

CJ 696
Legal Aspects of Criminal Justice Management
Fall/2007 (Weekend)

Professor: Dr. Margo L. Frasier

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Class Hours: Scheduled Saturdays; 8:00 a.m.-4:50 p.m.

Office Hours:

Tuesday and Thursday

8:00 a.m. – 9:15 a.m.

1:00 p.m.—3:00 p.m.

Other times available by appointment

OFFICE HOURS:

I make every attempt to be in my office during office hours. For those of you, who are in the Huntsville area, feel free to stop by. For those of you, who are further away, feel free to contact me by email or telephone. As with students who are present on campus, it is possible that I will have a meeting or another obligation that will conflict with office hours so it is always best to send me an email to arrange a specific time.

BOOK(S):

Required:

Atichison, Will. *The Rights of Law Enforcement Officers* (5th Ed.), LRIS Publications 2004. (referred to below as “Atichison”)

Ross, Darrell L. *Civil Liability in Criminal Justice* (4th Ed.), Lexis Nexis 2005. (referred to below as “Ross”)

COURSE DESCRIPTION AND OBJECTIVE:

Description:

The course is an overview of the legal issues commonly facing managers in criminal justice agencies. Particular emphasis is placed on public employment law including hiring, promoting, disciplining and discharging of employees, fair employment practices, and agency and administrator civil liability. Both state and federal statutory and case are examined.

Objective:

The course is designed to provide the student with a basic understanding of the legal aspects of public administration which particular focus on criminal justice management.

Included in the course are discussions on the legal issues surrounding the role of a criminal justice administrator with particular emphasis on personnel practices. Additionally, the legal constraints on administrative agencies that interact with the criminal justice process will be overviewed. The legal liability of criminal justice administrators and their agencies will be covered.

ATTENDANCE POLICY: Class attendance requirements will be followed in accordance with Academic Policy Statement 800401. Due to the concentrated nature of the course, attendance at all sessions is mandatory. Missing part or all of a class session may result in failure of the course.

ASSIGNMENTS: Each class meeting the student will be expected to have reviewed the assignment for that meeting and be prepared to discuss them. Additionally, the student will prepare a case brief for any judicial case assigned for that date. Each student will prepare a typed response to the problem that has been assigned. Each response should be no more than five pages, contain at least three references (cases or statutory) and use appropriate bibliographic citation.

While students who are assigned the same problem may choose to work together, each student turn in his/her own individually prepared response.

GRADING POLICY AND EXAMINATIONS: Final grade determination will be based on the following scale: 90-100 A; 80-89 B; 70-79 C; 60-69 D; 59 and below F.

The course will be based on two examinations, the outside projects, the case briefs, and contribution to class discussion. Each exam will be worth 25 percent of the grade, the outside projects will be worth a total of 20 percent, the case briefs will be worth 20 percent of the grade, and class discussion and participation will be worth 10 percent of the grade. No make-up work will be given. All assignments are due on or before the date designed in the assignment. Students may monitor their grades on the Blackboard website.

As always, the professor reserves the right to change the format of the class to maximize the learning experience and to encourage students to participate.

Grades will not be “curved”.

MAKE-UP EXAMINATIONS: As this course only has two examinations, you are expected to take them on the date indicated. However, if you find yourself in the position of needing to take a make-up examination, arrangement must be made prior to the due date.

ANNOTATED OUTLINE OF TOPICS TO BE COVERED FOR EACH WEEK:

August 26 Course Introduction; Legal Research Methods

- A. Introduction
- B. Basics of legal research

Assignment of Problems #1, #2, and #3

Readings:

Acker, "Finding the Law: A Criminal Justice Guide to Basic Legal Research Techniques," *Journal of Criminal Justice Education*, 1990. (handout)

How to Brief a Case (handout)

Legal Abbreviations (handout)

Internet Legal Research Guide (handout)

Outline of Legal Reference Materials (handout)

September 8 Public Information Act; Civil Service; Nepotism, Gifts and Conflicts of Interests

- A. Discoverable documents
- B. Exceptions to Act
- C. Discussion of Problem #1
- D. Various versions of civil service
- E. Appeals of civil services decisions
- F. Discussion of Problem #2
- G. Nepotism
- H. Gratuities and gifts
- I. Conflicts of interest
- J. Discussion of Problem #3

Assignment of Problems #4 and #5

Readings:

