The Law and Policy Lab – 11 Practicums, Winter 2018

The Law and Policy Lab
https://law.stanford.edu/education/only-at-sls/law-policy-lab/

At Stanford Law School, engagement in public policy is a core mission of teaching and research. Central to that mission is the Law and Policy Lab, which systematically examines societal problems to generate solutions to some of our most challenging public problems. Policy Lab practicums teach rigorous policy analysis skills in an experiential setting. Under the supervision of faculty advisers, you will work with real-world clients in an array of fields and practice areas: access to justice, copyright and patent reform, the regulatory framework for environmental remediation, campaign reform, and preventing atrocities in international warfare, among others. The practicums emphasize teamwork and collaboration, and many are interdisciplinary, giving law students the opportunity to work with faculty and colleagues who have expertise in technology, environmental studies, medicine, and other disciplines. You will learn research design, data collection and analysis, and policy writing and communications skills, and, in some instances, you will have the opportunity to draft executive orders, legislation, and regulations. The practicums will help you improve your analytical thinking and develop skills with project management, client relations, teamwork, and oral presentation style – all with the goal of assessing findings to motivate wise action for policy leaders and the communities they serve.

Enrollment by consent of the instructor:

Consent Form link: https://law.stanford.edu/education/courses/consent-of-instructor-forms/#slsnav-autumn-quarter
NEW WINTER PRACTICUMS:

**Accountability for the Unintended Consequences of Impact Investing**, Paul Brest and Natalie Bridgeman Fields (Winter)

Client: Accountability Counsel

As the impact investing industry grows exponentially into trillions of dollars, investors, scholars, and industry leaders are increasingly focused on improving metrics and standards. They recognize the need to define impact, critically evaluate philanthropic trade-offs, and apply due diligence standards to evaluate social and environmental risk. Despite this trend, however, no accountability framework exists to manage the potential for harm to people and the environment from impact investing. To ensure that impact investing lives up to its name, a system is needed that holds investors accountable for harm to local communities and their environments. Other traditional development finance institutions – such as OPIC or the World Bank’s IFC – have been routinely applying policy and accountability frameworks for decades to manage their social and environmental risks and to remedy harm. When these institutions invest in a project, they bring environmental and human rights standards and citizen-driven complaint systems that local communities can use to address a grievance. If an impact investor (e.g. a private foundation, individual investor, or private bank’s impact fund) is funding that same project without traditional development institutions involved, chances are there is no way that communities can have their voices heard or receive remedy for harm. Yet the failure to take seriously the risks of social and environmental harm can lead to catastrophic financial, human, and environmental outcomes. In “Accountability: The Golden Opportunity in Impact Investing” [https://ssir.org/articles/entry/accountability_the_golden_opportunity_in_impact_investing](https://ssir.org/articles/entry/accountability_the_golden_opportunity_in_impact_investing), Natalie Bridgeman Fields describes Accountability Counsel cases in Liberia and Mexico that demonstrate not only the importance of community-driven accountability but also concrete examples of an accountability framework. This project develops a system that enables impact project asset owners access to information about their asset’s compliance, evaluation tools, and grievance systems. The practicum team will work closely with Accountability Counsel staff to develop an accountability and learning system for impact investment that guarantees that assets: (1) comply with policies to protect people and the environment, (2) have evaluation tools that assess their impact, and (3) offer grievance methods to address social or environmental harms associated when they do occur.

The potential positive impact for impact investing grounded in an accountability framework is staggering. According to a recent report from Morgan Stanley, “sustainable investment” has grown more than 33 percent over the last two years to $9 trillion, and will only continue to grow as impact investing becomes more accessible. If impact investing scales further without governance and accountability structures in place to prevent abuse and address harm, the consequences to local communities are dire. They will be certain to include the land grabs, contamination of water, labor rights abuses, and displacement of indigenous people that are typical of investments where there is weak rule of law and use of land and labor. Benefits of creating a robust accountability framework, if achieved, could spread beyond impact investing and could extend across global finance, including development finance, where existing frameworks could be improved based on leadership from the impact investing community.

The practicum seeks interdisciplinary graduate students from law, international development, economics, project finance, impact investing, international human rights law, policy advocacy, business, and/or philanthropy. The research team will collaboratively produce a report for a sustained advocacy campaign with lessons and practices for accountability within impact investing.
Expanding Access to the Legal Bar for the Formerly Incarcerated, Debbie Mukamal, Lucy Ricca, Bob Weisberg (Winter / Spring)

Client: General

Deliverables: National roundtable, website, and policy report

The Stanford Criminal Justice Center is undertaking a project to increase the participation of formerly incarcerated people in the legal profession who have an interest in pursuing legal careers but who face challenges in overcoming the moral character requirement to bar admission. The project includes surveying best practices, advocacy with the State Bar and could eventually lead to supporting California Bar applicants in moral character hearing determinations. This two-quarter lab will also host a national roundtable that brings together scholars, advocates, and Bar representatives to develop best practices, reported in a final white paper, on law school admission and Bar consideration of applicants with criminal records. We are seeking four to six law students to participate. Students may enroll in both quarters.

