

JOURNALIST'S RESOURCE

Knowledge-based reporting

Syllabus: Legal Reporting

“People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing. When a criminal trial is conducted in the open, there is at least an opportunity both for understanding the system in general and its workings in a particular case.”

— Chief Justice Warren Burger, *Richmond Newspapers v. Virginia*, 448 U.S. 555, 572 (1980)

Course description

Covering the courts is an important task for the news media for several reasons. First, the judiciary is one of the three branches of government. Therefore, coverage of the courts fulfills part of the watchdog function of the media. Second, there is a great deal of public interest in what the courts do, particularly in criminal cases. Coverage of criminal justice can serve a cathartic purpose for the public in demonstrating that justice is served and criminals are punished. However, coverage of the courts can also expose unfairness in the system, either for victims or defendants, that the public may want to lobby its representatives to correct. Coverage may also help prevent injustices by shining a spotlight on the actions of judges, lawyers and other participants in the justice system.

Despite the importance of courthouse coverage, judges and lawyers often complain that news organizations send journalists out to do stories with little training about the complexities of the justice system. Members of the public also complain about sensationalistic reporting that is inaccurate or short on context. This course is designed to combat weaknesses in coverage of the courts by educating aspiring journalists on the structure of the judicial system, its terminology, its function, and its importance in public understanding of how the government as a whole operates.

Course objective

To guide students to understanding the complex issues raised by journalistic coverage of the American legal system and how to report intelligently and responsibly about events and issues arising from the courthouse beat.

Learning objectives

- To understand the role of the courts in protecting the rights of the public to justice and security.
- To understand the courts' place in the governmental structure of the nation and states.
- To learn the processes of the courts and the terminology employed in the judicial system.
- To develop strategies for effective reporting on the court system.
- To think critically about the professional and ethical challenges posed by reporting on the criminal and civil justice systems.

- To write fairly, accurately, and without sensationalism about the often emotionally wrought cases that capture public interest and media attention.
- To develop the ability to look for context in reporting on court activities and to convey that context to readers and viewers.
- To deliver high-quality journalism on deadline about court activities and functions.

Recommended books

- S.L. Alexander, *Covering the Courts: A Handbook for Journalists*, 2nd ed., Lanham, Md.: Rowman & Littlefield, 2003.
- Amy Bach, *Ordinary Justice: How America Holds Court*, New York: Picador, 2010.
- Steve Bogira, *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse*, New York: Vintage Books, 2006.
- Jon Brusckhe, *Free Press vs. Fair Trials: Examining Publicity's Role in Trial Outcomes*, Mahwah, N.J.: Lawrence Erlbaum Associates, 2005.
- Matthew D. Bunker, *Justice and the Media: Reconciling Fair Trials and a Free Press*, Mahwah, N.J.: Lawrence Erlbaum Associates, 1996.
- Lloyd Chiasson, ed., *The Press on Trial: Crimes and Trials as Media Events*, Santa Barbara, Calif.: Praeger Books, 1997.
- Kendall Coffey, *Spinning the Law: Trying Cases in the Court of Public Opinion*, Amherst, N.Y.: Prometheus Books, 2010.
- Angela J. Davis, *Arbitrary Justice: The Power of the American Prosecutor*, New York: Oxford University Press, 2009.
- Lyle W. Denniston, *The Reporter and the Law: Techniques of Covering the Courts*, New York: Columbia University Press, 1992.
- Robert Snyder and Robert Giles, *Covering the Courts: Free Press, Fair Trials, and Journalistic Performance*, Piscataway, N.J.: Transaction Publishers, 1999.
- Associated Press Stylebook, 2010 or later edition.

Recommended articles and reports

- Robert E. Drechsel, "Dealing With Bad News: How Trial Judges Respond to Inaccurate and Critical Publicity," *Justice System Journal*, vol. 13/3, 1988–89, pp. 308–322.
- Robert Drechsel, Kermit Netteburg and Bisi Aborisade, "Community Size and Newspaper Reporting of Local Courts," *Journalism Quarterly*, vol. 57/1, Spring 1980, pp. 71–78.
- Linda Greenhouse, "Telling the Court's Story: Justice and Journalism at the Supreme Court," *Yale Law Journal*, vol. 105, April 1996, pp. 1,537–1,561.
- F. Dennis Hale, "Chief Justices' Perceptions of News Coverage of State Supreme Courts," *Newspaper Research Journal*, vol. 20/1, Winter 1999, pp. 17–28.
- Ethan Katsh, "The Supreme Court Beat: How Television Covers the U.S. Supreme Court," *Judicature*, vol. 67/1, June-July 1983, pp. 6–12.
- Myron Levin, "Legal Urban Legends Hold Sway," *Los Angeles Times*, Aug. 14, 2005.
- Myron Levin, "Coverage of Big Awards for Plaintiffs Helps Distort View of Legal System," *Los Angeles Times*, Aug. 15, 2005.

