

CJ 202: 388: 01: EVIDENCE AND WITNESSING (SPRING 2018)

PROFESSOR: NINA SIULC (*pronounced Schultz*)

Office: 309 Ruth Adams Building, Douglass Campus, Department of Anthropology

Office Hours: Monday 1:30 – 3 (in CJ Department), or by appointment Wednesdays and Thursdays

Contact: nina.siulc@rutgers.edu

COURSE MEETINGS: Monday and Thursday 10:20 – 11:40 Livingston Campus, Lucy Stone Hall B115

COURSE DESCRIPTION

This course provides an introduction to the multiple methods people use to document and express legal claims and the injustices they have witnessed or endured. We will consider the role of various forms of evidence, witnessing, testimony, and reporting in formal legal contexts and in the public sphere. Course materials present examples from the United States and around the world that involve written and spoken narrative and testimony, research data and statistics, and media and expressive cultures (documentary, music, poetry) in people's claims about truth, justice, and rights. This is a 300-level course.

COURSE DETAILS

- **Attendance** is required for success and will be taken each class meeting. Students who miss more than 1/3 of class meetings will automatically fail the course even if they complete all assignments. Students will be marked absent or asked to leave if they use cell phones or use laptops for purposes other than taking class notes. Please note, this policy will be strictly enforced. Students are not permitted to text, use social media, surf the web, or engage in other electronically-mediated distracting behavior during class.
- **Course communications** will be posted on Sakai well in advance of each class meeting. Students must have active email accounts and check their email for periodic communications. Please note: if you need to reach the professor urgently, send an email to nina.siulc@rutgers.edu. We can always arrange a time to speak by phone if necessary. For non-urgent matters, students can expect a response within 24 hours during regular business hours. Last-minute questions about assignments and exams sent less than 24 hours before the due date may not be answered.
- **Readings** are posted on Sakai or hyperlinked from the syllabus on Sakai. Students are required to complete all readings before class and should come to class prepared to participate and engage with assigned discussion questions. There are no books to purchase. Students should budget funds to print some readings and writing assignments.
- **Assignments** include a series of short assignments, quizzes, two essays, and a final exam. Students should expect to submit short assignments every few weeks through Sakai. Please note: late assignments will be penalized and may not be accepted. Additional style guidelines are listed at the back of this syllabus. Students will lose points for failing to follow appropriate paper style and citation guidelines.
- **Grades** will be based on a 105-point system that enables students to track their own progress. Assignments and quizzes = 65 points; two essays = 20 points; final exam = 20 points. Points correspond to the standard Rutgers grading scheme, available here:
- **Academic integrity** is governed by the university's code of conduct, which prohibits cheating, fabrication, plagiarizing, and facilitating dishonesty. Students should familiarize themselves with the university's standards as well as the required sanctions attached to violations of these standards: <http://academicintegrity.rutgers.edu/academic-integrity-policy/>
- **Requests for accommodations** must be made well in advance of assignment due dates and arranged through the Office of Disability Services, <https://ods.rutgers.edu>

STATEMENT ABOUT COURSE OBJECTIVES

This is a course in learning how to analyze and apply concepts, not how to memorize facts. Most of the concepts discussed in this class do not have one simple definition. Sometimes students may be puzzled by the lack of clarity and the conflicting meanings attached to a single term or idea. That is expected, as our task is in part to examine how truth and knowledge are defined. Instead of seeking statements of fact, students should leave the class able to explain the multiple ways people define and make claims about evidence and truth in their quests for justice. At the same time, class lectures and discussions will focus on specific arguments in assigned readings. Our goal is to understand, engage with, and attempt to apply these ideas, and to discuss and evaluate them in relation to the overall themes of the class. Students are expected to know the names of the authors we read and the arguments and ideas attached to those authors (see reading guide at the back of this syllabus).

