

Teaching Suggestions for *Lawyers in Practice* as a Supplementary Text in Courses in Professional Responsibility or Legal Profession

Leslie Levin and Lynn Mather*

This is the first book to look closely at the empirical research on lawyers' work and their actual ethical decision making in a wide variety of practice contexts. Rather than address legal ethics primarily through rules and substantive legal doctrine, this book combines empirical research on legal practice with discussion of some of the ethical issues that arise in the particular area of practice. A central feature of the volume is its interdisciplinary nature, in which lawyers' decision making is firmly embedded in both the professional world of ethical codes and the sociological and economic setting of the workplace.

We have written this short teaching guide to provide suggestions to instructors on combining this book with other teaching materials, particularly for the two most likely courses – Professional Responsibility and Legal Profession. We provide possible course outlines for each of these courses and then illustrate a few class sessions with discussion questions and possible class exercises. We welcome your feedback and, if this guide proves useful, we will expand the guide to cover a wider range of topics. We first cover Professional Responsibility courses and then present a similar guide for using *Lawyers in Practice* in Legal Profession courses. For each, we offer a sample 13-week course outline corresponding to individual chapters in the book. This is followed up by a closer look at two of those weeks for which we offer possible study questions, discussion topics, and activities.

At the end of this guide we list the Model Rules of Professional Conduct that each of the chapters directly addresses or indirectly implicates.

Professional Responsibility

This course is typically a 2 or 3-credit required law school course, also sometimes called “Legal Ethics.” While the course covers the rules of professional conduct, the other law of lawyering, and key ethical issues confronting lawyers, it can be enriched through discussion of the rules and ethical challenges in specific practice contexts.

Situating professional responsibility issues deeply in their practice contexts—and using social science materials—accomplishes several pedagogical objectives. First, it responds to significant changes in the legal profession such as the increased size and complexity of large law firms (with the growth of practice groups and in-house ethics advisors), increased economic competition among firms and greater lateral mobility, the growth of transnational practice, and increased legal specialization. Second, this approach borrows from new scholarship on the sociology and economics of legal organizations, law firm cultures, and professional socialization and learning. Third, the approach encourages student reflection on and engagement with practice experiences

* We are very grateful to Dana Remus and Carole Silver for their comments on these teaching suggestions.

either through students' own clinical, summer, or externship work or through interactions with local attorneys who visit class. Finally, and perhaps most important for instructors who struggle to teach what is often an unpopular class for students, this approach can appeal to students because of its applied, engaged, real world qualities.

Thus, instructors can assign *Lawyers in Practice* as a supplement to any of the traditional PR textbooks as a way to introduce real-world concerns of lawyers in everyday practice.

Sample Course Outline for Professional Responsibility (Based on 13 weeks with other readings or a traditional PR text. If using a text, the exact order of these topics would probably follow the text's). We have listed the individual chapters more than once in order to flag the topics to which each chapter may be relevant.

Week 1: Introduction to Rules of Professional Conduct and Other Means of Regulating Lawyers

[including admissions, discipline, malpractice, and informal norms]

Lawyers in Practice, Chs. 1 (Why Context Matters), 2 (More on Context), 3 (Whose Ethics?)

Week 2: Confidentiality - Overview

[including attorney-client privilege, meaning of confidentiality, obligations to organizational client]

Lawyers in Practice, Ch. 10 (In-house)

Week 3: Confidentiality - Exceptions

Lawyers in Practice, Chs. 7 (Insurance Defense), 10 (In-house), 14 (Criminal Defense)

Week 4: Candor towards clients, the tribunal and third parties

Lawyers in Practice, Chs. 5 (Immigration), 9 (Transnational), 11 (Securities), 12 (Patents)

Week 5: Criminal Advocacy

Lawyers in Practice, Chs. 13 (Prosecutors), 14 (Criminal Defense)

Week 6: Civil Advocacy

[including obligations in discovery, witness preparation, cross-examination]

