

# FLORIDA ATLANTIC UNIVERSITY™

## Graduate Programs—NEW COURSE PROPOSAL<sup>1</sup>

UGPC APPROVAL \_\_\_\_\_  
 UFS APPROVAL \_\_\_\_\_  
 SCNS SUBMITTAL \_\_\_\_\_  
 CONFIRMED \_\_\_\_\_  
 BANNER POSTED \_\_\_\_\_  
 CATALOG \_\_\_\_\_

DEPARTMENT: CRIMINOLOGY AND CRIMINAL JUSTICE

COLLEGE: CDSI

**RECOMMENDED COURSE IDENTIFICATION:**

PREFIX CCJ COURSE NUMBER 6295 LAB CODE (L or C) \_\_\_\_\_

(TO OBTAIN A COURSE NUMBER, CONTACT [NMALDONADO@FAU.EDU](mailto:NMALDONADO@FAU.EDU))

COMPLETE COURSE TITLE: COURTS, SENTENCING, AND THE JUDICIAL PROCESS

**EFFECTIVE DATE**

(first term course will be offered)

FALL 2015

CREDITS <sup>2</sup>: 3

TEXTBOOK INFORMATION: NO COURSE TEXTBOOK. LIST OF CURRENT READINGS PROVIDED ON SYLLABUS.

GRADING (SELECT ONLY ONE GRADING OPTION): REGULAR  SATISFACTORY/UNSATISFACTORY \_\_\_\_\_

**COURSE DESCRIPTION, NO MORE THAN THREE LINES:**

PROVIDES STUDENTS WITH SIGNIFICANT AND INFLUENTIAL RESEARCH ON TOPICS RELATED TO JUDICIAL PROCESS IN AMERICA. EXPOSES STUDENTS TO MODELS OF COURTROOM DECISION-MAKING THAT ADDRESS BUREAUCRATIC AND ORGANIZATIONAL FORCES, POLITICS, RACE AND SEX, AND THE NECESSARILY HUMAN NATURE OF SENTENCING. EXAMINES SOCIAL POLICIES AIMED AT THE COURTS AND SENTENCING.

PREREQUISITES\*: NONE

COREQUISITES\*: NONE

REGISTRATION CONTROLS (MAJOR, COLLEGE, LEVEL)\*:  
 MAJOR: CCJ MASTER OF SCIENCE STUDENTS ONLY

\* PREREQUISITES, COREQUISITES AND REGISTRATION CONTROLS WILL BE ENFORCED FOR ALL COURSE SECTIONS.

**MINIMUM QUALIFICATIONS NEEDED TO TEACH THIS COURSE:**

MEMBER OF THE GRADUATE FACULTY OF FAU AND HAS A TERMINAL DEGREE IN THE SUBJECT AREA (OR A CLOSELY RELATED FIELD)

Faculty contact, email and complete phone number:  
 Rachel Santos: [rboba@fau.edu](mailto:rboba@fau.edu); 561-297-3240

Please consult and list departments that might be affected by the new course and attach comments.<sup>3</sup> NA

**Approved by:**

Department Chair: \_\_\_\_\_

College Curriculum Chair: \_\_\_\_\_

College Dean: \_\_\_\_\_

UGPC Chair: \_\_\_\_\_

Graduate College Dean: \_\_\_\_\_

UFS President: \_\_\_\_\_

Provost: \_\_\_\_\_

John Ortiz Smykla, Ph.D., Director and Professor  
 of Florida Atlantic University, School of Criminology  
 and Criminal Justice, email: [jsmykla@fau.edu](mailto:jsmykla@fau.edu), c-US  
 2015.02.10 06:21:53 -0500

Digitally signed by Dr. Rosalyn Carter  
 DN: cn=John Ortiz Smykla, o=Florida Atlantic University, ou=School of Criminology  
 and Criminal Justice, email=jsmykla@fau.edu, c=US  
 Date: 2015.02.10 14:25:02 -0500

**Date:**

2/9/2015

2/9/2015

2/11/2015

2/11/15 2/11/15

2/26/15

1. Syllabus must be attached; see guidelines for requirements:  
[www.fau.edu/provost/files/course\\_syllabus.2011.pdf](http://www.fau.edu/provost/files/course_syllabus.2011.pdf)

2. Review Provost Memorandum: **Definition of a Credit Hour**  
[www.fau.edu/provost/files/Definition\\_Credit\\_Hour\\_Memo\\_2012.pdf](http://www.fau.edu/provost/files/Definition_Credit_Hour_Memo_2012.pdf)

3. Consent from affected departments (attach if necessary)

Email this form and syllabus to [UGPC@fau.edu](mailto:UGPC@fau.edu) one week before the University Graduate Programs Committee meeting so that materials may be viewed on the UGPC website prior to the meeting.

