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HIST 340: American Legal History—A Peer Review of Teaching Project Inquiry Portfolio

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HIST 340: AMERICAN LEGAL HISTORY

Katrina Jagodinsky, Assistant Professor of History

*A Peer Review of
Teach Project
Inquiry Portfolio*

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Inquiry Portfolio Introduction

In the 2013-2014 academic year, I prepared a **benchmark portfolio for HIST 340: American Legal History** because it was a new class for me and I wanted to measure the effectiveness of the assignments, instructional methods, and readings in helping students to meet the course objectives. My own findings coincided with the critiques students made in their end-of-semester evaluations: the readings seemed unrelated to one another, or, in the words of one frustrated student, they skipped “around like a fart in a skillet;” the assignments failed to show learning and were not correlated to students’ overall success in the course; and students struggled to meet the objectives or even understand their significance. As discussed here, data analyzed in the benchmark portfolio showed little correlation between individual assignments and final grades, student evaluations revealed a fundamental misunderstanding of what legal history is, and student performance measured in final grades proved underwhelming at best. At the end of my benchmark portfolio, I proposed a series of course revisions designed to improve student learning and satisfaction:

1. more strongly link assessments and readings to objectives
2. eliminate the textbook and build a course reader
3. integrate discussion more effectively
4. abandon online, multiple-choice quizzes for short writing prompts
5. refine topical choices for the final project and align these topics to a clearly-stated course theme

Teaching the class a second time in Fall 2015 gave me an opportunity to prepare this inquiry portfolio in order to measure the success of these revisions in more strongly preparing students to demonstrate their learning. My inquiry portfolio findings, outlined below, indicate that identifying a clear course theme; more strongly aligning readings, assessments, and discussions to course objectives; and restructuring the verbal and written analysis of readings dramatically improved students’ performance and satisfaction. Those changes are discussed below, and can also be seen when comparing the syllabi from Spring 2014 (see **Appendix A**) to Fall 2015 (see **Appendix B**).

Inquiry Areas

In measuring the effectiveness of course revisions, I focused on four key areas:

1. revising assignments to increase correlation of assignments to final grade
2. students’ ability to define legal history and apply its methods
3. students’ analysis and comprehension of readings in verbal and written form
4. students’ overall success and satisfaction

The first of these areas largely involved my own work in fine-tuning the assignments to better document student learning. The second and third areas are

largely measured by student performance, as documented in the work they submitted throughout the semester. The fourth area is evidenced primarily in final grades and end-of-semester course evaluations, but also through informal student evaluations administered throughout the semester.

1. Revising Assignments & Increasing Correlation of Assignments to Final Grade

In the previous rendition of American Legal History, assignments included:

- 2 quizzes
- 3 class discussions
- Diagram of the American Legal System
- Digital Research Presentation
- Legal Case Brief
- Annotated Bibliography
- Legislative Chronology or Case History (10pages)

Of these, the Quizzes showed the lowest correlation to final grades and Discussions proved most highly correlated to final grades. This combination prompted me to drop Quizzes in favor of short writing prompts in the second course rendition, and to restructure the Discussion assessment because many students expressed dissatisfaction with the structure of this assignment, which required that they work in groups to run 3 class discussions of assigned readings.

Students also complained in their evaluations about the Legal System Diagram, an assignment that required them to visually chart the course of legislation or the sequence of an historical court case and that should have prepared them to carry out the research necessary to complete their final projects. Students' Diagrams, which can be found in the [Benchmark Portfolio Appendix](#), varied widely in quality and few documented students' grasp of the American legal system.

Other assignments also showed very weak correlations to overall performance, and an interesting analysis of the final research projects showed that only those tied to course materials correlated to the final grade. Because students had free rein to decide which topics to write on, students who chose histories unrelated to those discussed in class struggled to do well. As benchmark assignments, the Digital Research Presentation, Legal Case Brief, and Annotated Bibliography all should have helped students successfully complete their Legislative Chronology or Case History, but a significant number of students did not turn these in, or changed their topics along the way, so that their case brief might have been on a topic unrelated to their final project and their digital presentation of the research might have been woefully incomplete and undeveloped.

In the second rendition of the course, assignments included:

- Author Bio & Journal Review
- Readings Response & Review
- Legal History Portfolio
- Discussion & Participation

All assignments showed a very strong correlation to the final grades, indicating that they in fact prepared students for overall success, and they did not correlate to one another, except in the case of discussion grades, indicating that the assignments measured different skills and that strong discussion performance equated with high performance in written assessments. Of these assignments, only a handful of students remarked that they did not fully understand the importance of the Author Bio & Journal Review, but otherwise all assignments proved comprehensible to the students—nothing “like a fart in a skillet” here. That the selection of readings confused students in the first rendition of the course seemed part of a larger problem in which the students also did not understand what sort of scholarship comprised legal history, and did not know the scholars or journals that shaped the field itself.

The Author Bio & Journal Review assignment (see samples in [Appendix C](#)) introduced in the second offering of the course required students to present, in writing and orally, an academic biography of the authors we read and a literary review of the articles published in prominent law and legal history journals from the previous five years. These brief and relatively easy assignments made students aware, for instance, that scholars like Linda Kerber, whose book *No Constitutional Right To Be Ladies: Women and the Obligations of Citizenship* previous students described as “a sexist book that only showed the U.S. as a sexist entity,” was in fact the leading scholar in women’s legal history who had served as president of the American Historical Association, the Organization of American Historians, and the American Studies Association. Students also learned that particular law schools and history departments published their own journals, and specialized in varying areas of law and legal history, and that our readings reflected this range of specializations. Showing students this broader picture of the field made them much more enthusiastic about engaging the assigned readings.

The Readings Response & Review assignment (see samples in [Appendix D](#)) took the place of Quizzes and assigned Discussions from the previous course offering. Students responded in writing to pre-circulated prompts on the readings in advance of class discussion and then their responses became the basis of in class discussion. This made particular students experts on the readings for any given day, but made discussion open for all to contribute in small and large group structures. Students complained occasionally about the small group arrangements, but regularly alternating the makeup of the small group assignments corrected the interpersonal issues that these complaints stemmed from.

The Legal History Portfolio (see samples in [Appendix E](#)) included all of the elements required as separate benchmarks in the previous course rendition, but presented them differently. Students had a narrow list of topics very closely tied to course readings and discussions to choose from rather than an open list of their own making, and they each had to prepare a portfolio that featured: a topic description, historical questions and methodology, case brief or legislative summary, annotated bibliography. Although they did not have to write a formal 10-page essay, their portfolios came close to 10 pages with each of the required components. They also had to participate in research workshops offered throughout the semester in order to earn full credit for their final submission.

As in the first semester I taught this course, discussion remained highly correlated to the final grade, although students could participate in a variety of ways rather than as assigned discussion leaders in groups throughout the semester. First, students used their written RRRs to facilitate their verbal discussion and this worked very well. Second, students could lead small groups or volunteer individually to respond in large group discussions. Third, students submitted written notes from oral discussion, and these proved to be fundamental in documenting student learning. Rather than making a Diagram into a separate assignment, I required students to draw a Diagram (see samples in [Appendix F](#)) as part of class discussion and these were much stronger than the ones students had prepared outside of class in the previous semester. Students also submitted questions (see [Appendix G](#)) about legal history topics that I incorporated into lectures throughout the semester and this allowed me to measure their growing critical thinking about and contextual understanding of legal history events and phenomena. Students also provided notes (see [Appendix H](#)) from their small group discussions, making it more efficient for me to measure the learning that took place without my direct supervision.

2. Students' Ability to Define Legal History and Apply Its Methods

In the two semesters I have offered this course, I have revised the course objectives slightly each time because I realized that unless students can define legal history as a field and practice its methods, even if only superficially, they are unable to fully engage its contours and findings. Student evaluations from the first semester made this very clear when students complained that "the topics covered were not legal history. We talked about juries in terms of women not having the vote...I feel as though I learned more about women and minority history then (sic) legal history," and asked that they learn about "legal history, not the conditions of life on a reservation." Given that such complaints derided entire subfields of legal history (suffrage, jury selection, and federal Indian law), student's rejection of these course topics revealed a lack of awareness regarding the make up of legal history as a field. It was clear that I needed to begin the course by explaining what comprised legal history and introducing students to its subfields. I did this by incorporating the Author Bio & Journal Review assignments and by having students physically handle and verbally summarize randomly selected legal history journals in the first week of

class so that they would immediately encounter gender and race as mainstream and prominent, rather than radical or minimal, concerns of legal historians.

Through the readings and through their own research, students learn much about key moments in American legal history and the importance of those events in reflecting shifts in American cultural and political values, but if they cannot even identify what makes up legal history and how legal historians answer the particular questions they ask, then students will fail to measure the significance of legal history events or identify the relationships between them. For this reason, I have concentrated on this particular course objective, rather than the others listed below, to measure improvement in student learning from the first to second renditions of this course.

Course objectives read as follows in the first offering:

1. Students will be able to identify the various bodies that orchestrate the law within the American legal system and identify the specific components that make up the body of law itself.
2. Students will become proficient in advanced legal history research skills.
3. Students will be able to discuss key issues in the relationship between law and history.
4. Students will be able to discuss significant events and debates that have altered our notions of “the rule of law” in American history.

These objectives followed a very straightforward and conventional approach in line with standard legal history curricula, and reflected the coverage of the assigned textbook, also a conventional tool in legal history pedagogy. For reasons still not known, students failed to see the importance of these objectives, which included both skill and content knowledge goals. Finding them to be overly broad and occasionally unwieldy, I revised them toward a specific course theme of Citizenship Inclusion & Exclusion and made them more concretely tied to course activities and readings.

Course objectives in the second semester read as follows:

1. Explain major schools of thought and distinguish among the range of approaches to legal history as a methodology and subfield of history
2. Apply major research tools and navigate key databases critical to the application of legal history
3. Discuss major debates over citizenship rights in American legal history
4. Identify key moments in the expansion or restriction of citizenship rights in American legal history
5. Discuss historical problems in the implementation and interpretation of law in American society

Students rated the clarity of course expectations in Spring 2015 as a 3.13 out of 5 and in Fall 2015 as a 1.31 out of 5.

In addition to their overall perceptions of the course objectives, student performance, documented in the Discussion notes submitted informally in class, in their Author Bios & Journal Reviews, and in their Legal History Portfolios, improved dramatically on this particular course objective from the first to second semester.

3. Students' Analysis and Comprehension of Readings in Verbal and Written Form

This inquiry area marks an effort to document student mastery of all other course objectives in addition to the one discussed in isolation above. The readings covered objectives 1, 2, 3, & 4 by: explaining major schools of thought and distinguishing among the range of approaches to legal history as a methodology and subfield of history; summarizing major debates over citizenship rights in American legal history; identifying key moments in the expansion or restriction of citizenship rights in American legal history; and discussing historical problems in the implementation and interpretation of law in American society. Student analysis and comprehension of these readings in verbal and written form thus demonstrated their expansion of content knowledge throughout the course of the semester.

Students demonstrated this knowledge through assignments discussed above. These included their informal participation in Discussion, the Author Bios & Journal Reviews, the Readings Response & Review assignments, and in the Legal History Portfolios. When compared from one semester to the next, students improved greatly in assessments measuring reading comprehension and their evaluations of the assessments and the readings also increased dramatically.

TABLE COMPARING QUIZ SCORES & CORRELATIONS TO RRR SCORES & CORRELATIONS

	Average Scores	Correlation to Final Grade
Spring 2014 Quizzes	70.15%	.223
Fall 2015 RRRs	84.9 %	.556

Spring 2014 students alternately described the readings as “terrible,” “ridiculous,” and “not useful.” Some Spring 2014 students did find the readings “useful,” and “interesting,” but such lukewarm assessments did not counterbalance the overt hostility other students expressed regarding the readings. My response to such feedback was to abandon the textbook, which did receive specific complaints, in favor of selected articles and excerpted book chapters explicitly tied to course themes. The same students described the reading-based quizzes as “extremely difficult,” if not “impossible,” and still others called the quizzes “the weak point of the class.” Given the lack of correlation between quiz scores and final grades, such assessments were fair. Whereas students contradicted one another in alternately praising and dismissing the readings, no students had positive comments for the quiz assessment. For these reasons, I chose to discard the quizzes in favor of short writing prompts on the readings.

Fall 2015 students responded very positively to the shift in readings and assessments. They shared that they “really enjoyed the readings because they really pushed my thinking” and that they “really enjoyed the assignments.” More specifically, they “thought the assignments and readings helped to establish a ‘legal framework’ for the class to discuss better,” and felt that “the RRRs kept students engaged.” Not all students were so generous with their praise, but critiques did not reach the virulence students from the previous rendition expressed. Fall 2015 students were more moderate: “As a business student, I wasn’t as familiar with many of the readings. However, I enjoyed and learned a lot from all of our assigned readings.” “Sometimes it was an overwhelming amount [of reading], but I usually got through...when the readings were too much, [Professor Jagodinsky] did a great job of breaking them down.” The same group balanced their critiques of assessments as well. One student wrote: “I feel the portfolio project didn’t receive enough explanation, some aspects of the project were confusing,” and also commented that a final “project instead of tests is awesome,” and shared that “the written assignments helped me to understand the readings.” Future offerings of the course will incorporate such feedback by continuing to link readings to particular themes and objectives, and by integrating more time to discuss and explain the elements of the Legal History Portfolio.

4. Students’ Overall Success and Satisfaction

Although I embarked upon the benchmark portfolio in 2013-2014 before I even began teaching the course, poor overall student performance and course ratings made it clear that the course needed focused scrutiny and study. The benchmark portfolio allowed me to measure where the problems were, and this inquiry portfolio has helped me to measure where the solutions have been.

Students earned an average grade of 79.6 (C+) in the first semester the course was offered and improved to an average grade of 88.6 (B+) in the second semester offering. Just as overall success improved from one semester to the next, student satisfaction also increased. In the first offering of the course, students rated my instruction as 3.43 out of 5, far lower than the department’s average rating of 1.58, while students enrolled in the second offering rated instruction a 1 out of 5, the highest possible rating and higher than the department’s average of 1.48 in that semester. While it is beyond the scope of this inquiry portfolio to determine how much of this shift can be attributed to the many variables that students bring to the classroom from one semester to another, it is clear that students found the revisions made to the course to be positive ones. A closer examination of the grade averages and course ratings reveals that the changes made to the course objectives, readings, assessments, and overall course content resulted in greater student success and satisfaction.

TABLE OF STUDENT RATINGS & GRADES

	Course Rating: Scale of 1 (+) to 5 (-)	Instructor Rating: Scale of 1 (+) to 5 (-)	Students' Grade Average
Spring 2014	3.86	3.43	79.6 (C +)
Fall 2015	1.38	1.00	88.6 (B+)

In semester-end evaluations, students also provided narrative comments on their course experience. Comparing comments on course content and readings, course objectives and assignments, and overall course experience likewise shows dramatic improvement from the Spring 2014 to Fall 2015 semesters.

TABLE COMPARING COMMENTS DESCRIBING COURSE CONTENT

	Comments Describing Course Readings	Comments Describing Course Content and Themes	Comments Describing Course Assessments	Comments Describing Course Instruction
Spring 2014	"frustrating" "torture" "generally ok" "informative but boring" "like a fart in a skillet"	"nothing interesting" "gender and race in legal history was interesting" "topics were very scattered"	"class discussions were dreaded" "everything fairly clear" "hard but overall achievable"	"teach her to be respectful" "I liked how helpful the instructor tried to be" "more lectures would help"
Fall 2015	"some lengthy and dry" "thorough and in- depth" "at times daunting"	"important material" "interesting and applicable to stated course outcomes" "I liked them all equally"	"challenging in a beneficial way" "well organized" "for our own benefit" "great application to class discussion"	"wonderful" "extremely knowledgeable" "passionate" "effective and interesting" *no critiques of instruction

Pulled directly from student's end-of-semester evaluations, these comments demonstrate a broad range of viewpoints regarding the strengths and weaknesses of both offerings of HIST 340. There are contradictory statements from students within each semester as usual, but taken as a whole they reveal that students struggled to comprehend the goals and expectations of the Spring 2014 class, while Fall 2015 students were more fully convinced of the overall efficacy of the class.

Inquiry Methodology

With so many changes instituted between the first and second rendition of the course, it was important to record both qualitative and quantitative data to document increased student learning and improved teaching. Combining both forms of data allowed students to describe key aspects of the course they appreciated or disliked in qualitative measures, while their numerical rankings and graded performance provided quantitative measures of both learning and teaching. Measuring student success and satisfaction at multiple stages within the semester also provided a stronger set of data so that students could be both responsive to weekly course developments and reflective in their cumulative view of the semester. The methods and data on Student Learning and Improved Teaching are discussed in this and the next section.

Student Learning

Qualitative evidence of student learning included: 1) student's notes taken as part of Discussion, and 2) student's responses to lecture prompts. These narrative assessments counted as part of the overall Discussion & Participation grade worth 20% of their grade, and gave students a chance to exhibit their learning in ways beyond the specific writing assignments administered as quantitative evidence of student learning. A particularly strong example of qualitative evidence of student learning includes the diagrams students designed to explain varying approaches to legal history: the law and society approach, the critical legal history lens, and critical race theory movement. Students also submitted questions on topics covered in lectures, illustrating their ability to formulate sophisticated and critical inquiries and demonstrating their grasp of the larger contexts that bridged topics from one lecture to the next. Samples of these assignments are included in the appendix.

Quantitative evidence of student learning included 1) student responses to particular questions raised in the Readings Response & Review assignments, 2) Author Bio & Journal Review submission, and 3) Legal History Portfolios completed with all of the required elements. Each of these narrative assessments, also sampled in the appendix, had very specific requirements that made it possible to objectively measure student comprehension and skill development.

The RRR assignments asked students to identify authors' arguments; list the legal cases, statutes, or concepts being discussed; and link the essay to the course theme of citizenship inclusion & exclusion. A basic rubric determined students' success:
3 points: student fully answered all questions in a clear and cohesive narrative
2 points: student minimally answered all questions with some writing issues
1 point: student failed to answer all questions

The Author Bio & Journal Review included a similarly straightforward rubric:
5 points: answers each of the questions clearly and fully, has been submitted on time, and was presented orally in class in a professional manner.

4 points: answers each of the questions fully, has been submitted on time, and was presented orally

3 points: answers some of the questions fully, has been submitted on time, and was presented orally

2 points: answers few of the questions fully, may not have been submitted on time, not well presented orally

1 point: incomplete answers, may not have been submitted on time, not well presented orally

Students earned points based on whether they gave complete academic biographies of the authors of the shared readings or full literary reviews of the academic journals they were individually assigned. Students completed one of these assignments for a total of 5 points, and submitted five RRRs for a total of 15 points (on a 100-point scale).

Finally, the Legal History Portfolio comprised 60% of the final grade and included the following elements: Topic Description (10 pts): 3 paragraphs (500 words) outlining the topic and justifying its importance in US legal history; Historical Questions & Methodology (10 pts): 5 historical questions framing the topic and two paragraphs outlining the analytical model and research plan that will best answer the historical questions posed; Case Brief OR Legislative Summary (15 pts): a one-page (single-spaced) case brief or legislative summary that gives the legal and/or chronological framework for your topic; Annotated Bibliography (20 pts): 200-word annotations of five primary sources and five secondary sources central to your topic; Student's participation during in-class workshops (5 pts): students must be able to apply in-class workshops throughout the semester to their projects and show progress toward the final portfolio. Rather than a specific rubric, students received a sample portfolio to demonstrate a successful model for the portfolio and we discussed the quantitative standards applied to this assessment repeatedly in class research workshops.

