

Evidence as a First-Year Elective
Informal Survey Results
Spring 2007 Students
Prof. Stensvaag

First-year students were first given the opportunity to select an elective in the spring of 2007. Although we were uncertain about the suitability of Evidence as a 1L elective, Professor Pettys and I agreed that it was worth a try. It turned out that 35 of the 85 students who took my Evidence course in the spring of 2007 were 1Ls.

Moreover, in a development that I did not adequately anticipate, 15 of those 35 first-year students were simultaneously enrolled in my Civil Procedure class; these students accordingly met with me seven hours per week during their spring semester. As the semester progressed, I became deeply concerned that this might be a terrible mistake. Seven hours of any teacher each week might well be an unpleasant experience for the students.

The Informal Survey Questions

In June 2007, long after the grades had been reported and after students had settled into their summer jobs, I e-mailed the 1L members of the Evidence class, requesting feedback on their experience. Here is the message that I sent to them:

I hope each of you is having a wonderful, richly-deserved break following your first year of law school. As I indicated on the last day of our Evidence class, I have been doing a great deal of soul searching about two issues associated with the College of Law's new policy of offering 1Ls a spring elective. If you are willing to provide feedback on these issues, I would deeply appreciate it. Because it is imperative that you be as candid as possible, please respond to my secretary, Ms. Grace Tully, by e-mailing her at grace-tully@uiowa.edu. We give you our word that she will remove all information that might compromise your anonymity before forwarding your comments to me.

Here are my two questions:

1. Based on your experience, do you think it is a good idea for 1Ls to select Evidence as their spring elective? Please be

as detailed as possible in explaining your conclusion on this issue.

2. Based on your experience, do you believe that 1Ls should be discouraged—or forbidden—from taking a spring elective from a teacher who will also be teaching them one of their required first-year spring courses? Please also be as detailed as possible—and candid—in responding to this question.

I have some preliminary conclusions on each of these issues, which I am willing to share after you folks have reported in to Grace, but I don't want to skew your responses in any way by expressing my own thoughts at this time.

Thank you for your time, and congratulations on the milestone of finishing your first year of law school. I look forward to seeing each of you back in the Boyd Law Building on the resumption of fall classes, and very much hope that you will keep in touch with me through the years.

Informal Survey Responses

The following responses were received from the students—in most cases anonymously, but sometimes by direct e-mail to me:

Question 1 (suitability of Evidence as a 1L elective):

I am very thankful that I chose Evidence as my elective. I didn't think the material was beyond the capability of a 1L, and having a class with more defined rules was a nice contrast to the remaining first-year curriculum. It was also refreshing for me to see the applicability of the class to my future practice (not that Criminal Law won't apply, it's just much easier to foresee the applicability of the Rules of Evidence). Additionally, I have already found this class useful in my first week of summer employment. One research assignment was evidence-based and others have components of evidence in them. Even when the research issue doesn't relate to evidence, that has often been an issue in the cases I have been reading. Additionally, I had

the opportunity to attend a pretrial conference and deposition (to be used as testimony at trial) last week. In both cases the attorneys talked about foundation and stipulation and I felt like I had a better understanding of what they were talking about since I had taken Evidence. I absolutely don't regret this class as my elective, and I hope you encourage other 1Ls to choose it as well—especially if they intend to clerk during their first summer.

I found it very helpful to learn the basics of the procedural aspects of the law so early, and I did not think there were any serious pitfalls in learning them at the same time (other than the occasional mix-up about which class covered which subject). Having a good understanding of basic evidence law has really helped me in my work so far, so I am very glad I have that class under my belt.

Yes, definitely. I didn't feel like I was missing any crucial information that the upper-class students had, and I thought evidence was on par with my other 1L courses as far as workload and difficulty—actually, usually the workload was lighter! It was rare for there to be some point that our civil procedure or con law class hadn't touched on yet, and when it happened you'd explain it for us 1Ls.

I really don't think it is a good idea for 1Ls to be taking evidence as a spring elective because I feel like I would have been better prepared to take civil procedure first rather than at the same time.

I have mixed feelings about whether 1Ls should take Evidence as a spring elective. On one hand, taking Evidence the first year has helped me in other classes and I have used it quite a lot in my summer job. However, during the semester there were times that I had some trouble keeping Evidence Rules and Civil

Procedure rules straight. This seemed to be less of a problem later in the term after I had a chance to outline the classes and was generally more comfortable with the material.

Because I have found it so useful to have taken Evidence as a 1L, I would not suggest forbidding 1Ls from taking the class. It may be helpful to explain that both classes are very rule oriented and let students know that they may find it to be a little more work than if they choose to select a different elective.

I think 1Ls were more than able to hold their own in the class once the intimidation of being in a class with second year students wore off. This class was well suited to 1Ls because it was so structured and fairly straightforward. Even when there were time consuming assignments due for writing class, the assignments were short enough that you could adequately prepare (or always just tell the Professor that you can't be prepared that day). Those who prepared had every opportunity to do well, regardless of 1L standing.

