

California Judicial Administration Fellowship Program
PPA 298B: Judicial Administration Fellowship Seminar
Spring 2018 Course Syllabus

California State University, Sacramento
Center for California Studies
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Welcome: The purpose of this course is to provide academic perspective and to complement what the fellows are learning from their placement in one of ten trial courts or judicial branch offices. The spring seminar continues to blend academic theory with practice with focus now centered on policy analysis, intergovernmental relations, and contemporary issues confronting the judicial system. The overall goal is to apply the knowledge gained in the fall semester to evaluate and analyze the policies, practices, procedures and institutional role of the California judicial system. This will enhance the fellows' contribution to the judicial branch and their court placement. Academic Seminar is held one full-day each month either on campus or off-campus and requires written and oral projects and papers as well as participation in a weekly online discussion forum. Modelled in part on the Mini-Capstone Research Paper submitted in the fall seminar, a policy or issues-oriented Capstone Project Paper and Presentation is due on the final day of seminar.

Catalog Description:

Analyzes procedural issues and policy questions within the California judicial system with emphasis on the interdependence of the judicial, legislative and executive branches.

Expected Learning Outcomes:

Students will be able to:

1. Identify and analyze major policy issues confronting the California judicial system as an institution of state government;
2. Apply and adapt a specific policy analysis framework to a significant issue or problem in their placement courts or offices and to current year judicial branch budget change proposals;
3. Understand and explain the balance between judicial independence, judicial accountability and the oversight role performed by the legislative and executive branches;
4. Apply research, writing and oral presentation skills to their Capstone Project Paper.

Academic Seminar Format:

The Judicial Administration Fellowship Academic Seminar is conducted in part at the fellows' placement courts throughout California and in part on campus – an important factor which distinguishes this fellowship from other Capital Fellows programs. The seminar itself encompasses one full-day each month, augmented by weekly online issues forums. Seminar begins at 9:00 a.m. and concludes at 4:00 p.m. with a 45 minute to 60 minute recess for lunch (depending on seminar location). Seminar is not a lecture class, although there is typically a short introduction to the material and a review of the class agenda. The seminar is discussion-based guided by study questions, presentations, and role-playing exercises utilizing the assigned readings, case studies, and weekly forum issues. Fellows must come prepared to share their ideas and engage intellectually with each other. And, most critically, they must demonstrate their ability to synthesize course material and link them to their fellowship experiences.

Academic Seminar Participation:

Active participation is vital to the learning environment and it is therefore required. And it is heavily weighted towards the final grade. Oral presentation also provides opportunities to personally develop a key professional skill and to build self-confidence. Student presentations and participation are enhanced when information is presented in a logical and interesting sequence that can be easily followed. Moreover, students are expected to demonstrate knowledge of the seminar subject or topic by asking relevant questions, answering questions, and

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providing reasonable explanations and elaboration. Presentations must be made with a clear voice and correct, precise pronunciation of terms. Writing during the online forums should be clear, concise, and well-reasoned. Group exercises or team interactions will be respectful and collegial.

Academic Weekly Online Discussion Forum Participation:

Why an Online Discussion Forum? The Online Discussion Forum is intended to promote student interaction, deepen student learning, build class community, and increase student engagement. (Trujillo, 2017; Poll, Widen, and Weller, 2014). The role of courts in our society is evolving rapidly and on a daily basis some aspect of the judiciary appears in the news. The Online Discussion Forum provides a structured opportunity to identify and explore current (and sometimes perennial) issues involving courts and by inference their administration.

What will you do? There are three parts to the Discussion Forum. As in the fall semester, you will post relatively recent court related articles that you find in the news and ask at least one question about another's post that is well thought-out and shows a depth of knowledge and understanding beyond the obvious. You will also answer at least one question posted by another. The best questions are clear, relevant, specific, and require an open-ended response. Points will be deducted if your question seems shallow or poorly thought-out, is a simple "yes-no" question, or is not a question at all. Note that you cannot post a question to your own news article. Similarly, answers should be succinct, thoughtful, responsive, and as may be appropriate, raise a further question.

Instructions for Online Discussion Forum

Part 1: Making a Post. This Discussion Forum entails making a post with any new and interesting court-related information from a news story (article, opinion piece, or editorial) that you come across this semester – whether federal, state, local or international in scope. Your initial post about the news story must be posted by Sunday 6 p.m. of your assigned week to allow time for others to read and respond. We will use Google Groups as our platform – to be established after our first seminar. Forum grading criteria is posted to PPA 298.

- The name of the news article and the date it was posted (note that the news story must be accessible online and reported by a reliable news source.)
- A link to the news document;
- In your own words, a 1-paragraph summary (100 words minimum) with details about the article;
- Your thoughts about how it relates to courts or judicial administration or public management, using appropriate terminology, theories, and readings;
- Give your post a catchy title to make other students (and me) want to read it.
- You cannot make an initial post about the same article that someone has already posted, but you may make a post about the same news event from a different or more recent source.

Part 2: Making a Reply in the Form of a Question. To receive full credit, you must make at least 1 reply in the form of a question to someone else's post. Your question must be well thought-out and show a depth of knowledge and understanding beyond the obvious. The best questions are clear, relevant, specific, and require an open-ended response. Points will be deducted if your question seems shallow or poorly thought-out, is a simple "yes-no" question, or is not a question at all. Note that you cannot post a question to your own news article.

