

Frankel was instrumental in drafting central bank bill in in China.

[www.iclad-law.org](http://www.iclad-law.org)

Seidmans @ home: 617.361.6786

January 14, 2010

Whats in it, how much, and where from.

- ➔ Identify who has information on/monitors this
- ➔ Get info
- ➔ Address issues

Introduction:

- Grabber: Catch the reader's attention: Pick one:
  - Anecdote
  - Startling Statistics
- Brief statement (3 sentence max); Problem & Solution
- Context
- Methodology Used
- TOC Paragraph
  - Teaser of the brief version of what you're going to tell them.
  - Can often be combined w/ the Methodology Para.

January 21, 2010

I have a copyright project (from Prof. Gordon).

1 p. problem statement on Tuesday.

- Institution consists of sets of behaviors: People acting in repetitive patterns.
- Those patterns constitute institutions
- Law prescribes behavior, and thus can affect problematic institutions by modifying the behaviors.
  
- What is purpose of ROCCIP Hypotheses?
  - Develop solutions
  - Inspire new avenues of attack
    - How is the solution related to the problem?
  - How do you decide what (potential) solutions are relevant.
  - Look for evidence for hypothesis
    - Look for evidence that *contradicts* the hypothesis.

#### Methods of Decision-Making

- Problem-solving.
  - What we're doing.
- Ends Means
  - Vision Statement - State the objective, get a generalized end. Likelihood for disconnect btw end and means.
- Incrementalism
  - Make changes in small increments.
  - Problematic in that in making really small steps effectively reverts back to ends-means.

Instrumental law v. Rule of law.c

January 26, 2010

Prof. Gordon:

- Home: 617.916.2101
- Cell: 617.304.4412
  
- Should we implement this solution?
  - Is there a problem, and if so, what is it?
- Composers v. Performers
- Right to control public performances
- Inequity between the two, particularly as exemplified by performer rights to control internet broadcasts, and waning CD sales – a performer's bread and butter – since the rise of the Internet.
- RO: Entities that publicly perform musical recordings
- IA: Performance copyright-holders or their designees (licensing agencies, etc.)
  
- Street-level bureaucrats

January 28, 2010

- Recap from last time:
  - Focus on questions to ask client and other parties involved.
  - Ensure that legislation created includes IA that will implement.
  - What is a choice?
    - How are they made by RO?
    - Why do ROs act the way they do?
    - Conscious or otherwise?
  - Clients rely on drafter to predict how people will behave.
  - A complex org acts through individuals – isn't a single entity-actor.
- Why do they insist that every important bill should be accompanied by a justifying research report?
  - To sell the bill to the rational skeptic
  - Quality control
    - Ensures that it's rational, and targeted to be effective.
  - Ensures the bill is really in the public interest.
- Steps:
  1. Problem: Who and what/behaviors
  2. Explanation of cause of behavior for *each* set of ROs (ROCCIPI)
  3. Solution (bill)
  4. Monitor and Evaluate
- Why important to include alternatives?
  - How to get alternatives?
    - Work out originally for yourself.
    - See how others have addressed the problem.
    -

February 2, 2010

Clerk:

- Effectiveness of law limited by ability to overcome existing social norms
- Research report:
  - Contributes to open and accountable decision-making
- Solution Section
  - Alternatives (range of choices)
  - Alternatives later rejected
  - Detail provisions of bill
  - Address how solution addresses causes of difficulty
  - Cost/Benefit on two levels (economic and social costs):
    - Improvement over existing?
    - Better than other alternatives?
- Developing range of solutions:
  - Look at others' attempts

Transitive Laws:

Describes behaviors and prohibitions to role-occupants

Intransitive Law

Creates gov. agency to set rules.

Why?

- Fast-changing problem
- Problem isn't uniform throughout the country.

Limit scope:

- Rather than things reasonably calculated to address the problem, break the problem down into smaller potential sub-problems and limit the conformity inducing measures to be used for each one.

February 4, 2010

- Clerk:
  - Cost-benefit really based on proposed v. runner-up solution.
- Capturing the evidence:
- Unbalanced nature of public performance rights under federal copyright law.
  - Corresponding w/ Prof. Gordon
  - Reading the literature

Form of Research Report:

- Review ch. 7 in Manual re: structure.
- Signposts for the reader:
  - Where you're going and why.
  - Explain when things are introduced, *why* they're introduced there.
  - Types:
    - Intros and Conclusions
    - Mini Intros and conclusions throughout
    - Headings throughout the paper – other formatting
    - TOC/Methodology Paragraph: Describe the methodology:
      - Problem Solving:
        - Social Problem
          - Manifestation of difficulty
          - Whose and what behavior was problematic
          - .....
    - Specify social problem and analyze in terms of constituent behaviors
    - Find causes of those behaviors
    - Solution targeted to those causes.

The existing Legal Aid Act improperly incentivizes defense attorneys to persuade clients to plead guilty regardless of the clients' actual guilt.

Ministers seldom hold hearings involving all the stakeholders or request notice and comment prior to promulgating subsidiary legislation.

Ambiguities in existing legislation frequently cause conflict between national and provincial governments.

February 9, 2010

- Honorable Clerk:
  - Intransitive v. Transitive bill:
    - Limits to discretion:
      - Limits to discretion
      - Ensure participation by stakeholders
  - Gather evidence for research report:
    - Gather qualitative and quantitative research
    - Look to client, relevant government agencies
    - Research and write at same time: They are symbiotic.
  - Form of report.
    - Signposts.
  - Rule for composing sentences.
- Bill to ban dogs from a city park unless on leash.
  - *The owner of a dog found in the park and not on a leash will be fined by city law enforcement or parks and recreation employee, in the amount of X dollars.*
  - Paying careful attention to those responsible for the dog, as opposed to the owner as the owner may be out of town, etc.
  - Implied enforcement by police
  - Fully Enforced
- Run through our progress, focusing on our topics in brief and how much we have produced.
- Run through general statements of a research report (bill's description) transitioning to the specific bill itself.
  - RIC-D-FRETT
    - Small groups and report back
  - Mine:
    - Comments: Rules/prescriptions required to carry out
  - In short, Bach & I were in the hot seat.



February 11, 2010

Grouping and Ordering: Group like things together.

February 18, 2010

Send to them by Monday night: Primary role occupant, and legislative language addressed to them.

March 16, 2010

- Forum(s)
- Notice
  - Electronic
  - News Paper
  - Mailings
- Precomments/grouping?
  - Neighborhood rep. interests
- Agenda
- Delay
- Required written response to agenda and discussion, to address each substantive issue.