

Index

- Abelson, Robert P., 286
 Activism. *See* Legal activism, narrative and metaphor in
 Adele, 322
 “Admissions Against Interest” (Joseph), 336–337
Advanced Legal Writing: Theories and Strategies in Persuasive Writing (Smith), 57
Aeneid (Virgil), 76–77, 94–95
 Affordable Care Act, 164
 Akers, Timothy A., 211–212
 Allegory, 97–99
 American Bar Association, 262, 351
 American Civil Liberties Union, 191
America’s Most Wanted (television program), 261
 Amsterdam, Anthony G., 1, 2–3, 60, 146
 “An Awful Lot Was Happening” (Joseph), 335
Anderson v. Litzenberg (1997), 77–78
Animal Farm (Orwell), 273, 281
The Anthologist (Baker), 102–104
 Anthony, Casey, 252
 Anthony, Susan B., 369
 Antiquities Act, 48–49
 “Any and All” (Joseph), 335–336
Apollo and Dionysius (Brown), 338
 Applied Legal Storytelling, 59
 “Applied Legal Storytelling” (conference), 2
 Aquinas, Thomas, 338
 Aristotle, 84, 255
 Arizona State University, 48
 Arnold, Thurman, 197
 Art works, 39–40, 41–42
 Ashkins, C.D., 254
 Assault weapon laws, 232
 Attorneys, narrative and metaphor and
 See also “Lawyer-self”
 overview, 327–331
 civility and, 349–358
 Auchincloss, Louis, 328
 “Aunt Jennifer’s Tigers” (Rich), 160–161
 Australia
 indigenous peoples in, 41–42, 45
 “queue jumping” in, 307
 Bachmann-Medick, Doris, 22
 Baker, Nicholson, 102–104
Baldwin v. Seelig (1935), 31
 Ball, Milner S., 7, 169, 364
 Bandes, Susan, 262
 Barthes, Roland, 123, 127–128, 135–136, 137, 140, 143, 145, 225–226
 Beale, Sara Sun, 260, 261, 263
 Beckett, Katherine, 262
Before Our Eyes (Joseph), 336–337, 340
 Bell, Derrick, 372
 Benveniste, Emile, 124
 Berger, Benjamin, 114
 Berger, Linda L., 7, 9, 62–63, 64, 119–120, 153–156, 275, 276, 361. *See also* Gender, narrative and metaphor and
Berkey v. Third Avenue Railway Co. (1927), 30
 Berne Convention for the Protection of Artistic and Literary Works, 42–43
 Bibas, Stephanos, 63
 Biblical parables, 94
Billy Budd (Melville), 338, 339
 Binder, Guyora, 2–3, 117, 119
 “Binocular vision,” 20
 “Birth” metaphor, 276
 Bishin, William R., 337–338

- Black, Hugo, 116
 Black Lives Matter, 373
 Blackstone, William, 52
 “Black Unicorn” (Lorde), 160
 Blumer, Herbert, 211–213
 Bogdanov, Konstantin, 322
 Booth, Wayne C., 97, 255
Booth v. Maryland (1987), 140–141
 Boroditsky, Lera, 198, 255–256, 263–264, 277, 279–280, 283
 Bosmajian, Haig A., 7, 113–115
Bowers v. Hardwick (1986), 276–277
 Bradley, Joseph, 171–172, 174
 Bradwell, Myra, 171, 176
Bradwell v. Illinois (1873), 171–172, 174, 175, 177
 Brandeis, Louis, 5
 Brazil, “queue jumping” in, 322
 Brennan, William, 164
Brewsie and Willie (Stein), 332
 Breyer, Stephen, 5, 142
 Bribery, 240
Brock v. State (1989), 234
 “Broken windows” metaphor, 205, 236
 Brooks, Peter, 2–3, 16, 20, 118–120, 126, 155.
 See also Judicial opinions, narrative and metaphor in
 Brown, Norman O., 338
Brown v. Board of Education (1954), 23–24, 35, 118, 119, 187, 188
 Bruner, Jerome, 1, 2–3, 8, 21, 60, 147
 Bryant, Kobe, 252
Bulun Equity Principle, 49–50
 Burgers, Christian, 279–280
 Burns, Robert, 59
 Bush, George H.W., 247, 274
 Bush, George W., 321
- Cacioppo, John T., 285
 California Resale Royalties Act, 39–40
 Cameron, Lynne, 245–246, 270–271
 Canada
 Canada Health Act, 307
 Constitution, 16
 health care in, 322–323
 “queue jumping” in, 307, 322–323
 “Captive audience” metaphor, 95
 Cardozo, Benjamin N., 5, 30–31, 33, 36, 52–53, 109, 115–116, 149, 338
 Carpenter, Irving, 89, 93–94
 Case, Mary Ann, 182
 Cash transaction reporting laws, 231
- Castile, Philandro, 145
 Catalano, Theresa, 259–260
 Centers for Disease Control and Prevention, 210, 215
 “Chain of evidence” metaphor, 95
 Chambers, Ross, 59, 154
 Charon, Rita, 2
Chilkat Indian Village v. Johnson (1989), 43
 “Chilling effect” metaphor, 95
Cismaru v. Radisson Seven Seas Cruises, Inc. (2001), 73–74
 Citizenship and Immigration Service (USCIS), 320–321
Citizens United v. Federal Election Commission (2010), 30–31, 281
 Civility among attorneys, 349–358
 Civil law systems
 common law systems versus, 21, 33–34
 metaphor in, 32
 narrative in, 25–28
 Clark, Kenneth, 187–188
A Clearing in the Forest: Law, Life, and Mind (Winter), 7, 9
 Clement, Paul, 164
Codes, Precepts, Biases and Taboos: Poems 1973–1993 (Joseph), 340
 Cohen, Felix S., 338
 Cohen, Ted, 154
 Cohn, Jonathan, 322–323
 Coleman, Renita, 246
 Colleges, sexual assaults in, 240–241
 “Color blind” metaphor, 178–179, 364, 372
Columbia Law Review, 342, 351, 357
 Columbia University, 2, 264–265
The Common Law (Holmes), 355
 Common law systems, civil law systems versus, 21, 33–34
 Community policing, 236
 Compstat, 236–237
 “Conception” metaphor, 202–204
 Concepts of justice, narrative and metaphor in overview, 15–18
 covenant metaphor, 16
 indigenous peoples (*See* Indigenous peoples)
 legal discourse (*See* Legal discourse, narrative and metaphor in)
 “living tree doctrine,” 16
 Conceptual Metaphor Theory, 271–273
 Constitution, metaphors regarding, 114–115
 Contagion theory, 206
 “Containment” metaphor, 227–228

