

SylCivRtsFall2017

**Course Name: Civil Rights Law
Course Law 747, Sec. 1, MWF 9-9:50 AM
Room 210 –Law--TMSL**

LEXIS NEXIS WEB COURSE

Register IMMEDIATELY with my LexisNexis Web Course. THIS IS NOT WESTLAW!!

My Web Course is also referred to as Blackboard Learning. This Web Course page will be my primary avenue to communicate with the students.

On Friday, Aug. 25, 2017, our LexisNexis Representative, Adriana Ramirez, provided a few of you with a presentation on how to utilize Lexis Advance for your research needs. If we have a chance, we will repeat the presentation.

LAW 747 [Civil Rights Law] IS A WRITING REQUIREMENT COURSE

LAW 747 [Civil Rights Law] IS A COURSE THAT MEETS THE WRITING REQUIREMENT. EVEN IF YOU HAVE COMPLETED YOUR WRITING REQUIREMENT, THIS COURSE MANDATES ANOTHER RESEARCH PAPER. YOU HAVE A CHANCE TO DROP IF YOU DO NOT WANT TO DO MORE WRITING. I ONLY EXPECTED 15 STUDENTS, SO WE ARE WELL OVER THE LIMIT.

COURSE BOOK & MATERIALS

- **Required Textbook: U.S. LATINOS AND CRIMINAL INJUSTICE, Copyright © 2015 by Lupe S. Salinas, Michigan State University Press, ISBN: 978-1-61186-176-1. Purchase U.S. LATINOS AND CRIMINAL INJUSTICE no later than Sept. 11th. The book is available through the TSU Bookstore, the Michigan State University Press, and Amazon.**

As to US Latinos and Criminal Injustice, you will be responsible for the introductory pages ix -xxvi (preface, credits, etc.) and the chapters and pages between 3 and 270. The sooner you obtain the book, the sooner you will be able to select a topic for your writing requirement. I urge you to select a topic related to civil rights and/or criminal injustice and one that will assist you in your future practice of law.

In addition to the page coverage, a good researcher will review the Professor's comments and footnote materials that can be found between pages 271 and 311. The book continues with the references/bibliography from pages 313 through 336. The index begins at page 337 and ends at page 352.

- **Salinas Class Handout of Civil Rights Statutes and Cases**
- **SCOTUS –the Supreme Court of the US—Opens a New Term on the First Monday in October, this year on Oct. 2, 2017. In order to see what cases the Court has decided or will consider for argument, go to <https://www.supremecourt.gov/> or <https://www.supremecourt.gov/opinions/opinions.aspx>.**

Course Description

During the 14-week semester, we will discuss cases, statutes, and the contents of U.S. LATINOS AND CRIMINAL INJUSTICE, the Professor’s book publication. Your knowledge of both cases discussed in class and book materials will be tested on your 30-point multiple choice final exam on the last day of class, Nov. 29th. Even if we do not cover the book contents, you are expected to read the book for testing on the contents.

Civil Rights Law 747 allows students to engage in experiential learning opportunities and to benefit from veteran civil rights litigation experts. The course highlights statutory and constitutional sources of civil rights law and how these interact when the rights of people are affected on the basis of race, color, religion, national origin, sexual orientation, and gender. Specifically, we will study congressional statutes and judicial interpretations to determine the application of these statutes.

Once students complete this course, they will be in position to identify what statutory and constitutional rights have been possibly violated and will then be able to prepare the necessary pleadings to prosecute and defend against these claims in the courts. With this introduction, graduates should be in position to handle litigation as either counsel for plaintiffs or as defense counsel for both private businesses and governmental agencies.

In the initial portion of the course, during the first two weeks, we will discuss your selection of a topic for your writing requirement. It should be a topic that you are extremely interested in. I state this from personal experience. Hopefully you can decide on a topic that will assist you in your future practice as I did with my civil rights research.

The second portion of the semester involves a discussion of the historical foundations that set the stage for the passage of the Civil Rights Acts of 1866 and 1871, the latter being the statute that has evolved into Title 42, US Code, Sec. 1983. The Professor will provide you with a synopsis of explanatory cases and relevant federal statutes.

We will address the civil rights opinions that guide judges, plaintiffs and defendants in handling these cases in civil and criminal litigation. This segment will also address the federal government’s opportunities and power to address widespread municipal discriminatory practices through their duty to enforce the provisions of the 1964 Civil Rights Act, Sec. 2000d, known as Title VI. Some of these issues are also discussed in US Latinos and Criminal Injustice in situations when the government can threaten the loss of funding to governments that violate Title VI regulations. The concepts addressed in the

course also include governmental torts, qualified and absolute immunity doctrines, and the granting of attorney's fees.

