

**History 506:216:01**

**LAW AND HISTORY**

Instructor: Johanna Schoen

Contact Info: [johanna.schoen@rutgers.edu](mailto:johanna.schoen@rutgers.edu)

Meeting time: Asynchronous/Synchronous Monday 10:20-11:40 AM



This course is as an “anchor” to the Law and History minor and certificate programs. It aims to show students how historians think about the law and how lawyers think about history. We will explore these broad questions through a series of paired case studies drawn from historical and contemporary legal debates. These “Past & Present” case studies will analyze the deeper historical roots of some of the most pressing legal dilemmas of our times, from the history of forensics and race in policing to recent legislation on the teaching of history and voting rights to the recent court decision overturning a federal constitutional right to abortion. The course also includes “Law Labs,” in which students will gain experience in interpreting a variety of historical and legal sources, from detective stories to Supreme Court opinions—crucial skills for later work in the minor or certificate program.

**Note on Class Meetings and Mode of Instruction**

The lecture content for this course is available online in an asynchronous format that students can complete on their own schedule though they must be watched in time to complete any accompanying assignments. Students are required to attend online synchronous lectures and lab sessions from 10:20-11:40 AM on the following dates: **Sept. 22, Oct. 13 and 27, Nov. 3, 10, 17, and 22, Dec. 5 and 12.** Please take note of these critical dates. Any student who anticipates having an issue attending one of these sessions due to extenuating circumstances, they should contact the instructors ASAP.

**Office Hours:**

While the class lectures are asynchronous, we look forward to meeting you in office hours. I will hold alternating weekly office hours as listed below and by appointment. I hope that you will come by to ask

questions about the class, the Law and History minor/certificate, and pursuing further study or a career in law or a law related field. **Keep track of your office hour visits because they count towards your participation grade in the class!**

Professor Johanna Schoen will be available for office hours on **Mondays from 10:20-11:40 AM** at this link:

<https://rutgers.zoom.us/j/93354294603?pwd=VU9UZy8zdE1RbExTbHphWEoWVNVQT09> (Links to an external site.)

Meeting ID: 933 5429 4603

Password: 230055

## LEARNING GOALS

### **1. [Core HIST] Explain the development of some aspect of a society or culture over time.**

The course will explore historical precedents for key contemporary legal debates surrounding topics such as forensic evidence, incarceration, illegal/legal drugs, religious freedom, and immigration.

### **2. [Core CCD] Analyze contemporary social justice issues and unbalanced social power systems.**

The course will explore how different conceptions of race, gender, sexuality and numerous other socio-economic factors have shaped law and legal practice over time. Turning to the present, the course will explore how these same social constructs fuel persistent inequalities in liberal systems of justice, undermining their promise to deliver justice for all.

### **3. Serve as an anchor for further course work in the Law and History minor or certificate program and introduce students to how history can prepare them for a career in a law or social-justice related field.**

The course is intended to familiarize students with the concepts and methods that they will explore in more depth during their coursework in the “Law and History” minor or certificate. These include the critical reading of primary sources and legal terminology. Students will also meet with a pre-law academic adviser and discuss professional development opportunities.

## ASSIGNMENTS AND GRADING

### **1. Participation Activities and Log (8%)**

Although this course will be conducted online, regular student engagement with professors and classmates remains a critical component. Students will be asked to complete a variety of activities that facilitate these engagements, from recording short introductory videos to attending online office hours at least three times during the semester. At the end of the semester students will submit a log in which they detail their engagement with these activities.

### **2. Law Practicums (47%)**

In lieu of in-class exams, the remote version of this course will have regular Law Practicums in which students will apply concepts from the online lectures to various materials. The practicums will also allow students to hone skills, such as briefing legal cases and close-reading of historical sources, which will be helpful for future coursework. The practicums will be completed and submitted using Canvas Quizzes. While these assignments are open-book and students may discuss them with their classmates, all submitted work must be completed individually any significant overlap in student responses will be considered a possible case of plagiarism.

### **3. Law Labs (5 x 5 = 25%)**

There will be a series of “Law Labs” over the course of the semester. At the beginning of the semester, each student will be assigned to a group that will work together for the rest of the semester. For each of these labs, you will be asked to complete a short assignment *prior* to the lab. Law lab grades will be based on completion of pre-lab assignments, attendance and participation in the lab, and submission of any group assignments.

### **4. Past and Present Amicus Brief (20%)**

The final assignment for the course will consist of a paper (5-7 pages) in which students will write an amicus brief in which they will provide historical context for a judicial case or legislation.

**For additional course policies, concerning grade cut-offs, academic integrity, accommodations, and wellness resources, please refer to the end of the syllabus.**

## COURSE SCHEDULE

### WEEK 1. Introductions

Meeting 1 (Sept 8): Asynchronous Online Lecture. Introduction to the Course.

**Participation Activity.** Complete the required introductory survey available on the course Canvas page and record a short video introduction for your law lab groups of yourself.