- Contraception, 184–186
 “Control” metaphor, 207
 Conventional metaphors, 63, 107–108
 Convention on Economic, Social and Cultural Rights, 44
 Convention on the Rights of Persons with Disabilities, 303
 Coode, George, 134
Cops (television program), 261
 “Copycat” effect, 206–207
 Copyrights, 40, 42–43, 50
Corcoran v. Astrue (2011), 87
 Counterfactuals, 125
 “Covenant” metaphor, 16
 Cover, Robert, 21, 24, 339
 Coy, Peter, 256, 267–268
Coyle v. Texas (1985), 66–67, 68, 71, 81, 82, 83, 92–93
 Crazy Horse, 43–44
 Crenshaw, Kimberlé Williams, 362
 Crimes against humanity, 294–295
 Criminal law, narrative and metaphor in
 overview, 53, 195–199
 assault weapon laws, 232
 bribery, 240
 “broken windows” metaphor, 205, 236
 cash transaction reporting laws, 231
 colleges, sexual assaults in, 240–241
 community policing, 236
 deterrence and, 246–247
 drug paraphernalia laws, 232
 HIV transmission as assault, 233
 loitering, 234
 mass incarceration, 229–230, 237–238
 media reporting of crime (See Media reporting of crime, narrative and metaphor in)
 medical metaphor (See Medical metaphor of crime)
 “narrative criminology,” 248–249
 pathological model, 247
 “rational actor” model, 246–247
 scientific criminology, 210–211
 selective incapacitation, 236–237
 suicide, 206–207, 229
 “superpredators,” 222, 247
 white collar crime, 239–240, 259–260, 279
 Critical Legal Theory, 3, 362, 372
 Critical Race Theory, 3, 196, 361, 362–364, 365, 367, 371, 372, 379
 Crowning, Robert, 338
The Crucible (Miller), 97–98, 100
 Cultural appropriation, 50
Curriculum Vitae (Joseph), 334–336, 340
 Darwin, Charles, 195
 Dead metaphors, 5, 107–108
 DeBose, Cynthia Hawkins, 185
 Defense of Marriage Act, 280–281
 Defoe, Daniel, 42
 Delgado, Richard, 3, 363
 Dershowitz, Alan, 92
 Dickerson, Maria, 322
 Dickinson, Emily, 338
Dickinson v. Texas (1984), 66–67, 93
 Differential Association/Social Learning (DA/SL) perspective, 207–208
 “Dirty laundry” metaphor, 181
 Discourse. See Legal discourse, narrative and metaphor in
 Disease metaphor of crime. See Medical metaphor of crime
 Disnarration, 125–126
 “Dolls study,” 187–188
Dong v. Chertoff (2007), 320
 Donne, John, 338
 Douard, John, 257
 Dowdle, Walter R., 207
 Dreisbach, Daniel, 116
Droit de suite, 39–40
 Drug paraphernalia laws, 232
 Dudziak, Mary, 363
 Duke University, 256
 Durst, Ilene, 173–174
 Dworkin, Ronald, 1–2, 17, 232, 294
 Dylan, Bob, 376–377
 Editorial cartoons, reporting of crime and, 280–282
 Edwards, Linda H., 57, 59, 60, 162, 275, 276–277
 Eighth Amendment, 227–228, 238
Eisenstadt v. Baird (1972), 184
 “Elimination” metaphor, 207
 El Refaie, Elizabeth, 281–282, 283
 Embodied metaphor
 overview, 90–92, 109–110
 allegory and, 97–99
 interpretation of parable via embodied simulation, 100–104
 legal narrative, parable in, 92–97
 literary versus legal parable, 108
 persuasion and, 104–109