CCJ6295 –Courts, Sentencing, and the Judicial Process  
3 credit hour course  
Fall Semester 2015  
W 7:10-10:00

Class held in Social Science (SO) building, room 390, Boca Raton campus

Professor: Dr. William Hauser  
Email: [hauserw@fau.edu](mailto:hauserw@fau.edu)  
Phone: (708) 888-0765  
Office: SO 211 Boca Raton & ES 282 Davie  
Office Hours: W 3:00-7:00 (Boca) & R 3:40-4:10 (Davie)  
*and by appointment*

### **Course Description**

Provides students with an overview of significant and influential research on a variety of topics related to judicial process in America. Exposes students to realistic models of courtroom decision-making that address bureaucratic and organizational forces, politics, race and sex, and the necessarily human nature of sentencing. Critically examines social policies aimed at the courts including structured sentencing schemes and actuarial sentencing.

### **Course Objectives**

Your understanding of the American judicial system is predicated on your knowledge of the following topics:

- the structure and functioning of federal court system and state court systems
- historical development of the courts including key decisions
- the interplay between politics and the courts, particularly the Supreme Court
- the effect of public opinion on the courts and the effect of court decisions on public opinion
- models of courtroom decision-making
- plea bargaining – form, extent, origins, and consequences
- structured sentencing schemes and determinate sentencing – form and consequences

### **Required Reading**

There is no text book required for this class. Instead, we will read scholarly articles and book excerpts. Each week you should read all articles listed for that week in the course schedule. These must be read no later than Monday so that you can submit the week's discussion prompts by [no later than] Monday night.

### **Course Requirements**

***Class attendance: 9% of your grade or 90 points total (15 class periods at 6 points each)***

Class attendance and discussion is mandatory. Absences will be excused with proper documentation. Because this class is discussion based it is not enough for you to simply “show

up.” To receive full credit for class attendance you must participate in class discussion. You should read the material carefully, take appropriate notes, and come to class prepared for a lively discussion.

***Weekly Discussion: 28% of your grade or 280 points total (14 submissions at 20 points each)***

This class is discussion based, consequently, attendance is required and participation in class discussion is expected. Because this is a graduate class, I believe that assigning grades based on the quality of your remarks in class is demeaning to all parties involved. However, to force you to attend and prepare for discussion, you are required to submit 2 discussion prompts to blackboard no later than the Monday prior to class.

Prompts should be phrased in the form of a question and should center on an issue or question relating to the reading that you believe merits discussion during class. Both substantive and methodological issues are fair game for discussion. You may include some brief remarks clarifying your question, outlining your position on the issue, or providing context (i.e. “Smith 2009 found X which suggests that the present authors should have considered Y”). Prompts should generally be no longer than 1 paragraph in length and can be much shorter. My grade for your prompts will primarily reflect the thoughtfulness of your remarks. However, poor grammar and style will affect your grade if it is persistent from week to week and egregious in nature.

I will review the submissions for the week and organize class discussion around the issues raised by the class. Choose your discussion prompts with care and forethought because we will likely discuss them at length. To this end, discussion prompts should be thought provoking and not trivial. *Late submissions will not be accepted and you forfeit the points associated with that week’s discussion.*

***Reaction papers: 63% of your grade or 630 points total (7 Total papers at 90 points each)***

In graduate school no skill is more important than your ability to think critically and express yourself through your writing. During the course of the semester you will submit 7 reaction papers, no more than 1 per week. Each paper should be no more than 6 pages long and no less than 4 (1.5 spacing, Times New Roman font size 12, 1” margins). In each paper you should ‘react’ to something you read that week. You may focus on a single article or you may attempt to synthesize several and you may even incorporate readings/topics from prior weeks. You may disagree with what you read or expand and build upon it. *Your goal is to demonstrate that you can think critically and engage the topic at a deep level. Bloviation<sup>1</sup> and bombast are not welcome in this paper.* You should avoid stilted and un-natural language but also avoid overly conversational language marked by slang and contractions. Since these are not done on a weekly basis, you should devote considerable time and effort to these brief papers on the occasions that