- Jeremy Harris Lipschultz, “A Comparison of Trial Lawyer and News Reporter Attitudes about Courthouse Communication,” *Journalism Quarterly*, vol. 68/4, Winter 1991, pp. 750–763.
- Jennifer K. Robbennolt & Christina A. Studebaker, “News Media Reporting on Civil Litigation and Its Influence on Civil Justice Decision-Making,” *Law and Human Behavior*, vol. 27, 2003, pp. 5–27.
- Barry Siegel, “The Secret of the B-29,” (two parts), *Los Angeles Times*, April 2004.
- Rorie L. Spill and Zoe M. Oxley, “Philosopher Kings or Political Actors? How the Media Portray the Supreme Court,” *Judicature*, vol. 87/1, July-August 2003, pp. 22–29.

Suggested readings

- Alexander Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*, 2d edition, New Haven, Conn.: Yale University Press, 1962, 1986.
- Stephen Breyer, *Active Liberty: Interpreting Our Democratic Constitution*, New York: Knopf, 2005.
- Ronald Dworkin, *Taking Rights Seriously*, Cambridge, Mass.: Harvard University Press, 1977.
- Lon L. Fuller, *The Morality of Law*, New Haven, Conn.: Yale University Press, 1964.
- Jan Crawford Greenburg, *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court*, New York: Penguin Press, 2007.
- Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun’s Supreme Court Journey*, New York: Henry Holt & Co., 2005.
- H.L.A. Hart, *The Concept of Law*, 2d edition, London: Oxford University Press, 1994.
- Richard A. Posner, *How Judges Think*, Cambridge, Mass.: Harvard University Press, 2010.
- Richard A. Posner, *Law, Pragmatism, and Democracy*, Cambridge, Mass.: Harvard University Press, 2003.
- Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution*, New York: Vintage Books, 1996.
- William H. Rehnquist, *The Supreme Court*, 2d edition, New York: Vintage Books, 2001.
- Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law*, Princeton, N.J.: Princeton University Press, 1998.
- Cass R. Sunstein, *Designing Democracy: What Constitutions Do*, New York: Oxford University Press, 2001.
- Mark Tushnet, *A Court Divided: The Rehnquist Court and the Future of Constitutional Law*, New York: Norton, 2005.
- Jeffrey Toobin, *The Nine: Inside the Secret World of the Supreme Court*, New York: Doubleday, 2007.

Weekly schedule and exercises (13-week course)

The assumption of this syllabus is that the course will meet twice a week. It is also assumed that students will have completed at least one basic reporting class before taking this course. Several of the books listed under “Recommended Reading” would make good textbooks for the course, including S.L. Alexander’s *Covering the Courts*, Lyle Denniston’s *The Reporter and the Law*, and Robert Snyder’s and Robert Giles’s *Covering the Courts*. No specific text will be referenced in the syllabus below.

Writing assignments include four routine court-related stories and one enterprise piece due at the end of the semester. Because trials and other potentially newsworthy court proceedings are often few and far between, particularly in smaller communities, instructors may have to be flexible in assigning deadlines to the routine stories. (The professor could substitute stories written from case files or videos of real trials obtained from journalists, attorneys, the Judicial College in Nevada, or other sources if logistical issues would make it highly difficult for students to obtain their own information firsthand.) Students also will be assigned book reports and oral presentations on books in the reading lists.

Week 1: Introduction to the legal system

Class 1: About the course and the legal system

The judicial system is often a mysterious place for students and journalists alike. Many have had limited experience, at most, with the courts. After going over the syllabus and the semester's assignments and deadlines, the class should move on to a discussion of what students know or don't know about the justice system. How much of their knowledge is based on television or movie portrayals or books? How many civil and criminal cases actually make it to trial, versus their perception of how many? Why do stories about crime seem to be told almost exclusively from the prosecution's point of view? Use this discussion to lay the groundwork for what will be covered in the course of the semester.

ASSIGNMENT: Give students a list of terms used by judges, attorneys, and other actors in the judicial system (such as "amicus curiae," "defendant," "demurrer," "plaintiff," "subpoena," etc.) and have them look up definitions for the terms for the next class meeting. Possible sources are online law dictionaries or a glossary in a textbook for the course.

Class 2: Terminology and judicial system structure

Go around the room and ask students to read the definitions they found for the terms you assigned in the first class meeting. Use the discussion of the terms as a springboard to discussing how the various persons, documents, and processes described by the assigned words come into play during the course of a typical case. Discuss with the students how a typical case would make its way from the incident that precipitated the legal action (commission of a crime, for example) through the trial and appellate processes in the federal system and in the state system in your state. Use examples from both criminal and civil law.

ASSIGNMENT: Obtain a court file from a typical criminal and/or civil case from your local courthouse. Give each student a copy of the materials in the file and ask each student to write a chronological summary of the case, starting with the initial probable cause affidavit (for a criminal case) or complaint (for a civil case) through the final judgment.