- woodcutter parable and, 92–93, 100, 106–107
- Emotional resonance, 186–192
- “Empathic fallacy,” 365
- Epidemiological Criminology* (Akers, Potter, and Hill), 211–212
- Equitable copyright, 50
- “Eradication” metaphor, 207
- Ethos, 84–85, 226
- Extended metaphor, metaphoric parable versus, 77–80
- Fable, metaphoric parable versus, 74–75
- Fabula* (story), 129, 146
- Fact Skepticism* (Frank), 338
- Facts versus law, 131–132
- Fauconnier, Gilles, 29–30
- “Federal citizens,” 175–177
- Federal Rules of Civil Procedure, 63, 131–132
- Feinberg, Jonathan, 354
- Female sexuality, narrative and metaphor and, 184–186
- Feminist Judgments Project, 154, 170–174, 182–186, 188–192
- Feminist Legal Theory, 3, 379
- Fictionality, 35–36
- Fielding, Henry, 130–131
- Fifth Amendment, 236
- Finley, Lucinda, 173
- First Amendment, 49–50, 61, 245
- Fish, Stanley, 127
- Fisher, Walter, 186
- “Fishing” metaphor, 63
- Flaubert, Gustave, 145
- Fludemik, Monika, 27–28
- “Footprints” metaphor, 316–317
- Forster, E.M., 133
- Fourteenth Amendment, 171, 175–177
- Fourth Amendment, 142, 233, 236
- Frameworks Institute, 248–249
- Framing, 35–36
- Frank, Jerome, 338
- Frank, John Paul, 276
- Frankfurter, Felix, 114
- Fresh metaphors, 62–63
- Frist, Bill, 321
- Froebel, Friedrich, 196
- Fromm, Erich, 338
- Frontiero v. Richardson* (1973), 164
- Frost, Robert, 338
- “Fruit of the poisonous tree” metaphor, 61
- Fuller, Lon, 88–89
- Gaakeer, Jeanne, 27–28
- Gallagher, Catherine, 131
- “The Game Changed” (Joseph), 340–341
- The Game Changed: Essays and Other Prose* (Joseph), 341
- Gamson, William, 269
- Geduldig v. Aiello* (1974), 173
- Geertz, Clifford, 46
- Cell, Andrew, 46
- Gender, narrative and metaphor and
 overview, 153–156, 157–159, 361
 allusive nature of, 169
 contraception and, 184–186
 in decision making, 168
 “dirty laundry” metaphor, 181
 discrimination and, 364
 disruptive use of, 170
 emotional resonance and, 186–192
 female sexuality and, 184–186
 feminist advocacy, contribution to, 168–170
 Feminist Judgments Project and, 154, 170–174, 182–186, 188–192
 feminist persuasion, relationship with, 159–162
 interracial marriage and, 188–192
 judicial opinions and, 119–120
 lack of constraints on, 168–169
 in legal argument, 162–163
 male homosexuality and, 182–184
 novel metaphors, use of, 174–177
 oppression, as tool of, 159–162
 persuasion by, 165–167
 politicization of law and, 159–162
 pornography and, 161
 “separate spheres” metaphor and, 170–174, 177
 sexual harassment and, 179–181
 significance of, 163–165
 social justice advocacy, contribution to, 168–170
 structure of logical reasoning, 167
 tacit knowledge and, 166
 thought processes as metaphoric, 166
 unconscious assumptions and inferences and, 166
- Genetic predisposition, medical metaphor of crime and, 226–229
- Germany
 metaphor in, 32
 narrative in, 25–28

- Germany (cont.)
 rules of legal application in, 33–34
In Geschichten verstrickt: Zum Sein von Mensch und Ding (Schapp), 28
 Gewirtz, Paul, 2–3
 Gibbs, Raymond W., Jr., 8, 57, 60–61, 64, 154.
 See also Embodied metaphor
 Ginsburg, Ruth Bader, 164
Gossip v. Gross (2015), 5
 Goldberg, Irving, 78–79
 Goldfarb, Phyllis, 172, 174–177
 Goldman Sachs, 259, 279
 Goldstein, Paul, 328
 Goodman, John, 322–323
 Good Samaritan parable, 94
 Gordon, Robert W., 197
 Grimké sisters, 368–369
 Grisham, John, 328
Griswold v. Connecticut (1965), 182, 184–186
 Grossman, Jonathan, 131
 Grunewald, Ralph, 197
 Gurnham, David, 6
 Gusfeld, Joseph, 211–212, 213–214
- Haack, Susan, 195
 Hand, Learned, 338
 Handler, Alan, 76–77, 94–95
 Hanne, Michael, 10, 20, 221, 224, 233
 Harcourt, Bernard, 238
 “Hardball” (television program), 101–102
 Harrell, Glenn, 77–78
 Harris, Cheryl I., 191, 364
 Hart, H.L.A., 338
 Hate speech, 374
 Hay, Bruce L., 187
 Health care
 in Canada, 322–323
 as human right, 317
 “queue jumping” and, 322–323
 “queue” metaphor and, 322–323
 Heller, Kevin, 59–60
 Henderson, Greig, 113, 119
 Herbert, George, 338
 Herdegen, Matthias, 32
 “Hidden agenda” metaphor, 274
 Hightower, Jim, 274
 Hill, Carl V., 211–212
Hill v. Komar (2006), 68–70, 71
 Hirschman, Albert, 357
 HIV transmission as assault, 233
 Hochschild, Arlie Russell, 314–315
- Hogan, Thomas, 87–88
 Holmes, Oliver Wendell, 355
 hooks, bell, 181
 Hoover, J. Edgar, 276
 Horton, Willie, 247
 “Hotspots,” 236–237
 Housing
 as human right, 317–318
 mortgage crisis, 240
 South Africa, guarantee of housing in,
 297–299, 317–318
 Human rights, narrative and metaphor in
 overview, 291–292, 362
 crimes against humanity and, 294–295
 definition of “right,” 292
 dispute resolution, 294
 existential rights, 293
 “footprints” metaphor, 316–317
 health care, 317
 housing, 317–318
 indigenous peoples and, 296
 infringement of, 294
 intellectual property and, 44
 literature and, 295
 metaphors for rights, 292–294, 308–309,
 315–318
 narratives of rights, 294–296
 property, rights as, 292–293
 “queue” metaphor (See “Queue”
 metaphor)
 wealth redistribution and, 293
 weapons and, 293–294
 Hunt, Lynn, 295
- Image, right to, 43
 Immigration, “queue jumping” and, 319–324
 Immigration law, narrative and metaphor
 in, 53
 Indigenous peoples
 in Australia, 41–42, 45
 collective ownership, assumptions
 regarding, 45–46
 cultural appropriation, 50
 culturally significant objects, 46–47
 diversity of, 52
 genetic material of, 48
 human rights and, 296
 intellectual property and, 39, 41–42, 43, 51–52
 legal protections, 47–48
 Matsuda on, 371–372
 metaphor and, 51–53