Improved Teaching

Qualitative evidence of improved teaching is documented in the narrative portions of the end-of-semester student evaluations for both renditions of the course. A challenge we always face in using student evaluations of teaching is that students often make conflicting judgments. A Spring 2014 student's complaint that "the process taken to teach was horrible and many times disrespectful" has more to do with personal frustrations about poor performance when compared to another student's comment from the same semester that "I liked how helpful Prof. Jagodinsky tried to be." Still, these evaluations can be useful when students show consensus in their evaluations. Fall 2015 students "enjoyed [the] mixture of lecture and discussion," and felt that "the instructor proved her knowledge and great instructing skills during...lectures." Such consensus affirms that an appropriate balance between lectures, discussions, and workshops was achieved in the second iteration of the course.

Other qualitative evidence of improved teaching can be found in informal evaluations that include a “Keep, Stop, Start” exercise (see [Appendix I](#)) asking students at the six-week mark of a sixteen-week semester what should be continued, abandoned, and initiated to improve the course and some students commented directly on teaching practices in addition to other aspects of the class. Evaluations early in the semester helped to measure best practices and to incorporate student feedback where suitable rather than waiting for end-of-semester evaluations. Spring 2014 students made incredibly contradictory suggestions, asking me to both keep and stop discussions, exams, reading reviews, and workshops. In some ways, this problem of divergent student interests reflected many of the other issues that emerged over the course of the semester. In the next course offering, however, student input proved much more useful. Immediate adjustments made in response to these six-week assessments during the Fall 2015 semester included the integration of short multimedia (primarily video) segments to make lectures more dynamic and clearer explanations about the makeup of small group discussion assignments so that students understood their roles in those groups and my expectations for their performance.

Quantitative evidence of improved teaching is documented in the numerical ratings students gave in the end-of-semester evaluations for both renditions of the course. To a lesser extent, improved student performance can also be read as quantitative evidence of improved teaching when we consider that final grades demonstrate instructional clarity and consistency. Read in this way, improving the average final grade from the first to the second offering is also indicative of improved teaching.

Inquiry Findings & Analysis

The goal of this inquiry portfolio has been to measure the effectiveness of revisions made to HIST 340: American Legal History after a benchmark portfolio and underwhelming student evaluations indicated the course required much attention in order to bolster student success and improve the legal history curriculum for our department. My inquiry focused on four key areas: 1) revising assignments to increase correlation of assignments to final grade, 2) increasing students’ ability to define legal history and apply its methods, 3) improving students’ analysis and comprehension of readings in verbal and written form, and 4) enhancing students’ overall success and satisfaction.

Two tables illustrate success in areas 1 and 4 of this inquiry. The first table documents success in increasing the correlation of assessment to the final grade, thus ensuring that the assessments measure learning central to the objectives of the course; and shows improved final grades from the first to the second iteration, thus illustrating that student learning has also increased. The second table documents improvement in students’ rankings of the class, their own learning, the readings, and instruction from one semester to the next, illustrating that student satisfaction increased in response to the revisions made as a result of the benchmark portfolio.

TABLE COMPARING FINAL GRADES & CORRELATION OF ASSESSMENTS TO FINAL GRADE

	Average Final Grade	Correlation of Discussion to Final Grade	Correlation of Readings Assessments to Final Grade	Correlation of Final Projects to Final Grade
Spring 2014	79.6 (C +)	.576	.222 (Quizzes)	.468 (Essay)
Fall 2015	88.6 (B+)	.863	.556 (RRRs)	.852 (Portfolio)

TABLE COMPARING STUDENT EVALUATIONS

Scale of 1 (+) to 5 (-)	Overall Quality of Course	How Much Did You Learn?	Relevance of the Readings	Overall Quality of Instructor
Spring 2014	3.86	3.67	2.8	3.43
Fall 2015	1.38	1.38	1.25	1.00

Data demonstrating improvement in students' ability to define legal history and apply its methods and in students' analysis and comprehension of readings in verbal and written form is illustrated in the following table, which charts improved grades on assessments measuring these objectives.

	Define Legal History	Apply Legal History Methods	Verbal Readings Assessment	Written Readings Assessment	Overall Performance
Spring 2014	76.7 (C) Average Legal Diagram Grade	88.22 (B+) Average Final Project Grade	80.55 (B-) Average Discussion Grade	70.15 (C-) Average Quiz Grade	79.6 (C +) Average Final Grade
Fall 2015	87.4 (B+) Average Author Bio/Journal Review Grade	89.91 (B+) Average Final Project Grade	81.6 (B-) Average Discussion Grade	91.3 (A-) Average RRR Grade	88.6 (B+) Average Final Grade

An intriguing finding when analyzing performance between semesters within individual assessments is that students compared fairly evenly in their performance on the final projects and in discussions throughout the semester, but showed dramatic improvement in conveying their ability to define legal history and in their

written analysis of readings from the Spring 2014 to the Fall 2015 semesters. As a result of their overall improvement in these two performance areas, students collectively raised their average grade by nearly a full letter grade. This finding demonstrates that reorienting the importance of defining legal history both through the course objectives and through a revised assessment format and shifting reading comprehension assessment from quizzes to short narrative prompts proved remarkably successful in increasing student learning about American legal history.

Continued Inquiry & Reflection

HIST 340: American Legal History is the foundation of the History Department's effort to expand its legal history course offerings at both the undergraduate and graduate level. Since first concentrating on the course for my benchmark portfolio, I have also designed a 100-level introductory course on American legal history and a 900-level graduate course on comparative legal history. Our department has established a joint JD-MA program with the Nebraska College of Law, and we will soon begin recruiting legal history graduate students into that program. I will teach HIST 340 in Fall 2016 for the third time, but it will be the first time the course includes an 800-level graduate section, and so continued revisions will be necessary to ensure that the course meets the varying needs of its students. Both the benchmark and inquiry portfolios have dramatically improved the course, and lessons such as clarifying course themes, explicitly linking assessments to objectives, measuring learning and teaching creatively and consistently, have positively influenced the other courses I teach as well.

These portfolios will serve an important purpose outside of my classroom and beyond the UNL campus as well. They are the foundation of an in-progress article on teaching legal history as part of an undergraduate and graduate History program intended for publication in one of the legal history and/or teaching history journals. While there are a number of useful essays (see [Appendix J](#)) already written on legal history teaching, these portfolios allow me to address particular gaps in that discussion: 1) to my knowledge, none of these articles includes quantitative or qualitative data in their assessments of legal history teaching, and 2) most legal history teaching articles are written from the perspective of law school instruction, rather than undergraduate or humanities approaches to legal history. I expect to submit my article draft for review in the Summer of 2016.

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendices

Appendix A: Spring 2014 Syllabus

HIST 340: American Legal History
Spring 2014, TR 9:30-10:45, Avery 110
*changes to this syllabus will be announced in Blackboard

Dr. Katrina Jagodinsky
kjagodinsky@unl.edu
606 Oldfather Hall
Office Hours: TR 2-3, or by appointment

Course Description

This course will introduce students to the law as both a cultural and political discourse central to American history and society, and as a concrete body of federal, state, and territorial statutes; legislation and executive acts or treaties; and judicial rulings. The course is organized into three sections, beginning with an introduction to the structures and practices of American law that ensures students know the hierarchy of courts, the balance of jurisdictions and shared role of the executive, judiciary, and legislature in making and interpreting law, and can use modern research practices to access significant documents in U.S. legal history. Section two of the course introduces students to the practices of legal historians, emphasizing the inverse relationships between law and history and exploring recent models in legal history, such as critical legal history, indigenous legal traditions, and/or legal borderlands. Students are encouraged to explore the role of law in society and to critique historians' techniques of chronicling and explaining changes in American legal tradition. Readings selected for this semester emphasize the themes of race, gender, and citizenship. Section three of the course prepares students to combine their technical knowledge of the law from section one with their analytical understanding of the law from section two and prepare their own legal history portfolio. All students will be expected to participate in discussion and debate, take quizzes, and compile a legal history portfolio that demonstrates their legal research and analysis skills.

Course Objectives

- Students will be able to identify the various bodies that orchestrate the law within the American legal system and identify the specific components that make up the body of law itself.
- Students will become proficient in advanced legal history research skills.
- Students will be able to discuss key issues in the relationship between law and history.
- Students will be able to discuss significant events and debates that have altered our notions of "the rule of law" in American history.

Course Readings

Kermit Hall, *The Magic Mirror*, 0195081803
Linda Kerber, *No Constitutional Right to be Ladies*, 0809073846
*additional readings on Blackboard under "Course Documents"

Course Assignments

*each of these assignments is outlined in greater detail on Blackboard

2 Quizzes (25 pts each)	50 pts	12.5%
3 Class Discussions (15 pts each)	45 pts	11.25%
American Legal System Diagram	40 pts	10%
Gaughan Presentation	55 pts	13.75%
Legal Case Brief	40 pts	10%
Annotated Bibliography	50 pts	12.5%
Legislative Chronology or Case History	120 pts	30%
Total	400 pts	100%

Grading Scale

*rubrics are included in the assignment descriptions posted on Blackboard, and students are expected to keep track of their own semester progress using the grades that are posted on Blackboard

376-400	A
360-375	A-
348-359	B+
336-347	B
320-335	B-
308-319	C+
296-307	C
280-295	C-
268-279	D+
256-267	D
240-255	D-
0-239	F

Course Policies

Attendance Students are expected to attend class and it is your responsibility to be on the sign-in sheet used to record attendance each day. Three unexcused absences will result in a 3-point deduction from your final grade, with a one-point deduction for every unexcused absence thereafter. Absences are excused with documentation according to the University policy: <http://www.unl.edu/facultysenate/class-attendance-policy>

Email and Blackboard Students will receive important class announcements and updates via the email address associated with their Blackboard profile and should check their email regularly. Students are expected to be familiar with Blackboard and will use the platform to review the syllabus, access required readings, and track their progress throughout the semester. When students wish to contact the instructor, they should use email to do so and should allow for a 48-hour turnaround on responses. Students are also encouraged to visit the instructor during posted office hours or use email to make an appointment.

Accommodations Students with disabilities are encouraged to contact the

instructor for a confidential discussion of their individual needs for academic accommodation. It is the policy of the University of Nebraska-Lincoln to provide flexible and individualized accommodation to students with documented disabilities that may affect their ability to fully participate in course activities or to meet course requirements. To receive accommodation services, students must be registered with the **Services for Students with Disabilities (SSD) office**, 132 Canfield Administration, 472-3787 voice or TTY.

Late Assignments Assignments are due on the dates posted below in the course schedule and will not be accepted late unless students can document a reason identified in the above noted attendance policy. Students may not submit any paper late without expecting a three-point deduction per day and they will not be accepted more than one week late at all. Students facing extreme duress may file for an incomplete at the end of the semester according to University policy, which notes that students should have a passing grade (higher than a C) in order to qualify for an incomplete. <http://www.unl.edu/regrec/grade-information>

Students should be aware of the last day to withdraw and receive a "W" grade for the course, since incompletes will not be granted prior to that date in any case.

Academic Misconduct Students should be informed that all work submitted via Blackboard is automatically screened for plagiarism and offenders will receive an automatic F for any plagiarized work. More severe offenses will incur more severe penalties. All students should make themselves familiar with the academic dishonesty policies outlined in the student conduct code:

<http://stuafs.unl.edu/ja/code/three.shtml>

Classroom Conduct Students are expected to treat ideas and people with respect and to promote their own and their peers' learning experience. Those engaged in disruptive or disrespectful behavior will be asked to meet individually with the instructor to avoid further consequences, though continued inappropriate behavior will result in disciplinary action as outlined in the student code of conduct and may include dismissal from the course. In addition to the student code linked above, you may go to <http://stuafs.unl.edu/ja/community/two.shtml> to review your classroom rights and responsibilities.

Students are prohibited from using cell phones in class. Those who use laptops for notes or readings must submit a usage contract that requires you to provide me with digital copies of your notes, and you should expect that your in-class computer usage will be monitored throughout the semester. Violators will be asked once to discontinue use and will be asked to leave the classroom upon a second violation. Absences resulting from a violation of this policy will be unexcused.

<http://www.insidehighered.com/news/2013/10/21/study-documents-how-much-students-text-during-class#ixzz2iSdiJ25R>

Peer Review of Teaching Project

This semester, I have elected to take part in the Peer Review Project, a University-wide, on-going attempt to develop new and better methods for promoting student learning. This is a year-long process in which participants in the project (professors) put a great deal of thought into the design of a single course (in this case HIST 340) including syllabus, exams, class activities and written assignments. One of the

project's ultimate goal is to improve student learning, and we cannot accomplish this goal without student input.

For the project, I will need to select several students whose work would be copied and included in my 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.

Course Schedule

*read closely, noting that we do not always meet in our regular classroom; readings and assignment explanations are available on Blackboard, except for Hall & Kerber, which you must buy; students must bring printed versions of Blackboard readings to class

Section 1: Framing the Law & Legal Research

Tues, January 14: "Introduction to Legal Study"

Thurs, January 16: Hall, Chaps 1-2: Common Law Origins

Tues, January 21: Nebraska State Historical Society & Archive

Thurs, January 23: Hall, Chaps 3-4: The Rise of the American Legal System

Tues, January 28: Schmid Law Library Orientation

Thurs, January 30: Diagramming the American Legal System: Workshop

Section 2: Historicizing the Law: What Do Legal Historians Do?

Tues, February 4: Diagrams & Discussion of the Role of Law

Thurs, February 6: Critical Legal History & Law as History Readings/Discussion

Tues, February 11: Gaughan Workshop

Thurs, February 13: Online Legal Databases, Legal Chronologies, & Case Histories

Tues, February 18: Legal Briefs, Chronologies, and Case Histories: Workshop

Thurs, February 20: Annotated Bibliography & Legal Citation Systems

Section 3: Major Themes in American Legal History: Race, Gender, and Citizenship

Tues, February 25: Brown & Kerber, Chap 1 & 3: Colonial Law & Gender

Thurs, February 27: Hall, Chap 6 & 7: The Individual, Racial Identity, & the Law

Tues, March 4: Schmidt: Nineteenth-Century Labor Law

Thurs, March 6: Gaughan Rehearsals

Tues, March 11: Gaughan Rehearsals

Thurs, March 13: Gaughan Sessions

Tues, March 18: Edwards & Kerber, Chap 2: Reconstruction & Gender

Thurs, March 20: Glenn: Citizenship, Labor, Gender, and Race

Mar 23-30: Spring Break

Tues, April 1: Hall, Chap 8; American Indians & the Law: Lecture

Thurs, April 3: Pascoe & Harring Discussion

Tues, April 8: Hall, Chap 9 & 10: The Immigration Acts & Whiteness

Thurs, April 10: Shah & Lopez: Discussion

Tues, April 15: Portfolio Updates & Discussion

Thurs, April 17: Hall, 13 & 14: New Deal Legal Philosophies

Tues, April 22: Kerber, Chap 4 & 5: Debating Gendered Rights & Legal Practice

Thurs, April 24: Hall, 15 & 16: Civil Rights & Interest Convergence Theory

Section 3: Legal Portfolios

Tues, April 29: Portfolio Workshops: Research Questions

Thurs, May 1: Portfolio Workshops: Writing Concerns

Thurs, May 8: Portfolio Due in my mailbox by 12 Noon

Assignment Due Dates (remember that each assignment will have its own explanation on Blackboard)

- 5 Class Discussions: rolling deadlines; your topics will be assigned to you early in the semester
- Quiz on American Legal System: via Blackboard by 5 pm on Weds, Jan 29
- American Legal System Diagram: due in class on Tues, Feb 4
- Gaughan Presentation: draft due in class on Thurs, March 6; final due via email on Weds, Mar 12 at noon
- Legal Case Brief & Annotated Bibliography: both due in class on Tues, April 1
- Quiz on American Legal History, Race, Gender, & Citizenship: via Blackboard by 5 pm on Mon, April 14
- Legislative Chronology or Case History: rough draft due in class on Tues, April 29; final draft due in my mailbox on Thurs, May 8 by noon; you will choose your topics in office hour meetings with me prior to Feb 20

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix B: Fall 2015 Syllabus

HIST/ETHN 340: American Legal History
Fall, 2015 TuTh 11-12:15
Avery Hall 110

Prof. Jagodinsky
Oldfather 606
kjagodinsky@unl.edu
Office Hours: Tu 12:30-1:30pm or by appointment

Changes to this syllabus will be announced in class and via Blackboard; it is students' responsibility to make themselves aware of any adjustments made throughout the semester.

Notable Americans on the Law and History

"The [Supreme] Court should interpret written words, whether in the Constitution or a statute, using traditional legal tools, such as text, history, tradition, precedent, and particularly, purposes and related consequences, to help make the law effective." Stephen Breyer, Supreme Court Associate Justice, 1994-present

"All lawyers are, of course, in some sense students of legal history." Earl Warren, Chief Justice of the Supreme Court, 1953-1969

"In a sense, by quoting history, the Court made history, since what it declared history to be was frequently more important than what the history might actually have been." Alfred H. Kelly, Historian, 1965

Course Description

American Legal History introduces students to fundamental debates and overarching trends in U.S. legal history. First, students develop an understanding of legal history as a discipline and read key works outlining mainstream approaches to historical and critical inquiry of legal practice and systems. Second, students practice using legal history research tools and methodologies so that they are equipped with the skills necessary to produce evidence for their historical questions and analytical models. Third, students read deeply into a key theme in U.S. legal history that changes each semester—this particular course is devoted to the question of citizenship exclusion and inclusion in 19th- and 20th-century U.S. legal history. Students will draw from these shared readings to develop their own legal history portfolios centering on particular questions related to the citizenship theme. Continued readings in the last third of the semester will draw students out of this intensive focus on citizenship so that they are familiar with other major themes in American legal history, including marriage & sexuality; race & ethnicity; and policing & criminal justice reform.

A Note on 300-level Courses

Intermediate History department courses emphasize the development of critical thinking skills through a mixture of lecture and discussion. These courses have a more advanced conceptual framework than those at the 200-level, and they are more reading- and writing-intensive. At the 300-level, students will take an active role in reviewing and discussing the ways legal historical knowledge is advanced and debated, thus the majority of points awarded are based on evidence of reading comprehension and creative intellectual work.

This particular 300-level course is specifically geared toward students interested in pursuing a law or graduate school track; who are expecting to write a senior seminar paper in History or a related discipline; who are interested in questions of law and society; and who are prepared to maintain an intensive reading load of roughly 100 pages per week.

Course Objectives

Upon successful completion of this course, students will be able to:

1. Explain major schools of thought and distinguish among the range of approaches to legal history as a methodology and subfield of history
2. Apply major research tools and navigate key databases critical to the application of legal history
3. Discuss major debates over citizenship rights in American legal history
4. Identify key moments in the expansion or restriction of citizenship rights in American legal history
5. Discuss historical problems in the implementation and interpretation of law in American society

Assignments

Grading Scale

*rubrics are included in the assignment descriptions posted on Blackboard, and students are expected to keep track of their own semester progress using the grades that are posted on Blackboard

94-100	A
90-93	A-
87-89	B+
84-86	B
80-83	B-
77-79	C+
74-76	C
70-73	C-
67-69	D+
64-66	D
60-63	D-
0-59	F

Author Bio & Academic Journal Presentations (1, 2, 3, 5), 5 points: Each student will offer a brief academic and intellectual biography of one of the assigned authors in the course or outline the characteristics and contributions of a legal/historical journal related to the course topic being discussed. Author Bios will survey the author's educational background, career bibliography, and summarize their general approach and major contributions to American legal history. Journal presentations will review the journal's content from the last five years, outline its academic affiliations and prominent methodologies, then suggest its utility in legal history research. These assignments will be announced in class and posted on Blackboard. Students will submit their presentations via the Blackboard Discussion Board (2 paragraphs or 300 words) and be prepared to present them orally in class.

