

2014

# Putting Undergraduates on Trial: Using The Old Bailey Online as a Teaching and Assessment Tool

Gray, David

Gray, D. (2014) 'Putting Undergraduates on Trial: Using The Old Bailey Online as a Teaching and Assessment Tool', *Law, Crime and History*, 4(1), pp.104-113. Available at:

<https://pearl.plymouth.ac.uk/handle/10026.1/8898>

<http://hdl.handle.net/10026.1/8898>

---

SOLON Law, Crime and History

University of Plymouth

---

*All content in PEARL is protected by copyright law. Author manuscripts are made available in accordance with publisher policies. Please cite only the published version using the details provided on the item record or document. In the absence of an open licence (e.g. Creative Commons), permissions for further reuse of content should be sought from the publisher or author.*

## PUTTING UNDERGRADUATES ON TRIAL: USING THE OLD BAILEY ONLINE AS A TEACHING AND ASSESSMENT TOOL

*Drew Gray*<sup>1</sup>

### **Introduction: The Dawn of Digitization**

In recent years there has been a notable movement towards the digitization of archival material presenting historians with new opportunities for research and new ways in which to undertake that research. Advances in technology have allowed us to data-mine a range of printed sources at a speed and convenience that would have amazed researchers working a mere ten to 15 years ago. For example, I began work on my PhD in 2001 and used both the Burney Collection of Newspapers and the Old Bailey Sessions Proceedings (OBSP) on microfilm. The key source materials for my thesis were the notebooks of the Guildhall and Mansion House Justice Rooms that were held by the now defunct Corporation of London Archives.<sup>2</sup> I had some of these microfilmed and a selection has just been transcribed and published by the London Record Society.<sup>3</sup> I would estimate that had the Burney, OBSP and the notebooks been digitized in 2001 I could have reduced the research time for my PhD by at least a year or more.

However the digitization process has not simply speeded up research, it has allowed us to consider doing different sorts of research. Indeed, as Tim Hitchcock has consistently argued, the emergence of a new digital humanities demands that we rethink the way in which we 'do history'.<sup>4</sup> Whether we are using data mining, word clouds, blogs, wikis or digital mapping we have the opportunity to ask new questions, offer new paradigms, and explore multi-layered and interactive approaches to history. In short, the technological developments of the last couple of decades have revolutionised the practice of history and have sowed the seeds for future faculty to harvest.

---

<sup>1</sup> Senior Lecturer in the History of Crime, University of Northampton [drew.gray@northampton.ac.uk](mailto:drew.gray@northampton.ac.uk)

<sup>2</sup> Drew D. Gray, *Summary Proceedings and Social Relations in the City of London, c.1750-1800*, unpublished PhD thesis, (University of Northampton, 200). These records are now housed at the London Metropolitan Archives.

<sup>3</sup> Greg T. Smith (ed.), *Summary Justice in the City: A Selection of cases heard at the Guildhall Justice Room 1752-1781* (Boydell & Brewer, 2013).

<sup>4</sup> Tim Hitchcock, 'Academic History Writing and its Disconnects', *Journal of Digital Humanities*, 1(1) (2011), <http://journalofdigitalhumanities.org/1-1/academic-history-writing-and-its-disconnects-by-tim-hitchcock/> [Accessed on 30 April 2014].

This preamble is by way of an introduction to the real purpose of this article and discussion paper, which is to demonstrate one way in which the advent of the digitization 'revolution' has enabled me to get my undergraduate students to approach the history of crime in a different way. I use one key resource - the Old Bailey Online<sup>5</sup> -1 alongside a handful of other electronic materials (such as Locating London's Past and London Lives<sup>6</sup>), in classroom teaching and assessment. This article will look in some detail at this assessment and consider some of its strengths and weaknesses. In addition it will outline some of the others ways in which social media and electronic databases are employed in my teaching within this level five (year two) module.

## **1 Teaching and Assessment Strategies**

I teach a long history crime survey module entitled *Crime, Policing and Punishment in England, 1700-1900*. The module is one of eight that are offered to students at the University of Northampton but this one is unique in being designated for both History and Criminology undergraduates. As a result the module attracts between 60 and 80 students each year (making it the largest of any of our level five modules) about 20 per cent of whom are not historians. The module uses a variety of approaches to explore the fundamental changes that occurred in attitudes to, and policies towards, crime, policing, and punishment in England during a period of fundamental economic and social change.

