

## **Current Issues in Civil Rights Litigation**

Spring 2022 Professor Ricks

3 credits S/WI\* Tues. & Thurs. 2:30 – 3:45 pm E110

NOTE FOR INCARCERATIONLAW.COM:

Portions of the attached Civil Rights Litigation Syllabus concern prison/jail litigation:

- Chapter 2 (8th Am),
- Chapter 7 (post-arrest, pre-trial excessive force claims; jail suicide);
- Chapter 10 (Prison Litigation Reform Act, other statutes)
- Chapter 11 (qualified immunity)
- Chapter 12 (local government liability)

### **Required reading and viewing**

Sarah E. Ricks & Evelyn M. Tenenbaum, CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: A CONTEXT AND PRACTICE CASEBOOK (\*\*3d Edition Carolina Academic Press 2020\*\*) and July 2021 Book Supplement

- The book includes a wide variety of sources relevant to current constitutional litigation, including Supreme Court opinions, lower court opinions illustrating doctrinal evolution in federal circuits, oral arguments, appellate briefs, jury instructions, expert reports, Congressional reports, news articles, law review articles, interviews with civil rights attorneys, etc.
- July 2021 Book Supplement available on Canvas. Updates chapters & includes links to videos, news stories & other resources

Assigned viewing will include documentaries about prison, child protection services, YouTube videos illustrating police techniques, etc. *This syllabus will be amended during the semester*

### **Overview of course structure**

First 3 weeks: grounding in Supreme Court and development of key doctrines in federal circuits.

### **Law practice simulations**

- Beginning Week 4, approximately 40 minutes of many classes will involve a law practice simulation (*e.g.*, oral argument, settlement conference, mediation, brief the client, etc.). Each simulation will be a roleplay by about 3-5 students, generally two students advocating opposing positions and one student in a neutral, questioning role. There will be 10 law practice simulations during the semester. Each student will play a role in 2 simulations.
- After the first 20 minutes, questioning will be opened up to the entire class. Please prepare at least 2 questions for every simulation, even if you are not one of the 3-5 students playing a role, *and try to ask a question during the simulation.*
- To ensure full class participation, and as a courtesy to your fellow students, please close your laptops during law practice simulations.

### **Interaction with practicing civil rights lawyers**

- Guest speakers – To ensure full class participation, and as a courtesy to our guests, please prepare questions for speakers in advance, close your laptops during guest talks, and ask questions
- Interviews with civil rights attorneys

### **Factual grounding in context of constitutional litigation**

- Reading, documentaries, video or audio about prison, police, social workers, and other factual contexts that give rise to constitutional claims

### **In-class writing**

- Throughout the semester, occasional in-class writing projects

### **Writing requirement – Portfolio including:**

- Two 4-page Brief Essays on topics suggested by class materials, due throughout the semester. Occasionally, excerpts may be distributed to your classmates & briefly presented by you orally

### **Continued, writing requirement – Portfolio including:**

- Written questions for guest speakers, for fellow students participating in oral simulations
- Any written preparation for law practice simulations
- In-class writing projects (*e.g.*, timed essays, discovery requests, client interview Qs, etc.)
- Cover letter/reflection piece turned in with portfolio
- While the essays will be due periodically throughout the semester, each student is responsible for keeping a copy of all writing done for the course (including 2 Brief Essays, written Qs for fellow students either in law practice simulations, any writing for law practice simulations) and will turn in via upload to Canvas or a complete portfolio in a 3-ring binder to my office **by Friday, April 29** by 4 pm.
- **Choose your own paper/project topics.** Have fun with this. This class is a bridge to law practice and I hope you'll explore your future professional roles. I am happy to suggest topics. Below are some possible topics for short writing projects:
  - “draw” or chart one of the doctrines we cover in class; suggest visual ways to represent doctrines/ideas in cases, *e.g.*, charts, timelines, Venn diagram, or other visual depiction of legal concepts & explain in narrative
  - interview a lawyer who litigated one of the cases we studied or who litigated a similar claim & identify challenges/satisfaction/turning point faced in the litigation; subsequent legal or factual development
  - create a video explaining one of the doctrines we cover in class or providing factual or policy context for one of those doctrines
  - draft an amicus argument concerning one of the doctrines we read, identifying your client’s legal and policy interest
  - “op-ed” piece about the practical implications of a case
  - policy proposal to state or local government seeking change in a government policy relevant to the doctrines we study in class
  - interview a person with a role in civil rights litigation: plaintiff or defense lawyer, non-profit, social worker, police officer, corrections officer, zoning board official, etc.
  - research how you think a current news event that involves one of the legal doctrines we have studied would be analyzed
  - draft a mediation statement concerning one of cases we read, or a current news story, explaining your client’s position on settlement, including legal, policy, and equitable concerns
  - comment how you think the cases we read relate to one another
  - reaction to/commentary on cases – why “like” or “dislike” a decision; why certain cases are more difficult or easier to grasp; logical leaps you see
  - comment on circuit splits concerning one of the doctrines we discuss

