The Role of the State Attorney General – Curriculum and Model Syllabus
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Note from Heidi Li Feldman: In 2017, I introduced to the Georgetown University Law Center this course on the state attorney general. I created and designed the course with the following objectives.

- To examine the unique junction of law, policy, and politics at which the state attorney general operates and to consider whether and when each of these does or should feature in a state attorney general’s deliberations and decisions
- To explore issues of law and governance, especially to consider the role of the executive branch in tripartite democratic republics
- To consider how the state attorneys general figure in the current iteration of American federalism
- To showcase in concrete terms the actual workings and work of state attorneys general

I teach the course in two formats, depending on institutional need, offering it either as a two-credit course with a brief writing assignment and a final exam or as a three-credit seminar with an in-depth paper requirement. I update the syllabus annually, varying it according to my own scholarly and pedagogical research into the office of the state attorney general, student interest in particular topics, and current events. This model syllabus includes segments from the 2019-2020 and 2020-2021 versions of the course. The model includes more topics than would be covered in any one course offering. I have indicated topics that I have rotated through different times I have taught the course. Additionally, I generally devote one week to a guest speaker, such as a current state attorney general or current state solicitor general. It would also be appropriate to have as a guest a lawyer who specializes in representing clients subject to state attorney general investigations.

Week 1 – Introduction and A Brief Look at Some 20th Century State Attorneys General

2. Brief Bio – Anne X. Alpern

Week 2 – Sources and Scope of the Authority of the State Attorney Generals
2. State of Florida ex rel. Shevrin, 526 F.2d 266 (1976) [edited by HLF]
3. Memorandum of Former Members of the Office of the Attorney General of New Hampshire (on the state constitutionality of legislature’s effort to direct AG to litigate)

### Week 3 – The State Attorney General’s Position in State Government

5. Generic AG Organization Chart (prepared by former Maine AG James Tierney)
7. (suggested) News story and press release re Delaware Attorney General and investigation of state psychiatric hospital

### Week 4 – The State Attorney General in Federal Court: Protecting the state’s (and the states’s) interests

*Parens Patrie and States’ Sovereign, Quasi-Sovereign, and Proprietary Interests*

1. Donald G. Gifford, The Government as Plaintiff: Parens Patrie Actions Against Tobacco and Gun Manufacturers [excerpts]
3. NAAG update on Tobacco Master Settlement Agreement
4. Excerpts from Massachusetts v. EPA
5. Short comment from SAGs Racine (DC) and Frosh (MD) on conclusion of Emoluments litigation against Donald J. Trump
Week 5 [sometimes combined with Week 4] – A brief look at the rise and influence of the state solicitor general

1. Excerpts from Ryan J. Owens and Patrick C. Wohlfarth, State Solicitors General, Appellate Expertise, and State Success Before the U.S. Supreme Court Court (ten to eleven pages of substance)
2. Jenny Deam, The journey from Wisconsin to Texas and the ruling that struck down the ACA (newspaper article, five pages of substance)
3. Suggested: Kevin Newsom, The State Solicitor General Boom (one page at most)
4. Suggested: Former SSGs and Other SAG Office Attorneys now serving as judges – Table
5. Suggested: “Acting AG Barbara Underwood first woman to hold post, officials say,” Newsday, May 18, 2018

Week 6 – Environmental Protection

- History of state attorney general involvement in modern environmental protection
  - 1. excerpt, New York State Attorney General Sets the Pace
  - 2. excerpt, Mass. v. EPA
- Federalism, state attorneys general, and environmental protection
  - 3. The Trump EPA Strategy to Undo the Clean Power Plan
  - 4. California auto emissions lawsuit targets Trump over environmental rollbacks
  - 5. California sues Trump again for revoking auto emission limits
  - 6. Trump to Revoke California's Authority to Set Stricter Auto Emissions Rules
  - 7. A 'Chilling Message": Trump Critics See a Deeper Agenda in California Feud)
- State attorneys general and private polluters
  - 8. State files lawsuit against companies who allegedly allowed toxic PFAS chemicals in water
  - 10. Michigan files lawsuit against 17 defendants for PFAS contamination

