LEGAL STUDIES 450: TOPICS IN THE HUMANITIES
MEDICO-LEGAL HISTORY
PROF. MITRA SHARAFI • SPRING 2016

Course information: TTh 11-12.15 • Sewell Social Sciences 6112 • Moodle course webpage (accessible via UW Moodle webpage): https://courses.moodle.wisc.edu (You must be registered for the course to have access to the course page.)

Instructor’s contact information: mitra.sharafi@wisc.edu • (608) 265-8428 • Office Hours: T 3.30-5pm or by appointment • Office: Law 6112 (after entering the Law School from Bascom Mall, turn right and go to the sixth floor)

Course Description: This course examines the intersection between the history of law, on the one hand, and the history of science and medicine, on the other. Among other things, it traces the fascinating, diverse and disturbing paths followed by medical jurisprudence or forensic science in various times and places. Science and law both focus on the idea of proof. This course investigates the many different ways in which these fields have worked together—or at cross-purposes—to generate and assess evidence. We will explore various methods of establishing guilt and legal responsibility, from trial by ordeal to judicial torture to tests used in forensic crime labs. The course will explore key personnel and institutions in medico-legal history, including courts, lawyers, judges, juries, coroners, physicians, forensic labs, detectives, police and insurance. Next, we will move through a series of themes in medico-legal history, including a medico-legal history of poisoning, sex and reproduction, and mental illness. The course will end by considering contemporary medico-legal issues, among them miscarriages of justice, corporate responsibility for toxic torts, and current events relating to the course that have occurred during the semester. The course will focus upon the English-speaking world, including the British Empire, from the nineteenth century until the present.

Grades & Course Requirements:

Your final grade will be based upon the following:

[Image from Francis Galton’s Finger Prints (1892)]
• **Reading responses (30%):** You will be required to write five 600-word reading responses to class readings (approx. 2 pages each, double-spaced) on the five days when you are “on call” (see below for description of this system). You may choose to use the day's “Reading Questions” (listed on the syllabus for each class) as a jumping-off point, or you may decide to write on some other aspect of the readings. In either case, you should make your own original argument, and not simply provide a summary of the readings. These responses are intended to give you an opportunity to explore themes in the readings that are thought-provoking, and to engage critically with the authors’ arguments and approach. They are also meant to provide us with a starting point for discussion in class the following day. Your reading response should address *all of the readings for the day,* connecting them with each other whenever possible. You should do no outside research for the reading responses. Your reading responses will be due electronically (submitted via our Moodle website) **Mondays by 12 noon for a Tuesday class or Wednesdays by 12 noon for a Thursday class.** Each response will be graded out of 20 points. There will be a 2-point penalty for lateness (=work submitted after 12 noon but before 5pm). Responses that are either too short or too long by more than 50 words will be penalized by 1 point. Failure to include your name, the course name, date, and a title describing your essay’s themes will also lose 1 point. I will not accept responses received after 5pm on the day before class. I will also not notify you when your response is late or missing. *It is your responsibility to know when you are on call and to submit your reading responses for those classes.* See my “Grading Rubric for Reading Responses” chart (distributed in class and posted on our website) for details on how these assignments will be graded.

• **Short research paper (20%):** You will analyze one particular Medico-Legal History case study, technique or school of thought in this short research essay (6-8 pages). Please identify your topic via the sign-up screen on our Moodle course page (max. one student per topic). I will provide a list of potential topics on the website, but you may also choose a topic that is not on the list if you obtain my prior approval.

You may sign up via our Moodle course page any time during the one week after the opening of the list at **7pm on Th, Jan. 28, 2016.** You must have signed up for a topic by **7pm on Th, Feb.4, 2016.** A penalty will be applied to your overall paper grade if you sign up late.