It does so using a variety of material and methods to investigate key themes in the history of crime. So within the module we look at the transformation of penal policies; the rise and fall of the 'bloody code', the shift from hanging to transportation and thence the rise to dominance of the prison. It considers the introduction and development of a professional police force and the arguments surrounding it; the 'invention' of juvenile delinquency; the growth of a new sensitivity towards violence and violent offenders; and the nature, causes and impact of these changes. In addition the module examines other themes, such as the role of the criminal law and the courts in reinforcing social discipline, the impact of the media on crime<sup>7</sup> and on punishment policies, and the experiences of women within the justice system.

---

<sup>5</sup> [www.oldbaileyonline.org](http://www.oldbaileyonline.org) [Accessed on 30 April 2014].

<sup>6</sup> [www.locatinglondon.org](http://www.locatinglondon.org) and [www.londonlives.org](http://www.londonlives.org) [Accessed on 30 April 2014].

<sup>7</sup> See for example: Peter King, 'Newspaper reporting and attitudes to crime and justice in late eighteenth and early nineteenth-century London', *Continuity and Change*, 22(1) (2007), pp.73-112; Judith Rowbotham, Kim Stevenson & Samantha Pegg, *Crime News in Modern Britain* (Palgrave, 2013).

Students are encouraged to think across the disciplines of history, criminology and law at issues such as media representations of crime and deviant behaviour, continuity and change in the penal system in the development of law enforcement, and patterns of recorded crime. This is a 'history from below' but one that is explored within the context of the growth of the modern state.

The module has two set pieces of assessment, an exam and a group presentation. The exam (worth 60 per cent of the overall grade) measures the student engagement with a number of overlapping themes. The candidates are required to think broadly about the changes to the criminal justice system and at the factors that affect them. This is deliberate and is aimed at avoiding attempts to specialize in narrow topic areas (for example, the 'new' police) a tactic that has previously allowed serial non-attenders to complete the module by carefully picking a handful of crammed topics to revise. I want my students to understand the ways in which the criminal justice system has evolved and been shaped by societal change, I do not want them to simply learn a piecemeal history of criminal justice institutions.

## **2 The Old Bailey Presentation: Step Away from the PowerPoint!**

This holistic approach to the history of crime informs the group presentation exercise because it involves active, research led learning. Over the years that I have been teaching this module it has continually changed; it changes to reflect new developments in the discipline (for example the growing appreciation of the nature of the media's effects on crime or more recent work on the criminal corpse as pioneered at Leicester)<sup>8</sup> as well as embracing new technologies for use in workshops such as *Locating London Lives*.<sup>9</sup> Of course it also uses a large number of traditional methods of teaching such as enquiry based reading and workshops structured around physical paper sources such as court records, gaol calendars and newspaper reports. Students are expected to contribute to debates, analysis of materials, or make short presentations in class on topics they have researched.

However, when it comes to the assessed presentation I decided some years ago that the rather staid and uninspiring 'talking head' presentation scenario was in many ways redundant as a useful way of getting undergraduates to demonstrate their understanding of the nature of the criminal justice system in the eighteenth and nineteenth centuries. Frankly three or four students standing nervously in front of the class and reading from an overladen

---

<sup>8</sup> <http://www2.le.ac.uk/departments/archaeology/research/criminal-bodies-1> [Accessed on 30 April 2014].

<sup>9</sup> <http://www.locatinglondon.org/> [Accessed on 30 April 2014].

PowerPoint slide display or a shaky handful of cue cards while they tell me everything they know about the 'bloody code' in ten minutes can be a deeply depressing experience. When you repeat that exercise 20 or more times the sense of ennui can deteriorate into a feeling of utter hopelessness. Which is why I developed the Old Bailey exercise.

The project involves the use of the OBSP in their electronic form: the Old Bailey Online (hereafter OBO) as well as the site's sister databases, *London Lives* and *Locating London*. In essence students are required to identify, research and perform a reconstruction of a trial using the OBO database and related material. The exercise also has an individual written element.

