

Syllabus

DRAFT 4-1-20

Access to Justice Seminar: Campaigns to Fight Everyday Injustice in the Justice System

*Tuesdays, 2 to 3:50 pm, Spring 2020
Fordham Law School
Room 3-05*

*Instructors: Chris Albin-Lackey, Bruce Green, David Udell
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Course Description:

Our justice system should offer everyone an equal opportunity to secure the protection of fair and just laws, but it does not live up to that ideal. Instead, the system often reinforces inequality by failing to provide a level playing field to people who are at risk because they are poor and/or marginalized in other ways in our society. The resulting outcomes are often tarnished by injustices that could have been prevented.

We have seen that change is possible. Criminal justice reform campaigns to reverse the phenomenon of mass incarceration are mobilizing support across the political spectrum, and they have real momentum behind them. Far less attention has been paid, though, to another set of justice system problems that turn people's lives upside down. Across the country, people struggle to secure justice in disputes that threaten their homes, family relationships, jobs, financial well-being, basic emotional and physical security, and freedom.

In the first part of this course, we will consider several reform initiatives that are trying to tackle crucial justice system problems that are too often neglected—and routinely omitted from a law school education. In the civil system, we will explore campaigns to secure access to justice for people facing eviction, bankruptcy, and consumer debt. In the criminal system, we will study efforts to rein in court-imposed fines and fees, and the movement to end cash bail.

We will also devote several classes to taking a wider look at efforts to address underlying, systemic problems in the justice system. We will examine programs that divert prosecutions bound up with substance abuse into less punitive forums, efforts to better accommodate the millions of litigants who navigate the courts without legal representation, and steps courts are taking to ensure that justice is their guiding principle in resolving matters that come before them. We will also consider the global effort to build the field of civil justice research, equivalent in some respects to the established field of criminology.

This seminar will examine all of these subjects through the lens of policy advocacy: identifying the problems, the individuals and communities most affected, and the legal solutions, administrative solutions and other policy solutions that can, and are, making a difference. We

will learn about the tools and capacities necessary for change to occur, including research, organizing, lobbying, communications, and litigation. Experts will speak from their own experiences about their initiatives to improve laws, practices and processes. Readings will provide historical, theoretical, and practical perspectives.

In a final paper (and in segmented drafts written during the semester), students will (i) describe a justice system problem analyzing why it matters and to whom, (ii) describe a proposed solution to the problem, analyzing strengths and weaknesses, and comparing alternative solutions, and (iii) describe a reform campaign to secure accomplish the proposed solution, analyzing capacities, tools, pathways, and decisionmakers.

Bruce Green (room 7-168) is the Stein Chair and Director of the Stein Center for Law and Ethics. David Udell (room 7-165) is the Executive Director of the National Center for Access to Justice (NCAJ). Chris Albin-Lackey (room 7-170) is the Legal and Policy Director of the NCAJ. Please speak with any of us if you have questions about the seminar.

Writing Assignments:

In advance of every class, each student will prepare one good question (more is fine) that she or he believes would prompt interesting classroom discussion about the week's readings (submitted by 5pm via email the Friday before the following Tuesday's class).

Each student will produce three memos, up to five pages (each) in length, during the semester, which in turn will help build the foundation of a clear, well-researched, final paper of 15 to 20 pages. These are due as follows (written submissions by 5pm via email):

1. Describe an access to justice system problem to solve, analyzing why it matters, and to whom, by February 11th.
2. Describe your proposed solution for the problem, analyzing strengths and weaknesses and comparing alternative solutions, by March 10th.
3. Describe reform campaign to secure change, analyzing capacities, tools, pathways, decision makers, by April 21st.
4. Write final paper, incorporating and revising drafts of three sections, by April 28th (extension available, with professors' prior approval.)

Readings: Reading materials will be distributed a week before class, via Twen.

Guest Speakers: During many of our class meetings, we will be joined by experts in various aspects of policy advocacy.

Final grades: Will be based largely on students' final paper, with consideration of the three memos and class attendance and class participation.

Overview

1. 1-21-20, AtJ Introduction
2. 1-28-20, Judith Goldiner, Legal Aid
3. 2-4-20, Rohan Pavuluri, Upsolve
4. 2-11-20, Priya Sarathy Jones, Fines and Fees Justice Center
5. 2-18-20, Discuss **1st Memo** on “The Problem”
6. 2-25-20, Carolyn Coffey, MFJ Legal Services
7. 3-3-20, Scott Levy & Runa Rajogopal, Bronx Defender
8. 3-10-20, Liberty Aldrich, Center for Court Innovation
9. 3-24-20, Discuss **2nd Memo** on “The Solution”
10. 3-31-20, Neil Steinkamp, Stout
11. 4-7-20, Jonathan Lippman, Latham & Watkins
12. 4-21-20, Katherine Alteneeder, Self Represented Litigants Network
13. 4-28-20, Discuss **3rd Memo** on “Campaign Strategies and Tools” and Discuss **Final Paper**

