

Module 1: Understanding Legal Sources		Deliverables due by midnight Sunday, Sept. 6	
		<ul style="list-style-type: none"> • CG Book C: Lists • MB Exercises 36 and 37 • PPP self-evaluation 	
Course Week	Lecture Topics	Readings	Lab Exercise
Aug. 17	The American Legal System Rules	ALW Chs. 2, 4	Lab 1 Outlining Rules of Law
Aug. 24	Legal Method Precedent and Stare Decisis Intro to Legal Citations and the Bluebook	UMB Ch. 1, Sections A-C	Lab 2 <u>State v. Lochs</u>
Aug. 31	Reading statutes Reading and evaluating case law	ALW Ch. 3 Bing Problem Memorandum #1 <u>People v. S.M.</u>	Lab 3 Drafting a Rule and Case Illustration

Module 2: Legal Analysis & Drafting		Deliverables due by midnight Sunday, Oct. 4	
Course Week	Lecture Topics	Readings	Lab exercise
Sept. 7	NO LECTURE – LABOR DAY	UMB Ch. 1, Sections D-G	Citation Practice with TAs during Tuesday and Wednesday lab times WESTLAW training out of class
Sept. 14	Legal Reasoning Basic Paradigm Synthesizing Rules Using Precedent	ALW Chs. 5-7 Bing Problem Memorandum #2 <u>People v. Moore</u> <u>People v. Shipp</u>	Lab 4 Organizing Your Legal Authority LEXIS training out of class
Sept. 21	Applying Rules Reasoning by analogy	ALW Chs. 8, 9	Lab 5 Organizing to Outlining to Drafting
Sept. 28	Drafting Rule Explanation and Rule Application		Lab 6 Drafting a Complete Legal Analysis

Module 3: Finding Facts and Law		Deliverables due by 5 pm Sunday, Oct. 18 <ul style="list-style-type: none"> Client Two Preliminary Analysis: Case Chart and Outline Deliverables due by midnight Sunday, Oct. 25 <ul style="list-style-type: none"> MB Exercises 9-16, 32-34 CG Book D: Verbs & Agreement PPP self-evaluation 	
Course Week	Lecture Topics	Readings	Lab exercise
Oct. 5	Finding the Law: Introduction to Research Introduction to Client 2 How to work collaboratively	Client 2 Case File Roberts & Schlueter, <i>Legal Research Guide</i> Sloan, <i>Basic Legal Research</i>	Lab 7 Guided Research BLOOMBERG training out of class
Oct. 12	Finding the Facts Identifying Issues	<i>Interviewing the Client</i> Hartje & Wilson, <i>The Lawyer-Client Relationship</i> , Parts I & II	Lab 8 Simulated Client Interview
Oct. 19	Refining issues, policy arguments Free research	ALW Ch. 10	Lab 9 Research Status Conferences

Module 4: Formal Communication		Deliverables due by 5 pm Sunday, Nov. 1 <ul style="list-style-type: none"> • Memo Two Deliverables due by midnight Sunday, Nov. 22 <ul style="list-style-type: none"> • Memo Three (The Final) • MB Exercises 17-22 • CG E: Style Manual Eccentricities, CG F: Clarity • Core Grammar Post-Test • PPP self-evaluation 	
Course Week	Lecture Topics	Readings	Lab exercise
Oct. 26	Additional parts of the formal memo Revising, Editing, Polishing—in that order	ALW Chs. 12-16	Lab 10 Writing Workshop
Nov. 2	Reporting results orally	Schultz & Sirico, <i>Basic Principles of Oral Communication</i>	Lab 11 Live Feedback Conference
Nov. 9	Client Two Wrap-up Advising the client	Hartje & Wilson, <i>The Lawyer-Client Relationship</i> , Part III	Lab 12 Oral Report to Mentor
Nov. 16	Final memo Evaluations	ALW Ch. 17	Lab 13 Client Counseling
Nov. 23	Client 2 wrap-up Cover and Reference Letters	<i>Walton, Cover Letters that Sing</i>	Lab 14 (Optional) Cover or reference letter workshop