- in New Zealand, 45
- open source licensing and, 49
- plants and, 48
- property and, 38
- United Nations Declaration on the Rights of Indigenous Peoples, 44
- “In Parentheses” (Joseph), 346–348
- Intellectual property
 - overview, 44
 - agricultural metaphor, 40–41
 - art works, 39–40, 41–42
 - copyrights, 40, 42–43, 50
 - diversity and, 52
 - droit de suite*, 39–40
 - equitable copyright, 50
 - human rights and, 44
 - image, right to, 43
 - indigenous peoples and, 39, 41–42, 43, 51–52
 (See also Indigenous peoples)
 - moral rights, 42–43
 - open source licensing, 49
 - patents, 40, 41, 50
 - paternity metaphor, 42
 - personality, right to, 43
 - software, 49
 - trademarks, 40
 - World Intellectual Property Organization, 44
- International Covenant on Civil and Political Rights, 303
- International Covenant on Economic, Social and Cultural Rights, 303
- International Longshore and Warehouse Union (ILWU), 376
- Interracial marriage, 188–192
- Into It* (Joseph), 340
- “Iron fist in velvet glove” metaphor, 217–218
- “I Think About Thigpen Again” (Joseph), 334
- “I’ve Already Said More Than I Should” (Joseph), 335
- Iversen, Stefan, 35
- Iyengar, Shanto, 248, 269–270
- Jakobson, Roman, 29
- James, William, 338
- Jameson, Fredric, 8
- Jefferson, Thomas, 61, 116
- Jeter, Mildred, 188–192
- Johannesburg Metropolitan Municipality v. Blue Moonlight Properties* (2012), 305–307
- Johnny Lynn Old Chief v. U.S.* (1997), 147–149
- Johnson, Lyndon, 258, 276
- Johnson, Mark, 8, 29, 167, 271
- Joseph, Lawrence, 327–331, 349–358. See also *Lawyerland* (Joseph); “Lawyer-self”
- Judicial opinions, narrative and metaphor in
 - overview, 113–120
 - absence of narrative, 118–119
 - counterfactuals and, 125
 - dangers of, 115–116
 - disnarration and, 125–126
 - fabula* and, 129, 146
 - gender law and, 119–120
 - incorporation of narrative features, 126–127
 - judgments, 128–131
 - “legality effect,” 137
 - legal scholarship, narrative in, 123–128
 - literary narrative, legal narrative versus, 121–123
 - multiple plots, 131–135
 - “penumbral rights,” 114
 - quasi-character, 135
 - quasi-plot, 118, 122–123, 133–135, 138
 - “reality effect,” 118, 123, 135–139, 140–149
 - “reasonable person” and, 124–125
 - sjuzhet* and, 129, 146
 - victim impact statements and, 140–141
 - videos and, 141–146
 - visual narratives and, 140–149
 - “wall of separation” metaphor, 116
 - “watertight compartments,” 114
- Justice for Janitors, 375
- Kafka, Franz, 339
- Kalven, Harry, 37
- Kanne, Michael, 349–350
- Kasich, John, 321–322
- Keats, John, 338
- Kelling, George L., 236, 266–267
- Kennedy, Anthony, 5
- Kennedy, Robert F., 191
- Kent, James, 232
- Kerber, Linda, 171
- Kerper v. Kerper* (1989), 88
- King, Rodney, 143
- Kitsuse, John, 211–213
- Krakoff, Sarah, 355
- Krider, Jeanne, 211
- Kubrin, Charis E., 253–254
- Kuhn, Thomas, 195
- Ku Klux Klan, 374, 375

- Lacey, Nicola, 308, 318
 Ladson-Billings, Gloria, 364
 Lakoff, George, 8, 29, 167, 255, 266, 267, 271
Lambert v. California (1957), 114
 Landau, Jack, 72–73
 Langbein, John, 26
 Langer, Susan K., 338
Langley v. Boyter (1984), 88–89
 Latinos, media reporting of crime and, 259–260, 279
 Laufer-Ukeles, Pamela, 173
Law Language and Ethics: An Introduction to Law and Legal Method (Bishin and Stone), 337–338
 Lawrence, Chuck, 370
Lawrence v. Texas (2003), 34–35, 182, 235
 “Law’s Metaphors” (conference), 6
Law’s Stories (Brooks and Gewirtz), 21
 Law versus facts, 131–132
Lawyerland (Joseph)
 overview, 327–331, 340
 civility in, 349–358
 “lawyer-self” in, 341–346
 reviews of, 351, 352
 “Lawyer-self”
 overview, 327–331, 332–333, 346–348
 in *Lawyerland*, 341–346
 in legal scholarship, 339
 in poetry, 333–341
 in prose, 337–339
 Le Bon, Gustave, 206
 Legal activism, narrative and metaphor in
 overview, 361–366
 connection between narrative and metaphor and, 378–379
 Critical Race Theory and, 361, 362–364, 365, 367, 371, 372, 379
 metaphor, 378
 narrative, 372
 peacemaking, 374–375
 “ratchet principle,” 366, 377–378
 “shaking our windows and rattling our walls” metaphor, 376–377
 “slow-cooking school of theory building,” 366, 373
 Legal discourse, narrative and metaphor in
 overview, 19–20, 36
 “binocular vision,” 20
 in civil law systems, 25–28, 32, 33–34
 different aspects of narrative, 23–25
 discourse, 24–25
 distortive nature of narrative, 34–35
 fictionality, 35–36
 framing, 35–36
 in Germany, 25–28, 32, 33–34
 narration, 23–24
 narrative turn, 20–23
 narrativity, 25
 narrativization, 25
 in rules of legal application, 33–34
 specificity of narrative, 25–28
 story, 24–25
 universality of metaphor, 29–33
The Legal Imagination: Studies in the Nature of Legal Thought and Expression (White), 3, 9, 337, 338–339
 “Legality effect,” 137
 Legal persuasion, narrative and metaphor in
 overview, 57–64
 abstract topics, metaphor and, 61–62
 closing arguments, 58
 commercial cases, 62
 conventional metaphors, 63
 embodied metaphor (See Embodied metaphor)
 “fishing” metaphor, 63
 fresh metaphors, 62–63
 intimacy, metaphor and, 60–61
 metaphoric parable (See Metaphoric parable)
 multiple narratives, 60
 opening statements, 58
 sporting metaphors, 63
 Legal scholarship
 “lawyer-self” in, 339
 narrative in, 123–128
Legal Writing: Process, Analysis, and Organization (Edwards), 57
 Le Goulven, Katell, 50
 Lehmann-Haupt, Christopher, 352–353
 Lerner, Stephen, 375
Letters to a Young Poet (Rilke), 342
 Lewin, Kurt, 211
 Literal parable, metaphoric parable versus, 71–74
 Literature
 human rights and, 295
 “lawyer-self” in (See “Lawyer-self”)
 literary allusion versus metaphoric parable, 76–77
 literary narrative versus legal narrative, 121–123