Speakers, Subjects & Readings:

I. Introduction

1. **Jan. 21: The Justice Reform Movement**
 - The meaning of access to justice
 - The specific justice reform agenda: peoples’ lives & practice areas
 - The justice reform agenda: systemic problems & solutions
 - Tools of reform: research, litigation, lobbying, communications, organizing, and more.
 - Decision-makers
 - Arc of the course, assignments, speakers, discussion, final papers

Readings:

- (1) Lizzie Presser, “Ambulance, Judge, Jail: When Debt Collectors Get to Decide Who Gets Arrested,” *Pro Publica*, October 16, 2019, <https://features.propublica.org/medical-debt/when-medical-debt-collectors-decide-who-gets-arrested-coffeyville-kansas/>
- (2) US Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, March 4, 2015. Read Executive Summary (pp. 1-6), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf
- (3) Vivek Sankaran, “Moving Beyond Lassiter: The Need for a Federal Statutory Right to Counsel for Parents and Child Welfare Cases,” *University of Michigan Law School Journal of Legislation*, 2017. Read Introduction (pp. 1-4), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2930&context=articles>

- (4) Emily Badger, “Many Renters who Face Eviction Owe Less than \$600,” New York Times, December 12, 2019, <https://www.nytimes.com/2019/12/12/upshot/eviction-prevention-solutions-government.html>
- (5) Rebecca Sandefur, *Access to What*, Daedalus: The Journal of the American Academy of Arts & Sciences (2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Sandefur.pdf
- (6) David Udell, *The Civil Legal Aid Movement: 15 Initiatives That Are Increasing Access to Justice in the United States*, New York Law School *Impact Journal*, 2016, http://digitalcommons.nyls.edu/cgi/viewcontent.cgi?filename=8&article=1000&context=impact_center&type=additional

II.

Justice Reform Campaigns in Specific Areas of Law

2. **Jan. 28:** **Housing Justice** – Judith Goldener, Attorney in Charge, Civil Law Reform Unit, Legal Aid Society of New York
 - (1) Chapter from Matthew Desmond’s book *Evicted: Poverty and Profit in the American City* (**attached**).
 - (2) Housing Justice for All website, showing Legal Aid Society Role in support of Housing Stability and Tenant Protection Act of 2019 (HSTPA) in New York State:
 - “Who we are,” at <https://www.housingjusticeforall.org/who-we-are-1>
 - “Our Platform,” at <https://www.housingjusticeforall.org/our-platform>
 - “Our Victories,” at <https://www.housingjusticeforall.org/our-victories>
 - (3) Summary of the HSTPA: <https://nlihc.org/resource/field-new-york-state-legislators-pass-housing-stability-and-tenant-protection-act-2019>
 - (4) **Briefly skim** Part Q of the HSTPA Final Bill, available here: https://nyassembly.gov/leg/?default_fld=&leg_video=1&bn=A08433&term=2019&Summary=Y&Text=Y

- (5) Right to Counsel NYC Coalition, on which Legal Aid Society Serves in Steering Committee, **Read “Right to Counsel, Power to Organize,”** at https://www.righttocounselnyc.org/right_to_counsel_power_to_organize_campaign
- (6) *Universal Access to Legal Services – A Report on Year Two of Implementation in New York City*, **Read Introduction**, 1-7, at: https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf

3. Feb. 4: Bankruptcy Justice & Technological Innovation in Civil Justice -
Rohan Pavuluri, Founder & CEO, Upsolve

- (1) Shannon Farley, *Legal Tech is Opening the System to Those Who Need Legal Representation the Most*, Tech Crunch (3/13/2018), <https://techcrunch.com/2018/03/13/legal-tech-is-opening-the-system-to-those-who-need-legal-representation-the-most/>
- (2) Bob Ambrogi, *LSC's \$4.2 Million in Technology Grants Illustrate How Tech is Driving Access to Justice*, LawSites Blog (10/25/19), <https://www.lawsitesblog.com/2019/10/lscs-4-2m-in-technology-grants-illustrate-how-tech-is-driving-access-to-justice.html>
- (3) *Too Broke for a Fresh Start*, Consumer Corner, American Bankruptcy Institute (Feb. 2019)(attachment)
- (4) End of Year Letter from Rohan Pavuluri to Upsolve’s External Partners (12-16-19) (attachment)
- (5) *Nonprofit Upsolve Helps Individuals Get out of Debt* (podcast)(7-25-19), <https://www.philanthropy.com/article/Nonprofit-Upsolve-Helps/246769>
- (6) Upsolve Website, <https://upsolve.org>.

