

CJC ORIENTATION ASSIGNMENTS MEMO

To: Criminal Justice Clinic Spring 2018
From: Professor Elizabeth Nevins
Re: Orientation Schedule and Assignments
Date: December 13, 2017

This memo outlines (roughly) the schedule for our first three days together (aka orientation, aka boot camp) 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, nuts-n-bolts, and bail material in particular is pretty substantial. If you wait to do this until we're in the middle of orientation, you likely will not have enough time. Also, much of what follows is reading, but there are also written assignments, due 48 hours (2 days) before we discuss those issues in class – so make sure to note what's due when. (n.b. It does not make a great impression on the professor when she has to track you down to hand in the first assignments, or can tell you're not prepared on your very first assignments; only one chance for a first impression.)**

Now and during the semester, if a reading is not attached or is sent with a link, it's probably because you need to look it up yourself (e.g., a statute, rule, article, or case) for copyright purposes. 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 before we discuss it in class). Please make sure every piece of paper you submit has your name on it and gets emailed to both Margot and to me, even if I sometimes just say "send it to me."

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 (which is at 99 Main St., in Hempstead, NOT County Court in Mineola), 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 (a T-shirt under a suit is not court clothes, nor is a shirt without a properly tied tie), 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, we can discuss privately and we'll figure it out. But judges can and do comment on it – you don't want it to be held against your client.

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.**

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, January 8, 2018

9 am – 5 pm

Clinic Conference Room

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" (**attached**) and <http://www.nycourts.gov/litigants/crimjusticesyshandbk.shtml>. Both provide a NYC-centric overview of the criminal justice process, but they give a good sense of the timeline and a lot of the vocabulary that comes into play.

B. **Re-read (and bring)** your CJC Manual, including the NY Rules of Professional Conduct, an appendix at the back of the Manual (see below).

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/Review** 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 have **read them**; also, **bring** them with you to class). The preamble, scope, and comments can be found at <http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=50671>

B. **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" -- has all this reading. I recommend marking/tabbing your edition up, but it's up to you). 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 – you can make your own cheat sheet, tab the code, whatever. But this is the core of the cases we handle.

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.
5. PL 110.05

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**). **Email Margot and me a draft of your responses two days before this session.**

Tuesday, January 11, 2018

9 am – 5 pm

District Court/Faculty (aka Room 303)

I. Field Trip

A. **Go to Nassau District Court, 99 Main Street in Hempstead, NOT COUNTY COURT IN MINEOLA.** 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, although they don’t usually open before 9. 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. You’ll also need a pad/pen for notes.

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. The Context: Criminal Justice Issues in the US – from Misdemeanors to Mass Incarceration

- A. **Read** Michelle Alexander, *The New Jim Crow*, Introduction (available at <https://peacelandjustice.files.wordpress.com/2013/12/newjimcrow-ch-1.pdf>).
- 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. **Read** Jennifer Gonnerman, *Before the Law*, THE NEW YORKER (Oct. 6, 2014) (available at <http://www.newyorker.com/magazine/2014/10/06/before-the-law>)
- D. **Read** Alexandra Natapoff, *Misdemeanors*, 85 SO. CAL. L. REV., Introduction 101-07 (2012) (available at <https://poseidon01.ssrn.com/delivery.php?ID=017096020116091002008024015026091098015051021063079059125001020095123112109011078127006055125009047120052113028119022100029071052085021064086099093093089097005064028045087117112005000087101000118126029085070009116083073067031122083127093082099071027&EXT=pdf>)
- E. **Read** Joseph Shapiro, *As Court Fees Rise, the Poor are Paying the Price*, NPR All Things Considered, (May 19, 2014) (available at http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor?utm_campaign=storyshare&utm_source=twitter.com&utm_medium=social)
- F. **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

IV. 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, 530.30, 530.60, 540.10, 540.20.
- B. Submit written responses to the questions on bail (attached) to Margot and me via email at least two days before this session.**

Wednesday, January 10, 2018
Clinic Conference Room
12.10 - 5 p.m.

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

- A. **Read** a bunch of stuff (The Schoeffel piece alone is a good start, but it's not sufficient to really get this stuff; among other things, *it's not the law.*):
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. *In re Rey R.*, 591 N.Y.2d 55 (2d Dept. 1992).
 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 (2010)

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

C. Submit written responses to the questions on accusatory instruments (attached) to Margot and me via email at least two days before this session.

- 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. Doing a series of them will give you a good understanding of what to look for in your own cases.

II. Bail Applications, Round 2

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

III. 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? What are the elements of each charge?
 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 according to a schedule TBD as soon as possible after orientation.