

SYLLABUS
Capital Punishment Law Seminar
LAW 1505/01
Victor Streib
Ohio Northern University
Fall Semester 2007

COURSE DESCRIPTION

This course examines the specific legal issues inherent in capital punishment within the general area of criminal law and procedure. Included will be detailed coverage of both substantive and procedural law of capital punishment, as well as the roles of lawyers, judges, and juries within this legal system. Law and legal analysis in death penalty statutes and cases are the major focuses of this course, with attention also given to empirical analyses of the practice and philosophical examinations as to its wisdom.

COURSE TEXTUAL MATERIALS

Required Reading:

NINA RIVKIND & STEVEN F. SHATZ, CASES AND MATERIALS ON THE DEATH PENALTY (West, 2d ed., 2005)

Optional Additional Reading:

VICTOR STREIB, DEATH PENALTY IN A NUTSHELL (Thomson-West, 2nd ed. 2005)

COURSE INSTRUCTOR

The instructor for this course is Professor Victor Streib, who has been teaching this course in various formats since 1987 and teaching criminal justice courses in general since 1971. Professor Streib has served as a prosecuting attorney and as a criminal defense attorney, and he most recently has been involved in appellate work for death row inmates. He has represented clients on death row before the United States Supreme Court and several state supreme courts. His current research includes the death penalty for women. Please feel free to stop by Professor Streib's office (#178), to call him either at his office (419-772-2207) or at his home (419-634-5241), or to reach him by email (vstreib@onu.edu). Professor Streib's office hours for this semester are 1:00 p.m. to 3:00 p.m. on Wednesdays and Thursdays. Other times by chance or appointment.

COURSE GRADE

The final grade for this two credit seminar will be based upon the following factors:

Class Participation (all class meetings):	10%
Term Paper Outline (due 9-19-2007)	10%
Midcourse Examination (10-24-2007):	20%
Term Paper First Draft (due 11-7-2007):	20%
Oral Presentations & Handout (11-14, 21, & 28-2007):	10%
Term Paper Final Draft (due 11-20-2007):	30%

COURSE SCHEDULE

This class normally meets on Wednesday afternoons, 4:00 - 5:40 p.m. During the first three weeks of the course, students will meet with Professor Streib by individual appointment in his office to discuss and chose a topic for their term papers (*see infra*, pp. 4-6). On October 24, 2007, just past the mid-point of the course, we will have a short examination over the material covered. We then will adjourn the class meetings for two weeks while the students work individually on their papers. For the last three weeks of the term, we will reconvene class meetings and students will make oral presentations of their papers. Presenters will bring enough copies of a two-page handout of their presentations to distribute to the class just prior to their making their presentations. A schedule of oral presentations will be distributed near the midpoint of the course.

All students are expected to attend all class meetings. Absence from more than three class meetings will result in the student being administratively withdrawn from the course unless the law college's withdrawal deadline has passed, in which case the instructor reserves the right to enter a failing grade for the course. No excused (uncounted) absences are permitted. Students are expected to have studied the reading assignment thoroughly prior to each class meeting and to attend class prepared to discuss the reading and concepts therein. No "unprepared" claims will be honored.

The class-by-class schedule is listed on the following page. The reading assignments in the course materials may be modified by Professor Streib as the semester moves along.

<u>DATE</u>	<u>CLASS TOPIC</u>	<u>READING ASSIGNMENT</u>	
		<u>REQUIRED</u> (Casebook)	<u>OPTIONAL</u> (Nutshell)
08-22-2007	Constitutionality Cases	pp. 46-102	pp. 27-50
08-29-2007	Individualized Consideration	pp. 169-211	pp. 51-54
09-05-2007	Proportionality to Offense and Offender	pp. 211-262 (+ <i>Kansas v. Marsh</i> handout)	pp. 93-105

READING ASSIGNMENT

DATE	CLASS TOPIC	REQUIRED (Casebook)	OPTIONAL (Nutshell)
09-12-2007	Issues of Race, Sex, etc.	pp. 263-307 (+ gender handout)	pp. 240-251
09-19-2007	Juries; Defense Counsel	pp. 320-339; pp. 368-400	pp. 125-138; pp. 221-239

OUTLINES DUE no later than **4 p.m. on 09-19-2007** to Professor Streib or Barb Roberts

09-26-2007	Prosecutors	pp. 420-462	pp. 108-117; pp. 139-150
10-03-2007	Penalty Hearings	pp. 462-513	pp. 157-175
10-10-2007	Penalty Hearings; Federal Habeas Corpus; Executions	pp. 536-551; pp. 642-653; pp. 765-780	pp. 194-203 pp. 209-220

10-17-2007 *No class meeting.* Review for exam and work on term papers.

10-24-2007 MIDCOURSE EXAMINATION in class at 4 p.m.

10-31-2007 *No class meeting.* Work on term papers.

11-07-2007 *No class meeting.* Work on term papers.

FIRST DRAFTS DUE no later than **4 p.m. on 11-07-2007** to Professor Streib or Barb Roberts

11-14-2007 Oral Presentations Prepare presentations and participate in class discussions.