Lawyers in Practice, Chs. 4 (Divorce), 5 (Immigration), 8 (Corporate Litigators)

Week 7: Lawyer/Client Decision Making
[including allocation of decision making, client autonomy, incapacitated client]

Lawyers in Practice, Chs. 4 (Divorce), 10 (In-house), 11 (Securities), 14 (Criminal Defense), 15 (Legal Services)

Week 8: Conflicts of Interest – Personal Conflicts and Concurrent Conflicts

Lawyers in Practice, Ch. 7 (Insurance Defense), 9 (Transnational), 10 (In-house), 14 (Criminal Defense), 15 (Legal Services)

Week 9: Conflicts of Interest – Former Clients and Imputed Disqualification

Lawyers in Practice, Chs. 9 (Transnational), 12 (Patents)

Week 10: Supervised and Supervisory Lawyers' Responsibilities
[including ethical infrastructures and ethical cultures in law offices]

Lawyers in Practice, Chs. 5 (Immigration), 8 (Corp. Litigators), 10 (In-house), 15 (Legal Services)

Week 11: The Duties of Competence, Communication and Diligence

Lawyers in Practice, Chs. 4 (Divorce), 5 (Immigration)

Week 12: Lawyers and the Public Interest
[including access to justice, pro bono]

Lawyers in Practice, Chs. 14 (Criminal Defense), 15 (Legal Services), 16 (Public Interest)

Week 13: The Business of Lawyering: Advertising, Solicitation, and Billing

Lawyers in Practice, 4 (Divorce), 5 (Immigration), Chs. 6 (Plaintiffs' Personal Injury), 8 (Corporate Litigators)

Illustrative Teaching Ideas

Week 5 – Criminal Advocacy – Class 1 (Prosecutors)

Relevant chapters: Prosecutors (Ch. 13), Criminal Defense Attorneys (Ch. 14)

Instructors will probably teach the obligations of Prosecutors and Criminal Defense Attorneys in separate classes. Discussion of Prosecutors' ethics typically includes the broad

discretion afforded prosecutors in connection with charging decisions, pleas bargains, and sentence recommendations. It also encompasses the expectation that prosecutors have additional responsibilities to act as a “minister of justice.” As indicated below *Lawyers in Practice* can be used to supplement the classroom discussion of Prosecutors’ discretion and the Prosecutor’s special obligations.

The Prosecutor’s Obligation to Make Timely Disclosure: Chapter 13 on Prosecutors focuses on how prosecutors satisfy their disclosure obligations and provides a good opportunity to explore the many factors that affect how lawyers interpret their professional obligations in practice. The chapter also shows how the pressure on prosecutors to convict often works at cross purposes with their obligations to disclose. The chapter illustrates the range of prosecutorial responses to this problem in different offices.

In discussing this chapter, it is important for students to understand the legal obligations on prosecutors to disclose as delineated by U.S. Supreme Court cases. This is discussed, to some extent, in Chapter 13 (pp. 272-73), but the instructor might want to review the prosecutor’s obligations in the plea bargaining context and the courts’ pronouncements about what constitutes “timely disclosure.”

Some Questions:

1. Do prosecutors have too much discretion with respect to the timing of disclosure of exculpatory and impeachment information? What values, if any, are served by giving prosecutors so much discretion? If you were the district attorney, what would you require in your office with respect to the timing of disclosure? Why?
2. What procedures and mechanisms, if any, do you think might be implemented in prosecutors’ offices to insure that prosecutors make full and timely disclosure of exculpatory or impeachment evidence?
3. Do you think that prosecutors’ offices run by elected prosecutors in state systems will be more or less ethical than those run by federally appointed prosecutors? Why? What do you think will have the greatest impact on how prosecutors execute their disclosure obligations? How can we increase prosecutors’ accountability?]
4. Ask if any students have worked in a prosecutor’s office. If so, discuss how policies on disclosure compare to those discussed in the chapter.
5. In some countries, such as Japan, prosecutors receive additional training that is different from the training of other lawyers. Do you think such training should be required for prosecutors? If so, who should conduct it and what should it encompass?

