

# UCDC Law Syllabus

## Fall 2009

### **Law-Making and Law-Changing in the Nation's Capital**

Thursdays, 6 to 9 p.m.  
August 27-December 3, 2009  
Room 317  
University of California Washington Center  
1608 Rhode Island Avenue, N.W.  
Washington, D.C. 20036

**Instructor: Steve Pershing, UCDC Law Program Director**  
[steve.pershing@ucdc.edu](mailto:steve.pershing@ucdc.edu)  
(202) 974-6392

### **Program Description:**

Your externship in the UCDC Law Program has two main components: the lawyering you do at the externship site, guided by your externship supervisor, reflected on in your journal and monitored and supported by me; and the companion course, a 3-credit seminar with frequent guest speakers, lively class discussion and a major paper by each student on a legal topic relevant to the externship.

The seminar is designed to enhance your externship experience in three principal ways. First, we will learn about the process of federal lawmaking directly from leading government lawyers, lobbyists, public interest advocates, and journalists. Second, we'll explore new career opportunities unique to lawyering in Washington, even as we enhance your skill set for success on any career path. Third, we will investigate the unique role of lawyers in making and changing federal law and policy.

Class sessions generally include guest speakers and class discussion based on your questions submitted in advance. Part of each session will be devoted to a "grand rounds"-style exchange to facilitate peer-to-peer learning about lawyering at the broad range of externship sites. Each student will write a final paper, typically on a legal topic selected in consultation with the instructor and the externship supervisor for educational value and salience to the office. The final classes of the term will be devoted to presentation of papers in progress. Each student will make detailed written

comments on one fellow student's draft paper, and where possible will share those comments as a discussant when that paper is presented in class.

### **Seminar requirements:**

Students must attend class and come prepared to participate in discussions. Your seminar grade will be based on:

- **Class attendance and participation (30%).** This includes your attendance, class participation, and active engagement of our guest speakers (including submittal of proposed questions in advance as required).
- **Journal entries (20%).** These include two types of records: personal reflections on your externship experience, and entries guided by the instructor on topics to be announced, like ethical requirements and challenges, office or agency management, and the place of law reform in the office's work. Journals are kept daily, and shared privately with the instructor every two weeks for individual feedback.
- **Final paper (including class presentation) (50%).** This substantial writing assignment will be the subject of a separate memo. Topic statement with reading list is due September 29; a reasonably well-developed draft is due November 2, to me and your student "partner" (whose written comments will be due to you and to me November 9); final paper is due December 18.
- **Readings.** Readings will be required in advance of most class sessions. Most readings are listed in this syllabus, although there may be more. They will almost always be available on Westlaw or Lexis, and where possible will be posted on TWEN and/or on our course space on the UC Washington Center website (see below).

### **Externship requirements:**

- **Journal:** Send in your journal entries by e-mail every other Wednesday (at the end of your workday) beginning September 9. Due dates are: September 9, September 23, October 7, October 21, November 4, November 18, December 2, and December 16. Guided journal entries are specifically noted in this syllabus; the other entries, the bulk of your journal-keeping, are to be your record of the externship and your learning, and your personal reflections on all aspects of the experience as it unfolds. You should observe the confidentiality and privilege rules of your workplace and of the D.C. Bar, but that should not preclude your recording stories stripped of information that could identify an individual client or breach an agency's deliberative process privilege. I am here to help you resolve any questions you may have on this and other subjects.

- **Timesheets/hours:** Successfully complete hours as determined by your home school. Send in your timesheets by e-mail every other Wednesday (at the end of your workday) beginning September 2. See handout for details.
- **Receive a satisfactory evaluation** from your supervisor at the end of the semester.
- **Meet your supervising attorney's expectations** for attendance, performance and professionalism.
- **Complete the final evaluation form** about your placement.

**Office hours:** At this writing I do not have specific office hours for current UCDC students. It's easier for us both if you make an advance arrangement to see me or speak with me, but I am available throughout the day for calls or meetings, and don't hesitate to call or write at any time.

