

PROSECUTION AND ADJUDICATION POLITICAL SCIENCE 512

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The criminal justice system is made up of three primary components: the police, the courts and corrections. As each of these components seriously effects not only the operation of the system as a whole, but the functioning of each independent component as well. This course will involve a detailed examination of the criminal court system.

The criminal courts system is made up of individual decision makers carrying out specific functions through discretionary decisions and actions. In this course we will study the functioning of the court system by examining how and why the system's actors make the decisions they make and act the way they do under the confines of the law, ethical responsibilities, working relationships, and political realities and aspirations.

Required Texts:

- Heumann, Milton (1977). Plea Bargaining: The Experiences of Prosecutors, Judges and Defense Attorneys. University of Chicago Press.
- Readings on Blackboard

Course Requirements

Research Paper	100 points (60%)
Presentation	50 points (20%)
Participation	50 points (20%)

The structure of this course will be oriented around a traditional graduate seminar. As graduate students, you all have a serious responsibility to each other, and to the seminar, to read, analyze, integrate and critique the literature you are assigned. I expect full participation from each member of the seminar. Additionally, attendance is a must. By enrolling in the seminar you accept the responsibility of attending each seminar meeting. Absences will be reflected in a student's participation grade.

Student with Disabilities

Reasonable accommodations are available for students who have a documented disability. Please notify me during the first week of class of any accommodations needed for this course. Late notification may cause the requested accommodations to be unavailable. Accommodations must be approved through the Director of Student Services located in HSB125Q (358-7526).

SCHEDULE OF ASSIGNMENTS

January 11 Introduction to Class

January 18 The Functioning of the Criminal Courts

Eisenstein, J. and H. Jacobs (1977). Felony Justice. Pages 3-64.

Church, T. (1986). "Examining Local Legal Culture." American Bar Association Research Journal 1986: 449

Ulmer, J.T. (1995). "The Organization and Consequences of Social Pasts in Criminal Courts." The Sociological Quarterly 36:901-919

January 25 The Prosecutor I

Jacoby, J (2005) "The American prosecutor in historical context" Prosecutor 39: 34.

Gordon, S.C. and G. Huber (2002) "Citizen Oversight and the Electoral Incentives of Criminal Prosecutors" American Journal of Political Science 46: 334-351

Jacob, H. (1970). "Politics and Criminal Prosecution in New Orleans," in Klonoski and Mendelsohn, The Politics of Local Justice.

Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995).

February 1 The Prosecutor II

Misner, R.L. (1996). "Recasting prosecutorial discretion." Journal of Criminal Law & Criminology 86: 717-777.

Spohn C, Beichner D, and Davis-Frenzel, E. (1987). Prosecutorial justifications for sexual assault case rejection: Guarding the gateway to justice," Social Problems, 48: 206-235.

Albonetti, C. (1987). "Prosecutorial discretion: The effects of uncertainty". Law and Society Review. 21:291-313.

Krug, P (2002). "Prosecutorial Discretion and Its Limits" The American Journal of Comparative Law, 50: 643.

February 8 Judges: Election and Selection

Webster, P. (1995). "Selection and retention of judges: Is there one "best" method," Florida State University Law Review, 23: 1.

Lovrich, N.P. and C.H. Sheldon (1983). "Voters in Contested, Nonpartisan

Judicial Elections: A Responsible Electorate or a Problematic Public,”
Western Political Quarterly, 36: 241.

Institute for the Advancement of the American Legal System (2006). Shared Expectations: Judicial Accountability in Context

February 15 Judges II

Spohn, C. (1990). “The sentencing decisions of black and white judges: Expected and unexpected similarities.” Law & Society Review, 24:1197.

Steffensmeier, D. and Hebert C. (1999). “Women and men policymakers: Does the judge's gender affect the sentencing of criminal defendants?” Social Forces, 77: 1163-1196.

Albonetti, C. (1991). An Integration of Theories to Explain Judicial Discretion
Social Problems, 38: 247.

Gibson, J.L (1980). “Environmental Constraints on the Behavior of Judges: A Representational Model of Judicial Decision Making,” Law & Society Review, 14: 343.