Part 3: Answering a Question. If someone in class posts a question about your post, you owe that person an answer. If nobody posts a question about your news article, you must fulfill this requirement by answering any other student's question that was posted to another student's post.

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Grades: Letter grades (A – F) are based on the following assignments:

You will be required to research and produce a minimum of 25 pages of written material for the fall semester.

(1) A series of short papers on various topics and issues	60%
(2) Capstone Project Paper and Presentation	20%
(3) Class attendance, seminar and weekly forum participation	<u>20%</u>
	100%

Grading scale:

A:	≥ 94%
A-:	90 – 93.9%
B+:	87 – 89.9%
B:	84 – 86.9%
B-:	80 – 83.9%
C+:	77 – 79.9%
C:	74 – 76.9%
C-:	70 – 73.9%
D+:	67 – 69.9%
D:	64 – 66.9%
D-:	60 – 63.9%
F:	≤ 59.9%

Attendance Policy:

Attendance and participation in seminar and completion of all academic assignments are mandatory. Acceptance of admission into the Judicial Administration Fellowship Program is a commitment to attend each class session and a commitment to be prepared for active discussion. Failure to fulfill the terms of the academic program, failure to perform in a professional manner, plagiarism, unauthorized absences, and chronic tardiness at seminar or office placement will be cause for prompt administrative review and may result in forfeiture of stipend or salary, termination from the program or other sanctions. In addition to attendance and “seat time,” the quality of participation in class discussions, online discussion boards, and class presentations will be reflected in grading. There will also be one or two individual mandatory evening office hour conferences by phone in accordance to the schedule posted to PPA 298B.

Required Texts:

Understanding and Managing Public Organizations, 5th Edition - Rainey
Trial Courts as Organizations - Ostrom, et al.
The Art and Practice of Court Administration – Aikman
American Court Management – Saari
These Estimable Courts: Understanding Public Perceptions of State Judicial Institutions and Legal Policy-Making – Cann and Yates
Tomorrow's Lawyers: An Introduction to Your Future – Susskind
Just Mercy: A Story of Justice and Redemption – Stevenson

Selected Readings: See Assignments, Articles and Discussion Questions Posted to PPA 298.

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Paper Instructions

At least one paper or seminar reading outline will be due for each spring seminar – the paper length will vary from 3 to 5 or more pages depending upon the material to be covered.

Seminar papers and other writings are due on or before Monday at 6:00 p.m. of seminar week unless otherwise instructed. Papers are to be emailed to the address on the first page of this syllabus. Late papers will not be accepted but for extenuating circumstances. All papers will have an introduction, a thesis statement if appropriate, argumentation and discussion (explanation) of relevant points, and a conclusion. Writing is a craft and requires practice. Just adhere to the topic or title that has been assigned, draw from the material in the course, marshal your evidence, and draft and redraft and redraft again. Here are the drafting and format requirements to adhere to (details matter).

1. Double-space the paper with 1.25” margins.
2. 12-point Times New Roman font.
3. Upper left corner of the first page single-spaced: Your Name, Title of Course: PPA 298 - CSUS, My Name, Title of Paper: _____, Date Submitted: January XX, 2018.
4. If a title page or citation page is used, do not count it towards the length of the essay or paper.
5. Citation style for all seminar papers: Endnotes using Modern Language Association of America (MLA) format.
6. Electronic format is MS Word. Other formats will be rejected.

Critical Writing Guidelines for All Assignments:

Bearing in mind the importance of the written word in the court setting (and academia), the following evaluative criteria are used when marking seminar papers. Note that content is heavily weighted and plagiarism is grounds for dismissal. The best papers demonstrate that the writer has thought hard and seriously about the subject - matter readings, has come to conclusions that reflect relevant information and ideas, and make a logical connection between these and the writer’s own carefully considered opinions.

Organization (25 points)

1. Introduction clear (i.e., I know what this paper will tell me);
2. Clearly worded thesis statement early in paper (e.g., first or second paragraph);
3. One main point per sentence;
4. Topic sentences in paragraphs (one main point per paragraph) that together will support your thesis;
5. Support (body) paragraphs fully developed and unified;
6. Smooth, logical transition between paragraphs;
7. Conclusion summarizes main points and restates thesis.

Content (50 points)

1. Appropriate title;
2. Supporting paragraphs strongly support the thesis with evidence such as facts, statistics, experiential examples, and, importantly, connections and reference to assigned readings;
3. Paper content is the assigned length;
4. Appropriate word choice and technical vocabulary are used.

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Format, Grammar, Mechanics (25 or more points)

1. Sentence completeness (no run-ons, comma splices, split infinitives or sentence fragments, etc.);
2. Paragraph completeness (no run-ons or incoherent thoughts strung together);
3. Comma usage as necessary in compound sentences;
4. Apostrophe usage correct;
5. Usage of semi-colon vs. colon;
6. Verb usage;
7. Spelling;
8. Language usage;
9. Numbers and calculations used correctly in text.

A good writing aid is Diana Hacker's *A Pocket Style Manual*, 5th or 6th edition. As well, Richard Wydick's *Plain English for Lawyers* is an excellent guide.

