

LAW AND POPULAR CULTURE SYLLABUS

Fall 2025

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Popular culture helps shape our view of society, including our perception and understanding of law, lawyers, and the civil and criminal justice systems. In this course, we will examine legal issues through the lens of films, with readings on the issues raised in the films. The course will consider cultural and professional responsibility issues, analyze the quality of lawyering presented on the screen, and assess whether lawyers and legal issues are presented accurately. Each week we will view and discuss two movies. We will not shy away from controversial issues and we encourage a vibrant discussion. The materials are available on-line, either through a streaming service or some free medium.

Week 1: Criminal Defense and the Choices Lawyers Make

Anatomy of a Murder (1959) is based on a real case. While *Anatomy* treats the lawyer as a likeable protagonist, it is one of the first movies to show the protagonist lawyer's flaws as well. Paul Biegler, played by Jimmy Stewart, needs a fee, but would prefer to go fishing. *Anatomy of a Murder* includes some classic lawyering scenes, both in and out of the courtroom, with Jimmy Stewart and prosecutor George C. Scott holding nothing back. Paul Biegler makes some interesting ethical decisions to resolve problems familiar to every litigator, particularly criminal defense attorneys. This film

presents a graphic illustration of the old saw, “Never ask a question if you don’t know the answer.” Otto Preminger sought to make a movie that showed legal process, and the film stands out for the amount of time spent in the courtroom. The film is also known for an outstanding jazz score by Duke Ellington.

Presumed Innocent (1990) is an adaptation of a courtroom thriller by Scott Turow. Turow is also the author of *One L*, about his first year at Harvard Law School. He was an Assistant U.S. Attorney in Chicago, and his portrayal of urban criminal law practice and criminal law is not pretty. Harrison Ford plays Rusty Sabich, an Assistant District Attorney, who initially leads the investigation into the sexual assault/murder of his colleague but is later charged with the murder.

Week 2. Documentaries and Docudramas: How They Affect our View of History

The Central Park Five (2012), a documentary by Ken Burns, Sarah Burns, and David McMahon, tells the story of five African American and Latinx teenagers from Harlem who were wrongfully convicted of raping and brutally beating a white woman in New York’s Central Park in 1989. Four of the teenagers spent seven years in prison and the fifth spent thirteen years in prison, before they were exonerated by DNA evidence implicating a convicted rapist and murderer who confessed to the crime. Donald Trump took an active role in prosecuting the accused in the press - urging their execution in four newspaper ads, including a full-page ad in the NY Times, and his role was an issue in the 2016 presidential election.

When They See Us (2019) is a highly-acclaimed four-part Netflix mini-series directed by Ana DuVernay, based on the case of the Central Park 5. With the passage of time, access to the participants, and use of dramatic reconstruction, Ana DuVernay creates a powerful indictment of institutional racism. *When They See Us* had a broader viewership and greater effect than *The Central Park Five*, in part because of the dramatized version of the prosecutors, who claim their portrayal was highly fictionalized. The ensemble cast includes Michael K. Williams, John Leguizamo, Blair Underwood, and Felicity Huffman. The series was the subject of a federal court defamation suit filed by Fairstein.

Week 3 – War Crimes and Their Aftermath

Judgment at Nuremberg (1961) raises the issue of the guilt of judges who legitimized Nazi atrocities by cooperating with the government under the guise of the rule of law. The film is fictionalized but is based on the actual Judges' Trial of 1947. It is one of the first films to show footage of the death camps. The actual trial had 16 defendants; in the movie there are four. The cast and acting are spectacular, led by Spencer Tracy as the Chief Judge, Maximilian Schell as the defense attorney (for which he won the Best Actor Oscar), and Burt Lancaster as Judge Jannings, an esteemed jurist and scholar before the war. The supporting cast includes Marlene Dietrich, Judy Garland, Montgomery Clift, Richard Widmark and a young William Shatner. Dietrich's presence is poignant – she was a star in Germany before coming to Hollywood and was Hitler's favorite actress. Hitler offered her huge sums to return to Germany and

become the face of the Third Reich, but Dietrich hated the Nazis and spent the war raising money for war bonds, entertaining allied troops, and raising funds to support Jewish refugees, for which she was honored by both the French and US governments. The film raises the issue of victors in war creating new law after the fact.

Denial (2016) is a docudrama based on a British libel suit brought by Holocaust denier David Irving against American Professor of Holocaust Studies Deborah Lipstadt based on comments she made about him in a book on the Holocaust. Although Lipstadt was published originally in the United States, Irving sued the British publisher Penguin Books, which gave the British court jurisdiction, which was important because British law places the burden of proof on defendants in defamation cases. Rachel Weisz plays Lipstadt and Tim Wilkinson plays Richard Rampton, her lead barrister. The film exemplifies fact development, expert testimony, and the critical strategic decisions that occur throughout litigation.

WEEK 4 - The Role of the Press

The Most Dangerous Man in America: Daniel Ellsberg and the Pentagon Papers (2009) is a documentary that can be summed up by its title. The film was originally shown on PBS, where it won a Peabody Award. It portrays Ellsberg as a complicated man who was (and is) viewed by a hero by many and a traitor by others. It is a compelling story and a terrific lead-in to *The Post*.

The Post (2017) is a generally accurate portrayal of the role the Washington Post played in the battle to bring the Pentagon Papers, a

secret history of the Vietnam War, to light. Although the New York Times first broke the story about the papers in June 1971, the Post published stories about them after a federal judge ordered the Times to cease publication. Ultimately, the Times and the Post prevailed as the Supreme Court ruled that the papers were entitled to publish stories about a subject of vital national interest. There are tense scenes with Post editor Ben Bradlee, played by Tom Hanks, sparring with Post lawyers who feared both an adverse ruling in the Supreme Court and the possibility that the Nixon administration would revoke the licenses of Post-owned television stations. The movie has a strong feminist bent, with Post publisher Katherine Graham, played by Meryl Streep, taking the courageous step of resisting government censorship.

Spotlight (2015) is an Academy Award winning portrayal of the Boston Globe's exposé of pedophilia in Boston's Catholic Archdiocese. The Globe stories spurred inquiries into horrific behavior by Catholic priests preying on boys throughout the U.S. and around the world. The film depicts a wide variety of lawyers—attorneys defending the Archdiocese, Globe lawyers seeking to unearth settlements that were sealed in an attempt to keep the public in the dark about the problem, plaintiffs' lawyers who kept settlements secret that helped their clients but permitted the problem to continue, and one cranky plaintiff's lawyer (Stanley Tucci) who was so angry at the entire Boston establishment that he was reluctant to help the Globe reporters who were trying to expose the Church's evil deeds.

Michael Keaton, Rachel McAdams, and Mark Ruffalo are all outstanding as they come to grips with the implications of their story.