### ***The Old Bailey Online***

In case the readership of this journal is unfamiliar with the OBO it is necessary to briefly outline what it is and how it works. The resource is entirely free and is a fully searchable transcription of the Old Bailey Proceedings; effectively it is a database of most (but not all)<sup>10</sup> trials heard at the court from 1674-1913. To use the site's own words this is 'A fully searchable edition of the largest body of texts detailing the lives of non-elite people ever published, containing 197,745 criminal trials held at London's central criminal court'. As a database of crime and criminality in the eighteenth and nineteenth centuries it has obvious uses for taught courses on the history of crime yet it also offers much more. It can be used for a wide range of themes, such as cultural, gender, social and urban histories. Along with the trial records themselves there are pages and pages of historical background written by experts in the field and links to companion sites such as *London Lives* which adds another 240,000 manuscript sources and which uses a wiki system to allow subscribers (free again) to update entries and build content. The OBO is easy to use and it can be searched by name, by crime, by the year - in fact there are all sorts of ways in which search tools can be used to produce statistics or qualitative data. The site also provides useful help sections to guide those unfamiliar with the search methodologies.

### **3 Assessment Methodology**

The OBO assessment has two parts, one involves group work and the other is an individual written piece; the two halves are weighted equally for assessment purposes so that I can test students' abilities to present orally and on paper. This has evolved over the years in

---

<sup>10</sup> As Shoemaker acknowledges the OBSP is a partial record of the court's business, see Robert B. Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies*, 47 (2008), pp.559-580.

response to student feedback and to my own evaluation of the exercise. Originally the presentation element constituted the majority of the grade but this led some students to complain that within large groups some members could piggyback on the efforts of their peers. Additionally I found that students were putting considerable effort in to the presentation part of their work but neglecting to put as much into the analysis of their trial. Clearly every piece of assessment, as with each lecture and seminar, benefits from careful evaluation and adjustment.

The timing of the assessment is also important and I have adjusted this over the years. It now takes place at the start of the second (spring) term so that I have had time to introduce a number of the themes of the module that I hope will be addressed throughout the exercise. I have also used the University's virtual learning environment (VLE) so that students can set up learning hubs online and communicate with each via the VLE whilst they are conducting individual research and are not necessarily in the same physical place.

In the first instance students self-select into groups. These can be small (three or four) or larger (up to about eight) but generally work best around six people. This gives enough members to take on a series of roles but not too many that students can hide behind the work of others. It also makes the assessment pattern more manageable than having 20-25 different presentations spread out over several weeks. The students are asked to pick a trial or a type of trial from the OBO between the period 1700-1900 (the chronological range of the module). This avoids the early trials, which have proportionally much less detail and the later ones, which are affected by legislative change in the early twentieth century. I also strongly suggest to them that they stick to property crimes or at least avoid those overly sensational or atypical cases because arguably these have less to tell us about how the criminal justice system operates. Once students start to hunt through the OBO they are often attracted by the more unusual cases or drawn to emotive ones such as child killing or particularly violent murders.

In an attempt to guide them I introduce the OBO very early in my teaching, in fact I require them to explore the site before the module starts in the autumn term. By using the VLE I can set those that have subscribed to the module at the end of the first year a simple summer task. This involves them exploring the OBO and picking a trial that interests them. I suggest that they use a fairly random method of selection here; a birthday, family name or other anniversary that allows them to make a selection. In the first seminar of the course I use this as an 'ice breaker' to get them talking to me and each other. It is a form of 'show and tell' and it works quite nicely as an introduction to the OBO. It also allows me to foreground the

project and to raise issues about typicality and the need to avoid overly sensational cases later on.

To give some idea of the sorts of cases students have reconstructed in the past year I had several infanticide cases, two or three highway robberies, a forgery case, a domestic murder involving a complex poisoning investigation and an interesting incident of machine breaking from the late eighteenth century. Of course not all managed to stick to cases they could easily discuss and one case involving bestiality was clearly chosen for its comedy value. However, students who choose such bizarre scenarios are apt to fall flat on their faces if they cannot support their amusing presentation with direct links to a relevant historiography; making me laugh is not a substitute for academic rigour (as that particular group found to their cost).

The students are given several weeks to think about the exercise and a full week off classes when they can use the classroom space to prepare and practice. Again this strategy was adopted in response to feedback received. While undergraduates are always encouraged to rehearse presentations this particular exercise works best if the participants are not using notes. The trial transcripts, or more accurately reports (as the OBO is a not a verbatim transcript of trials), work best if they are interpreted rather than simply used as a script, but students adopt a variety of approaches. Many of these efforts are thoroughly rehearsed to a level that I am continually amazed and impressed by. There is something about the drama involved that pushes many undergraduates to excel here.

