**Note:** Internet access on any device is not allowed during class; all laptop use is disallowed (unless necessary to conduct Zoom instruction).

**FIRST CLASS ATTENDANCE IS MANDATORY.** Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. The paper requirements of this seminar will not fulfill the Upperclass Writing Requirement.
LAW 1709 v00 Religion, State and Multiculturalism Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW %201709%20v00)
J.D. Seminar (cross-listed) | 2-3 credit hours

Religious minorities are seeking accommodations in a variety of forms: exemptions (kosher and halal regulations); recognition (representation quotas); assistance (subsidies, museums); self-government (schools, religious courts, territorial sovereignty) and more. Drawing on the rich experience of countries where such accommodations were granted, the course will inquire into the legitimacy and problems associated with such accommodations. In doing so, the course will draw on modern theories of multiculturalism and religion and state designs. Principal topics will include: Liberal multiculturalism, theory and practice; Group accommodations in a democracy; A survey of religious groups and illiberal practices; Traditional schemes of religious accommodations, with special reference to the Ottoman millet system; The reality of religious accommodations in Western democracies (United States, Canada, France, United Kingdom, Germany); The reality of religious accommodations in the Middle East, with special reference to Israel; the problem of minorities within minorities; essentialism, secularism in divided communities and reform movements.

A student who has successfully completed this course should:

- Understand the justifications for accommodating groups in general, and religious groups in particular
- Understand the problems associated with accommodating religious groups, especially when the particular group endorses illiberal practices
- Have the capacity to identify the legal instruments meant to mitigate the effects of illiberal practices of religious groups
- Be aware of the relevance of the constitutional culture for both the legitimacy of accommodating religious groups and the problems associated with such accommodations.

Note: This course will meet on Tuesdays and Thursdays, 12:30 - 2:30 pm in Spring 2021 on the following dates: 1/26, 1/28, 2/2, 2/4, 2/9, 2/11, 2/16, 2/18, 2/23, 2/25, 3/2, 3/4 and 3/9.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last day of class for this specific course. Students may take this seminar for either 2 or 3 credits. All members of the seminar are required to write a number of short reaction papers. Students taking the seminar for 3 credits are also required to write a research paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement.

LAW 399 v00 Religious Liberty on Trial Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW %20399%20v00)
J.D. Seminar | 3 credit hours

This course will consider the Supreme Court’s jurisprudence with regard to religious liberty. We will look at the Free Exercise Clause and consider how the Court has answered the question “Does the Constitution mandate religious exemptions from neutral and generally applicable laws that incidentally burden religious belief and practice?” We will look at the Establishment Clause and consider how the Court has answered the question “To what extent does the Constitution allow accommodations on the basis of religious belief and practice?” This review of Supreme Court case law will highlight the tension between a robust definition of religious rights and the interests of a democratic and pluralistic society. Today, the legacy of seminal Court cases—particularly, Smith and Lemon—is being seriously called into question as the Court charts a future jurisprudence more solicitous of religious claims. The doctrinal debate continues—and continues to generate as much heat as light—because the real question is not what standard courts use to review the constitutional validity of laws that affect religious belief and practice. Rather, the question is, what is the proper role of religion in our civic life? In other words, the real debate is, at its core, about what kind of social order we want to promote. Thus, this seminar is not only about the historical treatment of the Religion Clauses and their future consideration, but also about the nature and direction of our civic order. As with any other constitutional law seminar, the debate between proponents of some form of originalist interpretation and proponents of some form of living constitutionalism will always be in the forefront of our attention. (As with any other seminar, preparation for and engagement in class discussion is essential.)

Tentative schedule:

Week 1. Religious Liberty and Democratic Pluralism: Background Texts (Milton to Madison)

Week 2: What Is a Religion, Constitutionally Speaking?
Weeks 3: The Road to Smith
Week 4: Religious Liberty Post-Smith
Week 5: RFRA and RLUIPA
Week 6: Is Smith Dead? Should It Be? What Lies Beyond?: Critical Perspectives
Week 7: The Establishment Clause
Week 8: Is Lemon Dead?: Should It Be? What Lies Beyond?: Critical Perspectives
Week 9: Religious Liberty and the Family
Week 10: Religious Liberty and Public/Private Education
Week 11: Religious Liberty and the Workplace
Weeks 12 & 13: Student presentations

Mutually Excluded Courses: Students may not receive credit for both this seminar and Church-State Law Seminar.

Note: THIS COURSE requires professor permission to enroll. Please email Professor Shulman (shulmanj@georgetown.edu) by Wednesday, October 5, 2022 with a copy of your CV and a statement of interest. After the October 5 application deadline, students will be admitted into open seats on a rolling basis.

FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must attend each class session in its entirety.
Among those consequences are mass incarceration, health and wealth disparities, wasted human capital due to lack of opportunity, racial hostility, militarized policing in certain neighborhoods (Ferguson & all its antecedents and successors), environmental degradation, and suburban sprawl. Students will also learn strategies for dismantling segregation and, hopefully, help develop innovative solutions in their research papers.
LAW 1711 v00 Separation of Powers Seminar: Hot Topics in Scholarship
J.D. Seminar | 3 credit hours
The nature and consequences of our constitutional separation of powers are topics of substantial debate, with significant implications for our system of government. This seminar examines recent scholarly discussions of various aspects of the separation of powers. Topics will include deep dives into each of the three branches, discussions of the interactions between those branches and other institutions, and selected thematic topics.