Current Event Assignment:

Ask students to find one news story published in the last year in which a prosecutor was accused of failing to timely disclose exculpatory or mitigating evidence. Students should write up a brief

discussion of the news story (including the source and date), describe how the court dealt with the challenge, and be prepared to present the story in class.

The Duke Lacrosse case:

Put together a timeline of events in the Duke Lacrosse case and asked students to formulate the course of action they think that District Attorney Michael Nifong should have taken at each step, both with respect to disclosure and with respect public statements. Discuss the pressures may have led him to act in the way that he did—and more generally, what pressures can lead a good lawyer to act in outrageously bad ways.

The Obligation of the Prosecutor as a Minister of Justice: Comment 1 to Rule 3.8 provides that that prosecutor “has the responsibility of a minister of justice and not simply that of an advocate.” Some of the discussion in the chapters on Prosecutors and Defense Attorneys (Ch. 14) suggests that prosecutors do not believe that they have an obligation to act as ministers of justice. Specifically, the Defense Attorneys chapter shows how some prosecutors may withhold exculpatory information, demonize criminal defense clients, and deprive them of access to treatment options that would benefit them.

Some Questions:

1. Should prosecutors be expected to take on special responsibilities in criminal litigation as “ministers of justice?” Or should they just be advocates for victims who press for maximal punishment? Why is the “minister of justice” requirement imposed on prosecutors? If prosecutors do act as “ministers of justice” with responsibilities to judge culpability, do they risk infringing on the role of the judge and jury and undermining the adversarial system?
2. Should prosecutors have any special obligation to insure that defense attorneys do not feel improper pressure (p. 309) to accept guilty pleas for clients? What, if anything, should prosecutors be required to do (or avoid doing)?
3. How should the prosecutor respond to “testilying” (p. 310) under the rules of professional conduct?
4. Does it violate any ethical rule for a prosecutor, when confronted with a defense attorney’s zealous advocacy, to respond by seeking to revoke a defendant’s bail or seeking a higher sentence? Should it?

Other Activities:

Invite a Prosecutor from a local office to come to class and discuss prosecutorial discretion and challenges within the office. Consider inviting a criminal defense attorney to the same class.

Have students watch a film such as *The Thin Blue Line* (1988 documentary on a Texas murder case) and write up a brief analysis and reaction to the film.

Notes:

The Corporate Litigators' chapter (Ch. 8) raises questions about how far litigators may go when preparing witnesses to construct the truth. If the students have already read Ch. 8, consider contrasting the obligations of Prosecutors to the actions of Corporate Litigators. Should Prosecutors be permitted to construct the truth in the same way? If not, how might that approach be avoided?

Week 9: Conflicts of Interest – Personal Conflicts and Concurrent Conflicts

Most relevant chapters: Chs. 7 (Insurance Defense), 9 (Transnational), 15 (Legal Services)

Also relevant chapters: Chs. 10 (In-house), 14 (Criminal Defense),

Conflicts of interest are a very rule-intensive topic, but the chapters in *Lawyers in Practice* provide an opportunity to explore this important problem in real world contexts that help students better understand the difficulties they present. These chapters make the issue less abstract and more immediately problematic for students than most casebooks by providing, concrete examples of lawyers having to break the confidences of one client or refraining from pursuing the best strategy for one client in order to advantage another client.

Personal Conflicts: One way to introduce conflicts of interest is to begin with the conflicts between lawyers' own interests and those of their clients. Of course, this can come up in a variety of ways that are not effectively dealt with by professional rules. (*E.g.*, conflicts between personal morality and the client's goals, conflicts between the lawyer's desire to earn a living and the amount a client is able to pay). Chapter 15 (Public Interest) effectively introduces personal conflicts by illustrating the conflict between the lawyers' goals for systemic social reform and the clients' personal goals, and conflicts involving resource allocation within the Legal Services office.

