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LAW 799: Clinical Practice-Criminal—A Peer Review of Teaching Project Benchmark Portfolio

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Clinical Practice – Criminal Course Portfolio

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University of Nebraska College of Law
Course 799
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The Course: Law College 799: Criminal Practice Clinic

A common criticism of legal education is that new graduates “can’t find the courthouse”. With the recent economic downturn and subsequent shrinking job market, it is more important than ever for law school graduates to be able to hit the ground running upon completion of law school. Nationwide, law school graduates are struggling to find employment and the law firms that are hiring have changed their employment model. They simply are no longer satisfied with accepting new hires with the anticipation of training them for several years before they are able to take on the full responsibilities of a practicing attorney. To be competitive in today’s market, new attorneys need not only to have a solid foundation in legal theory; they now need to have the skills to actually apply that theory to the real practice of law.

In response, law schools have modified their approach to legal education. Courses that teach legal skills and provide practical application have become more prevalent, more demanding and more sought after. I teach one such course. Under my supervision, students enrolled in Criminal Clinic practice law – in real courtrooms with real cases, real witnesses and real consequences. And they know how to find the courthouse.

I teach the Criminal Practice Clinic at the College of Law. It is a six credit hour course available only to law students who have achieved senior standing. It serves as a capstone course whereby students on the cusp of graduation apply the knowledge and skills learned during law school to criminal cases in a real-life setting. Students enrolling in the Criminal Practice Clinic must have already successfully completed Trial Advocacy - a simulation course that teaches the various aspects of courtroom litigation. My course is a requirement for those students seeking a criminal emphasis in the Litigation Skills Program of Concentrated Study and a co-requisite for those seeking a general emphasis. It is the first opportunity for students to practice law instead of just reading or hearing about it.
Paradoxically, it is virtually the last opportunity the law school has to guide and mold our graduating students before they enter the legal profession.

The class size is limited. The nation-wide norm for student to faculty ratio in legal skills and clinical courses is eight to one. As such, enrollment in my course is necessarily restricted to eight students per semester. Due to high demand, class admission is determined by lottery which invariably results in a number of students who want to take the course, but are unable to because the course is already full. I teach the course every Fall and Spring semester and every other summer. In the six years I have taught it, there have only been two sections of less than eight students. Essentially, with a graduating class-size of around 120 students, I have the ability to directly impact 15 – 20% of those graduates on their way out the door.

The class is taught in two distinct phases. At the outset of the semester, we spend the first three weeks in the classroom. I give lectures, demonstrations, and orchestrate a number of practical application exercises. At the end of the third week, the students prepare for and observe different types of court hearings. Beginning the fourth week, we move down to the courthouse where we spend the remainder of the semester. I obtain misdemeanor and felony cases from the Lancaster County Attorney’s Office and assign them to the students to prosecute. The students work in teams of two during the semester and participate in every aspect of the criminal process – from the initial review of police reports to determine applicable criminal charges, through trial, sentencing and appellate review (see Appendix A).

**Course Goals**

Ultimately, the course is designed to prepare students for practicing criminal law upon graduation. Additionally, though the course has a criminal law focus, it is the best avenue available for law students to get into a courtroom before graduation. Other clinical course offerings are not
litigation-intensive and simply don’t get into the courtroom as frequently. During the semester, Criminal Clinic students appear in court nearly every day of the semester.

To accomplish the lofty goal of preparing them to practice, I endeavor to reach three primary objectives with the students. First, I want them to learn and understand the criminal justice system in Nebraska. Second, I want the students to be able to assess the strengths and weaknesses of a criminal case. Third, I want them to fine-tune their litigation skills and techniques to make them more successful in the courtroom.

*Criminal Justice System in Nebraska*

After completing the Criminal Clinic, students should be able to recite the steps of the Criminal Justice System and explain the various aspects of each step. Students will be familiar with the ethical standards for prosecutors and defense attorneys, the structure of the court system, the role of participants, the different types of criminal court hearings, as well as Nebraska criminal statutes and procedural steps. This goal is accomplished via the classes held in the beginning of the semester and the experiences once we arrive downtown at the Lancaster County Attorney’s Office.

Our initial classes are very interactive. With only eight students, it is relatively easy to insure that each student is engaged and participating during the initial classes as we discuss the criminal justice system. Additionally, we conduct a myriad of practical application exercises where I require each student to take on the role of a participant in the criminal justice system and think about what that person could do or should do. And what we, as a society, expect them to do.