Note: Students can take this course and Separation of Powers with Professor Lederman and Separation of Powers Seminar with Professors Clement and Blatt.

LAW 1661 v00 Sex Equality: Theory and Practice
J.D. Seminar (cross-listed) | 1 credit hour
The seminar on Sex Equality: Theory and Practice will focus on particular issues that currently press the boundaries of what “sex equality under the law” means, both legally and socially. Over the course of the week, students will read and discuss at least one substantial piece of recent feminist scholarship and also meet with one or more leading practitioners in the field. For example, students may read a law review article that addresses transgender or gender non-binary issues, and discuss its ideas from a theoretical point of view with the professor and then discuss the same questions with a more applied focus with an advocate. Students may also read short texts such as articles from journalism or organizational reports.

By the end of the week, students will have gained a concrete sense of how current scholarly debates intersect with the efforts of advocates involved in lawmaking (whether through litigation or other means). The class itself will serve as a bridge between academia and practice, and discussions will analyze both overlaps and disjunctions.

Attendance and participation every day is mandatory. In addition to participation, valuation will be based on written reactions to the assigned scholarly readings.

Recommended: Knowledge of Fourteenth Amendment rights or anti-discrimination statutes would be helpful, but is not required.

Note: WEEK ONE COURSE. This seminar will meet for one week only, on the following days: Monday, January 6, 2020, through Thursday, January 9, 2020, 1:30 p.m. - 4:50 p.m. This course is mandatory pass/fail and will not count toward the 7 credit pass/fail limit for J.D. students.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety will result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.
In a project-based practicum course, students participate in a weekly seminar and work on a project under the supervision of the professor. This project-based practicum course will focus on issues of sexual orientation, gender identity, gender expression, and sex characteristics from an international human rights law perspective. Students will participate in a two-hour weekly seminar and carry out 10 hours/week of project work under the direction of the course professor.

Background: Every day, lesbian, gay, bisexual, transgender and queer (LGBTQI) people are victims of multiple human rights violations, which are directly linked to the lack of acceptance (by society and the State) of their non-normative sexualities, gender identities or gender expressions. Some of the most common human rights violations of LGBTQI people include killings, torture, ill-treatment, “corrective” or punishing rape, “conversion therapy,” discrimination in schools, in the workplace and in accessing health services, among many others. Intersex persons face human rights violations because of the general lack of acceptance of their bodies that differ from the socially accepted standards of “female” and “male” bodies. Because of their sex characteristics, intersex people often face human rights violations including irreversible non-consented and non-medically necessary genital surgery at the early stages of infancy and throughout childhood, as well as forced sterilization, among others.

SEMINAR: The course will take a close look at some of the human rights violations faced by lesbian, gay, bisexual, trans, queer and intersex (LGBTQI) people, or other people perceived as such, as well as the corresponding States’ obligations under international human rights law. The students will analyze landmark and recent decisions emerging from regional and international human rights monitoring bodies, which have developed standards around these categories. This analysis will provide a solid legal foundation for students to develop their projects for external partners.

PROJECT WORK: Students will work, under the direction of the professor, with external partners on legal and policy projects, including conducting legal research and drafting memoranda on specific human rights issues faced by LGBTQI people, preparing shadow reports to present before international human rights bodies, conducting analysis of legislation or a related case, among others. External partners vary every year, and include international and domestic leading human rights organizations working on the promotion and protection of the rights of LGBTQI people at the international level.

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Recommended: International Human Rights Law, Women’s Rights, Gender and Sexuality and the Law.

Mutually Excluded Courses: Students may not concurrently enroll in this practicum course and a clinic or another practicum course. Students may concurrently enroll in this practicum course and an externship.

Note: This practicum course is open to LL.M. students, space permitting. Interested LL.M. students should email the Office of the Registrar (lawreg@georgetown.edu) to request admission.

Evening students who work during the day are encouraged to reach out to the professor to discuss whether this practicum course would be compatible with their schedules. This is a four credit course. Two credits will be awarded for the two-hour weekly seminar and two credits will be awarded for approximately 10 hours of supervised project work per week, for a minimum of 11 weeks. Both the seminar and the project work will be graded. Students who enroll in this course will be automatically withdrawn from the practicum course. Students who enroll in this course must complete the course, otherwise: Regular and punctual attendance is required at all practicum seminars and fieldwork placements. Students in project-based practicum courses may receive a lower grade or, at the professor’s discretion, may be permitted to withdraw from the practicum course.

The Assistant Dean will grant such withdrawal requests only when the faculty member and the Assistant Dean for Experiential Education agree that the remaining enrolled in the practicum would cause significant hardship for the student. A student who is granted permission to withdraw will be automatically withdrawn from the practicum course and a clinic or another practicum course. Students may concurrently enroll in this practicum course and a clinic or another practicum course. Students may concurrently enroll in this practicum course and an externship.

