Focus Questions For Killers of the Flower Moon

These focus questions are intended to aid you in the active reading of David Grann’s “Killers of the Flower Moon,” one of the books selected by the faculty of the Syracuse University College of Law to help prepare you for your time studying law. This book was chosen by Dean Kristen Barnes.

The questions are written with the intention of helping you. You won’t be tested on your answers and you can feel free to read the book without them should you choose. And there aren’t any correct answers for these questions. It’s more important to question the text and reflect on what the answers might be than to seek for a definitive “correct” answer.

The questions are designed to model the process of active reading, which is a skill with which you should already be familiar. Active reading is a crucial skill for doing well in law school, and the more adept you become at it before you come to school, the better you will do during your time here. If you would like to learn more about active reading, there will be content discussing the topic in more depth on the Legal Writer’s Toolkit site.

You shouldn’t assume that these questions indicate a point of view or that they’re trying to steer you to answer them in a particular way. Rather, they’re intended to provoke you to think critically about what you read and to help you form your own conclusions, based on the information the author gives you about the topics discussed in the book.

We hope you enjoy “Killers of the Flower Moon”, and we look forward to meeting you and working with you over the course of the next few years.
CHAPTER ONE

1. The author has a large story to tell and not much room to tell it in. How does he go about drawing you into the world of Osage Country in 1921? How much time did he take to explain why the Osage Indians there were so wealthy? Has he been effective in making you want to learn what happened next?

2. Do you know what happened next? Do you know a lot about the facts the author is discussing in this book? A little? Nothing at all? Based on what you know now about the facts of this case, do you think this is a story that should be taught in schools?

CHAPTER TWO

1. The author describes the tradition of citizens investigating crimes and maintaining order, and notes that the inquest in this case was conducted by a justice of the peace, another example of citizen-led justice. Are there any examples of that tradition remaining in the American legal system?

2. This book describes Osage County in the first year of prohibition in this country. Contrast what the book tells you about life in Osage County with the images you have of America in the 1920s. Could similar contrasts be drawn today between urban and rural parts of the country?

CHAPTER THREE

1. The author describes William Hale’s early life as a cowboy. Contrast the reality with the Hollywood image of a cowboy’s life or life in Oklahoma as portrayed in the musical “Oklahoma.” After reading this book, which image do you think will linger in your memory? Why?

CHAPTER FOUR

1. Are you familiar with the “Little House on the Prairie” books or the television show based on them? Had you considered the story from the perspective of the Osage Indians? How many stories – fictional or drawn from real life – are there about the American west where the role of native people has been distorted or omitted?

2. This book tells many stories at the same time. One of these is a story about property rights and how they were respected, or not, in Oklahoma in the early part of the Twentieth Century. As you read the book, try to reflect on the legal aspects of what you read from a property perspective. Have you yet seen mention of the Constitution? If not, why not? Were the Osage Indians entitled to Constitutional protection? Why are lawyers not intervening on their behalf?
to protect their property rights? What happens when a lawyer does become involved? Could any, or all, of this story be told about today?

CHAPTER FIVE

1. The author describes the government’s decision to require guardians to manage the estate of many of the Osage. How do you feel about this decision? Are there any circumstances in which the government’s decision might be justified? Are there any circumstances in which you think the guardians might abuse their positions of trust?

CHAPTER SIX

1. Had you heard of the Teapot Dome scandal? Did you know what it was about?

CHAPTER SEVEN

1. As you reach the end of the first of the three sections of this book, how do you think the author has done in laying out the events? Has his approach been factual or sensationalist? Has his voice been present or has he hidden in the background and let the details speak for themselves? Do you think his approach has been effective? Has the author told the story thus far in a clear way or have you been confused by the narrative? Are there lessons in the author’s approach for legal writers?

CHAPTER EIGHT

1. What did you know about the origins of the FBI? Are you surprised to learn that J. Edgar Hoover was involved at such an early time in the FBI’s history? What do you know about what the FBI does today?

CHAPTER NINE

1. The author describes the importance of ignoring hearsay evidence in favor of an “unbroken chain of evidence.” How much evidence do we have about this case at the moment? Do you have suspicions about who might be behind the killings? Why the killings are happening? Do you see why those suspicions might be based on intuition rather than evidence, and why such intuitions might not be supported by the facts? Has the author, who knows how all of this will end up, given us enough facts to figure out who’s responsible? Or is the author being selective about the information he gives out in order to sustain our interest? Is he successful in that goal? Can legal writers use similar techniques or would that be considered unethical in the type of writing lawyers do?
CHAPTER TEN

1. Had you heard of the technique of measuring various body parts in order to identify people who might later attempt to disguise themselves? Do you think this approach was effective? Do you think it would act as a deterrent against escape attempts, even though the approach itself might not be effective?

CHAPTER ELEVEN

1. This chapter deals with the painstaking work involved in fact investigation. This approach is employed by lawyers as well as detectives. Do you see how important it is to not assume anything and to check every detail? When conducting depositions, will you remember how important this approach is?

CHAPTER TWELVE

1. Had you anticipated the likelihood that there was a mole in the investigation? Do you imagine that contemporary investigations into large-scale criminal conspiracies run into similar problems as those experienced by the FBI in this case or is this case unique?

CHAPTER THIRTEEN

1. Was crime more a feature of life in late nineteenth and early twentieth century America than it is now? Or do you think that crime then and now happens at about the same rate?