- literary parable versus legal parable
 versus, 108
 poetry, “lawyer-self” in, 333–341
 prose, “lawyer-self” in, 337–339
 Lithwick, Dahlia, 116, 155, 198, 239, 240, 248,
 249, 269, 271, 277–279, 287, 361, 365.
See also Media reporting of crime,
 narrative and metaphor in
 “Living tree doctrine,” 16
 Llewellyn, Karl, 338
Lochner v. New York (1905), 172
 Locke, John, 308
 Logos, 80–82, 226
 Loitering, 234
 Lombroso, Cesare, 210–211
 López, Gerald P., 363–364
 Lopez, Ken, 57–58, 62
 Lorde, Audre, 160
 Loving, Richard, 188–192
Loving v. Virginia (1967), 188–192
 Lowie, Robert, 47
 Luban, David, 353
*Lying Down Together: Law, Metaphor, and
 Theology* (Ball), 7
- MacKinnon, Catharine, 160, 161
 Madison, James, 38
 Magalhaes, Luciana, 322
 Magdalene College, 332
 Male homosexuality, narrative and metaphor
 and, 182–184
 Mandela, Nelson, 310
 Marginalized persons, narrative and metaphor
 and, 177–178
 Marine Cooks and Stewards Union, 376
 “Marketplace of ideas” metaphor, 61,
 95, 276
 Marvell, Andrew, 338
Maryland v. Rusk (1981), 146–147
 Mass incarceration, 229–230, 237–238
 “Material Facts” (Joseph), 329, 336
 Matsuda, Mari. *See also* Legal activism,
 narrative and metaphor in
 generally, 11, 156, 196, 365–366
 on “color blind” metaphor, 372
 on connection between narrative and
 metaphor, 378–379
 Critical Race Theory and, 361, 362, 367, 371,
 372, 379
 on hate speech, 374
 on Hawai’ian fisheries, 369
 on indigenous peoples, 371–372
 on law, 373–374
 on Muslim ban, 374
 on peacemaking, 374–375
 on police shootings, 370, 373
 on “ratchet principle,” 366, 377–378
 “shaking our windows and rattling our walls”
 metaphor, 376–377
 on “slow-cooking school of theory building,”
 366, 373
 Matthews, Chris, 101–102
 Matua, Makau W., 295, 316
 McCarthyism, 97–98
 McClintock, Tom, 321
 McCloskey, Deirdre, 8–9, 365
McCutcheon v. Federal Election Commission
 (2014), 281
 McFadden, Joseph, 89
 McGinley, Ann, 182–184
 McMurtry-Chubb, Teri, 188–192
 Media reporting of crime, narrative and
 metaphor in
 overview, 245–250, 251–253, 269–271, 287, 362
 analysis of, 282–284
 “birth” metaphor, 276
 Conceptual Metaphor Theory and, 271–273
 crime versus law, 263
 criminal justice system as metaphor,
 266–267
 editorial cartoons and, 280–282
 frames, 269–271
 “hidden agenda” metaphor, 274
 influence on public thinking, 262–265
 Latinos and, 259–260, 279
 in legal journalism, 277–278
 metaphorical stories, 273–274, 276–277
 metaphors about crime, 255–260, 278–280
 methods of reporting, 260–262
 misperception of crime levels and, 253–254
 “monster” metaphor, 257, 279
 in newspapers, 265
 newsworthiness and, 253
 print versus broadcast news, 265
 recommendations for improvement,
 266–268, 284–286
 “rescue” metaphor, 276–277
 scenarios, 269
 selection of stories, 253–255
 “smoke out” metaphor, 273–274
 story metaphors, 275–276, 278–282
 on television, 260–261, 265