#### **4 The Mock Trial Presentation**

For the presentations themselves I take the classes out of their normal seminar classrooms and use the university's Moot room as a venue because it provides a unique space. The Moot room is purpose built and generally used by Law and Criminal Justice for role-play. Whilst the modern sanitised courtroom is a far cry from the eighteenth or nineteenth-century Old Bailey it serves the purpose of placing the presentations within a different and appropriate context. I am working on using the local Sessions House in Northampton for future presentations and have piloted this in 2013 when students used the location for a non-assessed reconstruction of a trial. The Nottingham Galleries of Justice are currently involved in an initiative to allow greater access to Sessions House and I am monitoring this for future projects. However, while the Moot room is not perfect it adds an important level of difference that the students appreciate.

The students are given 20 minutes in which to present their trials and most opt to script this using the trial transcripts as a base. However, because these are only a *partial* record of what was actually said in court they need to use their knowledge of the court system and role of the judge, prosecutor, lawyers and jurors to try and reconstruct what happened. This will vary depending on when the trial is set and so undergraduates are required to think about the impact of legislative change and of developments in the adversarial criminal trial as outlined by John Langbein.<sup>11</sup> They are not restricted to picking one particular trial to perform; instead they could choose an amalgam of similar cases to create one analogous case study.

During the reconstruction points will be awarded for creativity, historical knowledge or accuracy and flair. Often students will play several roles in the trial: prosecutor, witnesses, policing agents, court officials and barristers (if of course they were even involved, as most trials before the last quarter of the eighteenth century were conducted without lawyers). Sometimes the students dress up; it is not necessary or required but they enjoy it and it helps them to get into character. Understandably we can get a fair few silly accents as well but as long as it does not detract from the performance overall I try not to dent their enthusiasm. One of the strengths of a university education (indeed of all education) is the provision of opportunities for individuals to shine and showcase their strengths. The drama reconstruction is not to everyone's taste; some students are daunted by it at first. However, most evaluate it extremely well and this includes criminology students for whom history is often something they have not studied for several years.

One unexpected but welcome outcome is worth noting here, if only in anecdotal form. Two years ago I had a student who suffered from a pronounced stutter and naturally felt very shy of speaking in class let alone taking part in presentations. He was often given an alternative assessment or allowed to make his presentations to lecturers alone. However, here he took on a role (as a number of different witnesses, literally wearing three different hats!) and sailed through the presentation without a stutter. We discussed this later and he had not realised what had happened. Perhaps in assuming a different persona (or personae) he had temporarily overcome his speech impediment.

## **5 Debriefing: Finding Out What They Know**

The groups are split into pairs for each hour-long assessment period; one group performs and then the next one follows. This is partly so that I can accommodate them in the reduced

---

<sup>11</sup> John H. Langbein, *The Origins of the Adversary Criminal Trial* (Oxford University Press, 2003).

space of the Moot room but it also allows small group discussion to take place after each 'performance'. This is crucial to the assessment because without it there is a danger that the exercise will be just a dramatic reconstruction without the necessary context. So each group is subjected to a ten-minute debriefing session where the second marker and I quiz them about the relevance of their chosen trial to the themes of the module. This is also important because it allows students to demonstrate what they know and understand and how much work they have put in on an individual and collective level.

In most instances there follows a lively discussion about the trial and those involved in it and how this helps us understand the justice system. Points are awarded here for analysis and for making links with the historiography, but also for identifying issues with the source material and showing how they have overcome this or deployed additional material (for example from the newspapers or *London Lives*). For example, it is possible to trace those sentenced to hang at the Old Bailey through a variety of sources. Given that most of those who received a death sentence were subsequently transported, imprisoned or pardoned this allows a discussion of the nature or type of offenders or offences that were likely to result in execution. The discussion might also throw up issues such as policing and the involvement of thief-takers in the 1700s or the new 'Peelers' in the period after 1829. If students have done their research they will be able to talk about developments such as the Bow Street Runners and make links to the geography of London's criminal networks using *Locating London's Past* as an additional archival resource.

### ***The Individual Report***

All of this discussion forms the analytical basis for the second half of the assessment. Students are required to submit a 1,500 word individual short essay (or report), which analyses the trial they have presented. This should be properly referenced and involve a thorough reading of the secondary literature if they want to gain a top mark. Those handing in a 'what I did in our presentation' type essay will get heavily penalized, as will those who cite nothing from the historiography. In essence what is required is an essay that examines one case study as a means to unpack the workings of the eighteenth or nineteenth-century criminal justice system. Thus, I expect to see attention given to ongoing historical debates such as the use of the law, the evolution of policing or changing punishment patterns. The better work will situate their chosen trials within the historiography of gender and crime, debates concerning youth, fluctuations in property crime or changing attitudes towards violence. They should show awareness of legislative or institutional change (such as the Murder Act 1752, the reintroduction of transportation in 1787, 1829 and the Metropolitan police or the opening of Pentonville Prison in 1842) and how it might affect their case.