2004 Public Information Act Handbook and Texas Public Information Act Made Easy, available at: www.oag.state.tx.us/newspubs/publications.shtml

2006 Public Officers: Traps for the Unwary, available at: www.oag.state.tx.us/newspubs/publications.shtml

Attorney General Opinions JC-0283, ORD 679, ORD 680, Letter Opinion 93-6, DM-338, Letter Opinion 97-016, JC-0347, GA-0238, Letter Opinion 90-70, Letter Opinion 94-039, Letter Opinion 97-028, Letter Opinion 97-034, JC-0336, JC-0546, GA-0354

Proctor v. Andrews, 972 S.W.2d 729 (Tex. 1998)

City of Dallas v. Hamilton, 132 S.W.3d 632 (Tex. App.—Eastland 2004)

Texas Local Government Code, Chapters 143 and 158

Texas Government Code, Chapter 573

Texas Penal Code, Chapter 36

September 29 Liability of administrators and ability of officers to sue; Liability of Agencies

- A. Liability for own actions
- B. Liability for actions of others
- C. Ability of officers to sue
- D. Immunity from suit
- E. Discussion of Problem #4
- F. Liability for actions of policymakers
- G. Liability for actions of employees
- H. Liability for hiring and training decisions
- I. Discussion of Problem #5

Assignment of Problems #6, #7, and #8

Readings

Texas Civil Practice & Remedies Code, Chapter 101

Aitchison, pp. 449-455, 335-361

Ross, pp. 107-168

Brandon v. Holt, 469 U.S. 464 (1985)

Kentucky v. Graham, 473 U.S. 159 (1985)

Hafer v. Melo, 502 U.S. 21 (1991)

Harlow v. Fitzgerald, 457 U.S. 800 (1982)

Brosseau v. Haugen, 543 U.S. 194 (2004)

Telthorster v. Tennell, 92 S.W.3d 457 (Tex. 2002)

Monell v. New York City Dept. of Social Services, 436 U.S. 658 (1978)

Owen v. City of Independence, Missouri, 445 U.S. 622 (1980)

City of Oklahoma v. Tuttle, 471 U.S. 808 (1985)

Pembaur v. City of Cincinnati, 475 U.S. 469 (1986)

Board of the County Commissioners of Bryan County, Oklahoma v. Brown, et al., 520 U.S. 397 (1997)

McMillan v. Monroe County, Alabama, 520 U.S. 781 (1997)

Piotrowski v. City of Houston, 237 F.3d 567 (5th Cir. 2001)

October 20 Personnel Practices: Selection and Assignment; ADA and Light Duty; Evaluation and Promotion

- A. Religious considerations
- B. Racial considerations
- C. Discussion of Problem #6
- D. ADA
- E. Reasonable accommodations
- F. Light duty
- G. Pregnancy Issues
- H. Discussion of Problem #7
- I. Requirements for promotion

- J. Considerations for evaluations
- K. Political promotions
- L. Discussion of Problem #8

Assignment of Problems #9 and #10

Readings

Aitchison, pp. 1-5, 327-334, 389-426, 411-426

Ross, pp. 343-362

Irvin v. Aubrey, 92 S.W.3d 87 (Ky.App. 2001)

Pontarelli v. Stone, 930 F.2d 104 (1st Cir. 1991)

Petit v. City of Chicago, 352 F.3d 1111 (7th Cir. 2004)

Adams v. Nolan, 962 F.2d 791 (8th Cir. 1992)

Sutton v. United Airlines, Inc., 527 U.S. 471 (1999)

Mincey v. City of Bremerton, 38 Fed.Appx. 402 (9th Cir. 2002)

Hoskins v. Oakland County Sheriff's Department, 227 F.3d 719 (6th Cir. 2000)

Simon v. St. Louis County, Missouri, 735 F.2d 1082 (8th Cir. 1984)

Cripe v. City of San Jose, 261 F.3d 877 (9th Cir. 2001)

Snoddy v. City of Nacogdoches, 98 Fed.Appx.338 (5th Cir. 2004)

Johnson v. City of Memphis, 355 F.Supp.2d 911 (W.D. Tenn. 2005)

Reynolds v. City of Chicago, 296 F.3d 524 (7th Cir. 2002)

James v. Sheahan, 137 F.3d 1003 (7th Cir. 1998)