4. Feb. 11: Fines & Fees Justice, “Free to Drive” Campaign - Priya Sarathy Jones, National Campaign Director, Fines and Fees Justice Center

- (1) Lawyers’ Committee for Civil Rights Under Law, *Too Poor to Pay: How Arkansas’ Offender-Funded Justice System Drives Poverty and Mass Incarceration*, **pp. 1-14**

(https://adobeindd.com/view/publications/f3b39ab5-1da5-409e-97a6-a0b060d2f578/1/publication-web-resources/pdf/FINAL_ARReport_Draft1_031419.pdf), .

- (2) US Department of Justice, “Dear Colleague Letter” on fines and fees enforcement (**read entire letter**; note that the Trump Administration rescinded this guidance).
<https://finesandfeesjusticecenter.org/content/uploads/2018/11/Dear-Colleague-letter.pdf>
- (3) Mario Salas and Angela Ciolfi, *Driven by Dollars: A State-by-State Analysis of Driver’s License Suspension Laws for Failure to Pay Court Debt*, Legal Aid Justice Center, (**pp. 1-12**).
<https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>.
- (4) On Free to Drive Campaign website, <https://www.freetodrive.org>, read maps under the “maps” tab, watch videos, and skim through materials under “resources” tab.

[1st Memo Due 2-11-20]

5. **Feb. 18:** ***Discuss 1st memo:*** “Define a justice problem to solve, analyzing why it matters and to whom.”
 - (1) Assignment Memo #1 - outlining factors to consider in identifying a significant policy problem amenable to a viable solution.
 - (2) Report, *From the Streets to the Courts to City Hall: A Case Study of a Comprehensive Campaign to Reform Stop-and-Frisk in New York City*, Atlantic Philanthropies (2017)
http://www.atlanticphilanthropies.org/wp-content/uploads/2017/10/CPR_CaseStudy.pdf
6. **Feb. 25:** **Consumer Debt Justice** - Carolyn Coffey, Director of Litigation for Economic Justice, MFJ Legal Services
 - (1) Carolyn E. Coffey & Johnson M. Tyler, *Advocacy Note: Public Interest Lawyers Are Key in Passage of Landmark Legislation to Stem “Sewer Service” in New York City*, 44 Clearinghouse Review 405 (Nov. - Dec. 2010), available at <http://mobilizationforjustice.org/wp-content/uploads/Public-Interest-Lawyers-Are-Key-in-Passage-of-Landmark-Legislation-to-Stem-Sewer-Service-in-NYC.pdf>.

- (2) *Sykes v. Mel Harris et al.*, 757 F. Supp.2d 413 (S.D.N.Y. 2010), <https://www.leagle.com/decision/infdco20101230c32>
- (3) Former Chief Judge Jonathan Lippman, Law Day 2014 Speech, available at <http://www.nycourts.gov/courts/appeals/lawday14trans.pdf> (ONLY pages 9-18)
- (4) Carolyn E. Coffey and Claudia Wilner, *Dangerous Debt Collection Legislation Would Hurt Low-Income Americans*, The Hill, Nov. 21, 2018, available at <https://thehill.com/blogs/congress-blog/politics/417861-dangerous-debt-collection-legislation-would-hurt-low-income#bottom-story-socials>.

7. Mar. 3: Bail and the Movement for Transformational Holistic Public Defense
 – Scott Levy, Chief Policy Counsel, and Runa Rajagopal, Managing Director of Civil Action Practice, Bronx Defenders

- (1) *Opinion, Give the New Bail Reform Law Time to Work*, by Mara Gay, The New York Times <https://nyti.ms/2OVIHSj> (2-24-20)
- (2) *Diary of a Civil Public Defender: Critical Lessons for Achieving Transformative Change on Behalf of Communities*, by Runa Rajagopal (2019) <https://ir.lawnet.fordham.edu/ulj/vol46/iss4/3/>
- (4) *Memorandum to Governor Andrew Cuomo from Over 100 Community & Advocacy Groups Across New York State*, regarding Bail Reform in New York (November-December 2017)
- (5) *Three Years on Rikers without Trial*, The New Yorker, Before the Law, by Jennifer Gonnerman (9-29-14)

III.
Cross-Cutting Themes in the
Justice System Reform Movement

8. Mar. 10: [not held 3-10-20, due to suspension of classes] Treatment Courts
 – Liberty Aldrich, Managing Director and General Counsel, Center for Court Innovation

- (1) Mike Rempel, *Drug Courts*, Encyclopedia of Criminology and Criminal Justice (2014) (attached)