Some Questions:

1. Does any part of the discussion in Chapter 15 reveal a concurrent conflict under Rule 1.7 (a)(2)?
2. What do you think about the attorney Liz's concern about dilemmas of dependency? Should she be concerned? What are some possible ways to address her concerns?
3. Should there be different rules of professional responsibility for public interest lawyers who work in an environment of chronically limited resources than for other lawyers?

Other Activities:

The instructor might write up a brief interview simulation based on Marjorie's meeting with a client with limited education and significant legal needs who needs help with more issues than the legal services office can handle (pp. 330-31). Ask one of the students to conduct an

interview as “lawyer” with another student as “client” in front of the class. Discuss. How should the lawyer have handled the interview? How satisfied do you think the client would feel with the way in which the interview was conducted? Alternatively, instructors could divide the class into pairs to engage all the students as “lawyers” interviewing “clients” with these challenges. After 10 minutes, reassemble the group and ask how “lawyers” and “clients” felt about the experience and how it could have been improved.

Concurrent clients: Chapter 7 (Insurance Defense) provides a nice transition from personal conflicts to concurrent conflicts. Insurance Defense lawyers have a personal conflict between their financial interests (*i.e.*, keeping the insurer, the paying party happy) and their obligation to the insured. (Note, however, that whether the insurer is considered a “client” is a question of state law.) Chapter 7 also illustrates how lawyers negotiate conflicts of interest when they have concurrent clients, as does Chapter 9 (Transnational). In both of the chapters, one of the clients has little choice but to consent to the conflict, although the client in the transnational lawyering chapter (p. 181) has somewhat more economic power.

Some Questions:

1. What should “informed consent” mean in the context of concurrent client situations? Is it enough that a client says “yes” to the concurrent representation, even if the client may not be able to obtain legal representation any other way? What if the consent is to a potential future conflict (*i.e.*, an “advance waiver”)?
2. Besides informed consent, can you think of other ways to protect individual clients in concurrent conflict situations such as an insured in a personal injury cases?
3. Are Insurance Defense lawyers who take directions from an insured violating Rule 1.8 (f)?
4. Do you see any problems with the joint representation engaged in by transnational lawyers in the Celtel deal?
5. Should there be different conflict of interest rules for sophisticated clients than for individual clients? How would you change the rules?

Notes:

The Patent lawyers chapter (Ch. 12) and the Criminal Defense Attorney chapter (Ch. 14) also describe problems with concurrent conflicts of interest and can be used in addition to the two chapters mentioned above.

Although not a concurrent client conflict under Rule 1.7, another useful point of comparison is the effort that In-House counsel (Ch. 10) must make to negotiate the conflicting relationships and expectations within the organization.

Week 10: Conflicts of Interest – Former Clients and Imputed Disqualification

Chapter 12 (Patent) illustrates some of the conflict problems raised by former clients (Rule 1.9) and demonstrates how concerns about former client conflicts and imputed disqualification (Rule 1.10) affect lawyer mobility. Chapter 12 provides good insights into why conflicts of interest are considered to be such an important topic in law practice: they can strongly influence law firm mergers and the stability of law firms. Chapter 9 (Transnational) also illustrates a former client conflict in the United Kingdom (Marks & Spencer). Although the firm's handling of the conflict was deemed unacceptable, it introduces a growing problem for U.S. firms, which is that U.S. firms are bound by more rigorous conflicts rules than some of their competitors in global legal practice.

Questions

1. Do you think that the unilateral use of screens (i.e., without client consent) should have been sufficient to insulate Barry O'Brien from complaints by Marks & Spencer (p. 188) about conflicts of interest?
2. Do you think that screens should have been sufficient to insulate the Steptoe & Johnson associate in the *Sunbeam* patent case (p. 260)? If so, what steps should the firm have taken to implement a proper screen?
3. Given the type of information that patent lawyers acquire from their clients when prosecuting a patent, do you think that the conflicts rules are adequate to protect their former client's interests?
4. Should U.S. rules of professional conduct be changed so that U.S. firms with overseas offices can better compete with foreign law firms? If so, how should the rules be changed?