This course will give students an in-depth look at rapidly developing areas in immigration law. Students will become familiar with the variety of adjudicators in the immigration system, navigating the relationship between Asylum Officers, Immigration Judges, the Board of Immigration Appeals, and the federal courts. We explore legal topics that often arise before these adjudicatory bodies, focusing on those that generate the most frequent—and complex—litigation. Specifically, we focus on detention and bond, corroboration requirements for asylum seekers, and “categorical approach,” under which adjudicators determine whether a criminal conviction renders a respondent removable and ineligible for relief. Students will also become familiar with constitutional challenges to immigration statutes or procedures as they appear in immigration courts and the extent of executive authority under the immigration laws. Finally, we introduce students to judicial review under the Immigration & Nationality Act, the immigration rule of lenity, and the role of deference doctrines in immigration cases.

This course also provides experiential training in the field of appellate immigration practice. Instead of writing a final paper or exam, students will participate in a moot court exercise. Each student will draft the pleadings and prepare arguments for an immigration-related case currently pending in a court of appeals. During this process, the professors provide each student with individualized feedback on her brief-writing and oral advocacy.

Learning Objectives:

Through this course, students will:

- Better understand judicial review under the immigration laws and the immigration adjudication procedures.
- Develop familiarity with asylum law, exclusion and removal grounds, and detention under the immigration laws.
- Gain knowledge of administrative legal practice, including concepts like administrative exhaustion requirements, administrative appeals procedures, and judicial review.
- Become familiar with appellate practice, including concepts like standard of review and findings of fact.
- Develop oral advocacy skills, including the ability to respond to present a legal argument and respond to questions from appeals judges.
- Prepare pleadings in an immigration case at the appellate level, including researching relevant caselaw and succinctly stating the facts of the case.

Recommended: Immigration Law and Policy.
This course aspires to empower its students to:

- Recognize and apply several core legal doctrines that enable and constrain state governments and various local government entities.
- Describe how several prominent threads of American political theory have guided the historical development of state and local government law.
- Apply several constitutional principles and legal standards that regulate state and local government.
- Explain the predominant funding mechanisms for state and local governments, and analyze how state and local policies can affect the viability of local government.
- Identify several state and federal policies that can impair the sustainability of local government; and federal policies that constrain the autonomy of states in performing their core functions.
- Develop and deliver principled arguments about how socio-economic policy issues relate to legal doctrine, intra-regional wealth, housing and land use policy and alternatives to local government.

Recommended: Although no prerequisites are required for this course familiarity with constitutional law, property law and administrative law are helpful.
LAW 415 v00 Strategic Intelligence and Public Policy Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20415%20v00)
J.D. Seminar (cross-listed) | 3 credit hours
This seminar will explore several significant legal and policy concerns presented by the conduct of intelligence activities in peace and war. To the extent possible we will focus on current issues. We will discuss the role and history of Congress in authorizing, overseeing and regulating intelligence activities. We will also briefly review the constitutional authorities (primarily Art. II) of the President to undertake activities protecting the national defense in the absence of specific statutory authority, as well as the role of the federal courts in resolving national defense disputes.

More specifically we will discuss legal and structural issues associated with covert action, espionage, electronic surveillance for foreign intelligence purposes (the Foreign Intelligence Surveillance Act) and its impacts on privacy interests. We will consider the crimes of insurrection, conspiracy, and litigation issues involving the use of classified information in criminal and civil cases, including the use of secret evidence in criminal prosecutions. This discussion will include the state secrets privilege and the Classified Information Procedures Act (CIPA). We will examine unauthorized disclosures of classified information and whistleblower protections. And finally, we will briefly discuss the role of a free press in our democracy.

The overall approach of the seminar will be to have an open analysis and interesting discussion of these and possibly other related topics. Questions are welcome and can be addressed to Prof. Zirkle at zirklej@georgetown.edu.

Note: The Summer 2022 sections of this course will enroll via waitlist. The Writing Requirement section (LAWJ-415-06) is open to J.D. students only and non-degree students may not enroll.

LAW 1174 v00 Supreme Court Institute Judicial Clerkship Practicum (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201174%20v00) (Project-Based Practicum)
J.D. Practicum | 3 credit hours
In a project-based practicum course, students participate in a weekly seminar and work on a project under the supervision of their professor. This project-based practicum course will operate in conjunction with Georgetown Law’s Supreme Court Institute (SCI), which provides moot courts to Supreme Court advocates in virtually every case the Court hears each Term. Each moot court panel is composed of five “Justices,” professors or practitioners with experience in Supreme Court and appellate advocacy. This practicum will enable eight J.D. students to function as “law clerks” who will help prepare “Justices” to serve on SCI moot court panels. Students will participate in a two hour/week seminar and carry out five hours/week of project work under the direction of the course professor.

SEMINAR: The seminar component of the practicum will explore the role and function of law clerks; the mechanics of writing a useful bench memo and draft opinion; and ethical dimensions of judicial clerkships, including confidentiality and influence. Seminar sessions will also feature guest speakers, including appellate judges and former judicial law clerks.

PROJECT WORK: Each student will be assigned a case scheduled for argument in the February or March sitting, for which he or she will prepare a “bench memorandum.” Prior to the moot court, the student will submit the memorandum to the student’s assigned moot “Justice” – a Georgetown Law professor or local practitioner who has volunteered to serve on the moot panel – and will meet with the Justice for a “case conference” to discuss the case in preparation for the moot. After attending the moot court, the student will attend the oral argument, read the argument transcript, or listen to the audio recording, and write a postmortem review describing the ways in which the moot resembled and differed from the argument.