The course will also address criminal aspects of civil rights enforcement, Title 18, US Code, Sec. 241 & 242, a subject very much in the forefront during the past few years with the Black Lives Matter movement and the number of Latinos and immigrants killed by police officers in the line of duty (under color of law).

Time permitting, we will see films, hear from expert civil rights trial lawyers, and discuss material from Professor Salinas's book. *US Latinos and Criminal Injustice* provides students with documentation of the Latino experience, including both overt and covert racism along with current issues such as racial profiling, police deprivations of rights, the right to an interpreter, and due process of law violations and protections.

More directly relevant to the statutory civil rights litigation, we will see how private attorneys and public interest law firms like the NAACP Legal Defense Fund, MALDEF, and the ACLU address widespread discrimination by litigating under Title 42 USC Section 1983, aka the Civil Rights Act of 1871.

As stated above, Professor Salinas will provide an attachment of the relevant statutes along with relevant SCOTUS and other federal court cases that will be addressed during the course. During the term, any new cases that surface will be provided via the Lexis Web Course page.

THE PROFESSOR

NAME: Lupe S. Salinas

TELEPHONE: 713-313-7353 off.; 832-276-6056 cell [call to set up appointment re writing requirement]

EMAIL: lsalinas@tmslaw.tsu.edu

LOCATION: 236 J

About the Professor: Judge Lupe S. Salinas

Salinas, a Retired Criminal Court Judge, began his 16 years of service as a Harris County Trial Judge in 1983. During his 45 plus years of legal experience, Judge Salinas also served as a MALDEF civil rights litigator in education cases, a Harris County Assistant DA, an Assistant US Attorney in Houston, Chief of the US Attorney's Civil Rights Division, Chief of the Federal Trials Division for the Harris County Attorney, Special Assistant to the US Attorney General in Washington, DC, and Visiting Professor of Law at the UH Law Center, his alma mater, in 1985.

He began his career in 1972 as a civil rights litigator with the Mexican American Legal Defense & Educational Fund [MALDEF] where he tried mostly school desegregation

and unequal educational claims in federal court. He later served as an assistant and as Chief of the Civil Rights Division of the US Attorney's Office in Houston during the period of 1977-83 [with a one year assignment in Washington, DC]. From 1985-88, he defended Harris County in civil rights cases as Chief of the Federal Trials Division. He taught Civil Rights Litigation as an adjunct professor at the University of Houston Law Center in 1992-93. From time to time, he taught his Seminar on Chicanos/Latinos and the Law from 1975, when he founded the course, through 1994 at the undergraduate level and at the UH Law Center.

OFFICE HOURS: MW, 10am-2pm (All other times by appointment) [832-276-6056]

LEARNING OBJECTIVES:

Student Learning Objectives (SLOs): SLOs are the knowledge base and skills that the professor desires the students to exhibit at the completion of the course. SLOs are measured by performance criteria that indicate the specific characteristics students should exhibit in order to demonstrate the desired achievement of the learning outcome.

Eventually, the student should be able to engage in various progressive levels of analysis:

- * Remembering the unique facts,
- * Understanding their importance,
- * Applying them to the legal standards,
- * Analyzing the overall impact,
- * Evaluating and determining the culpability or lack of responsibility of the person accused of a violation of civil rights.

After completing course materials and participating in class discussions, a student in Civil Rights Law will be in position to identify what statutory and constitutional rights have been possibly violated, will be able to assess the merits of a claim, and will then be able to prepare the necessary pleadings to prosecute claims for an alleged plaintiff victim or to defend against these claims.

In order to evaluate the student's accomplishment of these objectives, the professor will employ an end-of-the-term multiple choice exam by which the students will be able to apply their knowledge and application of the principles of civil rights litigation as well as issues discussed in the criminal justice system that result in injustice, such as racial profiling.