- letter to a government client explaining the results of one of the cases we read, the practical and policy consequences, and recommending next steps
- letter to federal court advocating change in Model Jury Instructions
- research further doctrinal development on any doctrine we have studied
- how you would have decided a case differently (write a dissent)
- propose a law practice simulation
- propose a classroom exercise that integrates legal skills and doctrine
- draft a model answer to an exercise in the textbook that we did not do in class

Feel free to ask me for suggested topics. Please check with me if uncertain about the appropriateness of a topic.

**This is not a lecture class. Class participation is expected.** This class is a bridge to law practice. *Class participation*, including participation in the law practice simulations, questions asked of guest speakers or fellow students during simulations or oral presentations throughout the semester, will count for 40% of the grade. *Portfolio of short writing projects* will count for 60% of the grade. Short writing projects, whether completed in-class or outside of class, should demonstrate engagement with a wide variety of topics suggested by course material. The sum of the portfolio is greater than the individual parts. The quality of class participation may be taken into account in the event of a borderline grade. I reserve the right to raise or lower your grade based on professionalism (this can include coming to class on time, preparing for simulations, distracting other students in any way, including leaving the classroom during class, distracting use of your laptop or phone in class, etc.). There may be a “bump” down in your grade for failure to timely complete interim assignments in a satisfactory fashion in appropriate circumstances.

### **Attendance**

This is a hands-on course that depends on your active participation, so attendance is critical. If you need to miss class you must notify me in advance and make arrangements to complete any missed work. Please email me your comments for class discussion. More than three absences may result in failing the course. Substantial lateness or leaving the room during class is an absence.

### **Laptops**

Laptops in a classroom are to enhance education rather than to provide alternative sources of information or entertainment. If you think you cannot resist the temptation to search, text, play games, check social media, or otherwise distract yourself or others from the classroom, please consider taking notes by hand.

### **Assignments**

- Jan. 13      Introduction to 42 U.S.C. 1983**  
 CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: A CONTEXT AND PRACTICE CASEBOOK (Carolina Academic Press **\*\*3d Edition 2020\*\***) - Historical Context & Introduction to Modern Section 1983 Litigation: Chapter 1, Discuss Syllabus
- Jan. 18      Eighth Amendment Prisoner Litigation**  
 Factual background for Eighth Amendment litigation: prison documentary  
 Begin Chapter 2, CONSTITUTIONAL LITIGATION pp. 47-66  
 Exercise 2A

**Due:** By Jan. 20 class, students select Law Practice Simulations #1 - 10 and select A, B, C, or D schedule for Brief Essay writing assignments

**Jan. 20**

**Eighth Amendment Prisoner Litigation**

Continue Chapter 2, CONSTITUTIONAL LITIGATION pp. 66-111

Exercise 2B, 2C, 2E

Before class, watch 8-minute video re: women returning from incarceration

**Due:** By Jan. 20 class, students select Law Practice Simulations #1 – 10 and A, B, C, or D schedule for Brief Essay writing assignments

**Jan. 25**

**Eighth Amendment Prisoner Litigation**

Continue Chapter 2, CONSTITUTIONAL LITIGATION, pp. 113-44

**Due:** by 6 pm Jan. 26 – upload two Questions for Simulation #1

**Jan. 27**

**Eighth Amendment Prisoner Litigation**

**Law Practice Simulation #1** (8<sup>th</sup> Amendment)

Finish Chapter 2, CONSTITUTIONAL LITIGATION

**Substantive Due Process:** Begin Ch. 3, CONSTITUTIONAL LITIGATION pp. 145-58

**Due:** by 6 pm Jan. 26 – upload two Questions for Simulation #1

**Feb. 1**

**Substantive Due Process:** Chapter 3, CONSTITUTIONAL LITIGATION pp. 158-81  
Development of doctrine in the Circuits: Applying *Lewis* to property  
Exercise 3A