Readings Response & Review (1, 3, 4, 5), 15 points (3 pts each): Students will post a 300-500 word response to 5 of the readings for weeks 4-15 on the course Discussion Board. RRR assignments will be announced in class and posted on Blackboard. These reviews will follow a strict format and will provide a springboard for class discussions throughout the semester. Collectively they ensure students are keeping up with readings and contemplating them critically.

Legal History Portfolio (1-5), 60 points: Students will work throughout the semester to prepare a portfolio on a legal history topic tied to citizenship. Topics will be determined in class by September 10. Students pursuing topics without instructor approval will not earn credit for their work. These portfolios will be made up of multiple components that are outlined in greater detail on the Blackboard

Assignments page:

- Topic Description (10 pts): 3 paragraphs (500 words) outlining the topic and justifying its importance in US legal history
- Historical Questions & Methodology (10 pts): 5 historical questions framing the topic and two paragraphs outlining the analytical model and research plan that will best answer the historical questions posed
- Case Brief OR Legislative Summary (15 pts): a one-page (single-spaced) case brief or legislative summary that gives the legal and/or chronological framework for your topic
- Annotated Bibliography (20 pts): 200-word annotations of five primary sources and five secondary sources central to your topic
- Student's participation during in-class workshops (5 pts): students must be able to apply in-class workshops throughout the semester to their projects and show progress toward the final portfolio

Discussion & Participation (1-5), 20 points: Students will participate in rigorous discussion of the readings and contribute their own sophisticated insights. There will also be several in-class assignments based on small-group workshops. These are not graded individually, but are collected as evidence of student participation, and will assist students toward preparation of their legal history portfolios.

Required Readings

All of the course readings are available for download under the Course Documents tab on Blackboard. *You are required to print these readings and bring them to class*

for discussion. Consider the cost of printing equivalent to the cost of purchasing books (less than \$100 for our course at .05 per page). Students who fail to bring printed copies of the readings more than once will be marked absent.

Peer Review of Teaching Project

This semester, I have elected to take part in the Peer Review Project, a University-wide, on-going attempt to develop new and better methods for promoting student learning. This is a year-long process in which participants in the project (professors) put a great deal of thought into the design of a single course (in this case HIST 340) including syllabus, readings, class activities and written assignments. One of the project's ultimate goals is to improve student learning, and we cannot accomplish this goal without student input.

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<http://www.unl.edu/facultysenate/class-attendance-policy>

Email Communication and Blackboard Updates Students will receive important class announcements and updates via the email address associated with their Blackboard profile and should check their email regularly. Students are expected to be familiar with Blackboard and will use the platform to review the syllabus, access required readings, and track their progress throughout the semester. When students wish to contact the instructor, they should use email to do so and should allow for a 48-hour turn-around on responses. Students are also encouraged to visit the instructor during posted office hours or use email to make an appointment.

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<http://stuafs.unl.edu/ja/community/two.shtml> to review your classroom rights and responsibilities.

Students are prohibited from using cell phones in class. Those who use laptops for notes or readings should expect that your in-class computer usage will be monitored throughout the semester. Violators of the cell phone ban or the restrictions on laptop use will be asked once to discontinue use and will be asked to leave the classroom upon a second violation. Absences resulting from a violation of this policy will be unexcused.

<http://www.insidehighered.com/news/2013/10/21/study-documents-how-much-students-text-during-class#ixzz2iSdiJ25R>

Course Schedule

*indicates readings on Blackboard—bring printed copies to class

Week One: Introducing Legal History

Tues, Aug 25: Syllabus, Readings, Policies, & Assignments

Thurs, Aug 27: Small Group Work: Legal History Journals & Publishing Trends

Week Two: Approaches to Legal History

*Tues, Sept 1: Social & Critical Legal History

Lawrence Friedman “The Law & Society Movement”

Robert Gordon “Critical Legal Histories”

Author Bios, Journal Reviews, RRRs

*Thurs, Sept 3: Critical Race Theory

Kimberlé Crenshaw, “The First Decade: Critical Reflections”

Author Bios, Journal Reviews, RRRs

Small Group Work: Venn Diagrams of Legal History Movements

Week Three: Legal History Research

Tues, Sept 8: Primary Source Workshop

Annotated Bibliographies

Thurs, Sept 10: Secondary Source Workshop

Portfolio Topic Assignments

Librarians Erica DeFrain & Kent LaCombe

Week Four: Citizenship—A History of Inclusion & Exclusion

Tues, Sept 15: Lecture, US Citizenship & Immigration

*Thurs, Sept 17: What do we mean by citizenship?

Evelyn Nakano Glenn, “Citizenship: Universalism & Exclusion”

Author Bios, Journal Reviews, RRRs

Small Group Work: Defining Citizenship

Week Five: Citizenship & Freedom

Tues, Sept 22: Lecture, Slavery & Reconstruction

*Thurs, Sept 24: Freedom & Citizenship

Eric Foner, “The Meaning of Freedom in the Age of Emancipation”

Author Bios, Journal Reviews, RRRs

Small Group Work: From Slave Codes to Black Codes

Week Six: Citizenship & Contracts—Free & Unfree Labor

*Tues, Sept 29: Reconstruction Era Contracts

James Schmidt, “The Mutation of Free-Labor Law”

Linda Kerber, “The Obligation Not to Be Vagrant”

Author Bios, Journal Reviews, RRRs

*Thurs, Oct 1: Chinese Exclusion & Habeas Corpus

Lucy Salyer, “Judicial Enforcement of Chinese Exclusion”

Christian Fritz, “Habeas Corpus Mills”

Author Bios, Journal Reviews, RRRs

Week Seven: American Indians & Citizenship

Tues, Oct 6: Lecture, Federal Indian Law

*Thurs, Oct 8: Citizenship, Legal Pluralism, & Sovereignty

Sydney Harring, "Savage Sovereignty

Robert Porter, "Redressing the Genocidal Act of Forcing American
Citizenship Upon Indigenous Peoples"

Author Bios, Journal Reviews, RRRs

Small Group Work: Analyzing Indian Law

Week Eight: Families & Citizenship

*Tues, Oct 13: Marriage, Gender, & Citizenship

Nancy Cott, "Marriage & Women's Citizenship"

Michael Grossberg, "19th-c Domestic Relations Law"

Hendrik Hartog, "Lawyering, Husbands' Rights, and 'the Unwritten
Law in 19th-c America'"

Author Bios, Journal Reviews, RRRs

Thurs, Oct 15: Legal History Portfolio Workshop: Topic Descriptions, Historical
Questions & Research Methodologies

Week Nine: Research & Review

Tues, Oct 20: Fall Break, No Class

Thurs, Oct 22: WHA Conference, Guest Speakers on Legal History Internships

Week Ten: Citizenship & Rights—Jim Crow & the Civil Rights Movement

*Tues, Oct 27: Jim Crow Violence & Resistance

Mary Jane Brown, "The Campaign For the Dyer Anti-lynching Bill"

Journal Reviews, RRRs

Small Group Work: Lynching Histories

*Thurs, Oct 29: Civil Rights & Interest Convergence

Derrick Bell, "Brown v Board of Education & the Interest Convergence
Dilemma"

Author Bios, Journal Reviews, RRRs

Small Group Work: Testing Interest Convergence

Week Eleven: Citizenship & the late 20th-c. Women's Movement

Tues, Nov 3: Lecture, Women's Legal History From Suffrage to Hobby Lobby

*Thurs, Nov 5: The ERA, Workplace Discrimination, Roe v Wade Legacies

David Kyvig, "The Defeat of the Equal Rights Amendment"

Katherine Jellison, "The Sears Case in Perspective"

Briggs, et al., "Reproductive Technologies: Roe v Wade in Perspective"

Author Bios, Journal Reviews, RRRs

Week Twelve: Themes in Legal History: Regulating Sex & Marriage

*Tues, Nov 10: Miscegenation & Marriage Equality
Peggy Pascoe, "Miscegenation Law, Court Cases, and Ideologies of
'Race' in 20th-c America"
Julie Novkov, "The Miscegenation/Same-Sex Marriage Analogy"
Justice Anthony Kennedy, Obergefell Ruling
Author Bios, Journal Reviews, RRRs
Thurs, Nov 12: Legal History Portfolio Workshop: Case Briefs & Legislative
Chronologies

Week Thirteen: Themes in Legal History: Race & Ethnicity

Tues, Nov 17: Mexican Americans & Whiteness
*Thurs, Nov 19: Litigating Whiteness
Ian Haney Lopez, "The Prerequisite Cases,"
Author Bios, Journal Reviews, RRRs

Week Fourteen: Workshop in Legal History

Tues, Nov 24: Legal History Portfolio Workshop: Review of Databases, Sources,
Bibliographies
Thurs, Nov 26: Thanksgiving Break, No Class

Week Fifteen: Themes in Legal History: Policing & Criminal Justice Reform

*Tues, Dec 1: African Americans, Police Brutality, and the US Criminal Justice
System: Historical Perspectives
Clarence Taylor, "Introduction to Historical Perspectives on African
Americans, Police Brutality, and the US Criminal Justice
System"
Simon Balto, "Occupied Territory"
Tera Agyepong, "In the Belly of the Beast"
Gail Thompson, "AA Women and the US Criminal Justice System"
Journal Reviews, RRRs
Thurs, Dec 3: Amy Miller, ACLU on Prison Reform & the Death Penalty in Nebraska

Week Sixteen: Legal History Portfolio Workshops

Tues, Dec 8: Sharing Histories & Sources
Thurs, Dec 10: Circulating & Revising Drafts

Mon, Dec 14 at 4pm: Final Portfolio Due via Blackboard

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix C: Author Bio & Journal Review Assignment Samples

Author Bio & Journal Review Submissions (4 samples ranging in quality & topic)

Author Bio Sample 1:

James D. Schmidt focuses on 19th Century United States Legal and Labor History. Dr. Schmidt received his Ph.D. from Rice University in 1992. One year later he began teaching at Northern Illinois University where he is the current Chair of the History Department and teaches history at NIU.

Dr. Schmidt uses critical legal history to assess how state legislatures and the federal government handled labor law in the 19th and 20th century. Through critical legal history, Dr. Schmidt exposes trends in social and political life that effected legislation regarding child labor and free labor. A large part of his work addresses how new developments in history had a profound effect on how labor law was constructed in the United States. The majority of his research has been in the Southern Appalachian States.

Dr. Schmidt has had his work published by Cambridge University and appeared in *Law and History Review* in 2005. Dr. Schmidt won the Philip Taft award for his book "Industrial Violence and the Legal Origins of Child Labor". The award was given to him from the School of Industrial and Labor Relations at Cornell University. His work focused on the American labor market from 1880 to 1920 and how children were forced in to industrialization and factories for minimal pay. We read chapter four from his book entitled *Free To work 1998*, which focused on free labor in the South at the time of the Civil War and then during the reconstruction era. Dr. Schmidt analyzed the antebellum North and South in conjunction with a new capitalist labor market where he made connections to the new concept of labor laws. His latest work focuses on violence in 19th and early 20th century schools.

Author Bio Sample 2:

Evelyn Nakano Glenn born to second generation parents, Glenn was imprisoned with thousands of other Japanese Americans in internment camps from 1942-1945. After being assigned to live in a horse stable in Turlock, California she moved and crossed the western states until 1945, where she then moved to Chicago until the age of sixteen. She received her bachelor's degree from the University of California, Berkeley, and she went on to get her PhD from Harvard University. She has also had the opportunities to work at the University of Hawaii, Binghamton University, Florida State University, and Boston University. She is currently working at the University of California, Berkeley. She is a professor in the Ethnic Studies Department in Asian American Studies. Her major research interest encompasses immigration, citizenship, and labor markets, and how race, gender, and class relate to those areas. Her work is known to be more in line with ideas of Critical Race Theory.

Along with her teaching she has also written several publications. Some of her more known works include: *Force to Care: Coercion and Caregiving in America* a book written in 2010, *Mothering: Ideology, Experience and Agency* she was an editor for in 1994, and she also wrote in 2009 *Shades of Difference: Why Skin Matters*. She is also the Founding Director of the University's Center for Race and Gender. She also served as President of the American Sociological Association from 2009-2010. In 2004 she won the Outstanding Book Award from the American Sociological Association Section on Asia and Asian America. In 2007 she received the award of Feminist Lecturer for Outstanding Feminist Sociology, given to her by the Sociologists for Women in Society. Most recently she has decided to take up two new projects.

One on how immigrant activist are challenging the major beliefs of citizenship, and the other on studying the intersectionality of race, gender, and class.

Journal Review Sample 1:

The *American Indian Law Review* is published by the University of Oklahoma's College of Law and was established in 1973. The stated areas of interest are on the legal issues with Native Americans and Indigenous people worldwide while it abides by traditional law focused on Indian-Law related topics such as self-determination, tribal jurisdiction, tribal sovereignty, and citizenship. They also hold the American Indian Law Writing competition open to enrolled law students in the United States and Canada.

The Major topics and themes in the last 5 years are the rights of ancestral lands and natural resources, reason to revisit Maine's Indian Claims Settlement Acts, bridging-line rules for Tribal Court Jurisdiction over non-Indians, Land Fractionation, ethnocentrism with a Native American Cultural Defense, law of property division in Native American divorce, cultural and religious privacy through the promotion of property rights, colonization practices in historical practices in the eleventh circuit, multiple taxation of non-Indian oil and gas, balancing constitutional rights, self-determination, executive clemency based on norms of international human rights, overlapping sovereignty, and several other topics within the topic of Native American and Indigenous people's rights.

The *American Indian Law Review's* approach to legal history focuses Native American and Indigenous people's rights within tribal courts and the American court system covering a vast range of topics from self-determination, citizenship, property laws, divorce, and other related topics in native law issues. It takes on the Critical Race Theory with a focus in identifying the Indigenous people and Native American rights and the relationship between tribal sovereignty and political activism in American politics. The importance of this law journal is that it aids in the understanding of how Native American and Indigenous people's issues drives law when dealing with tribal law and American law which is essential when dealing with topics that occur in both court systems.

Journal Review Sample 2:

The Journal of American Ethnic History is the official journal of the Immigration and Ethnic History Society. The journal was published by the University of Illinois Press and it covers many aspects of North American immigration history and American ethnic history. Topics covered include, background of emigration, ethnic and racial groups, Native Americans, race and ethnic relations, immigration policies, and the processes of incorporation, integration, and acculturation. Each of the issues contain articles, review essays, and single book reviews. The journal also features occasional scholarly forums, Research Comments, and Teaching Outreach essays.

Some of the more recent topics that emerge over the last few years from the journal touch on the process of migration, adjustment and assimilation, group relations, mobility, politics, culture, and group identity. The topics are relevant to issues over American history that impact ethnic and social processes. The journal is relevant to legal history research because of the topics of each book and article.

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix D: Readings Responses & Review Assignment Samples

Readings Response & Review Submissions (4 Samples ranging in quality and topic)

RRR Sample 1:

The article "Critical Legal Histories" was written by Robert W. Gordon and published in the Stanford Law Review in 1984 (around the time that economic analyses, legal rights, and the coherence in legal reasonings were being examined in the United States) which dealt with his critique of how critical legal writers viewed legal history. His critique first divulged into evolutionary functionalism and how legal doctrines were shaped by political and economic developments that lead to a split system which dealt with fluctuating cultural and social trends. Gordon examined the variations of how the critical legal writers viewed traditional law practices (the dominant theme) with factors such as social class and power (the elite class in particular), the conflict of law versus society, and how doctrinal history was controversial in the sense that there were hypocritical ideologies.

The laws Gordon addressed dealt mostly with social needs such as labor laws in the early 1900s, Indian Removal Laws in the mid to late 1800s, Black Codes which started in the 1860s, Marital Rape laws in the 1970s, and lastly laws that dealt with social class and socioeconomic status dated back to the European Parliament in the 1700s before the formation of American Law in the United States. Gordon encompassed all those particular laws down to the idea of social needs and how society adapted to these laws which brought up formalism and realism as parties of evolutionary functionalism.

Gordon's argument as a whole is an analysis of the critics who see law as indeterminate due to the shifting of social needs and economic and political viewpoints in which he points out that they (the critical legal writers) have not entirely grasped the idea that doctrinal history has any causal attributions of how law affects people's behaviors. His purpose is expose how law has been founded on controversy and contradictions by those who study legal doctrine.

Gordon's article is related to the legal history of citizenship because it is a standard that legal historians use to explain legal history itself. He examines the central themes of evolutionary functionalism that displays how there is a split in functionalists' theories; yet it conveys the message that society's social life is far more complex and has overlapped in legal studies.

My assessment of Gordon's article is that he has a structured argument which assists in creating a foundation of how legal history began as a traditional, dominant theme, how it evolved into separate parties of formalism and realisms, his critiques of these two parties, and into his final point of how legal history should be practiced. I learned that law and society can be separate entities; however they are very dependent upon each other when it deals with legal studies and social aspects of society. The questions that I raised was: how did the practice of law respond to diverse cultural responses when there is no single set of functional responses due to the modernization process?

RRR Sample 2:

The "Meaning of Freedom in the Age of Emancipation" develops the idea of freedom through a series of cultural and political shifts in America. Eric Foner looks at the idea of freedom with regards to the traditional American thought, to the ideal liberties before America, to the lack of

freedom in regards to slavery and woman liberties. Foner elaborately discussed the issues of freedom in America to prove that freedom has always been an every changing concept, different for different groups of people and also excluding different groups of people. The way that Foner effectively displayed the changing of freedom and liberties was through the struggles of people seeking more freedom or liberties. Foner's main focus however was on the struggle for abolitionists to gain freedom for blacks in America.

Some main laws and amendments that Foner discusses includes: the 14th amendment (June, 1866), which included the enshrined notion of equality before the law and the 13th amendment (Jan, 1864) which abolished slavery and made blacks according to the law, equal to whites. Although these were huge milestones for African Americans, after reconstruction African Americans only remained half citizens.

The purpose of Foner in this article was to take the reader through the not so perfect struggles for the American liberties as advertised to the rest of the world, mainly focusing on the African American struggle with slavery and citizenship rights. However, Foner also proves that even though a group gets his citizenship doesn't mean they gain all the liberties of being a citizen, as John Langston states, emancipation proved to be severely limited and did not grant full liberties.

This text relates directly to what we are discussing because it provides us with great context when discussing the emancipation struggles of the African Americans in class. This in-depth look at what we discussed in class gives us a well credited view point to analyze.

I really enjoyed Foner's way of writing and assessing issues. Foner never strayed away from an issue, specifically enjoyed that he was really critical of the idea of American freedom, stating that although it is blown up to be great and perfect, that it presents itself as a new idea that was and still is growing to be the idea that everyone wants it to be. I wonder though if these concepts of full liberties are true for all white protestant Americans, prejudices stretch farther than just color and religion.

RRR Sample 3:

This article details the success of Chinese petitioners of U.S. Federal courts to have their access to the U.S. granted, an act that was severely limited following the Chinese exclusion laws of 1882, 1884, and 1888. Salyer discusses the courts desire to adhere to court traditions and characteristics of judicial independence, especially in the case of writs of habeas corpus. These writs, which were vigorously defended by the courts, allowed the Chinese the opportunity to appear before the court in order to have their access into the country granted.