Current Event Exercise

Ask students to find a news story from the last year in which a firm decided not to merge or a partner had to depart from a firm because of concerns about possible imputed disqualification of the entire firm. Have students write a brief reaction to the story, discussing the implications of strict enforcement of conflict rules on the economics of law firms.

Role Play

In the class on the Transnational Lawyering chapter, ask students to role play the ABA House of Delegates considering a proposal to amend 5.4 to permit fee-sharing with non-lawyers. The role play helps to draw out the pros and cons of the more rigorous rules of the U.S. vis-à-vis other countries. It also provides a window on to bar associations' competing orientations towards the public interest and the profession's self-interest.

Legal Profession (including Legal Ethics)

This 2 or 3-credit law school course also covers legal ethics but pays particular attention to differences in the work of lawyers across the profession as a whole. Part or all of the organizational structure of the course revolves around the nature of the legal workplace or the substantive area of legal practice.

While the course covers the rules of professional conduct and related law, less time is typically given to the law of lawyering and more attention is devoted to the sociological, economic, and historical aspects of the legal profession. Instructors who teach legal ethics in this course seek to introduce law students to the diversity of the profession in terms of different skills and legal jobs, rather than primarily focusing on the rules and black letter law. Instructors may come from a background of legal history, law and society, psychology, or law and economics, and draw on materials from these fields in their teaching of legal ethics. Thus, the course could be historically focused, theoretical in terms of the meaning of professionalism, filled with case studies of different types of lawyers, or more concerned with statistics about the profession as a whole (demographics, economics, etc.).

Since this course could take many different forms, instead of one traditional text on Professional Responsibility, instructors might use multiple sets of reading materials. *Lawyers in Practice* would complement any of these quite well and could also provide thematic coherence across the other materials.

Sample Course Outline for Legal Profession (including Legal Ethics) (Based on 13 weeks with other readings or a text).

The outline below begins with private lawyers serving individual clients since those are the ones with whom students are most likely to have experience. But at some schools, where students are more geared to careers in corporate law, the instructor could start with the chapters on corporate lawyers and then move to discuss lawyers for individual clients. A third option would be to begin with lawyers and the public interest (legal services, cause lawyers, criminal law, etc.) in order to emphasize lawyers' responsibilities to the public.

There are also other ways to conceptualize the course. One alternative approach would be to focus on the nature of the legal workplace and to organize the course by solo practitioners, small firms, large firms, in house counsel, and lawyers for government. With either of these approaches, ethical rules are introduced in the context of a particular practice area. Yet another approach would be to devote the first 4-5 weeks of the course to an intense discussion of the rules of professional conduct and the other law of lawyering (much like a typical PR course). Then the last 8-9 weeks would explore the sociology and economics of different practice contexts or organizations, with illustration of professional conduct problems as they arise in each context (similar to the sample course outline below).

Week 1: Overview of the Legal Profession

[including history of the profession, changes in legal education, and the “two hemispheres” of the profession]

Lawyers in Practice, Chs. 1 (Why Context Matters), 2 (More on Context)

Week 2: Lawyers as “Professionals” – What Does it Mean?

[including theories of professionalism, rules of professional conduct, bar admission, and discipline]

Lawyers in Practice, Chs. 3 (Whose Ethics?), 4 (Divorce)

Week 3: Lawyers for Individual Clients: Divorce, Immigration

[including the lawyer/client relationship, the role of informal norms, and specialization]

Lawyers in Practice, Chs. 4 (Divorce), 5 (Immigration)

Week 4: Plaintiffs’ Personal Injury Practice and Insurance Defense

[including solicitation, advertising, the business of solo or small firm practices, confidentiality, and who is “the client”?]