**Feb. 3**

**Substantive Due Process: *DeShaney* and exceptions**

Chapter 4, CONSTITUTIONAL LITIGATION pp. 183-222

Factual background for litigation vs social workers: before class, watch videos posted on Canvas/Files/Videos and Links

Development of doctrine in the circuits: state-created danger

Guest speaker: **Shana Salley**, Child Protective Service Worker, City of Philadelphia

**Feb. 8**

**Substantive Due Process: *DeShaney* and exceptions**

Chapter 4, CONSTITUTIONAL LITIGATION pp. 222-61

Exercise 4-A, 4B, p. 241 exercise Note 1

Development of doctrine in circuits: state-created danger; special relationship exceptions to *DeShaney*

**Due:** by 6 pm Feb. 9 – upload two questions for Simulation #2

**Feb. 10**

**Law Practice Simulation #2** (14<sup>th</sup> Amendment – state-created danger)

Finish Chapter 4, CONSTITUTIONAL LITIGATION pp. 261-79  
Exercise 4C

**Due:** by 6 pm Feb. 9 – upload two questions for Simulation #2

**Feb. 15**      **Section 1983 Requirement of Action Under Color of Law**  
Chapter 5, CONSTITUTIONAL LITIGATION Development of doctrine in the circuits:  
When does conduct of government employees cease to be under color of law?  
Exercise 5A, 5B; in class writing

**Due:** by 6 pm Feb. 16 - upload two questions for Simulation #3

**Feb. 17**      **Law Practice Simulation #3** (action under color of law)  
**Fourth Amendment Standards & Police Misconduct**  
Chapter 6, CONSTITUTIONAL LITIGATION pp. 319-36

**Due:** by 6 pm Feb. 16 - upload two questions for Simulation #3

**Feb. 22**      **Fourth Amendment Standards & Police Misconduct**  
Chapter 6, CONSTITUTIONAL LITIGATION pp. 336-68  
Development of doctrine in the circuits: police dogs, Tasers  
Exercises 6A, 6B, 6C, 6D

**Feb. 24**      **Fourth Amendment Standards & Police Misconduct, continued**  
Finish Chapter 6, CONSTITUTIONAL LITIGATION, pp. 368-87

**Guest Panel on *Preventing & Remediating Police Misconduct*** Anthony Erace,  
Police Advisory Commission (please visit <http://www.phila.gov/pac/>);  
Carol Tracy, Women's Law Project (please visit  
[http://www.womenslawproject.org/NewPages/wkVAW\\_SexualAssault.html](http://www.womenslawproject.org/NewPages/wkVAW_SexualAssault.html) )  
(bios at end of syllabus)

**Due** by Feb. 24: Group A short writing assignment

**Mar. 1**      **Excessive Force Post-Arrest**  
Chapter 7, CONSTITUTIONAL LITIGATION pp. 389-419; skim expert report pp. 419-  
24; in-class writing

**Due** by March 1: Group B short writing assignment

**Due:** by 6 pm March 2: upload two questions for Simulation #4

**Mar. 3**      **Law Practice Simulation #4** (jury charge conf. post-arrest excessive force)  
**Procedural Due Process - Property Interests**  
Development of doctrine in the circuits  
Chap. 8, CONSTITUTIONAL LITIGATION, pp. 425-49