Learning Objectives:
Writing, legal analysis, oral presentation, and other skills required to serve as an effective appellate law clerk; sensitivity to ethical issues such as confidentiality and influence on judicial decision-making.

Prerequisite: Students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Mutually Excluded Courses: Students may not concurrently enroll in this practicum course and a clinic or another practicum course. Students may concurrently enroll in this practicum course and an externship.

Note: This course is open to J.D. students only.

This course may be suitable for evening students who have sufficient flexibility in their day jobs to take time off to attend the weekly seminar (11:10 a.m. - 1:10 p.m. each Wednesday); conduct a case conference with their Justice/professor (roughly an hour, scheduled at the professor’s convenience); and observe their assigned moot court (a two-hour session during the working day, scheduled to accommodate the needs of the advocate). THIS COURSE Requires PROFESSOR PERMISSION TO ENROLL. Students must submit a transcript and Statement of Interest (one page double-spaced), explaining his or her interest in the course to Professor Daniel Woofter (dhwoofter@goldsteinrussell.com) by 5:00 p.m. on Wednesday, October 5, 2022. After the October 5 application deadline, students will be admitted into open seats on a rolling basis. Any student who is offered a seat in this course will be directly enrolled and will have one week only in which to drop. After that time, a student may only drop the course with the permission of the professor and the Assistant Dean of Experiential Education. Permission will be granted only if remaining
J.D. Seminar | 2 credit hours
This seminar seeks greater understanding of the nature of Supreme Court decision-making in four primary ways:

First, we will read a modest amount of secondary source material and discuss how the Supreme Court works and how it differs from other American courts. Second, we will study in depth several cases being decided by the Court this Spring. Third, through two short (10-12 page, double-spaced) writing assignments and opportunities for extensive one-on-one discussion with me, there will be a heavy emphasis on effective legal writing. Fourth, we will focus on effective oral advocacy, as practiced in the U.S. Supreme Court, with multiple opportunities to observe actual moot courts and talk with arguing counsel, and also for each student to participate as advocate and judge in short, informal moot courts, all in cases currently pending before the Court.

Topics to be discussed include the certiorari process, strategic considerations in briefing before the Court, the role of amici curiae, the Office of the Solicitor General and its impact on the work of the Court, and the role of oral argument in the decisional process.

Students will be expected to be prepared to participate at each seminar meeting. Course grades will be based on classroom participation and the two papers.

Prerequisite: J.D. students must complete the required first-year program, including Constitutional Law I: The Federal System (or Democracy and Coercion), prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).


Note: FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. Students will attend three Supreme Court Institute moot courts over the course of the semester. Most will be held at the usual class time, but it is possible that one or more may be scheduled on a Friday afternoon (1:00 p.m. or later). Availability to attend at these times is a class requirement except for other class conflicts.

LAW 469 v00 Supreme Court Litigation Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20469%20v00)

LAW 418 v00 Supreme Court Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20418%20v00)

LAW 1738 v00 Supreme Court Today (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201738%20v00)
LAW 1416 v00 Supreme Court Topics: The Role of Dissenting Opinions
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201416%20v00)

J.D. Seminar (cross-listed) | 1 credit hour
In this course students will learn about the role of dissenting opinions in U.S. appellate courts generally, and the United States Supreme Court in particular, with a special focus on the writings and jurisprudence of the late Justice Ruth Bader Ginsburg. We will also briefly discuss the role dissents play in select foreign jurisdictions. Students will be evaluated based on their active and informed class participation, including a mini-moot during the final class session, and on the quality of their final written product, which will be a 5-10 page paper.

Recommended: Constitutional Law I: The Federal System or Democracy and Coercion.

Note: WEEK ONE COURSE. This seminar will meet for one week only on the following days: Monday, January 9, 2023, through Thursday, January 12, 2023, 6:00 p.m. - 9:20 p.m. This course is mandatory pass/fail and will not count toward the 7 credit pass/fail limit for J.D. students.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.

LAW 1706 v00 Surveillance and Civil Rights
(http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201706%20v00) (Fieldwork Practicum)
J.D. Practicum | 6 credit hours
If you have ever taken advantage of basic government services, your personal information is part of a massive trove of data that local, state and federal agencies share with one another through a variety of overlapping networks, databases and bureaucratic collaboratives. Large corporations also build and sell their own datasets to government agencies, along with powerful technologies – like face recognition and automated license plate readers – which operate on that data.

This surveillance infrastructure has been built over the course of the last 30 years, for the most part without any oversight or accountability, let alone transparency to the public. At the same time as we seem to be arriving at a moment of socio-political consensus about the need to fundamentally rethink our most brutal systems of social control, we are also on the verge of the total suffusion of these other invisible systems of coercion in our lives.

In this fieldwork practicum, students will be placed at one of several non-profit organizations working to expose and mitigate the impact of mass surveillance on historically marginalized communities. Potential hosts include national, regional and local organizations that focus on surveillance as an aspect of mass deportation and mass incarceration. Projects may include legal and policy research, litigation support, report writing, legislative drafting and analysis, public records requests, and oral advocacy with state and federal policy makers.