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<sup>1</sup> President Harding described bloviation as “the art of speaking for as long as the occasion warrants, and saying nothing.”

you choose to do them. *Critical analysis and empirically supported assertions will be much more beneficial to your paper than speculation and opinion. Your paper should reference outside articles (refereed publications that have not been assigned as part of this course) and you must include in text citations and an APA formatted references page.*

### **Class Professionalism and Academic Performance**

You are responsible for your own success in this class. All interaction should be done with professionalism in your attitude, behavior, appearance, correspondence (including emails!), and in the quality of your work. I am happy to work with you and assist you if you are struggling with the material. However, this is graduate school and it is not my job to hold your hand or seek you out because I think you might be struggling. Bottom line – you are an adult and should conduct yourself as such.

Consider availing yourself of the University resources for student success. These resources, including tutoring and writing assistance, are listed on the attached sheet entitled “Resources for Student Success”

### **Grade Scale**

<b>A</b> 100% - 93%	<b>B-</b> 82.9% - 80%	<b>D+</b> 69.9% - 67%
<b>A-</b> 92.9% - 90%	<b>C+</b> 79.9% - 77%	<b>D</b> 66.9% - 63%
<b>B+</b> 89.9% - 87%	<b>C</b> 76.9% - 73%	<b>D-</b> 62.9% - 60%
<b>B</b> 86.9% - 83%	<b>C-</b> 72.9% - 70%	<b>F</b> < 59.9%

### ***A word on your grades***

Points in this class will add to 1000. Thus, 930 points is required for an A, 830 points is required for a B, 730 points is required for a C and so on. Simply take your points and divide by 1000 and compare the resultant percentage with the table provided above. There should be no surprises when final grades are released.

### ***Academic Probation***

You must have a 3.0 to graduate, if your GPA drops below a 3.0 you will be placed on academic probation. You can earn a C in a course and still receive credit for it although doing so risks academic probation (i.e. the low grade could drag your GPA below 3.0). A C- or less means that you will not receive any credit for this course, however the low grade will still be included in your GPA calculation even if you retake the course. There is no forgiveness policy at the graduate level. *In general, getting anything less than a B is considered not doing graduate level work.* For some of you, your financial aid requires that you earn at least a 3.0 *each semester* regardless of your overall GPA. *It is your responsibility to know those requirements.* The obvious and easy solution is simply to get an A or a B in this class.

### ***Incompletes***

University policy strictly prohibits awarding an incomplete in order to do “extra credit” coursework, to take the course again at a later date, or to do anything else designed to improve a student’s grade. Therefore, an incomplete will only be issued for the purpose for which it was intended – i.e., a severe, unanticipated and documented emergency situation (e.g. hospitalization) during the last few days of the semester. Any incomplete work must be finished within the next semester, or it automatically converts to the grade to be received without credit for the incomplete work. *A failing grade is not a valid reason for an incomplete.*

### ***Academic Integrity***

Students at Florida Atlantic University are expected to maintain the highest ethical standards. Academic dishonesty is considered a serious breach of these ethical standards, because it interferes with the university mission to provide a high quality education in which no student enjoys an unfair advantage over any other. Academic dishonesty is also destructive of the university community, which is grounded in a system of mutual trust and places high value on personal integrity and individual responsibility. Harsh penalties are associated with academic dishonesty. For more information, see University Regulation 4.001.