- Media reporting of crime (cont.)
 terrorism and, 258–259
 values, 270
 victims and, 258
 “war on crime” metaphor, 258, 279
 white collar crime and, 259–260, 279
 “yellow journalism,” 253
- Medical metaphor of crime
 overview, 200–201, 218–219, 220–221, 242, 361
 aging and, 230, 238
 assessment of, 208–209
 “conception” metaphor, 202–204
 contagion theory and, 206
 “containment” metaphor, 227–228
 “control” metaphor, 207
 “copycat” effect, 206–207
 courts, role of, 231–235
 dangers of, 216
 Differential Association/Social Learning (DA/SL) perspective and, 207–208
 “elimination” metaphor, 207
 “eradication” metaphor, 207
 genetic predisposition and, 226–229
 government agencies and, 220–221
 “hotspots” and, 236–237
 “iron fist in velvet glove” metaphor, 217–218
 law of possession and, 232–234
 legislatures, role of, 231–235
 “life-course” analysis, 202
 literal versus figurative, 224–225
 mass incarceration and, 229–230, 237–238
 police, role of, 235–237
 priority between narrative and metaphor, 220, 221–231
 prisons, role of, 237–238
 “psychopaths” and, 227
 public health model, 211–212, 214–215
 “reproduction” metaphor, 204–205
 scientific criminology and, 210–211
 sexual assaults in colleges and, 240–241
 social constructionist approach, 212–213
 social problems theory approach, 209–216
 status politics and, 213–214
 “superpredators” and, 222
 symbolic crusades and, 213–214
 “vaccine” metaphor, 205–207
 “vaccine thinking,” 216–217
 white collar crime and, 239–240
 “Medicated Goo” (Traffic song), 209
- Melville, Herman, 338, 339
- Menendez brothers, 252
 Mercer University, 6
Meritor Savings Bank v. Vinson (1986), 179–181, 185
 Merry, Sally Engle, 317
 Metaphor. *See specific topic*
 “Metaphor: The Conceptual Leap” (conference), 8
Metaphor and Reason in Judicial Opinions (Bosmajian), 7, 113–114
 Metaphorical stories, 273–274, 276–277
 Metaphoric parable
 overview, 65–68, 86
 ethos function of, 84–85
 examples of, 86–89
 extended metaphor versus, 77–80
 fable versus, 74–75
 general characteristics, 68–70
 literal parable versus, 71–74
 literary allusion versus, 76–77
 logos function of, 80–82
 pathos function of, 82–84
 rhetorical style function of, 85–86
 as stylistic device, 70–71
 woodcutter parable and, 66–67, 81, 82, 83
- Metaphor in law, 4–9. *See also specific topic*
- Metonymy, 304
- Meyler, Bernadette, 153, 156, 296, 361, 365. *See also* “Queue” metaphor
- Miller, Arthur, 97–98
 Miller, J. Hillis, 132–133
 Mink, Louis O., 7–8
 Miranda, Ernesto, 276
Miranda v. Arizona (1966), 276
 “Monster” metaphor, 257, 279
Monstrous Crimes and the Failure of Forensic Psychiatry (Douard and Schultz), 257
Montanans for Multiple Use v. Barbouletts (2008), 87–88
- Montoya, Margaret, 377
Morrison v. Olson (1988), 95–96, 105–106
- Mortgage crisis, 240
- Muller, Russell, 25
Muller v. Oregon (1908), 5, 172–173, 177
- Murray, James E., 114
- Musolff, Andreas, 269
- “My Love is a Mountain” (Simone), 29
- Narration, 23–24
 Narrative. *See specific topic*

- “Narrative: The Illusion of Sequence”
 (conference), 8
- “Narrative criminology,” 248–249
- Narrative in law, 1–4. *See also specific topic*
- “Narrative/Metaphor Nexus” (conference series), 9–10
- “Narrative therapy,” 295
- Narrativity, 25
- Narrativization, 25
- National Alliance against Racist and Political Repression, 374
- National Center for Injury Prevention and Control, 210, 215
- Native American Graves Protection Act, 39
- Native Americans. *See* Indigenous peoples
- Neiman, Kenneth, 87
- New Jersey v. Irving* (2011), 94–95
- New Jersey v. Muhammad* (1996), 76–77
- New Jersey v. Smith* (1993), 234
- Newspapers, reporting of crime in, 265
- New York Times*, 351, 352–353, 357
- New York University School of Law, 2
- New Zealand, indigenous peoples in, 45, 47–48
- Next Dada Utopian Visioning Peace Orchestra and Manifesto of Radical Intersubjectivity Possibility (Matsuda), 379
- Nguyen v. INS* (2001), 173–174
- Nielson, Henrik Skov, 35
- Nietzsche, Friedrich, 333
- Nixon, Richard, 258
- Nussbaum, Martha, 245–246, 295
- Obama, Barack, 101–102, 322–323
- Oldfather, Chad, 115
- Olson, Greta, 2–3, 16–18, 58, 257. *See also*
 Legal discourse, narrative and metaphor in
- Oncale, Joseph, 182–184
- Oncale v. Sundowner Offshore Services* (1998), 182–184
- Only Words* (MacKinnon), 161
- On Metaphor* (Sacks ed.), 8
- On Narrative* (Mitchell ed.), 8
- Onwauchi-Willig, Angela, 179–181, 185
- Open source licensing, 49
- Opinions. *See* Judicial opinions, narrative and metaphor in
- Ortony, Andrew, 8
- Orwell, George, 251, 266
- Pacific Telegraph Act of 1860, 301
- Papachristou v. Jacksonville* (1972), 234
- Parable
 allegory and, 97–99
 Biblical parables, 94
 embodied metaphor (*See* Embodied metaphor)
 Good Samaritan parable, 94
 literary versus legal parable, 108
 metaphoric parable (*See* Metaphoric parable)
 woodcutter parable, 66–67, 81, 82, 83, 92–93, 100, 106–107, 108
- Parks, Rosa, 369
- Patents, 40, 41, 50
- Pathos, 82–84, 226
- Payne v. Tennessee* (1991), 140–141, 145
- “Penumbral rights,” 114
- People v. Zackowitz* (1930), 149
- Perelman, Jeremy, 316
- Personality, right to, 43
- Persuasion. *See* Legal persuasion, narrative and metaphor in
- Peterson, Scott, 252
- Petty, Richard E., 285
- Phelan, James, 128–129
- Philippopoulos-Mihalopoulos, Andreas, 24
- The Pilgrim’s Progress* (Bunyan), 273
- Plants
 ideas as, 90–91, 96
 indigenous peoples and, 48
- Plessy v. Ferguson* (1896), 187, 188
- Poetry, “lawyer-self” in, 333–341
- Police shootings, 145–146, 252, 370, 373
- Polkinghorne, Donald, 134
- Pollak, Jessica M., 253–254
- Pornography, 161
- Posner, Richard, 119, 365
- Possession, law of, 232–234
- Potter, Roberto H., 11, 155, 198–199, 220–221, 229, 361, 365. *See also* Medical metaphor of crime
- Powell v. Bunn* (2005), 72–73
- Powell v. Georgia* (1998), 34–35
- Powers, Elizabeth, 270
- Presser, Lois, 248–249
- Price, Vincent, 270
- Prince, Gerald, 125–126
- Privileges and Immunities Clause, 175, 176
- Prohibition, 214