Calendar Week	Module/Subject	Out of Class Preparation—due before Lecture	Lab assignment
	Module One Rhetoric & Persuasion	Assignment due my midnight Sunday, February 1 <ul style="list-style-type: none"> • ICW 10 	
Monday, January 12	Rhetoric: Ethos Professionalism and Credibility	AAP Ch. 2	Lab 1 Rhetorical Analysis
Monday, January 19	MLK Day Monday, so no class or lab this week	The Traditional Canons of Rhetoric	
Monday, January 26	Rhetoric: Logos and Pathos Persuasive Theory, Theme, and Arguments The Spring Case ICW 10: Prior and Subsequent History	AAP Ch. 8	Lab 3 Draft Proof and Application

	Module Two Trial practice	Assignments due by midnight Sunday, March 1 <ul style="list-style-type: none"> • ICW 11, 12, 13, 17 • One PPP Self-Evaluation for Modules 1 and 2 Assignment due by midnight Sunday, March 8 <ul style="list-style-type: none"> • Trial Brief 	
Monday, February 2	Motion Practice ICW 11: Secondary Sources	AAP Ch. 4	Lab 4 Debates Using Ethos, Pathos, Logos
Monday, February 9	Trial Briefs The case so far ICW 12: Parentheticals	AAP Ch. 10 AAP Ch. 12	Lab 5 Argue Motion in Limine
Monday, February 16	Organization of the Argument Outlining ICW 13: Introductory Signals	AAP Ch. 7	Lab 6 Research Conferences
Monday, February 23	Persuasive Point Headings Persuasive Writing Techniques ICW 17: in Court Docs	AAP Ch. 9	Lab 7 Point Headings Lab Writing/editing Exercise
Monday, March 2	Persuading the Other Side: Negotiation Conciseness	Dessem, Negotiation and Settlement Pollman, Writing Concisely to Stay Within the Word Count	Lab 8 Pre-trial settlement negotiations

	Module Three Appellate practice	Assignment due by midnight SATURDAY, April 11 <ul style="list-style-type: none"> • Appellate Brief Assignment due Monday April 13 or Wednesday April 15 as scheduled <ul style="list-style-type: none"> • Appellate Oral Argument Assignment due by midnight Sunday, April 19 <ul style="list-style-type: none"> • ICW 15 • PPP Self-Evaluation for Module 3 	
Monday, March 9	Oral Argument Standard of Review	AAP Ch. 14	Lab 9 Live Grading Conferences
Monday, March 16	SPRING BREAK	SPRING BREAK	SPRING BREAK
Monday, March 23	Appellate Practice More on Oral Argument	AAP Ch. 5	No lab—office hours instead.
Monday, March 30	The Supremes on Oral Argument Appellate Briefs ICW 15: Electronic and Non-Print Sources	Read advance materials for Judge’s Day AAP Ch. 11	Lab 11 Attend Judge’s Day April 1
Monday, April 6	Counter-Arguments and Rebuttal	Review AAP Ch. 8, Sec III.B	Lab 10 Practice Oral Arguments
Monday, April 13	No lecture	No reading	Lab 12 Final oral arguments April 13 and 15

	Module Four Non-Legal Persuasion	Assignment due by midnight Sunday, April 26 • ICW 18	
Monday, April 20	Cover and reference letters ICW 18: Law Review Footnotes Course, self, and peer evaluations	Walton, Cover Letters That Sing	Lab 13 Cover or reference letter workshop
Monday, April 27	End of year brunch		No lab this week Classes end April 28

LAB EXERCISE #1
Outlining Rules of Law

The following exercises include both various rule structures. Carefully review each rule below, identify the type of rule structure the rule of law illustrates, and then outline each rule.

When outlining a rule structure with a set of elements, remember that it is important to identify each separate element of the rule, even when the statute itself does not clearly reflect the separate elements.

When outlining discretionary rules, there are often a number of ways in which they can be outlined.

You may or may not decide to change the order in which factors are enumerated. You may or may not decide to add subsections that conceptualize different criteria for you, or to reorganize any subsections that already appear in the rule of law.¹

Exercise (1)

Or. Rev. Stat. § 163.212(1)—Unlawful use of an electrical stun gun, tear gas, or mace in the second degree.

A person commits the crime of unlawful use of an electrical stun gun, tear gas, or mace in the second degree if the person recklessly discharges an electrical stun gun, tear gas weapon, mace, tear gas, pepper mace, or any similar deleterious agent against another person.