Weekly seminars will alternate between case rounds, where students workshop questions and problems drawn from their field work, and discussions based on assigned readings. Assigned readings will focus on (1) substantive legal and policy questions related to surveillance and civil rights, and (2) ethical and political questions related to the practice of law in contexts of social injustice.

Through seminar and fieldwork, students can expect to engage deeply with questions such as:

- Where does the authorization for large scale surveillance by federal immigration authorities come from? Do the Immigration and Nationality Act, the Department of Homeland Security authorizing statutes, or other federal and state surveillance statutes and case law, alone or taken together, actually provide legal grounding for the large scale, warrantless surveillance of immigrant communities?
- What are the civil rights implications of DHS’s new mandatory DNA collection policy?
- What are the Fourth Amendment protections for geolocation information post-Carpenter?
- How does information sharing across law enforcement agencies nationwide actually happen and what policy interventions can communities impacted by over policing advocate for?
- What is the extent of the federal government’s dependence on corporate surveillance and what are the political implications of that dependence?
- What are some strategies for forcing corporate surveillance companies to disclose information about their products, practices, and contracts?
- What does it mean to lawyer ethically in a context of radical inequality and political corruption?

And students will develop the following skills:

- Creative techniques for researching surveillance technologies and the opaque procurement practices through which they are adopted;
- Persuasive writing for policymakers and a general audience;
LAW 1605 v00 Technology and the Free Press Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201605%20v00)
J.D. Seminar | 3 credit hours
In the past two decades, technology has dramatically changed the American press. The Internet and mobile devices have revolutionized the creation and consumption of news. The economic structure supporting the press, and newspapers in particular, has crumbled. Readers are finding more of their news through platforms like Google, Facebook, and YouTube. Even though these companies have disavowed the “media” label, they play editorial roles—deciding what speech is allowed into the new public square and even shaping that speech.

These rapid changes lead to numerous legal questions: What is the “free press” in an era when journalists are pushed to amass clicks? Who is a journalist when access to publication technology has been democratized? Are reporter shield laws still relevant when technology allows the government to covertly spy on journalists? Does law have a role to play in combating so-called “fake news”? Can and should the First Amendment (or other law) protect the press from being squeezed by technology platforms? More generally, what is law’s role in protecting journalists, the press, or the journalistic process? This course aims to encourage deep thinking, discussion, and writing about the answers to these questions.

Among the learning objectives for this course are: developing an understanding of how the law conceives of the press, journalists, and the audience for news; determining what legal questions arise as a result of how technology is impacting the press; creatively considering whether and how law can address these questions; improving legal research techniques as well as the ability to closely read and analyze both scholarly work and legal authorities; developing, organizing, and writing a seminar paper that is not merely descriptive but sets forth a thesis and defends it; and refining the ability to give and receive feedback as we workshop drafts.

LAW 1800 v00 The Constitution of Empire: The Insular Cases and the Law of U.S. Territories (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201800%20v00)
J.D. Seminar (cross-listed) | 2 credit hours
This seminar explores the rise of the unique legal and constitutional condition of the nearly four million residents of Puerto Rico and other United States territories—approximately 98% of whom are racial or ethnic minorities and none of whom have voting representation in the federal government. The course will introduce students to contemporary legal debates and social movements in U.S. territories as well as the underappreciated ways in which overseas expansionism has shaped U.S. constitutional theory and doctrine over time.

The course begins with today’s emergent debate about whether and how to overturn the Insular Cases, a series of early-twentieth-century Supreme Court precedents holding that the Constitution does not fully apply to Puerto Rico and other “unincorporated” possessions on the theory that they were populated by “savages” and persons of “uncivilized race.” After more than 120 years in a supposedly “temporary” limbo status, these communities’ uncertain relationship to the U.S. Constitution is an issue of surging importance in American law. As the Yale Law Journal recently summarized it: “In the last five years, the Law of the Territories has experienced a resurgence of activity before the Supreme Court not seen since the Insular Cases,” particularly as “the people of the territories have pressed with increasing urgency for self-determination and decolonization through both domestic and international processes.” Ultimately, this course will unearth the ways in which the constitutional condition of U.S. territories suggests more than a niche legal issue, but a prism for thinking about broader contestations over borders, race, indigeneity, and citizenship that run throughout American law.

Students will be asked to contextualize the contemporary debate over discrimination and disenfranchisement in the territories within larger themes of American constitutionalism’s encounter with indigenous peoples, racial justice, and the role of overseas empire in constitutional development. Observing that the law of the territories is a significantly undertheorized and emerging topic in contemporary legal scholarship, this seminar is structured around encouraging students to develop seminar papers that will eventually become publishable academic works.

Recommended: Constitutional Law.
LAW 1748 v00 The Death Penalty in America Seminar
This seminar will consider the past, present, and future of the death penalty in the U.S. Topics will include
the Eighth Amendment framework; capital-eligible offenses and limitations; the role of race; intellectual
disability, insanity, and mental status; juvenile offenders; procedural requirements in capital cases; actual innocence claims; methods of execution; juror qualification; and the allocation of issues between judge and jury. The course also will cover current abolition initiatives under state constitutional, legislative, and clemency initiatives.

Student learning goals: Students will gain both a jurisprudential understanding and practical insight into the death penalty and its administration. Students will intensively explore this challenging constitutional and legal area, and will write on an important selected issue.