The article mentions many cases and laws, including but not all:

The aforementioned Chinese exclusion laws- These laws limited entry of Chinese into to the United States only to non-laborers and those born in the United States.

In Re Jung Ah Lung 1888- A district court in San Francisco upheld the right of Chinese to obtain writs of habeas corpus.

Quock Ting v. United States 1891- The Supreme Court ruled that the court could decide to reject Chinese entry to the country even if their testimony was not contradictory. This case is used to highlight the rather peculiar witness testimony methods used by the courts. The court required Chinese petitioners to provide witnesses that could attest to their justification for

being allowed entry. The questions used were often bizarre, irrelevant, and required the witness to recall minute details from years prior.

United States v. Ju Toy 1905- The Supreme Court effectively cut off the Chinese from having access to the courts, which was their avenue into being granted entry into the United States. The argument of the article is discussing the way in which the Chinese benefited from Federal court adherence and defense of judicial traditions and independence, particularly habeas corpus and evidential standards. With sufficient evidence, the Chinese petitioners found success in being granted access to live in the United States. However, the article does argue that certain procedural traditions of legal proceedings were violated by these courts, as seen in the examination of petitioner witnesses.

The article relates to our class topic of citizenship and judicial enforcement of laws, as Chinese exclusionary laws were not adhered to completely by federal entities, as seen by the granting of Chinese access by federal courts. This provides a somewhat analogous situation to the enforcement of vagrancy laws, as they were enforced in some instances but not in others, and there were apparent avenues around the enforcement of these laws as written in legal codes. This article also provides a contrasting view to a topic discussed earlier in the semester, particularly highlighted in the Dred Scott case, as black slaves were determined to not be citizens, therefore they could not bring a case to court. The article shows how Chinese non-citizens were able to bring their case to courts prior to the Ju Toy decision in 1905.

The article was particularly strong in providing an overview of the legal circumstances that the Chinese faced in the late 19th and early 20th centuries, while providing a commentary on the attitude of the federal courts in regards to the principles of the legal tradition that they sought to defend and uphold. I learned about how complex the situation regarding Chinese immigration during this time, as numerous laws seemed to contradict and conflict with another, as well as provide various loopholes that were to the benefit of the Chinese. My question is why did these courts uphold judicial and legal principles in the case of Chinese, but not decades before with black slaves?

RRR Sample 4:

Simon Balto's article "*Occupied Territory: Police Repression and Black Resistance in Postwar Milwaukee, 1950-1968*" focused on the issues that were presented between the black community and the Milwaukee Police Department in the time after World War II. Milwaukee's African American population did not really exist until after the end of WWII, which made it very hard for the community to adjust.

The article mainly focused on cases that occurred between MPD and the black inner core community. Balto starts out with the case involving a "riot" outside of the Romanesque building, which had held a recreation program for the teenagers in the community, on October 30th, 1956. This case was referred back to throughout the article. Balto, also, talked about the murder of Daniel Bell in 1958, the murder of Emeit Clemons in 1948, the killing of Murray Henry in 1950, and the killing of Roscoe Simpson in 1959. All of these killings created a feeling of angst in the community, as none were believed to be just. The "freeholders clause" is also talked about in the article, which was the clause that made it impossible for citizens that did not own property to file complaints against the Fire and Police Commission in Milwaukee.

Simon Balto makes the argument that there were a lot of issues in the time that followed WWII in Milwaukee's inner city area. Many African American Milwaukee citizens did not view the MPD as their protectors, but as their enemies. The argument made in this article, is that they were correct. While he did not come completely out and say this, there is a lot of evidence presented to back up this fact.

Week fifteen's theme of "Policing and Criminal Justice Reform," is very apparent in Simon Balto's article. The reform that needed to take place in the policing tactics and formal guidelines were made apparent by all of the examples of bad policing and the idea of the freeholder clause.

I think that idea of presenting evidence and allowing your audience to create their own opinion is a great way to read an article. Coming about the argument on your own makes it more convincing than someone telling you what you should think. I always think of bad, racist policing in terms of the south, so it really opens my eyes reading things that come from the Midwest and the North. I really would like to know more about the freeholder clause. How was it possible to protect these people, yet at the same time systematically make it impossible for them to protect themselves? Also, was it still a clause when it came to white, non-landowning Milwaukee citizens?

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix E: Legal History Portfolio Samples

Legal History Portfolio Submissions (2 samples of high quality submitted for sake of brevity)

Legal History Portfolio Sample 1:

Individual Rights & Protections Against the State from the 4th & 5th Amendments to the Miranda Ruling

Topic Description-

The topic of research in the following portfolio is "Individual Rights and Protections Against the State from the Fourth and Fifth Amendments to the Miranda Ruling." This topic has to deal with two of the most controversial Amendments that have been difficult to interpret and enforce by judicial courts and law enforcement throughout the nation since their inception, due to loose-leaf terms originally written in the Constitution of the United States, by the nations founding fathers. The main focus of the portfolio will be on the evolution of the Fourth Amendment. The Fourth Amendment was created originally to curtail military forces in colonial times from entering citizen homes and taking their possessions. The Fourth Amendment states it gives citizens "The right of the people to be secure in their persons, houses, papers against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause." In my research I want to look at landmark cases such as *Weeks v United States*, *Terry v. Ohio*, and *Mapp v Ohio* and analyze those cases for how interpretations of the Fourth Amendment have changed the defining of the terms reasonable suspicion and probable cause by way of the exclusionary rule and police misconduct.

Today more than ever the topic of individual rights is interesting because there have been laws like the Fourth and Fifth Amendment that have been concrete laws since the inception of the nation but continually remain to be problematic in the way their interpreted and will continue to be because society is changing everyday by way of technological advancement, and new particular cultural interests such as that of the legalization of marijuana, which can alter how the police interact with citizens which can become problematic. The most problematic portion of the Fourth Amendment is the ability for police, lawyers and judges to define what is "probable cause" and "reasonable suspicion" when looking for criminal activity in a vehicle, in a house or on a person walking down the street. Thankfully because of the hard work of lawyers and the courts, landmark cases like *Terry v Ohio* (which proved cops have the right to stop anybody based on their judgment of probable cause of suspicious activity), and *Weeks v United States* have been decided on to give basis for how courts should act in the future when given the same situation. However because the Constitution is unclear in its terms in the Fourth Amendment there has been a long standing history of police misinterpreting the Fourth Amendment, and case's such as Nebraska's case in 2012 of *Rodriguez v United States* proves that the problem remains today.

The courts and especially police organizations have an egregiously hard and problematic task of defining what is the true meaning of “probable cause” and “reasonable suspicion when enforcing these laws because of the loosely written terms in the constitution and for the failure to realize that societal advancements such as the creation of the car and the flashlight would change how the law was originally meant to be enforced by the founding fathers. I believe that research needs to be done because there have been numerous cases where probable cause is unclear and can lead to incriminating evidence to citizens by police and negative stereotypes against them that need to be curtailed because illegal actions by police like violating peoples civil rights granted by the Fourth and Fifth Amendment is an education issue. If many more Police officers and citizens were educated on their civil rights at earlier ages, then there would be fewer problems between the judicial/law enforcement community and the citizens who inhabit the working community. In my primary source book “Evaluating capacity to Waive Miranda Rights” its found in a case study that only about 10% of kids actually know their civil right that they have the right to an attorney and only about 1% actually have an attorney present while talking to the police, which would certainly lead to self incrimination by way of an authority figure. To combat this educational programs to teach the Fourth and Fifth Amendment would prove tremendously beneficial to how citizens portray the police. This research is important because issues like societies culture continually changing are problematic for the judicial system, and if the majority of the community knew their rights it would help stop some negative bias and problems against police that are continually coming up across the nation because of the loose leaf terms originally written in the Constitution of the United States of America.

Historical Questions & Methodology

1. Change over time- How have landmark courts cases have helped redefine the fourth amendment?
2. Cause and Effect-How has the failure to define “probable cause” and “reasonable suspicion” been problematic?
3. Comparison- Where did the police interpret the Fourth Amendment/Fifth Amendment correctly vs. incorrectly? How many people know their Miranda rights vs. do not?
4. Conceptual- How can we prevent the negative police bias growing in the community like the one in Ferguson?
5. Process- What technologies/tactics have been used/evolved by police, and judicial system to combat the change in culture and the increasing advancement of technology over time by society to enforce the Fourth Amendment?

Following the great minds like that of Lawrence Friedman I will take on the Law and Society perspective to develop an argument that societies advancements and culture at a certain point in time, dictate how law is created as a defensive shield to

protect the Constitution and its laws, but that the laws terms are very loose and are problematic to enforce for that reason. The law and society perspective portrays that law will be created in the short term to combat judicial needs but that society and creation of judicial law in the long term is most affected by societal changes. Today problems such as police misconduct would best be stopped by providing education classes in school to children so they can grow up not being scared of the police. If more citizens were to take on the law and society perspective we can help educate the people who do not know their rights entrenched in the Fourth and Fifth Amendment.

The majority of the information to develop my argument comes from Supreme Court decisions I found on Hein Online Legal, which are considered landmarks in judicial reform due to the level of the court that decided on them. The main case I'll be looking at and providing a brief over is *Terry v. Ohio* which highlights an important moment for federal government in defining an example of what "reasonable suspicion" looks like in a federal court room. In my research (through J Store) I found a particular author by the name of Orin Kerr, who developed the Equilibrium-Adjustment theory of the Fourth Amendment, which enhances my Law and Society perspective. In simple terms it states that if Judges see that society is preventing police from catching criminals based on illegal searches and seizures then judges will start to rule in the opposing favor. I plan to endorse his perspective through primary sources such as court cases and through secondary articles from J store.

Case Brief-

Case name: *The state of Ohio Appellee, v Terry, Appellant*. 5 Ohio App.2d 122 214 N.E.2d 114, 34 O.O.2d 237

Facts: A Cleveland detective named Mark McFadden was patrolling a street in downtown Cleveland when he noticed John Terry and his friend Richard Chilton walking up and down a the side walk and staring in a store window a total of twenty four times. He finally pursued the two and stopped them in the front of a nearby store and identified himself. At that point Officer McFadden turn the two suspects around and patted them down and found a 38 caliber handgun in Terry's pocket. Following the finding the two were arrested and taking to jail.

Procedural History: After Terry and Chilton's attorneys' failure to suppress the weapons from court based on the ground that McFadden violated their fourth amendment right to un lawful searches and seizures Terry, and Chilton plead not guilty but were late found guilty by a jury.

Issue: Did officer McFadden have "Probable cause" to search Terry and Chilton? And was the evidence (handguns) admissible in court? Did the patting of the outer clothing fall the legality of the constitution? Does the exclusionary rule constitute that the evidence should be thrown out?

Holding (and Judgement): "The court erred in not sustaining defendant's motion to suppress that the initial arrest was legal." "The court erred in refusing to apply constitutional guarantees prohibiting illegal searches and seizures and therefore adding a judicial doctrine of stop and frisk."

Pre-Existing Rules: The conflicting rule was if the exclusionary rule (evidence gathered illegally by police is not admissible in court) applied to this situation. Did officer McFadden gather the handgun illegally?

Reasoning: The main reasons the Supreme Court decided upon that the evidence was gathered legally are as follows: The careful exploration of the outer surfaces of a person's clothing in an attempt to find weapons is a "search" under the Fourth Amendment, though the police must, whenever practicable, secure a warrant to make a search and seizure, that procedure cannot be followed where swift action based upon on-the-spot observations of the officer on the beat is required, and the reasonableness of any particular search and seizure must be assessed in light of the particular circumstances against the standard of whether a man of reasonable caution is warranted in believing that the action taken was appropriate.

Concurrences: Mr. Justice Harlan-, "A police officer's right to make an on-the-street "stop" and an accompanying "frisk" for weapons is, of course, bounded by the protections afforded by the Fourth and Fourteenth Amendments. The Court holds, and I agree, that, while the right does not depend upon possession by the officer of a valid warrant, nor upon the existence of probable cause, such activities must be reasonable under the circumstances as the officer credibly relates them in court. Since the question in this and most cases is whether evidence produced by a frisk is admissible, the problem is to determine what makes a frisk reasonable."

Dissent- Fortas: "The opinion of the Court disclaims the existence of "probable cause." If loitering were in issue and that was the offense charged, there would be "probable cause" shown. But the crime here is carrying concealed weapons; and there is no basis for concluding that the officer had "probable cause" for believing that that crime was being committed. Had a warrant been sought, a magistrate would, therefore, have been unauthorized to issue one, for he can act only if there is a showing of "probable cause." We hold today that the police have greater authority to make a "seizure" and conduct a "search" than a judge has to authorize such action. We have said precisely the opposite over and over again."

My Comments: In this confusing yet landmark case evolving the Fourth Amendment I happen to agree with the Dissent from Justice Fortas, because had there not been a gun in his pocket there would have been no charge even though he was continually loitering. In my mind McFadden should have gone into the store they were looking at to make his presence known, instead of confronting them to find to see if he could get Terry and Chilton to leave the area, or find further evidence instead of going on his hunch.

Annotated Bibliography-

Primary sources:

"Weeks v. United States." 232 (1914): 383-398.

In this landmark Fourth Amendment case the Supreme Court held unanimously that the warrantless seizure of items from a private residence based on "probable cause" alone constitutes a violation of the Fourth Amendment (exclusionary rule). On December 12 1914, Fremont Weeks was arrested on the allegation and "probable cause" that he was sending lottery tickets through the mail. After officers arrested him they went to the house of Weeks where the neighbor showed the officers where a key was under his doormat. The officers went in without a warrant and then later brought a U.S. Marshall in to collect the incriminating evidence (which they found) again on "probable cause" only with no warrant. Later Weeks was found guilty on the charge, but overturned eventually by the Supreme Court and was handed everything the officers collected as evidence and let go. This is a landmark case proves how officers failed to get a warrant and thought "probable cause" was enough to incriminate Fremont Weeks. This is great case to show how citizens have developed protection from the Federal government against warrantless searches from the Supreme Court and that those difficult terms contained in the Constitution like "probable cause" can affect how police officers protect or incriminate citizens.

"Mapp v. Ohio." 367 (1961): 643-686.

In this landmark Fourth Amendment case The Supreme Court extends the exclusionary rule that was defined in Weeks v United States to also apply to state courts as well. This case highlights another significant win for citizens in the protection of police, and yet another example of a case where police failed to know where to apply the Fourth Amendment correctly. In 1961 three Cleveland Police officers showed up to Dollree Mapp's house to with information that a suspect was hiding in her house that was connected with a recent bombing. The cops asked for her permission to enter and were denied. They then returned four hours later and forcibly entered the home. They found pornographic paraphernalia and illegal betting slips in a room in her house and she was arrested. The Supreme Court upheld that the exclusionary rule that was formally only applicable to federal evidence obtained illegally should also extend to the state courts in evidence obtained illegally. This is another case that proves officers the difficulty officers have interpreting the Fourth Amendment. This is a good case to show that fourth amendment has been a continual problem for the courts and holds as a median point for my research between Weeks v United States and Rodriguez v United States

in showing that citizens protections rights from the Fourth Amendment are continually evolving.

"Miranda v. Arizona." 384 (1966): 436-545.

The main case this primary source looks at is Miranda v Arizona. This article examines Miranda V Arizona as a prominent case in the advancement of individual protection rights against the state. The article states Miranda was never given his right to counsel and was held for two days for interrogation without any notification of his rights, which was held to be unlawful. The article contains a list of the Miranda rights and how they are to help people against unlawful police action. I intend to use this case/article as a landmark in the development of constitutional revisions the Fifth Amendments has undertook since its inception to help people against unlawful police action. This case also helps highlight what police tend to do to get around the Fourth Amendment. I intend to use this case in my research to show how the Fifth Amendment was made to help people but the fact that many do not know their simple Miranda rights which police officers will exploit to gain confessions and evidence against a defendant. Also I will use this case in my research to compare the continual change of the Fifth Amendment to the Fourth amendment from its inception to present day.

"Terry v. Ohio." 392 (1968): 1-39.

In this 1968 Supreme Court case on Heine Online the defendant Terry is found guilty of possessing an illegal firearm due to a warrantless search by a plain-clothes officer based solely on "reasonable suspicion" and "probable cause." A Cleveland detective named Mark McFadden was patrolling a street in downtown Cleveland when he noticed John Terry and his friend Richard Chilton walking up and down a the side walk and staring in a store window a total of twenty four times. He finally pursued the two and stopped them in the front of a nearby store and identified himself. At that point Officer McFadden turn the two suspects around and patted them down and found a 38 caliber handgun in Terry's pocket. Following the finding the two were arrested and taking to jail. Later Terry was found guilty because the Supreme Court held that "a reasonably prudent man would have been warranted in believing [Terry] was armed and thus presented a threat to the officer's safety while he was investigating his suspicious behavior." Terry v. Ohio again highlights the egregious time the courts have with establishing concretely where the Fourth Amendment can be upheld based on "reasonable suspicion" and

probable cause without a warrant. This case establishes a win for the protections of officers over citizens in interpreting the Fourth Amendment.

Rodriguez v. United States 741 F. (2012) 3d 905

In the development of Fourth Amendment cases over the years, there have been numerous cases such as Mapp v Ohio, and Terry v Ohio that have changed how the Fourth Amendment will be forever interpreted. In recent years one of those cases took place right here in Nebraska. In this case Denny Rodriguez was stopped by an officer in Waterloo Nebraska for driving on the highway shoulder. After Officer Struble gave a citation he asked if he could have his dog walk around the car. Rodriguez replied no and then Struble called for backup and had a dog search the car without a warrant. They found methamphetamine and Rodriguez was arrested. Later Rodriguez is found not guilty because the officer did not have enough reasonable suspicion to prolong the traffic stop any longer to bring in a dog to search and to find incriminating evidence. This is a landmark case for the Fourth Amendment because it shows that Nebraska interprets traffic stops as a Terry stop on the street. I will use this case to show how Fourth Amendment is still an active problem and how it is abused even today by police officers. Fourth Amendment cases like this will continue to be a problem for people in Nebraska and Colorado due to aspects like the legalization of Marijuana, which aids in my perspective that society influences judicial outcomes in cases involving the Fourth Amendment.

Secondary Sources-

Goldstein, Alan M., and Naomi E. Sevin Goldstein. *Evaluating Capacity to Waive Miranda Rights*. Oxford: Oxford University Press, 2010.

This book by the Alan, and Naomi Goldstein is a particularly good source on Miranda rights because it offers the statistics for those who waive their Miranda rights, and what the implication for them means. I intend to use the case study section of juvenile's in the courtroom to show that teens and young adults lack the competence of their 5th amendment rights, which can be exploited by the police to get the people to incriminate themselves. The Goldstein's highlight a great study in 2005 by (Viljoen, Klaver, & Roesch) in which of 114 youth, only 10% reported having asked for a lawyer, and only 1% actually had one present during interrogations. Of course the tension of being in an interrogation is tough on adult, but especially children. It's troubling to me that many kids have the right to an attorney and simply don't know they can which can further how they can be

manipulated by superior men of the law. I intend to use this book to show that the Fifth + Fourth Amendment doesn't just apply to a certain group of society by that its spread out and often kids are stuck not knowing what to do in a tough situation. I will use this article to show that some of our problems today with police could be avoided if kids had a better education of their rights when they were young, and help them to not be exploited by police.

Inbau, Fred E., and James R. Thompson. 1999. "Stop and Frisk: The Power and the Obligation of the Police". *The Journal of Criminal Law and Criminology* (1973-) 89 (4). Northwestern University School of Law: 1445–48. doi:10.2307/1144193.