**Course materials:** There is no casebook, but there will be handouts and assigned readings that you can obtain on Westlaw or Lexis. Our course will have space on the UC Washington Center website, [www.ucdc.edu](http://www.ucdc.edu), and on TWEN, the Westlaw education site. Many forms of interaction among us are possible through TWEN: course materials posting, e-mail exchanges and forums, submission of assignments and timesheets, and more. To access our TWEN course homepage, you'll need your student Westlaw password. Go to [www.lawschool.westlaw.com](http://www.lawschool.westlaw.com), sign onto TWEN, and click on "add a course" to make this course one of yours. Under the course list heading "national courses"—we have students from two law schools, and in future there will be more—click on "UCDC Law, fall 2009." Until we settle on one or the other, check our UCDC and TWEN pages frequently, and set your TWEN notifications to inform you of new contents to the course page. Let me know if you have questions or tips to improve our use of either site or to help us choose between them.

## **Class One: August 27**

### **Introduction to the UC Washington Center and the Seminar**

We will introduce ourselves and our externship placements, discuss foundational questions for the seminar, review course requirements and expectations, and discuss the first guided journal entry, a "goals memo" due September 9.

We'll receive a personal welcome from Bruce Cain, professor of political science at UC Berkeley and director of the UC Washington Center. Preeti Piplani, events manager at the Center, will brief us about its facilities, including essential logistics (building access, student use of the fitness room, Monday night lectures, etc.).

**Film: *Eyes on the Prize: Bridge to Freedom (1987)*.** This 55-minute segment of the Blackside/PBS documentary series on the American civil rights movement explores the dramatic events that led to passage of the Voting Rights Act of 1965. Popular movements rarely result in presidential addresses to joint sessions of Congress, let alone landmark federal legislation; this one led to both. Narrated by Julian Bond. Interviews in color; original footage in black and white.

## **Class Two: September 3**

### **The Foreclosure and Banking Crisis of 2008: A View from Congress**

**Gail W. Laster**, deputy chief counsel, U.S. House Financial Services Committee

Gail Laster is a senior lawyer specializing in housing policy at perhaps the single most important House committee for legislation in this area. After law school, Ms. Laster spent five years as a public defender in Washington, D.C., then joined the staff of Sen. Howard Metzenbaum. There she worked on the Clarence Thomas confirmation hearings, helping to obtain and organize the testimony of Anita Hill. From 1994 to 1997, Ms. Laster was counsel and director of government relations at the Legal Services Corporation, and from 1997 to 2001 she was general counsel at the Department of Housing and Urban Development, where she fought to curb the practice of predatory lending by mortgage lenders. She is a graduate of Yale College and New York University Law School.

**Discussion:** Ms. Laster will help us survey current issues in housing policy and legislation, with a focus on the foreclosure and banking crisis and the federal legislative, executive and regulatory response. The past year of dramatic developments in this area has been one of the most intense and challenging a lawyer in Congress can experience, and Ms. Laster will give us her perspective as a senior participant in these events at their storm center. What professional skills and values must a lawyer summon at such a time? What are the limits of Congress' constitutional and practical power to act? What worked and what didn't, in the process or its outcome, and what are the prospects for further reform? And what does the process teach us about how Washington really works?

**Reading:** Review thoroughly the Committee website, <http://financialservices.house.gov>, with special attention to legislation addressing the foreclosure and banking crisis of 2008-09. Read one or more foreclosure bills carefully enough to make your questions for Ms. Laster reasonably well-informed.

**Questions** for Ms. Laster, one from each of you (two if you will burst otherwise), are due to me by 5 p.m. the day before class, Wednesday, September 2.

**Guided journal entry: goals memo: Due Wednesday, September 9, 5 p.m.** Prepare a one-to-two-page description of what you want to get out of this semester's experience, particularly at the externship site but also in this course. This should be somewhere between a journal entry and a public meditation, but will not be shared with

your fellow students unless you choose to give it to them. Give some thought to both professional and personal goals: What do you hope to learn and discover? How do you hope to improve or enrich yourself this term, as a person and as a professional? At our next class we will discuss these memos, and the goals and values we want to adopt and pursue.

