

# **CRIMINAL JUSTICE REFORM: THEORY AND RESEARCH IN ACTION**

**Fall 2016 Syllabus  
Tuesdays 10:10am to noon  
SLB Room 112**

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President Obama has referred to the criminal justice system as the source of some of our nation's "toughest, most uncomfortable challenges." The premise of this workshop is that students, academics, and researchers can and should be a part of the conversation about how to make all of the components of criminal justice operation simultaneously more effective, just, and democratic. We aim to discuss and debate various theories and strategies that are being deployed to this end. Students will also engage in research projects and public policy advocacy that aim to give these ideas practical effect.

In our seminar this semester, we will focus particular attention on the police and the courts, whose form and function have become the subject of debate and creative reimagining. Police shootings and deaths in custody, particularly of African American men, have brought national attention to the questions of how police should do their jobs, and how that job should be defined. And some judges — concerned, among other things, about high levels of recidivism — are attempting to re-make their courtrooms into sites not just of criminal processing but of rehabilitation and therapeutic intervention, attracting supporters and critics along the way. Threaded throughout conversations about the future of policing and courts are questions of how best to build the legitimacy of the criminal justice system in the eyes of its constituents; to balance considerations of procedural justice with those of due process; and to ameliorate the violence that disproportionately impacts communities of color.

Our experiential work, in turn, will focus on the role of municipal government in reforming police and court practices (particularly as relates to low-level offenses) and in reducing crime and violence while building criminal justice system legitimacy. Our partner/client is the New York City Mayor's Office of Criminal Justice, and we will work with them on three projects, which are described below.

3 units, graded. T. Meares, T. Tyler, & M. Quattlebaum.

## Requirements and Readings

This Workshop is a three-unit, graded course. We meet weekly; preparation and attendance at these discussions is required for credit. If you need to miss a class, please be in touch with the professors in advance of the meeting. Students missing more than two sessions without permission will not receive credit.

Students are required to be available for a half hour between 3:30 and 5pm on Mondays for supervision meetings related to their experiential work.

## Weekly Syllabus

### POLICE

#### **Tuesday, August 30<sup>th</sup> - *American Policing in 2016: Possibilities for Reform?***

In August 2014, Michael Brown was killed by Officer Darren Wilson in Ferguson, Missouri, setting off an intense national debate about the future of American policing. In two years since, the Black Lives Matter movement was born, the President convened a high profile Task Force to recommend changes to policing, states have enacted new legislation, and advocates from various quarters are advancing their own paths to reform. How far have these efforts come and where are (and should) they be going?

Skogan lists numerous potential barriers to reform, some originating from inside police departments and some “lurking” outside as well. Coates levels a number of criticisms at current reform efforts, all of which might be described as reasons why these efforts do not go far enough or are unlikely to succeed (e.g. the criminal justice system is overused to respond to social ills, police officers are unsuited to the “social work” tasks they are often assigned, and police officers lack legitimacy in African American communities). And Victor Rios’s work paints a grim picture of life on the receiving end of policing as it is currently practiced in some communities, raising the specter of deep, structural problems that will not be easily repaired. What do you make of these cautions and critiques?

#### Readings

FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21<sup>ST</sup> CENTURY POLICING (May 2015) (Executive Summary; Introduction; Pillar One: Building Trust & Legitimacy – pp. 1-18).

James E. Johnson, *There’s Trauma on Both Sides of the Police Community Relationship*, WASHINGTON POST (Aug. 11, 2016).

Law Enforcement Leaders to Reduce Crime and Incarceration, Statement of Principles

U.S. CONFERENCE OF MAYORS, WORKING GROUP OF MAYORS AND POLICE CHIEFS, STRENGTHENING POLICE-COMMUNITY RELATIONS IN AMERICA'S CITIES (Jan. 22, 2015).

Lydia Saad, *Americans' Faith in Honesty, Ethics of Police Rebounds*, GALLUP (Dec. 21, 2015).

National Conference of State Legislatures, *States with Police Enactments in 2015*.

Tracey L. Meares, *Policing Should Move Beyond Crime Reduction*, WASHINGTON POST (July 20, 2016).

Wesley G. Skogan, *Why Reforms Fail*, 18 POLICING & SOCIETY 23 (2008).

Ta-Nehisi Coates, *The Myth of Police Reform*, THE ATLANTIC (Apr. 15, 2015).

VICTOR M. RIOS, *PUNISHED: POLICING THE LIVES OF BLACK AND LATINO BOYS* (2011) (pp. vii – xvi; 24-27; 40-46; 57-63).