As with all written work at Northampton the report is submitted electronically via the VLE and Turnitin. Poor referencing is easily spotted and any attempt by groups to replicate each other's work is made glaringly obvious. This all adds to the rigour of this piece of assessment and therefore helps to give those that score highly a well-earned sense of achievement. Again I believe that this is imperative at this level and that testing undergraduates in this multi-discipline way is markedly better than the traditional 'talking heads' pattern of presentations.

Naturally by using a group presentation alongside an individual essay this can result (because of the 50/50 weighting) in some students getting an A for the trial presentation and a D for the report but I think that overall this is a fair way of assessing them. Feedback suggests high levels of agreement amongst those taking part as well as approval from colleagues who sit in as second markers.

## **6 Reflection and Feedback**

The project exists within a module I feel very comfortable with and I think this allows more space for innovation. I am currently engaged in the process of creating a textbook based upon my level five module and this process is in itself a reflective one for me as a researcher and teacher. The process of learning is never one way and my students' efforts inevitably inform the way in which I teach them. I can illustrate this by reference to another of the module's innovations which arose from my earlier attempts to engage students in their learning.

### ***Getting the bloggers to read: using weblogs in UG teaching***

Having become frustrated with students who either failed to read for seminars or showed marked reluctance to comment even if they had done, I adopted a new strategy to engage them. Using the VLE I set up group blogs for each seminar cohort and explained how they could use them. Each week I set reading as normal, sometimes with a set of questions or research topic, and asked them to blog about it. Blog posts were typically between 200-500 words and students were required to complete these ahead of the following week's classes. I was able to quickly check who had done what and comment on a handful of posts each week. It certainly encouraged people to complete the work as it made it much harder for them to hide in class. It also allowed me to pick on certain quieter members of the class in a positive way; I could ask an individual to draw upon the work I knew they had done and join in with debates. Thus it has become an empowering vehicle for some of my less gregarious undergraduates. There are problems of course, boiling an article down to the bare bones can be reductive and, as the blogs are public (the entire cohort see them), there is the

opportunity for plagiarism. However, overall I feel the exercise has been constructive and I have been developing it alongside the Old Bailey exercise. In recent years I have started to use blogs with my third years, many of whom have become familiar with it in this module; at level six I take a much more focussed approach and get them to set aside 45 minutes a week (and no more) to undertake a source analysis.<sup>12</sup>

### **Final Thoughts**

Overall the OBO research project has proved to be a very popular exercise with students and the Old Bailey Online project team came to discuss it with some of the students and have noted its use on their site.<sup>13</sup> I think it still has considerable space for development and improvement. Ideally I would like to give over more time for the presentations and take them to an external venue (such as the Sessions House in Northampton or the Nottingham Galleries of Justice) because recreating the 'feel' of an eighteenth or nineteenth-century courthouse in a modern classroom is difficult. More thought could be given to the written assessment and what it contains and perhaps the assessment weighting could be adjusted. I would certainly welcome any feedback from readers.

But having recently completed a new round of presentations it is evident that my students are learning about the Hanoverian and Victorian criminal justice through their engagement with this exercise as well as via more conventional forms of teaching such as lectures and seminars. I regularly discuss teaching and assessment with school teachers and visit and work with pupils and students at secondary level. It is my belief that we (as HE educators) have much to learn and share with our colleagues who work in schools. The OB project could work at several levels of the education system because it is an example of active learning; something perhaps teachers in schools are more used to than we are.

As I have said, the Old Bailey is not simply useful to historians of crime and is well worth digging around in for teaching and learning practices at all levels. It also reflects the recent developments in digital humanities and hopefully helps undergraduates and academics or teachers to think about the interesting ways in which we can utilise the growing body of resources that are becoming available.

---

<sup>12</sup> This was in response to an observation that students who were asked to do source analysis in their final exams were struggling. Last year's exams saw a marked improvement in the source analysis section

<sup>13</sup> <http://www.oldbaileyonline.org/static/UniversityTeaching.jsp> [Accessed on 30 April 2014].