[http://www.fau.edu/ctl/4.001\\_Code\\_of\\_Academic\\_Integrity.pdf](http://www.fau.edu/ctl/4.001_Code_of_Academic_Integrity.pdf)

### ***Americans with Disabilities Act***

Students with disabilities needing academic accommodation should: (1) register with and provide documentation to the Office for Students with Disabilities (OSD; 561-297-3880, Boca Raton; 954-236-1222, Davie) and (2) bring a letter to me indicating the need for accommodation and what type. This should be done during the first two weeks of class. Students wanting assistance with studying or test-taking skills should contact the Office of Student Retention (561-297-3540, Boca Raton; 954-263-1210, Davie)

### **Course Schedule**

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#### **Week 1**

***Wednesday (insert date)***

No assigned reading, introduction to the course

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#### **Week 2**

***Wednesday (insert date)***

*Intro and Overview*

Durose, Matthew R. and Patrick A. Langan. 2007. Felony sentences in state courts, 2004.

*Bureau of Justice Statistics Bulletin, U.S. Department of Justice.* NCJ215646. Retrieved from <http://www.ojp.usdoj.gov/bjs/abstract/fssc04.htm>

Reaves, Brian A. 2013. Felony defendants in large urban counties, 2009 – statistical tables.

*Bureau of Justice Statistics, U.S. Department of Justice.* NCJ243777. Retrieved from <http://www.bjs.gov/content/pub/pdf/fdluc09.pdf>

Frase, Richard S. 2005. Punishment Purposes. *Stanford Law Review*. 58(1):67-83.

Packer, Herbert L. Two Models of the Criminal Process. 1964. *University of Pennsylvania Law Review*, 113(1):1-12

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**Week 3**

**Wednesday** (insert date)

*Sentencing Guidelines (1)*

Bushway, Shawn D. and Anne Morrison Piehl. 2007. Social science research and the legal threat to presumptive sentencing guidelines. *Criminology and Public Policy*, 6(3):461-482.

Frase, Richard S. 2005. State sentencing guidelines: Diversity, consensus, and unresolved policy issues. *Columbia Law Review*, 105(4):1190-1232.

Hofer, Paul J., Blackwell, Kevin R., and R. Barry Ruback. 1999. The effect of the federal sentencing guidelines on inter-judge sentencing disparity. *The Journal of Criminal Law and Criminology*, 90(1):239-322.

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**Week 4**

**Wednesday** (insert date)

*Sentencing Guidelines (2)*

Albonetti, Celesta A. 1997. Sentencing under the federal sentencing guidelines: Effects of defendant characteristics, guilty pleas, and departures on sentence outcomes for drug offenses, 1991-1992. *Law & Society Review*, 31(4):789-822.

Crow, Matthew S. and Katharine A. Johnson. 2008. Race, ethnicity, and habitual-offender sentencing: A multi-level analysis of individual and contextual threat. *Criminal Justice Policy Review*, 19(1):63-83.

Ulmer, Jeffery T., Light, Michael T., and John Kramer. 2011. The “liberation” of federal judges’ discretion in the wake of the Booker/Fanfan decision: Is there increased disparity and divergence between courts? *Justice Quarterly*, 28(6):799-837.

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**Week 5**

**Wednesday** (insert date)

*Sentencing Guidelines (3)*

Bill Lockyear, Attorney General of California, Petitioner v. Leandro Andrade. 538 U.S.63 (2003). O’Connor, J. majority holding.

Bill Lockyear, Attorney General of California, Petitioner v. Leandro Andrade. 538 U.S.63 (2003). Souter, J. dissenting.

Bontrager, Stephanie, Bales, William, and Ted Chiricos. 2005. Race, ethnicity, threat, and the labeling of convicted felons. *Criminology*, 43(3):589-622.



Marvell, Thomas B., and Carlisle E. Moody. The lethal effects of three-strikes laws. *The Journal of Legal Studies*, 30(1):89-106.

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**Week 6**

**Wednesday** (insert date)

*Extra-legal Attributes and Sentencing (1)*

Baumer, Eric P. 2013. Reassessing and redirecting research on race and sentencing. *Justice Quarterly*, 30(2):231-261.

Johnson, Brian D. 2006. The multi-level context of criminal sentencing: Integrating judge-and-county-level effects. *Criminology*, 44(2):259-298.

Ulmer, Jeffery T. and Brian Johnson. 2004. Sentencing in context: A multi-level analysis. *Criminology*, 42(1):137-177.

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**Week 7**

**Wednesday** (insert date)

*Extra-legal Attributes and Sentencing (2)*

Kleck, Gary. 1981. Racial discrimination in criminal sentencing: A critical evaluation of the evidence with additional evidence on the death penalty. *American Sociological Review*, 46(6):783-805.