**Due:** by 6 pm March 2: upload two questions for Simulation #4

- Mar. 8**      **Procedural Due Process - Property and Liberty Interests**  
 Chap. 8, CONSTITUTIONAL LITIGATION pp. 449-83  
 Failed Property Interest in Restraining Orders
- Guest Panel of Civil Rights Defense Counsel**  
 Anne Taylor, City of Philadelphia Law Department; Jeff Scott, Archer & Greiner
- Due** by March 8: Group C short writing assignment  
**Due:** by 6 pm March 9: upload two questions for Simulation #5
- Mar. 10**      **Procedural Due Process -finish Chapter 8, CONSTITUTIONAL LITIGATION, 484-95**  
**Law Practice Simulation #5** (state legislative hearing)
- Absolute Immunity:** Chapter 9, CONSTITUTIONAL LITIGATION pp. 497-519
- Due:** by 6 pm March 9: upload two questions for Simulation #5  
**Due:** Participants in Sim. 6 to distribute any agreed-upon additional facts 3/10  
**Due:** by March 10: Group D short writing assignment
- Mar. 15, 17**    *Enjoy Spring Break!*
- Mar. 22**      **Absolute Immunity:** Chapter 9, CONSTITUTIONAL LITIGATION pp. 519-41  
 Development of doctrine in the circuits
- Law Practice Simulation #6:** (city policy for maximizing deterrent effect of adverse rulings on future conduct by social workers and police)
- Due:** by 6 pm March 21: upload two questions for Simulation #6
- Mar. 24**      **Absolute Immunity:** finish Chapter 9, CONSTITUTIONAL LITIGATION  
**Guest Panel of Plaintiffs' Civil Rights Counsel - Su Ming Yeh, Pennsylvania**  
 Institutional Law Project; Josh Baker, Greenblatt, Pierce, Funt & Flores \*\*invite  
 pending 12/22\*\* (bios at end of syllabus)
- Due:** March 24: Group A short writing assignment  
**Due:** by 6 pm March 28: upload two questions for Simulation #7
- Mar. 29**      **Attorney Fees & Prison Litigation Reform Statute:** Chapter 10, pp. 543-78  
**Law Practice Simulation #7** (absolute immunity – social worker)  
 Exercise 10A, Exercise p. 577 Note 1
- Due:** by 6 pm March 28: upload two questions for Simulation #7

- Mar. 31**      **Attorney Fees & Prison Litigation Reform Statute**  
Finish Chapter 10, CONSTITUTIONAL LITIGATION, 578-90
- Qualified Immunity**  
Chapter 11, CONSTITUTIONAL LITIGATION pp. 591-613  
Exercise 11A
- Due by March 31: Group B short writing assignment**
- April 5**      **Qualified Immunity**  
Chapter 11, CONSTITUTIONAL LITIGATION pp. 613-46  
Exercise 11B; Development of doctrine in the circuits
- April 7**      **Qualified Immunity**  
Chapter 11, CONSTITUTIONAL LITIGATION pp. 647-74  
Exercise 11C  
Oral Presentations: 4 minute oral presentations/argument of a short writing project
- Due by April 7: Group C short writing assignment**  
**Due by 6 pm April 11: upload two questions for Simulation #8**
- April 12**      **Law Practice Simulation #8 (qualified immunity for state-created danger)**  
**Local Government Liability**  
Chapter 12, CONSTITUTIONAL LITIGATION pp. 675-705  
Exercise 12A, 12B
- Due by 6 pm April 11: upload two questions for Simulation #8**
- April 14**      **Local Government Liability**  
Chapter 12, CONSTITUTIONAL LITIGATION pp. 705-40  
Development of doctrine in the circuits
- Oral Presentations: 4 minute oral presentations/argument of a short writing project
- Due: by April 14: Group D short writing assignment**  
**Due: by 6 pm April 18: upload two questions for Simulation #9**
- Apr. 19**      **Law Practice Simulation #9 (qualified immunity for 4<sup>th</sup> Amendment)**  
**Evolution of a Doctrine - Parental Liberty Interest**  
Chapter 13, CONSTITUTIONAL LITIGATION, pp. 741-77
- Due: by 6 pm April 18: upload two questions for Simulation #9**

**Due:** by 6 pm April 20 – upload two questions for Simulation #10

**April 21** Finish Chapter 13, CONSTITUTIONAL LITIGATION  
**Law Practice Simulation #10** (parental liberty interest)

Oral Presentations: 4 minute oral presentations/argument of (1) a short writing project or (2) your reflection piece

**Due:** by 6 pm April 20 – upload two questions for Simulation #10

**April 26** Oral Presentations: 4 minute oral presentations/argument of (1) a short writing project or (2) your reflection piece

Course Evaluations

**Due by Friday April 29 by 4 pm:** Either (1) uploaded to Canvas OR (2) in a 3-ring binder to my office: Complete portfolio of all writing done for the course. Including (i) cover letter/reflection piece; (ii) 2 short writing projects, (iii) any writing for law practice simulations, (iv) any in-class writing, (v) written Qs for fellow students in law practice simulations, (vi) any other writing for course

### **Due dates for Brief Writing Projects**

Group A: Feb. 24; March 24 & Friday April 29 (portfolio by 4 pm)

Group B: March 1; March 31 & Friday April 29 (portfolio by 4 pm)

Group C: March 8; April 7 & Friday April 29 (portfolio by 4 pm)

Group D: March 10; April 14 & Friday April 29 (portfolio by 4 pm)

***If you opt for Writing Intensive (WI) credit,*** (1) we will work out an individual schedule for writing projects and (2) you will be opting out of Skills credit.