Week 2: Issues in coverage of the legal system

Class 1: Reporting fairly and accurately

Judges and attorneys often view the media as a necessary evil or, at worst, a disruptive influence on the smooth operation of the courts. Discuss how journalists can navigate the potential obstacles to reporting fairly and accurately on cases and on the broader issues raised by the American system of justice. Start by asking students to discuss what they learned from examining the court file you gave them at the last meeting. Discuss with them which events detailed in the files would make good stories and which ones probably would not. Talk about what constitutes “newsworthiness” in regard to a criminal or civil case, who or what would make good sources for each newsworthy event, and the potential obstacles and ethical dilemmas. For example, in a criminal case, most of the information comes from the prosecution because the state is required to make information public, while the defense often prefers not to talk to the media and is not required to do so. How do you assure fairness when only one side of the story is available?

READING: Robert E. Drechsel, “Dealing With Bad News: How Trial Judges Respond to Inaccurate and Critical Publicity,” *Justice System Journal*, vol. 13/3, 1988–89, pp. 308–322; Robert Drechsel, Kermit Netteburg & Bisi Aborisade, “Community Size and Newspaper Reporting of Local Courts,” *Journalism Quarterly*, vol. 57/1, Spring 1980, pp. 71–78; Jeremy Harris Lipschultz, “A Comparison of Trial Lawyer and News Reporter Attitudes about Courthouse Communication,” *Journalism Quarterly*, vol. 68/4, Winter 1991, pp. 750–763. Also, have students review the American Bar Association’s [Model Code of Professional Responsibility](#), Section DR 7–107, regarding publicity.

ASSIGNMENT: Give students directions for meeting at the local courthouse for the next class meeting. (If you do not have a courthouse within easy commuting distance, ask students to identify the various people named in the case file who might be sources of information for news coverage of the case.)

Class 2: Learning how to find information

Have students meet at a pre-arranged place in the local courthouse. Arrange for a clerk or other court officer to give a tour of the facility to students, pointing out places where information about pending or current cases can be obtained. The tour should include courtrooms, where the daily docket of cases is posted if that is the local custom, and a discussion of any rules about the use of cameras, recording devices, and other tools of modern journalists. If possible, also arrange for a trial judge to speak to the students about issues related to news coverage of criminal and/or civil cases.

ASSIGNMENT: Assign one or more students (depending upon the size of the class) to each read one of the following books from the Recommended or Suggested reading lists (or other books you might have found on legal issues or cases) and write a report on the book that summarizes its content. Have each student be prepared to give an oral presentation on the book in class during Week 3. (Note: To allow time for the students to read the books and write the reports, this assignment could be made in the first or second class meeting.) To allow time for adequate discussion, split the assignments over two days (Week 3, Class 1 and Week 3, Class 2). For Week 3, Class 1, have students choose from: Amy Bach, *Ordinary Justice: How America Holds Court*; Stephen Breyer, *Active Liberty: Interpreting Our Democratic Constitution*; Lon L. Fuller, *The Morality of Law*; H.L.A. Hart, *The Concept of Law*, 2d edition; Richard A. Posner, *How Judges Think*; Richard A. Posner, *Law, Pragmatism, and Democracy*; Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution*; Cass R. Sunstein, *Designing Democracy: What Constitutions Do*. For Week 3, Class 2, have students choose from: Steve Bogira, *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse*; Jon Bruschke, *Free Press vs. Fair Trials: Examining Publicity's Role in Trial Outcomes*; Matthew D. Bunker, *Justice and the Media: Reconciling Fair Trials and a Free Press*; Lloyd Chiasson, ed., *The Press on Trial: Crimes and Trials as Media Events*; Kendall Coffey, *Spinning the Law: Trying Cases in the Court of Public Opinion*; Angela J. Davis, *Arbitrary Justice: The Power of the American Prosecutor*. For the oral report, ask each student to focus on what the book's main theme was and three to five insights or pointers that the student gleaned from the reading.

Week 3: Issues in news coverage of the courts

Class 1: Philosophies of law

Have students give oral presentations from the books they read by Bach, Breyer, Fuller, Hart, Posner (both), Rakove, and Sunstein. After the oral reports, lead students in a discussion of any similarities and differences they noted in the approaches the authors took to discussing the role of the Constitution and legal philosophy in society and the life of the law.

ASSIGNMENT: Remind students with book reports due in Class 2 of this week to have those reports ready.

Class 2: Law and journalism

Continue with oral reports on the assigned books, this time focusing on books about how the courts work and journalism's role in explaining the courts and cases to the public. Have students report on the Bogira, Brusckke, Bunker, Chiasson, Coffey, and Davis books. Discuss the issues raised by the books and insights that they provide into stories that journalists may be missing (Bogira and Davis), the role of litigation public relations (Coffey), and issues of sensationalism and fairness in criminal trial coverage (Brusckke, Bunker, Chiasson). Discuss with students any overarching themes they can discern from their and their classmates' reports and how they can use what they have learned from the authors in reporting on the justice system.