February 22 Defense Attorneys I

American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (2004). Gideon's Broken Promise: America's Continuing Quest For Equal Justice

Cohen, L. P. Semple and R. Crew (1983). “Assigned counsel versus public defender systems in Virginia: A comparison of relative benefits,” in W.F. McDonald (Ed.), The Defense Counsel, Sage.

Nardulli, P.F. (1986). “‘Insider’ justice: Defense attorneys and the handling of felony cases.” Journal of Criminal Law and Criminology 77:379.

March 1 Defense Attorneys II

Lynch, D.R. (1999). Perceived judicial hostility to criminal trials: Effects on public defenders in general and on their relationships with clients and prosecutors in particular.” Criminal Justice and Behavior 26, 217-235.

Mather, L.M. (1974). “The outsider in the courtroom”. In H. Jacob (Ed.), The Potential for Reform of Criminal Justice. Sage.

Blumberg, A.S. (1967) “The Practice of Law as Confidence Game: Organizational

Cooptation of a Profession” Law & Society Review, 1: 15-40.

Casper, J.D. (1978). “Having their day in court: Defendant evaluations of the fairness of their treatment.” Law & Society Review 12:237.

March 8 **No Class**

March 15 **No Class**

March 22 **Pretrial Processes**

Albonetti, C.A., R.M. Hauser, J. Hagan and I.H. Nagel (1989). “Criminal justice decision making as a stratification process: The role of race and stratification resources in pretrial release,” Journal of Quantitative Criminology, 5: 57.

Lizotte, A. J. (1977). “Extra-legal factors in Chicago's criminal courts: testing the conflict model of criminal justice,” Social Problems, 25: 564.

Niemeier, N.J. (1993). “Defining "Prompt" Under *Gerstein v. Pugh*: A Bright-Line Rule,” Southern Illinois University Law Journal, 17: 637.

Decker, J.F. (2005). “Legislating New Federalism: The Call for Grand Jury Reform in the States,” Oklahoma Law Review, 58: 341.

March 29 **Plea Bargaining I**

Heumann, Plea Bargaining

April 5 **Plea Bargaining II**

Scott, R.E. & W. J. Stuntz (1992). “Plea Bargaining as Contract,” 101 Yale Law Journal 101: 1909 (1992).

Easterbrook, F.H. (1992) “Plea bargaining as compromise,” Yale Law Journal, 101: 1969.

Schulhofer, S. (1992) “Plea Bargaining as Disaster” Yale Law Journal 101: 1979.

Heumann, M. and C. Loftin (1979). “Mandatory sentencing and the abolition of plea bargaining: The Michigan felony firearm statute.” Law & Society Review, 13:393.

Ulmer J. and M. Bradley (2006). “Variation in trial penalties among serious violent offenses,” Criminology 44:631.

April 12 **Juries**

Diamond, S. (2006). "Beyond Fantasy and Nightmare: A Portrait of the Jury," Buffalo Law Review, 54:717.

Levinson, J.D. (2005). "Suppressing the Expression of Community Values in Juries: How "Legal Priming" Systematically Alters the Way People Think," University of Cincinnati Law Review 73: 1059.

Boatright, R.G. (1999). "Why citizens don't respond to jury summonses, and what courts can do about it," Judicature, 82:156-164.

Dees, T. (2001) "Juries: On the verge of extinction?" SMU Law Review, 54: 1755.

April 19

Sentencing

Rothman, D.J. (1983). "Sentencing reforms in historical perspective." Crime & Delinquency 29: 631-647.

Merritt, N., T Fain, and S. Turner (2006). "Oregon's Get Tough Sentencing Reform: A Lesson In Justice System Adaptation," Criminology & Public Policy, 5: 4.

Barker, V. (2006). "Deliberating Crime and Punishment: A Way Out of Get Tough Justice?" Criminology & Public Policy 5:37

Tonry, M. (2006). "Criminology, Mandatory Minimums, and Public Policy," Criminology & Public Policy, 5: 44

Harris, J. and P. Jesilow (2000). "It's not the old ball game: Three strikes and the courtroom workgroup." Justice Quarterly 17: 185-203

April 26

Presentations