Lawyers in Practice, Chs. 6 (Plaintiffs’ Personal Injury), 7 (Insurance Defense)

Week 5: Criminal Defense Lawyers and Prosecutors

[including nature of criminal advocacy, vulnerable clients, and prosecutor’s role and responsibilities]

Lawyers in Practice, Chs. 13 (Prosecutors), 14 (Criminal Defense)

Week 6: Corporate Litigators

[including civil advocacy, large law firm organization and economics]

Lawyers in Practice, Ch. 8 (Corporate Litigation)

Week 7: Corporate Legal Specialties

[including conflicts of interest, candor, lawyer/client relationship with business clients]

Lawyers in Practice, Chs. 11 (Securities), 12 (Patent)

Week 8: In House Counsel

[including confidentiality and revisiting “who is the client?”]

Lawyers in Practice, Ch. 10 (In House Counsel)

Week 9: Transactional Legal Practice in the U.S. and Abroad
[including conflicts of interest, competition for clients, lateral mobility]

Lawyers in Practice, Ch. 9 (Transnational lawyers)

Week 10: Lawyers and the Public Interest - Cause Lawyers and Government Lawyers
[including conflicts of interest and accountability]

Lawyers in Practice, Ch. 16 (Cause Lawyers)

Week 11: Access to Justice – Legal Services and Pro Bono

Lawyers in Practice, Ch. 15 (Legal Services)

Week 12: Race and Gender in the Legal Profession
[including demographics of the profession, obstacles to success]

Week 13: Professional Fulfillment of Lawyers
[including lawyer satisfaction, future of self-regulation, role of legal profession in society]

Lawyers in Practice, Epilogue

Illustrative Teaching Ideas

Week 3: Lawyers for Individual Clients (Divorce – Day 1)

Lawyers who represent individual clients typically work solo or in small firms. These work settings present challenges especially for new lawyers – *e.g.*, how to run a business with limited resources, how to learn informal norms of practice, how to attract clients.

One problem for lawyers who represent individuals, however, is that clients often lack sufficient resources to pay for the kind of representation that they would like. In addition, clients in divorce, immigration, or criminal defense are typically emotional and upset, and have little knowledge of what to expect from the legal process. Lawyers for such clients end up doing counseling and education as well as advocacy – but all in limited time because of resource constraints. Lawyer specialists who gain experience in a particular substantive area, however, may be able to develop a “boutique” practice representing clients of means – high income divorce clients, white collar criminal defense, or business immigration work.

Chapter 4 allows instructors to examine differences in lawyers’ decision making according to the type and resources of the clients they represent. The relevance of client differences for lawyers’ decision making can also be explored in discussion of immigration

lawyers (Ch. 5) the following class. Both chapters also illustrate important ethical issues in the lawyer/client relationship – *e.g.*, allocation of authority in decision making, lawyer as adviser and as advocate, and representation of vulnerable clients.

Some Questions:

1. Instructors could assign sections of the AAML's *Bounds of Advocacy* and compare them to the ABA rules. Why do expectations for divorce lawyers' advocacy differ somewhat between the ABA rules of professional conduct, informal norms of practice in divorce, and formal guidelines for matrimonial lawyers? Should all lawyers, regardless of practice area, adhere to the same professional rules despite different kinds of legal problems and clients?
2. Do you think it is ethical for a divorce lawyer to delay a case to allow clients to "calm down" or get over extreme emotions that might be interfering with their decision making?
3. Why is the popular image of a divorce lawyer (*e.g.*, one in the media aggressively representing a movie star or professional athlete) so different from the "reasonable lawyer" presented in chapter 4? Does one seem more ethical to you than the other?
4. In the vast majority of divorce cases, one or more of the individuals is self-represented. What obligations, if any, do lawyers have in those situations?

Other Activities:

Create several different brief profiles of divorce clients and their situations and have students come to the front of the class and role play "lawyers" interviewing those "clients" for the first time. The "lawyers" should listen to their clients' anger or hurt, while also seeking the relevant facts and explaining their own style of practice. This exercise can also illustrate the problem of rejecting clients who cannot afford their services and the need for pro bono representation (since there is more self-representation in family law than in any other field).