Federal Indian Law: Tribal Code Development Assistance Project, Greg Ablavsky (Winter)

Client: Yurok Tribe

The Yurok Tribe is the largest federally recognized Native nation in California. Students will assist the client, the Yurok Tribal Attorney’s Office, by conducting research related to drafting tribal taxation code. The exact scope and nature of the research will be determined in consultation with the client. Students will produce policy research memos to share internally with the client. Because of the topic’s complexity, coursework or background in federal Indian law or taxation is preferred but not required.

United Nations (UNCITRAL) Arbitration Transparency Registry, Janet Martinez (Winter) (course listing forthcoming)

Client: UNCITRAL, Vienna <http://www.uncitral.org/>

As the core legal body of the United Nations system in the field of international trade law, the United Nations Commission on International Trade Law (UNCITRAL) is developing procedural rules that ensure transparency and public accessibility to treaty-based investor-State arbitration. In contrast to traditional closed proceedings, the new Rules on Transparency take into account both the public interest and the interest of the parties to resolve arbitration disputes in a fair and efficient manner. Focusing on the 2014 UN Convention on Transparency in Treaty-based Investor-State Arbitration, students will review UNCITRAL Working Group III documents to identify issues of concern and benefit for individual countries considering whether to sign and ratify the Convention. The research team will prepare a synthesis working paper for the UNCITRAL secretariat.
Continuing practicums open for winter enrollment:

**Endstage Decisions: Health Directives in Law and Practice (805F)**, Lawrence Friedman / B. Howard Pearson (F/W/S)

Client: Stanford Hospital and Clinics (Local and National)

Deliverables: White paper and suggested revisions to POLST forms

Medical decisions toward the end of life can be crucial and difficult for patients, doctors, and families. Law and medicine have been struggling to find ways to strike a balance between what the patients might want (or say they want), and what makes medical, economic, and ethical sense.

One standard is the “Advanced Health Care Directive” (Directive), which guides doctors and surrogates (usually a family member) on what to do when faced with end-of-life dilemmas. Another form, adopted in just over half the states (including California) is the POLST (Physician Orders for Life-Sustaining Treatment). The two types are supposed to complement each other, but they are different in important ways. The Advanced Health Care Directive expresses what a person wants and/or appoints a surrogate in case the patient is unable to express her wishes. Anybody can fill out a Directive, at any time of life. Ideally, a copy goes to the surrogate, if one is appointed, and another to the primary care physician. The POLST form is meant for people who are seriously ill. The Directive (for example “no artificial nutrition by tube”) is supposed to be controlling; the patient, of course, can change her mind; but there is no surrogate. It is an agreement between the patient and the doctor.

Who uses these different forms? How effective are they? To what extent and in what situations are they useful? Working closely with Stanford Hospital as the client, students will not only look at current literature on the topic and build on past practicum research, but also conduct interviews with doctors, nurses, and other health care specialists with the goal of finding out what local hospitals and nursing homes are doing. The aim is to get a more realistic picture of the what one might call the living law of the Directive and the POLST. The ultimate goal is policy recommendations to improve the forms and associated laws and to examine alternative approaches.

**Managing Gentrification**, Richard Thompson Ford (Fall / Winter)

Client: San Francisco Mayor’s Office of Housing and Community Development

Deliverables: Memos, Policy Report, Oral Briefing

Gentrification is a concern for policy makers in successful and diverse cities. Gentrification can improve neighborhoods that suffer from underinvestment, but it can also cause the displacement of long-term residents, cherished landmarks and long-standing businesses and it can make neighborhoods homogenous, sterile and less able to meet the day-to-day needs of their residents. A gentrifying city can be a city in the process of losing the variety and dynamism that made it attractive to investors and successful people in the first place. And of course, gentrifying cities are unaffordable to low-income residents. Because of rising rents, many neighborhoods in San Francisco are already unable to sustain such businesses as dry cleaners, laundry services, drug stores and affordable restaurants. A neighborhood with nothing but fancy wine bars, chic clothing shops, gourmet restaurants and trendy coffee houses selling $5 drip coffee is not in crisis, but a city with only such neighborhoods arguably is. We will work with the San Francisco
Mayor’s Office of Housing and Community Development on various issues related to the challenges of gentrification in San Francisco. Issues include researching policy responses to the displacement of legacy businesses and non-profit enterprises and analyzing the effects of rising property values and rents on the diversity of businesses in San Francisco neighborhoods.

