

CRIMINAL JUSTICE REFORM: THEORY AND RESEARCH IN ACTION

**Spring 2017 Syllabus
Tuesdays 10:10am to noon
Room TBD**

Tracey Meares, Walton Hale Hamilton Professor of Law
Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology
Megan Quattlebaum, Lecturer in Law
Alexandra Cox, Postdoctoral Fellow
Yael Granot, Postdoctoral Fellow
Thomas O'Brien, Postdoctoral Fellow

The premise of this workshop is that students, academics, and researchers can and should be a part of a 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 contributions of the social sciences to the project of criminal justice reform. A number of our guests are psychologists, but we will also consider the work of sociologists, criminologists, and others. We will give special consideration to the influence of this work on understandings of how, when, and where the criminal justice system should — and should not — interact with juveniles. The social sciences have had a notable impact upon the law in this arena in recent years.

Our experiential work, in turn, will focus on translating the findings of social scientists into legal arguments on behalf of individuals incarcerated as juveniles, as well as into a new training program for correctional officers who will work in a detention center designed for youth.

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 10am to noon or 2 to 5pm on Mondays for supervision meetings related to their experiential work.

Weekly Syllabus

Tuesday, January 17th - *Science, the Supreme Court, and Juveniles*

In this class, we will consider how scientific evidence has been marshaled by the Supreme Court in a series of recent cases that have categorically barred people under the age of 18 from receiving sentences of death for any offense or of life without parole (LWOP) for non-homicide offenses. In *Miller*, the Court further held that *mandatory* LWOP sentences for juveniles violate the Eighth Amendment even when they are imposed for homicide. How many scientific articles are cited in *Roper* and *Miller*, respectively? What *kinds* of scientific findings, from what disciplines, appear to be most persuasive to the Court? What is the argument against basing the holdings of Eighth Amendment cases in part upon scientific evidence of this kind? Do you think that these cases suggest a trend in which courts may become more willing to rely on scientific findings, or are these cases likely to remain the exception?

Readings

Roper v. Simmons, 543 U.S. 551 (2005) (excerpted)

Miller v. Alabama, 132 S. Ct. 2455 (2012) (excerpted)

Alex R. Piquero, *Youth Matters: The Meaning of Miller for Theory, Research, and Policy Regarding Developmental/Life-Course Criminology*, 39 New Eng. J. on Crim. & Civ. Confinement 347 (2013).

OPTIONAL: Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption*(2015) (chapters 8, 14, and 16 - "All God's Children;" "Cruel and Unusual," "The Stonecatcher's Song of Sorrow").

Tuesday, January 24th - *Legal Socialization and Procedural Justice*

In this class, we will be introduced to the concept of legal socialization: "the process whereby people develop their relationship with the law via the acquisition of law-related values, attitudes, and reasoning capacities." We will explore and discuss developmental differences between adolescents and adults and their implications for how young people experience and interpret legal institutions and how those institutions respond to young people. And we will ask whether the infusion of procedural justice might improve adolescent experiences with law enforcement and the criminal justice system more generally.

Readings

TOM R. TYLER & RICK TRINKNER, LEGAL SOCIALIZATION IN AN ERA OF MISTRUST: FOSTERING THE POPULAR LEGITIMACY OF THE LAW (May 2016) 1-27.

Tracey L. Meares, *The Legitimacy of Police Among Young African-American Men*, 92 MARQUETTE L. REV. 651 (2009).

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

THURSDAY, February 2nd at noon – Schools and School Resource Officers with Guest Carla Shedd

****This class will be held at another site on the Yale campus, TBD***

In this class and the one that follows, we will turn our attention to schools as sites of legal socialization. We will focus in particular on the role of school resource officers in developing young people's understandings of and attitudes toward the police, their schools, and the legal system more generally.

Our guest, Carla Shedd, is Assistant Professor of Sociology and African American Studies at Columbia University. Shedd's first book, *Unequal City: Race, Schools, and Perceptions of Injustice*, uses the experiences of youth, particularly their interactions with teachers, police, and parents, to uncover how they shape adolescents' perceptions of themselves and their wider social worlds. *Unequal City* also examines the driving forces behind and the consequences of policies that have intricately linked the public school system and the criminal justice system. Shedd's current research focuses on New York City's juvenile justice system, investigating how young people's linked institutional experiences influence their placement on and movement along what she calls the carceral continuum. This research will be the foundation of her second book project, *The Protection is the Punishment: Reconciling the Peril and Promise of America's Juvenile Court System*.