You must submit the first draft of your paper by **midnight exactly one week before your in-class presentation** (presentations will take place during Classes 23-27). Your short oral presentation (7-10 minutes) will summarize your paper. Your classmates assigned to the On Call group of the day will read your first draft and provide you with written comments, which I will read first. They will also lead the short discussion on your work following your presentation. Using your classmates’ comments, you will revise your first draft and submit your final version of your paper by **midnight one week after your in-class presentation** (for example, if you give your presentation on Th, April 28, your first draft will be due by midnight on Th.
April 21 and your final version will be due by midnight on Th, May 5. You must include with your final submission a cover note explaining changes made in response to your classmates’ comments. Up to 48 hours after the deadline, late papers will be accepted with a 5-point penalty (the paper will be graded out of 100 points) for every 12 hours that the paper is late. Late papers submitted more than 48 hours after the deadline will not be accepted. *It is your responsibility to keep track of the scheduling deadlines associated with all stages of your paper.*

- **Final exam (30%)**: We will have a closed-book final exam on **Tuesday, May 10, 2016 at 7.45am-9.45am in Sewell Soc. Sci. computer lab, room 3218** (not in the official exam location posted on the university's timetable).

- **Class attendance (10%)**: Coming to class is essential. This means arriving punctually and staying until the end of class.
  
  - **Lateness**: Arriving more than 15 minutes late or leaving more than 15 minutes early counts as an absence from that day’s class. Arriving late (= up to 15 minutes after I have taken attendance) **more than three times** constitutes chronic lateness and will be factored into your attendance grade.

  - **Absences**: I will take attendance at the beginning of each day’s session. **You are allowed two unexcused absences on days when you are *not* on call during the semester**. There will be no deductions for these two absences. Beyond this allowance, however, missing a class will count as an unexcused absence. Exceptions include missing class for medical, military, or athletics-related reasons (all with documentation), or for religious reasons (with prior written notice). **You will automatically fail the class if you have more than four unexcused absences (i.e., without documentation for an exception and beyond the two allowable absences) during the semester.** If you have an ongoing medical condition that may cause periodic absences, please let me know (with documentation) as soon as possible during the semester. In such cases, we can set up alternative arrangements pertaining to attendance policy.

- **Class participation (10%)**: you are expected to contribute regularly to class discussions. This includes participating in the class blog on our course website,
namely posting a one-sentence question or comment on the readings on days when you are on call, and responding to your classmates’ postings on any other days. If you are uncomfortable speaking in class, you should come to see me during office hours in order to express your thoughts on course materials in an alternative setting. Participation is particularly important for the days when you are “on call.” You should be aware that absences may have an adverse effect not only on your attendance but also on your participation grade, as you cannot participate if you are not present.

Disabilities or other medical issues:

- If you have a disability, learning difficulty or other medical condition that you feel may affect your work, attendance or participation in our course, please let me know (with documentation) as early as possible during the semester. Any such discussions will remain confidential. The McBurney Disability Resource Center offers special facilities through which students may take exams (for instance, with time and a half), so it is important that you let me know of any special support you may require: http://www.mcburney.wisc.edu/ Where appropriate, we may also set up alternative arrangements pertaining to attendance.

“On Call” System:

- Groups: Our class will be divided into 5 groups of 4-5 students each: red, orange, green, blue and purple. The color identification refers to the color of group and name card you will be assigned. You should bring this card with you to class. The list of names for each group will be posted on our course website.

- Rotations: Each group will be on call for five classes over the course of the semester. I have indicated which group will be on call for each class. It is your responsibility to know *when* you are on call, and to be well prepared for those classes especially. Your reading responses and one-sentence post on our class blog (on the Moodle course page) will be due by 12 noon the day before these classes. If you must miss a class when you are scheduled to be on call, arrange with a classmate to switch days and inform me of the change, or contact me at least one week in advance so that I can help you coordinate such a change.