Once we arrive downtown, the students observe and experience the criminal justice system as they take on the role of junior prosecutors under my supervision. They face and deal with ethical issues involving witnesses, judges and opposing counsel. They appear in both courts - County and District – in which criminal trials are heard in Nebraska. They interact with every other participant in a criminal case
victims, witnesses, law enforcement officers, court personnel, criminal defense attorneys, judges — on a daily basis. They conduct virtually every type of criminal hearing possible, from initial arraignment through trial, sentencing and at times, appeal. They become intimately familiar with Nebraska criminal statutes and procedure as deal with a wide variety of different types of criminal cases, determining what charges to file, how to proceed in court or how to respond to motions filed by opposing counsel. Beyond simply being familiar with the black letter law, these experiences allow the students to understand how criminal law is practiced in Nebraska.

Assessing the Strengths and Weaknesses of a Criminal Case

Every week throughout the semester, each student team is given several cases to determine what criminal charges, if any, to file. Those cases come in the form of law enforcement reports and involve potential crimes like trespassing, assault, controlled substances, traffic violations and theft. The students are required not only to research and determine what criminal statute may have been violated, but also to think more deeply into whether charges should be filed. I ask them to ponder their idea of the ultimate resolution of the case and to articulate how justice is served by that result.

Their first experience with making charging decisions come during the first weeks of class, where I give short fact-patterns to each student and require them to determine the appropriate criminal charge. We then move on to actual cases (already resolved) where I have the students fill out a “Request for Complaint” form that necessarily makes them confront various aspects of the case prior to making a charging decision. Important factors like the age of the suspect, prior criminal history, potential accomplices and whether additional evidence is needed are found on the “Request for Complaint”. By considering those factors and others, the students are informed and guided as they determine whether criminal charges should be filed. After making that determination, they must decide which criminal law was violated and determine the associated penalties.
The student teams and I meet weekly to discuss their charging decisions on each of their cases. I ask them to articulate their idea of a just resolution and describe ways to reach it. I require them to reflect on not only strict legal interpretation, but also on the over-reaching ideal of justice. We discuss concepts like consistency, public policy and victimization and the consequences of criminal behavior. I push the students to reflect upon their notions of fairness and justice and the very real impact the crime and the criminal justice system can have on members of our society.

**Fine-tuning Litigation Skills and Techniques**

One of the most important skills for a trial attorney is the ability to develop evidence and present it in a courtroom in a coherent, cohesive way. In criminal cases, understanding the facts and marshaling every bit of available evidence is extremely important to courtroom success. Prosecutors often have law enforcement officers conduct additional follow-up investigation and criminal defense attorneys utilize private investigators for the same purpose. Simply obtaining the evidence, is not enough. In a court of law, the onus is on the attorney to present that evidence in a logical, understandable way. In an effort to help fine-tune those abilities, we discuss and rehearse those skills in our initial classes and perform them during actual hearings and trials once we arrive downtown.

Ultimately, self-reflection – the ability to critically review one’s own conduct and performance – is necessary for improvement. In that vein and described in more detail below, I require students to complete written reflection pieces on their own performances. Usually

**Why This Course?**

This course is the perfect opportunity to assess how ready our graduates are to practice law – especially in a courtroom or criminal law setting. Apart from that, as a six-credit hour clinical course, it is the only class I teach each semester. I have taught the course for seven years and have often wondered if the students are learning what I think they are learning. Each year I have modified certain aspects of
the course based on feedback from my students and other external sources. Unfortunately, without a specific, consistent way to evaluate performance and obtain credible, constructive feedback, my alterations have felt haphazard and have not been as focused as I would have liked.

**Portfolio Goals**

By creating this portfolio, I hope to develop a more precise method to assess student learning and achievement. In that way, I hope to be able to identify problem areas and make adjustments accordingly. Additionally, I anticipate that it will be valuable to help me gain insight into my teaching style and the methods I use to impart the knowledge and skills necessary to practice law. This will remain a course that I teach each semester and I want to continue to improve it and increase its value to our students.

**Type of Portfolio**

This portfolio will provide a broad overview of my entire course. It will not only give the reader an understanding of the goals I have for the course, but also how I endeavor to reach those goals. Finally, through the use of student assessment, this portfolio will provide insight as to whether my goals were reached and to what degree. Thus, it will serve to inform me of areas needing improvement.