Readings

TOM R. TYLER & RICK TRINKNER, LEGAL SOCIALIZATION IN AN ERA OF MISTRUST: FOSTERING THE POPULAR LEGITIMACY OF THE LAW (May 2016) 205-39 (excerpted).

CARLA SHEDD, UNEQUAL CITY: RACE, SCHOOLS, AND PERCEPTIONS OF INJUSTICE (2015) 1-5, 12-15, 82-86, 93-99, 104-18.

Tuesday, February 7th – Guests Patrick English and Jasen Getner

[waiting on Patrick to send bio]

Jasen “Jay” Getner is the Coordinator of Juvenile Justice & Prevention Programs for the City of Norwalk’s Juvenile Review Board. Jay is a Connecticut native who joined the City of Norwalk’s Department of Youth Services in 2003 overseeing prevention programs. In 2006 the City of Norwalk selected Jay to develop and implement their juvenile justice court diversion program. In 2008, Norwalk received an award through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to allow for full implementation of our Juvenile Review Board (JRB). The JRB processes nearly 200 cases annually, with an 88% success rate. (“Success” is defined as no recidivism one year after the delinquency offense is successfully discharged.) Cases range from arrests for misdemeanor and lesser felony crimes to truancy and out of control behavior. Jay was awarded employee of the year in 2016 for his work in Juvenile Justice from the Connecticut Youth Services Association (CYSA). He holds a bachelor’s degree in social science and is completing a clinical master’s degree from Fairfield University in family therapy in 2017.

Readings

Ben Brown, *Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment*, 34 J. CRIM. JUST. 591, 591-96 (2006).

Matthew T. Theriot, *The Impact of School Resource Officer Interaction on Students’ Feelings About School and School Police*, 62 CRIME & DELINQ. 446 (2013).

What is the Juvenile Review Board?, available at <http://www.norwalkct.org/DocumentCenter/Home/View/214>

Tuesday, February 14th - Are Kids Different? YAEL

In this class, we explore neural and behavioral-scientific perspectives on what distinguishes adolescence from adulthood. How do the sciences and the legal system differently define what it means to be an adult? Can neuroscience data demonstrate that adolescents are more vulnerable and impulsive than adults? Less criminally culpable than adults? Does the legal system consider neuroscience evidence more compelling than other forms of developmental science evidence? We will discuss what contributions neuroscience research can and cannot make to the debates on juvenile justice.

Readings

Cohen, A. O., Bonnie, R. J., Taylor-Thompson, K., & Casey, B. J. (2015). When Does a Juvenile Become an Adult: Implications for Law and Policy. *Temple Law Review*, 88, 769-788.

Chein, J., Albert, D., O’Brien, L., Uckert, K., & Steinberg, L. (2011). Peers increase adolescent risk taking by enhancing activity in the brain’s reward circuitry. *Developmental science*, 14, F1-F10.

Shen, F. X. (2012). Legislating Neuroscience: The Case of Juvenile Justice. *Loyola Law Review*, 46, 985-1018.

Epstein, R. (2007). The myth of the teen brain. *Scientific American Mind*, April/May 2007, 57-63.

Tuesday, February 21st - Guest B.J. Casey YAEL

BJ Casey is a Professor of Psychology at Yale University and an Adjunct Professor at Weill Cornell Medical College in New York City. Casey is a leading researcher in human neuroimaging. She uses brain imaging to examine developmental trajectories, both typical and atypical, with a particular focus on the adolescent brain. Her work addresses the biological and social factors that underlie development, with implications for mental health interventions and juvenile justice reform. Casey has been asked to present her research on adolescent neuroscience on Capitol Hill as well as to federal judges across the country.

Tuesday, February 28th - Courts, Juveniles, and Criminal Justice ALEXANDRA

In this class, we will examine the role of the courts in the lives of young people charged with crimes. We will focus on the distinctions that are made between young people and adults in the courts, and the consequences of those distinctions. What led to the emergence of the differential treatment of children and adults in the courts? How are distinctions between young people and adults made in the courts? Why might they matter?

