

PRELIMINARY SYLLABUS FOR SPRING 2003
CRJ 80700: CHALLENGES TO AMERICAN LEGAL TRADITIONS
DR. ADINA SCHWARTZ
aschwartz@jjay.cuny.edu

I. The Value of Formal Law

- A. Eugene D. Genovese, "The Hegemonic Function of the Law," in *Roll, Jordan, Roll: The World the Slaves Made* 25-49 (Vintage Books 1976)
- B. E.P. Thompson, "The Rule of Law," in *Whigs and Hunters: The Origins of the Black Act* 258-269 (Pantheon Books 1975)

II. The Anglo-American Adversary System vs. the Continental Inquisitory System

Mirjan Damaska, *Evidence Law Adrift* (Yale University Press 1997); Central Provisions of the Federal Rules of Evidence

III. The Erosion of the Adversary System

A. Assembly-Line Justice

Jane Fritsch & David Rohde, "Legal Help Often Fails New York's Poor," NY Times, April 8, 2001

Jane Fritsch & David Rohde, "For New York's Poor, a Lawyer with 1,600 Clients," NY Times, April 9, 2001

Mike McConville & Chester Mirsky, "Guilty Plea Courts," *Social Problems* 42:216-232 (1995)

B. Effective Assistance of Counsel

United States v. Cronin, 466 U.S. 648 (1984)

Strickland v. Washington, 466 U.S. 668 (1984)

Bell v. Cone, 535 U.S. 685 (2002)

III. Problem-Solving Courts

A. Drug Treatment Courts

In James L. Nolan, Jr. (ed.), *Drug Courts in Theory and in Practice* (Aldine De Gruyter 2002):

Elaine M. Wolf, "Systematic Constraints on the Implementation of a Northeastern Drug Court," pp.27-50; Sara Steen, "West Coast Drug Courts," pp.51-67; Morris B. Hoffman, "The Denver Drug Court and Its Unintended Consequences," pp. 67-88; James L. Nolan, Jr., "Separated by an Uncommon Law: Drug Courts in Great Britain and America," pp.89-112; Richard C. Boldt, "The Adversary System and Attorney Role in the Drug Treatment Court Movement," pp.115-144; John Terrance A. Rosenthal, "Therapeutic Jurisprudence and Drug Treatment Courts," pp.145-172; Philip Bean, "Drug Courts, the Judge and the Rehabilitative Ideal," pp.235-254

B. Community Courts

John Feinblatt, Greg Berman & Michele Sviridoff, "Neighborhood Justice: Lessons from the Midtown Community Court" (1998), available at http://www.courtinnovation.org/pdf/neigh_just.pdf

Greg Berman & David Anderson, "Drugs, Courts and Neighborhoods: Community Reintegration and the Brooklyn Drug Treatment Court (1999), available at http://www.courtinnovation.org/pdf/dru_cour_neigh.pdf

Jeffrey Fagan and Victoria Malkin, "Theorizing Community Justice," *Fordham Urban Law Journal* (forthcoming, 2003)

IV. Alternatives to Courts

In Sally M. Merry & Neal Milner (eds.), *The Possibility of Popular Justice: A Case Study on Community Mediation in the United States* (U. Mich. Press 1993):

Peter S. Adler, "The Future of Alternative Dispute Resolution: Reflections on ADR as a Social Movement," pp. 67-88; Fredric L. DuBow with Elliot Currie, "Police and 'Nonstranger' Conflicts in a San Francisco Neighborhood: Notes on Mediation and Intimate Violence," pp. 329-353; Barbara Yngvesson, "Local People, Local Problems and Neighborhood Justice: The Discourse of 'Community' in San Francisco Community Boards," pp. 379-400

COURSE REQUIREMENTS AND CALCULATION OF GRADES

This course is intended to be a seminar in which students critically analyze the assigned readings and put forth and critically respond to each others' positions during class. Hence, readings may be added or subtracted, depending on the pace of class discussion.

In accord with the goal of conducting a seminar, rather than a lecture course, 25% of each student's grade will be based on his or her contributions to class discussion. Another 25% of the grade will be based on six-eight short (1-3 page) papers. These papers, due at the beginning of class sessions (late papers will not be accepted!), are to stimulate class discussion by raising issues and lines of arguments in regard to the assigned readings.

The remaining 50% of the grade will be based on two-three longer (6-8 page) papers in which students will be required to respond to specific questions handed out two weeks before the papers are due (again, no late papers accepted!). The goal of these "thinking" (as opposed to research) papers is for students to demonstrate precise understanding of the concepts and critical and independent consideration of the issues involved in the readings and in class discussion.