Written Work:

- Format for reading responses and short research paper: Your reading responses and short research paper must be typed in 12-point font with 1-inch margins. They must be double-spaced and submitted electronically via our Moodle course page. If in doubt about whether your submission has been properly submitted using Moodle, you should also e-mail your reading response to me. However, our Moodle page daily dropboxes are my preferred method for submission of reading responses.
Format for course blogposts: When you are on call, you will be expected to post a
one-sentence question or comment on the day’s readings, due at the same time
as your reading response. This should be posted on our “LP Class Blog” on our
Moodle course website. Every class, I will post a heading with the class number,
color group, and topic. You should add your one-sentence posting by clicking on
“Add your comment” beneath my initial post for the appropriate class. On days
when you are not on call, you are welcome to also post a one-sentence question or
comment, whether independently or as a reply to your “on call” classmates’
postings. All blogpost participation will feed into your participation grade.

Course Materials:

- All readings for the course are available electronically through our Moodle course
  website. Because laptops may not be used in class (see below), I recommend that
  you bring summary notes to class if you want to avoid printing out the readings for
  each day’s class. Your summary notes should enable you to answer the reading
  questions for the day’s readings (posted on the syllabus for each class). I also
  recommend that after taking notes on a reading, you fill in the following headings in
  one or two sentences each: 1. summary of the main argument, 2. most important
  contribution, 3. most serious criticism, 4. how this reading fits with our other course
  readings and themes.

Technology:

- Laptop ban: For pedagogical reasons, I do not allow the use of laptops or other
electronic devices (like iPads and smartphones) in class. In order to ensure a
full and engaged learning experience, the use of any type of electronic device in
class is prohibited unless required for properly documented medical reasons
and/or arranged through the McBurney Center. This includes the wearing of
headphones during class. Any recordings made of our class (using the
medical/McBurney exception) shall be for students’ own study purposes. Such
recordings shall only be made with prior permission from me and are not to be
made available to anyone outside of our class.

- E-mail etiquette: Please e-mail me with procedural and logistical questions only
after you have consulted our Moodle page and have been unable to find the answer
there. (If you notice that something is missing or incorrect on Moodle, I would
appreciate an e-mail.) In general, you will get better quality feedback and
substantive discussion by coming to office hours. All e-mails should include the
appropriate form of greeting and be signed with your name. I will not reply to
messages that do not include these basic courtesies. In this course (as in life), you
should aim to be clear and polite in your e-mails, delete automatic signatures that
are not appropriate, and reread your messages before you send them.

Academic Misconduct:
• **The stakes:** You have a lot to lose if found to have committed academic misconduct. Misconduct during your undergraduate years may be recorded and submitted to future potential employers and institutions for post-graduate study. If you plan to apply to law school or graduate school, you should realize that any academic misconduct could prevent you from being accepted, or from pursuing your desired profession later on (e.g., practicing law). It is therefore critical that you familiarize yourself with UW’s policies and procedures governing academic misconduct: [http://www.students.wisc.edu/doso/academic-integrity/](http://www.students.wisc.edu/doso/academic-integrity/)

• **Plagiarism:** Any intentional attempt to claim the work or efforts of another person without authorization or citation constitutes academic misconduct. This includes cutting and pasting text from the web without quotation marks or proper citation, or paraphrasing from the web (or any other source) without crediting the original. I take such actions seriously, and **regularly do anti-plagiarism checks on student assignments.** If I suspect that you have plagiarized, I may request an in-person meeting and may penalize you in grading your assignment. Failure to meet with me in person to discuss these issues may result in an “incomplete” for the assignment and potentially for the course. In addition, I may pursue disciplinary measures.

• **Other forms of misconduct:** Because I grade on a curve, cheating by your classmates affects your grade directly. If you believe that a classmate has committed academic misconduct, report it to me.