COURSE OUTLINE AND ASSIGNMENTS

INTRODUCTION

Thursday 1/18

Course Introduction and Overview

Goals: review structure and content of the course

- *Screening in class: Episode 1 of the Colbert Show on “truthiness” and 2016 Episode on post truth.*
- *Assignment to be completed after class and by 1/28: Log on to Sakai, access “Test Assignment,” and follow the instructions. This will confirm that you know how to complete assignments in Sakai.*

Monday 1/22

Introduction to Key Concepts

Goals: review basic structure of U.S. legal system, introduce key course concepts

- *Read: Friedman, Lawrence (2004) “Chapter 1: Law in America,” Law in America: A Short History. New York: Random House.*

Note: Students are strongly encouraged to make add/drop decisions by this date. Last day to drop classes without penalties is Tuesday 1/23. Last day to add is Wednesday 1/24.

ESTABLISHING EVIDENCE, EXPERTISE, AND FACT

Thursday 1/25

Federal Rules of Evidence

Goals: students should be able to articulate the main facets of the federal rules of evidence since Daubert

- *Read: Saks, Michael J. and David L. Faigman (2005) “Expert Evidence After Daubert,” 1 Annual Review of Law and Social Sciences 105-130.*
- *Recommended additional reading: Berger, Margaret A. (2005) “What Has a Decade of Daubert Wrought?” 95 American Journal of Public Health S59-S65 (S1).*
- *Recommended additional reading: Imwinkelreid, Edward J. (1996) “Admissibility of Nonscientific Expert Testimony: Should Courts Import the Near Miss Doctrine?” 32 Trial 58-61 (10).*

Monday 1/29

Knowledge Production and Expertise: Ways of Knowing

Goals: students should be able to explain the concepts of objectivity and subjectivity, situated knowledge, positivism, empiricism, contextualism, and normativity; students should begin to distinguish between different methods for gathering evidence and making claims about truth.

- *Read for a definition of “situated knowledge”:* Haraway, Donna (1988) “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective,” 14 *Feminist Studies* 575-599 (3).
- *Read:* Tebes, Jacob Kraemer (2005) “Community Science, Philosophy of Science, and the Practice of Research,” 35 *American Journal of Community Psychology* 213-230 (3/4).

Thursday 2/1

Facts and Truth Claims: How We Know What We Know

Goals: students should be able to explain the idea of “social construction of facts” and to discuss what we need to consider before accepting statements as facts; students should begin to consider the role of power in shaping perceptions of truth.

- *Read:* Herzfeld, Michael (1998) “Factual Fissures: Claims and Contexts,” 560 *Annals of the American Academy of Political and Social Science* 69-82.
- *Recommended additional reading:* Bruner, Jerome (1998) “What is a Narrative Fact?” 560 *Annals of the American Academy of Political and Social Science* 17-27.

Monday 2/5

Forensic Evidence

Readings TBD

Thursday 2/8

TBD

Monday 2/12

Truth in Written Accounts

Goals: students should be able to list indicators of truth in statements given to law enforcement

- *Read:* Adams, Susan H., and John P. Jarvis (2004) “Are You Telling Me the Truth? Indicators of Veracity in Written Statements,” 73 *FBI Law Enforcement Bulletin* 7–12 (10).

WITNESSING

Thursday 2/15

Ways of Seeing

Goals: students should be able to explain the multiple types of witnessing described by Peters and Frosh.

- *Read:* Peters, John Durham (2001) “Witnessing,” 23 *Media, Culture, and Society* 707-723.
- *Read:* Frosh, Paul (2006) “Telling Presences: Witnessing, Mass Media, and the Imagined Lives of Strangers,” 23 *Critical Studies in Media Communication* 265-284 (4).
- *Screening in class:* *The Camera Man* (2009). *This American Life Series. Showtime.*

Monday 2/19

Eyewitness Accounts

Goals: students should be able to explain best practices for working with eyewitnesses and the concept of “change blindness.”

- *Read:* Wells, Gary L., et al. (2000) “From the Lab to the Police Station: A Successful Application of Eyewitness Research,” 55 *American Psychologist* 581-598 (6).