Another major issue regarding the Fourth and Fifth Amendment is the "stop and frisk policy." This article contains information regarding when police have the right to search an individual, and represents this through the landmark case of *Terry v. Ohio*. The article explains that an officer has the right to stop any individual on the street, and pat them down for weapons or contraband when suspicious behavior has occurred without a warrant. This has become known as a Terry Stop. Terry stops are problematic for many reasons and are used in many places especially airports, but I intend to use this article to show why there is a need for the Fourth Amendment and how it is beneficial to society. This article is great for comparing when police got it wrong and where police have gotten in response to *Terry v. Ohio*. I also want to use this article to bring awareness to people that Terry stops are lawful, and that vehicular stops are to be treated the same as a stop and frisk, and are basically nothing more than a quick chat rather than an interrogation. Many people have the notion that it's illegal for the police to just stop them on the street or in public and that's entirely false, and this article helps to prove that. I also want to use this article to show the need for community awareness about stops because they can lead to further complications such as that of Michael Brown.

Kerr, Orin S.. 2011. "AN EQUILIBRIUM-ADJUSTMENT THEORY OF THE FOURTH AMENDMENT". *Harvard Law Review* 125 (2). The Harvard Law Review Association: 476–543.

This Article from the Harvard Law Review by Orin S. Kerr explains how search and seizure techniques/technologies have changed over time to combat the elements to catch criminals, everything from the use of flashlights to dogs. Orin explains that judicial policy uses the equilibrium-adjustment which acts as a correction mechanism to combat the constant changes in technology that prevent police from catching criminals based on illegal searches and seizures. For example how window tint, and passcodes on phones have helped people avoid searches and seizures. Orin's argument of equilibrium-adjustment theory says, "When Judges perceive that changing technology or social practice significantly weakens police power to enforce the law, courts adopt lower fourth amendment protections for these new circumstances to help restore the status quo." This quote shows the power judges have over individual rights. Also this article properly defines what is

exactly a search and what exactly is a seizure. This is a great article to show the law and society perspective the Fourth Amendment undertakes and proof that society is evolving everyday and that police tactics are as well that influence how the Fourth Amendment is interpreted. The equilibrium-adjustment theory is fascinating and will serve as a facilitating piece for the research on the Fourth Amendment.

Maclin, Tracey. *The Supreme Court and the Fourth Amendment's Exclusionary Rule*. Oxford: Oxford University Press, 2013.

In this Oxford University press book Tracy Maclin gives a thorough analysis and evolution of the exclusionary rule and why it is so crucial to defendants in cases against the state. I intend to use this source as an instrument to further my argument of evolution the Fourth Amendment has taken since its inception. I will use this source for information regarding landmark Fourth Amendment court cases such as *Weeks v. The United States*, and *Mapp v Ohio*, and the origins/problematic exclusionary rule, (which protects citizens against evidence obtained illegally by state police) to show how these landmark cases still dictate judiciary rulings today in state and federal courts. I will use those court cases to distinguish how the exclusionary rule is used and how its previously been upheld in court. I will also use this source to proclaim that many police officers do not know the specifics of the Fourth Amendment by way of a case study, which can influence how they interact with a citizen, and possibly violate their rights. This book will help exemplify the law and society perspective the research I will undertake contains. This book shows society can influence judicial proceedings, and helps further the argument that society is the driving force behind judicial change

Stuntz, William J.. 1991. "Warrants and Fourth Amendment Remedies". *Virginia Law Review* 77 (5). Virginia Law Review: 881-943. doi:10.2307/1073442.

One of the biggest problems surrounding the Fourth Amendment is the illegal use of warrants. The article examines how the FBI and Police organizations obtain warrants and the problems pertaining to how they get them, apply them, and what else there able to do with them. Stuntz notes that it is tough to administer a warrant without breaking the Fourth Amendment because it's egregiously hard to define "probable cause." Another problem he highlights is that search warrants are administered and executed before they are thoroughly looked at by a review board to see if it was a violation of the Fourth Amendment. The problem lies in the fact that if they did find illegal evidence what are the odds a review board is going to find the search illegal are very slim. I intend to use this article to reveal the greatest problem the Fourth Amendment has and that is the problem of deciding whether a warrant is legal based on the terms "reasonable suspicion" and "probable cause" outlined originally in the Constitution. I intend to also show that this is a continual problem and will continue to be one especially with the changes in Marijuana laws in the United States.

Legal History Portfolio Sample 2:

Violence Against Women Act 1994

Topic Description

The Violence Against Women Act of 1994 (VAWA) was promoted by Senator Joe Biden (D-DE) and was included within the Violent Crime Control and Law Enforcement Act of 1994 as the fourth section. The Act would later be passed that same year under the Clinton Administration. Under his administration, comparable acts and laws were pushed through Congress as a means to counter rising violence such as: family violence, domestic violence, and sex crimes. Prior to VAWA's passage, women's rights and protections under the law were almost non-existent. Until the 1880s most states regarded domestic violence as a property crime because wives did not have rights against their husbands. Later into the 1900s with the rise of violent crime rates in the 1960s during the Civil Rights Movement and into the 1970s during the Women's Liberation Movement there would be legislative changes made to allow women to protect themselves against their abusive husbands. Violence against women had become a topic of concern from the local to national level in the late 1970s, so legislators began the construction of legislation to reduce violence and specifically domestic violence into the 1980s. The reasoning is due to the lack of legislative protections and civil rights in the Criminal Justice System. It was not until the mid-1980s and 1990s when legislation, such as VAWA, was passed in Congress. The Violence Against Women Act of 1994 focused on providing grants for specialized training for law enforcement and additional services and programs tailored to victims of domestic violence. It established the Office on Violence Against Women and the National Domestic Violence Hotline, altered penalties for those convicted of sex crimes, and included restitution for domestic violence victims.

There have been three revisions of the Violence Against Women Act: 2000, 2005, and 2013. Today domestic violence is still a local, state, and national dispute being debated upon in Obama's 2015 administration. The 2013 revision sought to extend assistance to domestic violence victims, federally funded program, and training courses when it was passed. Yet the 2005 revision expired in 2011, which meant that those federally funded programs were uncertain about their situation. For two years, Congress was unable to agree upon the terms of the reauthorization. The 2013 revision included the previous corrections of dating violence, sexual assault, and stalking and modified definitions such as intimate partners (i.e., current and former spouses, current and former boyfriends/girlfriends) and underserved populations (i.e., religion, sexual orientation, or gender identity). The updated definitions were seen as not detailed enough and quite vague because they did not specifically include same-sex couples within the intimate partner definition but only indirectly within the underserved populations' definition. A highly debated subject that is left out entirely from all revisions of VAWA is the concept of self-defense. Self-defense as a means of training for the prevention and termination of further abuse and as defense tactic within the United States courtroom called the Rape

Aggression Defense (RAD) are not directly nor indirectly stated within any of the VAWA revisions. In other words, VAWA has not funded self-defense courses nor has it defined self-defense as a viable defense for victims to defend themselves in the court room (especially in the case when the attacker is killed). Even though the 2013 revision is attempting to aid women, it is not a novel debate that has arisen just in the 21st century. The issue of women's rights originates as early as the 19th century when women were treated as property not people in the eyes of the court. This long-standing fight for women to gain protections under the law is debated alongside the topic of women's equality under the law which is a highly controversial debate still being held today. With the 2013 revision extending until 2018, the flaws of VAWA cannot be redirected until its expiration.

In addition to VAWA's 1994 contemporary implications, there are the historical circumstances which led up to its creation. In Glenn and Foner's articles, they explain women's citizenship and freedom as property of her husband and with little to no civil, political, and social rights. In the 1800s the United States' court system did not allow for a husband to be convicted of rape or domestic violence let alone allow a woman to sue her own husband since she was regarded as property. It was not until at the state level when Alabama became the first state to convict a husband of assault and battery against his wife in *Fulgham v. State* 1871. Maryland soon followed and added a public law in 1882 which criminalized wife-beating. Almost a century later in 1975, Pennsylvania created the first organization to protect battered women called the Pennsylvania Coalition Against Domestic Violence and passed the Protection from Abuse Act in 1976. It was the first state to legislatively address domestic violence and the violence against women. At the same time Nebraska passed LB 23(1975), replacing their current rape laws, which defined sexual assault and other sex crimes punishable by the state. The landmark case *State v. Willis* 1986 applied Nebraska's new law when the Nebraska Supreme Court determined that Willis did in fact rape his wife and was convicted of first degree sexual assault. Nebraska led the nation as the first state to allow the marital rape exemption. Prior to the *State v. Willis* case, Congress passed the Family Violence Prevention Services Act 1984 and Victims of Crime Act 1984 which both targeted victims of family violence such as women and children. They would lay the foundation for the passage of the Violence Against Women Act 1994 and later the revisions in 2000, 2005, and 2013. The Violence Against Women Act is a fairly unknown piece of legislation and so is the background of women's citizenship. In an effort to educate the United States citizens and non-citizens of their human rights and protections under VAWA, there needs to be an increased understanding of how people are protected and who is or isn't protected. It also includes the United States federal government's position of responsibility, the elements left out of VAWA, and the connections with Tribal Indian courts and their government.

Historical Questions & Methodology

1. Change Over Time- What are the advancements in protections for women or victims from husbands or offenders over time from the 1800s to present day?
2. Cause & Effect- Which events led to the revisions of the Violence Against Women Act from 1994, 2000, 2005, and 2013?
3. Comparison- What are the differences between victims of domestic violence who are citizens of the United States, immigrants, Native Americans, and others who are not protected?
4. Conceptual- What are the cultural, judicial, political, social, and economical factors when dealing with the Violence Against Women Act?
5. Process- How has the ineffectiveness of the Violence Against Women Act affected the Criminal Justice System and society?

The approach that will be applied to the Violence Against Women Act is established by the sources which favor a critical legal history interpretation based upon the subtopics chosen in the research. The critical legal history approach will be employed because the history of women's violence and domestic violence over time has been a political and legal debate since the 1800s and displays how history is not tradition. The dispute over the continued revisions and extended relief is linked to the politically powerful lawmakers who decided what is revised or added to the act. It is not based upon social evolution and progressivism because there had to be legal improvements for change to occur. The legal changes cause a shift in social conditions for women and victims of domestic violence. Except the attempts by congressmen led to additional modifications because of unconstitutional provisions and vague definitions. The definition were constantly evolving which prompted lawmakers to correct the law due to its flaws. Furthermore it is the most appropriate approach because the contemporary questions and sources all are critical of VAWA. It is because the act it not faultless. If it was perfect there would be no need for revisions; yet the revisions are necessary because of social, political, judicial, cultural, and economical influences. It is logical to make a statement as such because women's history has not been always tradition. It has been the complete opposite. Women have been striving to transform laws to break away from tradition which is an aspect of the critical legal approach. Also, VAWA's cause and effects are the revisions from 2000, 2005, and 2013. They were revised due to contradictory provisions and indeterminate phrases and definitions, nonetheless, another part of the approach showing that law is uncertain. The disparities between U.S. citizens, immigrants, and Native Americans affected by VAWA illustrates how history is not tradition. Plus, the issue of Tribal Court jurisdiction and the U.S. government's jurisdiction shows that law serves the community's interest. The last question deals with the efficiency of the act itself as whole inquiring whether it is actually successful, which is a critique similar to the critical legal approach that whoever is a part of the dominant group will determine the success of legislation.

The research that is going to be applied to the Violence Against Women Act will include *Fulgham v. State* 1871 which is found in the Alabama Legislature's database of cases. Then there is Nebraska's legislative bill LB 23(1975) which is found at

Schmid Law Library with its codification along with *State v. Willis* 1986. It is also found there along within the Legal Information Institute. The Family Prevention Services Act of 1984 is accessible through the Legal Information Institute, Hein Online, or Lexis Nexis (which is labelled the Child Abuse Amendments of 1984). The *United States v. Morrison* 2000 is available through the Legal Information Institute, Lexis Nexis, Hein Online, and through the Schmid Law Library's database. In continuation, the copies of the Violence Against Women Act of 1994, 2000, 2005, and 2013 were either found through Schmid Law Library, Hein Online, or the Legal Information Institute. These primary sources are useful in finding other secondary sources because they are often quoted within the index of other sources which analyze their function and legal shifts. Not only do they indicate legal shifts, the social, economic, and political shifts can be noted based upon which Presidential administration, political party, and decade it was passed. The secondary sources being applied is Alice Edwards' book, "Violence against Women under International Human Rights Law," can be found through a JSTOR search on books related to the Violence Against Women Act and immigration. Edwards' book will be expanded upon and analyzed due to its current stance on immigration and domestic violence. Tesch, Bekerian, English, and Harrington's article, "Same-Sex Domestic Violence: Why Victims are More at Risk," contains a study with same-sex couples and law enforcement found on the Hein Online database. It will be useful because it exemplifies cultural and social factors along with the ineffectiveness of the Violence Against Women Act which follows parallel conclusions made by other authors. David Fine's article, found on Hein Online, "The Violence Against Women Act of 1994: The Proper Federal Role in Policing Domestic Violence," is vital to the questions of why VAWA has been revised and the judicial, political, cultural, social, and economical implications. This is because his critical analysis of the 1994 edition of the act was made in 1998 which is prior to the all of the revisions and other shifts made in law enforcement. This source is significant because he foresaw multiple issues that were unconstitutional and weak provisions (which were altered in the 2000 revision). Next there is Lisa Hasday's article, "What the Violence against Women Act Forgot: A Call for Women's Self-Defense," located in the Hein Online database. Her article discusses a crucial part that was left out entirely from all of the revisions and illustrates how VAWA is not effective and the social and cultural aspects it connects together. The last secondary source is Sarah Deer's book, "The Beginning and End of Rape," which was ordered through interlibrary loan and into Love Library. Her book employs the history of Tribal law and how it compares to and cooperates with the United States government to prosecute non-Indians who commit sexual assault, rape, sex crimes, and domestic violence on their land. This source will connect how Tribal courts differ from United States courts and how they attempt to become parallel. Lastly, the judicial, economic, cultural, social, and political factors of the Tribal courts will be tied to the Violence Against Women Act.

Legislative Summary of Violence Against Women Act

1871- Fulgham v. State

The case of Fulgham v. State is from the Supreme Court of Alabama in the June term of 1871. It was a landmark case in which the court system determined that George Fulgham struck his wife in a manner that was not self-defense which in Alabama law would constitute as assault and battery. Fulgham's defense stated that a husband cannot be convicted of assault and battery unless the injury was permanent, and Matilda Fulgham's injuries were not permanent; however excessive violence or cruelty could be used as a grounds for conviction. The error the court found which led to the case being brought up to the Supreme Court of Alabama was because the original charge was incomplete and was misleading. The judges decided that based upon changes in common law and crime they stated that a husband cannot use a weapon or means to beat the wife which contradicts ancient law such as using a stick no thicker than the thumb. The judges cited cases such as Turner v. Turner, Goodrich v. Goodrich, Moyler v. Moyler, and Saunders v. Saunders. Therefore the court rescinded the right of the husband to beat their wife because the wife is entitled to protections under the law since she is a citizen of the state of Alabama, making her equal to her husband. The justification is that the citizens are entitled to protections of the law regardless of the relationship between the victim and the offender. The Supreme Court case is found in the directory online through the Supreme Court of Alabama with the search terms of Fulgham v. State 1871.

1882- Maryland Legislation

Only a few years after Alabama landmark case, Maryland becomes the first state to criminalize wife-beating as a crime in Article 30 of the Code of Public General Laws under the title of Crimes and Punishments: subtitle of wife-beating. It was the first of three other states who would pass similar legislative bills. The legislative body of Maryland made wife-beating a misdemeanor if found guilty. The punishment would include a maximum of forty lashes, a year in jail, or both as determined by the court. The legislative bill was approved in March 1882. It is an important event because states were convicting offenders of domestic violence without directly called it so. The codification is found in the archives of Maryland session laws in the 1882 special session in chapter 120 in Volume 418, page 172. Although Maryland is the

first to criminalize wife-beating, it does not include sexual assault and the ability for a wife to sue her husband for domestic violence and sexual assault.

1975-1976- Pennsylvania Coalition Against Domestic Violence and Protection from Abuse Orders

The creation of the Pennsylvania Coalition Against Domestic Violence in 1975 Pennsylvania became the first state to create an organization for the protection of battered women and domestic violence. The organization pushed for Pennsylvania to pass legislation for protections. The legislation passed the Protection from Abuse Act in 1976. The passage of the act includes protection and assistance from those who are victims of domestic violence. The act discusses how a victim needs to put in a civil order, not a criminal order, called a Protection From Abuse (PFA) order. It is important because no other state had an organization like Pennsylvania at this time. The orders at the time were only for married couples except today it is extended to spouses or ex-spouses, same-sex couples, parents, children, biological siblings, or current/former intimate partners.

1975 and 1986- Nebraska Legislation and State v. Willis

Nebraska enacted LB 23 (1975) and its codifications can be found at the Schmid Law Library. LB 23 (1975) is the legislative bill which defined sexual assault and other criminal sexual offenses. It provided how the system would investigate, prosecute, punish, and rehabilitate those in the field of criminal sexual offenses. It also defined sexual assault, the degree at which sexual assault is defined (e.g., first degree, second degree, child sexual assault, etc.), and punishments received by the offender in the case of rape, murder, and sodomy. It would not be until the case of State v. Willis 1986 in which LB 23 (1975) would be exercised. Charles Willis was originally found not guilty in the Nebraska district courts, but later the state of Nebraska found two errors to be apparent. The first error was that the district court failed to convict when first degree assault was committed but did not convict on the basis that the victim and offender were married, and the second error dealt with the equal protection of the law. The State's findings led to the case being brought forth into the Nebraska Supreme Court. The court found that regardless of the relationship between the victim and the offender, LB 23 sec. 28-319 reissued in 1985 showed that no one has the right to sexually assault, penetrate, and threaten or force a person regardless of the relationship (either by blood or marriage). The landmark case led Nebraska and other states in appealing, altering, and adding laws dealing with rape statutes and sexual assault. The combination of LB 23(1975) and State v. Willis made Nebraska the first state to apply the marital rape exemption.

1978- National Coalition Against Domestic Violence

The U.S. Commission on Civil Rights which is an organization started in 1957 pushed for public policy change for domestic violence victims. It was organized after the passage of Pennsylvania's legislation. The National Coalition Against Domestic

Violence was formed in response to the battered women's movement. The coalition was created in efforts to change public policy on violence in the United States at the national level. They also focused on domestic violence issues against women and children. The organization calls for attention at the national scale for education, funding, and other protections to end domestic violence. It was the first national organization that focused on the protections for domestic violence victims and the promotion of public policy change.

1978- Indian Tribal Courts

The case of Mark Oliphant, a non-Indian living on Suquamish Tribal land was charged with assault and resisting arrest on Suquamish land. *Oliphant v. Suquamish* 1978 would go to the United States Supreme Court. The court decided in a 6-2 majority that the Indian Tribal courts do not have criminal jurisdiction to punish non-Indians. The importance of this case was that it meant that a non-Indian person could sexual assault or rape an Indigenous/Native person on tribal lands and could not be prosecuted in tribal courts. Even though there was tribal law, Mvskoke rape laws which addressed gendered violence and rape in 1825, the United States law did not recognize marital rape. It was seen as a property crime; therefore the Mvskoke rape laws were not recognized by the United States and could not convict a non-Indian person of rape or sexual assault. It would not be until later in the United States Federal Laws that would finally link Tribal Courts and American Courts jurisdiction in regards to concurrent power (especially in the case of rape and sexual assault).