Mutually Excluded Courses: Students may not receive credit for this course and Capital Punishment Seminar or the Death Penalty Litigation Practicum.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1663 v00 The Federal Courts and the World Seminar: History, Developments, and Problems
This course investigates the federal courts’ role in United States foreign affairs. It is a commonplace that the courts take a backseat to the political branches on issues relating to foreign affairs. But that truism, though generally accurate, obscures more than it reveals, for the federal courts routinely adjudicate cases with significant implications for the United States’ relations with the world—as they have since 1789. In this course, we will explore several fundamental questions: What kinds of foreign affair issues have the courts historically addressed? How has the courts’ jurisdiction over cases implicating foreign affairs changed over time? How have the courts handled foreign and international law? What impact have separation of powers principles had on the courts’ decision-making?

The course is organized thematically; in each two- or three-week unit we will focus on a particular issue, including the foreign affairs background to the establishment of federal courts under Article III of the Constitution; the status of international and foreign law in federal court; foreign states as litigants in federal court; and the reach of the courts’ jurisdiction beyond U.S. territory. Each unit will be framed in historical perspective, exploring both the courts’ past practice and their modern approach.

This is not a survey course on the law of U.S. foreign affairs; we will not address directly many of the topics that would be covered in such a course—including the allocation of foreign affairs responsibility between the Executive and Congress; the scope of Presidential war power; and treaty-making and executive agreements. Instead, the focus here is squarely on the courts and their interactions with the world.

By the end of the semester, students should be able to do the following:
• Demonstrate a general understanding of the various ways in which the federal courts address issues that have implications for the United States’ relations with foreign nations.
• Recognize how the courts’ role in foreign affairs has changed over time, and understand what has driven those changes.
• Draw connections between different doctrinal areas and historical periods to develop a broader understanding of the court’s role in foreign affairs.
• Critically assess legal and historical scholarship on the courts’ role in foreign affairs.
• Respond constructively to classmates’ questions, comments, and ideas.

Recommended: Prior coursework in international law, national security, or the federal courts is not required, but interest in such issues is recommended.
LAW 1685 v00 The Impeachment Power & American Constitutional Balance Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201685%20v00)

J.D. Seminar (cross-listed) | 2-3 credit hours
The course explores the origins, historical applications, and current significance of the impeachment clauses of the U.S. Constitution. The course considers the birth of impeachment in British parliamentary practice dating to the 1300s, as well as the transplantation of impeachment to America in the colonial and Revolutionary War periods. More importantly, it examines the place of impeachment in the American constitutional design of inter-branch checks and balances, and the rare instances of its use since 1788. Studying American impeachments provides a crash course into some of the most wrenching public controversies in American history. From the 1797 attempt to impeach Senator William Blount for conspiring with Great Britain to steal Spanish territory in Florida, to the nearly successful effort to impeach President Andrew Johnson for his pro-Southern actions during Reconstruction, to the near-impeachment and ouster of President Nixon for the crimes of Watergate against the background of the strife over the Vietnam War, impeachments have been windows into the passions of the time. The course will conclude by considering the controversy over efforts to impeach the current president.

Prerequisite: Prior or concurrent enrollment in Constitutional Law I: The Federal System.

Note: The 3 credit section of this course enrolls via waitlist. Please place yourself on the waitlist by noon on Monday, August 12, 2019.

J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1495 v01 The Role of the State Attorney General (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201495%20v01)

J.D. Course | 3 credit hours
As the chief legal officer of the states, commonwealths and territories of the United States, attorneys general serve as counselors to their legislatures and state agencies and as the “People’s Lawyer” for all citizens. Originating in the mid-13th century in the office of England’s “King’s Attorney,” the office had become, by the American Revolution, one of advisor to the Crown and to government agencies. Since colonial times, three forces have molded the office of the Attorney General: state constitutions and state government codes, which specify the duties and responsibilities of the attorney general; legislative decrees altering the duties of the attorney general in response to specific state needs; and the personalities and ambitions of those who have served as attorney general. Attorneys general today deal with everything from common law and statutory authority; conflicting legal and policy demands; resource restriction; relationships with outside counsel; and hard-core partisan politics.

The Role of the State Attorney General has these overarching objectives:

- To examine the unique junction of law, policy, and politics at which the state attorney general operates and to consider whether and when each of these does or should feature in a state attorney general's deliberations and decisions
- To explore issues of law and governance, especially to consider the role of the executive branch in tripartite democratic republics
- To consider how the state attorneys general figure in the current iteration of American federalism
- To showcase in concrete terms the actual workings and work of state attorneys general

The course will cover the day to day challenges faced by attorneys general and their staffs in delivering legal advice to guide state government in a constitutional and ethical manner. The course will also cover the relationship of attorneys general with the federal government, the private bar, and a range of advocacy organizations. It will focus on some of the most prominent areas in which state attorneys general work, such as consumer protection, criminal justice, and environmental law. Although each state is unique, the course will demonstrate the congruence that exists among state attorneys general when addressing similar challenges and issues. Unlike private and other government lawyers, who work subject to ethical rules that defer decision making to agency “clients,” state attorneys general answer directly to the public interest. The course is weighted toward those decisions by attorneys general that reflect their independent status, which is most often revealed when legislatures, other elected officials, state agencies or the federal government exceed their constitutional or statutory authority. The course materials include case materials and court documents, scholarly articles from a variety of sources, and some journalistic coverage. There is no separate text for this course. All materials will be available via a web portal to be designated by the professor.