- (2) Hon. Eugene M. Hyman and Liberty Aldrich, Esq., *Rethinking Access to Justice: The Need for a Holistic Response to Victims of Domestic Violence* (attached)
- (3) Katie Crank, Kenton Kirby, *Responding to Trauma Among Young Men of Color*,
[http://www.courtinnovation.org/sites/default/files/documents/Responding To Trauma Among Young MenOfColor_Revised.pdf](http://www.courtinnovation.org/sites/default/files/documents/Responding%20To%20Trauma%20Among%20Young%20Men%20Of%20Color_Revised.pdf)
- (4) Video - *What is a Community Court?*, Center for Court Innovation
<https://www.courtinnovation.org/publications/what-community-court> (1 minute)(2019)
- (5) Video - *They Treated Me Like a Person: Inside the Red Hook Community Justice Center*, Center for Court Innovation,
<https://www.courtinnovation.org/publications/they-treated-me-person-inside-red-hook-community-justice-center> (12 minutes)(2015)

[2nd memo Due 3-10-20]
[Spring Break, No Class, 3-17-20]

9. **Mar. 24:** **Discuss 2nd memo:** “Define policy solution for the problem, analyzing strengths and weaknesses.”
 - (1) Assignment Memo #2 - outlining factors to consider in identifying a viable policy solution to a significant policy problem.
10. **Mar. 31:** **Data & Civil Justice Reform** – Neil Steinkamp, Managing Director, Stout
 - (1) Stout, *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants, Prepared for the Philadelphia Bar Association’s Civil Gideon and Access to Justice Task Force*,
https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/Philadelphia%20Evictions%20Report_11-13-18.pdf
11. **April 7:** **Role of the Judiciary & Courts in Civil Justice** – Former NYS Chief Judge Jonathan Lippman, Senior Counsel, Latham & Watkins
 - (1) Chief Judge Jonathan Lippman, Charles Evans Hughes Lecture, New York County Lawyers Association (Nov. 30, 2015),
https://www.nycla.org/siteFiles/Publications/Publications1775_0.pdf

- (2) Hon. Jonathan Lippman, “The Judiciary as the Leader of the Access to Justice Revolution,” Twentieth Annual Justice William J. Brennan Lecture on State Courts and Social Justice, NYU Law (March 11, 2014), <https://ncforaj.org/wp-content/uploads/2014/03/CJ-Lippman-Brennan-3-11-14.pdf>
- (3) Ben Trachtenberg, “Rethinking Pro Bono,” Op Ed, The New York Times (May 13, 2012) <https://www.nytimes.com/2012/05/14/opinion/a-better-pro-bono-plan.html>
- (4) “Sunday Dialogue: Public Service for Lawyers, Readers debate a 50-hour pro bono requirement in New York,” Letters, The New York Times (June 2, 2012), <https://www.nytimes.com/2012/06/03/opinion/sunday/sunday-dialogue-public-service-for-lawyers.html>
- (5) “In the Matter of the Amendment of the Rules of the Court of Appeals for Admission of Attorneys and Counselors of Law, Pursuant to Section 53 of the Judiciary Law,” Court of Appeals of the State of New York (Sept. 14, 2012), http://ww2.nycourts.gov/sites/default/files/document/files/2018-08/Rule520_16_0.pdf
- (6) Assignment Memo #3 - describe a reform campaign to secure accomplish the proposed solution, analyzing capacities, tools, pathways, and decisionmakers

[Administrative Monday, No Class, 4-14-20]

12. April 21: “Self-Representation” – Katherine Alteneder, Executive Director, Self-Represented Litigants Network

- (1) Watch Learning about Legal Self-Help, California’s Self-Help Centers (2017), <https://www.srln.org/node/1252/video-what-court-self-help-center-ca-2017> (9 min video)
- (2) Prepare to discuss your thoughts about self-help after reviewing instructions and options in several areas of law (your discretion) on the NY Courts’ “Court Help” site, <https://nycourts.gov/courthelp>.
- (3) Complete a single “Do it Yourself” (DIY) form in an “uncontested divorce” case (for students with last names starting A-M), or in a “custody/visitation modification” case (for students with last names starting N-Z). Find these forms on the DIY Forms webpage, <https://nycourts.gov/CourtHelp/DIY/index.shtml>.

- (4) Please skim the Self Represented Litigants Network website, srln.org.
- (5) Please skim “Best Practices for Court Help Centers,” by Rochelle Klempner, Esq., Chief Counsel, New York State Courts Access to Justice Program, https://www.srln.org/system/files/attachments/NYSA2J_BestPracticesHelpCenter%282015%29.pdf
- (6) Please skim “Justice for All Initiative” website, <https://www.ncsc.org/jfa>, and Guidance Materials, <https://www.ncsc.org/~media/Microsites/Files/JFA/PDF-JFA-Guidance-Materials.ashx>.

[3rd Memo Due 4-21-20]

13. **April 28:** *Discuss 3rd memo, final paper, & civil justice reform movement:*
“Describe reform campaign to secure policy solution, analyzing capacities, tools, pathways, decisionmakers.”

[Final Paper Due, 4-28-20]