Identity, Law, and Culture
Professor Frank Rudy Cooper
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Fall 2007
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Room 320I
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Office Hours: Mon. & Wed., 3:00-4:00p.m.,
or anytime by appointment

Overview:
This class asks and answers the following questions: How do people form their senses of
the implications of their own and other people’s identity statuses? How might those
understandings influence the way the law is structured and applied?

Course Goals:
First, we will learn the substance of “critical” theories of identity, including (1) the
historical roots of United States (“U.S.”) racial prejudice (2) some foundations of critical
race theory, (3) issues of race and crime, (4) the psychological mechanics of prejudice,
(5) the intersectionality of race, gender, and other aspects of identity, (6) the theory of
identity as “performative,” (7) the case of masculinity, and (8) the application of those
theories to Fourth Amendment searches and seizures, especially through the literature on
racial profiling.

Second, we will think consciously about how to construct a well-written, insightful, 20-
page paper through exercises in brainstorming, outlining, and drafting papers.

How we Will Conduct Class:
The Professor will open class by outlining the topics we will cover that day. The
professor will then provide any outside background material for the given topic. When
applicable, the students who have written response papers will describe the theses of the
readings and their reactions to the pieces. Next, we will engage in a broad, student-
driven discussion of the materials. Finally, at the end of each topic, the professor will
summarize the key insights and place them within the general outline of the class.

Expectations:
First, be on time to class. Second, read the assignments in advance of class. Third, when
you write a response paper, be ready to describe the theses of the articles and some of
your reactions thereto. Fourth, when you do not write a response paper, be ready to
describe the theses of the articles and some of your reactions thereto. Fifth, be attentive
in class. Sixth, be respectful of your classmates’ opinions.
Evaluation:

Students will be evaluated based on the following formula: (1) Class attendance and participation = 16.5%; (2) Four 1+-page Response Papers on each readings on assigned dates plus outline = 16.5%; (3) Full Draft = 16.5%; (4) Presentation = 16.5%; (5) Final paper = 34%.

Readings:

Class #1: History
A) African Americans
   Race and Races: Cases and Resources for a Diverse America (2d Ed.) (Juan F. Perea et al. eds., 2007), pp. 96-103; 140-46; 155-59; and 171-76 (describing construction of black inferiority through laws, force, and subtle social gestures).
B) Native Americans
   Id. at 179-85 and 234-39 (describing the “doctrine of discovery” and comparing anti-black and anti-Indian prejudices).
C) Latinas/os
   Id. at 285-94; 329-336; 340-51; 356-59; and 384-86 (discussing black/white paradigm as well as the consequences of the conquest of Mexico as well as comparing Puerto Rican experiences of prejudice).
D) Asian Americans
   Id. at 397-400; 427-28; 436-40; 463-69; and 471-75 (introducing issues pertinent to Chinese- and Japanese-Americans as well as discussing the assumption of foreignness and the model minority myth).
E) “Whites”
   Id. at 487-88; 508-13; and 516-32 (discussing how “white ethnics” became “white” and the transparency phenomenon).

Class #2: Defining Race & Racism
A) Id. 1-6; 24-28; 32-40; 43-47; 51-72; 76-81; 93-95 [Note 6 only] (discussing various theoretical frameworks for thinking about race and racism).

Class #3: [Follow-up on Readings ##1-2]

Class #4: Is the Present a Backlash to the Past?

Response Papers Due: Elle, Nick, Gol, Raj

Class #5: Critical Race Theory Methodology
A) Crenshaw et al., Introduction to Critical Race Theory: The Key Writings That Formed the Movement (Kimberle Crenshaw et al. eds., 1995), pp.

Response Papers Due: Chris, K.C., Patrick, Sarah

Class #6: Some Critical Race Thoughts


Response Papers Due: Michael, Adam, Rachael, Haneen

Class #7: Race & Crime: Victimization
A) *Race and Races*, supra, at 1098-1150

Response Papers Due: Jonah, Ann, Cailin, Gisell

Class #8: Is the PATRIOT Act a Race Issue?


Response Papers Due: Elle, Nick, Gol, Raj

Class #9: [Continue discussing Class #8 materials]

Response Papers Due: Chris, K.C., Patrick, Sarah

Class #10: The Psyche & Race

Response Papers Due: Michael, Adam, Rachael, Haneen

Class #11: Introduction to Intersectionality

Response Papers Due: Jonah, Ann, Cailin, Gisell

Class #12 Variations on Intersectionality Theory


**Response Papers Due:** Elle, Nick, Gol, Raj

Class #13: Covering & Gay History


**Response Papers Due:** Chris, K.C., Patrick, Sarah

Class #14: Covering, Race, Gender, and Liberty

A) *Id.* at 111-201 (tracing histories of racial and gender covering as well as introducing a liberty model of civil rights).

**Response Papers Due:** Michael, Adam, Rachael

Class #15: Masculinity


B) Peter Kwan, Jeffrey Dahmer and the Cosynthesis of Categories, 48 HASTINGS L.J. 1257 (1997) (constructively criticizing intersectionality theory as applied to policing).

**Response Papers Due:** Jonah, Ann, Cailin, Gisell

Class #16: Racial Profiling


**Response Papers Due:** Elle, Nick, Gol, Raj

Class #17: Hypermasculinity and Policing


**Response Papers Due:** Chris, K.C., Patrick, Sarah

Class #18: Performing for the Police

A) Devon Carbado, *Eracing the Fourth Amendment*, 100 Mich. L. REV. 946 (2002) (arguing Supreme Court promotes a particular ideology through its
supposedly colorblind fourth amendment jurisprudence), pp. 964-1004, 1030-44.

Response Papers Due: Michael, Adam, Rachael

Class #19: Cop Macho

Response Papers Due: Jonah, Ann, Cailin, Gisell

Class #20: Intersectionality and Racial Profiling

Classes 21-28: Student Presentations

** Outline is at 4:00p.m., Wednesday, October 31. Lateness penalties will be applied. **

** Draft Paper is Due at 4:00p.m., Friday, November 16th. Lateness penalties will be applied. **

** Final Paper is Due at 4:00p.m., Wednesday, December 5th. Lateness penalties will be applied. **