- *Recommended additional reading:* Leach, Amy-May, Brian L. Cutler, and Lori Van Wallendael (2009) "Lineups and Eyewitness Identification," *5 Annual Review of Law and Social Science* 2.1-2.22.
- *View in class:* videos on change blindness.

Thursday 2/22

Eyewitness Identification Reform and Snitching

Goals: students should add to their understanding of best practices for working with eyewitnesses and should be able to explain two different understandings of "snitching."

- *Read:* Fact sheet by the Innocence Project on Eyewitness Identification Reform.
- *Look at:* Innocence Project website: <http://www.innocenceproject.org/understand/Eyewitness-Misidentification.php>
- *Read:* Northwestern University School of Law (ND) "How Snitch Testimony Sent Randy Steidl and Other Innocent Americans to Death Row: A Center on Wrongful Convictions Survey," Center on Wrongful Convictions at Northwestern University.
- *Screening in Class:* CBS Special on Snitching (April 19, 2007).

DEFINING A RIGHT TO RIGHTS

Monday 2/26

Legal Consciousness

Goals: students should be able to explain and give examples of the concept of legal consciousness.

- *Read:* Merry, Sally (1990) "Chapter 3: Legal Consciousness and Types of Problems," *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans*. Chicago: University of Chicago Press.
- *Additional reading TBD*

Thursday 3/1

Who Has a Right to Rights?

Goals: students should be able to explain different meanings and types of citizenship and to answer the question of who has a right to rights.

- *Read: Readings TBD*

Monday 3/5

Authenticity

Goals: students should be able to discuss the concept of authenticity using examples from Rivera's book.

- *Read:* Rivera, Raquel Z. (2003) "Chapter 5: Ghetto-centricity, Blackness and Pan-Latinidad: The Mid to Late 1990s," and "Chapter 6: Latin@s Get Hot and Ghetto-Tropical," *New York Ricans from the Hip Hop Zone*. New York: Palgrave Macmillan.

CULTURAL PERFORMANCE

Thursday 3/8

Social Justice and Cultural Performance

Goals: students should be able to explain and apply the concepts of "poetry on the margins" and discuss arguments about information bias in journalism; students will be introduced to "autoethnography."

- *Read:* Ehrlich, Matthew C. (2003) "Poetry on the Margins: Ghetto Life 101, Remorse and the New Radio Documentary," *4 Journalism* 423-439 (4).

- *Read:* Klein, Roger D, and Stacy Naccarato (2003) “Broadcast News Portrayal of Minorities: Accuracy in Reporting,” 46 *American Behavioral Scientist* 1611-1616 (12).

3/10 – 3/18: Spring Break

Monday 3/19

Taking Truth to the Streets: Public Claims of Injustices

Goals: students should refresh their memories after a week off for spring break by applying course concepts to public claims of justice and tensions over power and truth portrayed in Justifiable Homicide

- *No readings!*
- *Screening in class: Justifiable Homicide (2002). Jonathan Osman.*

Thursday 3/22

Taking Truth to the Streets, Part II

Goals: students should be able to use this week’s case studies to give examples of how local context influences claims to justice and rights and perceptions of credibility and truth

- *Finish and discuss screening of Justifiable Homicide*
- *Read:* Bergman, Marcelo, and Mónica Szurmuk (2001) “Gender, Citizenship, and Social Protest: The New Social Movements in Argentina,” in I. Rodríguez, ed., *The Latin American Subaltern Studies Reader*. Durham, NC: Duke University Press: Durham, NC.

Monday 3/26

Social Justice and Cultural Performance: Visual Voices

Goals: students should build on previous discussions to explain additional ways in which art and performance are used to make claims, in this case through “visual voices;” students should be able to articulate additional debates about and examples of authenticity and authorship.