**Protecting the Rights of Individuals with Developmental Disabilities in a Precarious Funding Climate** (806B), Alison Morantz (Fall/Winter)

**CLIENTS:** State Council on Developmental Disabilities and Disability Rights (SCDD) – State of California

In 1977, California became the first state in the US to grant individuals with developmental disabilities (DD) the right to the services and supports they need to live more independent and normal lives. The Lanterman Act, now codified in the California Welfare and Institutions Code, declared that “[a]n array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life, and to support their integration into the mainstream life of the community.” To this day, California is the only state in which the right of individuals with DD to be supported in the least restrictive environment is construed as a civil right and an individual entitlement, not merely a right to “take a number and wait in line” until sufficient state resources become available to meet their service and support needs.

To effectuate the goals of the Lanterman Act, California divides responsibility between the Department of Developmental Services (DDS), a state agency, and a network of twenty-one private, nonprofit corporations called “regional centers” that are funded by DDS. Each regional center serves a different area of the state, providing services and supports to individuals with developmental disabilities in the local community. DDS is responsible for monitoring the regional centers and ensuring that they implement the Lanterman Act.

In the early years after the Act’s passage, DDS (and in turn, the regional centers) were largely funded through the state’s general fund. Since the mid-1980s, however, a sizable portion of funding has been provided by the federal government. Through a special waiver program under Medicaid, individuals with DD who would otherwise be forced to reside in institutions can receive the services and supports they need to live in the community.

The federal spending cuts contemplated by the Trump Administration, however, could pose an existential threat to the viability of this system. If the funds available to California through the Medicaid waiver program are significantly curtailed, it will be far more difficult for the state to support the integration of individuals with DD into the community.

This policy lab will explore whether – and if so, how – the civil rights and individual entitlement embodied in the Lanterman Act can be preserved in a reduced funding environment. Students will investigate the nature and scope of the rights provided under the Act; the corresponding obligations under the Act of the legislature, DDS, and regional centers; and the tools that different branches of state government might bring to bear to effectuate the goals of the Act if the funding available through Medicaid is significantly reduced.
Rethinking Campus and School Title IX Policy and Procedures (805R), Michele Dauber (Fall, Winter)

Client: National Women’s Law Center

Deliverable: Individual research memos; consolidated policy report

Over the past six years, the issue of campus sexual assault has exploded into the public discourse. While definitive figures are difficult to obtain due to the necessarily private nature of these events, several recent studies estimate that between 20-25% of college women (and a similar proportion of students identifying as transgender and gender-nonconforming, as well as around 5-10% of male students) experience sexual assault. Survivors have come forward across the country with harrowing stories of assault followed by an insensitive or indifferent response from college administrators, launching one of the most successful, and surprising, social movements in recent memory. Statistics are equally disturbing in the middle and high school context. As a result, the federal government under President Obama stepped up its civil rights enforcement in this area, with over 250 colleges and universities currently under investigation for allegedly mishandling student sexual assault complaints. At the same time, students accused of sexual assault have complained of botched processes driven by a “campus rape over-correction” that denied them a fair disciplinary hearing. It is clear that schools are struggling to develop and implement policies and procedures that satisfy their legal obligations in this area. While the future of federal enforcement under the Trump Administration is uncertain, schools are still subject to federal and state law that require them have policies and procedures to address sexual harassment and violence.

This course focuses on the legal and policy issues surrounding the highly challenging area of investigation and adjudication of sexual assault and other gender-motivated violence on college campuses and in K12 schools. It will cover the federal and state legal frameworks governing these procedures including Title IX, the Violence Against Women Act, and the Clery Act, and examine current cases as well as the rapidly-evolving legal, federal regulatory, and political environment surrounding this issue. Guest speakers working in the area will help to broaden the class’s understanding of the subject matter. Students in this seminar will have the opportunity to participate in the invitation-only national conference entitled The Way Forward: Title IX Advocacy in the Trump Era, which will be held May 1-2 at Stanford Law School and is organized in conjunction with the National Women’s Law Center. See [http://conferences.law.stanford.edu/thewayforward-title9/] for more information on the conference.

Voting Technology (806A), Nate Persily (Fall/Winter/Spring)

CLIENT: Committee on the Future of Voting of the National Academies of Sciences

Deliverable: Research memos

The Committee on the Future of Voting is seeking Practicum research support for an exhaustive study of technology, standards, and resources for voting technologies, including challenges related to the 2016 election.