1984- Family Violence Prevention Services Act and Victims of Crime Act

As part of the battered women's movement, Congress enacted the Family Violence Prevention and Services Act within the Child Abuse Amendments in 1984. FVPSA would use federal funding to aid domestic violence victims including their children in the form of shelters, prevention programs, agencies, and training. Domestic violence had become a frontline national issue and the Department of Justice made recommendations to reduce domestic violence in the United States. In an effort to reduce it, FVPSA would improve law enforcement training, the Criminal Justice System's processes, and society's reactions to domestic violence issues. It is the first time that federal funding is used to aid domestic violence victims, battered women, and their children. It would be later used in other federal laws as the foundation for extended federal aid for Indigenous and Native American women.

In addition to FVPSA, there is the Victims of Crime Act of 1984 which is another federal law passed in the effort to help victims of crime by funding the victims themselves. This law combined with FVPSA would be the foundation for victims of violent crime and domestic violence legislation that would be passed a decade later.

1994- Violence Against Women Act

Drafted by Vice President Joe Biden, who at the time was the Senator of Delaware, was passed by the Clinton Administration due to support by the battered women's movement. The Act includes how penalties are enforced, training for law enforcement, federal funding for aid of domestic violence victims, the establishment of the Office on Violence Against Women, other topics such as amendments to FVPSA and VOCA, Civil Rights, and other subtopics within the federal law. It would later be amended in 2000, 2005, and 2013. It became the first act of its kind to specifically address domestic violence against women, and it was the first to create programs for women and children of domestic violence.

2000- Violence Against Women Act Revision 2000 and United States v. Morrison

Antonio Morrison was a student at Virginia Tech along with James Crawford, who admitted to having sexual contact with Christy Brzonkala, but the Virginia court did not convict Morrison or Crawford due to a lack of evidence. Brzonkala would later file another suit against them under the Violence Against Women Act. The case ended up going to the United States Supreme Court and determined that a provision of VAWA of 1994 was unconstitutional due to excessive congressional power under Commerce Clause sec. 5 and Equal Protection Clause in the Fourteenth Amendment.

The decision of the United States v. Morrison case led to the revision of VAWA in 2000. The Act was revised within the Victims of Trafficking and Violence Protection Act of 2000. The revision reauthorized most of the law itself but extended aid to immigrants, the elderly, disabled victims, and victims of dating violence. It also extended into stalking laws and included interstate domestic violence's responsibility to oversee Indian Tribal law. It also gave Tribal courts some civil jurisdiction over issues that had arisen in their tribal lands due to the Full Faith and Credit Clause. It also had to amend the Civil Rights section C of VAWA 1994. The revision also includes safety and grants extended to reduce violent crimes against women on school and college campuses.

2005- Violence Against Women and Department of Justice Reauthorization Act of 2005

In 2005 there was another revision and reauthorization of the Violence Against Women Act of 1994. The revisions dealt with alterations to definitions and grants. It added the protection and confidentiality of victims of domestic violence and those who received services granted by VAWA. It also changed the standards of confidential information that could be released about those who used the grants. The 2005 revision included the amended changes for the Omnibus Crime Control and Safe Streets Act of 1968, altered STOP grants, and extended federal funds for medical exams to Tribal governments for victims of sexual assault. It also defined 'dating partner' in terms of interstate domestic violence, defined 'protection order' and extended its meaning, and other alterations to update the 1994 and 2000 version of VAWA to comply with unconstitutional provisions.

2013- Violence Against Women Reauthorization Act of 2013

The most recent revision of the Violence Against Women Act of 1994 was in 2013 and was renamed the Violence Against Women Reauthorization Act of 2013. It revised privacy and confidentiality of victims, standards of confidential information between grantees and subgrantees (both revised in 2000 and 2005), Civil Rights of Women and discrimination, and federal funding with grants and nonprofit organizations. It further reinforced the coalition between the United States government and Tribal governments with federal funding and other types of assistance such as education, rape prevention, crisis centers and shelters. The 2013 revision added Title IX, the safety of Indian Women which gave Tribal courts criminal jurisdiction. This addition allowed for the concurrent jurisdiction with state and federal jurisdiction in the United States government. Similar to the 2000 and 2005 revisions, the 2013 revision amends all previous revisions of VAWA, amends the Omnibus Crime Control and Safe Streets Act of 1968, and changed federal funding with STOP grants. It also amended training policies, investigation processes, and prosecution tactics of domestic violence and violent sex crimes. It revised the protections for immigrants and defined who would be applied to this subtitle. The most prominent alteration is the inclusion of all victims of domestic and dating violence, stalking, and sexual assault such as immigrants, Native American and Indigenous women, college students, youth and children, public housing residents, and LGBT victims.

Bibliography

Primary Sources

Neb. Rev. Stat. § 28-408 (1975) and Neb. Rev. Stat. § 28-409 (1975)

The Legislative Bill LB 23(1975) was found in the Nebraska's Schmid Law Library along with the codifications. Its intent was to enact laws related to sexual assault and criminal sexual offenses to ensure the protections and privacy of victims during the judicial process. The bill included definitions of sexual assault, sexual contact, and sexual penetration. It also has the standard level of injury needed for conviction, who is the victim, and punishments as a result of conviction (depending on the degree). In the last subsection the bill stated that personal sexual activity will be withheld into evidence, and it revised statutes in 28-401. The amended statutes addressed issues that dealt with adding sexual assault in the first degree as punishment in the Nebraska Penal and Correctional Facility in sec. 7 of 28-409, sec. 8 of 28-929, and sec. 9. LB 23(1975) became a comprehensive law that replaced and updated the current Nebraska rape laws. The bill was important because it became the foundation for all Nebraska cases that would deal with sexual assault, rape, sodomy, sexual contact, and other sex crimes. It is pertinent to the Violence Against Women Act of 1994 because most of the national attention was brought forth by the Nebraska State Law and State v. Willis which in turn influenced federal laws.

Child Abuse Amendments of 1984, Pub. L. No. 98-457, 98 Stat. 1757 (1984).

The Family Violence Prevention Services Act (FVPSA) was first authorized within the public law of Child Abuse Amendments of 1984 as Title III. It is cited as “Family Violence Prevention and Services Act”. The act was found through the Legal Information Institute. The act provided federal funding to assist domestic violence victims and their children. It created a 24-hour hotline, the National Domestic Violence Hotline which supported crisis intervention for victims of domestic violence, and programs such as Domestic Violence Prevention Enhancements and Leadership Through Alliances (DELTA). It also created shelters within states, training support, local agencies, and nonprofit organizations. The act’s purpose was to reduce family violence and to support programs that would aid victims. Moreover, it extended federal funds to private organizations and programs in the United States and Native American Tribes within a financial boundary. The act itself was a result of the battered women’s movement and women’s movement from the 1970s and 1980s to extend rights to women of domestic violence and Indigenous/Native American women. FVPSA was one of the first federal acts that extended protections for battered women and her children. The act along with the Victims of Crime Act of 1984 became the foundation for the Violence Against Women Act of 1994. Without FVPSA and VOCA the Violence Against Women Act of 1994 would not have been passed as early as it was in Congress.

State v. Willis, 223 Neb. 844, 394 N.W.2d 648 (1986).

State v. Willis of 1986 can be located in either Lexis Nexis, the Legal Information Institute, or through the Nebraska Legislature’s database. The court case of Charles Willis was originally held in Nebraska’s district court. Willis was charged with first degree sexual assault of Diana Willis, who was his wife. The defendant used the defense that a common law husband could not be found guilty of raping or sexually assaulting his wife. He referenced previous cases: Hank v. State, Jump v. State, and State v. Holloman that came to the same conclusion. After the not guilty ruling was made, the State pressed the appellate courts with LB 23(1975). The State stated that the district court made the error of not convicting Willis of first degree sexual assault based upon the equal protections under the law. They also said that all the elements of first degree sexual assault had been met; yet the court failed to convict solely on the basis of marriage. The court case was overturned in the Nebraska Supreme Court because the Justices found that the passage of LB 23(1975) stated that common-law marriage was no longer valid as an exemption; therefore Willis was convicted of first degree sexual assault because no one can have the opportunity to force, sexually penetrate, or threaten someone regardless of their marriage or biological bond. The Nebraska case is valuable because it was the first state to add the marital rape exemption. This meant that a husband could be convicted of raping his

wife because LB 23(1975) changed how sexual assault was defined; therefore common-law marriage had no foundation with the current law. *State v. Willis* of 1986 became the first case that utilized LB 23(1975) and set precedent for all other marital rape cases. The case is significant to the Violence Against Women Act because it is the first State level where women's rights against domestic violence and marital rape are protected. It preceded the National law which would later extend protections for victims of domestic violence.

H. R. 3355, 103rd Cong. (1994).

The Violence Against Women Act (VAWA) was originally introduced and drafted by Senator Joe Biden in 1990. It was later authorized within the Violence Crime Control and Law Enforcement Act of 1994 under Title IV. The federal law was supported by the battered women's movement and women's liberation movement. They also pushed for legislation such as the Victims of Crime Act of 1984 and Family Violence Protections and Services Act of 1984 which were the foundation for VAWA. It implicated how penalties were to be enforced, included federal funding for domestic violence victims, added extensive training for law enforcement, and created the Office on Violence against Women. VAWA's strengths as a comprehensive federal law were due to the detailed extensions of federal funding and confidential standard. Plus it has thorough definitions of victims, domestic violence, rape, and sexual assault among other legally defined terms.

United States v. Morrison, 529 U.S. 598, No. 99-5(2000).

United States v. Morrison was obtained through the United States Supreme Court database and can be located in the Legal Information Institute and Lexis Nexis. The case dealt with Antonio Morrison and James Crawford, who were students at Virginia Tech. They were arrested and charged with first degree sexual assault of Christy Brzonkala. They were found innocent of the alleged sexual assault and rape of Brzonkala due to a lack of sufficient evidence. The court's decision led Brzonkala to refile her suit under the Violence Against Women Act of 1994 because of the provision in section C which stated that victims of gender-based violence such as sexual assault, rape, and domestic violence would still attain aid and assistance regardless of whether or not the alleged offender was charged or convicted of that crime. The case was held in the United States Supreme Court and the Justices concluded that Congress used excessive congressional power and lacked power of authority. They also determined that section C of the Violence Against Women Act of 1994 was unconstitutional based on the Commerce Clause in the Fourteenth Amendment. The complexity of the Violence Against Women Act of 1994 was challenged with the constitutional clauses exemplified in the *United States v. Morrison* case. It showed that Congress needed to revise the federal law so that it would comply with Constitutional

law. This court case is vital to the Violence Against Women Act because it showed that Congress' power to create laws also needed to follow Constitutional Law. Plus it illustrated that Congress had to remain within their congressional limits.

Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1491 (2000).

The revision of the Violence Against Women Act of 1994 was altered within the Victims of Trafficking and Violence Protection Act of 2000 under Division B sec. 1. It was acquired through the Legal Information Institute. The reauthorization was similar to VAWA 1994, but added the ability to aid immigrant women and extended Indigenous/Native American women's federal funding and aid. It included protections for the elderly, disabled victims, and victims of dating violence. The inclusion of stalking within interstate domestic violence laws generated key changes in the definitions of Indian Tribal Law by allowing jurisdiction in civil issues. However, one necessary reason why VAWA had to be revised was due to an unconstitutional provision that conflicted with the Commerce Clause. The case of the United States v. Morrison 2000 was the epicenter for the 2000 VAWA revision. The pros of the new legislation was that it extended aid to those it had not previously protected, reached farther in federal funding, and was more detailed than the 1994 version (in terms of programs and definitions). The 2000 revision is essential to the topic of the Violence Against Women Act because it is the altered law that was enacted in the 106th Congress.

Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960 (2005).

The next revision of VAWA 1994 was in 2005. The law was renamed the Violence Against Women and Department of Justice Reauthorization Act of 2005. It was attained through the Legal Information Institute. It focused on revised legal definitions and alterations to grants. The standards of confidentiality were altered to protect those who received assistance to increase safety and privacy. On top of those modifications the Omnibus Crime Control and Safe Street Act of 1968 was amended, STOP grants were reformed, and federal funds for Tribal governments were extended in order to pass the 2005 VAWA. The 2005 VAWA's positive outcomes were the enhanced relations between Tribal courts and the United States courts specifically on cases involved with domestic violence victims and offenders. It is vital to note that the 2005 VAWA did not have to address unconstitutional sections from the 2000 VAWA revision.

Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (2013).

The most recent revision of the VAWA 1994 was in the 113th Congress. It was renamed the Violence Against Women Reauthorization Act of 2013. The act can be obtained through the Legal Information Institute. It contained numerous revisions of the 2005 act. Although, there is an eight year gap in which congress debated about whether or not they should have reauthorize the act. The congressmen argued about federal funding and the role VAWA played in domestic violence protections. The adjustments were similar to the previous 2000 and 2005 adaptations, except the 2013 reauthorization included new titles and subtitles such as Title IX, X, and XII. Title IX detailed the safety for Indian women and allowed Tribal jurisdiction in civil and criminal sexual crimes cases concurrently with the United States government. Title X was the Safer Act which allowed for grants to be audited, reduced backlogs in sexual assault evidence and rape kits, and increased the accountability of federal agencies. The agencies used the grants and provided education and support to domestic violence victims. It also extended Title XII which dealt with victims who had been trafficked, their protections under the law, and their access to federal aid. One of the most central corrections made in the 2013 VAWA was in the inclusion of all victims of domestic violence such as: dating violence, sexual assault, stalking, and cyberstalking. Plus it included broader populations of people such as: immigrants, Indigenous/Native Americans, college students and youths on school campuses, children, public housing residents, and LGBT members.

Secondary Sources

Deer, Sarah. *The Beginning and End of Rape*. Minneapolis: University of Minnesota Press, 2015.

Deer's book which was recently published in August 2015 deals with how Indigenous and Native American Tribal Courts deal with domestic violence and its relations to the Violence Against Women Act. Her book was ordered through interlibrary loan. She debates how cases and laws such as *Oliphant v. Suquamish*, the Tribal Law and Order Act, Mvskoke laws, and the Violence Against Women Act have negatively affected Tribal Laws and its relations with the United States court system. She addresses how both systems differ in terms of the judicial process in regards to the three categories of jurisdiction: personal, subject matter, and territorial. Moreover they need to work together to create a superior system to prosecute offenders and protect victims with federal funding, programs, shelters, and education. She critiques the relationship between the two court systems stating how they failed to cooperate together and resulted in diminished tribal court recognition. Specifically the failures stem from the U. S. court system's denial of tribal court jurisdiction in the matter of sexually violent cases. Deer declares that the Violence Against Women Act needs to explicitly protect LGBTQ, two-spirited tribal citizens, and tribal male victims of domestic violence who are

involved in criminal law of both systems. She also criticizes how both court systems do not have consent legally defined within either the Violence Against Women Act and tribal rape laws. Deer's strengths come from her knowledge of Tribal law and how it engages with the United States court system over time and how it has evolved with the recent revisions to the Violence Against Women Act of 2013. Her book is a necessary source in which it ties the rights of Indigenous/Native American citizens to the protections covered within the Violence Against Women Act.

Edwards, Alice. *Violence against Women under International Human Rights Law*. Cambridge: Cambridge University Press, 2013.

Alice Edwards book on international human rights laws focused on immigrants women can be found through JSTOR's book search. Edwards uses the Violence Against Women Act and how it is involved with international law. She addresses how the inadequate definition of international human rights laws has led to no explicit international treaties for the protections of immigrant women. She also brings up the human rights treaty system and how its collaboration with the interstate communication deals with women utilizing the feminist theory. Edwards criticizes the equality of international law with regards to the basis of an immigrants' gender, social constructs, and rights. She wraps up her book with ways in which the system could reform itself, progress onward into further revisions of the Violence Against Women Act, and how to improve upon the unequal situation that women face under the international law. Deer's book is a vital source because she is able to connect international human rights laws/immigrants' rights to the Violence Against Women Act and how the law does offer some protections; but in the end it still fails to directly protect all domestic violence victims who are immigrants.

Fine, David M. "The Violence Against Women Act of 1994: The Proper Federal Role in Policing Domestic Violence." *Cornell Law Review* 84 (1998): 252- 303.

David Fine's article was accessed through Hein Online. He discusses and critiques the Constitutionality of the Violence Against Women's Act and its main provision. The cases he argues that show VAWA's unconstitutionality are United States v. Lopez and United States v. Wrights which dealt with the Commerce Clause and interstate commerce. Other cases such as United States v. Bailey, United States v. Von Foelkel, United States v. Page, and United States v. Gluzman all illustrated cases that challenged the constitutionality of VAWA. He also explains other implications and challenges to VAWA, the ability to enforce VAWA, and the protection orders and equal protections under the law. In the last section he describes the digital advantage of the addition of National Databases, the gender-neutral interpretation made after the case of Oncale v. Sundownder Offshore Services, Inc., and issues with jurisdiction. Fine's critiques of the Violence

Against Women Act demonstrates how flawed the federal legislation is regardless of its supposed improvements to extend aid to a wide-variety of people. The communication gap also within jurisdictions with interstate domestic violence dealing with territorial jurisdiction, the enforcement of protection orders over jurisdictions, and judicial challenges on the definitions from a case by case situation. Fine's success in identifying VAWA's challenges is a strength because he accurately describes the cases that would later be used to amend VAWA 1994. Those same cases specifically Wright, Lopez, and Morrison led to the 2000 revision that Fine pointed out. The journal article is tied to the Violence Against Women Act because Fine connects the cases that need to be addressed in order for the legislation to be valid.

Hasday, Lisa R. "What the Violence against Women Act Forgot: A Call for Women's Self Defense." *Yale Journal of Law and Feminism* 13 (2001): 175-194

Lisa Hasday's journal article was accessed through Hein Online. Her critique focuses on the lack of self-defense maneuvers and how they were not even up for discussion while the Violence Against Women Act was being drafted in the 1990s. The role of self-defense was poor funded and inefficient. Although feminist literature described self-defense as simply just fighting back, it did not have a solution nor did it have any basis for assistance. Those women who did find techniques to fight back and would sometimes even kill their attackers were at risk because there was no defense mechanism in the Criminal Justice System. There was no precedent to rule self-defense as a valid and significant method to protect oneself with a weapon or their own hands. The government does not have self-defense training as a strategy to rid domestic violence from the community because they simply do not have a credible process represented to combat violence. Hasday brings up how the Rape Aggression Defense is gaining recognition as a valid and credible way for people to avoid and fight back against domestic violence. A way to empower women to use tactics to protect themselves physically came about when women started taking self-defense classes, assertive training, and education on college campuses. Her analysis brought forth concepts completely left out of domestic violence prevention programs. The importance of Hasday's article on self-defense shows how VAWA has left out alternatives that can empower domestic violence victims to avoid further aggression.

Tesch, Brian, Debra Bekerian, Peter English, and Evan Harrington. "Same-Sex Domestic Violence: Why Victims are More at Risk." *International Journal of Police and Science and Management* 12, (2010): 526-535.

The study completed by Tesch, Bekerian, English, and Harrington was found through JSTOR. The article focused on law enforcement's experience,

knowledge, and training when dealing with same-sex domestic violence couples as compared to heterosexual couples. The study's results illustrated the lack of training available and necessary to provide equal outcomes. The author's also stated that the rate of same-sex and opposite sex domestic violence cases are about the same and law enforcement officers encounters are also of similar rates. The author's reasons for why there is a lack of understanding and training completed by law enforcement officers is due to the lack of ties and knowledge to the LGBT community and misunderstanding of social roles and gender roles within same-sex couples. They also discuss how mistrust by the same-sex couples could also be a factor in why fear of law enforcement officers because of moral beliefs against same-sex relationships, fear of retaliation towards their minority group, and lack of reporting to police officers and agencies. The article exemplifies factors and reasons as to why law enforcement training is not up to par as compared to opposite sex couples and conversely why LGBT couples may avoid or cause issues with law enforcement. The strengths of the article is that the authors deliberate challenges from both law enforcement and the LGBT community. The article is important for the Violence Against Women Act because of the lack of same-sex couple training, and funding for LGBT women and men who are victims of domestic violence.