- *Read:* Cardalda Sánchez, Elsa, and Amílcar Tirado Avilés (2001) “Ambiguous Identities! The Affirmation of Puertorriqueñidad in the Community Murals of New York City,” in A. Laó-Montes and A. Dávila, eds, *Mambo Montage: The Latinization of New York*. New York: Columbia University Press.
- *Look at:* website of TatsCru: <http://www.tatscru.com/tats.html>
- *Look at:* 80 Beautiful Street Crimes Done by Banksy: <http://www.boredpanda.com/80-beautiful-street-crimes-done-by-banksy/>
- *Read on Banksy:* <http://www.dailymail.co.uk/femail/article-1034538/Graffiti-artist-Banksy-unmasked---public-schoolboy-middle-class-suburbia.html>
- *Look at:* The Cyber Bench: Documenting NYC Graffiti: <http://www.at149st.com/index.html>

TECHNOLOGIES OF WITNESSING AND HUMAN RIGHTS CLAIMS

Thursday 3/29

Technologies of Witnessing

Goals: students should be able to explain what role technologies such as video cameras play in witnessing; how these technologies have impacted human rights activism; and how human rights activists use media to effectively communicate to their audiences.

- *Read:* McLagan, Meg (2006) “Introduction: Making Human Rights Claims Public. Technologies of Witnessing: The Visual Culture of Human Rights,” 108 *American Anthropologist* 191-195 (1).
- *Read:* Gregory, Sam (2006) “Transnational Storytelling: Human Rights, WITNESS, and Video Advocacy,” 108 *American Anthropologist* 195-204 (1).
- *Look at:* Witness website: <http://www.witness.org/>

Monday 4/2

Personal and Public Response to Suffering

Goals: students should be able to explain the concept of structural violence, multiple definitions of suffering, social suffering, and differences between personal and public responses to suffering.

- *Read:* Farmer, Paul (2007) “On Suffering and Structural Violence: A View from Below,” in A. Kleinman, V. Das, and M. Lock, eds, *Social Suffering*. Berkeley and Los Angeles: University of California Press.
- *Read:* Morris, David B. (2007) “About Suffering: Voice, Genre, and Moral Community,” in A. Kleinman, V. Das, and M. Lock, eds, *Social Suffering*. Berkeley and Los Angeles: University of California Press.
- *Read:* Schwarcz, Vera (2007) “The Pane of Sorrow: Public Uses of Personal Grief in Modern China,” in A. Kleinman, V. Das, and M. Lock, eds, *Social Suffering*. Berkeley and Los Angeles: University of California Press.

Thursday 4/5

Remembering to Forget

Goals: students should be able to explain the concept of compassion fatigue and link this to ideas from the previous two classes and to explain the idea of “remembering to forget”

- *Read:* Cohen, Stanley, and Bruna Seu (2002) “Knowing Enough Not to Feel Too Much,” in M.P. Bradley and P. Petro, eds., *Truth Claims: Representation and Human Rights*. New Brunswick, NJ: Rutgers University Press.
- *Read:* Young, Marilyn B. (2002) “Remembering to Forget,” in M.P. Bradley and P. Petro, eds., *Truth Claims: Representation and Human Rights*. New Brunswick, NJ: Rutgers University Press.

Monday 4/9

Truth Commissions

Goals: students should be able to describe the purposes and limitations of truth commissions and “organized truth telling” as well as the meaning and challenges of reconciliation

- *Read:* Stanley, Elizabeth (2002) “What Next? The Aftermath of Organised Truth Telling,” 44 *Race and Class* 1-15 (1).
- *Read:* Greg Grandin (2005) “The Instruction of Great Catastrophe: Truth Commissions, National History and State Formation in Argentina, Chile and Guatemala,” 110 *American Historical Review* 46-67 (1).

NARRATIVE, TESTIMONY, AND CREDIBILITY IN THE LEGAL PROCESS

Thursday 4/12

Reason and Emotion in the Legal Process

Goals: students should be able to identify the role of emotion, reason, and empathy in the legal process

- *Read:* Bandes, Susan (1996) “Empathy, Narrative, and Victim Impact Statements,” 63 *The University of Chicago Law Review* 361- 412 (2). READ pages 361 – 382 (through the end of Section I).
- *Read:* TBD on implicit bias in court proceedings

Monday 4/16

Fact Finding and Credibility

Goals: students should be able to discuss and analyze how credibility is established in legal narratives

- *Read:* Bohmer, Carol and Amy Shuman. 2007. Producing Epistemologies of Ignorance in the Political Asylum Application Process. *Identities* 14(4): 603 - 629.
- *Read:* McKinley, Michelle. Life Stories, Disclosure and the Law. 1997. *PoLAR* 20(2): 71-82.

Thursday 4/19

- *In class screening: Well-Founded Fear. Absence counts double.*

Monday 4/23

Narrative and Life Stories in the Law

Goals: discuss the role of translation in life history accounts and continue discussion of credibility in legal narratives

- *Read:* Banes, pages 382 - 390 (Section II).
- *Read:* TBD on narrative as constructed account
- *Finish in class screening of Well-Founded Fear*

Thursday 4/26

Victim Impact Statements

- *Read:* Banes, pages 390 – 412 (Section III through the end of the article)
- *Read:* TBD on victim impact statements

Monday 4/30: *End of Semester Review, Last day of class*

FINAL EXAM DATE TBD

PAPER PREPARATION

GUIDELINES FOR PAPERS (MUST BE FOLLOWED FOR FULL CREDIT)

- Use 11- or 12-point font, black ink;
- Double space. Indent each new paragraph, but do not insert additional spaces between paragraphs;
- Use 1-inch margins on all four sides (note—the default in Word is 1.25);
- Number all pages;
- Use block quotes sparingly (for quotes exceeding three lines);
- Spell-check and edit papers for clarity;
- Use Law and Society Review citation style (attached);
- Avoid citing the entire title of a source in your paper, instead refer to readings by the author's name;
- Students who submit papers that are incomplete, illegible, or containing substantial errors will be asked to re-write the papers before being issued a grade.

GRAMMAR AND WRITING STYLE GUIDES

Students are strongly encouraged to consult or purchase style guides. Some suggestions include:

- *Chicago Manual of Style*
- *A Manual for Writers of Term Papers, Theses, and Dissertations*, by Kate Turabian
- *The Elements of Style*, by Strunk and White
- *MLA Handbook for Writers of Research Papers*, by Joseph
- *Woe is I: The Grammarphobe's Guide to Better English in Plain English*, by Patricia O'Connor
- Grammar Girl's Blog: <http://grammar.quickanddirtytips.com/>

READING GUIDE

Specific reading questions will be assigned in class most weeks. In the absence of customized reading questions, students should consult each week's goals and use them as a guide in reading in addition to the general questions below.

1. Who is the author? We will refer to readings by the author's last name in class discussion and written work. Having your syllabus with you at all times will help you keep this information handy. When you take notes, always include the author's name for your reference. Take note of any background information about the author that may help you understand that person's expertise or point of view.
2. What is the title of the reading and what does it mean? You should be able to explain what the title means and what concepts it references. This may require looking up the definition of some words.
3. What are the main points of the reading? You should be able to describe in a few sentences what each reading is about and what the author intended to communicate. Most authors state this explicitly. As you are reading, be on the lookout for statements of the main argument or focus.
4. What key terms/ concepts or words emerged in the reading?
5. What questions or points does the reading raise about the week's topic? How are the readings from the week related? What links them?
6. How does the reading connect to themes from other readings and class discussion?
7. What examples of the concepts from the reading can you apply outside the classroom or to other contexts? Try to apply the concepts and think of examples of other situations that fit into the theory or argument.
8. What methods or sources support the author's argument? In other words, how does the author know what she or he knows? Does the reading summarize findings from a research study? A legal case? An opinion? What kinds of sources are being referenced?
9. What was unclear to you about the reading? As you are reading keep a list of questions for class discussion. Be sure to read with a dictionary in case you encounter unfamiliar terms.
10. Finally, what is your assessment of the reading? Are the arguments convincing? Why or why not? What would you change about the argument? Does it seem current or outdated? Are the arguments particular to the context or specific case described? How or why?