Some of the topics to be covered include:

Elements of a Plaintiff's 1983 Claim
The "Under Color of" Law Concept—State Action

Actions as to Official and Individual Capacity

Private Persons as State Actors

Combination of Private and Public Actors

Policymakers and Persons, Monell v. Department of Social Services, NY

Policymakers: Single act; lack of training

Bivens v. Six unknown named agents, actions against Federal Officers

Routes to Governmental Liability: Direct action [official policy]; custom; attribution; failure to train, and others

Defenses to Liability

Absolute Immunity: Legislative; Judicial; Prosecutorial;

Exception to Absolute: Qualified Immunity if acting outside jurisdiction

Qualified Immunity: The Clearly Established Law Concept

The Status of States as Persons

Compensatory vs Punitive Damages

Injunctive Relief

Property

Liberty

Procedural Due Process

Substantive Due Process

Fourth Am & Police Misconduct

Equal Protection

Public Employee Speech Rights

Litigation of Section 1983 claims in State court

Eleventh Am. Jurisprudence

Attorney's Fees

CIV RIGHTS WRITING TOPICS –FALL 2017

The Catch-All--TOPIC FOR PAPER: You can feel free to propose your own Civil Rights-oriented topic. I will tell you if I can accept it. The goal is to open the door to critical legal thinking. Select a topic that will allow you to conduct a pro and con debate and then conclude by taking a firm position. Provide as much information as to your idea as possible to assist me with this assessment.

The primary goal is that it have a civil rights or constitutional foundation and that it opens the door to a thorough legal and constitutional analysis. Extensive research is required, utilizing multiple sources that lead to between 90 to 120 footnotes minimally. The multiple sources include cases, statutes, books, news articles, magazine reports, federal regulations, articles from law reviews and journals, interviews with experts, etc.

Develop a topic or thesis from the questions that surface after reading each chapter in the book, US Latinos and Criminal Injustice, to see if you have a particular angle to address. Google to get more ideas.

Topics—Suggestions Only

@State Efforts to Repeal Ethnic Studies in High Schools and Universities—A Pro and Con Policy Assessment in Light of the Alt-Right Movement [Stanford University has recently issued some study on the academic benefits of these programs]

@ The Lingering Racial Profiling Issues Facing Minority Citizens—Has the Trump Administration Aggravated Matters?

Minority Educational Neglect in Public Schools: Do Minorities Face Unequal Protection of the Law in Light of the White Supremacy Thinking of Jared Taylor (The “races are not equal”)

The Voting Rights Acts after Shelby County: A Critical Review of the Supreme Court’s Authority As to the Right of Congress to Pass Civil Rights Legislation and the Court’s Creation of a Possibly New Rule on the Determination of Unconstitutionality

A Critical Study of Whether Language Should Constitute a Proxy for National Origin or Ethnicity [see discussion in *Hernandez v. New York*, 1991, by Justice John Paul Stevens, concurring]

Language Rights and the Freedom to Communicate in Languages Other Than English: A Private and Public Point of View

Does the Right to Housing Constitute an Implicit Constitutional Right Under Our Federal Constitution?

Is the Right to an Education an Implicit Constitutional Right Under Our Federal Constitution?

Does the Death Penalty as Applied Constitute an Unconstitutional Cruel and Unusual Punishment When Viewed in Light of the Court’s Finding that the Arbitrary Applications of the Death Penalty Do Not Meet the Standards of an Evolving and Civilized Society?

Latino Educational Neglect: The Reduction of Texas State Funding for Extremely Needy Public Schools or Is It Time to Privatize Public Education?

Immigration Enforcement and Constitutionally Questionable Extended Detentions: The *Jennings v. Rodriguez* Alien Holding Case

The Role of Poverty in and on the U.S. Criminal Justice System

Implicit or Subtle Bias: The Impact of Race and Ethnicity in the U.S. Criminal Justice System

Prosecutorial Misconduct and Deprivations of Due Process of Law: Civil Rights and Criminal Remedies Available to Deter Injustices by State and Federal Prosecutors

Trial by Jury of One's Peers: The Absence of Latinos and other Minorities and the Abusive Manipulation of the Peremptory Challenge

@ A Historical Overview of Latino Voting Rights Opportunities before and after the Voting Rights Act of 1965

@The Fatal Beating of Anastacio Hernandez-Rojas by Federal Immigration Agents: A Legal Justification for the Filing of Criminal Charges under Title 18, US Code, Sections 2 and 242 --[for the facts, see Estate of Hernandez-Rojas v. United States, 62 F. Supp. 3d 1169 (S.D. Cal. 2014)]

@ "Race Matters:" A Constitutional Review of Racial Issues Involving Anglo Caucasian Complainants and Claims of Reverse Discrimination in Comparison to Minority Complaints