- Property
 indigenous peoples and, 38 (*See also*
 Indigenous peoples)
 intellectual property (*See* Intellectual
 property)
 metaphors regarding, 38
 rights as, 292–293
 “whiteness” as, 364
- Prose, “lawyer-self” in, 337–339
- Prosecutors, 240
- “Psychopaths,” 227
- Quasi-character, 135
- Quasi-plot, 118, 122–123, 133–135, 138, 225
- “Queue” metaphor
 overview, 297–299, 318, 362
 abstraction of rights and, 309–310
 as allocative mechanism, 310–312
 doctrinal nature of, 302, 304–305
 health care and, 322–323
 ideological changeability of, 315
 institutional nature of, 302, 303–304
 as normative system, 309–310
 “queue jumping,” 298–299, 300–302, 307,
 319–324
 realization of rights and, 310–312
 in Soviet Union, 314–315
 state control and, 312–314
 in United States, 314–315
- Quinn, Brian, 73–74
- Race, narrative and metaphor and, 178–181
 “color blind” metaphor, 178–179, 364, 372
 Critical Race Theory, 3, 196, 361, 362–364,
 365, 367, 371, 372, 379
 “dirty laundry” metaphor, 181
 discrimination and, 364
 Latinos, media reporting of crime and,
 259–260, 279
 police shootings, 145–146, 252, 370, 373
 sexual harassment and, 179–181
 “whiteness” as property, 364
- Racketeer Influenced and Corrupt
 Organizations Act, 239
- Ramsay, JonBenet, 258, 263
- Rand v. Monsanto Company* (1991), 349–350
- “Ratchet principle,” 366, 377–378
- “Rational actor” model, 246–247
- Ratzlaf v. U.S.* (1994), 231
- Rawls, John, 310, 371
- “Reality effect,” 118, 123, 135–139, 140–149
- “Reasonable person,” 124–125
- Reed v. Reed* (1971), 164
- Refugee Convention, 307
- Rehnquist, William, 140–141, 145
- Reijnierse, W. Gudrun, 279–280
- Reno, Janet, 258
- “Reproduction” metaphor, 204–205
- “Rescue” metaphor, 276–277
- “Revisioning,” 361
- Rhem v. Malcolm* (1974), 357
- Rhetorical style function of metaphoric
 parable, 85–86
- Rhode, Deborah L., 350
- Rich, Adrienne, 159–161
- Ricoeur, Paul, 8–9, 118, 122–123, 127–128,
 133–135, 138, 225–226
- Rideout, Chris, 59–60
- Rilke, Rainer Maria, 330, 342
- Ripeness, 114
- Ritchie, David T., 6
- Ritchie, L. David, 9, 116, 155, 198, 222, 223–224,
 248, 249–250, 270–271, 361, 365. *See also*
 Media reporting of crime, narrative and
 metaphor in
- Rodensky, Lisa, 131
- Roe v. Wade* (1973), 114, 184
- Röhl, Klaus F., 31–32
- Rolling Stone*, 256
- Romney, Mitt, 101–102
- Rorty, Richard, 295, 370
- Rosch, Eleanor, 25
- Rose, Mark, 42
- Rosen, Lawrence, 9, 18, 153–154, 296. *See also*
 Indigenous peoples
- Rosenberg, Mark, 210
- Rosky, Jeff, 211
- Rusk v. Maryland* (1979), 146–147
- Safe Streets Act, 258
- Sahlins, Marshall, 37–38
- St. John’s University School of Law, 339–340
- Salem Witch Trials, 97–98
- Sandberg, Sveinung, 248–250
- Sanders, Alex, 88–89
- Sanders, Bernie, 369, 370
- Sarbin, Theodore, 8
- Sartre, Jean-Paul, 338
- Sasson, Theodore, 262
- Scales, Anna, 366, 377–378
- Scalia, Antonin, 5, 95–96, 105–106, 108, 115, 142,
 143, 144, 145, 182, 183
- Scarry, Elaine, 295
- Shank, Roger C., 8, 286

- Schapp, Wilhelm, 28
 Schön, Donald, 195–196, 208–209, 266
 Schultz, Pamela D., 257
 Schwarzenegger, Arnold, 237
 Scientific criminology, 210–211
 Scottline, Lisa, 328
Scott v. Harris (2007), 141–145, 146–147, 149
 Seattle University Law School, 2
 Selective incapacitation, 236–237
 “Separate spheres” metaphor, 170–174, 177
Serial (podcast), 255
Sessions v. Southern California Edison
 (1941), 75
 Sexual assaults in colleges, 240–241
 Sexual harassment, 179–181
 Shafer, Jack, 261–262
 “Shaking our windows and rattling our walls”
 metaphor, 376–377
Shanley v. Northeast Indiana School District
 (1972), 78–79
 Sheley, Joseph F., 254
 Shklovsky, Viktor, 353
Shouting at No One (Joseph), 334, 337, 340
 Siegel, Sheldon, 328
 Simon, Jonathan, 258
 Simone, Alina, 29
A Simple Heart (Flaubert), 145
 Simpson, O.J., 92, 252, 263
Sjuzhet (discourse), 129, 146
 Skeel, David, 330, 340
 Slaughter, Joseph, 22, 316
Slaughter-House Cases (1873), 175
Sloviczek v. Puckett (1977), 89
 “Slow-cooking school of theory building,”
 366, 373
 Smith, Michael R., 6, 30, 32–33, 57, 64, 92–93,
 94–95, 97, 154, 223–224. *See also*
 Metaphoric parable
 “Smoke out” metaphor, 273–274
 Software, 49
 “Some Sort of Chronicler I Am” (Joseph), 337
 Souter, David, 147–149
 South Africa
 Constitution, 297–298, 301
 governmental obligation to provide housing,
 297–299
 guarantee of housing in, 297–299, 317–318
 housing register, 302, 303–304
 National Housing Code, 306
South Africa v. Grootboom (2001), 303
 Southampton University Law School, 6
 Southern Tenant Farmers Union, 376
 Soviet Union, “queue” metaphor in, 314–315, 322
So Where Are We? (Joseph), 346–348
 Sparling, Jon, 66–67, 68, 70, 71, 80, 81, 82, 83,
 92–93, 100, 106–107, 108
 Spector, Malcolm, 211–213
 Spencer, Alexander, 258–259
 Sporting metaphors, 63
 Stalin, Josef, 281
 Stanchi, Kathryn M., 119–120, 153–156, 361. *See*
 also Gender, narrative and metaphor and
 Standing, 114
 Stanford University Law School, 9–10
 Status politics, 213–214
 Steen, Gerard S., 279–280, 283, 286
 Steffens, Lincoln, 260
 Stein, Gertrude, 332, 342
 Sterling, Alton, 145
 Stern, Simon, 22, 118–120, 140, 146, 149, 155, 222,
 225–226. *See also* Judicial opinions,
 narrative and metaphor in
 Stevens, John Paul, 142, 143–144, 146–147
 Stock narratives, 5
 Stone, Christopher D., 337–338
 Story, 24–25
 Story metaphors, 275–276, 278–282
 Strawson, Galen, 21, 22
 Suicide, 206–207, 229
 “Superpredators,” 222, 247
 Swift, Taylor, 321–322
 Symbolic crusades, 213–214
 Szubert, Rafal, 32