Week 7 – Consumer Protection, Part 1: For Profit-Higher Education

2. “PHEAA, explained. How an obscure Pa. state agency became one of the nation’s biggest student loan servicers,” The Philadelphia Tribune, December, 13, 2019; and “It’s AG Josh Shapiro’s job to defend state agencies in court. Here’s why PHEAA is an exception,” Pennsylvania Capital-Star, February 7, 2020 OR “As Feds Pull Back, States Step in to Regulate For-Profit Colleges and Universities.” 2018. The Hechinger Report, July 7, 2018


6. Materials for in-class exercise
   a. NY Gen. Bus. Section 349 (state deceptive trade practices statute)
   b. NY EXEC Section 63 (general duties of the state attorney general)
   c. 12 U.S.C.A. Section 5531 (Dodd-Frank provisions on deceptive and unfair practices by financial industry)
   d. 12 U.S.C.A. Section 5565 (Bureau of Consumer Financial Protection enforcement powers)

Week 8–Consumer Protection, Part 2: Privacy [can be cut to make room for another topic]


Week 9 – Charities, Part 1: Overview

6. For in-class exercise: Colorado Attorney General Nonprofit Board Member Training website

Week 10 - Charities, Part 2: The Trump Foundation AND/OR the National Rifle Association [can be cut to make room for another topic]

Trump Foundation materials

NRA materials
1. “Enforcement of Charitable Organizations” – Excerpt from NAAG publication
2. Summons and Complaint, New York v. NRA (August 6, 2020)

Week 11– Background to state litigation resulting in the Tobacco Master Settlement [one of two weeks examining state ags and tobacco regulation and litigation; both can be cut and replaced with another topic]

2. Bill Tasman public service anti-smoking ad

Week 12 – A closer look at the state attorney general tobacco suits and the MSA [one of two weeks examining state ags and tobacco regulation and litigation; both can be cut and replaced with another topic]

1. The Cigarette: A Political History, continued
3. Oklahoma TSET: Keeping the Promise for Health (video)
4. D. Robert McCaffree, Tracey Strader, and Julie Bisbee, A Brief History of the Tobacco Settlement in Oklahoma

Week 13 – Opioids crisis [because state attorney general involvement in this issue is ongoing, materials are updated close to class session] [can be cut to make room for another topic]

1. Topical readings from current news coverage
2. In-depth reporting on the opioid litigation
3. Recent litigation documents, if available

Week 14 – Criminal justice and law enforcement [can be cut to make room for another topic]

1. In-depth examination of New Jersey AG Gurbir Grewal’s “Excellence in Policing” initiative
2. The Role of State Attorneys General in Criminal Justice Reform, American Constitution Society white paper (especially useful regarding bail reform/pre-trial justice)
5. Assorted shorter readings such as:
   o How the States Transformed Criminal Justice in 2020, in The Appeal
   o From Marijuana to the Death Penalty, States Led the Way in 2019, in The Appeal
   o Criminal Justice Reform at the State Level, Brennan Center for Justice
   o Minnesota OAG web site “Public Protection”
   o New Jersey AG website, Division of Criminal Justice, Overview
   o MN AG Ellison working group on police reform – press release
   o NJ AG Grewal Announces “Excellence in Policing” Initiative – press release
   o NJ AG Grewal Overhauls Statewide Police Use of Force Policies – press release
   o DE AG website, Criminal Division of Department of Justice, overview
   o DE AG Kathy Jennings, bio, from DE Department of Justice website
   o DE AG Jennings, Fairness and Equality in the Criminal Justice System: Internal Policies, Internal Memo
   o Far-reaching changes proposed for Del. Criminal justice system, WHYY
   o [DE] Legislators introduce new policing, social justice reforms, TownSquareDelaware, June 2020
Week 15 – Crisis in State Government: an exercise in an emergency consult to Virginia A.G. Mark Herring [can be cut to make room for another topic]

- News coverage; columns: “Virginia’s three leaders engulfed in turmoil, with Herring disclosure from college,” “Attorney General Mark Herring’s statement: ‘I had a callous and inexperienced lack of awareness,’” “Virginia Sen. Tommy Norment was an editor for a VMI yearbook filled with racist photos and slurs,” “It’s a sickness: How our culture recognizes blackface is racist – but won’t stop doing it”
- Behind the Blackface, American Heritage website
- Virginia state constitutional provisions relating to gubernatorial succession
- Divisions of the Virginia Attorney General Office, website