Students will be evaluated on class participation (15%); the quality of a short writing assignment (20%), due approximately mid-way through the course; and a compact take home exam, which can be self-scheduled any time during the exam period (65%). In addition to substantive content, the exam will be assessed according to the quality of the prose and organization of the discussion.

Mutually Excluded Courses: Students may not receive credit for this course and the seminar by the same name.

Note: ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend any subsequent class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety will result in a withdrawal. Failure to attend the first class session in its entirety will start of the first class session in order to remain eligible to be admitted.
LAW 1495 v00 The Role of the State Attorney General Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201495%20v00)
J.D. Seminar | 3 credit hours
As the chief legal officer of the states, commonwealths and territories of the United States, attorneys general serve as counselors to their legislatures and state agencies and as the “People’s Lawyer” for all citizens. Originating in the mid-13th century in the office of England’s “King’s Attorney,” the office had become, by the American Revolution, one of advisor to the Crown and to government agencies. Since colonial times, three forces have molded the office of the Attorney General: state constitutions and state government codes, which specify the duties and responsibilities of the attorney general; legislative decrees altering the duties of the attorney general in response to specific state needs; and the personalities and ambitions of those who have served as attorney general. Attorneys general today deal with everything from common law and statutory authority; conflicting legal and policy demands; resource restriction; relationships with outside counsel; and hard-core partisan politics.

The Role of the State Attorney General has these overarching objectives:

• To examine the unique junction of law, policy, and politics at which the state attorney general operates and to consider whether and when each of these does or should feature in a state attorney general’s deliberations and decisions
• To explore issues of law and governance, especially to consider the role of the executive branch in tripartite democratic republics
• To consider how the state attorneys general figure in the current iteration of American federalism
• To showcase in concrete terms the actual workings and work of state attorneys general

The seminar will cover the day to day challenges faced by attorneys general and their staffs in delivering legal advice to guide state government in a constitutional and ethical manner. The course will also cover the relationship of attorneys general with the federal government, the private bar, and a range of advocacy organizations. It will focus on some of the most prominent areas in which state attorneys general work, such as consumer protection, criminal justice, and environmental law. Although each state is unique, the course will demonstrate the congruence that exists among state attorneys general when addressing similar challenges and issues. Unlike private and other government lawyers, who work subject to ethical rules that defer decision making to agency “clients,” state attorneys general answer directly to the public interest. The course is weighted toward those decisions by attorneys general that reflect their independent status, which is most often revealed in their interpretations of law on an issue.

To showcase in concrete terms the actual workings and work of state attorneys general, the seminar will cover the day to day challenges faced by attorneys general and their staffs in delivering legal advice to guide state government in a constitutional and ethical manner. The course will also cover the relationship of attorneys general with the federal government, the private bar, and a range of advocacy organizations. It will focus on some of the most prominent areas in which state attorneys general work, such as consumer protection, criminal justice, and environmental law. Although each state is unique, the course will demonstrate the congruence that exists among state attorneys general when addressing similar challenges and issues. Unlike private and other government lawyers, who work subject to ethical rules that defer decision making to agency “clients,” state attorneys general answer directly to the public interest. The course is weighted toward those decisions by attorneys general that reflect their independent status, which is most often revealed in their interpretations of law on an issue.

It is important to complete assigned reading fully before each session. It is strongly recommended that students check assignments early and budget reading time accordingly. Course grades will be based on the paper grade, the quality of class participation, and the quality of constructive feedback given to fellow students. Attendance is required. If a student must miss a class, he, she, or they should inform the professor beforehand. In addition to regular attendance, students will be credited for thoughtful questions and comments and for constructively engaging with the professor and with fellow students in class discussion. Quality is paramount, quantity far less significant.

Students will design their own paper topics in consultation with the professor. Students will submit rough drafts for comments from the professor. They will also have an opportunity to receive peer feedback on their work in progress. Final papers will be evaluated with consideration given to originality, creativity, persuasiveness, clarity, quality of writing, and the professor’s comments.

Prerequisite: Constitutional Law I: The Federal System and Administrative Law.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1768 v00 The Temporal Dimensions of Governmental Powers Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201768%20v00)
J.D. Seminar (cross-listed) | 2-3 credit hours
This course will study the respective temporal reaches of, and restrictions on, the legislative, judicial, and executive powers of American governments.

It is almost universally now thought that “retroactive laws are . . . generally unjust . . . and . . . neither accord with sound legislation nor with the fundamental principles of the social compact.” Joseph Story, Commentaries on the Constitution, §1398 (3d ed. 1858). But legislatures nonetheless do sometimes enact retroactive laws, and sometimes for quite benign and legitimate reasons. Furthermore, judicial and executive adjudicatory actions have retroactive effects; and, as with retroactive legislation, some of those adjudicatory actions may establish the legal basis for retroactive restrictions on conduct about which the regulated persons did not have prior notice – such as when the adjudicators construct manifestly new, yet binding, interpretations of ambiguous laws (i.e., when they “make” or “declare” law that will serve as “precedent”). Concomitantly, although often thought of as necessarily being retroactive, judicial and executive adjudicatory powers are sometimes exercised with only future effects – such as when courts or agencies have declined to apply their new interpretations of law retroactively, or have awarded relief that has only prospective effects (e.g., an injunction, a writ of mandamus, a declaratory judgment).