@ The Historical Development of Statutes or Regulations that address Language Rights as they might impact linguistic minorities. For example, some laws Require Contracts and Other Negotiated Documents to be in the Language Used in the Sales Portion—I recall Texas had a law in the late 1960s; today, it is found in TEXAS BUSINESS AND COMMERCE CODE, TITLE 12. RIGHTS AND DUTIES OF CONSUMERS AND MERCHANTS, CHAPTER 601. CANCELLATION OF CERTAIN CONSUMER TRANSACTIONS, SUBCHAPTER A. GENERAL PROVISIONS, Sec. 601.001. DEFINITIONS; Sec. 601.051. CONSUMER'S RIGHT TO CANCEL and Sec. 601.052. NOTICE OF CONSUMER'S RIGHT TO CANCEL REQUIRED.

WRITING REQUIREMENT GUIDELINES

Introduction: In Teaching Foreign LL.M. Students About U.S. Legal Scholarship, Matthew A. Edwards, 51 J. Legal Educ. 520 (2001), states: "When viewed as an academic discourse, the most distinctive feature of standard legal scholarship is its prescriptive voice, its consciously declared desire to improve the performance of legal decision-makers. Id. at 522, citing Edward L. Rubin, The Practice and Discourse of Legal Scholarship, 86 Mich. L. Rev. 1835, 1847-53 (1988).

While M. Edwards emphasizes that most standard legal scholarship aims to be prescriptive, he distinguishes prescriptive writing from those types which seek to describe or interpret a topic. While prescriptive writing requires analyzing, criticizing and recommending a better way of judicial decision-making, or even legislative policymaking, this does not require personally attacking the wisdom or the motives of the judge who authored the opinion.

Can a student write such an article? Yes, without a doubt, any student whom we have admitted has the capacity to read or hear about a legal dispute, discuss the essential issues, and determine the suggested solution. If the solution is inconsistent with one's concept of fairness or justice, then that opens the door to the prescriptive approach.

The article can be descriptive up until the point of entering the prescriptive arena, i.e., that point when your adrenalin begins to direct you into the uncontrolled urge to get things off your chest! After all, as Edwards notes, "The role of the legal scholar (student or otherwise) is to critically examine existing practices and propose better ways of doing things." *Id.* at 523. While all seminar papers have to be original, the descriptive aspect of an article necessarily requires a repetition of the works of others. See William E. Nelson, *Standards of Criticism*, 60 *Tex. L. Rev.* 447, 449 (1982).

Most legal analysis contributes to knowledge and possibly to solutions. In the law of evidence, we study how an item or comment is relevant if and when we are incrementally seeking to build a case or develop a point. Relevance has been described as similar to a brick and not a wall. An item is relevant because it contributes to the building of the wall. Some offering in the trial can be so minor, perhaps as light as a feather, but it will make the point. By the same token, a new angle on an old problem can contribute to legal scholarship.

What if others have written on the subject of your interest? M. Edwards suggests that this factor should not discourage you: "Even if others have already identified the problem, and even if the student's final solution has already been proposed, a novel justification or rationale for the same solution can make the student's work original. Matthew A. Edwards, *Teaching Foreign LL.M. Students About U.S. Legal Scholarship*, 51 *J. Legal Educ.* 520, 524 (2001).

Another expert named H. Edwards stated: "Practical" legal scholarship, in the broadest sense, has several defining features. It is prescriptive: it analyses the law and the legal system with an aim to instruct attorneys in their consideration of legal problems; to guide judges and other decisionmakers in their resolution of legal disputes; and to advise legislators and other policymakers on law reform. It is also doctrinal: it attends to the various sources of law (precedents, statutes, constitutions) that constrain or otherwise guide the practitioner, decisionmaker, and policymaker. Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 *Mich. L. Rev.* 34, 42-43 (1992) (emphasis in original).

In closing, law students must understand that the primary writing they produce for their seminar paper will be prescriptive in nature. While they will understandably be descriptive when they review the existing case law and the scholarly materials in the field, that basically lays the foundation for the writer's proposal that legal, judicial, or political decision-makers address a particular issue in a particular way.

Additional Comments: Since the writing requirement is essential for law school graduation, I will grade accordingly. Incomplete, inadequate and sloppy research cannot and will not be given a passing grade.

The writing requirement is fulfilled by submitting a paper in WORD, double-spaced, and in 12 point Times New Roman font. The minimal length with footnotes is 22 pages. This is a minimum. A 25-30 page paper will NOT be rejected. It is okay to go beyond if you necessary to develop your thoughts.