### **Tuesday, September 6<sup>th</sup> - Guest James E. Johnson**

James E. Johnson is a member of the board of directors of the Brennan Center for Justice at NYU School of Law and of the Law Enforcement Leaders to Reduce Crime and Incarceration. He is also of counsel at the law firm Debevoise and Plimpton. He previously served as an undersecretary for enforcement at the U.S. Department of the Treasury.

### **Tuesday, September 13<sup>th</sup> - *The View from the Inside: Barriers to and Possibilities for Policing Reform***

This class will focus on the internal dynamics within police organizations and their implications for criminal justice reform. The success of police reforms hinges on the degree to which line officers adopt new policies and incorporate them in their daily work. Many argue that this will be dependent on the environment within the department more so than external pressure. Topics to be discussed are (1) police culture and how it shapes the internal climate within a department, (2) how that culture can facilitate or hinder police reform efforts, (3) the importance of procedural fairness within departments to improving the lives of officers, the efficiency of the organization, and better relationships with the public, and (4) strategies to induce the cultural shifts that will likely be needed to sustain long-term reforms. Particular attention will be paid to training as a possible vehicle for culture change specifically and for reform more generally.

Ben Bradford & Paul Quinton, *Self-Legitimacy, Police Culture and Support for Democratic Policing in an English Constabulary*, 54 BRIT. J. CRIMINOL. 1023 (2014).

P.A.J. Waddington, *Police (Canteen) Sub-Culture: An Appreciation*, 39 BRIT. J. CRIMINOL. 287 (1999) (excerpted).

Bethan Loftus, *Police Occupational Culture: Classic Themes, Altered Times*, 20 POLICING & SOCIETY 1 (2010) (excerpted).

David Alan Sklansky, *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*, 96 J. CRIM. L. & CRIMINOLOGY 1209 (2006).

Wesley Skogan, *Achieving Fairness in Policing: The Link Between Internal and External Procedural Justice*, POLICE QUARTERLY (July 13, 2016).

FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21<sup>ST</sup> CENTURY POLICING (May 2015) (Pillar Five: Training and Education; Pillar Six: Officer Wellness and Safety pp. 51-68).

### **Tuesday, September 20<sup>th</sup> – Guest Tracie Keese**

Tracie Keese is the Deputy Commissioner of Training for the New York Police Department. She is also the co-founder of the Center for Policing Equity, the former Project Director of the National Initiative for Building Community Trust and Justice, and a former Captain in the Denver Police Department, where she served for twenty-five years.

### **Tuesday, September 27<sup>th</sup> - Excessive Force: Causes, Consequences, and Interventions**

The public conversation about policing reform has focused significant attention on police use of force, particularly deadly force. Police shootings and deaths in police custody have inspired outrage and protest, sparking intense public debate about when force is excessive and the extent of officers' obligations to deescalate potentially deadly confrontations. Numerous shootings of African American boys and men, in particular, have forced Americans to confront the painful reality that African American males are disproportionately subjected to excessive force, even after accounting for situational factors of the police encounter.

In this class, we will consider new and groundbreaking theoretical and empirical work that attempts to situate police use of force: its causes and consequences, and proposals to remake police departments so as to lessen its use. Legewie explores the possibility that some uses of force may be described as retaliatory, finding that police aggression increases after an officer has been shot *if* the suspected shooter was African American. Papachristos, Desmond, and Kirk note that a tragic consequence of the loss of police legitimacy that follows an incident of excessive force may be a decline in crime reporting from African American communities. Finally, Legewie and Fagan suggest that were police departments to diversify so as to proportionally represent the populations they serve, this could ease tensions

between the police and African American communities. How do these studies advance our understanding of police use of force and what types of reforms do they suggest?

### Readings

Joscha Legewie, *Racial Profiling and Use of Force in Police Stops: How Local Events Trigger Periods of Increased Discrimination*, AM. J. SOCIOLOGY (forthcoming 2016).

Andrew Papachristos, Matthew Desmond & David Kirk, *Police Violence and Citizen Crime Reporting in the Black Community* (work in progress; accepted by the AMERICAN SOCIOLOGICAL REVIEW).

Joscha Legewie and Jeffrey Fagan, *Group Threat, Police Officer Diversity and the Deadly Use of Police Force* (work in progress, May 2016).

### **Tuesday, October 4<sup>th</sup> - Guest Andrew Papachristos**

Andrew V. Papachristos is an Associate Professor in the Department of Sociology at Yale University, a faculty fellow at the Center for Research on Inequalities and the Life Course (CIQLE), and a faculty affiliate at the Institution for Social and Policy Studies (ISPS) at Yale University. His research focuses on social networks, neighborhoods, street gangs, and interpersonal violence.