## **Class Three: September 10**

### **A. Advanced Legal Research**

**Michael Levy**, UC Berkeley Law Library Associate Director

Mr. Levy will guide us through a variety of research techniques and resources that are either especially useful to Washington lawyering or uniquely found here. He will be in California, linked to us by conference phone and video link to his computer screen as he takes us on his magical mystery tour. He will help us with notorious tangles like the history of superseded legislation, administrative law, codifications, and resources available both with and without charge. His talk will be guided to a large extent by your research questions.

**Questions** for Mr. Levy are due at 5 p.m. two days before class, Tuesday, September 8. Consult with your externship supervisor in devising them. What do you want to know how to do? What research needs does your externship office have?

### **B. Goals Memo: Designing and managing your externship experience**

**Reading:** Review Chapter 5 of the Report of the ABA Section of Legal Education and Admission to the Bar, *Legal Education and Professional Development: An Educational Continuum* (1992), popularly known as “The MacCrate Report” after Robert MacCrate, chair of the Report task force:

[www.abanet.org/legaled/publications/onlinepubs/maccrate.html](http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html). Scroll down to Chapter 5, “Statement of Fundamental Lawyering Skills and Professional Values,” which gives the authors’ assessment of the most important legal skills and values a lawyer can possess.

**Discussion:** With the MacCrate Report and your own values as a guide, come prepared to discuss your “goals memo,” handed in by Wednesday, September 9, and any obstacles you anticipate to achieving your goals for the externship. We will brainstorm strategies for overcoming those obstacles, including developing your lawyering skills, managing your own work, time, and interactions with the office, managing your superior(s), matching your interests to your work, obtaining important assignments and more.

## Class Four: September 17

### **Case Study on Strategies to Help Your Client or Advance a Cause:**

#### ***Mississippi NAACP et al. v. HUD***

**Joseph D. Rich**, Special Counsel for Federal Agencies and Litigation, Lawyers' Committee for Civil Rights under Law

**Karen A. Lash**, public interest advocacy consultant; former associate dean, University of Southern California Law School

Joe Rich is a veteran civil rights lawyer who joined the Lawyers' Committee after a 36-year career at the Justice Department's Civil Rights Division. Most of his years there were in the Housing and Civil Enforcement Section, where he was instrumental in shaping federal caselaw under the Fair Housing Act and its amendments. When he retired from the Department in 2005, he was chief of the Division's Voting Section, where he led enforcement of the Voting Rights Act and related federal laws. At the Lawyers' Committee he continues to litigate fair housing and community development cases, while also serving as the organization's chief watchdog on federal executive and administrative activities.

Karen Lash is an experienced public interest lawyer and consultant. Among her many projects and accomplishments, she was the first director of the UCDC Law Program, and she founded and ran the externship program at the University of Southern California Law School. She has worked with the ABA's Rule of Law Initiative and Public Interest Law Institute on clinical legal education in Europe and Asia; and she has worked with the Mississippi Center for Justice on pro bono and advocacy efforts to help Gulf Coast residents after the devastation of Hurricane Katrina in 2005, including the design of projects and trainings for more than 1000 law student volunteers from across the nation.

**Discussion:** Ms. Lash will describe events leading up to the lawsuit we study tonight, starting with the emergency 2005 federal appropriation of \$5.4 billion in block grant funds to help Mississippi rebuild after the hurricane. She will describe advocacy efforts to ensure compliance with the Congressional directive to use 50% of the state-directed block grant funds to address the housing needs of low- and moderate-income families, and the state's diversion of those funds to finance a major expansion of the Port of Gulfport instead. Mr. Rich will then discuss the decision to file a federal civil suit alleging HUD's failed oversight of the state's spending plans, and the many federal policy and lobbying efforts under way to achieve the same result sought in the litigation. Our speakers will invite your thoughts on possible non-litigation strategies, and together we will weigh the relative strength of solutions in and out of court for the clients and causes involved.