 Taylor, Sidney, 179–181
 Television, reporting of crime on, 260–261, 265
 Terrorism, 258–259
 Tewksbury, David, 270
 “That’s All” (Joseph), 335
A Theory of the Trial (Burns), 59
 Thibodeau, Paul H., 198, 255–256, 263–264,
 277, 279–280, 283
 “This is How It Happens” (Joseph), 335
 Thomas, Dylan, 338
 Thornburg, Elizabeth, 63
 Thorson, Esther, 246
 Tillich, Paul, 338
Tinker v. Des Moines Independent Community
 School District (1969), 78–79
 Tocqueville, Alexis de, 171
 Todorov, Tzvetan, 122–123, 127–128, 132–133
Tom Jones (Fielding), 130–131
 Tracy, Karen, 270
 Trademarks, 40

- Transcendental Nonsense and the Functional Approach* (Cohen), 338
The Trial (Kafka), 339
 Trilling, Lionel, 338
 Trojan horse allusion, 76–77, 94–95
 Trump, Donald, 322
 Truth and Reconciliation Commissions, 294–295
 Turner, Mark, 29–30, 97
 Turow, Scott, 328
20/20 (television program), 261
- Ulbrich, Stefan, 31–32
The Underground Railroad (Whitehead), 158–159
 Underground railroad metaphor, 158–159
 United Nations Declaration on the Rights of Indigenous Peoples, 44
 University of British Columbia, 47
 University of Cambridge, 332
 University of Chicago, 8
University of Cincinnati Law Review, 341
 University of Michigan, 332
 University of Minnesota, 48
 University of Virginia, 252, 256
 University of Virginia Law School, 2
U.S. v. Hudson (2013), 86–87
U.S. v. Windsor (2013), 5
 “Using Metaphor in Legal Analysis and Communication” (conference), 6
- “Vaccine” metaphor, 205–207
Vanderbilt Law Review, 340
 “Variations on Variations on a Theme” (Joseph), 337
 Velleman, David, 126
 “Vernacularization,” 317
 Victim impact statements, 140–141
 Videos
 cognitive bias and, 142
 judicial opinions and, 141–145
 of police shootings, 145–146
 Vinson, Mechelle, 179–181
 Virgil, 76–77
 Visual Artists Rights Act, 43
 Vratil, Kathryn H., 86–87
- Wallis, Meredith, 327–331
 “Wall of separation” metaphor, 61, 95, 116
 “War on crime” metaphor, 258, 279
- Warren, Earl, 118, 119, 187, 188–189, 191
Wars I Have Seen (Stein), 342
Washington Post, 265
 “Watertight compartments,” 114
 Waugh, Linda R., 259–260
 Wealth redistribution, 293
 Weigend, Thomas, 197
 Weisberg, Robert, 2–3, 11, 117–118, 119, 120, 155, 198–199, 351, 361, 365. *See also* Medical metaphor of crime
Weisham v. Kemper (1928), 89
 Welsh, Alexander, 130–131
 Wenar, Leif, 293
 West, Robin, 339, 351
 White, Byron, 136
 White, Hayden, 8, 21–22
 White, James Boyd, 3, 9, 117, 119, 120, 337, 338–339
 White, Terry, 143
 White collar crime, 239–240, 259–260, 279
 Whitehead, Colson, 158–159
 “Whiteness” as property, 364
 Whitman, Walt, 338
 “Who to Deny” (Joseph), 335
 Williams, Patricia, 161, 362, 363, 372
 Williams, William Carlos, 333–334
 Wilson, James Q., 236
 Winter, Steven L., 7, 9, 82, 161, 163, 292
 Wolf, Werner, 20
 “Wolf in sheep’s clothing” metaphor, 95–96, 105–106
 Woodcutter parable, 66–67, 81, 82, 83, 92–93, 100, 106–107, 108
Wood v. Lucy, Lady Duff-Gordon (1917), 31
 Woodward, Louise, 252
 Wordle, 354
 Wordsworth, William, 338
 World Intellectual Property Organization, 44
Worldwide Volkswagen Corporation v. Woodson (1980), 125
Wright v. Crane (1825), 234
- Yaeger v. Murphy* (1987), 88
 “Yellow journalism,” 253
 Young, Katharine, 7, 153, 156, 296, 319–320, 361, 365. *See also* “Queue” metaphor
- Zimmerman, George, 252
Zubik v. Burwell (2016), 164
 Zwaan, Rolf A., 285–286