Spohn, Cassia, and Dawn Beichner. 2000. Is preferential treatment of female offenders a thing of the past? A multisite study of gender, race, and imprisonment. *Criminal Justice Policy Review*, 11(2):149-184.

Spohn, Cassia, and David Holleran. 2000. The imprisonment penalty paid by young, unemployed, black, and Hispanic male offenders. *Criminology*, 38(1):281-306.

Harris, Casey T., Steffensmeir, Darrell, Ulmer, Jeffery T., and Noah Painter-Davis. 2009. Are blacks and Hispanics disproportionately incarcerated relative to their arrests? Racial and ethnic disproportionality between arrest and incarceration. *Race and Social Problems*, 1(4):187-199.

-optional reading for context for the Harris et al. (2009) article-

Blumstein, Alfred. 1982. On the racial disproportionality of United States' prison populations. *The Journal of Criminal Law and Criminology*, 73(3):1259-1281.

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**Week 8**

**Wednesday** (insert date)

*Extra-legal Attributes and Sentencing (3)*

Bushway, Shawn D., and Anne Morrison Piehl. 2001. Judging Judicial Discretion: Legal factors and racial discrimination in sentencing. *Law & Society Review*, 35(4):733-764.

Bushway, Shawn D., and Anne Morrison Piehl. 2007. The inextricable link between age and criminal history in sentencing. *Crime and Delinquency*, 53(1):156-183.

Spohn, Cassia, and Jerry Cederblom. 1991. Race and disparities in sentencing: A test of the liberation hypothesis. *Justice Quarterly*, 8(3):305-327.

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**Week 9**

**Wednesday** (insert date)

*Plea Bargaining (1)*

Feeley, Malcolm M. 1979. Pleading guilty in lower courts. *Law & Society Review*, 13:461-466.

Langbein, John H. 1978. Understanding the short history of plea bargaining. *Law & Society Review*, 13:261-272 .

Langbein, John H. 1978. Torture and plea bargaining. *University of Chicago Law Review*, 46:3-22.

Nardulli, Peter F., Flemming, Roy B., and James Eisenstein. 1986. Criminal courts and bureaucratic justice: Concessions and consensus in the guilty plea process. *Journal of Criminal Law and Criminology*, 76(4):1103-1131.

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**Week 10**

**Wednesday** (insert date)

*Plea Bargaining (2)*

King, Nancy J., Soule, David A., Steen, Sara, and Robert R. Weidner. 2005. When process affects punishment: Differences in sentences after guilty plea, bench trial, and jury trial in five guideline states. *Columbia Law Review*, 105(4):959-1009.

McCoy, Candace. 2005. Plea bargaining as coercion: The trial penalty and plea bargaining reform. *Criminal Law Quarterly*, 50:1-41.

Ulmer, Jeffery T., and Mindy S. Bradley. 2006. Variation in trial penalties among serious violent offenses. *Criminology*, 44(3):631-670.

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**Week 11**

**Wednesday** (insert date)

*Models of Judicial Decision-making*

Albonetti, Celesta A. 1991. An integration of theories to explain judicial discretion. *Social Problems*, 38(2):247-266.

Farrell, Ronald A., and Malcolm D. Holmes. 1991. The social and cognitive structure of legal decision-making. *The Sociological Quarterly*, 32(4):529-542.

Steffensmeir, Darrell, Ulmer, Jeffery, and John Kramer. 1998. The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology*, 36(4):763-798.

Sudnow, David. 1965. Normal crimes: Sociological features of the penal code in a public defender office. *Social Problems*, 12(3):255-276.



**Wednesday** (insert date)

*Risk Assessments in Sentencing*

Baird, Christopher. 2009. A question of evidence: A critique of risk assessment models used in the justice system. Oakland, CA: *National Council on Crime and Delinquency*.

Hannah-Moffat, Kelly. 2013. Actuarial Sentencing: An “unsettled” proposition. *Justice Quarterly*, 30(2):270-296.

Skeem, Jennifer. 2013. Risk technology in sentencing: Testing the promises and perils (Commentary on Hannah-Moffat, 2011). *Justice Quarterly*, 30(2):297-303.