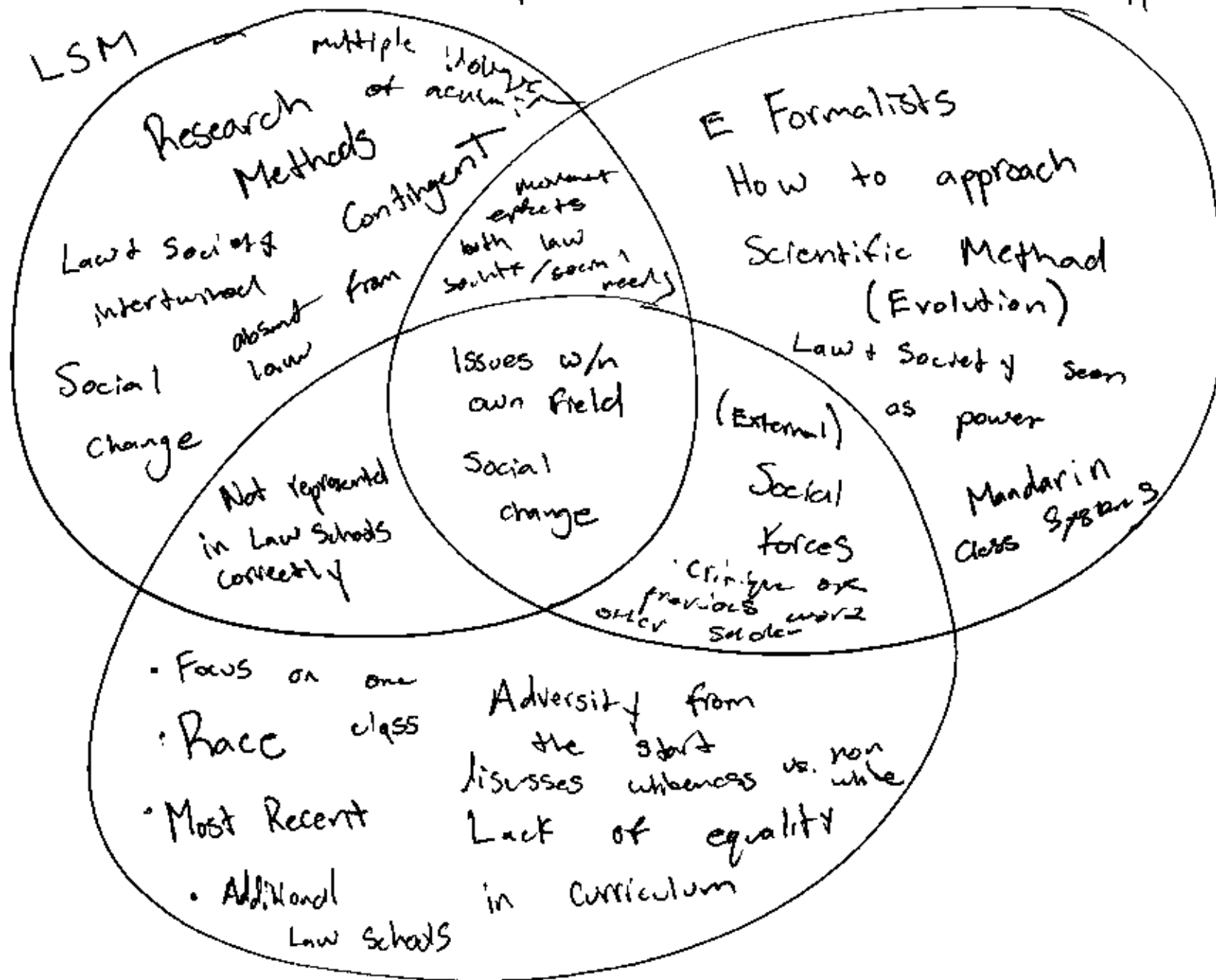
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Appendix F: Sample Diagrams

Group #1

CLH

LSM



CRT

Group #1
John MacDonald, Emily Reed, LOGAN HUNTLEY

LSM

Social change

Cultural relativism

Social

legal history

Strict constitutionalism

Diverse ideologies (ideological)

Research Methods

Science

Expertise

Prestige

Theory

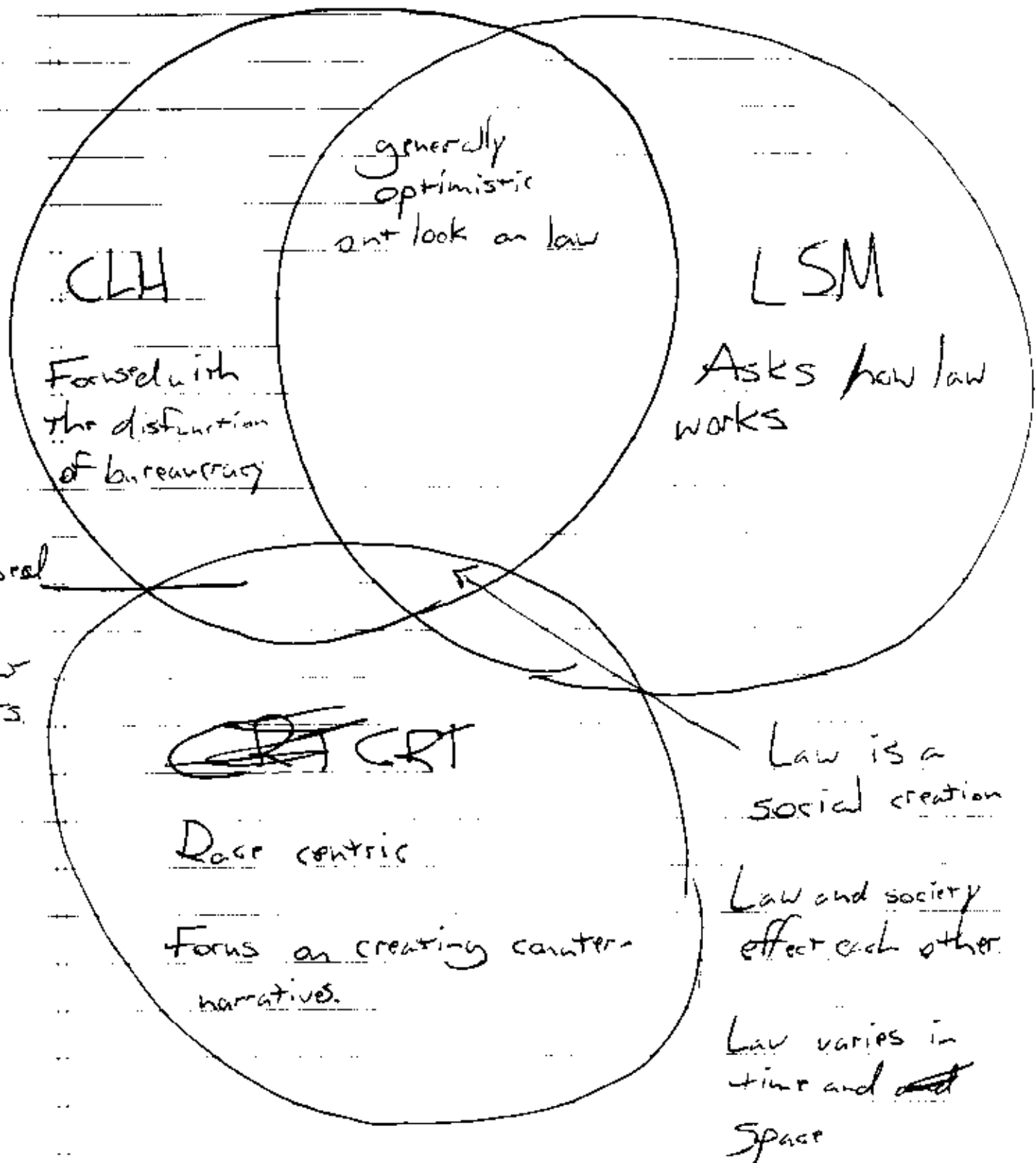
Absent

Acceptance

Contingent

Popularity

Perception



Loch H

6

CRT:

Personal Narratives

Kimberle Crenshaw

Counter-narratives
- memory

Neocolonialism

Power dynamics

Whiteness

Structural Violence

Race

Legal Storytelling

Activism

Socially constructed
white superiority

color blindness

Intersectionality

Global South
Global North

9/3/15

History 240

Taron B.

CRT Assumptions

1. Racism is ordinary, not abnormal & is different to color blindness, supported in perpetuity by "scientific" white and cannot be cured by a color-blind solution.
2. White supremacy more constant cultural presence in our country, which is why the dominant society does little to eradicate racism.
3. Race & racism are socially constructed (as are laws, rights) and racialization of particular groups changes over time.
4. Race is only one aspect of identity (intersectionality) & cannot be considered exclusively (anti-racism) or monolithically.
5. Legal storytelling from voices of color is an essential component of the legal archive (or tradition & common history).

intersectionality - different ways people identify you.
religion, sex, gender, race, etc.

CRT Goals

- Aim to study & transform the relationships among race, racism, power.

applied
history

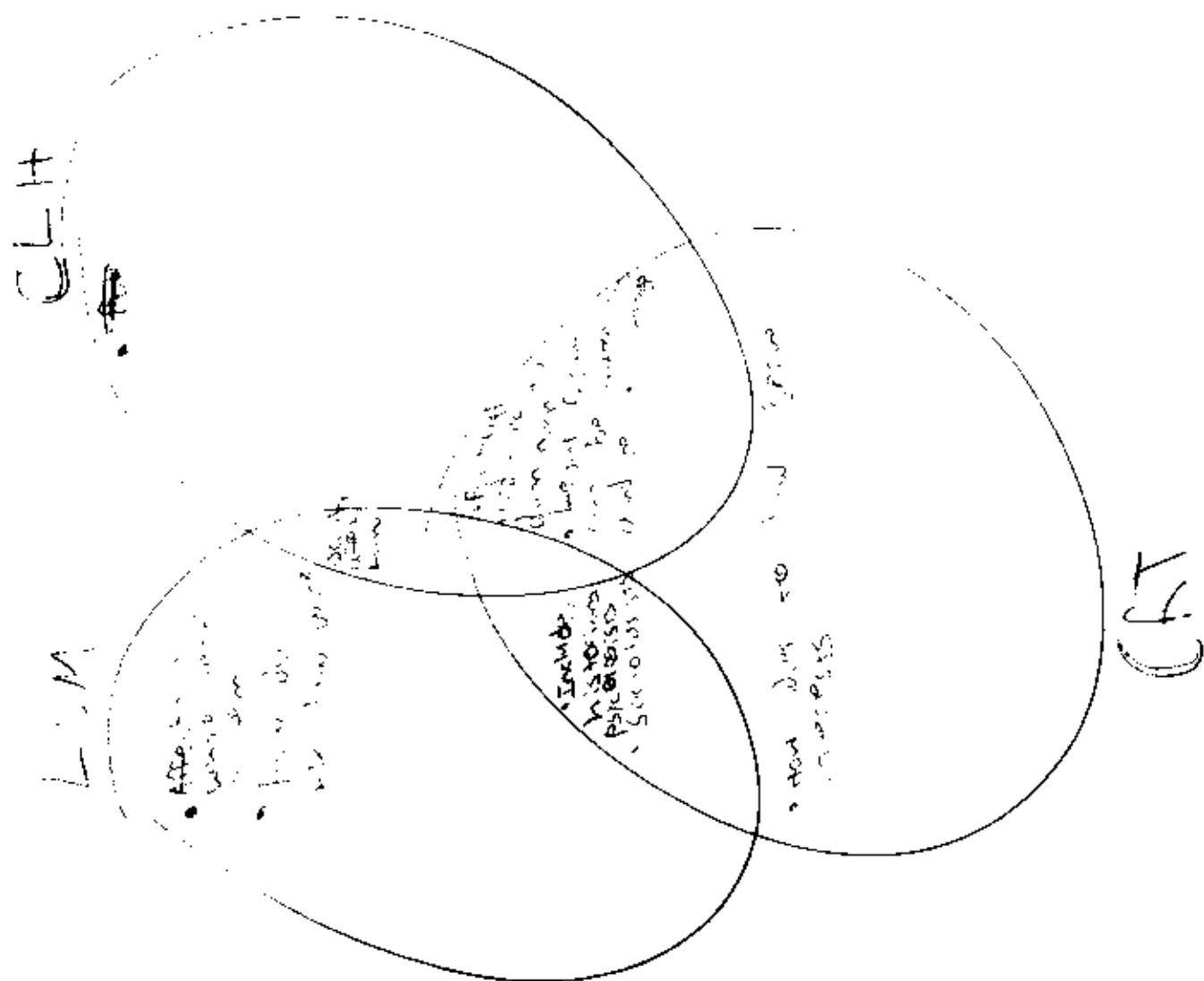
action
history

Names

Group 3 Juan, Taran, David

Transformation
Liberal
Acceptance
Intersectionality
Change
Society
Modern
Equity

Group 3 Juan, Taran, David



(Dane) 3/18/01
 Enorm. Mission - Learning
 Michele D. (SD) Chiswick

LEP

1/1/01

(Dane) 3/18/01
 Enorm. Mission - Learning
 Michele D. (SD) Chiswick
 (Dane) 3/18/01
 Enorm. Mission - Learning
 Michele D. (SD) Chiswick

(Dane) 3/18/01
 Enorm. Mission - Learning
 Michele D. (SD) Chiswick
 (Dane) 3/18/01
 Enorm. Mission - Learning
 Michele D. (SD) Chiswick

(Dane) 3/18/01

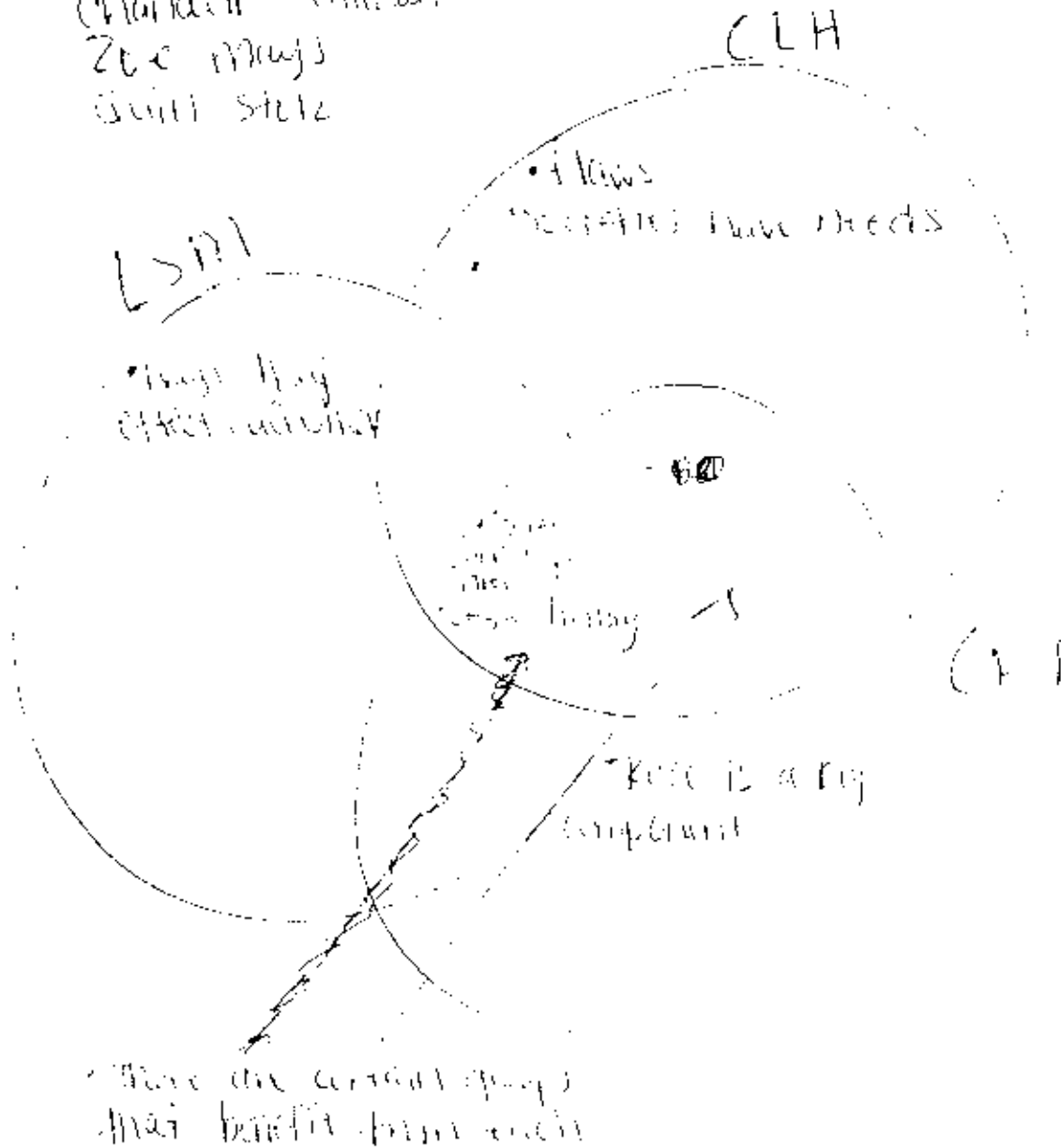
(Dane)

1/1/01



5

Chandell Tillman
Zoe Wang
Guiliang



The civilised
Society
~~create~~ interest
diversity
change
evolutionary
growth
process

1000

Superior

Ver

CLP

+

LSM

5/2/62

 $\sim R^2$

and

15.4

£

457

600

Law
 DOMINANCE
 SOCIAL
 POLITICAL
 ECONOMIC
 CULTURAL
 INTERESTS
 CHANGING
 AUTONOMOUS
 CULTURAL
 PROGRESSIVE
 RESISTANCE
 REFORM

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HIST 340: American Legal History

Appendix G: Lecture Prompt Questions

Zach Hadenfeldt

How did abortion rights get portrayed before Roe v. Wade was decided? What were the major talking points at the time?

For how long do women get to have contact with their young children while in prisons? Does it vary from state to state?

I see state-level abortion and sexual health legislation as the biggest threat. I believe that the best way to address this would be a strengthening and clarification of federal laws.

Caleb Hoesing

1. Why did it take so long for women to gain the right to accuse their husbands of rape?

2. Why is ^{there} still this stigma on women who chose career instead of motherhood, the same goes for the stigma around stay-at-home dads?

3. The biggest challenge is the over sexualization of women through advertisement. I think what is portrayed hurts the view of intelligent women. The best solution I have is more restrictions on what advertisers can manipulate a photo using photoshop.

John MacDonald
Hist 340
11/2/15

- 1) In what form were the rights that women gained in the 20th century given? Were they particular to one field or did they come in a wave?
- 2) What is being done about equal pay in the corporate atmosphere? There have been a few proposals of how to address the inequality of pay and benefits, yet no significant work has been done to fix the issue.
- 3) I think the patriarchal stereotype remains today that hinders the advancement of women's rights. We see this is made comedy and jokes that are made toward the equality of women and this needs to stop if we expect to do something about the hostility toward women.