This course will explore these temporal issues. We will examine what legally differentiates “prospective” from “retroactive” governmental actions. We will study the presumption that legislation looks forward, not backward, as well as several of the constitutional constraints on retroactive legislative actions. From there, we will explore both the content of and rationale for the contrasting presumption that judicial action is retroactive in perspective and effect; and we will study the controversy about whether and when a judicial decision announcing a new principle of law – such as a judicial decision overruling an interpretation of law announced in a prior decision – may properly be applied only to conduct or events occurring after the date of that judicial decision. Finally, we will examine whether and how temporal limitations apply in the context of the exercise of executive powers (state and federal) and, concomitantly, how the discretion of the executive and its agents is often temporally insulated – through limits on the writ powers, the doctrine of qualified immunity, etc. – when there is not yet “clearly established” law on an issue.

Our goal is to better understand how the temporal reaches of, and limitations on, the separate powers of government inform the Rule of Law and American constitutional democracy. Such an understanding is relevant and important not only to those who want to study the operation of government and the constitutional limitations on government, but also to those who on behalf of clients – private, public interest, or governmental – seek to influence the temporal application or imposition of new legal restraints.

Prerequisite: Constitutional Law I: The Federal System and Administrative Law.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.
This seminar looks at the Warren Court from a historical perspective. Guided by readings from legal historians and the decisions themselves, we will explore the Court’s major cases and issues in their historical and political context: school desegregation, suspected Communists, denaturalization, the Little Rock school crisis, redistricting, freedom of the press, right to privacy/access to contraception, criminal justice, interracial marriage, and free speech. We will also discuss the strong personalities and jurisprudential philosophies of the justices and how alliances, conflicts, and new justices affected the Court’s decisionmaking. During the semester, students will complete all the required reading, participate in all class discussions, and write an original research paper that fulfills the Upper Class Writing Requirement.

**Location, location, location.** Writing original research papers will be easier for you than any other law students in the country. Many Warren Court justices – Black, Frankfurter, Douglas, Jackson, Burton (with diaries), Warren, Brennan, White, Goldberg, and Marshall – donated their papers to the Library of Congress. The papers are open to the public (with a library card) and are rich sources of material. You’ll receive an expert-led tutorial on how to do archival research, discover how much fun it is to read other people’s mail, and learn how the justices’ papers add to our understanding of the Court’s decisionmaking process.

**Win $500 & get published.** What other class can you win $500 and get published? Each year, the *Journal of Supreme Court History* awards the Hughes-Gossett Prize for the best student paper. The prize comes with a $500 award and a publication in the *Journal of Supreme Court History*. Think you can’t win? One of my former law students at the University of Wisconsin, Jesse Bair, won the award for his article, “The Silent Man: From Lochner to Hammer v. Dagenhart, A Reevaluation of Justice William R. Day.”

**Student Learning Outcomes**

By the end of the semester, all students should be able to (1) discuss major topics in the constitutional and legal history of the Warren Court; (2) make a historical argument; and (3) write an original research paper. All students are required to complete the Paper Proposal, Progress Report, first draft, and final drafts of the Research Paper. All research papers must draw upon substantial primary historical sources.

**Prerequisite:** Constitutional Law II: Individual Rights and Liberties.

**Note:** This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

**J.D. Seminar | 2-3 credit hours**

This seminar will address aspects of the long and ongoing work to win LGBT freedom, equality, and inclusion. Topics likely will include the freedom to marry, challenges to so-called “sodomy” laws, the efforts to establish the rights of transgender individuals, LGBT parenting, and employment discrimination, as well as such matters as how the movement is structured, how political and legal groups and strategies interact, etc. The approach will be to talk not only about the development of the legal doctrine but also about the cultural and political context in which the struggle has taken place, and how that context contributed to the willingness or unwillingness of courts and politicians to embrace the cause. Readings will include briefs, case law, and selections from secondary sources. Students should finish the course with an understanding of how the law in this area has evolved, where it is going, and how the LGBT movement illustrates some more general aspects of how successful civil rights movements in this country operate.

**Prerequisite:** Constitutional Law II: Individual Rights and Liberties.

**Note:** This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

**J.D. Seminar | 3 credit hours**


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**Student Learning Outcomes**

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Full-time Faculty

Hope Babcock
Randy E. Barnett
Susan Low Bloch
J. Peter Byrne
Sheryll D. Cashin
Julie E. Cohen
David D. Cole
Anthony E. Cook
Peter B. Edelman
Irv Gornstein
Lawrence O. Gostin
Michael H. Gottesman
Neal K. Katyal
Martin Lederman
Naomi Mezey
Gary Peller
Nicholas Q. Rosenkranz
Paul F. Rothstein
Paul Smith
Brad Snyder
Lawrence B. Solum
Girardeau A. Spann
Robert K. Stumberg
Yvonne Tew
Carlos Manuel Vázquez
Don Wallace