ASSIGNMENT: For the next class meeting (Week 4, Class 1), have each student bring in one example of a story from a newspaper, magazine, television newscast, or website about a particular criminal trial or pending case. Consider assigning each student a different medium to explore. For example, one student could be assigned the local newspaper, another a major state newspaper other than the local one, another CNN.com, another the *New York Times*, etc. Have each student write a brief critique of the story, focusing on why it was newsworthy, how clear it was, whether it provided adequate context about the case, and whether there were any unanswered questions.

Week 4: Criminal justice coverage issues

Class 1: What makes news

Have students briefly discuss each of the examples of news stories about criminal cases that they found. Discuss with the students how the stories were sourced (to whom or what were the stories attributed?), what information was included, why these particular cases were newsworthy, and any information that was not included that the students would have found helpful to understanding the case or its context. Discuss how the stories could have been reported differently for a different audience and how the reporters could have overcome any deficiencies that the students identified in reporting.

ASSIGNMENT: Have students read the Supreme Court opinions in *Shepard v. Maxwell*, *Nebraska Press Association v. Stuart*, *Richmond Newspapers v. Virginia*, *Press-Enterprise v. Superior Court I*, *Press-Enterprise v. Superior Court II*, and *Chandler v. Florida*, all of which dealt with the rights of the press to attend and cover criminal proceedings. Supreme Court cases are widely available from a number of online sources and from Lexis-Nexis Academic Universe, if your library subscribes to it. Also have students read the [Pocket Guide to Access to Courts and Court Records](#).

Class 2: The right to cover criminal cases

Discuss with the class the rulings in the cases assigned for reading today. To what extent does the press have a constitutional right to attend and report on criminal trials, jury selection and pretrial hearings and to use cameras in courtrooms? How should a reporter protest if a court record or proceeding is closed or is being closed? Discuss other “nuts and bolts” coverage issues for criminal cases and trials. If possible, invite as a guest speaker a reporter for a local newspaper or TV station who regularly covers the courts in your vicinity to talk to the class about “real world” reporting issues.

ASSIGNMENT: Introduce students to the various types of routine stories that they will be expected to cover over the semester. Routine stories would include two stories about proceedings in criminal courts, such as coverage of a hearing on a motion to exclude evidence or modify bail, the handing down of an indictment from a grand jury, or coverage of one day’s testimony in a trial; one story about the filing or settlement of a civil action (not including family court issues, which often are sealed or of limited public interest); and a reaction story tied to a decision by the U.S. Supreme Court, a lower federal appellate court, or a state appellate court. Talk to students about how to find stories, such as watching for stories in the local newspaper about upcoming hearings or trials or regular checking of the docket in the courthouse. Assign due dates for the routine stories, such as Week 6, Class 2; Week 8, Class 2; Week 10, Class 2; and Week 11, Class 2.

Week 5: Issues in covering criminal justice

Class 1: Pretrial publicity

As the cases discussed in the previous week reveal, pretrial publicity is a major concern for the criminal courts, made more complicated by the United States' commitment to open courts and a free press. High-profile cases in particular raise issues about whether an unbiased jury can be seated when coverage of a case dominates the news. The U.S. system is at odds with much of the developed world, which puts a higher premium on shielding the accused from publicity before they have their day in court. But critics say that such restrictions can also allow the wealthy and powerful to escape public scrutiny of their actions and hide possible backroom deals. The case of the former head of the International Monetary Fund, Dominique Strauss-Kahn, who was accused of attempting to rape a New York hotel maid, highlighted the cultural and structural differences between the United States and France in regard to the treatment of people accused of crimes.

Discuss with students whether the U.S. approach strikes the proper balance between the public's right to know and protecting the rights of the accused. Have students discuss whether certain types of information should go unreported during pretrial coverage of a case.

READING: Scott Sayare, [“French System Tints View of the Strauss-Kahn Case,”](#) *New York Times*, May 28, 2011; other articles about that case or other examples of cultural clashes over American-style justice and media coverage.

ASSIGNMENT: Give students a sheet of information of facts from a real or made-up hearing or other court action and have them write a practice story due in Class 2 this week. This will allow them to practice using terminology and develop judgment about what to lead with and what to include in such a story before their first “real” routine story is due.

Class 2: The jury system and secrecy

Debates have raged for years over whether the U.S. criminal justice system is too reliant on jurors who may or may not bring their own biases to the jury room or may be ill-equipped, by temperament or knowledge, to render an adequate verdict. More recently, however, the debate has shifted somewhat to whether jurors are adequately protected from intense media scrutiny in high-profile cases. Some states have passed laws to make juror names secret, even after the trial is over, and individual judges have issued orders in some cases to shield jurors from having their names disclosed to the press and public. Should jurors be entitled to privacy before, during, and after their service? What are the ramifications for coverage of cases?