Most legal analyses require at least 25 pages in length. The paper should contain footnotes that follow the rules dictated by the Harvard Blue Book, 19th or 20th Edition. The footnotes will be done in 10 point Times New Roman font. You will get a head start on the format by looking at leading law reviews as well as articles that I have written.

You should also utilize Google and Grammarly.com for assistance with correct writing styles. You must avoid use of fragments and run-on sentences. Also distinguish between the plural (courts) and the possessive form (court's). Grammarly.com will help with these errors. Also, learn when you should begin a new paragraph. I regret having to repeat these admonishments, but I am amazed at the frequent commission of these errors by soon-to-be lawyers.

Since your research is subject to a plagiarism check, I will need for you to provide me by the Nov. 19th deadline an electronic email copy. As a result, be sure that you paraphrase source material and that you footnote every informational section which you have borrowed from another writer. This includes the page number from which you assert that the statement is found, e.g., *Hernandez v. Texas*, 347 U.S. 475, 478 (1954).

You must follow the Bluebook rules as to when you use or do not use the terms see OR see generally. If the information you provide is identical to the substance of what you have interpreted from the case or law review you are citing, then there is no need to list see or see generally.

If you use supra or infra, be sure to double-check the footnote and the page number you mean to cite. Your sources should include books, cases at all relevant levels, statutes, newspaper and magazine articles, limited internet references [excluding Wikipedia], and even interviews with authorities or otherwise knowledgeable persons. Do not cite cases and their reporter in the text. This is footnote material.

See the Harvard Blue Book before you begin your research so that you get the information you need in order to have a correct and complete footnote.

The Thesis Sentence

The Thesis Sentence is a statement or theory that is put forward as a premise to be maintained or proved. A thesis is synonymous to a theory, contention, line of

argument, proposal, proposition, idea, claim, premise, assumption, hypothesis, postulation, supposition, or an argument.

Our law school paper required for graduation is but a microcosm or small-scale version of the long dissertations that Ph.D. candidates must submit for their doctoral thesis.

The thesis or topic sentence usually comes at the beginning of a paragraph. Not only is a topic sentence the first sentence of a paragraph, but, more importantly, it is the most general sentence in a paragraph. The sentence introduces an overall idea that you want to discuss later in the paragraph.

Google this topic for further guidance. It will help you prepare a better article.

Other Critical Matters to Improve or Perform Correctly

- 1] Spelling**
- 2] Grammar-- Google Grammarly.com for guidance and download free program/app.**
- 3] Diction, i. e., the choice and use of words and phrases in speech or writing. Synonyms include phraseology, wording, language, usage, vocabulary, terminology, expressions, idioms.**
- 4] In formal writing, such as law review writings and legal briefs, the use of contractions, such as “don’t” or “isn’t” it a lovely day, is disallowed. Instead, just spell it out. For example, “She is” mad instead of “She’s mad.”**
- 5] Bluebook rules must be followed, with one exception: as to supra and infra, I will excuse your use of these two rules. It is cumbersome for our purpose. If you write a formal piece for a law journal, you will have to follow the supra and infra rules. If you use these forms**
- 6] Footnotes must be properly cited, using the Bluebook rules and NOT the APA or MLA style rules. This is an analytical law school paper, not a social science report! I have seen that Google provides examples for you to follow, but double-check the rules to see if they comply with current practice.**
- 7] Footnotes must be sufficient in numbers to support your claims.**
- 8] PLAGIARISM--Be sure to avoid plagiarism. Your work product will be subjected to review by a plagiarism app.**

9] Use appropriate transitional words and phrases to segue, i.e., to make a transition without interruption from one activity, topic, scene, or part to another. For example, he segued smoothly into the next topic.

Effective paragraphs

Effective paragraphs are important in all types of writing. Your paragraphs guide your reader through the paper by helping to explain, substantiate, and support your thesis statement or argument. Each paragraph should discuss one major point or idea. An effective paragraph has three parts: claim, evidence, and analysis.

Claim: This is also sometimes called a topic sentence. This will be your way of announcing the main focus of your paragraph, informing the reader what your paragraph will discuss.

It may be helpful to think of your claims as mini arguments that support the paper's main argument or thesis. Just as in the thesis statement, your topic sentences should be debatable. In other words, they should be arguable claims that you will try to "prove" with your evidence.

Evidence: This is how you support, or back up, your claims. The evidence will help to "prove" each claim to the reader. In a legal paper, you will be utilizing cases, statutes, legal history, and other evidence to support your claim that you are more likely correct, for example, that the state's law is unconstitutional.