**Teaching Methods, Course Activities and Course Materials**

**Teaching Methods and Course Activities**

I use a variety of teaching methods to impart the trial skills and techniques necessary to succeed in court. During the lecture portion of the class, I employ the Socratic method, requiring the students the think more deeply into a seemingly obvious set of facts or legal interpretation. I compel them to develop a position and defend it. I use Powerpoint presentations because of the importance of visual
learning. We also employ a variety of simulations throughout the semester. For example, during a simulated bond review, one student will play the role of the prosecutor while another portrays the defense attorney. Both students are then required to determine not only the strengths of their arguments, but also anticipate opposing counsel’s arguments. We have done simulated jury selections in vacant courtrooms to prepare students to conduct real jury selections.

During the practice portion of the semester, I require students to handle every aspect of a criminal case – from start to finish. They review law enforcement reports to determine whether sufficient evidence exists to proceed. They scrutinize the information contained within those reports to determine if a criminal charge is warranted. They research and analyze criminal statutes to determine which ones apply – and which charge should ultimately be filed. They interact with law enforcement, seeking follow-up investigation in cases with insufficient or questionable evidence. After comparing the credible facts with the applicable law, they determine what criminal charge to file. Once a case is filed, the students handle every type of hearing associated with criminal cases in Nebraska – initial arraignment, bench trials, preliminary hearings, docket calls, jury trials, bond review, sentencing and probation revocation hearings. They interview lay-witnesses and law enforcement officers alike to prepare them for contested evidentiary hearings. Through every step of the way, I require that they analyze their cases within the framework of “seeking justice” to determine whether we should proceed to conviction, or if justice demands an alternate result. In addition to unquestionably ethical conduct, demonstrably proficient courtroom skills, exhaustive fact development and keen legal analysis, I require my students to conduct reflective analysis after every court hearing and several key mandatory observations. Typically, the students are very engaged – they discuss and debate various aspects of their observations and cases – from which charge is most apt to which outcome is preferred.

I regularly question students’ assumptions and positions about cases, witnesses, defendants. I encourage critical thinking and in-depth legal and factual analysis. I expose the students to a variety of
experiences, so they will have a more in-depth understanding of how criminal law is practiced. The small class size and nature of the work we conduct together, allow for in-depth interactions with each student. In addition to guiding them through various scenarios, I require that they consider and discuss alternate outcomes during every phase of a criminal case. Additionally, using both formal and informal methods, I ask the students to reflect upon what they have seen, heard or felt. During this reflective analysis, I require them to explain how their observations – and more importantly what they learned from them – will make them better attorneys.

**Course Materials**

The required text for the course is the Criminal Practice Manual. The Manual no doubt began getting compiled over 30 years ago when the Criminal Clinic was first created. Each professor who taught the course edited and revised it as they saw fit. I know that in the years I have been teaching the course, I have revised and edited a great deal in an effort to make it generally applicable to criminal law in Nebraska as opposed to Criminal Clinic out of the Lancaster County Attorney’s Office. The Manual is currently under a major rewrite as I have just contracted with the Nebraska State Bar Association to publish it as a general Nebraska Criminal Law Practice Manual.

Additionally, I recommend that the students purchase *Evidentiary Foundations* by Edward Imwinkelreid. In its eighth edition, the book provides excellent examples of foundational questions for the admission of various types of evidence. It is a book that retains its value long after the student graduates and is practicing law on their own.

During the first three weeks of class, I utilize Blackboard to disseminate reading assignments and written homework. For our classroom time, I prepare Powerpoint presentations for each major area of the criminal justice system. I post the slides on Blackboard after giving the class.
Once we head downtown, there are a variety of materials the students are required to use. Statute books, legal resources and formbooks are some of the primary materials. There is a large variety of forms designed to assist the students as they carry out the daily responsibilities of prosecuting attorneys. For example, the “Request for Complaint” is designed to assist the students as they determine whether charges should be filed in a given case and if so, under what criminal statute. Likewise, there are “Court Appearance Self-Evaluation” forms that the student must complete after they have appeared in court.

**Analysis of Student Learning**

As stated above, I have had certain learning goals as long as I have taught this course. Unfortunately, I never had a process to determine whether those goals were being met. There are two significant ways I have determined to assess what my students have learned. One is the creation of a pre-test/post-test and the other is a mandatory discussion of the reflection papers turned in by the students.