### WEEK 2. Case Law and Learning to Brief a Case

Meeting 1 (Sept 12): Asynchronous Online Lecture. The Case Method and Briefing.

**Reading:** Orin S. Kerr, "How to Read a Legal Opinion: A Guide for New Law Students"; "Introduction to the IRAC Approach to Briefing"

Meeting 2 (Sept 15): **Law Practicum.** Williams v. Walker-Thomas Furniture Co. (1965).

### WEEK 3. Contracts

Meeting 1 (Sept 19): Asynchronous Online Lecture. What Makes a Contract?

**Law Practicum.** Contracts in Practice.

Meeting 2. (Sept. 22) **Law Lab.** Meet and Greet and Writing a Group Contract.

### Week 4. Abortion: From *Roe* to *Dobbs*

Meeting 1 (Sept 26): Asynchronous Online Lecture: History of Abortion & Abortion Law in the United States

Meeting 2 (Sept 29): **Law Practicum.**

### WEEK 5. The Rise of Modern Policing, Part I.

Meeting 1(Oct 3): Asynchronous Online Lecture. History of Forensics.

Meeting 2 (Oct 6): **Law Practicum.** Investigating the "Murder at Road Hill House" (1860).

**Watch:** BBC, "The Suspicions of Mr. Whicher: Murder at Road Hill House," (Available via Amazon Prime or Hoopla with a local library membership)

OR Listen: The Dark Histories Podcast, "Detective Whicher & The Road Hill House Mystery."

### WEEK 6. Media, Policing, and Gender, Past.

Meeting 1 (Oct 10): Asynchronous Online Lecture. Detective Fiction.

**Reading:** Arthur Conan Doyle. "The Musgrave Ritual."

Meeting 2 (Oct 13): **Law Lab.** Forensics: Fact and Fiction.

### WEEK 7. Forensics, Part II.

Meeting 1 (Oct 17): **Law Practicum.** Briefing *Frye v. United States* (1923)

Meeting 2 (Oct 20): Asynchronous Online Lecture. Forensics and DNA.

**Reading:** John H. Tibbets, "Is Forensics Science Scientific?" *Bioscience*, May 2020, 377- 382; Jed Rakoff, "Jailed By Bad Science," *New York Review of Books*, 2019

### WEEK 8. Media, Policing and Race, Present.

Meeting 1 (Oct 24): Podcasts: Throughline, "American Police" and On the Media, "We Need to Talk About the Cops on TV." Interview with Prof. Donna Murch on contemporary police reform projects.

Meeting 2 (Oct 27): **Law Lab.** Police, Media, and Race.

### **WEEK 9: Policing Public Health**

Meeting 1 (Oct 31): Asynchronous Online Lecture. Vaccination and the Power to Police Public Health

Meeting 2 (Nov 3): **Synchronous Meeting**: Informational Session on 3+3 (BA/JD) program at Rutgers Law and demystifying the law school application process with Matt Saleh, Senior Associate Dean of Enrollment Management & Financial Aid at Rutgers Law School.

### **WEEK 10: Legislating History and “History Wars”**

Meeting 1 (Nov 7): The “History Wars” in Global Perspective. Interviews with Professors Paul Hanebrink and Jochen Hellbeck.

**Reading**: Timothy Snyder, “The War on History is a War on Democracy,” *New York Times*, June 29, 2021; John Nichols, “Texas Republicans Cancel Culture Targets the Teachings of Martin Luther King, Jr.,” *The Nation*, July 21, 2021; Jim Grossman, “To Understand the History Wars, Follow the Paper Trail,” *The Hill*, July 5, 2021; Kimberlé Crenshaw, “The Panic over Critical Race Theory is an Attempt to Whitewash U.S. History,” *The Washington Post*, July 2, 2021

Meeting 2 (Nov 10): **Synchronous Meeting**: What is Critical Race Theory? Guest lecture by Dean & Professor of Law, Rose Cuison-Villazor (Rutgers Law)

**Practicum on the “History Wars” and CRT**

### **WEEK 11: Voting Rights Act**

Meeting 1 (Nov 14) Lecture on the long history of Voting Rights Restriction

Meeting 2 (Nov 17) **Law Lab**: **President Johnson’s Speech and Today’s Legislation**

### **WEEK 12: Historians and the Law, Part I. Expert Testimony.**

Meeting 1 (Nov 21): Asynchronous Online Lecture: Feminist Historians’ Legal Expertise on Trial: Gender Discrimination and the “Sears Case”

**Reading**: Katherine Jellison, “History in the Courtroom: The Sears Case in Perspective,” *The Public Historian*, Vol. 9, n. 4 (Fall 1987): 9-19; American Historical Association Statement on Standards of Professional Practice (1987)

Meeting 2 (Nov 24): **Law Lab**. Historians’ background briefs on voting rights

### **WEEK 13: Historians and the Law, Part II. The Amicus Brief.**

Meeting 1 (Nov 28): Asynchronous Online Lecture: What is an Amicus Brief?