Reasons to not restrict our choices of elective:

1. saying I was taking Evidence in my first year certainly distinguished me from most other 1L applicants for jobs
 2. Evidence is probably practical for many summer job opportunities in a way that many other electives would not be
 3. most students probably talked to upperclassmen to get the scoop on professors before choosing their elective
 4. some of us had very few options for our elective that fit with our schedule; we don't need any unnecessary restrictions on what we can pick from.
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I thought Evidence was a very good elective. It was taught well, and was very manageable. I didn't feel particularly outgunned by older students in that class. I thought it was pretty even. Actually, Evidence ended up being by far my best grade so far in law school.

My responses will probably differ from the traditional 1L students. I am a summer start, so I took three electives in the spring. I wanted to take Evidence as soon as possible so that I could take Trial Ad. I also wanted to take Trial Ad before my externship this summer, so I took Trial Ad in the May intersession. Evidence has helped me in my clinic externship (Federal Public Defender). Civ Pro was my only traditional 1L class this spring and I took both Criminal Procedure classes (Investigation and Adjudication) as well. That combination was great for me and they supplemented each other. I felt that taking Evidence as soon as possible is really going to benefit me, as it already has. It assists with other classes. I didn't have any problem taking Evidence at the same time as Civ Pro. I was able to keep the rules separated and even though I had the same professor for both, it didn't confuse me. I don't see that it would have been a problem for other first years, but I can't be sure.

I think it is a good idea for 1Ls to select evidence as their spring elective. I think that it is one of the more practical courses that a 1L can take. It has an immediate and direct impact for students who are working in a legal field over the summer. It allows students to have familiarity in an area that frequently comes up in practice and makes us capable of handling a greater range of assignments over the summer. It is also a way for us to distinguish ourselves from students at other schools who may not have had the opportunity to take Evidence yet. Beyond summer employment, there are a number of work/clinical experiences that require evidence. Being able to take Evidence as 1L elective may make it easier to balance our schedules in a way that allows us to take advantage of those opportunities and experiences.

I also think that since the 1L electives are limited in number and further limited by severe scheduling restraints, placing evidence off limits as an elective would force some students into an elective that they would not want to take. Even if that outcome is not the norm, I don't think that is what the ability to have an elective in the 1L year should lead to. Since most students are likely to take evidence at some point during law school, giving students the freedom to decide when the best time is for them seems desirable to me.

I think it is fine for ILs to take Evidence. I didn't feel disadvantaged in class, and the material was not beyond my comprehension. For the most part, the class seemed very do-able and I'm glad I took it. The class seemed to complement Civ Pro and it gave a nice balance to the other classes I was taking. I did have some fear that I wouldn't do well because there were more experienced students in the class, but I was pleasantly surprised with my grade (3.7), so maybe that's not a real concern. I do wonder though, if it would have been wiser to take the class closer to when I will use it or closer to the bar. But then again, I'm not sure I would have remembered anything anyway.

I felt like Evidence was a great choice for an elective based on our required first year courses

I have been meaning to email you all summer, but must apologize for my delay. I was fortunate enough to get a summer associate position with a great firm in Michigan this summer, and have been more busy than expected. I wanted to personally thank you for being such a great Evidence professor. You always made class engaging, fun, and understandable—I truly believe my success in your class was greatly due to your teaching style.

I have also found your class to be the most practical in its application, especially in a law firm setting. I have recently finished a research memo project regarding the Indiana Rules of Evidence 406 and 404(b), which ends up being identical with the FRE 406 and 404(b). My knowledge from taking your class definitely helped me write the memo. Additionally, I am participating in a Mock Trial program that the firm organizes as an internal career development program. Understanding the FRE definitely helped me and my Mock Trial team during our introduction of exhibits and direct examinations, especially when I was the only one that had taken Evidence.

I believe it is a great idea for 1Ls to have Evidence as a spring elective. I do not believe it was overly challenging where I would be at a disadvantage compared to the 2L. More importantly, the things I learned in Evidence became the most practical class and useful towards my summer associate position.

Question 2 (having the same teacher for a required 1L course and an elective):

Though I am a summer starter, and thus was a little further into my law education than other first years, I think it was nice having the consistency of having one teacher for both Civ Pro and Evidence. Though obviously issues would arise if the teacher were ineffective, or the student had troubles with the teacher, I felt strongly that learning from one teacher was a good thing.

I had no problem having you for two classes—actually, I liked the routine of having two classes that were similar in format. Rather than discouraging or encouraging the practice, I'd just advise 1Ls to ask around about professors in advance before opting to take two classes. From what I heard about your classes, I figured (correctly) that they'd be a good fit with my learning style. However, having two classes from a professor who tends to drift about would have driven me absolutely nuts.

When you initially asked us to give feedback to you re: taking Civ Pro and Evidence from you, I honestly felt that there were no problems with taking both classed at the same time from the same professor. However, after seeing the results of the classes (and comparing them with my performance in other classes), I have to conclude that you should not *forbid*, but **strongly discourage** 1L students from taking both classes at the same time from the same professor.