**Pre-Test/Post-Test**

As I worked through the process of the Peer Review of Teaching Project, I devised a Pre-Test/Post-Test to administer to my students to determine what they knew coming into the class and what they learned by the end of the semester (see Appendix B). I wrote out what I felt were some fairly basic questions that anyone thoroughly familiar with criminal law in Nebraska could answer. Though it wasn’t complete at the beginning of the semester, I was able to give it to the students at the end of the semester. A copy of it is included in the appendices.

Though I was very pleased with the results overall, some of the specific areas of deficiency surprised me. For example, one of the questions the students struggled with dealt with pre-sentence investigations. A pre-sentence investigation (or PSI) is a report compiled by the probation office that
contains the defendant’s criminal history, educational background and employment history, copies of the pertinent police reports, results of any psychiatric or substance abuse testing and/or counseling, victim impact statements and at times a statement by the defendant. The PSI is ordered by the Court after a criminal defendant is found guilty of a crime. Essentially, it is an attempt by the judge to get a “big picture” view of the defendant in order to determine an appropriate sentence. They are almost always conducted in serious cases, but more infrequently ordered in less serious cases.

Unfortunately, the Post-Test revealed that my students weren’t able to give that recitation. While true that we generally deal with less serious crimes and the judge in which my students appear rarely orders a PSI, I believed my students knew what they were and how they were utilized. It was something we discussed in class and several students had the opportunity to review one while preparing for sentencing hearings during the semester. In my view, pre-sentence investigation reports are a significant aspect of a sentencing proceeding in a criminal case. Understanding what it is, where it comes from and what it contains is critical to being an effective advocate – whether representing a criminal defendant or representing the State’s interest as a prosecutor.

So where did I go wrong? What aspect of the course was lacking? To be sure, the students infrequently dealt with PSI’s, but I felt we covered them sufficiently during the semester. Unfortunately, the Post-test showed that not to be the case. At this point, I am uncertain exactly how I am going to address PSI’s next semester, but I know I will spend more time talking about them. And I will make more of an effort to give every student the opportunity to review one in preparation for a sentencing hearing. They will be better advocates and better attorneys because of it.

On the other hand, the post-test identified at least one deficiency in an area that the students dealt with daily. In Nebraska, there are three types of charging documents – a citation, a complaint and information. Without question, each and every student read, reviewed and dealt with all three of those
charging documents during the semester. During their arraignment sessions, the students used each type to inform a defendant what he was charged with. And yet on the post test, only about half of them were able to identify the three types. Though I don’t recognize the specific disconnect, I have already found myself repeating “the three types of charging documents in Nebraska are...” several times in my course this summer.

**Student Reflection Papers Discussion**

I have always required that the students reflect on their court performances. Generally, we discuss their performance in person immediately after the hearing. Additionally, they are required to fill out the Court Appearance Self Evaluation form within three days of the hearing. It is relatively easy to see which students take them seriously and which view them mostly as a nuisance. I have included a sample of each (see Appendix C). I might remind the student’s that their reflections are important or reiterate that a good reflection is more than just a regurgitation of the events that transpired. Unfortunately, some students just don’t seem to want to do much self-reflection.

In certain cases, the problem goes much deeper, however. When a hearing goes really, really wrong, it is virtually impossible for me to tell whether the student learned anything from the experience with an inadequate reflection. For example, we had a sentencing hearing last semester where we had important things to say. The defendant was a repeat offender who abused her position of trust by taking advantage (stealing from) those who were entrusted to her care. The student and I discussed what would be appropriate sentencing comments several times. The student wrote out the comments and before we went into court, I once again confirmed what we needed to tell the judge in regard to sentencing. Unfortunately, when the case was called, the student froze up, didn’t say a word and without being fully appraised of the nature of the case, the judge issued a minor fine. Justice was definitely not served and we were virtually ineffective as an advocate. And we certainly didn’t do a
good job of providing the court with sufficient information to render an appropriate sentence. Upon leaving the courtroom, the student and I discussed that. We talked about what had gone wrong and how we had utterly failed to adequately represent the State. I was certain after our discussion that we both knew what went wrong and how to prevent a reoccurrence during other hearings. Unfortunately, when I received the student’s Court Appearance Self Evaluation, I discovered that it was absolutely devoid of any meaningful discussion of what had gone wrong. Was our discussion lost on the student? Were they too embarrassed or ashamed to admit how poorly they had done? I am uncertain. All I know is that I came away from the experience believing that the student either wasn’t aware of how ineffective the performance was or that it didn’t matter that much. Neither of which are very favorable impressions to have for someone who is on the eve of becoming a practicing attorney.