Exercise (2)

¹ This material is taken in part from ROBIN WELLFORD SLOCUM, LEGAL WRITING, REASONING, AND PERSUASIVE ARGUMENT 59-60 (2d Ed. 2006).

720 Ill. Comp. Stat. 5/7-1—Use of force in defense of person.

A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony.

Exercise (3)

42 U.S.C. § 200e-2—Unlawful Employment Practices

It shall be unlawful employment practice for an employer to –

- (1) Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
- (2) To limit, segregate, or classify his employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

Exercise (4)

N.Y. Mental Hyg. § 9.6(e)(2)—Criteria for involuntary outpatient treatment

A court may order the involuntary administration of psychotropic drugs as part of an involuntary outpatient treatment program if the court finds the hospital has shown by clear and convincing evidence that the patient lacks the capacity to make a treatment decision as a result of mental illness and the proposed treatment is narrowly tailored to give substantive effect to the patient's liberty interest in refusing medication, taking into consideration all relevant circumstances, including the patient's best interest, the benefits to be gained from the treatment, and any benefits to be gained from the treatment, the adverse side effects associated with the treatment, and any less intrusive alternative treatments. Such order shall specify the type and amount of such psychotropic drugs and the duration of such involuntary administration.

Exercise (5)

Please write a clear rule governing the type of restaurant your group would hypothetically like to go to tonight.

TA Manual: Lab 1

1. Prepare the Rule Statements on Lab Google Docs in advance
2. All students should have access to the Google Document; make sure the students names show up in the document (to do so, go to the "Chat" box in the upper right of the document and get each student to activate Chat which will then reveal their names)
3. Students will all do this in a shared google doc.
4. The TA transcribes and outlines the rule breakdown as the students create it with Professor Moran
5. Include these parts in the template outline below each statute:
 - a. What's the causal term and the result?
 - b. Causal term:
 - c. Result:
 - d. Outline:

Review**Rules: formula for making a decision (element or factor)**

1. Factor - not deal breaker
2. Elements - mandatory
3. Casual term - must, shall, may not
4. Result
5. Exceptions

TA's Role:

This is fairly passive role for the TA in the lab. The professor takes a leading role. Mainly the TA needs to convey to the students that they're doing well and to cheer them on. The TA should be, as always, paying attention and determining the level of each student's PPP: participation, preparedness, and professionalism. Freely address and ask a student speak up or repeat themselves if the Professor doesn't see or hear them.

Note: It is very helpful if the TA turns up 15 minutes early to chat with students and introduce him- or herself. Talking before class starts opens students up more and they are more likely to participate and contribute in the actual lab if the TA gets them talking beforehand.

LAB EXERCISE #3
Rule, Case Illustration, and Application

Using the Illinois self-defense statute, People v. S.M., and the facts of the Bing case, draft the following:

- A rule that sets forth the standard a court will use when interpreting the requirement that a defendant have a reasonable belief that deadly force was necessary to avoid death or great bodily harm to oneself or another; and
- A case illustration that clarifies and explains how the court determined that S.M. reasonably believed that deadly force was necessary in the case of People v. S.M.

For this exercise, do not use any other case or address any other issue raised by the case or the statute.

TA Manual Lab 3: Drafting a Rule and Case Illustration

Subject: People v. S.M.

Summary: Students will construct their rule from People v. S.M. in separate documents. Use IRAC.

1. Thesis sentence - that should be our answer
2. Causal term and result - what happens if those things are satisfied? This should be the answer to the question. Narrow question: reasonable belief. Then we will deem his belief to be reasonable, and if reasonable, then he will be entitled to use deadly force.
 - a. Casual term here: **has** a reasonable belief
 - b. "It is reasonable only if ..." Reasonably believed; reasonably believe - not a term of art.
3. Rule - factors or elements? Try to construct a rule based on the case People v. S.M. about our issue:
 - . Elements test (all must be present -- when, only if, a court must find)? All elements met: "Therefore the court held that each element was met."
 - a. Or is it a factors test? Which are the most important to the court? Balancing test.
 - i. For example:

Issue (call of the question): Did Mr. Bing **reasonably believe** that deadly force was **necessary** to **prevent** his death or great bodily harm? (When is a person's belief reasonable?)