In a paper that incorporates research from secondary sources, your evidence may include information from articles, books, electronic sources, or any of the research you gathered. The evidence may take the form of a direct quotation, paraphrased material, statistical data, or any other information from one of your sources that helps to support your claim. Special blue book rules provide, e.g., that quotes of 50 words or more are set off and indented (but without quotation marks, as required for smaller collections of words).

*** Lupe S. Salinas Publications --Recommended Articles to Follow for Footnotes and Style**

Lupe S. Salinas & Dr. Robert H. Kimball, The Equal Treatment of Unequals: Barriers Facing Latinos and the Poor in Texas Public Schools, 14 Geo. J. Pov. L. & Pol'y 215 (2007).

Lupe S. Salinas, Linguaphobia, Language Rights and the Right of Privacy, 3 STAN. J. C.R. & C. L. 53 (2007).

Salinas, Deportations, Removals and the 1996 Immigration Acts: A Modern Look at the Ex Post Facto Clause, 22 B. U. Int'l L.J. 245 (2004).

Lupe S. Salinas, Arizona's Desire to Eliminate Ethnic Studies Programs: A Time to Take the "Pill" and to Engage Latino Students in Critical Education about their History, 14 Harv. Latino L. Rev. 301 (2011).

Lupe S. Salinas & Janelle Martinez, The Right to Confrontation Compromised: Monolingual Jurists Subjectively Assessing the English-Language Abilities of Spanish-Dominant Accused, 18 Am. U. J. Gender Soc. Pol'y & L. 543 (2010).

Lupe S. Salinas, Immigration and Language Rights: The Evolution of Private Racist Attitudes into American Public Law and Policy, 7 Nev. L. J. 895 (2007).

GRADING

The Course Grade will be based on a writing requirement article and a multiple choice final exam. The writing requirement must be submitted electronically to the professor's school email no later than 5 pm on Sunday, Nov. 19, 2017.

The grade breakdown is as follows:

Writing requirement: 70 points

Multiple Choice Final Exam: 30 points

There will be no midterm exam. A total of 100 points are possible. A grade of "A," for example, will generally range from 85-100 points. The final exam will take place on the last day of class, November 29, 2017.

ACCOMMODATIONS

Accommodations are available for those that meet the guidelines. Consult with the office of the Dean of Students for this purpose.

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Considering the nature of the course as well as the delicate topics that race issues provoke, all students should participate in constructive and respectful class discussions. Our goal should always involve learning what motivates the respective and individual opinions of fellow classmates.

Attendance policy: It is your responsibility to be punctual. Arriving after roll call and once the lecture begins constitutes an absence. This is established in the student faculty manual. There is no "excused" absence that the professor can grant, even if you are on school business. Please understand that concept. Carefully review the number of absences you are entitled to for each class.

ACADEMIC CALENDAR

FALL SEMESTER 2017 (SEVENTY DAYS OF CLASSES)

READING ASSIGNMENTS

Week 1

8/21 Introduction to Writing Requirement and Civil Rights Law

8/23 Introduction to Writing Requirement—Grammarly.com

8/25 Guest Lecturer, Adriana Ramirez, LexisNexis Research Presentation

Week 2

8/28 No Classes—TS Harvey Flood

8/30 No Classes—TS Harvey Flood

9/1 No Classes—TS Harvey Flood

Week 3

9/4 Labor Day--Holiday

9/6 Gen. Robert E. Lee's Beliefs Re Place for Confederate Monuments; Andrew Young Perspective on Monuments and Statues; Monroe v. Pape, Police Misconduct, 4th Am violation—Home search without a warrant; No to Municipal Liability; City of Chicago is not a "person;" Introduction to Civil Rights Law—The 1871 Civil Rights Act

9/8 Monell, reversing Monroe; Yes to Municipal Liability; City of New York as

a “person;” Fourteenth Amendment deprivation of rights, privileges, or immunities secured by the Constitution and federal laws; Procedural Due Process, *Hudson v. Palmer*, 468 U.S. 517 (1984) (none for jail cell search); *Davidson v. Cannon*, 474 U.S. 344 (1986); *Daniels v. Williams*, 474 U.S. 327 (1986); *Zinermon v. Burch*, 494 U.S. 113 (1990) (mental health commitment) & *Chavez v. Martinez*, 538 U.S. 760 (2003) (A PO does not deprive a suspect of constitutional rights by failing to issue a Miranda warning—limited to use of statements).