Capstone Project Paper

A specific and tangible nexus between the course and the placement is a two-part Capstone Project. Part One of the project is formulated by each fellow and mentor to address a real-world problem in the placement court or entity. Each student submitted a mentor-approved project proposal and concept paper during the fall semester.

Part Two, the Capstone Project Paper, will be a lengthy policy or issue or operationally oriented paper which is intended to demonstrate academic evidence of learning, synthesis, research, and engagement with the placement project and the course contents. Because the paper will cover both academic as well as real-life situations, the paper will reflect both academic and professional writing styles. I will work with each fellow to guide identification of issues or other topics covered in seminar that may relate to the Capstone Project.

Capstone Project Detailed Outline and Example

The following outline resulted in a very successful Capstone Paper that conformed closely to the outline. It is provided for the limited purpose of showing a structure and depth of content that your outlines should contain. Given your diverse court settings and projects, the specific content of your outlines will vary from project to project and context to context. But notice how the student deals with the project details and then broadens the scope to include seminar related issues and larger macro level connections. For many of your papers, using a PASTEL analytical framework will help you capture potential policy issues and seminar topics. Lastly, and on the point of connection to seminar, refresh your memories by using the outlines that you produced. Likewise, scanning the indexes and table of contents of the assigned text books will also reacquaint you with material covered in the course.

I ABSTRACT

- Brief statement about the goals of the project and how those goals were accomplished.
- The abstract will discuss both stages of the capstone. The first stage being informational research and the second stage being legislative tracking and governmental relations when the Legislature is in session.

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II INTRODUCTION

- a) Background
 - Broad contextual information about traffic fines and fees including the Ferguson and Not Just a Ferguson Problem reports and how the issue garnered the attention of California.
 - Discuss the courts' role in the issue and the role of the Judicial Council and Governmental Affairs.
 - Historical information about how traffic fines and fees developed.
 - (1) LAO reports on Debt Collection and Fines, Fees, and Penalties system
 - (2) Short term solution – Traffic Amnesty
- b) Purpose
 - Legislative request from Senate President Pro Tempore
 - Discuss purpose of project as informational and respondent to the needs of the Judicial Branch, Legislature, and Governor
 - Part of a meaningful conversation about the future of the structure of fines and fees, how it may change, and research the best possible outcomes for the courts and advocate for the courts
- c) Project Expansion
 - Discuss how my project fits in with the timeline of other Judicial Council projects and past research accomplished by other state agencies
 - Discuss how my project fits in with several other actions taken currently by the council and the Legislature, such as the Access and Fairness Committee, the Futures Commission, the LAO reports, legislation, etc.
- d) Problems that needed solutions
 - Background and nexus for all criminal fines, fees, and penalties
 - Addressing legislative proposals that may negatively impact the courts
 - Clarification of a monumentally complicated issue
 - Committee support and research when needed
 - How to work on the issue from a Governmental Affairs perspective at the intersection of three branches of government

III GOALS AND OBJECTIVES

- a) GOALS
 - The main goal is to provide information and analysis on the issue of traffic fines, fees, and assessments to provide the Judicial Council with the necessary tools to meaningfully contribute to the conversation with other branches of government.
 - Due to the Futures Commission, the Judicial Council has not brought proposals regarding traffic to the courts, but OGA's goal is to ensure that introduced legislation that is in the purview of the Judicial Council positively or neutrally affects the courts.
- b) OBJECTIVES
 - Respond to the requests of the legislature
 - Be able to excellently advocate on behalf of the trial courts
 - Understand and be able to articulate court funding and collections
 - Understand and be able to articulate how criminal fines, fees, and penalties affect the court system.
- c) Policy Issues – Bardach, PASTEL, Herman - Policy Paper Guidelines

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- Significant external pressures
 - (1) Over thirty stakeholders involved in the issue
 - (2) Significant budget changes are needed to fix the issue, and legislators will not want to backfill lost revenue from fines and fees
 - (3) Pressure from legal aid advocates to ensure fairness for citizens
- Unpredictable, rapid, changing environment
 - (1) Predicting the needs of the legislature
 - (2) The legislative agenda vs. the judicial branch calendar
 - (3) The fast pace of the legislature is hard to reconcile against the deliberative nature of the judicial branch
- Internal judicial branch conflict
 - (1) Hostility from the Alliance towards Judicial Council sponsored legislation
- Communication and translation of issues between judicial branch leadership, trial courts, and legislative/ executives offices
- Funding sources for courts and other stakeholders to backfill revenue from traffic fines and fees
 - (1) Civil assessments, especially, will be important to the courts

IV OUTCOMES

- a) Senator Report
 - Created background and nexus for all criminal fines and fees to be appendix to report
 - This, in conjunction with the LAO report, provided some background and grounding for a conversation of changing fines and fees
- b) SB 881 (Hertzberg)
 - Bill to nibble at issue of fines and fees
 - No legislator willing to overhaul system, instead working on different parts of system
 - Does away with civil assessments and DL holds
 - (1) Issues with ability of courts to collect
 - (2) Large fiscal
- c) Other bills – PENDING FEB 19 DEADLINE
 - The bill introduction deadline is still a few weeks away, so I will include other bills that are related here.
- d) Three branch conversation
 - Judicial Council
 - (1) Futures Commission
 - (2) Access and Fairness Committee
 - (3) OGA KDL report
 - (4) Possible proposed legislation for 2017
 - Legislature
 - (1) SB 404
 - (2) SB 881
 - (3) LAO report
 - Governor's Budget
 - (1) Amnesty
 - Effects of three branch conversation on issue
 - Intersection of Amnesty/ Fines and Fees issues/ SB 405