In an in class writing assignment, ask students to envision themselves as divorce lawyers and to describe the aspects of the practice brought them satisfaction. This exercise encourages them to overcome stereotypes of particular practice areas and to think hard about all areas of practice as potential career paths.

Week 5: Criminal Defense Lawyers (Day 1)

Although criminal defense lawyers share a common adversary—the government—they specialize in different clientele groups (*e.g.*, white collar crime, street crime) and work in different settings (private practice, legal aid, public defenders). Chapter 14 illustrates some of the dilemmas faced by public defenders in urban areas where racial and class lines are starkly drawn between lawyers and their clients. Issues of decision making between lawyer and client in criminal cases (as in divorce) raise ethical dilemmas when distinguishing between the

“objectives” of representation (which the client determines) and the “strategies” for accomplishing them (which are the purview of the lawyer).

Defense lawyers often work closely with the same prosecutors and judges day after day. In some courts (*e.g.*, as discussed in Chapter 14), when a defense lawyer makes a motion such as to suppress evidence, she risks hurting her client by being punished for such zealous advocacy by a judge. Graphic dialogue from lawyers in the Cook County criminal courts illustrates the real world problem that defense lawyers face when their formal professional obligations are stymied by an informal legal culture that is unsympathetic to their clients.

Some Questions:

1. How should a defense attorney proceed when the client’s wishes conflict with what the attorney believes to be in the client’s best interest? If the client wants to plead guilty to get the benefits of a treatment program even though there is strong factual evidence of his innocence, should the attorney agree to the plea? What about the reverse – when the attorney sees a slam dunk case against the defendant and a favorable plea bargain that can be arranged, but the client insists on a not guilty plea with the certainty of harsh punishment if convicted after trial?
2. Do you think that Cook County is an outlier in terms of criminal court cultures or does it seem to represent criminal courts you have visited? What explains any differences?
3. Chapter 14 concludes its study of criminal defense attorneys in Cook County by arguing provocatively, “Ironically, defense attorneys must cross ethical lines to live up to their advocacy obligation in today’s criminal justice system.” Explain what the author means by this and whether or not you agree.
4. Do you see any differences in the quality of justice that wealthier privately represented clients obtain compared to clients represented by public defenders? Discuss.

Current Events Assignment:

Pick a current or recent criminal case and discuss defense attorney strategies in the case as portrayed in the media. How might the media coverage make defense representation more difficult in comparison to more routine, less serious crimes not covered by the media? Consider as well how and why prosecutors (chapter 15) would be affected by media coverage of the case.

Other Activities:

Films, TV shows, and novels depicting criminal defense attorneys provide a wealth of entertaining material to use for analysis of lawyer/client interactions and decision making, conflicts of interest between personal and professional values of a defense lawyer, the challenge of establishing a smooth relationship with the prosecution while still asserting advocacy on behalf of a client, and other topics.

The following is a list of the Model Rules of Professional Conduct that each chapter directly addresses and/or implicates:

- Chapter 4: Divorce (1.1-1.4, 2.1, 1.14)
- Chapter 5: Immigration Law (1.2, 1.6, 1.7, 3.3, 5.5)
- Chapters 6: Personal injury (1.5, 7.1-7.3)
- Chapter 7: Insurance Defense (1.6, 1.7, 1.8, 5.4)
- Chapter 8: Corporate litigators (3.4, 5.1, 5.2, 8.4)
- Chapter 9: Transnational lawyering (1.2, 1.7, 1.9, 1.10, 3.3)
- Chapter 10: In house counsel (1.2, 1.6, 1.13)
- Chapter 11: Securities (1.2, 1.6, 1.13, 4.1)
- Chapter 12: Patents (1.7, 1.9, 1.10, 3.3)
- Chapter 13: Prosecutors (3.4, 3.8)
- Chapter 14: Criminal defense (1.6, 1.2, 1.14)
- Chapter 15: Legal services (1.2, 1.14, 2.1, 6.1)
- Chapter 16: Public interest lawyers (1.2, 1.7)