"Reasonable for the defendant to **believe** that deadly force was necessary,"

or

"A person is justified in using deadly force when he reasonably believes deadly force is necessary when:

- (1) there is avoidance of confrontation by defendant (warnings, fleeing, apologizing);
- (2) victim has the **ability** (physical characteristics; weapons) to harm; or
- (3) there is clear **intent** to harm by the victim"

What would a court say if only two are present?

4. Rule Proof (Explanation) - case illustration; "for example" what are the key facts of the case, and what led the court in that case to its holding.
 - a. "For example, in the case of S.M. ..." then "Further," or "Additionally" for example; how did the ability to harm play out?; want to be detailed and fact specific.
 - b. For example, in the case of S.M., the ability of the aggressor to cause harm was present when the boys threw things, pursued the defendant across the parking lot, cornered the defendant, and continued to advance even after a warning shot. The court thus held that this ability to harm made the defendant's belief more reasonable.
5. Case illustrations with "intent" factor all go together
 - . All three cases applied to the single factor or element (v. analyzing each case by factor separately)

Logistics:

Student Objectives:

1. Get something on paper - and quickly
2. See how IRAC plays out

LP Program Student Learning Outcomes:

- Students can identify the essential components of a case
- Students can outline a rule
- Students can write a document that provides an objective legal analysis

Lab Procedures:

Students will each create their own Google Doc that professor can access and comment on live.

TA Responsibilities:

- Have each student's document open and switch between them
- Open IM chat with Professor Moran in Outlook
- Be supportive and look for struggling students
- Comment on student's documents as they write; take Professor's cues on who to help
- Professor note: provide Issue Statement to students so time can be spent on rule drafting

People v. S.M. 2015: Class Notes

Tried to avoid

- apologized
- tried to retreat
- wrestler
- V kept coming
- warning shot
- asked for help
- drinking
- older
- didn't stand his ground
- short interval between shots
- appearance and conduct of victims
- boys threw stuff
- V's not discouraged by gun
- no time to assess

Victim's behavior (Intent to harm)

- advance
- wrestler (aggressive) (apt at fighting)
- drinking
- threw stuff
- kept coming after shot

De-escalation by D (attempt to avoid the confrontation)

- apology
- retreat
- ran away
- help call

- warning shot
- tried to avoid

Physical characteristics (ability to harm)

- wrestler
- drunk
- older
- 4-1

Past Student Examples (2014):

Karen:

Issue

The issue is whether or not our client was reasonable in believing that deadly force was necessary, thus justifying his action when he killed Mr. Geller, under IL Self Defense Statute

Brief Answer

Yes, Mr. Bing was reasonable to believe that deadly force was necessary because he could not avoid the violent advancements of Mr. Geller, and because Mr. Geller was both capable of and intending to kill him.

Discussion

A person is justified in using deadly force when he reasonably believes deadly force is necessary. In determining whether a person's belief is reasonable, the court must find that:

- (1) Defendant could not avoid the situation;
- (2) Victim was capable of causing great bodily harm; and
- (3) Victim intended to cause great bodily harm.

In the case of S.M., the defendant proved avoidance by yelling to the victims to stay away, yelling for help, apologizing, and attempting to flee the situation. The defendant showed that the victim was capable of causing great bodily harm because of victim's relative size and stature and his use of objects as weapons. Defendant reasonably believed that the victim intended to cause great bodily harm because of victim's pursuit of Defendant by chase and victim's verbal threats.

As with the case of S.M., our client tried to avoid the situation when he apologized, yelled for help, and attempted to flee the situation. In both the S.M. case and ours, the Defendant was in a prolonged "circular" confrontation with the victim in which verbal threats were made. Both cases showed an attempt to flee the confrontation, although escape was not successful in either situation. S.M. showed a relative size/stature difference between the victim and Defendant (victim was larger in stature and had an athletic build) and we see the same between Mr. Bing and Mr. Geller (Geller was 15 pounds heavier and a former cross-country athlete; our client does not proclaim to be athletic). Similarly, S.M.'s victim was in possession of objects which were used as weapons, and in our case, Mr. Geller was in possession of a knife, which he did use against Mr. Newton. Mr. Geller's possession and use of the knife showed his intention and capability for great bodily harm or death.

Josh:

Issue

Was Mr. Bing reasonable in believing that the situation required deadly force?

Brief Answer

Yes Mr. Bing was reasonable in believing that the situation required deadly force.