**Reading**: Why more historians are embracing the Amicus Brief, *Chronicle of Higher Education*

**Watch**: Case brief, *Students for Fair Admissions Inc. v. President and Fellows of Harvard College* (US Supreme Court, 2022)

**Listen**: Podcast [TBD](#)

**Watch**: Lecture Segment: [TBD](#)

Meeting 2 (Dec 1): **Law Practicum**. Reading Amicus Briefs. *Students for Fair Admissions Inc. v. President and Fellows of Harvard College*.

### **WEEK 14 and 15. Law Paper Clinic.**

During the final two weeks of class, the professors and TAs will conduct small-group law-paper clinic to help students prepare their final papers, which will involve writing a historians’ brief incorporating material from the course. Details will be posted on Canvas.

## Additional Policies and Resources.

### **Grade Cut-offs.**

**A = 90.0 - 100**

**B+ = 85.0– 89.99**

**B = 80.0 – 84.99**

**C+ = 75.0 – 79.99**

**C = 70.0 -74.99**

**D = 60.0 – 69.99**

**F = 0 – 59.99**

**“Classroom etiquette” and electronic devices.** Students are expected to attend all class sessions, whether synchronous or asynchronous, according to the instructor’s direction, and follow guidelines for class conduct during online sessions. If a student does not feel well enough to attend class remotely, they should communicate with their instructor as to how to make up missed work. We strongly recommend using a computer or tablet when attending class and submitting assignments.

**Ethics of Information.** Using information ethically, as an element in open and honest scholarly endeavors, involves moral reasoning to determine the right way to access, create, distribute, and employ information including: considerations of intellectual property rights, fair use, information bias, censorship, and privacy. You may not publicly share information created in the context of this class unless given express permission by its producer and the professors.

**Academic Integrity.** Our common learning environment requires that we all respect principals of academic integrity. Violations include cheating, plagiarism, and or sabotaging the academic work of other. The professors will give clear instructions about what forms of collaboration are or are not allowed with respect to papers and exams. If you have any questions about these requirements, you must ask for clarification—do not guess whether or not something constitute plagiarism or cheating! Ignorance is not an acceptable excuse. For full details about the universities policies, see <http://academicintegrity.rutgers.edu/academic-integrity-at-rutgers/> **Any and all violations of academic integrity in this course will result in the formal consequences and disciplinary action that are outlined in the Rutgers policy on academic integrity.**

**Student Disabilities.** Rutgers, the State University of New Jersey abides by the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments (ADAA) of 2008, and Sections 504 and 508, which mandate reasonable accommodations be provided for qualified students with disabilities and accessibility of online information. If you have a disability and may require some type of instructional and/or examination accommodation, please contact the professors during the first week of the semester so that we can arrange accommodations. If you have not already done so, you will need to register with the Office of Disability Services, Lucy Stone Hall, Livingston Campus, 54 Joyce Kilmer Ave., Suite A145. Phone: 848.445.6800 Online: <https://ods.rutgers.edu/>

**Student Wellness Resources.** There is a list of important on-campus resources below. We strongly encourage you to use these resources are happy to discuss academic accommodations when needed.

**[Just In Case Web App](http://codu.co/cee05e)**  
<http://codu.co/cee05e>

Access helpful mental health information and resources for yourself or a friend in a mental health crisis on your smartphone or tablet and easily contact CAPS or RUPD.

**Counseling, ADAP & Psychiatric Services (CAPS)**

**(848) 932-7884 / 17 Senior Street, New Brunswick, NJ 08901/**

**<http://health.rutgers.edu/medical-counseling-services/counseling/>**

CAPS is a University mental health support service that includes counseling, alcohol and other drug assistance, and psychiatric services staffed by a team of professional within Rutgers Health services to support students' efforts to succeed at Rutgers University.

CAPS offers a variety of services that include: individual therapy, group therapy and workshops, crisis intervention, referral to specialists in the community and consultation and collaboration with campus partners.

**Violence Prevention & Victim Assistance (VPVA)**

**(848) 932-1181 / 3 Bartlett Street, New Brunswick, NJ 08901 / [www.vpva.rutgers.edu/](http://www.vpva.rutgers.edu/)** The Office for

Violence Prevention and Victim Assistance provides confidential crisis intervention, counseling and advocacy for victims of sexual and relationship violence and stalking to students, staff and faculty. To reach staff during office hours when the university is open or to reach an advocate after hours, call 848-932-1181.

**Disability Services**

**(848) 445-6800 / Lucy Stone Hall, Suite A145, Livingston Campus, 54 Joyce Kilmer Avenue, Piscataway, NJ 08854 / <https://ods.rutgers.edu/>**

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation:

<https://ods.rutgers.edu/students/documentation-guidelines>. If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at: <https://ods.rutgers.edu/students/registration-form>.

**Scarlet Listeners**

**(732) 247-5555 / <https://rutgers.campuslabs.com/engage/organization/scarletlisteners>** Free and confidential peer counseling and referral hotline, providing a comforting and supportive safe space.

**Report a Concern: <http://health.rutgers.edu/do-something-to-help/>**