**Reading:** Review Joe Rich's bio, available at <http://www.lawyerscomm.org/2005website/aboutus/staff/staffrich.html>. Also read the complaint in *Mississippi NAACP et al. v. HUD* (D.D.C., filed December 10, 2008), available at [www.lawyerscommittee.org/admin/fair\\_housing/documents/files/0006.pdf](http://www.lawyerscommittee.org/admin/fair_housing/documents/files/0006.pdf), and look at the plaintiffs' opposition to dismissal on standing grounds (filed May 29, 2009), available at [http://www.lawyerscommittee.org/admin/fair\\_housing/documents/files/0015.pdf](http://www.lawyerscommittee.org/admin/fair_housing/documents/files/0015.pdf). A brief

explanation of the case is available at [www.lawyerscommittee.org/projects/fair\\_housing/page?id=0082](http://www.lawyerscommittee.org/projects/fair_housing/page?id=0082).

**Questions:** Prepare up to five questions for Joe Rich and Karen Lash, about their own careers, the lawsuit, or non-litigation strategies that might have been used to prevent the harm alleged in the complaint. Questions are due to me and to Karen Lash, [karen@lash.us](mailto:karen@lash.us), by 5 p.m. two days before class, Tuesday, September 15.

## **Class Five: September 24**

### **The Legislative Life and Times of Sen. Edward M. Kennedy**

**James R. Flug**, Distinguished Lecturer, Harvard Law School, and former chief counsel to Sen. Kennedy

Jim Flug first served as counsel to Sen. Kennedy from 1967 to 1973, and returned to Capitol Hill as the Senator's chief counsel from 2003 to 2006. During those two periods, 30 years apart, Mr. Flug worked on 10 or more U.S. Supreme Court nomination fights and a dizzying array of other first-magnitude issues. Between those two stints Mr. Flug practiced "private public interest law" in Washington for 23 years, and counting his service for Sen. Kennedy spent 17 years as a lawyer in all three branches of government. He has also headed two non-profit advocacy groups. Mr. Flug was a fellow at the Institute of Politics at Harvard's Kennedy School of Government in 2006, and visiting associate professor of law and acting director of the Federal Legislation and Administrative Clinic at Georgetown University Law Center in 2008. He was a Covington & Burling Distinguished Visitor and Lecturer on Law at Harvard Law School in 2006-2007, and holds that post again in 2009-10. He directs Harvard Law School's Washington Semester, where he teaches the companion course, "Government Lawyering—Policy and Practice." He holds an A.B. from Harvard College and an LL.B. from Harvard Law School.

**Discussion:** Mr. Flug will discuss Sen. Kennedy's accomplishments and legacy as a legislator, and the legislative process in general, from his enormous experience as a senior member of Sen. Kennedy's legendary staff and as a Washington lawyer in government and private practice.

**Reading:** Chai R. Feldblum *et al.*, *The ADA Amendments Act of 2008*, 13 *Tex. J. C.L. & C.R.* 187 (2008) (first-hand account of recent major legislative negotiations in which Mr. Flug was a key participant). Other reading to be announced.

**Questions:** Prepare one or more written questions for Mr. Flug, on his legislative or advocacy work or on the legislative style, accomplishments or legacy of the late Senator, and send them to me by 5 p.m. two days before class, Tuesday, September 22.

**Guided journal entry: Ideology.** Make one of your journal entries this week about the place and uses of ideology in a Washington lawyer's work, the relation between

ideology and one's moral values, and your assessment of your own ideology and how it might fit into your career.

## **Class Six: October 1**

### **The Life of a Public Interest Lawyer**

**Michael Kirkpatrick**, senior counsel, Public Citizen Litigation Group

Mike Kirkpatrick has been a legal services lawyer and an employment lawyer with the Justice Department's Civil Rights Division. He is currently a senior litigator with Washington's Public Citizen Litigation Group, one of the nation's premier public interest law firms, founded in 1972 by Ralph Nader and Alan Morrison. PCLG litigates a huge range of "people's law" cases, from privacy and freedom of information to administrative law, access to justice, and unlawful discrimination of all kinds. Among Mr. Kirkpatrick's diverse PCLG docket has been *Cerqueira v. American Airlines*, 484 F. Supp. 2d 232 (D. Mass. 2007), *rev'd*, 530 F.3d 1 (1st Cir.), *cert. denied*, 129 S. Ct. 111 (2008), a federal civil rights action by a victim of post-September 11 racial profiling. Mr. Kirkpatrick tried the case to a Boston federal court jury, which awarded substantial compensatory and punitive damages, then saw the award reversed because the appeals court disagreed with the standard of liability put forward in the jury instructions.