Hyatt, Jordan M., Bergstrom, Mark H., and Steven L. Chanenson. 2011. Follow the evidence: Integrate risk assessment into sentencing. *Federal Sentencing Reporter*, 23(4):266-268.

Kleiman, Matthew, Ostrom, Brian J., and Fred L. Cheesman II. 2007. Using risk assessment to inform sentencing decisions for nonviolent offenders in Virginia. *Crime and Delinquency*, 53(1):106-132.

**Wednesday** (insert date)

*Why the ‘Haves’ Come Out Ahead (litigation)*

Albiston, Catherine. 1999. The rule of law and the litigation process: The paradox of losing by winning. *Law & Society Review*, 33(4):869-910.

Galanter, Marc. 1974. Why the “haves” come out ahead: Speculations on the limits of legal change. *Law & Society Review*, 9(1):95-160.

Songer, Donald R., Sheehan, Reginald S., and Susan Broadie Haire. Do the “haves” come out ahead over time? Applying Galanter’s framework to decisions of the U.S. Courts of Appeals, 1925-1988. *Law & Society Review*, 33(4):811-832.

Galanter, Marc. 1975. Afterword explaining litigation. *Law and Society Review*, 9(2)347-368.

**Wednesday** (insert date)

*Supreme Court and Civil Liberties (1)*

Chambers, John W. 1969. The big switch: Justice Roberts and the minimum-wage cases. *Labor History*, 10(1)44-73.

Dahl, Robert A. 1957. Decision-making in a democracy: The Supreme Court as a national policy-maker. *Journal of Public Law*, 6:279-295.

Segal, Jeffery A. and Harold J. Spaeth. 1996. The influence of stare decisis on the votes of United States Supreme Court Justices. *American Journal of Political Science*, 40(4)971-1003.

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Songer, Donald R. and Stefanie A. Lindquist. 1996. Not the whole story: The impact of Justices' values on Supreme Court decision making. *American Journal of Political Science*, 40(4):1049-1063.

**Week 15**

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**Wednesday** (insert date)

*Supreme Court and Civil Liberties (2)*

Caldeira, Gregory A. and James L. Gibson. 1992. The etiology of public support for the Supreme Court. *American Journal of Political Science*, 36(3):635-664.

Gibson, James L., and Gregory Caldeira. 2011. Has legal realism damaged the legitimacy of the U.S. Supreme Court. *Law & Society Review*, 45(1):195-219.

Howard, Robert M., Graves, Scott E., and Julianne Flowers. 2006. State courts, the U.S. Supreme Court, and the protection of civil liberties. *Law & Society Review*, 40(4):845-870.

Ulmer, Jeffery T. 2012. Recent developments and new directions in sentencing research. *Justice Quarterly*, 29(1):1-40.

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## **University Resources for Student Success**

UNIVERSITY CENTER FOR EXCELLENCE IN WRITING

<http://www.fau.edu/UCEW/WC/>

TUTORING, STUDY HELP, & ACADEMIC SUPPORT

<http://www.fau.edu/ct/TutoringStudyHelpAndAcademicSupportStudentResources.php>

CENTER FOR LEARNING AND STUDENT SUCCESS

<http://www.fau.edu/CLASS/>

LEARNING COMMUNITIES

<http://www.fau.edu/class/LearningCommunity/>

CAREER DEVELOPMENT CENTER

<http://www.fau.edu/cdc/>

STUDENT INVOLVEMENT AND LEADERSHIP

<http://www.fau.edu/sil/>

If you are having personal problems and need guidance or help, please contact one of the centers listed below:

OFFICE OF HEALTH AND WELLNESS

<http://www.fau.edu/wellness/index.php>

<http://www.fau.edu/wellness/staff.php>

COUNSELING CENTER

<http://www.fau.edu/counseling/>

STUDENT INTERVENTION TEAM

<http://www.fau.edu/studentsindistress/index.php>

<http://www.fau.edu/studentsindistress/aboutus.php>

<http://www.fau.edu/studentsindistress/SITrole.php>

STUDENT CRISIS AWARENESS COMMITTEE

<http://www.fau.edu/studentsindistress/SCACROLE.php>