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V METHODS AND PROCEDURES

a) TOOLS

- Internal and External Communication
 - (1) Staying informed by participating in meetings with:
 - (a) DOF
 - (b) Amnesty calls
 - (c) Committee Calls
 - (i) Criminal Law Advisory Committee
 - (ii) Traffic Advisory Committee
 - (iii) Trial Court Presiding Judges and Court Executive Officer Legislative Subcommittee
 - (iv) Policy Liaison and Coordination Committee
 - (d) Legislative Hearings
 - (i) Public Safety
 - (ii) Budget Sub #5 – Public Safety
 - (iii) Judiciary
 - (iv) Appropriations or other Committees
- Primary Sources
 - (1) Past and recent legislation, statute, the DOF Manual of State Funds, the State Controller's Appendix C, committee analysis.
- Secondary Sources
 - (1) News articles, historical journal articles, reports (current and historical)

b) METHODS

- Larger goals include the report to the senate and bill tracking and analysis
- Smaller tasks are mainly spontaneous and urgent action

c) PROCEDURES

- Spontaneous and urgent action
- Provide support on issue where needed
- Stay involved and ask to sit in on all related calls, meetings, and hearings about criminal fines, fees, and penalties when possible

VI CONCLUSIONS

a) Brief overview of project

- Short recap of introduction, goals, and objectives
- Short recap of methods and procedures
- Short recap of accomplishments

b) Broaden scope of project to theoretical context

- Trial Court Funding and Unification
 - (1) Pound
 - (2) Aikman
- State Audits and effect on Judicial Council policy
- Judicial branch structure and administration
 - (1) Saari, Aikman, Rainey
- Differences in culture between Judicial Branch and legislature and effects on fines and fees structure
 - (1) Ostrom

c) How Reducing Bureaucracy for Efficiency could help create a new fines and fees system

d) FUTURE OUTLOOK

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- Predictions for possible legislation, futures ideas, or governor proposals for 2016-2017
- Impacts of those predictions

The Capstone Paper in final form will be due on May 16. At the May seminar on May 18 students will present their projects and papers to the class. Please note that the spring seminar schedule provides for continuous check-in points to ensure sufficient support for the Capstone Project Paper. Here are the important Capstone dates for the spring semester:

PPA 298B	Capstone Milestones
January 2018	Individual Capstone Progress Meetings - Evening Conference Call
February 2018	Individual Capstone Progress Meetings - Evening Conference Call
March 20 Seminar	Capstone Paper Detailed Outline - Seminar Meetings
April 11 Seminar	Capstone Paper Draft and Peer Review
On or Before May 16	Capstone Final Paper Due
May 18 Final Seminar	Presentation

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January Reading Assignments and Seminar Exercises – PPA 298B.

INTRODUCTION TO THE JANUARY SEMINAR

This seminar's readings will initially explore the judiciary's budget through the lens of information technology initiatives. View this as an introduction to intergovernmental checks and balances and accountability promoted through the budget process. While this may appear to be a rather dry subject, it is worthwhile quoting a truism from Professor Aaron Wildavsky, "If you cannot budget, you cannot govern." This is so because a budget is far more than a compilation of numbers and words. It is in fact a plan through which policy decisions are articulated (and funded) and it is the product of historical political compromises. We will begin by reading a series of reports (they are numerous but not lengthy) covering nearly four decades of state level information technology initiatives that encountered serious budgetary and management problems and they came under equally serious scrutiny.

Because the Governor will not release the state's proposed budget for fiscal year 2018-2019 until January 10, we will not have the opportunity of studying it in seminar until February. However, as a preview, there will be a seminar exercise in which you will review last year's judiciary budget change proposals (BCP) and see how they were winnowed down from 18 to four in the course of the state budget process.

Part I: Information Technology Readings: Given that each of you were, as some might say, 'born digital', you may wonder why the courts seem not to have adapted as quickly or fully or easily to information technology as one might expect. Understanding more about the history of technology in the public sector and the courts will help to explain this phenomenon. Coupled with reading Susskind whose emphasis is the future of law, you will be well-versed in IT policy, drivers of change, and challenges to effecting change within the judicial – legal culture and elsewhere. **Posted to PPA 298B January Seminar are several short reports to read and outline. The outlines will be due January 18 no later than 7 p.m. in the following order:**

1. 1989 IT NCSC Report on Statscan (Introduction: pp 1-5; Conclusions: pp 78-86)
2. 1990 IT LAO Report on Statscan (and other judicial budgetary matters pp 7 – 20))
3. 1994 IT California State Auditor Report on State Information Technology (2-page summary)
4. 2002 IT LAO Report on the Department of Information Technology (5 pages)
5. 2011 State Auditor Report on the California Court Case Management System (13 page summary)
6. 2013 Public Policy Institute of California (PPIC) Survey of Californians and Information Technology (38 pages mostly tables and graphics).
7. 2017 "Alameda County Court Grapples with Fixing 'catastrophic' System." *San Francisco Chronicle*, January 31, 2017.