Madeline Schlosser
1. When were women allowed to enter the military as ~~soldiers~~ soldiers, marines, etc.?

2. I'm curious as to why women are not ~~part~~ part of the draft? Also why do women not receive equal pay, and why is it still popular to take their husband's name? (I'm guilty of this but don't have a good explanation as to why I did it?)

3. I see the biggest challenge to women's rights today as the lack of laws and funding protecting family planning (birth control, abortion, sex ed., etc.). However, if a woman wants to have a family I feel that this should not prevent or hinder her from receiving equal pay, or continuing education, or getting a promotion, although there is good evidence that women with families are discriminated against.

Zach Birkel

1. When did women have the right / start fighting in American wars?

2. What rights have women not gained by now?

3. I think the biggest challenge to women's rights is their presence + opportunity to be Presidents, CEOs, CFOs, etc. in major companies. Inform the nation on the issue so that everyone has an understanding about it.

Hyb.
2 Sep 1915

How many surveys (what percentages) noted after
the 19th Amendment? (in first election after
ratification)

What support (specifically in Congress) has an
Equal Pay bill received?

Recognition of female work (income) appears
to be a central issue. A solution would be
the passage of a bill that required women to
receive the same 'pay' as men for the same
work.

Henry Thiel

Question about rights that women gained in the 20th Century

When were women allowed to serve in the military?

Question about rights women have not gained to now?

What are the arguments for/against equal pay for women? What are the barriers standing in the way of equal pay?

Biggest Challenge to women's rights in US today? Solution to the challenge?

The abortion/planned parenthood debate - either for or against - could challenge the rights of women. The solution would be allowing women to take the lead in the national discussion of this issue.

Davis Kinckier

1) How ^{much} has the fight for equality for women been a legal movement, and how much was a battle for acceptance in society (ie outside the law)?

2) I would like to understand in a practical sense how the wage gap can be so large?

3) I see the biggest problem for women from here on ~~on~~ being in changing stereotypes and cultural preconceptions about women and their abilities ~~false limitations~~. I believe the two best ways to combat this are having powerful women affecting culture (better in things like film/TV and in the government) and time for their influence to spread. The battle will truly be won when societies' preconceived notions about women are equal and empowered.

1. How are the rights of women in America compared
to other countries in the world Tara B.

2. Why is there still unequal pay. I don't understand
how this is possible when @ my job I know for
a fact that pay is equal, it is the raises that
are not. Is it because a corporation they are more
negotiating their pay instead of having a base salary.

3. I overall do not know what the biggest challenges
are of women's rights in America are. I am
not informed enough on the topic. However I
would say bosses or people that have a firm
standing on the fact that men are superior. Also I think
the generation gap overall where our grandmothers
were just sitting in the kitchen & not working
to support the family as that was the men's job.

Emily Reed

Women's Rights Prompt

11/3/15

1. With the emergence of the 19th amendment which granted women's right to vote, did other amendments finally include women like the 14th amendment or Birth Right Citizenship and 5th amendment such as rights to ~~move~~ in the court room and Criminal Justice system? If so, how & when were they extended?
2. Why do women still not have equal pay in the work place?
3. The biggest challenge I see right now is dealing with Planned Parenthood & how insurance companies do not want to include birth control as coverage in insurance plans. I don't know a solution to this other than not allowing such legislation to pass. Birth control and having Planned Parenthood funded is very important to sexual women's & few men who use PP.

Chandell Tillman

1. How did gaining ~~rights~~ rights have an impact on women and their everyday life? Was it hard to transition from having no rights to gaining some?
2. ~~Do women~~ Do women have the right to get paid while on maternity leave?
3. The biggest challenge today would be men and women not getting paid ~~equally~~ equally. The solution would be to make women have equal pay to men.

Love Mays

What sort of action was it then, paid for by the people
governed? What was the nature of the gift to the people?

Is it better for men for the unequal pay for men
and women, and if not, what other way might
be better?

The answer to the question, then, that I asked of you
is: "Be more generous." Be more generous
to all the people, to all the people, to all the people.
Then, to be active and unceasingly, push
for a new society, new people.

Emman Marshall

1. Did women fully gain rights that made them equal to men? Or did they gain just enough rights to keep them satisfied?

2. Why have women not been able to break through the so called "glass ceiling"? Is it because they actually do not hold the qualifications, or is it because they are looked at as incapable of holding such a position?

3. I think the biggest challenge to women's rights in the US today is that they are still looked at as being inferior or weak. Also the negativity that has surrounded the word "feminist" has made it difficult for people to fight for women's rights.

LOGAN HUNTLEY 11/3/15

- YOU MENTIONED AN INTERESTING TID BIT ABOUT WOMEN AND THEIR EXCLUSION FROM THE MANDATORY DRAFT ~~DRAFTING~~ AS AN OBLIGATION OF CITIZENSHIP DESPITE GAINING SOME OF THE OTHER PRIVILEGES OF CITIZENSHIP. OUR NEXT READINGS ALSO MENTION THIS WHEN TALKING ABOUT VOCAL ANTI-ERA POLITICIANS. HOW DID THIS EXCLUSION COME ABOUT? WAS IT SIMPLY OVERLOOKED OR DID IT COME FROM CONTENTIOUS DISCUSSION?
- ~~PROTECTIVE~~ WHY ARE CERTAIN PROTECTIVE ~~ARRANGEMENTS~~ MEASURES IN INSTANCES OF THINGS LIKE DOMESTIC VIOLENCE OFTEN REACTIONARY RATHER THAN PREVENTITIVE?
- ~~FOR~~ NOT SURE IF THIS FITS HERE
- EXPRESSED RIGHTS + EQUALITY VS. TECHNICAL RIGHTS -- WAGE GAP, ETC.

Prompts Women Rights David Krue!

- ~~how~~ what was used to propel women rights other than the absence of men during the 20's. If men did not go to war ~~would women~~ what other key events could have given women the first stage for more rights.
- What limitations do women have now? (other than wage disparities)
- I guess - the biggest challenge would be the ignorance to the struggles that women have ~~today~~ in today's ~~world~~ America.
- education campaign would be most effective in improving the woman's rights. ~~through~~ It would open the eyes of many people on the issues women's are facing.

Juan Reynaga

1. To what extent did women have rights by 1970 and how do they differ now?
2. Have women gained the right to fair and equal wages, even if it is not enforced at all, do they have the right?
3. In my opinion the biggest challenge to women's rights is the division between white feminism and feminism for POC, they are both good, but there is not enough intersectionality. I don't think there is a true solution but because that requires toppling racism which in itself is a huge task.

Quintan Stolz

4.1.3.0

Quintan Stolz, 1912-1992

Quintan Stolz was a prominent figure in the field of mathematics, particularly in the area of algebraic geometry.

He was a member of the American Mathematical Society.

Stolz was a leading expert in the field of algebraic geometry, and his work has been influential in the development of the subject. He was a member of the American Mathematical Society, and his work has been influential in the development of the subject.

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix H: Group Notes

Sorry for the mess I was trying to
keep up 2 Emily ~~_____~~

Turan
Emily
Zach B
Emari
Caleb

Group Discussion

History 340

Breach Swifts -

women
couldn't
sue
couldn't
receive
dower

Harriet studied families & how court
affected them. Still support, family law, etc. Now we
have 1st the judges we can study the outcomes
Judicial Patriarchy - & better create the law. Separation of
dependent states & the marriage & become a Family Law.

Running Marriages - state & regulated how they'd address
the marriages. Not a national law (Federal). Race, gender, etc.
are grounds to declare the state of the marriage.
(set precedence for 2015 Marriage Equality)

Bastardy Laws - women needing help from government due
to illegitimate children.

Abortion Laws - No one knew how to address abortion law
before, none had studied the history of the 2.

- Question: Why didn't they have a national (Federal)
law on marriage like in 2015 that all states need
to recognize?

Overall need to study a family & etc to create
a law. Ex know both sides to create better law.

Relationship of law & family law.

Legitimate rights → as going back to
Elizabethan Era.

Maddie
Zoe
Elizabeth
Chandell

Group I Nancy Cott

Outline argument about marriage & cit. rights
Discuss chronology of married women's cit.

Women's dependency compromised husbands citizenship
female allegiance to husband, husband has
allegiance to nation

Different levels of citizenship
Subjective meaning interpretation

Republican Motherhood

States uneven & inconsistent

In beginning some had rights some didn't

1836 *Shanks v. Depout* - marriage to foreigner okay

1855 U.S. statute - marriage to American (male)
citizenship

1907 - act passed women lose cit. w/ marriage
to foreigner

19th Amendment

1922 Cable Act - it's okay to marry foreigner

1934
dual benefits

Tuesday August 18

Cairo, Egypt
Group 4

~~August 18 - Tuesday~~

~~Left Cairo at 8:00 AM for Luxor~~

~~Arrived Luxor at 1:00 PM~~

~~August 19 - Wednesday~~

~~Left Luxor at 8:00 AM for Aswan~~

~~Arrived Aswan at 1:00 PM~~

~~August 20 - Thursday~~

~~Left Aswan at 8:00 AM for Khartoum~~

~~August 21 - Friday~~

~~Left Khartoum at 8:00 AM for Khartoum~~

~~Arrived Khartoum at 1:00 PM~~

~~August 22 - Saturday~~

~~Left Khartoum at 8:00 AM for Khartoum~~

~~Arrived Khartoum at 1:00 PM~~

~~August 23 - Sunday~~

~~Left Khartoum at 8:00 AM for Khartoum~~

~~Arrived Khartoum at 1:00 PM~~

Hartog Group

Logan, John, Joan, Madelyn, Perle

"Wives were understood as having gained public rights that necessarily meant loss of rights for husbands" 77

• Revolt against patriarchy + bible

* "In the rhetoric of the unwritten law, wives were barely relevant." 79 ^{man} _{man} → Male juries

Biblical truth + religious Right = retain father's rights

→ increase of Wives public rights = Backlash

← decrease of father's rights

Expansion of women's rights hindered because of social influence to retain father's rights

* Juries bought defense arguments

RESULT

or failed

Women could not leave abusive relationships and even if they had economic independence could not leave

Quinn, Logan, John, Davis, Madalyn, Claire

11/5/15

HIST 340

ERA Group

- More Judgement at State level
- Better history of Constitutional history
- How important the South was to get favorable vote
 - ↳ accepted time limit for ratification
 - "used to be used to deliberately alter vote"
- Comparing Marijanna - "frustrated because 60% of people were in favor"
- Proposed amendment yet failed, traditionalist rebuffs
- 48, 49
- Protectionist → child labor law
 - trickle down to further women's ~~was~~ labor law
- Other groups → Marijanna's advocates
 - LGBT workplace harassment, equal pay
 - Immigration → birth right citizenship
- More people in support was a large misconception and did not do much at state level to implement ERA
- Feminists term was not accurate, these were suffragists that pushed for the ERA
- Protectionist anti-era in beginning, but Civil Rights act led to thought that men and women were equal under the law
- Traditionalist → women want to be women
 - ↳ Keep law out and away

Tavan, Emma, Henry, Zach H., Emily

Summary

- ↳ p. 7 EEOC filed charges against Sears on sex + race and sex discrimination was the only one to call
- ↳ p. 10 Statistics on Hiring Practices and questions asked ambiguous questions that are "sex-motivated"
- ↳ p. 10 Sears said statistical differences were due to women's disinterest in specific jobs, ^{+ lack of steps to fulfill position} and lack of testimony of victims of discrimination.
- ↳ p. 11 Testimonies by Kessler-Harris + Rosenberg Rosenberg said there were different expectations that did not conflict homelife. Kessler-Harris said that choices were heavily dependent on available jobs.

Explain how Sears defended themselves.

- ↳ No witness testimonies, statistical imbalance, and argument of disinterest or availability (ambiguity)

Historical arguments

- ↳ the separation of ideas of how women were disinterested in jobs that were mostly pursued by men and the other idea that since there was a lack of opp opportunities made by employers, women then had no choice or variety of jobs to choose from which led to disparities in employment and pay.
- ↳ Brandeis Brief is important to note because it was a protection act for limited work days for women which sparks a separation of whether employers treat women as a special class or as equals to men.
- ↳ differences between Kessler-Harris and Rosenberg as how historically women have chosen their positions.

Zach Birkel
Madeline Schlosser
Daniel Kneer
Chandell Tillman
Jann Beynaght

Roe v. Wade Group Notes.

Summarize scholar assessment of Roe v. Wade.

- very negative
 - wage gaps in reproductive assistance
 - legalized it in a very fragile way
 - advocates have to be careful how they phrase
- Not a lot of different view points
 - all ~~disagreed~~ had negative view points overall.
 - o did agree on the positions they saw.

What challenges do these scholars identify ~~as challenges~~ for mothers today?

- expensive day care
- hard to advance in business field
- Negative pressure of people who ~~not~~ need abortions
- Birth control, funding, providing and education.
- expensive to have a baby in general
- ~~paid leave~~
- Maternity leave.

Women Reproductive Rights Internationally

- Huge Problem
 - o China and the issues with the one child rule.
 - o India and China ~~with~~ huge populations and did not have the infrastructure to support it. They would not force sterilization techniques to help this issue.
- Unnecessary problems with U.S. intervention into other countries
- Roe v. Wade did open up world wide discussion for female ~~rights~~ reproduction rights

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

Appendix I: “Keep, Stop, Start” Exercises

HIST 340 Keep, Stop, Start Transcriptions

Prof. Katrina Jagodinsky

Spring 2014

Keep: Showing videos, they help me understand some legal issues

Stop: Making me draw : (

Start: Doing more group discussions

Keep: I like the use of media in the classroom. I would encourage the teacher to keep using videos, diagrams, and powerpoints.

Stop: I would like to see more use of reviewing quizzes/tests.

Start: I would like the teacher to promote review of the readings.

Keep: Using powerpoints as a visual during class

Stop: meeting on East Campus

Start: encouraging more class participation

Keep: Reminding of agenda that is due in following classes to push me to do stuff and don't postpone everything

Stop: Blank

Start: Blank

Keep: readings; extend

Stop: Get rid of diagram exercise

Start: more 1 on 1 discussion scaffolding

Keep: encouraging debate and making us think about how the history of the law affects us today

Stop: expecting us to read your mind about expectations

Start: being more explicit with instructions/expectations

Keep: the videos. I learn better from visual presentation. Catchy tunes make it easier to remember. The extra credit. God bless you for doing extra credit.

Stop: the reading material is bland and hard to read. Even though I complete the assigned reading, I struggle to retain the information. It needs more zing and pop.

Start: Blank

Keep: having us involved in group workshops, gives us a chance to get second opinions on topics

Stop: everything else is good

Start: giving exact address for other places besides classroom where we meet for class

Keep: power point presentations, readings, up the good work

Stop: nothing yet
Start: group discussions

Keep: open discussions
Stop: blank
Start: send announcements/emails of deadlines

Keep: the class is great, the only thing I would like to have more of is classroom discussion
Stop: blank
Start: blank

Keep: individual office hour meetings, class discussions
Stop: less reading
Start: no idea

Keep: historical concepts and actual case descriptions
Stop: less straight lecture classes—discussion drives learning
Start: more conversation and discussion based learning

Keep: having workshops and active discussions
Stop: blank
Start: blank

Keep: helpful presentations, talking about concept
Stop: abstract quizzes, or at least let me have coffee first
Start: going more in depth over key concepts

Fall 2015

Keep: the structure of class. I enjoy the structure and good conversations
Stop: No really complaint maybe if we can just bring the readings on the computer instead of print them off, but I can't complain much because you didn't make us buy a book!
Start: Add some video footage if any available to power points to help us get a greater sense of the people's mindset more in the era

Keep: I really enjoy the RRRs, I think they help me understand the readings more, knowing that I have to answer some in depth questions about them
Stop: with today's technology, and the fact most people have computers I guess I don't see the benefits of having to print the readings out. That being said only writing this to write something, don't have any problems.
Start: I would like to discuss more about what is expected of our portfolios, exactly what should we be looking for, and how it is supposed to look when completed

Keep: keeping the group discussion would be nice because it helps with learning the material

Stop: maybe tweak the readings to there isn't too much of it

Start: blank

Keep: small discussions bringing laptops to class on certain days

Stop: blank

Start: giving attendance points even if we don't have our articles printed; open class discussions; making the readings/discussion relatable to today's news

Keep: the small group work after the lectures

Stop: nothing particular comes to mind

Start: nothing particular comes to mind again

Keep: I think we should keep discussing the author's readings because it helps me to understand if I interpreted their argument correctly and if I missed any important facts within the articles

Stop: I would like to stop having the same people always speaking up in groups because I am not opposed to speaking and leading group work, but it seems that some people don't contribute at all to the conversation

Start: we should start extending group talk/discussion times longer because I don't think they last long enough

Keep: most things

Stop: explanation of questions at the end of class in writing

Start: have the last slide be a list of people doing RRRs for the week; I am having so much trouble keeping track of everything because my weeks keep getting more complicated, and I lose track of things

Keep: I am having a wonderful time in this course. The information is clearly articulated and I am in contact with new material.

Stop: Possibly not printing articles or allowing digital copies would add flexibility. It is important that each person bring the materials to class, but allowing digital copies might help.

Start: Use more, or opening the online resource sites would also help. Although everything is great.

Keep: keep the small groups because it helps us understand better and work as a team to find topics

Stop: as of right now all is okay the readings are good and RRRs are as well

Start: immigration and citizenship laws of wwII era, however, since we are not yet to the wwI I can assume that we will be studying it in the next few weeks. Possibly more group (all of class) lecture about the assigned reading to clarify however I know we are pressed for time

Keep: discussion groups and reviews of the answers that each group gives

Stop: in class research time; it would be more productive on my own
Start: show us how you might analyze a source you find

Keep: detailed discussion, I like how detailed you can get in your lectures;
instructions on exploring online e-resources
Stop: I wish we had more lectures, in place of group work; I still want to do group
work, but I would like to see less of it and more lecture
Start: more discussion about portfolios and what they should look like; more
discussion about Native American citizenship

Keep: discussion RRRs group work on reading pictures of authors > really help me
understand the text
Stop: answering the questions to the class; some questions have seemed
unapplicable or not even that big of an issue
Start: more workshops on primary sources

Keep: lecturing; current lecture format works well for me
Stop: not stop, but maybe trim down group work a little?
Start: connecting readings and lectures more explicitly to contemporary issues

Keep: practicing research on J-Stor and related sites in class; still not super
comfortable
Stop: having as many small group discussions; peoples seem unwilling to really
discuss or they appear not to have read at all
Start: working more on what to do in the paper, still fell to some extent that I don't
know what that entails

Keep: lectures that provide background to the topics and readings; small group
work
Stop: I don't think there is anything that needs to be stopped
Start: resume exercises that help with research papers (i.e., the activities focused on
using search databases)

Keep: I really enjoy the small group discussions. I think that it engages us more and
helps us view other opinions/observations from the readings.
Stop:
Start: Will we have the opportunity to have any speakers come in to our classroom
to discuss a certain topic or is it primarily outside of the classroom activities? I
would enjoy an in-class speaker if possible.

Keep: small group work, this helps myself catch details I may have missed and
allows me to see a different perspective
Stop: I wouldn't intentionally stop [the history librarian] from coming, because he is
very useful, but I wish he went more in depth with LexisNexis because I think it is
the most difficult source to use and I got lost in it

Start: I would like to start researching my topic, specifically sources and get feedback on how to continue preparing for the portfolio

K. Jagodinsky, Inquiry Portfolio
HIST 340: American Legal History

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