READING: [“Secret Juries,”](#) a three-part report by the Reporters Committee for Freedom of the Press.

ASSIGNMENT: By this point, the professor should have some idea of what students do or do not understand about covering the courts. At the instructor's discretion, an assignment could be made to help students make up for any deficiencies in knowledge or skills.

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Week 6: Coverage of civil cases

Class 1: Litigation and its costs

Civil cases often do not get as much coverage as criminal news, partly because many involve injuries from car accidents or other tort actions that pit one private individual against another. The cases that do receive attention usually involve lawsuits against major corporations or government bodies and actions that seek unusually high damage awards. As a result, some critics charge that journalists have given the public a false view of personal injury law, the attorneys who practice it and the actual costs of litigation. This in turn has led, the critics say, to public support for legislative limits on damage awards that may not serve the public interest. However, attorneys may also share the responsibility for encouraging tort reform measures because of sometimes ubiquitous and sensational advertising that focuses on promising clients that the attorneys will “get their money” for them.

Discuss with the students what makes a civil case newsworthy and how to put cases in perspective. Also discuss the media’s responsibility to avoid spreading misleading or false stories about outrageous damage awards for what seems to most people to be the injured person’s own carelessness or stupidity. If possible, have a local personal-injury attorney talk to the class about what he or she hopes to accomplish on behalf of clients and why advertising is important to such practices.

READING: Myron Levin, “Legal Urban Legends Hold Sway,” *Los Angeles Times*, Aug. 14, 2005; Myron Levin, “Coverage of Big Awards for Plaintiffs Helps Distort View of Legal System,” *Los Angeles Times*, Aug. 15, 2005; Jennifer K. Robbennolt & Christina A. Studebaker, “News Media Reporting on Civil Litigation and Its Influence on Civil Justice Decision-Making,” *Law and Human Behavior*, vol. 27, 2003, pp. 5–27.

ASSIGNMENT: For one of the routine stories due in Week 8, Week 10, or Week 11, assign a story from a civil action, including a story about the filing of a lawsuit or the reaching of a settlement. Discuss the possible types of stories that could be written about civil cases.

Class 2: Civil rights and constitutional questions

While many routine civil cases get little or no media attention, lawsuits claiming that a governmental body or a corporation has violated someone's civil rights are often newsworthy. Law enforcement agencies are sometimes sued for allegedly conducting illegal searches or arresting persons without cause. Governments are sued for failing to live up to the requirements of the Americans With Disabilities Act. Corporations are sued for discriminatory hiring or pay practices. Schools or other government bodies are accused of stifling the First Amendment rights of students, teachers, protesters, or others who believe they were silenced illegally.

What is at stake in these lawsuits? Why are they newsworthy? Do the news media go an adequate job of putting civil rights lawsuits in context, or are the media to blame for the sometimes virulent reaction of some citizens to news about such lawsuits? One way to examine the issues involved would be to look at the lawsuit by a student punished for unfurling a banner reading "Bong Hits 4 Jesus" at a school-sponsored public event. That case eventually went to the U.S. Supreme Court (which ruled for the school).

READING: Morse v. Frederick Supreme Court opinion; news article(s) about the ruling in the case.

ASSIGNMENT: First routine story is due.

Week 7: The appellate process

Class 1: What do appellate courts do?

Every person convicted of a crime or on the losing end of a lawsuit is guaranteed one appeal, but many people do not exercise their option to take their case to a higher court. When they do, their cases are often heard by three-judge panels in intermediate state appellate courts or federal circuit courts of appeals. Many people do not realize that appellate courts do not “retry” cases or pass judgment on the facts of the case, but only on whether the law was applied properly by the court, except in limited circumstances when an appellate court hears a case “de novo” (“as if new”).

Appellate courts are often somewhat overlooked in court coverage for various reasons, but their decisions can have a profound effect on the law by settling disputes over interpretations or declaring certain police or prosecution tactics unconstitutional. Many civil rights disputes end up in the appellate courts because the appellate judges are removed from the emotions of a case and are more likely to render a sober interpretation of what the state or federal constitution means. Discuss with students what makes an appellate decision newsworthy, how to relate that decision to the everyday lives of the public (who is affected and how?), and how to place such decisions in a context that the public can understand.

READING: F. Dennis Hale, “Chief Justices’ Perceptions of News Coverage of State Supreme Courts,” *Newspaper Research Journal*, vol. 20/1, Winter 1999, pp. 17–28. Also, find an example of a state or federal appellate decision that had some easily understandable impact on the public and have students read it before class. Have the students think of ways they would write about the decision itself and who they would interview about the impact of the decision.