**Course Reading Schedule:**

• **T, Jan.19, Class 1 (no group on call today): Overview of the course** (no readings)

• **Th, Jan.21, Class 2 (red): Introduction to Law, Science and Medicine—past and present**

**Qs:** Both of today’s readings are primary sources—accounts written by people who were players in the events they describe. In the early twentieth century, Sydney Smith was a forensic specialist originally from New Zealand who studied in Scotland and became a colonial administrator in Egypt, then part of the British Empire. In late twentieth-century Britain, Zakaria Erzinçlioğlu (also known as Dr. Zak) was a forensic entomologist, a scientist who applied his knowledge of insects to crime scenes. *Compare* their two accounts of the field of forensic science. *How did this field look the same at the beginning and end of the twentieth century, and how had it changed? What do both experts say about the capabilities and limits of forensic knowledge? What do they say about specialization within the field? How does the memoir format shape their message?
• **T, Jan.26: Class 3 (orange): From judicial torture to lie detection**
  
  **Qs:** How did a drug used in obstetrics become a tool for criminal investigation in the 1920s-40s? What arguments were made for and against the use of truth serum, and by whom?

• **Th, Jan.28, Class 4 (no group on call today): Moot Court #1—State v. Thaw**
  o Read the *State v. Thaw* problem (distributed in advance and posted on our Moodle course page) and prepare your case. You will have 10 minutes at the start of today’s class to confer with your teammates on strategy and the division of duties. You will argue your case in class today.

• **Th, Jan.28: Sign-up list for short research paper topics opens at 7pm (Moodle)**

• **T, Feb. 2, Class 5 (no group on call today): Visit to Ebling Library with Curator Micaela Sullivan-Fowler—Rare Medico-Legal Books** (no readings)
  o Please note that today’s class will not be in our normal classroom, but at the Ebling Library, Health Sciences Learning Center (connected to the UW Hospital) at 750 Highland Avenue. The 80 bus leaves every 6 minutes (at 10.24am, 10.30, 10.36, 10.42, 10.54, etc) from the 800 Langdon St. bus stop (at the corner of Langdon and Park, by Memorial Union) and continues on to the stop at the corner of Observatory Drive and Bascom Hill en route for the UW Hospital. The ride takes 10-15 minutes. The full 80 route is mapped out [here](#): We will start our tour at 11.15am and end at 12 noon to allow for an extra 15 minutes’ travel time to and from Ebling on your own.

• **Th, Feb. 4, Class 6 (green): Detectives & Police**
  
  **Qs:** What skills and techniques does Sherlock Holmes employ in the two stories you read? According to O’Brien (and perhaps Sydney Smith from Class 2), what influences upon Conan Doyle may have inspired the Holmes character and his methods?

• **Th, Feb.4: Sign-up list for short research paper topics closes at 7pm today (Moodle)**

• **T, Feb. 9, Class 7 (blue): Courts & Expert Witnesses**
Qs: In what way did the role of the expert in English courts change from the late 18th to the early 19th centuries? Discuss two major lawsuits that reflected these changes. Why had a sense of frustration and mistrust developed between the scientific community and the legal profession by the 19th c.? Outline the arguments that emerged in debates over scientific expert witness testimony.

**Th, Feb.11, Class 8 (purple): Insurance**
Qs: What were the key challenges for the early American life insurance industry? Why were cases of suicide especially difficult? Why was life insurance often associated with murder in the Anglo-American popular imagination?

**T, Feb.16, Class 9 (red): Coroners’ Inquests & the post-mortem examination**
Qs: What did the traditional Anglo-American inquest look like? Who participated, and under what conditions? In what form did the practice continue in the US, particularly in California? On what grounds was the system a target for reform from the late nineteenth century on? What kinds of power struggles ensued? What kinds of stories do coroners’ records reveal?

**Th, Feb. 18, Class 10 (orange): Guest class—Dr. Michael A. Stier, forensic pathologist and Assoc. Prof. of Pathology and Laboratory Medicine, UW School of Medicine and Public Health, on Death Investigation in Wisconsin and the US**
Qs: What aspects of death investigation in the US today are problematic, and why? Might legal reform or regulation improve the situation? Why or why not, and (if so) in what ways?