During the Peer Review of Teaching Project, we discussed several ways to encourage improved student performance. One that resonated with me was the High Pass/Low Pass/Fail method. I immediately thought of the Court Appearance Self Evaluations during that discussion. That method would be particularly well suited for demonstrating to students in a visual way what I expected in regard to the assignments that required reflection and self-evaluation. As I thought about implementing this method, I thought of the occasional student who performed poorly, but you would never know by reading their Court Appearance Self Evaluation report. I don’t think the High Pass/Low Pass/Fail method would be particularly effective in those cases. In those cases, I feel that more needs to be done to push the students to recognize and be able to articulate where they erred in order to avoid the problem in the future.

What I have decided to do is provide students with models of High Pass/Low Pass/Fail reflection assignments and to follow up with a one on one conversation with students who continue to give short shrift to reflective analysis. Additionally, after discussing a hearing that went poorly, I intend to tell the student that I would expect to see the things we discussed in the Court Appearance Self Evaluation. In
that way, I hope to encourage more thorough reflective thinking which results in better advocates and better attorneys.

Reflections and Lessons Learned

One of my favorite things about this project is that it required me to take an in-depth look at my class to determine specifically what I thought the students needed to learn and provided me several tools to assess that learning in an effort to identify problem areas and correct them. Without the structure and framework of the Peer Review of Teaching Project, I don’t know whether I would have ever taken the time or devised the methods to improve my class.

Here is a short list of some of the things I either am in the process of implementing or have already implemented after being involved in this project:

1. I have devised a pre-test/post-test to administer to my students
2. I am developing a list of events I want every student to complete during our semester together
3. I am developing a list of enabling and terminal learning objectives to more effectively guide my teaching during the semester
4. I have revised the method in which students will conduct reflective analysis
5. Based on results of last semester’s post-test, I have revised my current course to try to reduce the deficient area.

In short, the project not only makes this a better class which results in a better experience for my students, it makes me a better teacher. And for that, I am grateful.
Syllabus
Spring 2013
Criminal Clinic - LAW 799

Instructor: Steven J. Schmidt
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Course Coverage:
This is a clinical course. As such, it is the practical application of law in the criminal justice system - specifically from the prosecution viewpoint. Students enrolled in this course initially undergo three weeks of instruction, practical application, and observation. For the remainder of the semester, the students work at the Lancaster County Attorney’s Office where they are assigned misdemeanor and minor felony cases to prosecute under the supervision of the course instructor.

Course Hours:
As a clinical course, there currently is no set weekly time for class. The schedule for the first three weeks is fairly intensive, but the specific time of the various classes is dependent on student and court schedules. Once we move to the Lancaster County Attorney’s Office, students must be present for scheduled office hours each week. The specific guidelines for scheduling those office hours are below. Additionally, students must be present at the court hearings for their assigned cases unless prior arrangements have been made.

Regarding Office Hours, each team will select three regular weekly shifts in the County Attorney's Office: 8:30 to 11:30 a.m. and 1:30 to 4:30 p.m. Monday through Friday. Each team must sign up for at least one morning and one afternoon session. It is preferable to spread your shifts throughout the week, as too much happens during the week to be gone for more than a couple of days. Team members must sign up for at least two of the three shifts together. You may sign up for different shifts during the third of your weekly shifts if your respective schedules require you to do so.

Additionally, each team must attend a weekly Case Review, scheduled at either 11:30 or 4:00 p.m., Monday through Friday. In the event that either the students or course instructor are unavailable during the scheduled time, it is the responsibility of the student team to reschedule.
During the Case Review, we will review and discuss your assigned cases. It is a good one-on-one opportunity to discuss any issues or questions you might have regarding individual cases or of a more general nature. We will discuss past and upcoming court hearings. We will discuss your trial preparation: evaluating your witness choices, confirming your witness notifications, scheduling your witness interviews and reviewing your trial questions. We will also discuss your progress on other course requirements.

Finally, throughout the semester, additional classes and mandatory informational meetings may be scheduled as necessary. Such classes and meetings will be scheduled to avoid conflict with other law school classes to the extent possible.