Readings

Tanenhaus, D. (2002) *The Evolution of Juvenile Courts in the Early Twentieth Century: Beyond the Myth of Immaculate Construction*. In *A Century of Juvenile Justice* edited by M. Rosenheim, F. Zimring, D. Tanenhaus and B. Dohrn. Chicago: The University of Chicago Press (pp. 42-73)

Taylor-Thompson, Kim (2014) Minority Rule: Redefining the Age of Criminality, 38 *N.Y.U. Rev. L. & Soc. Change* 143.

Feld, B. (1997) Abolish the Juvenile Court: Youthfulness, Criminal Responsibility, and Sentencing Policy, *Journal of Criminal Law and Criminology*, Vol. 88, Issue 1, pp. 68-136.

McAra, L., & McVie, S. (2015) *The Case for Diversion and Minimum Necessary Intervention* In B. Goldson, & J. Muncie (Eds.), *Youth Crime and Justice*. (2nd ed.). SAGE Publications Ltd, , pp. 119-136.

Tuesday, March 7th - Guest Kim Taylor Thompson ALEXANDRA

Kim Taylor-Thompson teaches courses related to criminal law and community and criminal defense. Her teaching and scholarship focus on the impact of race and gender in public policy—particularly criminal and juvenile justice policy—and the need to prepare lawyers to meet the demands of practice in and on behalf of subordinated communities. Before academia, Taylor-Thompson spent a decade at the D.C. Public Defender Service, ultimately serving as its director. She is a frequent moderator of Socratic dialogues. Taylor-Thompson received her J.D. from Yale Law School and her B.A. from Brown University.

Tuesday, March 14th – SPRING BREAK

Tuesday, March 21st - Beyond Neuroscience ALEXANDRA

In this class, we will look beyond the neuroscience specialty to gain a broader sense of the psychological perspectives on youth offending.

Readings

Baskin-Sommers, A. & Baskin, D. (2016). Psychopathic traits mediate the relationship between exposure to violence and violent juvenile offending. *Journal of Psychopathology and Behavioral Assessment*.

Tremblay R.E. (2014) 'Developmental origins of physical aggression' In: P. D. Donnelly and C. L. Ward (eds). *Oxford Textbook of Violence Prevention*. Oxford: Oxford University Press.

Piquero, A., Hawkins, D., and Kazemian, L. 'Criminal Career Patterns,' in Loeber, R. and Farrington, D. From Juvenile Delinquency to Adult Crime, New York: Oxford University Press, pp. 14-42

Moffitt, T. (1993) 'Pathways in the Life Course to Crime,' in Cullen, F. and Agnew, R. Criminological Theory: Past to Present (Fourth Ed), New York: Oxford University Press, pp. 477-496

Tuesday, March 28th – Guest Arielle Baskin-Sommers ALEXANDRA

Dr. Arielle Baskin-Sommers is a licensed clinical psychologist. She received her Sc.B. from Brown University (2007), a Ph.D. from the University of Wisconsin-Madison (2013), and completed her pre-doctoral internship and fellowship at McLean Hospital/Harvard Medical School. Substantively, her research is concentrated on understanding individual differences in cognitive and affective processes as they relate to vulnerability for disinhibitory psychopathology. Methodologically, she is interested in integrating a wide range of techniques and technologies to explore this issue.

Tuesday, April 4th - Psychological Biases in Criminal Justice and Schools

TOMMY

In this class, we will discuss the role that psychological biases play in shaping racial disparities in the criminal justice system. These include biases that shape outcomes at multiple phases of the system: the propensity to associate weapons with African Americans; public support for criminal justice policies that increase racial disparities; sentencing decisions that increase racial disparities. We will also discuss recent research on how psychological biases influence disciplining practices and, consequently, racial disparities in schools.

Readings

Eberhardt, J. L., Goff, P. A., Purdie, V. J., & Davies, P. G. (2004). Seeing Black: Race, crime, and visual processing. *Journal of Personality and Social Psychology*, 87(6), 876-893.

Eberhardt, J. L., Davies, P. G., Purdie-Vaughns, V. J., & Johnson, S. L. (2006). Looking deathworthy perceived stereotypicality of Black defendants predicts capital-sentencing outcomes. *Psychological Science*, 17(5), 383-386.

