

THE ALUMNAE OF NORTHWESTERN UNIVERSITY

Crime and Consequences

Winter, 2021

SUGGESTED READINGS

These readings will give you a better grasp of the class topics. Please note the following:

1. For *New York Times* articles, dates listed may not be precise, as the publication date for the *NYT* on-line edition, the date it was published in the New York area paper edition, and the date it appeared in the paper national edition often vary. To enhance confusion, the same article may have different titles in those formats! To find an article on the NYT website, you may need to be creative in your search terms. Hint: search by author name – at least that is a constant!
2. A number of U.S. Supreme Court cases are listed. Citations follow the format of *Reed v. Reed 404 US 71 (1961)*. The names are the opposing parties. US stands for *US Reports*, the Court's official record. Digits before US are volume number; digits after are the number of the first page of the decision. A blank - ___ page number means the final print version of the volume, with definitive pagination, is not yet ready. Go to the Court's site, www.supremecourt.gov, select OPINIONS tab. From the drop down menu, select Bound Volumes. There are links for all volumes from 501 (1991) to date.

Full opinions can be lengthy, and for non-lawyers, sometimes boring. For a layperson, the Oyez website (www.oyez.org – the site mentioned in class) is much more useful. Oyez was created by Northwestern Political Science Professor Emeritus Jerry Goldman. Use the search function to locate the cases listed below. Search simply by name, you do not need to use the full citation.

Once you see a case on Oyez, you will find lots of information: the issue before the Court, and the decision (and dissent, if any). *Also interesting, for most cases over the past 50 + years, there are recordings of oral arguments in court, and the Court's announcements of its decisions.* Most of us don't know each Justice's voice; but Oyez' recordings have written transcripts, noting who is speaking. Of course, summaries of many cases can also be found simply by using Wikipedia – although that will not give you the full information and recordings found on the Oyez site.

January 14 – Introduction to the US Legal System

While not at all specific to the US legal system, a wonderful read, and great introduction to some of the many nuances of litigation is *Brothel Boy*, by Norval Morris, a noted law professor and criminologist. The chapters were first published as articles in the *University of Chicago Law Review*. Written in the first person, these “parables of law” are very atypical law review articles. They are presented as short stories, supposedly written by George Orwell when he was a young magistrate in colonial Burma in the 1920s. Each addresses a troubling legal issue, still relevant today – euthanasia, the insanity defense, a child custody dispute . . . These are the most creative, atypical legal writings I've ever read.

For an overview of how criminal cases proceed at the Cook County Circuit Court at 26th and California, see Steve Bogira, *Courtroom 302: A Year Behind the Scenes in an American Courtroom*.

January 21 - Misdemeanor Crimes: The Invisible Facet of the Criminal Justice System

For years, the standard work was Malcolm Feeley, *The Process is the Punishment*. He focused on courts in New Haven, Connecticut. A very current – and stinging – account of the punitive aspects of misdemeanor prosecutions is Alexandra Natapoff, *Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal*.

The ways in which some cities essentially use misdemeanor enforcement mainly as a means to coerce money from poor people are described by Matthew Shaer in “How Cities Make Money by Fining the Poor,” *New York Times Magazine*, January 8, 2019.

The *New York Times* had an investigative series on the small town justice courts, which adjudicate misdemeanors in rural and exurban communities in New York state. See William Glaberson, “Broken Bench,” (three part series), *New York Times*, September 25, 26, 27, 2006. Headline titles, as published in the print edition, are: “In Tiny Courts of New York, Abuses of Law and Power;” “Delivering Small-Town Justice, With a Mix of Trial and Error;” and “How a Reviled Court System has Outlasted Many Critics.” See note 1, first page if you have trouble locating these.

January 28 – Police Reform

The role of police unions in thwarting efforts at accountability is noted by Kim Barker, Michael Keller and Steve Eder, “The Way Cities Lost Oversight of Their Police: Unions Leverage Fears to Ease Punishment,” *New York Times* (national print edition), December 23, 2020.

For a round table with interesting insights, read “The Message is Clear: Policing in America is Broken and Must change. But How? A Discussion About How to Reform Policing,” moderated by Emily Bazelon, *New York Times Magazine* (print edition date = June 21, 2020) .

In the wake of events in Ferguson, Missouri, President Barack Obama commissioned a task force to look at reshaping policing in the 21st century. The task force included some of the brightest lights in the policing profession. Its final report (issued in 2015) can be found at:

https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf

Electronic copies are also available on the Chicago Public Library website.

And the Police Executive Research Forum (PERF) has a variety of interesting reports available on its website: www.policeforum.org

February 4 –Reforming Criminal Justice: Prosecutors

Media accounts in the *New York Times* and elsewhere have addressed various reforms. These efforts are ongoing; keep reading for updates. Two noteworthy articles include Richard A. Oppel, Jr., “Prosecutors Who Promised Reform See Power Stripped Away: Threat to the Traditional View of Law and Order,” *New York Times*, November 26, 2019; and Ben Austen, “In Philadelphia, a Progressive D.A. Tests the Power – and Learns the Limits - of His Office,” *New York Times Magazine*, December 20, 2018.

