

## CJC ORIENTATION ASSIGNMENTS MEMO

To: Criminal Justice Clinic Fall 2014  
From: Professor Elizabeth Nevins-Saunders  
Re: Orientation Schedule and Assignments  
Date: July 25, 2014

This memo outlines (roughly) the schedule for our first three days together (aka orientation) and specifies the work you need to do to prepare for each class. I'm not gonna lie – It's a lot. But I'm trying to frontload things, work-wise, before things get crazy with cases and so you have a clue what you're doing when you start going to court and meeting clients. I've tried to pare it down, but you have an awesome responsibility as soon as you start representing real clients – so we need to do everything we can to prepare you for it. **In other words, don't wait until the night before to get started on this stuff. The days are long and the facial sufficiency, mass incarceration, and nuts-n-bolts material in particular are pretty substantial. If you wait to do this until we're in the middle of orientation, you likely will not have enough time.**

If a reading is not attached or sent with a link, it's probably because you need to look it up yourself (e.g., a statute, rule, or case). Also, unless otherwise noted, the material is assigned to be done by the time we get to that section of the orientation (so, e.g., you do the reading on bail arguments in time for Tuesday's class). The notable exception to this is the nuts-n-bolts written assignment, which must be turned in via email no later than Friday, August 15 at 10 am.

You might notice that there's a lot of paper if you print this stuff up – whether you organize things in hard copy or electronically, now's the time to think about how you'll organize your work. This may seem mundane, but such organization of massive amounts of material is a surprisingly large part of what lawyers do in daily practice. Might as well start now.

By the way, dress for orientation, EXCEPT for the court visit, is whatever you'd normally wear to classes. For court, you need to be in professional dress. If you don't know what this means, find out. I always think of what a law school supervisor told me: “The poorer the client, the better I dress.” If you don't have court clothes (and a T-shirt under a suit is not court clothes), now is the time to invest. You'll need them throughout the semester and for the rest of your career. If this is a problem financially, let's discuss it privately and we'll figure it out.

Also, lunches during orientation will typically be “working lunches.” On Day 1, lunch is my treat. Please let me know if you have any dietary restrictions.

You can send me an email at any time if you have a question about any of the assignments or the schedule.

Let's get started, shall we?

**Monday, August 18, 2014**

**9 am – 5 pm**

**Room 014 Koppelman**

(Take the elevator to the lower level and go through the double doors. It's near where the IT department is.)

I. Introduction

This is where we learn to trust each other, distrust everyone else, and some of the context for what we're doing. And eat treats.

A. **Read/Skim** (depending on your familiarity with the process) "Path of the Case" – a somewhat dated NYC-centric overview of the criminal justice process (**attached**).

B. **Read** David Feige book, *Indefensible*, identifying (and being prepared to discuss) 2-3 instances in the book that you found particularly interesting, enlightening, objectionable, questionable, unbelievable etc.

II. Client-Centered Representation

A. **Read** Gideon's Promise, Ch. 1, pgs. 13-16, "How Can you Represent Those People? The Special Role of the Public Defender" (**attached**).

III. Storytelling

A. **Read** Kreiger & Neumann, *Essential Lawyering Skills*, Ch. 10, "How we Organize and Think about Facts."

IV. Ethics & Confidentiality

A. **Read** New York Rules of Professional Conduct, Preamble. You already have the rules (and you should bring them with you to class). The preamble, scope, and comments (and, for that matter, the rules) can be found at <http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=50671>

B. **Compare** ABA Model Rules of Professional Conduct, Preamble, found at [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/model\\_rules\\_of\\_professional\\_conduct\\_preamble\\_scope.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_preamble_scope.html).

C. **Read** Gideon's Promise, Ch. 2, pgs. 29-39, "Doing Right by your Client While Doing Right: Ethics and Client-Centered Representation." (**attached**).

V. Misdemeanor Nuts-n-Bolts

This refers to what we, and especially our clients, are facing in District Court (Your Crim Law Handbook – the “code book” or “Handbook” or “gray book” -- has all this reading). NOTE: This is pretty nitty-gritty stuff, but you’ll use it all semester to figure out options and outcomes for different cases, so try to get a handle on the vocabulary.

A. **Read** in the Penal Law (PL) –

1. Articles 55 and 65 in their entirety (other than 65.00 (1)(b) and (3)(a) and 65.15(3), which you can skip).
2. PL §§ 60.00, 60.01, 60.02(1), 60.20, 60.27(1)-(5), 60.35(1)(a)(i)-(iii), 5, 6 & 7 (and skim the rest of 60.35)
3. PL 70.15, 70.20(2), 70.25(1)-(4) (skip 2-a through 2-f), 70.30(3) (“Jail Time,” you only need to read the first sentence), 70.30(4)(b) (“Good Behavior Time”),
4. PL 80.05 and 85.00.

B. **Read** in the CPL:

1. Motion to dismiss in the furtherance of justice, CPL § 170.40
2. Adjournment in Contemplation of Dismissal, CPL §§ 170.55 and 170.56
3. Youthful Offender, CPL §§ 720 and 720.35.