**T, Feb.23, Class 11 (green): Signs of the body 1 (from tattoos to fingerprinting)**
Qs: Why was the use of fingerprinting as a forensic identification technique problematic from the mid-19th to mid-20th centuries? Was it perceived as problematic at the time? Why or why not?

- **Th, Feb.25, Class 12 (blue): Signs of the Body 2 (from blood to X-rays)**
  - Qs: Why was the discovery of X-rays so important for the medico-legal world? For whom did it hold great promise? Who felt threatened by the “dark light” and its “shadowgraphs”? How did American courts treat X-ray evidence in the early twentieth century?

- **T, March 1, Class 13 (purple): Signs of the Body 3 (from eugenics to DNA)**
  - Qs: How did eugenics shape Chicago’s criminal justice system during the early twentieth century? Discuss both institutions and prevailing theories of the causes of crime. What school of thought did eugenics replace? What approach replaced eugenics by the late 1920s?

- **Th, March 3, Class 14 (red): Poisoning 1—Introduction**
  - Qs: What was the relationship between poisoning, magic and religion in pre-revolutionary France? What gendered and class-based patterns were commonly associated with the crime of poisoning? What cultural narratives about poisoning existed?

- **T, March 8, Class 15 (orange): Poisoning 2—Victorian Britain**
  - Qs: In what ways was the trial of William Palmer a battle of wits between an infamous physician and poisoner (Palmer), on the one hand, and a famous forensic expert (Alfred Swaine Taylor), on the other? What was questionable about Taylor’s subsequent depictions of the outcome of that trial?

- **Th, March 10, Class 16 (green): Poisoning 3—19th-20th c. US**
  - Film (in class): excerpts from “The Poisoner’s Handbook” (PBS, 2014)
- Deborah Blum, *The Poisoner's Handbook: Murder and the Birth of Forensic Medicine in Jazz Age New York* (New York: Penguin, 2010), 1-4 (“Prologue”), and 176-95 (“Ch.8: Radium (Ra)”), plus notes
  
  Qs: Who were the Radium Girls? Why was their case so shocking, given attitudes toward radium at the time? What did the resolution of their case reveal about corporate responsibility in the early twentieth century?

- **T, March 15, Class 17 (blue): Arson, Ballistics and Explosives**
  - David Grann, “Trial by Fire: Did Texas execute an innocent man?” *The New Yorker* (7 Sept. 2009), 1-34
  - David Kelly, “Esperanza arsonist Raymond Lee Oyler sentenced to death,” *Los Angeles Times* (6 June 2009), 1-3
  
  Qs: What was wrong with the forensic science being used by the authorities who investigated the fire that killed Cameron Todd Willingham’s three young children? Describe the criticisms made against Willingham’s conviction. What effect did these ultimately have? Compare and contrast the cases of Willingham and Oyler.

- **Th, March 17, Class 18 (purple): Sex & reproduction 1**
  
  Qs: Why did certain people living in Nazi Germany want to prove that the men assumed to be their fathers were actually not their fathers? What kinds of arguments were made, and what kind of evidence was provided? What questions about the legal use of medical or scientific evidence did these cases raise?

- **Sat., March 19-Sunday, March 27, 2015: Spring Break**

- **T, March 29, Class 19 (red): Sex & reproduction 2**
  
  Qs: (1) On Hunt: What features of infanticide made it a particularly difficult crime for which to convict in 19th-c. Britain? What competing narratives emerged about why some women killed their babies? (2) On Sacco: According to Sacco, how was medical knowledge revised in order to avoid engagement with the criminal law in cases of potential incest? Do you agree with her conclusion that father-daughter incest was the only possible explanation for the high rate of gonorrhea among girls in America? How did this high incidence violate common perceptions about venereal disease in the period?