**Appendix A:** Descriptions of Law Practice Simulations

**Appendix B:** Guest speaker schedule & biographical information



## **Appendix A - Law Practice Simulations**

Below are short descriptions of each of 10 law practice simulations. Each simulation will be a role play involving about 3-5 students, often 1 student advocating one position, 1 student advocating an opposing position and 1 student in a neutral, questioning role. Each law practice simulation is set in the present. Many simulations involve an emerging or existing circuit split. Each student with an assigned role in each law practice simulation is responsible for orally presenting the view of a person in that role. Each student will play a role in 2 simulations during the semester.

Please prepare sufficiently for the law practice simulation to take approximately 40 minutes. **After 20 minutes, every student in the class is welcome to ask questions of the students. So please prepare 2 questions for every simulation when you do not have an assigned role.**

### **Simulation #1 – Jan. 27 (3, 5)**

Appellate oral argument before the fictional 12<sup>th</sup> Circuit based on the facts of *Miller v. McBride*, 64 Fed. Appx. 558 (7<sup>th</sup> Cir. 2003). The application of *Farmer v. Brennan* is a question of first impression in the 12<sup>th</sup> Circuit. 2 students represent the plaintiff prisoner. 2 students represent the defendant prison officials Tappan and Ludwig (McBride is not a defendant). 1 student is a judge on the 12<sup>th</sup> Circuit.

### **Simulation #2 – Feb. 10 (5)**

Interoffice debate among the attorneys representing the defendant police officer Tedder on whether to seek certiorari from the fictional 12<sup>th</sup> Circuit to the U.S. Supreme Court on the state-created danger issue only. While the simulation is based on the facts of *Kneipp v. Tedder*, 95 F.3d 1199 (3d Cir. 1996), the relevant circuit is the fictional 12<sup>th</sup> Circuit and the state-created danger doctrine has not been litigated in 12<sup>th</sup> Circuit since *Kneipp*. All 5 students represent the police officer. 2 students are junior, in-house counsel who do not think the client should petition for certiorari. 2 are outside counsel who want to seek certiorari (and be attorney of record, for a fee). 1 student is in-house senior counsel who will ultimately make the decision about whether to recommend petitioning for cert to the client.

### **Simulation #3 – Feb. 17 (3)**

Appellate oral argument before the fictional 12<sup>th</sup> Circuit based on the facts of *Martinez v. Colon*, 54 F.3d 980 (1<sup>st</sup> Cir. 1995). The 12<sup>th</sup> Circuit has never addressed the issue of what constitutes action under color of law in the context of police activity so this presents a question of first impression. 1 student represents the plaintiff. 1 student represents the defendant police officers. 1 student is judge on the 12<sup>th</sup> Circuit.

### **Simulation #4 – March 3 (3-5)**

Prepare for a jury charge conference before a district court judge in the fictional 12<sup>th</sup> Circuit based on the facts of *Lopez v. Chicago*. Assume the standard governing excessive force claims for post-arrest, pre-arraignment claims is an open question in the Supreme Court, a question of first impression in the 12<sup>th</sup> Circuit, and is not addressed in the circuit pattern jury instructions. Would plaintiff want to argue that the claim is governed by the 4<sup>th</sup> Amendment? Would defendants want to argue that the claim is governed by the 14<sup>th</sup> Amendment? Even if the claim is governed by the 14<sup>th</sup> Amendment, what standard should the district court use to instruct the jury? 1 student represents the plaintiff arrestee. 1 student represents the

defendant police officers. 1 student is the trial court judge who will decide how to instruct the jury. Judge will rule on how jury will be instructed. Each side will have the opportunity to object & explain why, to preserve the issue for appellate review.

### **Simulation #5 – Mar. 10** (3)

Testimony in a state legislative hearing before a legislative committee considering *The Domestic Violence Victim Protection Act*, the Bill located in the Procedural Due Process reading. Both legislators and those testifying are free to offer amendments to the Bill or to offer a different bill.