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Study Questions / Discussion Questions:

- There are consistent flaws in the management of these projects. What are they? Why? Is there a pattern?
- Why do the deficiencies seem to persist over the decades? Do they persist in current IT projects?
- Are private sector IT problems less prevalent or perhaps because there is more transparency in the public sector they are more visible?
- Can judicial branch insularity discourage sound management practices? How?

Assigned Text: Read in its entirety - outline due January 18 no later than 7 p.m.

8. *Tomorrow's Lawyers: An Introduction to Your Future* – Susskind

Assignment: Consider your placement court's computer usage policies covering employees and the public (computers, social media, mobile phones, etc.). When were they last revised? Do you think updates are warranted or anticipated in light of Susskind's perspectives and your own impressions? In terms of website content, what is the governance process for updating or changing the court's website content? Is there judicial oversight? Does your court have an IT strategic plan? Be prepared to discuss at seminar what you have discovered. Consider and reflect on the culture of your court and possible change management processes we have studied and discussed throughout your readings. Be prepared to discuss.

Part II: Budget Change Proposal Exercise in Seminar (Walking through the entire process from Judicial Council approval, the Governor's Budget, to the Enacted Budget for FY 2017-2018.

Be certain to read and either download or print the following information from PPA 298 January Seminar. You will be paired to present and discuss at least one of the BCPs.

- BCP Final - Appellate Court Appointed Counsel
- BCP Final - Courthouse Construction
- BCP Final - Language Access Interpreters
- BCP Final - Santa Clara Capital Outlay
- BCP Final - Sustain Case Management Systems
- JC 2017-18 BCPs to Dept. of Finance

Part III: FY 2017-2018 Judicial Council BCPs Approved for Submission to the Department of Finance. This is a list of BCPs from which the Department of Finance chose 5 to include in the Governor's Budget. Summaries of each are found in the JC 2017-18 BCP's to Dept. of Finance file posted to PPA 298.

1. Support for Trial Court Operations
2. Sustain Justice Edition Case Management System Replacement.
3. Court-Appointed Dependency Counsel.
4. New Judgeships (AB 159).
5. Supreme Court and Appellate Courts - California Court Appointed Counsel Projects, San Francisco.
6. Appellate Court Document Management System.
7. Sustainability of the Immediate and Critical Needs Account.
8. Appellate Court Judicial Workload.
9. General Fund Support of Statewide Programs and Services.

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10. Implementation of the Language Access Plan and Support for Court Interpreters.
11. Increased Operations Costs for Existing and New/Renovated Courthouses.
12. Statewide Electronic Filing Technology.
13. Trial Court Facilities Operations Cost Adjustment.
14. Appellate Court Facility Maintenance Program.
15. Habeas Corpus Resource Center–Case Teams Staffing.
16. Appellate Court Security.
17. Technical BCP–Judicial Council Organizational Restructure.
18. Technical BCP–Santa Clara Capital Outlay Project Funding Plan.

Part IV. FY 2017-18 BCPs That Were Funded in the Final Enacted Budget

Of the 18 Judicial Council approved BCPs, the following 4 were ultimately included and funded in the enacted budget for FY 2017-18. The trial courts are funded from the State General Fund, county maintenance-of-effort payments, fines, fees, and other charges. The Judicial Council, Supreme Court and the Courts of Appeal receive most of their funding from the General Fund. The Budget includes total funding of \$3.6 billion (\$1.7 billion General Fund and \$1.9 billion other funds) in 2017-18 for the Judicial Branch, of which \$2.8 billion is provided to support trial court operations.

Significant Adjustments to the Budget:

- Dependency Counsel—The Budget includes \$22 million General Fund for court-appointed dependency counsel that represents children and parent clients at every stage of the dependency proceeding. The additional funding helps reduce attorney caseloads statewide.
- Equal Access Fund—The Budget includes \$10 million General Fund per year for two years for local legal aid organizations to provide direct legal services to low-income Californians throughout the state.
- Investments in Information Technology—The Budget includes \$8.2 million (\$6.1 million General Fund) to implement a Statewide Electronic Filing Program for the trial courts, replace the Sustain Justice Edition Case Management System in nine small superior courts, deploy a Document Management System for the Appellate Courts, and transition the Judicial Council onto FI\$Cal.
- Trial Court Judge Reallocation—The Budget reallocates four vacant superior court judgeships. This will shift judgeships to the areas of the state where workload is highest without increasing the overall number of judges.

Part V: Changing our Culture – One Court’s Effort at Launching the Process. We are going to attempt to revisit court culture and Ostrom and Saithe’s approaches to managing change (review the November and December seminar agendas). This will be our last journey into methods of changing court culture by examining a recent example of one court’s approach (Changing our Culture posted to PPA 298 - January seminar).