C. **Read** in Vehicle and Traffic Law § 510(2)(b)(v) and (vi)

D. **Skim** just to get an idea of the consequences of even a misdemeanor conviction, *Consequences of Criminal Proceedings in New York State* (Bronx Defenders Guide **attached**).

E. **Prepare** Misdemeanor Nuts-n-Bolts Exercise (**attached**). **Send me a draft of your responses by 10 am on Friday, August 15.**

**Tuesday, August 19, 2014**

**9 am – 5 pm**

**Room 014 Koppelman**

I. The Context: Mass Incarceration in the US

A. **Read** Michelle Alexander, *The New Jim Crow*, Introduction and Chapter 2 “The Lockdown.”

B. **Read** Adam Gopnik, “The Caging of America,” *The New Yorker*, January 30, 2012, available at <http://www.newyorker.com/magazine/2012/01/30/the-caging-of-america>.

C. **Watch** (if you want, it’s optional) John Oliver’s take on mass incarceration in the US – it’s as depressing as the rest, and it’s not nearly as substantive. But it does

make clear how absurd things have gotten – and adds some humor to help you get through.....available at [http://www.slate.com/blogs/browbeat/2014/07/21/john\\_oliver\\_prison\\_segment\\_on\\_last\\_week\\_tonight\\_is\\_one\\_you\\_should\\_watch.html](http://www.slate.com/blogs/browbeat/2014/07/21/john_oliver_prison_segment_on_last_week_tonight_is_one_you_should_watch.html)

## II. Accusatory Instruments/Facial Insufficiency & 30.30, oh my!

### A. **Read** a bunch of stuff:

1. CPL § 30.30. 100.05, 100.10, 100.15, 100.20, 100.30, 100.40, 100.50, 170.10, 170.35, 170.70.
2. Schoeffel, Litigating Accusatory Instruments in Criminal Court (**attached**)
3. *People v. Dumas*, 68 N.Y.2d 729 (1986).
4. *People v. Alejandro*, 70 N.Y.2d 133 (1987).
5. *People v. Hernandez*, 98 N.Y.2d 8 (2002).
6. *People v. Casey*, 95 N.Y.2d 354 (2000).
7. *People v. Cullinan*, 188 Misc. 2d 699 (2001).
8. *People v. Gonzalez*, 184 Misc. 2d 262 (2000).
9. *People v. Machado*, 182 Misc. 2d 194 (1999).
10. *People v. Thomas*, 4 N.Y.3d 143 (2005)
11. *People v. Kalin*, 12 N.Y.3d 225 (2009).
12. *People v. Dreyden*, 905 N.Y.S.2d 542 (June 15, 2010)
13. *People v. Nunn*, 24 Misc. 3d 944 (2009)
14. *People v. Grisela Cruz*, 2010NA021759 (Aug. 31, 2011) (**attached**)

### B. **Use** (it's optional) the **attached** case chart to help you keep track of these cases.

### C. **Submit written responses to the attached questions to me via email by 9 am on Tuesday, August 19.**

### D. **Prepare** to argue to the court whether the **attached** accusatory instruments are complaints or informations (and whether that matters), as well as whether they are facially sufficient.

## III. Bail Applications

### A. **Read** in the Handbook CPL 500.10, 510.10, 510.15, 510.20, 510.30 (especially 2(a)), 510.40, 510.50, 520.10, 520.15, 530.12, 530.20.

### B. **Pay attention** in particular to the factors that the court may, must, and should consider in making a release determination. How do these factors help you frame your arguments? Are there other factors that could affect the likelihood of your argument's success?

**Wednesday, August 20, 2014**

**9 a.m. – 5 p.m.**

I. Field Trip

- A. **Go** to Nassau District Court, 99 Main Street in Hempstead. Let's meet on the ground floor by the desk in the center at 9:00 a.m. Please note that you will need to wait in line and pass through metal detectors, so plan to arrive *earlier* than 9. Hint: the side entrances often have shorter lines. We will observe, *inter alia*, arraignments and the parts where we will be practicing.
- B. **Bring** (of course) your codebook – chances are, you'll want to look something up.
- C. **Write** notes on things that stand out to you as surprising, impressive, confusing, etc. while you're in court. At least one of them should focus on a larger policy or systemic issue.

II. Lunch and Debrief

Together, back at the ranch – Please bring your own (lunch, not ranch)!

III. Bail Applications, Round 2

We will prepare for these in and out of class. Instructions will be given during class on Orientation Day 2.

IV. Case Review

- A. **Read/study** case files of assigned cases and prepare for team meetings with Prof. Nevins. In bigger files, focus on the following as you read through them: transfer memoranda from prior legal interns; recent court appearance forms; and recent client interview memoranda or client contacts.
- B. **Prepare** answers to the following questions about each of your cases at your supervisor meeting:
1. What are the charges against your client?
  2. What is the status of the case?
  3. Does the case have a scheduled court date? If so, what is the purpose of the upcoming court appearance?
  4. What do you think needs to be done next on the case (and what steps will you take to get it done?)
- C. **Meet** with your partner and me to go over new cases. This will happen either Thursday or Friday in a schedule TBD.