- **Th, March 31, Class 20 (orange): Law & Psychiatry 1**

**Qs:** In what ways did personality disorders (as opposed to mental illnesses) like psychopathy emphasize the fundamentally incompatible perspectives of psychiatrists and the legal profession? In other words, how did psychiatrists as expert witnesses frustrate lawyers and judges on the difference between “the bad and the mad”? How did the concept of psychopathic nymphomania reflect gendered assumptions and change over the course of the 20th century?

**T, April 5, Class 21 (green): Law & Psychiatry 2**


**Qs:** How did shoplifting come to be a “fashionable” form of crime in the Anglo-American world from the late 19th century on? What demographic patterns (especially class- and gender-based) were associated with the crime? Explain its medicalization as kleptomania, a condition that would relieve a defendant of criminal responsibility.

**Th, April 7 (by midnight): start of rolling submission deadline for first draft of short research paper. Your first draft is due by midnight one week *before* the date of your in-class presentation. Presentations to be held from Class 24-28.**

**Th, April 7, Class 22 (no group on call): Moot Court #2—Rana v. Rana**

Read the *Rana v. Rana* problem (distributed in advance and posted on our Moodle course page) and prepare your case. You will have 10 minutes at the start of today’s class to confer with your teammates on strategy and the division of duties. You will argue your case in class today.

**T, April 12, Class 23 (blue): Corporate responsibility**


**Qs:** What is the significance of the Gene Autry cowboy suit in US legal history? In what ways did flammable fabrics become a key arena for the consumer protection movement in 20th-century US history? What episodes followed the cowboy suit tragedy?

**Th, April 14, Class 24 (purple): Presentations 1**

From Class 23 to 27, students will present findings from their short research papers (first draft) in a short conference-style presentation (7-10 minutes, no powerpoint), followed by Q&A from classmates, for a total of approx. 15 minutes per presentation. On Call students will read presenters’ first draft and use “track changes” to provide comments and questions as their reading responses for the class. These annotated versions of each first draft will be read by instructor and forwarded to the authors shortly before their presentations. Authors will then revise
their papers in light of their classmates’ written and in-class feedback. Authors must submit with their final draft a short cover note describing changes made in response to classmates’ comments. Students who are not on call may also read presenters’ first draft and submit comments and questions to instructor, who will forward them to the author. Providing feedback when you are not on call is optional, but will be factored into your participation grade.

- **T, April 19, Class 25 (red): Presentations 2**

- **Th, April 21 (by midnight):** start of rolling submission deadline for final version of short research paper. Your finished paper is due (with cover note explaining changes made in response to classmates’ comments) by midnight one week *after* the date of your in-class presentation.

- **Th, April 21, Class 26 (orange): Presentations 3**

- **T, April 26, Class 27 (green): Presentations 4**

- **Th, April 28, Class 28 (blue): Presentations 5**

- **T, May 3, Class 29 (purple): Science, Medicine and Wrongful Convictions**

  **Qs:** (1) On Findley articles: What problems in American criminal justice systems does the innocence movement seek to address, and how has it done so? (2) On Tuerkheimer: How and why have attitudes toward Shaken Baby Syndrome (or Abusive Head Trauma) changed over time among medical and legal professionals since the 1970s? What aspects of the condition are most contested currently, and how is SBS/AHT regarded by different groups of medical and legal professionals today? What lessons may we draw from this episode in medico-legal history?

- **Th, May 5, Class 30 (no group on call): Medico-Legal issues in current events & final review**
  - Readings TBA (relevant news stories that have occurred during the semester)

  **Qs:** What course themes can you trace in today’s readings? Do any of the readings confirm or complicate ideas explored in our course?
• **Tuesday, May 10, 2016 at 7:45am-9:45am: Closed-book cumulative Final Exam (30%) in Sewell Social Science Computer Lab, room 3218 (please note that our exam will *not* be held at the official exam location posted on the university’s timetable)**