Assignment: Compare the above judicial memorandum to Ostrom’s and Saithe’s methods of managing cultural change. Where does the memorandum differ? Where does it conform to Ostrom? Do you recall Aikman opining on these sorts of efforts? **Take notes and be prepared to discuss your thoughts – or in the case of one student – direct observations. Is the memorandum sufficient? What additional steps might you recommend?**

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February Reading Assignments and Seminar Exercises – PPA 298B

February 16, 2018 Seminar (Los Angeles)

Topics: Governor’s 2018-19 Budget, Judiciary’s 2018-19 BCPs, Online Budget Exercise, Judiciary BCP Analysis Exercise; Leadership, Managerial Roles, and Organizational Culture

Deliverables for February and other Information:

- Next 10 California Budget Challenge - Online. Bring a print-out of results to seminar.
- Rainey Chapter 11, outline and preparation for a seminar exercise.
- Judiciary Budget Change Proposals - Current Year. Read, analytically critique, prepare for seminar exercise.
- Office Hours Schedule
- March Topics (continued from January)

I. Next 10 California Budget Challenge Exercise: Complete the online budget exercise (<http://www.budgetchallenge.org/pages/home>) and bring a print-out of your results to seminar on February 16. Be prepared to discuss your results and decisions with the class. Megan Thorall, Director, will be your guest lecturer for this topic. **Note:** According to Next 10 staff, references on the web site are likely to reflect the 2017 Budget until Next 10 is able to upload the 2018 budget data. As noted in the January seminar, “If you cannot budget, you cannot govern.” Aaron Wildavsky, *Budgeting and Governing*. (New Brunswick, NJ, 2001). A current example is provided by the recent three-day shut-down of our national government.

II. Reading Assignments:

Rainey - Leadership, Managerial Roles and Organizational Culture. Read and Outline Chapter 11. Outlines due February 13 by 7:00 p.m. In January we explored one court’s approach to initiating change of its culture and we had a fairly lengthy discussion of the various aspects of that change and its context. This reading of Rainey will help synthesize and bring up to date these topics that were introduced in our previous readings of Aikman, Saari, Aikman and Ostrom and which re-surfaced in the course of January’s discussion. Bear in mind the January discussion as you explore Rainey’s central question about leadership, managerial roles, and organizational change: **Can managerial leaders in government strongly influence their organizations?**

What does Rainey say the current research suggests? You will note that Rainey cites the work of Khademan. Recall the article we read early in the fall - Rainey’s citation to her work and theories is worth noting. Try to fit Rainey’s collection of theories and observations into Ostrom’s and Aikman’s and Saari’s perspectives and your own solidifying observations about court administration. Be prepared to discuss your thoughts and reflections with the class as they relate

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to court administration and government in general. **Lastly, informally note the essence of these reflections at the end of your outline: Can managerial leaders in government strongly influence their organizations? There will be an exercise in seminar in which one half the class will take the affirmative and one half the negative as the question relates to court administration. Be prepared to argue both sides!**

III. Judiciary Budget Change Proposals for FY 2018-19 Analytical Exercise: You will critique one assigned current year BCP posted to PPA 298. Using the DOF Guide to Writing an Effective BCP (posted to PPA 298 February Seminar), and employing the analytical approach and style used in the LAO Analysis of two prior year BCPs (posted to PPA 298 as BCP 2017 LAO Analysis) **prepare a critique for your assigned BCP.**

Each pair of students is encouraged to collaborate on the critique - and to be prepared to lead a discussion. You are encouraged to take thorough notes of your critique for your personal use while relying upon the DOF guidelines and LAO approach. There will be no seminar preparation time set aside. The assignments are:

- Paola and Cynthia (Online Traffic Adjudication)
- Taryn and Alejandra (JCC Collective Bargaining)
- Laila and Alexandra (Language Access Expansion)
- Belen, Luana (CASA)
- Maggie (Protective Order Registry)

IV. State Auditor, CJP, Autonomy, Independence, Accountability, Doctrines of Separation of Power and of Inherent Power. We will encounter these topics in our March readings rather than in February.

V. Office Hours. Please reserve in advance by email.

Date	Time
January 29 (Mon.)	6:30 to 8:00 p.m.
January 31 (Wed.)	6:30 to 8:00 p.m.
February 7 (Wed.)	6:30 to 8:00 p.m.
February 12 (Mon.)	6:30 to 8:00 p.m.
February 21 (Wed.)	6:30 to 8:00 p.m.
February 28 (Wed.)	6:30 to 8:00 p.m.
March TBA	
April TBA	
May TBA	

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March Reading Assignments and Seminar Exercises – Seminar On Campus

Part I: Independence, Accountability, Doctrines of Separation of Power and of Inherent Power. There are a variety of readings touching upon these issues, some of which we have been addressing incrementally throughout the year. These readings will serve as topics of discussion for you to share with each other at the March seminar – a paper is not required for this part of the assignment – but be prepared to lead and participate in discussions and exercises. **Brief outlines for each reading (submitted in a single document please) are due on or before commencement of seminar on March 20. Please read and outline the following.**

Wachtler v. Cuomo: See posting in PPA 298 March Seminar. This law review article discusses the limits of judicial budgetary authority in the context of intergovernmental relations, checks and balances within a tripartite form of government and the inherent powers doctrine. This seems particularly timely in light of the field seminar observing the State of the Judiciary address by the Chief Justice. The law review is well-written and unfolds like a story. Wachtler was the Chief Justice of New York and Cuomo was Governor. New York was in a budget crisis. The Chief Justice and the Governor had been friends for many years. The issue of budgetary authority is relevant to us because as you learned at last seminar the state budget debate has begun. Juxtaposing that with the state audit of the judicial branch and of the Commission on Judicial Performance raises significant policy questions surrounding the autonomy of the branch. The law review article addresses many of these issues from a jurisprudential perspective.