Herbert, W. (August 6, 2014). Blacks in prison: Perception and Judgement.

In *The Huffington Post*, http://www.huffingtonpost.com/wray-herbert/blacks-in-prison-percepti_b_5461762.html

Hetey, R. C., & Eberhardt, J. L. (2014). Racial disparities in incarceration increase acceptance of punitive policies. *Psychological Science*, 25(10), 1949-1954.

Okonofua, J. A., Walton, G. M., & Eberhardt, J. L. (2016). A vicious cycle: A social-psychological account of extreme racial disparities in school discipline. *Perspectives on Psychological Science*, 11(3), 381-398. doi:10.1177/1745691616635592.

Smith, M. D. Why white people's awareness of racism isn't enough. In *The Nation*.

<https://www.thenation.com/article/why-white-peoples-awareness-racism-isnt-enough/>

Tuesday, April 11th – Jennifer Eberhardt TOMMY

Jennifer Eberhardt earned her PhD at Harvard University in 1993 and is now a Professor of Psychology at Stanford University and a fellow of the MacArthur Foundation. Her research has demonstrated the pervasive reciprocal relationship between psychological biases and racial disparities in the criminal justice system. She has demonstrated, for example, that people associate concepts with racial groups linked to those concepts, such as weapons and African American males; that people express more concern about crime and are more supportive of punitive policies when they learn that African Americans face

the largest consequences of those policies; and that the stereotypical features of African American male defendants predicts whether juries sentence them to death. Professor Eberhardt has also recently began to study how psychological biases influence racial disparities in education.

Professor Eberhardt is dedicated to applying psychological research to improve the criminal justice system. She is the co-director of Stanford's Social Psychological Answers to Real-World Questions (SPARQ), and has worked over the past few years with the Oakland Police Department to improve policing techniques with research.

Tuesday, April 18th – Final Presentations of Experiential Project Results

Available Projects

Each student who participates in this Workshop will be expected to join a project team. Project teams will meet on Mondays from 10am to noon or 2pm to 5pm as needed, with each of three teams meeting for a half hour.

Juvenile LWOP

This semester, we will partner with attorneys in the Juvenile Life Unit of the State Appellate Defenders of Michigan to produce memoranda on two issues affecting their clients. The office has recently been appointed to a little over 200 JLWOP *Montgomery* cases, approximately 2/3 of the JLWOP prisoners entitled to relief in MI. (In *Montgomery v. Louisiana*, the Supreme Court held that its ruling in *Miller v. Alabama* applies retroactively.) Prosecutors in Michigan are re-seeking LWOP in the vast majority of cases, which means that these individuals' sentences will be reviewed in so-called "Miller hearings." Lawyers in the Juvenile Life Unit believe that since the Philadelphia County, Pennsylvania prosecutor made the decision not to re-seek life in the vast majority of that county's cases following *Montgomery*, Michigan now has the most juvenile lifers in the country.

Project One:

In *Atkins v. Virginia*, 536 U.S. 304 (2002), the Supreme Court ruled that executing people with intellectual disabilities violates the Eighth Amendment. Students in this group will consider the feasibility of arguments that the *Atkins* logic should be extended to impose a categorical bar to LWOP for juveniles with learning disabilities or other cognitive issues. Students will consider social scientific research that speaks to the criminal culpability of young people with learning disabilities.

Project Two:

Students in this group will consider whether a 40-60 year sentence is a *de-facto* life sentence and whether it provides a meaningful opportunity at parole as required by *Miller*. Students will consider evidence of life expectancies for incarcerated individuals, particularly those who are incarcerated for long periods.

Training for Corrections Officers

Tracey Meares and Tom Tyler - in collaboration with officers affiliated with the Education and Training Division of the Chicago Police Department - designed a training to teach police officers the tenets of procedural justice. That training is now being used not only in Chicago but in New York City, Minneapolis, Fort Worth, Birmingham, and multiple jurisdictions in California and across the country.

We now have a unique opportunity to partner with the Connecticut Department of Correction to map out a plan for translating this training into one that can be used with corrections officers.

Students in this group will develop a strong familiarity with the existing training and the theory that undergirds it. They will interview DOC staff, conduct research on particular challenges facing corrections officers, and develop a comprehensive plan for translating the existing training and implementing the new training in Connecticut's jails and prisons.