One student is a state legislator but did not author the bill. The legislator is trying to decide what statutory language to support and should be prepared to ask questions and possibly to make specific drafting suggestions. One student wants to persuade the legislature to adopt legislative language most likely to create an enforceable property interest and represents a non-profit, the Coalition for Domestic Violence Victims. One student wants to persuade the legislators to adopt legislative language least likely to create an enforceable property interest and represents a statewide organization of municipalities, the Local Government Alliance. Students should be prepared to testify for or against the existing proposed language and to make specific drafting suggestions to further their clients' views of what the statute should provide.

### **Simulation #6 – Mar. 22** (3)

Meeting of in-house counsel with the Mayor of Metropolis to decide how to maximize the deterrent effect of adverse Section 1983 rulings and settlements on future conduct by city social workers and police. Two lawyers each will propose and advocate for policy changes. Each student should prepare to discuss both legal and practical reasons for and against adopting their proposals. The proposals may or may not include any suggestions to improve accountability, training, hiring, investigations of misconduct, investigations of citizen complaints, or supervision of employees; proposal that individual city agencies responsible for the adverse rulings or settlements should have to pay the verdict and settlement amounts out of their own agency budgets, thus reducing money for other agency priorities; or other proposals. ***During the March 10 class meeting before the simulation, any agreed-upon additional facts must be distributed to the entire class.***

### **Simulation #7 – Mar. 29** (3)

Brief the client, who is trying to decide whether to settle or appeal a federal district court decision. The district court decision is the portion of the *Holloway v. Brush*, 220 F.3d 767 (6<sup>th</sup> Cir. 2000) majority that addresses absolute immunity for social worker Brush. Appeal would be to the fictional 12<sup>th</sup> Circuit where the issue of whether social workers are entitled to absolute immunity is a question of first impression. 2 students are attorneys for the social worker; 1 thinks the client should settle and 1 thinks the client should appeal. One student is the client - the local government agency that employs the social worker. The social worker would seek absolute immunity only; she would not seek qualified immunity.

### **Simulation #8 – April 12** (3-5)

Interoffice debate among the attorneys representing the plaintiff/estate of Eric Butera, based on the facts of *Butera v. District of Columbia*, 235 F.3d 637 (D.C. Cir. 2001). The decision to be made is whether to seek certiorari to the U.S. Supreme Court on the issue of qualified immunity for the police officers on the estate's state-created danger claim only. Assume only the individual officers are defendants. All 3 students represent the plaintiff estate. One student is junior counsel who does not want to seek cert. One is

junior counsel who does want to seek cert. One student is senior counsel who will make the decision whether or not to recommend seeking certiorari to the client/representative of the estate.

### **Simulation #9 – April 19** (5)

Settlement conference before federal appellate mediators. The parties must decide whether to settle the litigation or to pursue the appeal of a federal district court decision on qualified immunity. The district court decision is *Carr v. Tatangelo*, 338 F.3d 1259 (11<sup>th</sup> Cir. 2003). Plaintiff's appeal of the qualified immunity ruling would be to the fictional Twelfth Circuit and would concern only the 4<sup>th</sup> Amendment claim by Mr. Carr against Officer Fortson. The mediation takes place after the trial court has decided the case and after the notice of appeal has been filed. The parties have not yet briefed the appeal and no briefing schedule will issue if the parties can agree to settle. At the settlement conference, be prepared to discuss both the likelihood of success on appeal (legal issues) and a specific dollar amount. Two students are attorneys for defendant police officer Fortson. Two students are attorneys for plaintiff Carr. One student is the federal appellate mediator. For a brief description of a federal appellate mediation program, please visit the website for the Sixth Circuit's program: <https://www.ca6.uscourts.gov/about-mediation-conferences>

### **Simulation #10 – April 21** (3)

Appellate oral argument before the fictional 12<sup>th</sup> Circuit based on the facts in the federal district court decision located in Chapter 13. The scope of the parental liberty interest in an adult son is an open question in the 12<sup>th</sup> Circuit. 1 student represents the plaintiff/ appellant. 1 student represents the defendant/appellee police officer. One student is a judge on the 12<sup>th</sup> Circuit.