ASSIGNMENT: For the next class, have one or more students read each of the following books about the U.S. Supreme Court and/or other books about the Court and its decisions and write a book report similar to the one they did earlier in the term. Have them prepare an oral report as well on the book’s main theme. Choose from these books: Alexander Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*, 2d edition, New Haven, Conn.: Yale University Press, 1962, 1986; Ronald Dworkin, *Taking Rights Seriously*, Cambridge, Mass.: Harvard University Press, 1977; Jan Crawford Greenburg, *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court*, New York: Penguin Press, 2007; Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun’s Supreme Court Journey*, New York: Henry Holt & Co., 2005; Anthony Lewis, *Gideon’s Trumpet*, New York: Vintage Books, 1989; William H. Rehnquist, *The Supreme Court*, 2d edition, New York: Vintage Books, 2001; Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law*, Princeton, N.J.: Princeton University Press, 1998; Mark Tushnet, *A Court Divided: The Rehnquist Court and the Future of Constitutional Law*, New York: Norton, 2005; Jeffrey Toobin, *The Nine: Inside the Secret World of the Supreme Court*, New York: Doubleday, 2007. Professors may also wish to add several books about First Amendment cases that were heard in the Supreme Court, including Fred W. Friendly, *Minnesota Rag*, New York: Vintage Books, 1981 (about *Near v. Minnesota*); Anthony Lewis, *Make No Law*, New York: Vintage Books, 1991 (about *New York Times v. Sullivan*); David Rudenstine, *The Day the Presses Stopped: A History of the Pentagon Papers Case*, Berkeley,

Calif.: University of California Press, 1996. The professor may want to make this assignment several weeks in advance to give students time to read the books and write the reports.

Class 2: The Supreme Court

The United States Supreme Court arguably gets a disproportionate share of attention from the media considering that it hears only about 80 cases per session. At the same time, it remains one of our most mysterious major institutions because of the secrecy with which it works and the relatively low profile of its members. It is one of the more important institutions in American political life, however, because of its ability to invalidate laws as unconstitutional and because its decisions are binding precedent on all federal and state courts. When the Supreme Court settles a dispute about how to interpret the Constitution, its decision provides the rule for all other courts hearing similar cases. Only a handful of reporters for major media cover the Court on a regular basis, so most journalists' experience with the Court will be in reporting on local reactions to its decisions.

Use the oral reports from the book assignments to discuss the mystique of the Supreme Court, its importance, and also its fallibility. Use a recent example of a court decision to discuss who might be affected by the decision, directly or indirectly, and who might make good sources for a local reaction story. (One possible example from the First Amendment arena could be *Snyder v. Phelps*, the funeral protest decision, or *United States v. Stevens*, the decision on animal cruelty videos.)

READING: Linda Greenhouse, "Telling the Court's Story: Justice and Journalism at the Supreme Court," *Yale Law Journal*, vol. 105, April 1996, pp. 1,537–1,561; Ethan Katsh, "The Supreme Court Beat: How Television Covers the U.S. Supreme Court," *Judicature*, vol. 67/1, June-July 1983, pp. 6–12; Rorie L. Spill and Zoe M. Oxley, "Philosopher Kings or Political Actors? How the Media Portray the Supreme Court," *Judicature*, vol. 87/1, July-August 2003, pp. 22–29.

ASSIGNMENT: For Week 10 or 11, assign the appellate court reaction story. If there has not been a Supreme Court or other appellate court decision in the news recently, have students look for upcoming decisions by examining the docket on the Supreme Court's website (www.supremecourtus.gov) and look for additional information about cases heard by the Court on Chicago-Kent College of Law's Oyez site (www.oyez.org).

Week 8: Developing enterprise stories

Class 1: Looking for the big picture

Much media coverage of the courts is episodic, dealing with one case at a time and one day's decisions or trial testimony. As a result, much of the coverage lacks context and can even be misleading. For example, few criminal or civil cases make it to trial, but trials get much more attention than plea bargains and settlements. Enterprise stories can help readers and viewers understand the often complex issues that are implicated or highlighted by the episodic stories they see. Are there trends in sentences or are particular crimes on the rise? Has legislation limiting or enhancing judges' powers led to unintended consequences, such as unfairly harsh sentences or more dismissals? Are there certain societal problems, such as juvenile delinquency or sexual violence, that keep replaying as court dramas without proper attention to underlying causes or solutions?

Have students read the Pulitzer Prize-winning series by Barry Siegel of the *Los Angeles Times* on how several lawsuits over the deaths of civilian engineers on a military plane in the 1950s led to the creation of the state secrets privilege. Discuss with students how the reporter framed the story, who the sources were, and how he made a nearly 50-year-old legal controversy relevant to today's readers.

READING: Barry Siegel, "The Secret of the B-29," (two parts), *Los Angeles Times*, April 2004 (available online from the *Times* or from Lexis-Nexis Academic Universe). Also, use an example from a local news organization on some topic related to the legal system.

