
Understanding Law for Public Administration

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Preface

In our time cynicism about the law abounds. The legislative process often seems aimless and individuals regularly seem to suffer injustice in the court system. Despite even the best intentions, the law will be flawed—it is a human endeavor subject to human limitations and differences. But history proves that there is no form of governance better suited to the pursuit of happiness than a rule of law. Studying the law in principle and in practice enables us to honor it when it works and to reform it when it does not.

This book is for students and practitioners of public administration and policy and for anyone else who wants to better understand how law relates to the public good. It combines an introduction to basic legal principles, an analysis of instructive cases, and consideration of practicalities. Material is arranged sequentially to build a cohesive analytical framework. The first five chapters consider the notion of a rule of law and fundamental constitutional law principles. The next eight chapters introduce basic law subjects regularly encountered in government affairs but not traditionally covered in public administration classrooms. The material includes opinions from 24 cases, abridged to enable readers to focus on the points relevant to the discussion. Some of the opinions are from landmark U.S. Supreme Court opinions, others are especially informative and illustrative cases from other federal and state courts. All were chosen for the insight they give into how judges interpret the law and define fundamental rights. The final two chapters discuss the nature of working with lawyers and researching the law for self-education—information that could be helpful for making sound decisions.

This book is realistic, but no cynicism is intended. Its perspective was formed not only from law study and teaching but also from more than 20 years of direct experience giving legal advice, representing adversaries in disputes, and working with public officials on legal problems and law reform. This experience has revealed serious shortcomings with the legal system. It also has illuminated the importance of taking personal responsibility for doing better. Making the right choices should matter to us all, whether from religious belief in an eternal soul, philosophical conclusion about a moral life, or scientific knowledge that even the flap of a butterfly's wings is part of atmospheric change. No one alone can change the world, but our fate depends on the cumulative effect of individual choices. As Plato said, "The penalty good men pay for indifference to public affairs is to be ruled by evil men." Understanding the law helps us to find the best path. And as Anne Frank said in the most dire of situations, "How wonderful it is that nobody need wait a single moment before starting to improve the world."

Charles Szypszak



About the Author



Charles Szypszak is Professor of Public Law and Government at the School of Government at the University of North Carolina at Chapel Hill. He provides counsel to state, national, and international institutions, organizations, and public officials on real property registration and conveyance laws and other public law subjects. He also teaches Law for Public Administration in the School's graduate program in public administration. Prior to 2005 he was a director of a general practice firm in New Hampshire and an adjunct professor of law at Franklin Pierce Law Center. He is the author of several books and many articles on real property and other law topics. He earned a BA from the University of Southern California, an MA from San Diego State University, and a JD from the University of Virginia School of Law, and he was a Captain in the U.S. Marine Corps.

About Using This Book

This book provides an introduction to all aspects of law and the legal system that someone in public administration is likely to encounter. It is not a comprehensive encyclopedic resource or complete or necessarily current statement of the law. Anyone considering a legal issue should do current research and seek legal counsel as appropriate. But the basics covered in this book should provide a starting point and context for further research of most legal issues encountered in public affairs.

To understand law's unifying themes, all 15 chapters are best read in the order in which they are presented. The final chapter on legal research provides tools for continuing self-education. Instructors who want to supplement readings and discussion with research and writing assignments should consider assigning the final chapter soon after the first. One approach to research assignments that has proved successful involves three projects. The first requires students to find specific sources in response to prompts similar to the examples at the end of the final chapter. This introduces students first hand to the major resources and familiarizes them with challenges peculiar to legal research. The second assignment involves supplying students with a statute and a couple of relevant cases and requires them to describe how this authority sheds light on a policy question also supplied to them. The third assignment requires researching and describing the law governing an assigned problem likely to arise in public administration. The overall sequence builds some confidence in doing basic legal research and provides a better sense of its inherent limitations especially for someone without a law school education and legal experience.

Within the book, reference notes are provided only when specific attribution is necessary. The 24 opinion excerpts are abridged to present the material essential to the discussion within which they appear. Omissions from the opinions are shown only if they are part of a sentence.