**Discussion:** Mr. Kirkpatrick will offer his thoughts on what it is to be a lawyer in the public interest; on the nature of the struggles in which he has participated at PCLG, at the Justice Department, and in legal services; on the relationship between affirmative litigation for the government and non-profit public interest litigation; and on the past, present and future of public interest law practice in the United States.

**Reading:** Ralph Nader, Keynote Address, *Summit: Taking the Offensive*, 40 San Diego L. Rev. 7 (2003) (statement of Public Citizen founder's attitudes and beliefs); Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 Stan. L. Rev. 2027 (2008) (contemporary survey of the field).

**Questions:** Propose up to five questions for Mr. Kirkpatrick, on his career and on the substance of his advocacy, by 5 p.m. two days before class, Tuesday, September 29.

## **Class Seven: October 8**

### **There Ought to be a Law: The Art of Legislative Drafting**

**Noah Wofsy**, Senior Counsel, Office of the Legislative Counsel, U.S. House of Representatives

Noah Wofsy is senior counsel at the Office of the Legislative Counsel of the House of Representatives, a nonpartisan office that provides legislative drafting services to the members, committees, and officers of the House. Mr. Wofsy's legislative drafting specialty at the Office since 1996 has been election law (including campaign finance), as

well as the federal legislative branch in general and the management and administration of the House in particular. Before that, he specialized in drafting health care legislation, including provisions on Medicare, Medicaid, and health care reform. During his entire tenure with the Office, he has been responsible for drafting legislation involving the District of Columbia and its relationship to the federal government.

Mr. Wofsy has a B.A. from the James Madison College of Public Affairs at Michigan State University, and a J.D. from the University of Southern California Law School. For five years he taught legislative analysis and drafting on the adjunct faculty of the George Washington University Law School. He has given numerous presentations on legislative drafting and the Office of the Legislative Counsel, and is a regular presenter at programs of the Government Affairs Institute of Georgetown University.

Mr. Wofsy will help us understand his office's role in the federal legislative process. He will try to show how a good legislative drafter can help the legislature enact the laws it actually intends, and how he or she can save legislators from themselves.

**Reading:** Thoroughly review the website of the House Office of the Legislative Counsel: <http://www.house.gov/legcoun/index.shtml>. Then, as you consider the neutral work of the Office, read a thoughtful recent article on the compromise process among proponents and opponents of legislation, and its significance for statutory construction: Daniel B. Rodriguez and Barry R. Weingast, *The Paradox of Expansionist Statutory Interpretations*, 101 Nw. U. L. Rev. 1207 (2007). The same authors' earlier piece on a particularly important statute is well worth perusing: *The Positive Political Theory of Legislative History: New Perspectives on the 1964 Civil Rights Act and its Interpretation*, 151 U. Pa. L. Rev. 1417, 1464-96 (2003) (Parts II-C, D and E on the legislative battle itself).

**Questions:** Prepare up to five questions for Mr. Wofsy on his work, on the relationship between his work and that of legislative partisans, and on legislative drafting and research in general. Questions are due by 5 p.m. two days before class, Tuesday, October 6.

## Between Classes Seven and Nine

**One-on-one meetings** to be individually scheduled in advance of the Program Director's midterm meetings with externship supervisors.

**Guided journal entry: Reflections on guest speakers.** Make one of your journal entries this week an assessment of the effect a speaker's presentation has had on you: your view of your externship work, your expectations for what can be done in Washington, and your place in the scheme of things. Feel free to say which speakers have deepened your understanding of the law or of your work and how, which speakers have not and why, and which speakers we should and should not invite back.