Class 2: Brainstorming

Use this class period to brainstorm ideas with students for enterprise stories. Preview the topics that you will be discussing in the next few weeks and encourage students to come up with their own ideas about how to localize stories on juvenile justice, the death penalty, and sexual violence. Also encourage them to come up with other ideas. Discuss how to research such stories, including interviews with experts on campus who could provide insights, and the possible obstacles to stories, such as the secrecy that often surrounds the juvenile court system and sexual violence.

ASSIGNMENT: Assign the enterprise story due at the end of the term. Have students prepare a brief proposal for this project due on Class 2, Week 9. The story could be on any subject related to the judicial system. Students can be given a list of possible topics and encouraged to think of their own topics. Also, the second routine story is due today.

Week 9: Issues in jurisprudence: Juvenile justice

Class 1: Juvenile justice, part 1

Juvenile delinquency used to mean petty thefts, fights, runaways, and other petty offenses. The courts largely kept cases involving minors out of the public view on the theory that this would allow the juvenile offenders to rehabilitate themselves and become useful members of society without the stigma of a publicly available record of youthful misdeeds. But as crimes by minors got more serious and more numerous, many states began to pass laws allowing minors to be treated as adults in the justice system. What have been the costs, in terms of both finances and the moral development of the offenders, to this crackdown on juvenile crime? What does the research show about whether the legislation allowing minors to be treated as adults has reduced crime and recidivism? Discuss with students how to localize stories from national or regional studies and discuss possible topics for stories about juvenile justice.

READING: [“Survey of Youth in Residential Placement: Needs and Services,”](#) and [“Raising the Age of Juvenile Jurisdiction in North Carolina”](#) on [Journalist's Resource](#).

ASSIGNMENT: At instructor’s discretion (possibly have students read each others’ first routine stories and offer critiques).

Class 2: Juvenile justice, part 2

Have one or more local experts on juvenile justice speak to the class about local trends and issues associated with crimes by minors. Possible speakers could include a law school professor who specializes in studying juvenile justice; a judge who hears primarily juvenile cases; an advocate for minors in the justice system; a local prosecutor; or a police officer who mostly investigates crimes by gangs or other crimes by minors. Discuss with the students how to use the speaker(s) or other people in the community as sources for an enterprise story on the topic of juvenile justice.

ASSIGNMENT: Have students look for recent examples of stories about juvenile justice issues and prepare brief critiques.

Week 10: Issues in jurisprudence: The death penalty

Class 1: Death penalty, part 1

The death penalty has long been one of the more controversial features of the U.S. justice system. Its use raises serious questions about fairness and effectiveness as a deterrent to crime, as well as moral issues about whether the state should have the power to take a life to punish murderers and others. Issues have arisen over the years about whether the mentally challenged should be put to death and whether the system sometimes focuses too much on process and not enough on justice, as when an appellate court refuses to hear an appeal based on new evidence because the deadline for filing an appeal has passed.

Others have raised the issue of whether the death penalty is unfairly administered more often to minority offenders than white offenders for the same types of crimes. The emergence of DNA evidence as a tool has led to sometimes startling reversals of sentences that have exposed flaws in the system, so much so that Illinois stopped all executions several years ago because of several high-profile exonerations. Discuss with students the possible angles to stories about the death penalty and possible sources for such stories.

READING: “[Greater Transparency in Death Penalty Decisions](#)” on [Journalist's Resource](#). Also, have students scan the websites for the [Innocence Project](#) and the [Medill Innocence Project](#), an organization affiliated with the Northwestern University journalism school that uses investigative reporting to look into possible cases of wrongful prosecution, www.medillinnocenceproject.org.

ASSIGNMENT: Remind students that their third routine stories are due at the next class meeting.

Class 2: Death penalty, part 2

Have one or more local experts on the death penalty and/or capital crimes speak to the class. Possible guest speakers could be a law professor who specializes in studying the death penalty; a judge who handles felony criminal cases; a prosecutor who has handled one or more capital criminal cases; a public defender who has handled one or more capital criminal cases; a crime victims advocate; and an opponent of the death penalty or person who works with death row inmates. Have the class discuss how the speaker or speakers could be sources for an enterprise story about the death penalty and discuss possible topics for such a story.

ASSINGMENT: Third routine story is due.

Week 11: Issues in jurisprudence: Sexual violence

Class 1: Sexual violence, part 1

Sexual violence is both an important and frustrating topic to cover. Some victims are understandably reluctant to “go public” with their ordeals because of fears that a stigma will remain and disrupt their lives. Many states have laws that prohibit the release of identifying information about victims of sexual violence, and courts often close the doors to the public and press during victim testimony in criminal trials. The problem has not gone away, however, and the irony of all of the secrecy associated with sexual violence is that it may hide the seriousness and extent of the problem and make it difficult to engage in reporting that would help protect the public. Meanwhile, some advocates for victims charge that a male-dominated justice system does not take the problem seriously enough and helps to obscure the prevalence of sexual violence. Also, it should be noted that the problem of sexual violence is not strictly a U.S. phenomenon, as has been demonstrated by reports about the use of rape as a weapon in various conflicts in Africa and elsewhere.