Materials:

For the Criminal Clinic, there is one book requirement and one book recommendation. First, the required text is the Criminal Practice Manual. We produce that locally and it can be purchased in the Civil Clinic area. Make sure you also receive the laminated sheets and the CD within the manual.

The second text is IMWINKELRIED, EVIDENTIARY FOUNDATIONS (7th ed. 2005). It is recommended in that it contains very helpful foundational questions that can be applied to various situations and issues. This would be a tremendous resource to refer to after you begin practicing law.

Other supplemental readings and written assignments will be available on Blackboard (my.unl.edu) and/or distributed in class. I may place materials on reserve in the library as well.

Attendance:

You are required to attend and actively participate in all the classes, practical application and observation sessions during the first three weeks of the semester. They are necessary for you to be able to appear in court and they are NOT OPTIONAL.

Once we begin the practice portion of the semester at the Lancaster County Attorney’s Office, you are required to attend each session of your scheduled office hours. You are required to attend each of the court hearings for your assigned cases. Inevitably, there will be times when your hearings conflict with other classes. See the information in the Criminal Clinic Manual as how best to deal with these situations.

Evaluation:

Your grade will be determined based on the criteria set forth in the Criminal Clinic Manual. Additionally, it can be found on Blackboard in the Course Information section.

Schedule and Assignments:

Schedule and assignments for the first two weeks of class will be handed out on the first day of class (January 31, 2011 at 8:00 a.m. in the Judge’s Chambers at the Law School).

Student office hours at the Lancaster County Attorney’s Office will begin on February 21, 2011 and will end on April 29, 2011. The student’s responsibility for conducting
scheduled court hearings doesn’t end until April 29, 2011.

Important Dates:

First Day of Class
January 31, 2011

First Day of Office Hours
February 21, 2011

Jury Terms in County Court (#22 - DUI & Traffic cases and #23 - Misdemeanor cases)
March 28 - April 8, 2011

Last Day of Office Hours
April 29, 2011

Last Day of student responsibility for court hearings
April 29, 2011
Professor Schmidt has been nominated to take part in the Peer Review Project, a University-wide, on-going attempt to develop new and better methods for promoting student learning. Professor Schmidt will be asked to evaluate his/her syllabus, exams, class activities and written assignments. He will also receive feedback from other faculty members regarding teaching plans and how they are carried out. One of the project's ultimate goals is to improve student learning, and we cannot accomplish this goal without student input.

Professor Schmidt will be asked to select several students whose work would be copied and included in his course portfolio as an archive of student performance for the course. These examples are a very important piece of the project for professors to show how much and how deeply students are learning. Once the course portfolio is completed, it will be put on a project website: www.courseportfolio.org so that it can be shared, used, and reviewed by other faculty.
1. What is the ethical obligation of a prosecuting attorney?
__________________________________________________________________________________

2. What is the ethical obligation of a criminal defense attorney?
__________________________________________________________________________________

3. List the four types of criminal prosecutors found in Nebraska, along with their respective jurisdictions.
   a. ______________________________________________________________________________
   b. ______________________________________________________________________________
   c. ______________________________________________________________________________
   d. ______________________________________________________________________________

4. List the three types of charging documents used in Nebraska state courts.
   a. ______________________________________________________________________________
   b. ______________________________________________________________________________
   c. ______________________________________________________________________________

5. List the two levels of state criminal trial courts in Nebraska along with a description of their respective jurisdictions.
   a. ______________________________________________________________________________
   b. ______________________________________________________________________________
6. List the ten (10) steps in the criminal justice system.

a. ______________________________________________________________________

b. ______________________________________________________________________

c. ______________________________________________________________________

d. ______________________________________________________________________

e. ______________________________________________________________________

f. ______________________________________________________________________

g. ______________________________________________________________________

h. ______________________________________________________________________

i. ______________________________________________________________________

j. ______________________________________________________________________

7. What is the purpose of an arraignment?

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

8. What two sources must the prosecutor either look at or be familiar with to conduct a proper arraignment? In other words, where does the prosecutor find the information necessary to conduct an arraignment?

__________________________________________________________________________

__________________________________________________________________________
9. Defendant is charged with 3rd Degree Assault (MI) for an incident that occurred on February 22, 2013. Victim is John Brown. Write out the entire arraignment script (i.e. what the prosecutor tells the defendant during arraignment).