## Class Eight: October 15

### **Inside Moves: A Dual Perspective on the Workings of Capitol Hill**

**Drew Littman**, chief of staff to U.S. Sen. Al Franken (D-Minn.) (invited)

Mr. Littman is a Hill veteran with more than twenty years of political and lobbying experience. A 1985 University of Pennsylvania Law School graduate, he was Senator Barbara Boxer's policy director, staff director of the House Government Operations Subcommittee on Government Activities and Transportation, and a lobbyist with Podesta Associates, where he specialized in entertainment and media issues. Until 2009 he had his own consulting practice, representing clients as diverse as the Children's Defense Fund and Toshiba America, Inc. He has served as an informal advisor to new senators and staff on the Senate's rules and traditions, preparing transition memos, "first ninety days" memos, and staffing plans. He helped organize the new Senate office of Sen. Hillary Clinton in 2001. His service as a consultant to candidate and eventually Sen.-elect Franken led to his appointment as the newest senator's chief of staff.

**Reading:** Read press coverage of Sen. Franken's taking office, like [www.minnpost.com/stories/2009/07/01/9965/what\\_kind\\_of\\_a\\_senator\\_will\\_al\\_franken\\_be](http://www.minnpost.com/stories/2009/07/01/9965/what_kind_of_a_senator_will_al_franken_be) and [www.startribune.com/politics/state/49939822.html](http://www.startribune.com/politics/state/49939822.html). Then peruse criticism of Mr. Franken such as <http://www.nationalreview.com/lowry/lowry200403180833.asp>. Whet your interest in Mr. Littman's work with Sen. Clinton by reading a 2003 article on her time in the Senate, [www.csmonitor.com/2003/0310/p01s01-uspo.html](http://www.csmonitor.com/2003/0310/p01s01-uspo.html).

**Questions:** Prepare up to five questions for Mr. Littman on matters like schooling and supporting new legislators, organizing a Hill staff to make its boss effective, the relationship between inside and outside in his own career, and what it is to achieve results on the Hill if such a thing can be defined or measured. Questions are due by 5 p.m. two days before class, Tuesday, October 13.

## Class Nine: October 22

### **Making Law and Policy: An Off-the-Hill Perspective**

**Himamauli Das (Berkeley Law '97)**, Assistant General Counsel for International Affairs, U.S. Department of the Treasury

Himamauli ("Him") Das joined the Treasury Department after serving as deputy legal adviser at the National Security Council from 2004 to 2007, and as an attorney-adviser at the State Department's Office of the Legal Adviser from 2001 to 2004. At the State Department, Mr. Das handled a range of economic issues, including economic sanctions and terrorism finance matters, as well as international environmental matters including climate change negotiations. At Treasury he is involved in a wide range of international economic matters.

**Reading:** Thoroughly review the website of the Treasury Department's Office of International Affairs: <http://www.treas.gov/offices/international-affairs/>. Prepare up to five questions for Mr. Das by 5 p.m. two days before class, Tuesday, October 20.

## **Class Ten: October 29**

### **In the Dock: Thoughts from a Guantanamo Lawyer**

**Adam Thurschwell**, law professor and detainee defense attorney

Adam Thurschwell is currently serving as a civilian attorney in the Pentagon, as part of a military unit charged to defend Guantanamo detainees in proceedings under the Military Commissions Act of 2006. He has taught criminal law and procedure, philosophy of law, and law and literature at Georgetown University Law Center, at American University's Washington College of Law, at Cleveland State University's Cleveland-Marshall College of Law, and at Oklahoma City University Law School. He was co-counsel with Michael Tigar in the defense of Terry Nichols, the accused accomplice of Timothy McVeigh in the 1995 Oklahoma City bombing. He was also a lawyer in the Philadelphia civil rights and criminal defense firm Kairys and Rudovsky. He is a graduate of Yale College and the University of Pennsylvania Law School.

**Discussion:** Mr. Thurschwell will lead us in discussion of the thorny legal and political issues surrounding the current predicament of non-U.S. citizens brought to the American naval base at Guantanamo after September 11, 2001, and still detained there. He might be enticed to offer a few observations about the Oklahoma City case more than a decade after its conclusion. And he will help us consider the roles of prosecutor and defense lawyer in our criminal justice system, and their professional, institutional and moral dimensions.

**Reading:** *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (declaring prior military tribunal provisions to violate Common Article 3 of the 1949 Geneva Conventions); Military Commissions Act, Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006); David Luban, *Lawfare and Legal Ethics in Guantanamo*, 60 Stan. L. Rev. 1981 (2008) (contemporary article on detainee representation in post-2006 MCA proceedings).

**Questions:** Propose up to five questions for Mr. Thurschwell by 5 p.m. two days before class, Tuesday, October 27.

**Guided journal entry:** Make one of your journal entries this week about an area of the law, or a person, organization or entity in Washington, that you wish you could encounter or learn about before your time here is over. Give reasons for your choice in detail, drawing on your own experience or your thinking about an issue. Think outside the box, and within reason your instructor may be able to make it happen or help you do so.

## Draft Paper: Due November 2

A reasonably well-developed draft of your final paper should be sent electronically to me and your student “partner” by 5 p.m. Monday, November 2.

## Class Eleven: November 5

### A. The Supreme Court: View from the Press Gallery

**Jess Bravin (Berkeley Law '98)**, Supreme Court reporter, The Wall Street Journal

Jess Bravin grew up in Los Angeles. As a student at Westside Alternative School in Venice in 1981, he successfully proposed creation of a student position on the board of the L.A. Unified School District, and was himself elected to that seat. He earned a degree in ancient history at Harvard, then served as a reporter for several newspapers, including the L.A. Times. He enrolled at Berkeley Law School in 1995, and as a 2L became a student member of the UC Board of Regents. Mr. Bravin has been the Journal's Supreme Court reporter since 2005; he previously was a senior special writer for the paper, covering legal aspects of the “war on terrorism” as well as related political and diplomatic issues. Before becoming a national legal affairs reporter, Bravin was the Journal's California editor, based in San Francisco. He is the author of *Squeaky: The Life and Times of Lynette Alice Fromme* (St. Martin's Press 1997), an unauthorized biography of the Charles Manson “family” member still imprisoned for an attempt on the life of President Ford in 1975.

**Reading:** Peruse some of the literature on the Court to inform your questions of Mr. Bravin. Examples: William H. Rehnquist, *The Supreme Court* (Knopf 2001); Bob Woodward and Scott Armstrong, *The Brethren* (Simon & Schuster 1979); Linda Greenhouse, *Becoming Justice Blackmun* (Times Books/Henry Holt 2005); Edward Lazarus, *Closed Chambers* (Penguin Books 1999); Bernard Schwartz, *A History of the Supreme Court* (Oxford 1993).

**Discussion:** Mr. Bravin will offer his thoughts on being both a lawyer and a journalist, his observations of the Court and its ways, and his views on the past, present and future of journalism—and of his specialized type of reporting—as the business and culture of American media change.

**Questions:** Propose up to five questions for Mr. Bravin, about his career or about the Court, by 5 p.m. two days before class, Tuesday, November 3.

### B. Paper Presentations I

The first four students will give half-hour presentations on their final papers in progress, with brief commentary by their partners. At or before tonight's class, be ready to sign up for a date to present your paper.

## **Draft Paper Feedback: Due November 9**

Your feedback should be as respectful and substantive as you can make it. Treat the draft as you would a colleague's memo or brief at your office, and assume that he or she, and the culture of the workplace, free you to be candid but require you to be eloquent and support your points. Don't worry about writing style or typos, but if you see glaring problems that affect your understanding, point those out. And observe the golden rule, because someone is commenting on your draft too.

## **Class Twelve: November 12**

**Paper presentations II**

## **Class Thirteen: November 19**

**Paper Presentations III**

## **Class Fourteen: December 3 (Last Class of Term)**

**Paper presentations IV**

## **Last journal entries: Due December 16**

**Guided journal entry: Goals memo revisited.** Make one of your last journal entries a careful reconsideration of the goals you set at the start of the term. Make an unvarnished evaluation of your own progress toward them, whether you think you set the right goals, or which ones you would set instead if you had it to do today. Sum up with care what you have seen and learned; make these the thoughts and reflections you'll be glad you put down while they were fresh.

## **Final papers: Due December 18**

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