Yulee v. The Florida Bar: See posting in PPA 298 March Seminar of the U.S. Supreme Court opinion. The case addresses the degree to which limits to political participation may or may not be placed upon judicial officers because of their unique status in our society. Briefly, Yulee, a Florida trial court judicial candidate, was reprimanded for directly soliciting contributions to support her election campaign. This sort of activity by judicial candidates is barred by Florida law. You might recall seminar discussion on the limits or boundaries judges must operate within when dealing with extra-judicial activities and how there are consequences for those who trespass. The Yulee case demonstrates how hazy those boundaries are from time to time. And to contemporize these issues in California, also read the following case filed by the Commission on Judicial Performance on February 20, 2018.

Commission on Judicial Performance: Inquiry Concerning Former Judge Steven C. Bailey
https://cjp.ca.gov/wp-content/uploads/sites/40/2018/02/Bailey_NFP_02-20-18.pdf

2017 J Bolanos CJP Decision: This is a case filed in the San Francisco Superior Court by the Commission on Judicial Performance to prevent the State Auditor from accessing CJP confidential disciplinary records. The trial court judge's opinion stakes out the boundaries of independence, accountability, and separation of powers. Her decision has been appealed by the State Auditor and is pending in the First District Court of Appeal.

SF Chronicle Article 2017 - State Auditor and CJP: This article provides both a conceptual and contextual backdrop for the lawsuit and the Bolanos decision.

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Auditor 2015 Report: This report is self-explanatory and should be read in its entirety. **But you need only outline the Judicial Council's Response and Auditor's Reply (pp 79 to 90).** Note that both the Director and Chief Justice were only recently appointed - the report centers on conduct and conditions that largely precede their arrival. Think analytically as you read the Report, Response, and Reply.

Revolt of the Judges: This article by Richard Hoffman was published in 2004 and is a thoughtful and introspective assessment of the challenges confronting the field of court administration. It is also prescriptive. Be prepared to engage in a seminar exercise where you will have an opportunity to apply BPR and other principles to plan a course of action to address the central issues identified in the article and in our previous readings. Be certain to read the footnotes in the article.

Top Judge Calls California Government Dysfunctional: Former Chief Justice Ronald George addresses the initiative process in California. This relates to last seminar's discussion of the effect of populism on governance in California. Suffice to say, the former Chief Justice has a point of view. Be prepared to discuss, perhaps even debate, the question.

Part II: Court Innovation. The February seminar touched upon three individuals who lead California through a significant period of post-World War II administrative modernization. Ralph Kleps was among these leaders and he also became the first Administrative Director of the Courts. In 1991 the Judicial Council established the Kleps Award Program honoring Ralph Kleps.

Kleps Awards 1991-2011: See link below for information about the Kleps Awards Program (suspended since 2012) and for a list of award recipients. Find a program for your court.
<http://www.courts.ca.gov/2195.htm>

In those cases where information is not available, you will need to ask your mentor or others at your placement court for background information. If the programs listed are too old (in other words no one remembers them), identify another program in your court placement that you or your mentor consider to be innovative and adapt the following questions accordingly. **Your research assignment will be to choose a project link, answer the questions to the extent you can, and report back at seminar.**

- a) Whether the project or program is still in existence.
- b) If it is no longer functioning, why?
- c) Did it meet its original policy or operational goals and what were they?
- d) Whether the program evolved over time? If so, in what ways.
- e) Whether the program has been exported to other courts.
- f) Lastly, drawing upon what you have learned about courts, add any other information or insights (e.g., change management, technology, sustainability, leadership, governance, access to justice, etc) that you find interesting or relevant (or both).

Tayryn: Given your placement, please be prepared to walk us through (briefly) this article written by Ralph Kleps, *California's Approach to the Improvement of Administrative Procedure*, 32 Cal. L. Rev. 416 (1944). It reveals a time in California where inter-branch comity was such that the legislature turned to the Judicial Council for assistance with reviewing and drafting

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executive branch administrative procedures. Available at:
<http://scholarship.law.berkeley.edu/californialawreview/vol32/iss4/4>

Part III: Capstone Project Paper Outline Due March 5 As noted in last seminar, an outline of the key sections of your paper is due in March. A sample outline containing suggestions and a due date has been posted to PPA 298 March Seminar. I have also posted two documents related to Business Process Re-Design (or Re-Engineering) - BPR is a topic we discussed at the February seminar. Read the BPR materials - they may be useful to you in the course of your project as they are highly structured and they will also be used in a seminar exercise. Remember that the advice and guidance given for the mini capstone paper is equally applicable to the Capstone. As with the mini capstone, I am looking for basic sections, topical headings and descriptive subheadings in order for you to begin structuring (not yet writing) the content of your paper. Here are a few guidelines similar to those provided to you for your fall proposal and mini capstone to follow when structuring and writing your Capstone Project Paper and outline. And each of these sections (but for the Abstract) should have subheadings in your outline.

1. Abstract or Summary: It should be a brief, clear and informative statement of what the project was intended to accomplish and why and what was accomplished.