Discuss with the students methods for reporting on the prevalence and effects of sexual violence and how to combat it. Discuss the extent to which the topic could also generate international reporting, or local reporting with an international rather than strictly American framework.

READING: [“Facts About Sexual Violence in the United States”](#) and [“WHO Report on Sexual Violence Worldwide”](#) on [Journalist's Resource](#).

ASSIGNMENT: Have students look for examples of stories about sexual violence and bring one such story to the next class with a brief critique.

Class 2: Sexual violence, part 2

Have one or more local experts on sexual violence speak to the class. Possible speakers could include a law professor specializing in the study of the problem; a local judge or prosecutor who deal with sexual violence cases; a campus police officer or police chief who can discuss its prevalence on campus; and a rape crisis center director from campus or the community. Discuss with students how the speaker(s) and other knowledgeable sources, as well as statistics that should be publicly available, could be useful sources for stories on sexual violence. Also discuss possible, more specific topics for stories.

ASSIGNMENT: Last (fourth) routine story is due.

Week 12: Issues in court coverage

Class 1: How to battle the “CSI” effect

Spending even one day in a courtroom during motion hearings or during a trial quickly dispels the notion that courts and the police function as they do on TV or in the movies. However, some judges, prosecutors, and defense attorneys worry that jurors who regularly watch shows such as *CSI*, *NCIS*, or *Law and Order* have developed an unhealthy attitude about the workings of the justice system. The fear is that jurors will either fault prosecutors for not introducing sophisticated forensic evidence or put too much faith in the infallibility of such evidence. The fears may not be well-grounded, given that studies have shown little or no evidence that juries are routinely acquitting or convicting based on their perceptions gleaned from TV, but the fear exists.

Discuss with students the extent to which the news media have a responsibility to educate the public about what is possible and routine in terms of evidence collection and what is mostly a figment of Hollywood’s imagination. How can journalists guard against their own “CSI effect” when covering cases?

READING: Simon A. Cole & Rachel Dioso-Villa, “Investigating the ‘CSI Effect:’ Media and Litigation Crisis in Criminal Law,” *Stanford Law Review*, vol. 61 (April 2009), p. 1335.

ASSIGNMENT: Have students prepare a brief progress report on their enterprise stories for next class meeting.

Class 2: Bench, bar, press groups

Attorneys, judges, and journalists in many states have formed bench, bar, press groups to provide a forum for discussing differences over court rules for the press and other issues related to coverage of the justice system. Such groups often develop guidelines for how judges and attorneys should treat the press and how the press should police itself in covering the courts, particularly in regard to high-profile cases. Bench-bar-press groups in some states have even formed “fire brigades” — attorneys and judges who are on call to help journalists solve problems when they are denied access to records or courtrooms. If your state has such a group, get a copy of the guidelines and have students read them and discuss them. If not, get a copy of a nearby state’s guidelines. Consider inviting a journalist, judge, or attorney active in your state’s bench-bar-press group to speak to the class about what the group does and how the judges, attorneys, and journalists work together.

ASSIGNMENT: No new assignments, to allow students time to complete enterprise stories.

Week 13: Emerging issues in court coverage

Class 1: To tweet or not to tweet?

One new issue springing up in courtrooms is whether reporters should be able to send Twitter or Facebook updates on a trial in progress from the courtroom. Some judges have banned the practice, arguing it would be a distraction to jurors and might bias potential witnesses. Others have allowed it, with restrictions to make sure no sounds from laptops or cell phones will be heard in the courtroom. One convicted murderer has already cited Twitter use during his trial in his appeal, arguing that allowing its use created a “circus atmosphere” in the courtroom that prejudiced his case. Should judges allow Twitter and Facebook coverage of trials? What ethical issues are raised by instant coverage of an ongoing trial?

READING: Adriana C. Cervantes, “Will Twitter Be Following You in the Courtroom?: Why Reporters Should Be Allowed to Broadcast During Courtroom Proceedings,” *Hastings Communications & Entertainment Law Journal*, vol. 33 (2010), p. 133, available on Social Science Research Network and other sites; William Glaberson, [“Cheshire Appeal Will Point to Twitter,”](#) *New York Times*, Dec. 1, 2010.

ASSIGNMENT: Remind students that enterprise story is due at next class meeting. Also, have students think of any issues or questions that they would like to address in the last class meeting that have not been dealt with yet.

Class 2: Wrap-up: What have we learned?

Use this class period to review with students what they learned during the semester and what their take-aways will be from the class. You could also use this period to point them to materials they could study on their own if they wish to know more about a particular topic.

ASSIGNMENT: Enterprise story is due.