As described on the website for National Academies of Science, Engineering, & Medicine, this "ad hoc committee, under the auspices of the Committee on Science, Technology and Law and the Computer Science and Telecommunications Board, will conduct a study that will: (1) document
the current state of play in terms of technology, standards, and resources for voting technologies; (2) examine challenges arising out of the 2016 federal election; (3) evaluate advances in technology currently (and soon to be) available that may improve voting; and (4) offer recommendations that provide a vision of voting that is easier, accessible, reliable, and verifiable. The committee will issue a report at the conclusion of the study." Students in this Practicum will summarize the available literature and government reports on the state of voting technology and develop a bibliography to aid the Committee. The Practicum seeks to build a graduate team of students from law, computer science, and political science to examine issues specific to their academic areas. Students will meet regularly with Professor Persily one on one or in small teams, depending on the project. Additional information on the Committee can be found at the following link: http://sites.nationalacademies.org/PGA/stl/voting/index.htm

Students may enroll in any quarter and those seeking R credit may, with consent of the instructor, move from Section 1 (2 credits) to Section 2 (3 credits for R work), during the first week of the term.

**Fake News and Misinformation** (806C), **Nate Persily** (Fall /Winter/Spring)

Client: **Hewlett Foundation Madison Initiative**

Deliverables: Research memos

This Practicum works closely with the Hewlett Foundation Madison Initiative on an exhaustive study of fake news, misinformation, disinformation and propaganda and their implications for democracy in America and around the world. The client, the Hewlett Foundation Madison Initiative, is developing a grant-making program for interventions in the spread of fake news and misinformation which also promote accurate information for a healthy, deliberative democracy. The Practicum builds on the work of a Spring 2017 Practicum, led by Senator Russ Feingold, which analyzed the roles of major online platforms – Google, Facebook, Reddit, and Twitter – in proliferating fake news and misinformation in the 2016 election. Students will contribute to that study with their own independent research focusing on such issues as self-regulation by the platforms, legal and regulatory frameworks, analysis of algorithms and user data, and other issues that arise with current events or through ongoing research findings. Students will undertake literature reviews, legal case analysis, investigations of business practices and algorithms associated with the relevant platforms, surveys of the roles of foreign governments, and analysis of policy proposals to combat fake news, misinformation, disinformation, and propaganda. In addition to law, students in the fields of communications, computer science, journalism, political science, and public policy are especially welcome to join the research team.

Students will meet one on one with Professor Persily to frame their research and discuss their findings. Students may enroll in any quarter. Those law students seeking R credit may, with consent of the instructor, move from section 1 to section 2. Section 1 is open enrollment for any law or graduate student. Undergraduates may, in exceptional cases, be admitted to the Practicum with consent of the instructor.
Rethinking INTERPOL’s Governance Model (805Z), Allen Weiner / Sarah Shirazyan (Fall / Winter)

Client: INTERPOL

Deliverables: Policy memos; oral briefing

Today, the international community faces increasingly complex security challenges arising from transnational criminal activities. Effective international cooperation among national and local police agencies is critical in supporting efforts to combat cross-boundary criminal threats like terrorism, human and drug trafficking, and cybercrime. INTERPOL—the world's largest international police organization is constantly innovating to respond effectively to the world's evolving threat landscape.

As a leader in global policing efforts, INTERPOL launched the 2020 Strategic Initiative to review the Organization's strategy and develop a roadmap for strengthening its policing capabilities. INTERPOL 2020 will provide the strategic framework to ensure the Organization remains a leader and respected voice in global security matters. This practicum will allow students to assist INTERPOL in modernizing its organizational structure to better fight cyber-crime and terrorism. Students in this practicum will contribute to the Strategic Framework 2017-2020, focusing on comparative governance practices for international organizations. The practicum will analyze decision-making processes within the organization and across other similar organizations (acknowledging their respective mandates) with respect to specific issues identified by INTERPOL. The work product developed during the course of this practicum will serve as part of a framework for INTERPOL to guide and support the development of its governance model.

Students will work directly with INTERPOL clients (via video-conferencing and email) and may have opportunities to travel to INTERPOL headquarters in Lyon for meetings with clients to develop our policy guidance and provide policy briefings. In addition, selected students in the practicum may have the opportunity to pursue internships and/or externships at the Office of Legal Affairs, INTERPOL General Secretariat in Lyon, France and/or at INTERPOL Global Complex for Innovation in Singapore.

Open to graduate students from outside the Law School and, in exceptional cases to advanced undergraduate students, the practicum seeks those who demonstrate strong interest and background in global security and international law, organizational behavior, and strategic management. This practicum takes place for two quarters (Fall and Winter). Although students may enroll for either one or both quarters, preference is given to students who agree to enroll for both quarters. After the term begins, students accepted into the course can transfer from section (01) into section (02), which meets the R requirement, with consent of the instructor.

Preview of forthcoming topics for spring (listed formally in mid-February on the Policy Lab website):

- Access to Justice: Legal Design & County Courts (Janet Martinez & Margaret Hagan) (Spring)