## **COURTS**

### **Tuesday, October 11<sup>th</sup> - Reimagining Criminal Courts**

The theory of procedural justice, as described by Tyler, is being used to remake criminal courts in some cities. The Newark Community Solutions Court is one example of such an effort. Some hail the new court's potential to increase the legitimacy of the courts in the eyes of their constituents, while others — like Allegra McLeod — worry that these courts sometimes provide inadequate due process protections to criminal defendants and may even have the unintended effect of increasing rates of incarceration.

What do you make of McLeod's criticisms that alternative courts may serve to aggravate rather than mitigate problems in the administration of criminal law in the U.S.? Where do you think that the Newark Community Solutions Court fits within McLeod's typology of specialized criminal courts? Should increasing the legitimacy of the criminal justice system be the proper end goal for court reformers? Or maximizing procedural protections? Or shrinking the size of the population that lives under criminal supervision? If one views all of these goals as potentially laudable, what should be the response when they seem to point in different directions?

Meares and Justice offer another way to think about the project of the Newark Community Solutions Court: bringing the hidden curriculum of the criminal justice

system more in line with the overt curriculum. Does this re-framing help to us to navigate the potentially competing considerations described above?

### Readings

Tom Tyler, Procedural Justice and the Courts

Abram Brown, *Newark Introduces Court Program to Offer Community Service for Minor Offenses*, THE STAR LEDGER (June 17, 2011).

Tina Rosenberg, *The Simple Idea that Could Transform U.S. Criminal Justice*, THE GUARDIAN (June 23, 2015).

Allegra McLeod, *Decarceration Courts: Possibilities and Perils of a Shifting Criminal Law*, 100 GEORGETOWN L.J. 1587, 1587-99, 1605-74 (2012).

Benjamin Justice and Tracey Meares, *How the Criminal Justice System Educates Citizens*, ANNALS of the American Academy of Political and Social Science (Jan. 2014).

**Optional - Watch:** *Meet the Judge Who Assigns Essays in Court*, MSNBC (July 11, 2015) <http://www.msnbc.com/melissa-harris-perry/watch/meet-the-judge-who-assigns-essays-in-court-482752067786>

### **Tuesday, October 18<sup>th</sup> - Guest Judge Victoria Pratt**

The Honorable Victoria Pratt is a judge in the Municipal Court of Newark, New Jersey.

## **CRIME CONTROL AND VIOLENCE REDUCTION**

### **Tuesday, October 25<sup>th</sup>**

In this class, we will discuss the relative merits of various strategies for and approaches to violence reduction. We will also query how these methods are likely to impact upon the perceived legitimacy of law enforcers and how they might interact with existing Fourth Amendment jurisprudence regarding reasonable suspicion.

Papachristos and Kirk remind us that neither violence – nor violence prevention – occurs in a vacuum. Some forms of policing — even those that have the laudable aim of addressing serious violence and reducing harm to communities — may actually engender “legal cynicism,” thereby exacerbating the problem rather than solving it. Do the recommendations of the President’s Task Force suggest a way of balancing these considerations?

## Readings

THOMAS ABT & CHRISTOPHER WINSHIP DEMOCRACY INTERNATIONAL, INC., WHAT WORKS IN REDUCING COMMUNITY VIOLENCE: A META-REVIEW AND FIELD STUDY FOR THE NORTHERN TRIANGLE 1, 9-33 (Feb. 2016).

Jun Wu & David C. Pyrooz, *Unconverging the Pathways Between Gang Membership and Violent Victimization*, J. QUANT. CRIMINOL. (forthcoming)

Andrew Papachristos, *CPD's Crucial Choice: Treat its List as Offenders or as Potential Victims*, CHICAGO TRIBUNE (July 29, 2016).

Andrew Guthrie Ferguson, *Big Data and Predictive Reasonable Suspicion*, 163 U. PA. L. REV. 327, 329-36, 350-410 (2015).

David S. Kirk & Andrew V. Papachristos, *Cultural Mechanisms and the Persistence of Neighborhood Violence*, 116 AM. J. SOCIOLOGY 1190 (2011).

FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21<sup>ST</sup> CENTURY POLICING (May 2015) (Pillar Four: Community Policing and Crime Reduction).

### **Tuesday, November 1<sup>st</sup> – Guest Thomas Abt**

Thomas Abt is a Senior Research Fellow and Adjunct Lecturer at Harvard University's John F. Kennedy School of Government. He teaches and studies the use of comprehensive, evidence-informed approaches to reducing gun, gang, and youth violence, among other topics.

### **Tuesday, November 8<sup>th</sup> – Proactive Policing**

The term "proactive policing" encompasses the universe of policing strategies that are explicitly intended to prevent or reduce crime, as opposed to reacting to criminal events after they have occurred. Proactive policing may focus on places (e.g. hot spots policing), on people (e.g., gang members, high risk parolee/probationers) or community disorder, (e.g. broken windows policing). It may also include problem-solving policing, for example cooperation with non-police actors such as agents of the regulatory or social service agencies. Various forms of proactive policing have their proponents and critics, and debates continue about its effectiveness and fairness.