Discussion

A person is justified in believing that the use of deadly force is necessary when:

- (1) there is avoidance of confrontation by defendant (warnings, fleeing, apologizing);
- (2) victim has the ability to harm; or
- (3) there is clear intent to harm by the victim

In *people vs. SM*, the defendant attempted to avoid the confrontation by repeatedly warning the victims that he had the right to defend himself by showing his weapon, attempting to flee the scene, apologizing and asking for help. He did everything in his power to avoid the four victims and was justified in believing that his safety was at stake.

Mr. Bing did everything in his power to avoid the confrontation with Mr. Geller. Mr Bing apologized repeatedly and made it clear that he was not interested in a physical altercation. He was winded and at a physical disadvantage to Geller, and together with Mr. Newton, attempted to resolve the conflict but were unable to dissolve the situation. This is analogous to the attempts of SM in avoiding the four defendants.

The victims clearly had the ability to harm SM as they had him outnumbered, continued to advance upon him after he attempted to resolve the situation, were actively yelling and throwing things at him and appeared to be intoxicated beyond the point of reason.

Mr. Geller was physically a larger man than Mr. Bing. He was also a more athletic person when compared to the defendant. His physical stature in concert with his unwillingness to be reasoned with and his brandishing of a deadly weapon satisfies the element of the ability to harm. In SM, the fact that the defendant was outnumbered by the four advancing victims in a violent and unrelenting manner satisfies this same element.

The victims showed clear intent to harm the defendant by blatantly disregarding his pleadings and impeding his ability to put himself in a position of safety. They were not deterred by the defendant's weapon, and continued to back him into a compromising situation.

Mr. Geller blatantly disregarded Mr. Bing's pleadings, would not listen to Mr. Newton, and continued to advance upon Mr. Bing for an extended period of time. The five minutes of circling and the fact that Mr. Geller's state of mind did not change impeded Mr. Bing's right to bring himself to safety.

Mr Bing repeatedly attempted to resolve the situation. He attempted to avoid the conflict by warning the victims, attempting to flee, apologizing and asking for help. It was also made clear to Mr. Bing that his attempts to dissolve the situation were futile. When he brandished the gun, the victims were not deterred in any way and continued to advance upon him in numbers.

Carter:

Issue:

Under the Illinois' self-defense statute concerning the use of force in defense of person (720 Ill. Comp. Stat. 5/7-1), did our client Jeffrey Bing possess a reasonable belief that use of deadly force was necessary in committing the act against John Geller?

Discussion:

A person has a reasonable belief that use of deadly force is necessary when the person attempts to avoid the confrontation, the victim demonstrates an intent to harm, and the victim demonstrates an ability to harm.

Rule Proof:

In the S.M. case, the court held the defendant demonstrated a reasonable belief the use of deadly force was necessary.

In order for a court to find the obligation to avoid the use of deadly force is met, the person must make every attempt to remove himself or herself from the situation, and refrain up to the very moment he or she reasonably believes because the threat is imminent, the use of deadly force is necessary. In the S.M. case, the defendant (S.M.) avoided confrontation by moving out of the way as the victim's vehicle approached. Once the vehicle stopped, S.M. apologized to the victims for reacting in a startled manner. As the victims exited the vehicle, S.M. retreated. When the victims did not halt their advance, S.M. produced a gun which he waved into the air to warn the victims to back away. All four victims followed S.M. into a corner against a fence to which he responded by fleeing. Similarly in our case, Bing avoided confrontation by apologizing profusely to Mr. Geller, and moving away from him by circling as he advanced. When faced with a knife from Geller, Bing removed a gun from his knapsack and waved it to deter Geller's advance.

A court is more likely to find a person possessed the intent to harm if he or she has but does not exercise the opportunity to remove himself or herself from the situation, and if avoided or warned to stop by the victim continues to advance anyway. In the S.M. case, the victims' intent to harm manifested as they were confronted with a gun, but advanced anyway. After the defendant fired a warning shot, the victims were not deterred and moved to surround and corner S.M. In our case, Geller revealed his intent to harm Bing immediately by physically beating Bing's face until forcefully being removed by Newton. Geller responded by producing a knife and slashing Newton's arm. He continued his assault by charging and attempting to tackle Bing.

In order for a court to find a person possessed the ability to harm, the person must have a significant physical or athletic advantage, or a weapon. In S.M., all four of the victims were physically bigger and more athletic than S.M.

Conclusion: