

Reading List for MSJLS
Comprehensive Exam

Academic Year 2009-2010

The reading list below goes into effect for the **October, 2009** exam.

Area I. Law and Society

Theories of Justice

Hobbes, Thomas, *Leviathan*, chs. 13-18 (1651)

Locke, John, *Second Treatise of Civil Government* (1690).
Full text online at <http://www.constitution.org/il/2ndtreat.htm>

Nozick, R., *Anarchy State and Utopia*, (New York: Basic Books, 1974), ch. 2, 3, 7, 8.

Rawls, John, *A Theory of Justice*, chs. 1-4. (Cambridge, MA: Harvard University Press, 1971) (Other editions available – any edition OK)

Legal Theory

Dworkin, R., *Law's Empire* (Cambridge, MA: Harvard University Press, 1986)

Finnis, J., "Natural Law And Legal Reasoning", in Robert George, ed., *Natural Law Theory: Contemporary Essays* (Clarendon, 1992)

Hart, HLA, *Concept of Law*, Revised edition (Oxford: Clarendon Press, 1994) (Other editions available – any edition OK)

Outsider Jurisprudence

Delgado, Richard, et al., *Critical Race Theory: An Introduction* (NYU Press, 2001)

Kairys, David, ed. *The Politics of Law: A Progressive Critique*, 3rd ed. (Cambridge, MA: Basic Books, 1998) (Must be 3rd edition)

Selected Chapters: (Students, please remember to cite chapter authors, not book editors)

Kairys, D. Introduction

Mensch, E. History of mainstream legal thought

Kennedy, D. Legal education as training for hierarchy

Minow, M. Politics and procedure

Sarat, A. Going to court
Halley, J. Gay rights and identity limitation
Burns, H. Law and race in early America
Freeman, A. Antidiscrimination law from 1954 to 1989
Lawrence, C. Race and affirmative action

Law and Economics

Friedman, David. *Law's Order: What Economics Has to Do with Law and Why it Matters* (Princeton, 2000), ch. 1-4.

Feminist Legal Theory

Weisberg, D. Kelly, ed., *Feminist Legal Theory: Foundations* (Temple University Press, 1993).

Selected Chapters: (Students, please remember to cite chapter authors)

Taub, N., & Schneider, E.M. Women's subordination and the role of law

West, R. Jurisprudence and gender

Posner, R.A. Conservative feminism

Williams, W.W. Equality's riddle: Pregnancy and the equal treatment/special treatment debate

Krieger, L.J., & Cooney, P.N. The Miller-Wohl Controversy: Equal Treatment, Positive Action and the Meaning of Women's Equality

Hay, H.H. Equality and Difference: The Case of Pregnancy

Finley, L.M. Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate

Minow, M. Feminist Reason: Getting It and Losing It

Harris, A.P. Race and Essentialism in Feminist Legal Theory

Cain, P.A. Feminist Jurisprudence: Grounding the Theories

Kline, M. Race, Racism, And Feminist Legal Theory

Crenshaw, K. Demarginalizing the Intersection of Race And Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics

Olsen, F. Statutory Rape: A Feminist Critique of Rights Analysis

Williams, P.J. Alchemical Notes: Reconstructing Ideals from Deconstructed

Rights

Barlett, K.T. Feminist Legal Methods

Williams, P.J. On Being the Object of Property

Law and Social Science

Monahan, J., & L. Walker, *Social Science in Law* (Foundation Press, 1994), ch. 1; 4,II; 6,II; 7,I, II-C

Marx, Karl *On The Jewish Question*

Durkheim, *The Division of Labor In Society* (Glencoe, IL: The Free Press, 1947)

Weber, Max, *Protestant Ethic And The Spirit of Capitalism*

<http://xroads.virginia.edu/~HYPER/weber/toc.html>

Giddens, Anthony *Capitalism And Modern Social Theory*, (Cambridge, UK: CUP, 1971)

Civil and Common Law Traditions

Scalia, A., *A Matter of Interpretation: Federal Courts and the Law* (Princeton, NJ: Princeton University Press, 1997)

Franz Wieacker, "The Importance of Roman Law for Western Civilization and Western Legal Thought," *Boston College International and Comparative Law Review*, Vol. 4 (1981): 257-281

Charles Howard McIlwain, *Constitutionalism: Ancient and Modern* (1940)

Scott Gordon. *Controlling the State: Constitutionalism from Ancient Athens to Today* (1999)

Lynn Hunt, *Inventing Human Rights* (2007)

Area II. Justice and Public Policy

Prisoner Reentry

Maruna, S. (2000). *Making good: How ex-convicts reform and rebuild their lives*. APA.

Travis, J., & Visher, C. (Eds.). (2006). *Prisoner reentry and crime in America*. Cambridge University Press.

Select chapters:

(Students please remember to cite chapter authors, not book editors)

Travis, Jeremy, & Visher, Christy. (2006). Introduction: Viewing public safety through the reentry lens.

Petersilia, Joan. (2006). From cell to society: Who is returning home?

Blumstein, Al, & Beck, Allen J. (2006). Reentry as a transient state between liberty and recommitment.

Rosenfeld, Richard, Wallman, Joel, & Fornango, Robert. (2006). The contribution of ex-prisoners to crime rates.

Maruna, Shadd, & Toch, Hans. (2006). The impact of imprisonment on the desistance process.

Clear, Todd R., Waring, Elin, & Scully, Kristen. (2006). Communities and reentry: Concentrated reentry cycling.

Living in Prison: Stress, Coping, and Corrections

Haney, Craig. (2005b). *Reforming punishment: Psychological limits to the pains of imprisonment*. American Psychological Association.

Johnson, Robert. (2002). *Hard time: Understanding and reforming the prison*. Wadsworth (3rd ed)

Kruttschnitt, Candace, & Gartner, Rosemary. (2005). *Marking time in the Golden State: Women's imprisonment in California*. Cambridge University Press.

Oshinsky, D.M., (1996). *Worse than slavery: Parchman Farm and the ordeal of Jim Crow justice*. Free Press.

Liebling, A., & Maruna, S. (Eds.). *The effects of imprisonment*. Willan.

Select chapters:

(Students please remember to cite chapter authors, not book editors)

Irwin, John, & Owen, Barbara. (2005). Harm and the contemporary prison.

Harvey, Joel. (2005). Crossing the boundary : The transition of young adults into prison.

Johnson, Robert. (2005). Brave new prisons: The growing social isolation of modern penal institutions.

Rierden, Andi. (1997). *The farm : Life inside a women's prison*. University of Massachusetts Press.

Salzman, M. (2004). *True notebooks: A writer's year at juvenile hall*. New York: Alfred A. Knopf.

McShane, Marilyn D. (2008). *Prisons in America*. LFB Scholarly Publishing.

Hallinan, J. (2003). *Going up the river: Travels in a prison nation*. Random House.

Policing in Democratic Societies

Forst B., & Manning, P. (1999). *The privatization of policing: Two views*. Washington, D.C.: Georgetown University Press.

Muir, W. K. (1977). *Police: Streetcorner politicians*. Chicago, IL: University of Chicago Press.

Sherman, Lawrence W. (2002). Fair and effective policing. In J.Q. Wilson, & J. Petersilia (Eds.), *Crime: Public policies for crime control*. Oakland, CA: Institute for Contemporary Studies.

Skolnick, J. (1966/1975). *Justice without trial: Law enforcement in a democratic society* (2/ed). New York: Wiley.

Bittner, E. (1970). *The functions of the police in modern society*. Rockville, MD: National Institute of Mental Health.

Black, D. (1971). The social organization of arrest. *Stanford Law Review*, 23, 1087-1111.

Klinger, D. A. (1997). Negotiating order in patrol work: An ecological theory of police response to deviance. *Criminology*, 35, 277-306.

Greene, J. R., & Klockars, C. B. (1991). What police do. In C. B. Klockars, & S. D. Mastrofski (Eds), *Thinking about police: Contemporary readings* (pp 273-284). New York: McGraw-Hill.

Forst, Brian. (2004). *Errors of justice*. Cambridge University Press. [Chapter on Policing]

van Maanen, J.P. (1978). The asshole. In P. Manning & J. van Maanen(Eds.), *Policing: A view from the street*. Santa Monica, CA: Goodyear Publishing Co.

Police Behavior and Occupational Culture

Bennett, R., & Corrigan, R. (1980). Police occupational solidarity: Probing a determinant in the deterioration of police/citizen relations. *Journal of Criminal Justice*, 8, 111-122.

Crank, John. 1998. *Understanding police culture*. Cincinnati, OH : Anderson Pub.

Herbert, S. (1998). Police subculture reconsidered. *Criminology*, 36, 343-369.

Manning, P., & van Maanen, J. (Eds.). (1978). *Policing: A view from the street*. Santa Monica, CA: Goodyear Publishing.

Select chapters:

(Students please remember to cite chapter authors, not book editors)

van Maanen, P. (1978). The asshole

Manning, P. (1978). The police: Mandate, strategies, and appearances

Wilson, J.Q., (1968). *Varieties of police behavior*. Cambridge, MA: Harvard University Press.

Sentencing and Imprisonment Policy

Blumstein, Alfred. (2002). Prisons: A policy challenge. In J.Q. Wilson, & J. Petersilia (Eds.), *Crime: Public policies for crime control*. Oakland, CA: Institute for Contemporary Studies.

Kovandzic, Tomislav, Sloan, John J. III, & Vieraitis, Lynne M. (2004). "Striking out" as crime reduction policy: The impact of "Three strikes" laws on crime rates in U.S. cities. *Justice Quarterly*, 21(2), 207-240.

Lynch, James P., & Sabol, William J. (2000). Prison use and social control. In the National Institute of Justice (Ed.), *Criminal justice 2000. Vol. 3. Policies, processes, and decisions of the criminal justice system*. This chapter is in a four-volume anthology available online from NCJRS

The website for the four-volume Criminal Justice 2000 is at:

<http://www.ojp.usdoj.gov/nij/pubs-sum/cj2000.htm>

Lynch & Sabol chapter is at :

http://www.ncjrs.gov/criminal_justice2000/vol_3/03b.pdf

Schmertmann, Carl P., Amankwaa, Adansi A. & Long, Robert D. (1998). Three strikes and you're out: Demographic analysis of mandatory prison sentencing.

Demography, 35(4), 445-463.

Spelman, William. (2000). What recent studies do (and don't) tell us about imprisonment and crime. In M. Tonry (Ed.), *Crime and justice: A review of research*, Vol. 27. Chicago, IL: University of Chicago Press.

Tonry, Michael. (1996). *Sentencing matters*. New York: Oxford University Press.

Zimring, Franklin E. & Hawkins, Gordon. (1995). *Incapacitation: Penal confinement and the restraint of crime*. New York: Oxford University Press.

Zimring, Franklin E., Hawkins, Gordon & Kamin, Sam. (2001). *Punishment and democracy: Three strikes and you're out in California*. New York: Oxford University Press.

Criminology: Criminal Careers and Life-course Criminology

Moffitt, Terrie E. (1993). Adolescence-limited and life-course-persistent antisocial behavior: A developmental taxonomy. *Psychological Review*, 100(4), 674 - 701. [reprinted in Piquero & Mazerolle (Eds.), *Life-course criminology: Contemporary and classic readings*].

Blumstein, Alfred, Cohen, Jacqueline, & Farrington, David P. (1988). Criminal career research: Its value for criminology. *Criminology*, 26(1), 1-35.

Blumstein, Alfred, Cohen, Jacqueline, & Farrington, David P. (1988). Longitudinal and criminal career research: Further clarifications. *Criminology*, 26(1), 57-74.

Huesmann, L. Rowell, Eron, Leonard D., Lefkowitz, Monroe M. & Walder, Leopold O. (1984). Stability of aggression over time and generations. *Developmental Psychology*, 20(6), 1120-1134. [reprinted in Piquero & Mazerolle (Eds.), *Life-course criminology: Contemporary and classic readings*].

Cullen, F.T., Wright, J.P., & Belvins, K. (Eds.). (2006). *Advances in criminological theory: Vol. 15 Taking stock: The status of criminological theory*. New Brunswick, NJ; Transaction Publishers.

Select chapters:

(Students please remember to cite chapter authors, not book editors)

Laub, J.H., Sampson, R.J., & Sweeten, G.A. (2006). Assessing Sampson and Laub's life-course theory of crime

Moffitt, T.E. (2006). A review of research on the taxonomy of life-course persistent versus adolescence-limited antisocial behavior

Sampson, R.J., & Laub, J.H. (1992). Crime and deviance in the life course. *Annual Review of Sociology*, 18, 63-84.

Area III: Jurisprudence And Social Thought

Theories of Justice

Hobbes, Thomas, *Leviathan*

Locke, John, *Second Treatise of Civil Government* (1690).

Full text online at <http://www.constitution.org/il/2ndtreat.htm>

Rousseau, JJ., *Essay On The Origin of Inequality & The Social Contract*

Mill, J.S, *On Liberty*

Nozick, R., *Anarchy State and Utopia*, (New York: Basic Books, 1974), ch. 2, 3, 7, 8.

Rawls, John, *A Theory of Justice*, chs. 1-4. (Cambridge, MA: Harvard University Press, 1971) (Other editions available – any edition OK)

Political Liberalism Part II (New York, NY: Columbia University Press, 1993)

Walzer, M. *Spheres of Justice*

Sen, A.K., *Development As Freedom*

Legal Theory

Dworkin, R., *Law's Empire* (Cambridge, MA: Harvard University Press, 1986)

Finnis, J., “Natural Law And Legal Reasoning”, in Robert George, ed., *Natural Law Theory: Contemporary Essays* (Clarendon, 1992)

Hart, HLA, *Concept of Law*, Revised edition (Oxford: Clarendon Press, 1994)
(ONLY Edition with Hart's Response is OK..must be 1994 or later)

Pragmatic Jurisprudence

Coleman, Jules , *The Practice of Principle: In Defence of a Pragmatist Approach to Legal Theory* (Clarendon Law Lectures)

Kalman, Laura, *The Strange Career of Legal Liberalism*. New Haven: Yale University Press, 1996.

Law and Economics

Friedman, David. *Law's Order: What Economics Has to Do with Law and Why it Matters* (Princeton, 2000), ch. 1-4.

R. H. Coase ,The Problem of Social Cost [Journal of Law and Economics](#), Vol. 3, (Oct., 1960), pp. 1-44

[Calabresi, Guido](#) , Transaction Costs, Resource Allocation and Liability Rules - A Comment [11 J.L. & Econ. 67 \(1968\)](#)

Critical Jurisprudence

Delgado, Richard, Rodrigo's *Corrido*: Race, Postcolonial Theory, and U.S. Civil Rights, 61 Vand. L. R. (2008).

Kennedy, D. The Structure of Blackstone's Commentaries 28 Buff. L. Rev. 205 (1978-1979)

West, Robin, Jurisprudence And Gender, 55 U. Chi. L. Rev. 1 (1988)

Mackinnon, Catherine, *Only Words*, (Cambridge, MA: Harvard University Press, 1993) Chapters 1 and 3.

Okin, S. 1995. "Inequality Between the Sexes in Different Cultural Contexts," in Nussbaum, M. & Glover. J. *Women, Culture & Development*, pp. 274-297

Social Theory And The Foundations of Knowledge

Marx, Karl *On The Jewish Question*

Durkheim, *The Division of Labor In Society* (Glencoe, IL: The Free Press, 1947)

Weber, Max, *Protestant Ethic And The Spirit of Capitalism*
<http://xroads.virginia.edu/~HYPER/weber/toc.html>

Giddens, Anthony *Capitalism And Modern Social Theory*, (Cambridge, UK: CUP, 1971)

Lukes, Stephen, ['Diifferent Cultures, Different Rationalities?](#) Journal of the History of the Human Sciences, 13, 1. February 2000, pp. 5-18

Ayer, A.J. *Language Truth And Logic* (London: Gollancz. (2nd. Edition, 1946.)

Freedman, Milton, The Methodology of Positive Economics in Readings in the Philosophy of Social Science, Martin, M and Macintyre, Lee (Caidge: MIT Press, 1994(

Quine, AO "Two Dogmas of Empiricism"

Winch,Peter. The Idea of A Social Science And Its Relation To Socety (London: Routledge & Kegan Paul, 1958).

Taylor, Charles, "Interpretation And The Sciences of Man" in *Readings in the Philosophy of Social Science*, Martin, M and Macintyre, Lee (Caidge: MIT Press, 1994)

Fay, B and Moon J.D. *What Would An Adequate Social Science Look Like?* In *Readings in the Philosophy of Social Science*, Martin, M and Macintyre, Lee (Caidge: MIT Press, 1994)

Civil and Common Law Traditions

Franz Wieacker, "The Importance of Roman Law for Western Civilization and Western Legal Thought," *Boston College International and Comparative Law Review*, Vol. 4 (1981): 257-281

Scott Gordon. *Controlling the State: Constitutionalism from Ancient Athens to Today* (1999)