Course Syllabus

LAW, SCIENCE AND TECHNOLOGY

310A/310H

WINTER, 2019

Patricia Kuszler
Email: kuszler@uw.edu (mailto:kuszler@uw.edu)
Phone: 206-685-0511
Office Location: William H. Gates Hall, Room 431
Office Hours: By email appointment

Julie Smith
Email: jaksmith@uw.edu (mailto:jaksmith@uw.edu)
Office Hours: By email appointment

Class Description: Law and Science have been integrally related since the 17th Century, although there are references dating back to ancient times. Scientific advances have frequently spurred law, and law has often modified the progress of science. This survey course will consider how this linkage has developed, persisted and become ever more pivotal as technology and innovation have advanced. First, the course will consider the role of science and technology in the Courtroom, particularly in the context of criminal law and investigation. Second will be an exploration of the way that science influences law making and regulation, including examples of how “bad science” may lead to enactment of laws that promote, rather than protect against injustice. This will include examination of science and law on individual rights, in the context of education, the limits of religious freedom, reproductive decision-making and determination of parenthood, privacy in the information age, and consideration of what is personhood.

Learning Objectives

- Develop an understanding of what constitutes legitimate science as opposed to unsubstantiated hypothesis.
- Learn the standards used to determine whether scientific allegation meets evidentiary standards in criminal and civil law actions.
- Understand how science is used and/or misused in framing public regulation related to food, tobacco, education and environmental issues.
- Learn how science impacts and changes our understanding of individual rights, reproductive autonomy, and privacy.
- Assess the impact of science in determining personhood as opposed to patents and property.
- Consider how advances in technology present challenges to law, ethics and society.

Required Tests and Reading Materials: There is no required text. Cases, articles and additional assigned readings will be linked on the Canvas course website.

Grading: Your grade will be based on one midterm (40% and scheduled for February 13-15) and a final examination (60% and available during final exam week). All will be administered using Canvas online technology. Students registered in the Honors section will need to complete three short written assignments in response to discussion questions posted on the Canvas website.
**Extra Credit Opportunity.** Up to six (6) extra credit points are available to all students:

310 Section A students can choose to write one of the reflection papers (max. 6 points) OR lead 2 discussion sections (max. 3 points each).

310 Honors students can choose to lead one or two discussion sections (max. 3 points each).

Discussion sessions will be in the second half of the term. We will preserve a portion of class time for break-out sessions considering nuances of the day’s topic.

Students who would like to lead and report on break-out sessions should indicate their preferred topic by signing up HERE.

**Class Participation and Expectations**: Regular class attendance is required and students should be prepared to participate in class discussions. If you miss more than 20% of class sessions, you will receive a No Credit for the course.

**Laptops and Cell Phones in Class**: You may use your laptop computers in class solely for class-related purposes, such as taking notes and accessing course materials or materials prepared for class. Cell phones should be turned off or placed on silent mode.

**Research Services Librarians**

The Research Services librarians are legal research experts who are dedicated to helping students with research questions, database training, locating academic resources, etc. Visit the library’s UW Law Students page (http://lib.law.washington.edu/students.html) for more information about their services generally. To get help, you can email the Research Services librarians directly at lawref@uw.edu (mailto:lawref@uw.edu). You are also welcome to visit the Reference Office on L1 to speak with the Research Services librarian on duty. If you have a detailed research question or would prefer to meet privately with a librarian, you may set up an individual appointment (http://guides.lib.uw.edu/law/refappt).

**Law School Attendance Policy**

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance.

At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor’s so indicating to the Academic Services Office.

An instructor may also impose stricter attendance standards or other sanctions for nonattendance, including lowering of a grade, provided that students are informed at the start of the course of the instructor’s attendance rules and possible sanctions.

**Access and Accommodation**

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to: mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 206-543-8924 or uwdrs@uw.edu (mailto:uwdrs@uw.edu) or disability@uw.edu (mailto:disability@uw.edu). DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent
with federal and state law.

Date / Topic / Reading Assignment

January 7

Course Overview & Introduction to Law, Science and Technology

- Jasajoff, Science at the Bar: Law, Science and Technology in American (Cambridge, MA: Harvard University Press, 1995); pages 1-23

January 9

Contexts in Which Law, Science and Technology Intersect


Optional Readings


LAW, SCIENCE AND TECHNOLOGY IN THE COURTROOM

January 14

What Counts as Science? Legal Standards for Scientific Evidence

- Paul F. Giannelli, Junk Science and the Execution of an Innocent Man, 7 NYU J. L & Liberty 221 (2013)
- Frye v. U.S., 293 U.S. 1013 (D.C. Cir. 1923)

January 16

Boyd Baumgartner: Science and Identification Fingerprints

• Bailey, Law, Science and Experts, Chapter 11, pages 97-106.
• Russell, “Why fingerprints aren’t the proof we thought they were,” (2012), http://www.psmag.com/politics-and-law/why-fingerprints-arent-proof-47079
• Report to the President: Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods, 2006, Executive Summary.

January 21

Martin Luther King Jr Holiday - NO CLASS

January 23

Handprints, Bite Marks & Trace Evidence

• Trace evidence chapter

January 28

DNA Identification Pt. 1: Methodology, Considerations, and Caveats

• Maryland v. King, 569 U.S. 435 (2013), majority opinion, pages 9-21
• N. Golgowski, “Mistrial Declared In Killing Of New York Jogger Karina Vetran,” Huffington Post (Nov. 21, 2018), available at https://www.huffingtonpost.com/entry/mistrial-karina-vetrano-killing_us_5bf5909ce4b0eb6d930ad6f9

January 30

DNA Identification Pt. 2: Advanced Methods and Concerns; Introduction to DNA Privacy

February 4

Brain Imaging Technologies and the Law

- **Maryland v. King, 569 U.S. 435 (2013),** dissenting opinion, pages 21-28


February 6

Eyewitness Testimony: Seeing and Believing

- Davis & E. Loftus, "**The Dangers of Eyewitnesses for the Innocent: Learning from the Past and Projecting into the Age of Social Media**," 46 New Eng. L. Rev. 769 (Summer 2012)


February 11

Innocence Project: Wrongful Conviction: Eyewitness misidentification, false confession and DNA evidence


- Richard A. Leo & Steven A. Drizin,  **The Three Errors: Pathways To False Confession And Wrongful Conviction**, 2012


February 13

Corinne Fligner, MD: Death Investigation and Forensic Pathology

- reading TBD

- reading TBD

**MIDTERM -- Opens February 13 at and closes at 5 PM on February 15**

February 18

Presidents Day Holiday - NO CLASS
February 20

**Tobacco and Soda Pop**

- CVS, "This is the right thing to do," October 2014. (Brief description: CVS’s statement regarding why they will no longer be selling cigarettes), [http://www.cvshealth.com/research-insights/health-topics/this-is-the-right-thing-to-do](http://www.cvshealth.com/research-insights/health-topics/this-is-the-right-thing-to-do)

February 25

**Biotechnology Food and Drugs**


February 27

**Law, Science, and Religion: Evolution and Law**

- Optional: Judge John Jones on his ruling in Kitzmiller v. Dover (Run time 40:59) Can be found below: [Judge John Jones on Kitzmiller vs Board of Education](https://www.youtube.com/watch?v=Gb-2UKguGTw)
- [Scopes v. State](https://www.courthousenews.com/scopes-v-state/) 154 Tenn. 105 (1927)
Watch short excerpt from 1960 film, "Inherit the Wind." Can be found below:

[Inherit The Wind - Spencer Tracy Speech](https://www.youtube.com/watch?v=S_DQUAuNUvw)

March 4

**Facts vs Fake News: Challenges in Law Making**


Optional Podcast

- J. O’Brien, “This Is Not a Cute Cat Video! But You Should Click on It Anyway!” *KUOW Speaker’s Forum* (Nov. 7, 2018), [https://www.kuow.org/stories/this-is-not-a-cute-cat-video-but-you-should-click-on-it-anyway](https://www.kuow.org/stories/this-is-not-a-cute-cat-video-but-you-should-click-on-it-anyway)

U.W. professors Jevin West and Carl Bergstrom November 2018 Kane Hall Lecture. We will listen to a short interview in class.

**SCIENCE AND INDIVIDUAL RIGHTS**

March 6

**DNA, Cells, and Organisms: Person, Property, and Patent**


Optional Website
March 11

**Artificial Intelligence, Robots and Rights**


March 13

**Privacy Law in the Face of Rapidly-Evolving Technology**

- N. Ram et al., *“Genealogy Databases and the Future of Criminal Investigation,”* Science (June 8, 2018)
- J. Tashea, *“Cat and Mouse Game,”* ABA Journal (Oct. 2018)

**Optional Readings**

Review Session
TBA

Final Exam -- Available on line (CANVAS) during exam week