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# From Philly to Fayetteville: Reflections on Teaching Criminal Law in the First Year...Four Years Later

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## From Philly to Fayetteville: Reflections on Teaching Criminal Law in the First Year . . . Four Years Later

Brian R. Gallini\*

Nearly four years ago, in January of 2009, my wife and I sat in a Panera Bread Co. shop nearby our home in Fayetteville, Arkansas, trying to weather one of the worst ice storms in Arkansas history.<sup>1</sup> Roads were closed, the President declared a federal emergency,<sup>2</sup> the Governor called in the National Guard,<sup>3</sup> and the storm claimed a full week of classes. Panera was one of the few places with electricity and heat. We left our unheated home early that morning armed with our laptops and other assorted electronic gadgets—all of which desperately needed charging—and claimed a small table near an outlet. In that Panera, we ordered anything and everything on the menu, shared our coveted plug with other temporarily homeless residents, and were simply thankful to be safe.

That extended and involuntary trip to Panera also gave me time to reflect—an activity, to my mind, of considerable professional importance. I have come to believe that doing so at any time is important but was particularly so for me at that time. When the ice storm hit, I had just finished my first semester teaching at Arkansas and had correspondingly just finished teaching Criminal Law for the first time. Among other preparations for my first time teaching the course, I spoke with several extremely helpful professors at other law schools who shared their views about how to teach the course and often were kind enough to share their syllabus and/or materials. But even after doing my due diligence on the course for months prior to teaching it, followed by *actually* teaching it, I was still troubled by seemingly basic questions.

Since that first semester had ended a couple months earlier, I talked with anyone who would listen about what I might do to improve the Criminal Law course or, alternatively, where I might have gone wrong. For example, given how rushed I had felt toward the end of that first semester, I wondered about whether my school allotted sufficient course credit to the Criminal Law course. But, perhaps my syllabus was to blame; maybe I included too much extraneous material, spent too much time on a particular topic, or pushed myself (and the class) too hard to cover everything simply because, well, it was on the syllabus. For some unknown reason, I chose that day in Panera to begin organizing my

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<sup>1</sup> Buddy Gough, *Beyond Meltdown: Clearing Damage From Recent Ice Storm Will be Colossal Job*, ARKANSAS DEMOCRAT-GAZETTE, Feb. 5, 2009, at 37, 40.

<sup>2</sup> Amy Upshaw & Kenneth Heard, *State's North Iced In; Homes Left Dark, Cold: 6 Die; For Arkansas, Obama Declares Federal Emergency*, ARKANSAS DEMOCRAT-GAZETTE, Jan. 29, 2009, at 1, 4.

<sup>3</sup> Frank Wallis, *Beebe Orders Guard to Help*, THE BAXTER BULLETIN, Jan. 31, 2009, at A1.

thoughts by putting them down on paper. What began that day as some scribbled musings became an essay published in the *Temple Law Review* called “From Philly to Fayetteville: Reflections on Teaching Criminal Law in The First Year.”<sup>4</sup>

In that piece, after trying coherently to share some thoughts that might help others who teach Criminal Law, I concluded by writing this: “In an effort to improve the course, I find myself frequently reflecting on what else I *could* focus on during the semester.”<sup>5</sup> What was true in 2008 remains true today. I still spend a tremendous amount of time, both during and after the course, thinking about what I might do to improve my students’ experiences. Compared to 2008, though, the difference now is that my experience leaves me far more capable of productively channeling my reflections. Doing so has led me to change several things about my approach to the course, three of which I’d like to briefly share.

First, I keep a detailed class-by-class journal. In each entry, I record the basics like the date, which class it was (e.g., the third class of the semester), the assigned reading, and the topic discussed in class. Apart from generic record keeping, I also ask myself some basic reflective questions: What worked in that class? What did not work in class? And, finally, what would I like to do differently or better the next time I teach that block of material? I look back at the journal prior to constructing the syllabus for the next iteration of the course.

Second, I am constantly searching for ways to improve my delivery of the course material through national news stories, scenes from sitcoms, or excerpts from blockbuster movies. The course material is good by itself—it is indeed hard not to find engaging the law governing a tragic homicide, the role of an accomplice, or how a co-conspirator should be punished. But it can be better. To name but a few examples, I have over the years collected a scene from *The Office* to teach transferred intent, played a Honda commercial to help out with actual causation, and relied on the tragedy of Caylee Marie Anthony to help me explain lesser-included offenses. Relying on those and similar anecdotes hopefully helps to prevent monotony from creeping into the classroom and, in the case of *The Office* example, allows students to take a breather by sharing a laugh. But most importantly, bringing the real world into the classroom—as the Anthony example powerfully illustrates—demonstrates for students the everyday relevance and importance of what they’re learning.

The concept of everyday relevance leads to my final and most dramatic classroom change: new and self-authored course materials. Back in 2008, I had just finished what I found to be the arduous task of selecting a casebook for the course. I wrote that same year about my frustrations with casebooks:

[F]ar too many criminal law casebooks are, in my opinion, outdated and confusing. As to the first point, today’s students seem uninterested in

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<sup>4</sup> Brian R. Gallini, *From Philly to Fayetteville: Reflections on Teaching Criminal Law in The First Year*, 83 TEMP. L. REV. 475 (2011).

<sup>5</sup> *Id.* at 489.

dedicating weeks of class—or even *a* class—to the finer points of retributive or utilitarian theory. Nor do they appear interested in discussing eighteenth-century cases from common law courts. As a result, they are even less interested in doing the reading to prepare for such discussions. As to the second point, students find the vast majority of casebooks so confusing that they feel obligated to spend, in some cases, hundreds of dollars on supplementary materials.<sup>6</sup>

By assembling my own materials, I am now doing something about the problems I identified back in 2008. I do not hope to publish my materials—there are already plenty of casebooks out there. Rather, I hope that my selection of cases illustrates to students how important what they are learning genuinely is to everyday life as a defendant, defense attorney, judge, prosecutor, and society at large. Whether students intend to practice in the criminal law is irrelevant; what's important is that they remember the power of the criminal law in their everyday professional lives and, when appropriate, consider it when making decisions in their role as leaders in the community. For me personally, ownership over the classroom materials further facilitates my ability to reflect—on a semester-by-semester basis—about whether the chosen material is an effective learning tool.

Let me close by acknowledging that reflection is exceptionally important to every facet of life generally and teaching specifically. But the importance of reflection on the quality of teaching the Criminal Law course carries elevated importance for a handful of reasons. First, when offered as a first semester first year course, it offers an early and important opportunity to help students develop a passion for the law. Second, the Criminal Law course—unlike most if not all other first year courses—exposes students to the importance of statutory interpretation throughout the semester. Finally, teaching the course provides the opportunity to emphasize the importance of penal law to society alongside the government's awesome power in its administration. None of these weighty tasks can be accomplished effectively without meaningful reflection.

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<sup>6</sup> *Id.* at 477.