11-21-2007 Oral Presentations Prepare presentations and participate in class discussions.

11-28-2007 Oral Presentations Prepare presentations and participate in class discussions.

FINAL DRAFTS DUE no later than **4 p.m. on 11-30-2007** to Professor Streib or Barb Roberts

EXAMPLES OF TERM PAPER TOPICS

Your research topic must be grounded in death penalty law. Other than that fundamental requirement, it can focus upon almost any conceivable issue within death penalty law. Your topic must lend itself to an intensive, doctoral-level research effort, resulting in a major, professional, scholarly paper. The topic you finally choose should be discussed with and must be approved by Professor Streib. This will occur at your individual appointment with Professor Streib during the first two or three weeks of the course. Examples you might consider are listed below:

1. Description and analysis of a recent U.S. Supreme Court case, including the cases leading up to it, the actual opinions in the case, the impact on future cases, etc.
2. Description and analysis of recent Ohio cases or other State Supreme Court cases, including the crimes, trials, appeals, issues, impact on future cases, etc.
3. Description and analysis of recent developments in capital punishment law in your home state or the state in which you want to practice law.
4. Analysis of inaccuracy in capital sentencing under which innocent persons have been sentenced to death, such as found in Illinois, and means by which it can be corrected.
5. Death penalty for particularly aggravated rape or rape of a child.
6. Role of defense counsel in death penalty cases.
7. Role of prosecuting attorney in death penalty cases.
8. Jury selection in death penalty cases.
9. Public executions (TV? Town Square?)
10. Military death penalty.
11. Death penalty for treason.
12. Death penalty for non-homicidal terrorist acts or drug crimes.
13. Comparison of our death penalty with that in another country. (China, Iran, Iraq, Congo, etc.)
14. Costs of death penalty.
15. Constitutionality of means of execution (electrocution, lethal injection, etc.)
16. Appropriate reliance upon social science by courts in death penalty cases.

17. Death penalty for "drug kingpins" not convicted of homicide.
18. Appropriate criteria for prosecutors in deciding whether to seek the death penalty.
19. Analysis of jury reasoning in deciding whether or not to return the death penalty.
20. International law and agreements covering the death penalty and their impact on the U.S. death penalty.
21. State moratoriums on the death penalty.
23. Issues involved when offender "volunteers" for the death penalty.
24. Using state constitutional law in death penalty cases.
25. Legal issues involved in expanding number of crimes under death penalty.
26. Any of dozens more, so long as a study of law and legal procedure and not of political or personal opinions as to the death penalty.

TERM PAPER OUTLINES

(due September 19, 2007)

After carefully choosing and defining a topic, you can begin preliminary research on that topic. This preliminary research will soon reveal the major issues and sub-issues included in your topic. Your outline should follow a traditional format (I. (A.B.C., etc.), II. (A.B., etc.), etc.), clearly setting out the major issues and sub-issues. The outline reveals the basic structure of your topic and forthcoming term paper. As such it is fundamentally important that it be done carefully and thoughtfully. Outlines should be typed double-spaced and be about two pages long. Reference lists are optional at this stage.

FIRST DRAFTS

(due November 07, 2007)

This should reflect thorough, exhaustive research on your topic and be a complete (if still rough and unpolished) version of your paper. It should follow basically the structure established in your original or revised outline. Footnoting should be fairly complete, needing only some minor rechecking, reorganizing, and redrafting. Your thought processes should be clear, and only your language and presentation should still need much work. Obviously, the more complete and "finished" this first draft is, the less effort will be needed to mold it into the final draft. A good operating assumption is that the first draft is at least three-fourths of the way toward the finished product. First drafts should be typed double-spaced, including text, footnotes, and list of references at the end. Target lengths of the first drafts should be at least twenty-five pages of text and many, many footnotes, but many papers are much longer than this.

ORAL PRESENTATIONS

(November 14, 21, and 28, 2007)

Students' oral presentations of their papers will occur in class during the last three class meetings. Each student will bring copies of a handout outlining his or her paper to be distributed to class members so they can follow along in the presentation. Each presenter will have 10 to 12 minutes to make the presentation, followed by about 5 minutes of class discussion on the topic of the presentation.

FINAL DRAFTS
(due November 30, 2007)

As the syllabus indicates, this document alone accounts for 30% of your course grade. For many students it will be the most important, most scholarly research effort of their law school experience. In essence, it is the Juris Doctor requirement that most closely parallels the thesis and dissertation requirements of non-law graduate degrees. The final draft should be a finely polished document, professional in appearance and reflecting logical overall structure, meticulous and generous footnoting, and advanced command of the English language. Good examples of such efforts are the student notes and comments published regularly in our law review and others. Final drafts should be typed double-spaced and placed within an inexpensive report cover. The various parts of the final draft should be in the following order:

1. Title Page
2. Table of Contents
3. Text
4. Footnotes
5. List of References

Final drafts must contain at least 25 pages (double-spaced) of text and typically at least 50 footnotes, but many papers are much longer than this. Most important, papers should be extremely well-written, with careful logical progression and exhibiting an advanced command of the English language.