2. (Introduction) Background and Purpose: Here you should expand upon the portion of the summary that explains why the project needed to be done. In other words what problem or issue were you addressing and what made it important. Your objective in this section is to make a compelling case for the work that you did. If you built upon work that had already begun, you would want to show what gap or gaps needed to be filled and how your project was relevant to that end. These should be elaborated in the next section on goals and objectives. If you replicated work that had already been done elsewhere or previously in your placement, i.e., a sequel, be certain to note that as well.

3. Goals and Objectives: Discuss your intended goals and objectives and explain how they relate to the problem or issue in Section 2.

4. Outcomes: Discuss and explain whether the outcomes met the goals and objectives discussed in Section 3. And, as is often the case, you may not have outcomes given the length and complexity of some projects. If so, simply recount where the project stands and what remaining steps need be taken either by yourself or someone else.

5. Methods and Procedures: In this part go into some detail about the methods and procedures you used, e.g., primary research, secondary research, if this is relevant to your project. This section can also include a literature review or meta-analysis of prior studies if this too is relevant to your project and paper. You were acquainted with this approach through the development of your mini capstone papers.

6. Conclusions: Discuss what you learned in the course of the project and the seminar. It is likely here that you will be able to draw upon relevant readings and discussions that have taken place throughout the year. This will be done by using appropriate theories, readings, and other materials covered in the course. This is the academic part of the paper where you weigh and balance and evaluate what you have done. It requires thought, reflection, and objectivity. This is not dissimilar to your explorations in the mini capstone paper.

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April Reading Assignments and Seminar Exercises – PPA 298B (Berkeley)

I. Capstone First Draft Paper Peer Review: At last seminar we discussed the detailed outlines of your papers. For this seminar, please bring the most recent draft of your Capstone Paper to be reviewed with your peers. This is intended to be a constructive, substantive conversation among yourselves. Approximately 2 hours will be set aside for you to have an in-depth discussion in pairs - to be assigned at seminar. To facilitate your discussions, I suggest using the Capstone Outline along with your draft paper. You may also wish to have your reading outlines at hand to refresh your memories of the course material. Focus on structure, clarity of argument, connections to seminar themes and readings. Consider the managerial readings of Aikman, Saari, and Rainey as you reflect on the ease or difficulty you have encountered in the course of your project. **Note: You will have five weeks from the April seminar to submit your Capstone Paper - due no later than May 16. Final seminar will be held May 18 and your formal presentations will made at that time.**

II. Assigned Text: Just Mercy (Bryan Stevenson) 316 pp.
Assignment: Read in its entirety.

III. Assigned Text: American Court Management (David Saari).
Assignment: Read or re-read Chapter 5 (17 pp). Or, if your outlines were thorough, read only the Conclusion at p 111, first full paragraph. **See seminar discussion below.**

IV. Criminal Injustice: A Cost Analysis of Wrongful Convictions, Errors, and Failed Prosecutions in California’s Criminal Justice System (rel. March 2016) (Posted to PPA 298 April Seminar).

Assignment: This report is posted to PPA 298 April Seminar. You may wish to read this report in its entirety, **but you are only required to read the following parts: Executive Summary (2 pp); Section 1 (9 pp); Section 3 (9 pp), Appendix D (2 pp).** Please read these sections of the report in the dual context of the upcoming field seminar to San Quentin State Prison and the academic seminar readings.

Seminar Discussion of Texts and Report: Be prepared to discuss the judicial administration connection between these readings and the early admonition by Saari (p 111) that “Courts with defective management are likely to produce substandard justice.” What are the connections between the four judicial administration policy areas noted by Saari and the two assigned readings? Has defective court management contributed to miscarriages of justice? How?

V. California Department of Corrections and Rehabilitation Data (CDCR). A summary report by CDCR on condemned inmates is posted to the PPA 298 April Seminar. The data are current through March 12, 2018.

Assignment: Review the report and be prepared to discuss where your placement county fits into the statewide census of condemned inmates. Are the percentages proportional to county

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populations? Do some counties seem to have a disproportionate capital punishment propensity? Why? Can you draw parallels between the county-based data presented in the Injustice report and the CDCR data?

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May 18 - The Final Seminar (On Campus)

Capstone Presentations:

According to our Capstone schedule, your final papers are due on or before May 16, 2018. Please submit them electronically to me no later than noon.

At seminar on May 18 you will present your projects and your papers. Plan on 15 to 20 minutes of presentation and 5 minutes of discussion - please adhere to the time allotted. Also, I have been informed that there will be guests attending your presentations – mentors mostly but there may be members of the campus community in attendance as well. This means that not everyone in your audience is likely to have the same depth of background on what your projects have entailed. So be certain to not take too many shortcuts, e.g. avoid using uncommon acronyms, avoid using courthouse shorthand (LWOP, Prop 47, AB 109, CMS, WAFM, etc without briefly explaining what the terms mean).

If you will need presentation technology, please contact Megan Thorall at least two weeks in advance.

Lastly, there are a few discussion questions to consider for seminar:

- How does judicial administration contribute to access to justice?
- Based upon your experience and study during the fellowship, what advice do you offer to current and future judicial administration leaders?
- Are Pound's general concerns being addressed? **(Consult your outlines.)**
- Is Saari's admonition still relevant that "Courts with defective management are likely to produce substandard justice." If so, name one action (among many) that might be taken.