

STATE UNIVERSITY OF NEW YORK AT OSWEGO

PBJ 325: THE POOR AND THE COURTS

Spring 2008

Rosalie R. Young

Tuesday and Thursday 9:35 – 10:55

Office Hours: Mon. 1-3

Tues. 4-5

Thurs. 4-5

By appointment

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The judicial system presents special challenges for the poor and near-poor. A scarcity of resources may mean that these groups view and utilize the legal system differently than do the more affluent.

This course will briefly view the historical basis of the justice system, so we can understand the purpose for which the system was created. We will assess the charge that the courts and the justice system are being asked to handle social problems that they were never designed to solve. In addition, we will evaluate the claim that the apparently neutral judicial system discriminates against the less affluent in what might be called “wealth discrimination.”

We have been led to believe that the courts offer a remedy to the inequalities of American life. Any defendant in jeopardy of incarceration is granted legal counsel if he or she is unable to afford to retain an attorney. We have established housing courts to enable tenants to bring their problems to court and small claims courts which permit plaintiffs with limited losses to bring their own cases to court without hiring an attorney.

Some observers question the value of these steps, since judges often lack the power to force implementation of their decisions. Others question whether judges can understand the needs of those who are less affluent. Can the courts make decisions which will provide for greater equality over the long haul?

We will look at two very important cases. The first is a criminal case which went to the United States Supreme Court and paved the way for state provided criminal legal representation for the indigent. The second case involves a civil claim for loss and punitive damages by a group of poor plaintiffs, coal miners and their families, against a large, wealthy coal company. We will evaluate the long term influence of these cases.

In addition, we will read about working poor Americans for whom the justice system provides little support. The poor often feel that they reside in a welfare state which has no real concern for their welfare.

Our justice system has made no claim to perfection. Many observers assert, however, that there is no attempt to even approach satisfactory levels of caring. Each of us will have to

decide for ourselves how valid these claims are. Only by being aware of the argument can we hope to be sensitive to the diverse needs of the wide variety of clients utilizing the public justice system.

REQUIRED TEXTS

Ehrenreich, Barbara. 2002. *Nickel and Dimed: On (Not) Getting by in America*. New York: Henry Holt and Company.

Lewis, Anthony. 1989. *Gideon's Trumpet*. New York: Vintage Books.

Smith, Christopher. 1991. *Courts and the Poor*. Chicago: Nelson-Hall. (This book is out of print. The campus bookstore and Kraftees have used editions.)

Stern, Gerald M. 1977. *The Buffalo Creek Disaster*. New York: Vintage Books.

Additional readings will be assigned when appropriate.

RECOMMENDED TEXTS

Kozol, Jonathan. 1988. *Rachel and Her Children: Homeless Families in America*. New York: Fawcett Columbine.

A simple legal dictionary will be very helpful.

FIELD PROJECT

This project requires visiting ONE court or community agency on TWO OCCASIONS to observe the agency's practices, clients, and professionals. You may choose an agency in or near Oswego or one closer to your own home. You and a classmate may conduct your observations together, but you must each write your own paper.

Use your imagination when you choose your agency. Students have used this opportunity to volunteer at soup kitchens or special prison programs. Other students have visited welfare agencies and alcohol rehabilitation centers.

Some agencies, such as most courts, are open to the public. Thus you need only call the agency to determine the hours when they are in session. You might, however, want to arrange to speak with an agency official before or after your observation. Other agencies, such as probation offices, juvenile detention centers, or homeless shelters require official permission before you can obtain entry. If you have any question about access to an agency, please see me. You will receive a separate handout delineating the requirements and due dates for this project.

IN ADDITION TO WRITING A PAPER, EACH STUDENT WILL REPORT TO THE CLASS ON HIS OR HER VISITS. THIS FIVE TO TEN MINUTE ORAL REPORT MUST BE WELL ORGANIZED AND WILL BE GRADED. A SCHEDULE FOR THESE ORAL REPORTS WILL BE ARRANGED AFTER STUDENTS HAND IN A SUMMARY OF THEIR OBSERVATION PLANS ON TUESDAY, FEBRUARY 12.

Academic Integrity

All students must present their own work. Any quotations or ideas borrowed from others must be properly cited. ACADEMIC DISHONESTY WILL NOT BE TOLERATED AND WILL RESULT IN A FAILING GRADE FOR THE PROJECT INVOLVED AND/OR IN A FAILING GRADE FOR THE COURSE.