Prosecutors are a key component of the criminal justice system; they are gatekeepers in terms of have been some significant reforms in this area. One work which examines these efforts is Emily Bazelon, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration*.

A thoughtful perspective: Reginald Dwayne Betts, “Kamala, My Mother and Me: Many Progressives Mistrust Kamala Harris for her Past as a Prosecutor. As an Ex-convict and the Son of a Crime Victim, I Can Tell You it’s Not That Simple.” *New York Times Magazine* (print edition = October 25, 2020; on-line edition has different title and date).

February 11- Reforming Criminal Justice: Sentencing and Prisons

Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Era of Colorblindness*, gives a perspective on various policies that have swollen our country’s prison and jail population.

February 18 - Law on the High Seas

Ian Urbina, *The Outlaw Ocean*, details the lack of legal constraints at sea. This fairly hefty book deals mainly with cargo and fishing ships, not cruise ships. After you read this, you may never again want to buy a can of tuna labeled “Product of Thailand”! For a more concise take, see various articles Mr. Urbina previously wrote for the *New York Times*.

For an overview of how cruise lines address both criminal issues and civil liability, go to the website www.cruiselawnews.com This is a site for a Miami-area law firm active in suing cruise lines. They are plaintiffs’ counsel, so their view of the risks of cruising is an alarmist one, but their description of how cruise lines address crime, and non-criminal injuries, is informative.

February 25 - Criminal Defense: The Right to Legal Counsel

The seminal case of *Gideon v. Wainwright* 372 US 335 (1963) established an indigent defendant's right to legal counsel in felony cases. A very readable account of that case is Anthony Lewis' book, *Gideon's Trumpet: How One Man, a Poor Prisoner, Took His Case to the Supreme Court – and Changed the Law of the United States*.

Of course, the need for police to inform arrestees of that right was established in *Miranda v. Arizona*, 384 US 436 (1966). The Miranda rights warnings is a script segment well familiar to fans of *Law and Order* and other police procedural television shows.

The reality of how these rights are – and are not – implemented was well summarized in a study issued by the American Bar Association, *Gideon's Broken Promise: America's Continuing Quest for Equal Justice* (available on line at the American Bar Association website as:

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_bp_right_to_counsel_in_criminal_proceedings.authcheckdam.pdf

This report is somewhat dated, having been published in 2004. But the Great Recession and its aftermath probably mean the conditions noted in many jurisdictions have, if anything, gotten worse since then.

March 4 – Wrongful Conviction

Bryan Stevenson, *Just Mercy*, describes his efforts on behalf of individuals subjected to harsh punishment, focusing in particular on a factually innocent man sentenced to death in Alabama for a murder he did not commit. If this account of the injustices perpetrated in the name of justice does not make your blood boil, nothing will!

Brandon Garrett's book *Convicting the Innocent: Where Criminal Prosecutions Go Wrong*, offers solid insights on various factors contributing to wrongful convictions: eyewitness misidentification, flawed forensic evidence, coerced confessions, etc. He also suggests reforms to address these problems.

C. Donald Huff, Arye Rattner, and Edwards Sagarin, *Convicted But Innocent: Wrongful Convictions and Public Policy*. Like the Garrett book above, this work also discusses the various factors that significantly contribute to wrongful convictions: eyewitness misidentification; prosecutorial misconduct, etc.

The National Registry of Exonerations, run by a consortium of law schools, is maintained by the University of Michigan. Its site is www.law.umich.edu/special/exoneration/Pages/about.aspx. The current count (as of January, 2021) of these cases is now over 2,700. The registry lists each of these cases – the jurisdiction, crimes charged, names of the accused, sentences served, age at time of conviction, etc. You can do sorts, to get lists of exonerees by state, by county, etc.

March 11 - Chicago Police Reform: An Update

In April, 2016, the Chicago Police Accountability Task Force issued a scathing assessment of the Chicago Police Department (CPD). Although this task force was established by Mayor Rahm Emanuel, it quickly went “rogue” (thank you, Northwestern Professor Emeritus Wesley Skogan, for this insight!), established its own agenda, and sought out external resources. Its final report may be found at:

https://igchicago.org/wp-content/uploads/2017/01/PATF_Final_Report_4_13_16-1.pdf

The U.S. Department of Justice (DOJ) conducted an in-depth investigation of the CPD. Its detailed findings report was issued just days before President Barack Obama’s term ended on January 20, 2016. The report may be found at:

<https://www.justice.gov/opa/file/925846/download>

Normally, such a scathing report would have led to the DOJ seeking a consent decree to force reforms within CPD. However, President Donald Trump and his first Attorney General, J. Sessions, were opposed to the notion of consent decrees, so others had to use this report as ground for initiating legal action which led to the current consent decree.

There is a designated website specifically devoted to the Chicago Police Department’s (CPD) consent decree. The full text of the decree, the court-appointed monitor’s periodic reports on the CPD’s progress in meeting the requirements of that decree, and other pertinent documents may be found at: **chicagopoliceconsentdecree.org**

Happy reading! If you have any questions or comments, please feel free to contact me at: markiris@northwestern.edu For my benefit should I teach these topics again, I would be very interested in hearing from you if you have comments (either positive and/or negative) on any of these suggested readings.