This is not a knock on you in any way. But, because the format of the classes is so similar, I think that I “confused” the two on several occasions. In addition, taking the classes from different professors may have distinguished the subject matter more effectively in my mind.

I may be on the wrong track here, but the fruits of my labors in both classes were far below the standards I hold for myself. The fact that you are an excellent educator makes it all the more confusing.

Here is my recommendation:

1. Suggest to 1Ls that they take evidence in their 2nd year.
2. If they really want to take Evidence to qualify for Trial Ad in the next summer/fall, then permit them to do so IF they take separate professors for Civ Pro and Evidence.
3. Don't forbid it, but make it conditional on taking Trial Ad in summer/fall, or something like that.

I do not think it matters to have the same teacher twice.

I had Professor Stensvaag for both Evidence and Civil Procedure and although he is a wonderful professor it may have been

easier for me to keep the material separate had one of the classes been with a different professor.

The only down side is that I might not get to take a class with Professor Stensvaag for the next two years.

I didn't have any problem taking two classes from Professor Stensvaag. He is a great professor, and I'd take all my classes from him if I could. I could see this being a big problem if the professor was bad, but in this case, it worked out great. It might have actually been helpful to have two classes taught largely in the same way.

I don't see any problem with taking an elective from the same professor as one of your required courses during the same semester.

I am a firm believer that students should be given the freedom and responsibility to shape their education. Therefore, I do not believe that students should be forbidden or discouraged from taking a spring elective from one of their required first-year spring course professors.

While I think that there are valid reasons for a student to avoid having the same professor twice in a semester such as the importance of exposing oneself to different ways of thinking or teaching styles, I trust a student to be able to evaluate those options and make the best decision for them. I think the more appropriate way to deal with the situation is to provide students with more information when making the decision. This information could include potential drawbacks or concerns about having a professor for multiple classes. Although I don't think that this is a good reason to take a class or wait to take a class, if you are taking a professor more than once, it makes sense to wait until after you have completed one course because you

can learn lessons from the way a professor tests and what s/he is looking for in student responses—a student doesn't have that ability if they are taking two classes simultaneously.

I would also have concerns about further limiting the choices students have for electives. Right now, given that the majority of the first year student's schedule is fixed, the elective choices are already quite limited (I think that I had five or six choices). Placing further limitations on those choices defeats part of the purpose of offering the elective in the first place.

On a personal note, the fact that I had Professor Stensvaag for two classes is part of what made my semester a positive experience. I enjoyed his teaching style and approach to the law and found it to be an effective way for me to learn. I also feel that he respected me as a student. He was immaculately prepared and genuinely concerned about presenting the material in a way that students could understand. In fact, one of the reasons why I chose to take my elective from him is because of his reputation for outstanding teaching and preparation. I feel that was a good decision and one that benefited me on multiple levels.

I didn't have you for Civ Pro, so I have no personal experience with having a professor twice in the same semester. I know that I had the chance to do that, but deliberately chose not to. I think it might be a good idea to discourage/forbid students from doing that

Although I did not have Professor Stensvaag for Civ Pro, I don't feel like 1Ls should be allowed to take their elective from the same professor as their required courses. It seems to give them an advantage in that they only have to "read" the style of one professor for those two courses, giving them an advantage.

Although I personally was not in Professor Stensvaag's civil procedure class, I do not think Evidence should be discou-

raged. I have heard great things from the students who did have them for both classes and did not perceived their experience as a negative one.

My Own Observations

As you can see from the foregoing responses, students were not all of one mind on the two questions posed by the informal survey. I think this is healthy, and it is especially important to inform new 1Ls of these differences in opinion.

My colleagues and I wondered how 1Ls would fare academically when thrown together with upper-class students. In my opinion, the class participation of 1L students was indistinguishable from the participation of their more experienced classmates. Moreover, when the examinations had been graded, I could find no meaningful disparity between 1L grades and upper-class student grades. It is my understanding that Professor Pettys may have had a slightly different experience.

I have one final bittersweet observation. The 15 students who endured seven hours with me during the spring semester are unlikely to ever take another of my classes—given the relatively low enrollments in Environmental Law. I feel a bit sad about that, because one of the joys of teaching fall semester Evidence in the past has been the “welcome back” experience of getting reacquainted with old friends from the first-year civil procedure class. The bond that I’ve been fortunate to build with hundreds of students who have taken Civil Procedure and then Evidence from me over two fourteen week semesters has been compressed into one fourteen-week period, ending all too soon for me. Because law school is a growth process, I very much enjoy seeing who my students have become by the end of their fall, second-year semester—something that I’ll miss out on for these 15 students. But this is a selfish concern that need not matter to the students, when selecting their 1L elective, or to the faculty, when it seeks to devise suitable rules governing the 1L elective.

Finally, thanks to the many students who took the time to respond to my informal survey questions. Your advice will be invaluable to future 1Ls.