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

10. What is the twofold purpose of a bond?
   a. __________________________________________________________________________
   b. __________________________________________________________________________

11. When bond is being set, what three pieces of information should the prosecutor provide the court?
   a. __________________________________________________________________________
   b. __________________________________________________________________________
   c. __________________________________________________________________________

12. What must you look for to determine the validity of that prior conviction for use in enhancing a current offense?

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
13. What is a docket call, who is present, and what is its purpose?

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

14. What are the three things that can occur at a docket call?

   a. __________________________________________________________________________

   b. __________________________________________________________________________

   c. __________________________________________________________________________

15. What is the purpose of a preliminary hearing, what Nebraska court does it generally occur in and what is the prosecutor’s evidentiary burden?

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

16. Assuming the prosecutor meets her evidentiary burden during the preliminary hearing, what is the next scheduled court hearing and what Nebraska court does it occur in?

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________

17. Recite the prosecutor’s script when the defendant fails to appear for a court hearing. Then indicate what, if anything, a criminal defense attorney should say about whether his client knew he was to be in court.

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________
18. How many jurors are necessary for criminal trials in Nebraska? What if the case is a misdemeanor? What if it is a felony? Is there a difference? If there is a difference, what is it based on?

________________________________________________________________________

________________________________________________________________________

19. Apart from reciting the plea agreement and re-arraigning the defendant, what additional information is the prosecutor asked to supply during a plea hearing? What must be included in that additional information?

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

20. What is a pre-sentence investigation, who compiles it and what does it contain?

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
COURT APPEARANCE SELF-EVALUATION

NAME: ________________________________

DEFENDANT'S NAME: ______________________ DATE: __/__/__

PREPARED FOR: Divot WHAT HAPPENED: Divot

HEARING/NEGOTIATION PREPARATION:
WHAT DID WELL:
- We're ready for Divot

WHAT NEEDS IMPROVEMENT:
- Improved understanding of how restitution works (setting up account)

ACTUAL NEGOTIATION/HALLWAY CONFERENCE:
WHAT DID WELL:

WHAT NEEDS IMPROVEMENT:

ACTUAL HEARING/COURT APPEARANCE:
WHAT DID WELL:
- Put my name on record

WHAT NEEDS IMPROVEMENT:

GOALS FOR NEXT COURT APPEARANCE:
- Improve on preparation & courtroom confidence
COURT APPEARANCE SELF-EVALUATION

NAME: 

DEFENDANT'S NAME: Steven Jones DATE: 6/19/13

PREPARED FOR: DWOT WHAT HAPPENED: D set DWOT

HEARING/NEGOTIATION PREPARATION:
WHAT DID WELL:
- Was ready for DWOT

WHAT NEEDS IMPROVEMENT:
- Improved understanding of how probation works (setting up accounts)

ACTUAL NEGOTIATION/HALLWAY CONFERENCE:
WHAT DID WELL:

WHAT NEEDS IMPROVEMENT:

ACTUAL HEARING/COURT APPEARANCE:
WHAT DID WELL:
- Put my name on record

WHAT NEEDS IMPROVEMENT:

GOALS FOR NEXT COURT APPEARANCE:
- Improve on preparation and courtroom confidence
COURT APPEARANCE SELF-EVALUATION

NAME:

DEFENDANT'S NAME: 5  DATE: 4/19/13

PREPARED FOR: Bond Review  WHAT HAPPENED: DC/Bond Revised

HEARING/NEGOTIATION PREPARATION:

WHAT DID WELL:
I looked over the file and determined what we should be asking for on bond. I also confirmed with D counsel they would be present on 4/19/13.

WHAT NEEDS IMPROVEMENT:
It would have been nice if I had been able to figure out what went to Steve to see if he agreed.

ACTUAL NEGOTIATION/HALLWAY CONFERENCE:

WHAT DID WELL:
I met with D counsel. He wanted it set for JT and told him we were here today to reconsider bond which D counsel was unaware.

WHAT NEEDS IMPROVEMENT:
I should have introduced myself as his (sic) Fitzgerald's boyfriend!

ACTUAL HEARING/COURT APPEARANCE:

WHAT DID WELL:
I wanted to do most of the talking so I got all my info out early in a coherent manner.

WHAT NEEDS IMPROVEMENT:
I should have told judge we were here to reconsider bond on our own motion so he knew what was going on.

GOALS FOR NEXT COURT APPEARANCE:
Be more informative. Judges see a lot of cases so try to refresh their memory about why we are here.