Week 4

9/11 The 4th Amendment seizure, *Tenn. v. Garner*; Compare to Florida’s Stand Your Ground Act that led to death of Trayvon Martin; Compare to Texas’s Act that allows deadly force for theft of personal property, Tx Pen Code, 9.41; *Graham v. Connor*, the objective standard of reasonableness; *Sacramento County v. Lewis*, 523 U.S. 833 (1998), seizure not intentional; *Scott v. Harris*, 550 U.S. 372 (2007), 4th not violated by officer’s reasonable and necessary use of force to stop a dangerous high speed chase

9/13 Racial profiling, from *Terry v. Ohio*, to *Brignoni-Ponce*; *Camargo* 9th Cir. Case; *Melendres v. Arpaio* ruling, 4th and 14th Am ruling; *City of El Cenizo v. Texas*, Preliminary Injunction Decision, SB 4 is Facially Unconstitutional, Aug. 30, 2017

9/15 Private actors who join state actors and become actors under color of state law; Conspiracy cases, e.g., *US v. Price*, the Freedom Riders murders, 18 USC Sec. 241 and *Griffin v. Breckenridge*, 42 USC Sec. 1985 (3) Conspiracy coverage; *Bobo* case in Texas [off-duty cop=private person but one acting under color of law by filing a false arrest complaint]

Week 5

9/18 Black Lives Matter, Presentation by Dr. Robert Kimball, D.Ed., days during Watts Riots, 1965; Query: Since Sec. 1983 prohibits State action under color of law, can a federal agent be sued for use of excessive force or other violations?; the answer is yes, as decided in *Bivens v. Six Unnamed Federal Agents*, Direct Constitutional Claims; see *Bivens*-type case of *Estate of Anastasio Hernandez-Rojas*; brutality by federal agents on May 28, 2010 with death resulting a few days later; *Ziglar v. Abbasi*, 137 S. Ct. 1843 (2017) [*Bivens* does not apply]

9/20 Sec. 1983, Due Process, 14th Am DP Violations that arise from Inaction, e.g., *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989); 4th Am Pre-Trial Detainees Rights, *Manuel v. City of Joliet*, 137 S Ct 911; *Estelle*, the 8th Amendment’s Cruel and Unusual provision; and the care of prisoners’ serious medical needs

9/22 *Pierson v. Ray*, 386 U.S. 547 [1967], The Seminal Case on Sec 1983 Absolute Judicial Immunity; *Dennis v. Sparks*; *Forrester*, Employment decision by Judge, No

Judicial Immunity; Prosecutorial Immunity, Kalina v. Fletcher, 522 U.S. 118 (1997) (No Prosecutorial Immunity for DA)

Week 6

9/25 Qualified immunity, Harlow v. Fitzgerald; Safford Schools v. Redding, school search limits; Mitchell v. Forsyth, 472 U.S. 511 (1985); White v. Pauly, 137 S. Ct. 548 (2017) (Qualified Immunity: PO Arrives Late to Shooting Scene); Hernandez v. Mesa, 137 S. Ct. 2003 (2017) (Qualified Immunity: BP Agent Could Not Know Status of Shooting Victim);

9/27 Defenses, Limitations, Wilson v. Garcia, [holding: 2 year S/L in Texas; based on personal injury state rule]; Note, Sec 1983 in State Cts, the Walswee Texas Case [Prof. note]; Relief, Damages, Smith v. Wade, 461 U.S. 30 [1983] [punitive damages upheld]; City of Newport v. Fact Concerts, 453 U.S. 247 (1981) [410] [no punitive damages against the city]; Injunctions, Lyons v. City of LA; Suits vs Govts, Local Govts, Pembaur; Note on Policymakers, Prapotnik; Canton [Failure to train and deliberate indifference]

9/29 42 USC Sec 1981, right to enter into contract as is enjoyed by white citizen, 1866 Civil Rights Act; McDonald, white plaintiff victim; St. Francis College, Iraqi-American; Note, Racial groups covered by Sec 1981, covered groups include Jews, Aliens; Sex discrimination not included; should gender be covered under the 1866 legislation?; Civil Rights Act of 1964, Title II [The Gas Lamp, Houston, Texas—Brandon Ball, TMSL]

Title VI, Lau v. Nichols, Intent v. Effect; Agency enforcement, 42 USC Sec. 2000d-1; Title VI and Need for Disc Intent Proof?, Guardians Ass'n; plaintiff-initiated litigation limited to intent test theory, Alexander v. Sandoval