Cripe v. City of San Jose, 261 F.3d 877 (9th Cir. 2001)

Local Government Code, Section 143.073

Texas Constitution, Article III, Section 52e

Attorney General Opinions, Letter Opinion 98-095, Letter Opinion 93-62, JM-1191, GA-0325

November 10 Mid-Term Examination; Personnel Practices: Employee Discipline and Discharge

- A. Progressive discipline
- B. Creative discipline
- C. Whistleblowers
- D. Discussion of Problem #9
- E. Constructive discharge
- F. Dismissal procedures
- G. At-will employees
- H. Discussion of Problem #10

Assignment of Problems #11, 12, and 13

Readings

Aitchison, pp. 85-208

Ross, pp. 362-369

Polanco v. City of Austin, 78 F.23d 968 (5th Cir. 1996)

Trostle v. Combes, 104 S.W. 3d 206 (Tex.App.-Austin 2003)
Cleveland Bd. Of Education v. Loudermill, 470 U.S. 532 (1985)
City of Carrollton v. Popescu, 806 S.W.2d 268 (Tex.App.-Dallas 1991)
Attorney General's Opinion, DM-79, Letter Opinion 96-018, JC-0257

December 1 Personnel Practices: Organizing of Employees and Political Activity;
Freedom of employees in workplace; Fair Labor Standards and Extra Jobs

- A. Collective bargaining and strikes
- B. Political activity
- C. Discussion of Problem #11
- D. Searches of employees
- E. Freedom of speech
- F. Discussion of Problem #12
- G. Overtime issues
- H. Exempt versus non-exempt
- I. Limitations on extra jobs
- J. Discussion of Problem #13

Readings

Aitchison, pp. 7-84, 223-325, 363-381, 427-448

Ross, pp. 369-377

City of San Diego v. Roe, 543 U.S. 77 (2004)

O'Connor v. Ortega, 480 U.S. 709 (1987)

Connick v. Myers, 461 U.S. 138 (1983)

Christensen v. Harris County, Texas, 529 U.S. 576 (2000)

"Application of the Fair Labor Standards...", 29 *Code of Federal Regulations*,
Sections 553.01-553.233

Texas Government Code, Sections 617.001-.005

Texas Local Government Code, Sections 150.002, 142.051-.068

Attorney General's Opinion, GA-0256, Letter Opinion 98-047

December 15

Final Examination

ACADEMIC HONESTY: The Faculty of the College of Criminal Justice expects students to conduct their academic work with integrity and honesty. Acts of academic dishonesty will not be tolerated and can result in the failure of a course and dismissal from the University.

Academic dishonesty includes, but is not limited to, cheating on a test, plagiarism, collusion – the unauthorized collaboration with another person in preparing work offered for credit, the abuse of resource materials, and misrepresentation of credentials or accomplishments as a member of the college.

The University's policy on academic honesty and appeal procedures can be found in the manual entitled *Student Guidelines*, distributed by Division of Student Services. (Reference Section 5.3 of the SHSU Student Guidelines)

DISABLED STUDENT POLICY:

“Students with a disability which affects their academic performance are expected to arrange for a conference with the instructor in order that appropriate strategies can be considered to ensure that participation and achievement opportunities are not impaired.” The physically impaired may contact the Director of the Counseling Center as chair of the Committee for Continuing Assistance for Disabled Students by telephone (ext. 41720).

SERVICES FOR DISABLED STUDENTS:

Available on-line at <http://www.shsu.edu/~counsel/sswd.html>.

STUDENT ABSENCES ON RELIGIOUS HOLY DAYS POLICY:

Section 51.911 (b) of the Texas Education Code requires that an institution of higher education excuse a student from attending classes or other required activities, including examinations for the observance of a religious holy day, including travel for that purpose. A student whose absence is excused under this subsection may not be penalized for that absence and shall be allowed to take an examination or complete an assignment from which the student is excused within a reasonable time after the absence.

University policy 861001 provides the procedures to be followed by the student and instructor. A student desiring to absent himself/herself from a scheduled class in order to observe (a) religious holy day(s) shall present to each instructor involved a written statement concerning the religious holy day(s). This request must be made within the first fifteen days of the semester or the first seven days of a summer session in which the absence(s) will occur. The instructor will complete a form notifying the student of a reasonable timeframe in which the missed assignments and/or examinations are to be completed.