2. The author has chosen to spend this chapter discussing Tom White’s childhood and early life? Why is he doing this here, rather than when we first met Mr. White? Would this information have slowed up the narrative when we first met Tom White? Does it do so here? Is that the author’s intention? Do you see how a writer can use techniques like this to control the narrative flow? Is this a technique lawyers can use in their own writing?

CHAPTER FOURTEEN

1. Are you surprised to read of the extent of the corruption surrounding the guardianship of Osage interests? Was the idea of corruption predictable in this case? If so, why did the government not put safeguards in place to prevent it? To the extent minority communities are mistrustful of the federal government, do stories like this one explain why that might be so?
CHAPTER FIFTEEN

1. This chapter outlines how both investigators and those accused of crimes can use the legal process to their advantage. Those seeking to obtain headrights, or control over headrights, could use the inheritance laws to their advantage, while investigators looking for a motive for the crimes against the Osage were able to use those laws to develop motive and opportunity for those crimes. Do you see why lawyers use the same approach when engaged in fact investigation?

CHAPTER SIXTEEN

1. Again in this chapter you see the author slowing down the narrative flow in order to give you information about the early FBI's organizational structure. Does this information further your understanding of the crimes against the Osage? Is it relevant to the main purpose of the book? Does it provide interesting background? Does the author seek to build suspense by delaying the next set of facts about the investigation? Do you suspect that the longer the delay before the narrative resumes, the more important the next revelations might be?

CHAPTER SEVENTEEN

1. Were the facts in this chapter sufficiently important to confirm that the author was building up the suspense in the previous chapter? Do you think that William Hale is behind the crimes against the Osage? Is there any evidence to support your belief or is the case only circumstantial? Can the government convict someone purely on circumstantial evidence?

CHAPTER EIGHTEEN

1. This chapter unfolds the plot to kill many people. Some people are revealed to have lied, some - who appeared to have a tangential role in events - are revealed to have been central to the plot, and at least one person appears for the first time. Is this evidence that the author has failed to prepare us well for the events of this chapter, or is the author trying to simulate the way the investigators discovered information and then used that information to induce the plot’s participants to give more information? If so, is this a technique legal writers can use? Or is it something that goes beyond what would be expected of lawyers?
CHAPTER NINETEEN

1. Are you surprised to learn that “America’s judicial institutions . . . were permeated with corruption”? Are things different today? If so, why?

2. The author discusses a point about jurisdiction – whether the federal courts or the state courts will hear this case – in a few lines. Can you see why this might be a complicated legal issue? Can you see why it is an important issue? Do you think such concerns are still relevant today?

3. The O.J. Simpson case was referred to as “the trial of the century.” Does the trial in this case have a fair claim to that title? Could other trials in the twentieth century make similar claims?

CHAPTER TWENTY

1. Had you considered the ways in which law enforcement agencies might use the media to promote themselves? Are you surprised to learn that the FBI was engaged in this sort of activity in 1932? What role do you imagine the FBI plays in producing media representations of its activities? What role do you imagine the FBI will play in producing the movie based on this book?

CHAPTER TWENTY-ONE

1. As you have been reading this chapter, were you surprised to see the story apparently wrapping up with a substantial portion of the book still remaining? Now that you have learned that there is “another layer to the case” do you appreciate how the author has structured this book – in a way that presents only information known to those at the time – or would you have preferred a straight, chronological, telling of the story? The law sometimes requires courts to consider a case from the perspective of what a reasonable person would do under the circumstances known at the time. In such a case, will lawyers use an approach much like the one the writer has used here to write the facts? How do you think the movie’s narrative will be structured? Do you have a prediction of what the additional layer to this case might be?

CHAPTER TWENTY-TWO

1. The author points out that he did not know the facts of this case when he was in school. Did you? Should history like this be taught in schools?

2. The author writes about Ernest Burkhart’s parole, eleven years after his conviction. Should Burkhart have been paroled? Is parole an appropriate measure in all cases? In some? Should Hale have been paroled after 20 years’ imprisonment?
CHAPTER TWENTY-THREE

1. The author refers to the old advice to “follow the money.” Are you surprised that the FBI appears not to have followed this advice from the start, especially with so much money to follow? Would the outcome have been different if the FBI had focused on the money sooner? Was money an obvious motive for what happened in this case?

CHAPTER TWENTY-FOUR

1. This chapter makes it appear that the FBI solved one series of crimes but didn’t appreciate the larger picture and didn’t investigate multiple crimes that were apparently related to the central series of crimes the FBI did investigate. Do you see why it is easy to focus on a part of a problem without understanding the full picture and why this is dangerous for lawyers in all areas, but particularly those involved in criminal investigations?

CHAPTER TWENTY-FIVE

1. Are you surprised by the court’s ruling described in this chapter? Without knowing any more about the facts and the law than you are given here, do you agree with the court? Why? Why not?

CHAPTER TWENTY-SIX

1. The government policy of requiring guardianships of many Osage Indians comes back in this chapter as a possible cause for many of the murders that occurred during the times described in this book. Does this surprise you, or did you expect it?

2. The two Shoun brothers also reappear in this chapter. Did you expect them to make a final appearance in this book? Is that a result of your own intuition or did the writer prepare you for their return and give you hints that they were involved in the conspiracy?