Week 7

10/2 Title VI, Lau v. Nichols, Intent v. Effect; Agency enforcement, 42 USC Sec. 2000d-1; Title VI and Need for Disc Intent Proof?, Guardians Ass'n; plaintiff-initiated litigation limited to intent test theory, Alexander v. Sandoval; Title VII, 42 USC Sec 2000e, Civil Rights Act of 1964, Equal Employment Protections, , Sex discrimination in the workplace; Griggs v. Duke Power Co.; Hopkins v. Price Waterhouse; Ledbetter and Equal Pay Act

10/4 Voting Rights Act of 1965 [amended in 1975 and 2006—effective through 2032]; sections 2, 4, and 5; LULAC v. Perry, 548 U.S. 399 (2006) (Henry Cuellar, Laredo); Shelby County v. Holder, 133 S. Ct. 2612 (2013) [voided 2006 Section 4 coverage]; Perez v. Abbott, 2017 U.S. App. LEXIS 129982 (W.D. Tex., Aug. 15, 2017); Perez v. Abbott, 2017 U.S. App. LEXIS 129982 (W.D. Tex., Aug. 15, 2017); Perez v. Abbott, 2017 U.S. App. LEXIS 129982 (W.D. Tex., Aug. 15, 2017); [Lexis attachment] [political gerrymandering, see Gill v. Whitford.];

10/6 Special guest speaker, Voting Rights

Week 8

10/9 The Evolution of Gay Rights, from Griswold v. Conn., the right to privacy case, to Lawrence v. Texas, the right to privacy case in the bedroom case, and finally, the Obergefell v. Hodges, the right to marriage equality case (2015)

10/11 Coverage of the Salinas Book, US Latinos and Criminal Injustice (2015), ISBN: 978-1-61186-176-1, and the civil rights aspects of criminal justice issues, Introductory pages ix -xxvi and a summary presentation on the overall book.

10/13 Chapter 1, pages between 3-14.

Week 9

10/16 Salinas book, Ch. 2, Legally White, Socially Brown, 15-28

10/18 Ch. 3, Latino Hate Crimes, pp 29-46

10/20 Salinas book, Ch. 4, Reactions to the Latino Threat, pp 47-61

Week 10

10/23 Salinas book, Ch. 5, pp 65-85, Racial profiling and targeted traffic stops of minority persons by officers; Melendres v. Arpaio Case: the Arpaio Pardon

10/25 Salinas book, Ch 6, Abuses in Fed Imm Enforcement, pp. 87-105

Week 11

10/30 Salinas book, Ch. 7, Deprivation of Rights by Local Police, Excessive Force, pp. 107-144—Part 1

11/1 Salinas book, Ch. 7, Deprivation of Rights by Local Police, Excessive Force, pp. 107-144—Part 2

11/3 Salinas book, Ch. 8, the Grand and Petit aka Trial Juries, pp 147-69—Part 1

Week 12

11/6 Salinas book, Ch. 8, the Grand and Petit aka Trial Juries, pp 147-69—Part 2

11/8 DVD, A Class Apart, the Story of Hernandez v. Texas and the Recognition of Latino/Mexican Americans as a Suspect Class for Equal Protection Purposes, 347 US 475 (1954)

11/10 Veteran's Day Holiday

Week 13

11/13 Salinas book, Ch. 9, the Rights of Limited English Proficient Persons in Criminal Trials, pp 171-93;

**11/15 Salinas book, Ch. 10, Latino Victims of Denials of Due Process, pp 195-242—
Part 1**

**11/17 Salinas book, Ch. 10, Latino Victims of Denials of Due Process, pp 195-242—
Part 2**

Week 14

11/19 Deadline for submission of the writing requirement that must be submitted electronically to the professor's school email – lsalinas@tmslaw.tsu.edu-- on or before 5 pm on Sunday, Nov. 19, 2017.

11/20 Salinas book, Ch. 11, Mass Incarceration and the Adverse Effects on Latinos, Written by Professor SpearIt, pp 243-59;

11/22 Travel –Make-Up

11/24 No Class—Thanksgiving Holiday

Week 15

11/27 Salinas book, Ch. 11, Mass Incarceration and the Adverse Effects on Latinos, Written by Professor SpearIt, pp 243-59; Salinas book, Conclusion, pp 261-70--Book Updates since 2015 Publication--

11/29 Last Official Class Day –Final Examination –30 point value