## Civil Rights: Current Issues in Constitutional Litigation

### Guest Speaker List – Appendix B

Throughout the semester, there will be opportunities for students to hear from and speak with practicing civil rights attorneys. Both civil rights attorneys and other professionals with a role in civil rights litigation will be guest speakers in the seminar. In addition, some students may interview attorneys who have litigated some of the cases we read. To ensure full class participation, and as a courtesy to our guests, please keep your camera on during guest talks.

#### **Feb. 3 – *People Behind the Legal Doctrines***

**Shana Salley**, Child Protective Service Worker, City of Philadelphia

#### **Feb. 24**

#### ***Perspectives on Preventing and Remediating Police Misconduct***

**Anthony Erace** of the Philadelphia Police Advisory Commission, the official civilian oversight agency for the Philadelphia Police Department. The mission of the Commission is to improve the relationship between the police department and the community. It is intended to represent the view of the Philadelphia citizenry. The Commission is authorized by Executive Order 8-93 to investigate individual citizen complaints of police misconduct, and to study police department policies, procedures or practices. Findings and recommendations made by the Commission are forwarded directly to the Mayor, the City Managing Director and the Police Commissioner for their review and appropriate action.

Please visit the Police Advisory Commission site for information on civilian oversight of Philadelphia police. <http://www.phila.gov/pac/>

**Carol Tracy**, Executive Director of the Women's Law Project, has presided over legal victories in reproductive rights, discrimination in employment, education, athletics, and welfare. Her recent work has involved several initiatives regarding Violence Against Women, including leading a major reform effort on the police handling of sex crimes in Philadelphia, and co-chairing a city-wide task force on domestic violence. Carol was appointed to the Child Welfare Review Panel in 2006 to review practices of the Department of Human Services (DHS) in Philadelphia. For more information, please visit the website: <http://www.womenslawproject.org>

#### **March 8**

#### ***Panel of Civil Rights Defense Counsel***

**Anne Taylor, Chief of Civil Rights, Philadelphia Law Department.** The Civil Rights Unit defends all 42 U.S.C 1983 lawsuits filed against the City and its employees. Most are 4<sup>th</sup> Amendment claims against police or 8<sup>th</sup> Amendment claims against prison guards. The Civil Rights Unit also defends Department of Human Services workers alleged to have violated constitutional rights. The Civil Rights Unit advises City Departments on issues with potential civil rights implications and helps train city employees to ensure they comply with constitutional limits on their authority. All attorneys in the unit handle their own cases from the filing of a complaint until jury verdict, and have to develop a theory of the case, build a factual record to support the theory, and present the case to a jury.

**Jeff Scott is a Litigation Partner in the Archer firm.** Mr. Scott represents municipal and State employees in areas of police administration, social services, corrections, labor and employment, and risk management.

Mr. Scott has extensive experience in the defense of catastrophic injury claims involving gunshot wounds, in-custody deaths, suicide, school violence, physical and sexual abuse of children in foster care, catastrophic motor vehicle accidents and excited delirium. Jeff's working knowledge of forensic economics and vocational rehabilitation provides clients with expertise in claims involving past and future wage loss, past and future medical expenses, insurance claims and lost business profits.

Mr. Scott provides Risk Management services to law enforcement clients: (a) Development of data tracking systems to identify specific claims (e.g., denial of medical treatment, use of baton, use of firearms, pursuits, O.C. Spray...) and trends that could lead to potential liability for the agency and municipality. (b) Review of critical incidents, including in-custody deaths, alleged excessive use of force and claims of alleged corruption; (c) Comprehensive review of an agency's current labor policies, hiring policies and disciplinary system. This aggressive form of risk management can reduce the cost of litigation, while reducing injuries.

**March 24**

***Panel of Civil Rights Plaintiffs' Counsel***

**Su Ming Yeh, Executive Director of the Pennsylvania Institutional Law Project**, where she has worked since 2006. In addition, she is an Adjunct Clinical Professor, University of Pennsylvania Law School and serves in leadership roles in the Asian Pacific American Bar Association of Pennsylvania and the Philadelphia Bar Association, Civil Rights Committee. She clerked for a federal district court in New York following receipt of her JD from University of Pennsylvania Law School in 2004.

**Joshua M. Baker, Greenblatt, Pierce, Funt & Flores**, works primarily on civil rights matters to secure justice and compensation for people whose rights have been violated in the workplace and elsewhere. Josh graduated from Rutgers Law School in 2018. **\*\*invite pending 12/22\*\***