

Clinical Prosecution Practicum Syllabus

Spring 2016 Semester

Tuesday 7:10PM-8:00PM (directly after the Criminal Externship seminar)

Professor Fred Klein (Faculty Member)

Fred.Klein@gmail.com

516-463-7193 (O)

516-652-1961 (C)

TEXTS: Graybook, New York Criminal Statute and Rules (LexisNexis) latest edition (bkstore);
Not Guilty, The Unlawful Prosecution of US Senator Ted Stevens, by Rob Cary (2014)
(available online).

INTRODUCTION

The Clinical Prosecution Practicum (the Practicum) is a hybrid experiential course that offers the students the best features of an inhouse clinic and an offsite externship. Ten students are selected to work 15 hours per week in the District Court Bureau (misdemeanor) of either the Nassau County District Attorney's Office in Hempstead or the Suffolk County District Attorney's Office in Central Islip (the DAO).

The students perform the traditional work involved in an externship including assisting prosecutors on their cases and observing court proceedings involving conferences, dispositions and litigation. The primary focus of the course, however, is that the students are each assigned 15 of their own cases which they are required to evaluate, investigate and handle in court as the prosecutor under the supervision of a faculty member (me) and the DAO. In this way, the students are exposed to the work of the prosecutor's office as both observers and actual participants with the added component of instruction, supervision and assessment by the faculty member.

METHODOLOGY

The students apply for the program by submitting a resume, transcript and statement of interest to the faculty member who supervises the Practicum and then sit for a short interview. The students are required to have successfully completed both Criminal Procedure I and Evidence before taking this course so, as a practical matter, it is only open to second semester 2Ls and all 3Ls. Participation by students in moot court or trial advocacy programs is helpful but not required. The students are assigned to one of the two DAOs based on their individual preference and program needs.

Once selected, the students are provided with written material to review covering many of the issues that will arise at work. The students must also attend a two day training "boot camp" prior

to the beginning of classes which is conducted by the faculty member. This training includes discussion of the course requirements, professionalism concerns, the role of the prosecutor and reviewing prosecution files as well as the law about accusatory instruments, arraignments, speedy trial, discovery, elements of crimes, dispositions and pretrial hearings. The students must also attend a short orientation session with the DAO.

The Practicum course requirements include all the requirements of the Criminal Law Externship which involve the submission of weekly journals; a weekly seminar discussing the work of other students and addressing legal, ethical and professionalism issues that arise in criminal cases; course readings; and the submission of 15 pages of legal writing completed at the placement. (See Syllabus for the Criminal Law Externship).

In addition, the students are required to participate in a weekly seminar involving only the Practicum members where litigation and prosecution skills are discussed and simulated including bail applications, formulating and taking pleas and conducting pretrial hearings. Also, each student meets individually with the faculty member on a monthly basis to discuss their assigned cases including assessment, investigation, legal issues and plea offers. Students are encouraged to schedule additional meetings with the faculty member to discuss any other issue. Finally, the faculty member periodically observes the students in court for calendar call, will assist each student with litigation preparation, observe all student litigation and provide feedback to the student afterward. Students' work in court will be supervised by an Assistant District Attorney under a student practice order.

EVALUATION

At the end of the semester, each student who successfully completes the course receives 6 credits and is awarded a letter grade (A-F) reflecting their performance in the course. Grades are determined based on the following factors as applied to class, individual meetings and work at the placement:

- attendance,
- punctuality,
- organization,
- preparation,
- initiative,
- quality of written journals and other written work,
- class participation in the seminar,
- demonstrated understanding and implementation of material covered in the course,
- ability to follow instructions,
- ability to conform to course requirements and placement rules and practices while still maintaining individual ethics and professionalism,
- ability to identify best and worst practices and incorporate them into personal work to the extent practical
- courtroom performance.

The grades are not subject to a curve but will reflect the quality of each student's performance in

the course including their demonstrated improvement during the semester.

GOALS AND OBJECTIVES

Each student is expected to take “ownership” of their assigned cases and to find their own “voice” as an attorney and prosecutor.

By working in the DAO each student is expected to master the procedures, skills, ethics and substantive law that confront new prosecutors.

By handling their own cases, each student is expected to develop the ability to: 1) thoroughly and accurately document the work performed, 2) conscientiously investigate and research each case, 3) assess the strengths and weaknesses in a case and conduct the work necessary to improve it where possible or to dismiss it when appropriate, 4) competently perform “on the record” whether for court conference or litigation, 5) comply with deadlines and court dates, 6) professionally deal with opposing counsel and the court, 7) efficiently manage several projects and cases at the same time, 8) reflect an understanding of professional courtesy and respect and, most importantly, 8) obtain some individualized justice in an overwhelmingly bureaucratic system.

By working with the faculty member, each student is expected to form their own independent professional identity and to decide if prosecution is the career path that they want to follow.

CONCLUSION

I can be reached before/after class, by appointment or by email. I take pride in my accessibility to students. I will try to direct you to the correct answer without answering it for you. One of the skills attorneys must learn is how to answer questions themselves. I am eager to receive questions but answering them will be part of the learning process for you. There are no stupid questions; only mistakes that are made by a failure to ask.

The benefits of a seminar are that all participants can contribute to the group and we can all learn from each other. Be open when listening to the experiences of your colleagues and kind when offering a different perspective in class. The curriculum is limited only by your experiences at the DAO and your curiosity. If there are topics you would like to discuss, let me know and I will attempt to add it to the course.

I hope that when you complete this course, you have a better understanding of the way your system of criminal justice operates, an appreciation of the vital role you can play in that system and ways you can work to improve it. I look forward to an interesting, provocative and enjoyable semester.