"Intellectual integrity on the part of all students is basic to individual growth and development through college course work. When academic dishonesty occurs, the teaching/learning climate is seriously undermined and student growth and development are impeded. For these reasons, any form of intellectual dishonesty is a serious concern and is therefore prohibited."

http://www.oswego.edu/administration/registrar/policy_text.html#cpii

Cell Phone Policy

Cell phones must be turned off during class. There will be **NO** text messaging. Cell phones will be relinquished to the professor while students take exams if found to be in use.

QUIZZES

Unannounced quizzes will be held periodically during the semester. These brief tests will draw on material from the reading assignments. Students who understand the material covered in class and are current with their reading should be prepared for these quizzes.

EXAMINATIONS

Examination I: Thursday, March 13

Final Examination: Thursday, May 15, 8:00am – 10:00am, 202 Mahar Hall

FINAL GRADES

Quizzes	15%
Examination I	25%
Final Examination	25%
Field Project Paper	15%
Field Project Oral Report	10%
Class participation and attendance	10%

NON-ATTENDANCE WILL BE PENALIZED, BUT ATTENDANCE ALONE IS NOT SUFFICIENT TO GAIN PARTICIPATION CREDIT.

This course will involve both lecture and discussion. Since you can not participate if you

are not present, attendance is required and will be considered in your grade. **More than two unexcused absences will lower your grade.** while better attendance will add credit to your grade. Since attendance will be taken at the beginning of class, tardiness may jeopardize your attendance record. Attendance will be taken by use of a seating chart which will be filled out during the second week of class.

Participation goes beyond being present in the classroom. You are expected to keep up with the reading and actively participate in class discussion. Your involvement in class discussion will be considered in determining your participation and attendance grade.

Do not hesitate to talk to me during office hours or call to arrange an appointment during a different time to discuss your ideas or any difficulties you may be experiencing with this course. Give us enough time to work things out. There is little I can do for a student who comes in just before an assignment is due.

If you have a disabling condition which may interfere with your ability to successfully complete this course, please contact the Disability Services Office.

COURSE SCHEDULE AND READING ASSIGNMENTS

Week of January 24	Introduction to the course Ehrenreich -- Introduction Smith -- Chapter 1
January 29	Criminal Justice and the Poor Lewis -- Chapters 1, 2, 3 Ehrenreich – Chapter 1: Serving in Florida
February 5	The Structure of Justice Lewis -- Chapter 4, 5 Smith -- Chapter 2
February 12	The Judiciary Lewis -- Chapters 6, 7 Smith -- Chapter 5 <u>FIELD PROJECT PLAN DUE</u> -- Tuesday, February 12
February 19	How Much Difference Does Money Make? Ehrenreich -- Chapter 2, pages 51-85 Lewis -- Chapter 8, 9, 10

February 26	The Poor and the Civil Justice System Ehrenreich -- Chapter 2, pages 86-119 Lewis -- Chapters 11, 12, 13 Smith – Chapter 3
March 4	Why Sue? Lewis -- Chapter 14 and Epilogue
March 11	<u>THURSDAY, MARCH 13 EXAMINATION I</u> A New Case Stern -- Chapters 1-5
March 18	A Tragedy Strikes Ehrenreich – Chapter 3, pages 121-155 Stern -- Chapters 6 - 8 Film
March 20-30	*** Spring Recess and Spring Break ***
April 1	The Cost of Litigation Stern -- Chapters 9 - 13 Ehrenreich -- Chapter 3, pages 156-191 Smith – Chapter 4
April 8	Impact of Legal Activity Stern-- Chapters 14 - 19 Smith – Chapter 6
April 15	A Comparative View Stern -- Chapters 20 - 25 Smith – Chapter 7, skim
April 22	Administrative Law Stern -- Chapter 26-28 Film
April 29	The Pressure of Poverty Ehrenreich -- Evaluation Stern – Chapter 29, Epilogue Smith – Chapter 8
May 6	The Future <u>TUESDAY, MAY 6, FIELD PROJECT PAPER DUE</u>

MAY 15 (Thursday) FINAL EXAMINATION – 8:00am – 10:00am, 202 Mahar Hall