Tracey Meares and Tom Tyler are members of the National Academy of Sciences "Committee on Proactive Policing – Effects on Crime, Communities, and Civil Liberties." In this class, we will mine their experiences to consider the merits of proactive policing as a tool for crime reduction, weigh evidence of its discriminatory application, and discuss its impacts upon police legitimacy. We will also talk more generally about the role that researchers and academics play in criminal justice policy reform.

**Tuesday, November 15<sup>th</sup> – Moot Presentations of Experiential Project Results**

**Tuesday, November 22<sup>nd</sup> – Thanksgiving Recess – NO CLASS**

**Tuesday, November 29<sup>th</sup> – Final Presentations of Experiential Project Results with Guests Liz Glazer and staff of the NYC Mayor’s Office of Criminal Justice**

Elizabeth Glazer is the Director of the Mayor’s Office of Criminal Justice. She serves as the senior criminal justice policy advisor to the Mayor and First Deputy Mayor, overseeing citywide criminal justice policy. Prior to her appointment in March 2014, she served as chief advisor to Governor Cuomo on criminal justice and homeland security policy as Deputy Secretary for Public Safety. She has also served as Chair of the New York State Juvenile Justice Advisory Group, as Special Counsel to the New York State Attorney General, and Director at the Center for Court Innovation.

### **Available Projects**

Each student who participates in this Workshop will be expected to join a project team. Project teams will meet on Mondays from 3:30 to 5pm as needed, with each of three teams meeting for a half hour.

This semester, we will partner with the New York City Mayor’s Office of Criminal Justice (MOCJ) on three projects:

#### **1. Mayor’s Action Plan for Neighborhood Safety**

(MAP) <http://www1.nyc.gov/site/criminaljustice/work/strong-neighborhoods.page>

One of MOCJ’s most significant initiatives is the Mayor’s Action Plan for Neighborhood Safety (MAP), which is working to build and evaluate a scalable model for reducing crime in partnership with the residents of a neighborhood. One of MAP’s goals is to create a new way for city residents to engage with their government and be involved in criminal justice decision-making, using the vehicle of a neighborhood “CompStat.”

To date, MOCJ has held four CompStats, with representatives from 15 city agencies, neighborhood residents, and others at the table. The City’s goal is to scale up this effort in the coming year. The CompStats focus on various methods of reducing crime, including those that involve physical space, programming, policing, and neighborhood anti-crime efforts.

Legitimacy and collective efficacy are the two intersecting theoretical drivers of the MAP effort. Students who work on this project will develop content for an interactive website that explains the program model to a general public audience. The website should showcase the theoretical underpinnings of the



program, connect those findings to real-world applications, and document what those applications look like in practice. The overarching goal is to engage the public, communicate why specific interventions were selected, and build support for the importance of evaluating real-world applications to determine how to scale them up in the future.

## **2. Small Crimes + Misdemeanors**

MOCJ has been working on a number of initiatives to better calibrate the appropriate police response to low-level crimes (e.g., moving from an arrest to a summons) and improve the quality of adjudication for those offenses. The purpose of this work is to ensure the lightest touch possible — or no touch at all — to address particular problems. MOCJ believes that some problems that are currently addressed through law enforcement may be better solved via other means. For example, they are considering whether a summons for an open container violation is the best way to stop public drinking, especially when NYC has a 50% warrant rate on those summons? The agency also wonders whether the contact that police have with New Yorkers in the small crimes context is an opportunity to promote legitimacy (particularly given that half of the police contacts with the public that result in a summons or arrest are for summonses).

Students who work on this project will explore the best practices nationally for policing and adjudicating low-level crime. This will be approached from both a legitimacy perspective and a deterrence perspective. In addition to a review of effective approaches being implemented elsewhere, students will develop and implement one key recommendation for reform. Specifically, if New York City were to implement one additional initiative to improve low-level enforcement in the next year or to change behavior through a means other than low-level enforcement, what would it be? Students will describe why this recommendation specifically advances the work already underway in New York City and provide an assessment of the operational, political and legal feasibility of the proposal.

## **3. Human Trafficking:**

Students who work on this project will assist MOCJ in developing an effective approach to combatting human trafficking. To that end, they will produce an analysis of what is known about human trafficking in New York City, as well as a review of nationwide (and perhaps international) evidence-based interventions, whether law enforcement-focused or not. Based on this research, students will develop an immediate policy or programmatic suggestion. If MOCJ was to change or implement one thing to make immediate and measurable improvement, what would it be? Included in this recommendation should be an assessment of the operational, political and legal feasibility of the proposal.

