

SYLLABUS AS OF 4.22.20

Philosophy 140
Crime and Punishment
Spring 2020
Judith Lichtenberg
Reynolds 133
TTh 12:30-1:45

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Office hours: Tuesdays 2-3:30 and by appointment (please feel free to set up a meeting); I'll also generally be available right after class.

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About the course

We will investigate moral and philosophical issues in the criminal law. What acts ought to be criminalized? How can criminal punishment be justified, and what does it prohibit? What roles should rehabilitation, justice, and mercy play in the criminal justice system? What special problems does the death penalty raise? How can just sentences be determined? What is the significance of racial discrimination and other manifestations of injustice for the criminal justice system? What are the proper limits of self-defense? How do such concepts as responsibility, mens rea, duress, necessity, and consent enter into a proper understanding of crimes and defenses against crimes?

Please note that, not surprisingly, we will read about and discuss some disturbing issues in this course, including execution, murder, and domestic violence.

The aims of the course are to think better, write better, and talk better about these crucial issues (and others).

Required texts

James Forman Jr., *Locking Up Our Own: Crime and Punishment in Black America* (Farrar, Straus & Giroux, 2017).

Marc Mauer and Ashley Nellis, *The Meaning of Life: The Case for Abolishing Life Sentences* (New Press, 2018).

Recommended books

You won't regret reading one of these books (I will suggest others too along the way)

- Shane Bauer, *American Prison: A Reporter's Undercover Journey Into the Business of Punishment* (Penguin, 2018).
- Shon Hopwood, *Law Man: Memoir of a Jailhouse Lawyer* (Prison Professors, 2017).
- Helen Prejean, *Dead Man Walking: An Eyewitness Account of the Death Penalty in the United States* (Vintage, 1993).
- Abbe Smith, *Guilty People* (Rutgers, 2020)

- Bryan Stevenson: *Just Mercy: A Story of Justice and Redemption* (Spiegel & Grau, 2015).

Other readings will be posted on Canvas>Files>Readings or will be available online.

Course requirements

Papers

- Paper 1: 1000-1200 words. Due February 28.
- Paper 2 (the Big One): about 3000 words, due in May. You'll develop your own topic for this paper in consultation with me; you'll submit some material—a written proposal, outline, and bibliography—during the last month of the semester.

Papers will be submitted electronically to Canvas. They are due by 11:59 p.m. on the due date listed.

Reading responses

Post on Canvas a response to the reading once a week—12 times altogether (so you get about two weeks off from posting). Your response should raise an issue you find confusing or intriguing or that you would just like to discuss further in class. What you say should demonstrate you have read the material and are engaging philosophically with it.

Responses are due at 9 p.m. the night before class. Earlier is even better! Part of the assignment is to read others' posts and respond to them where appropriate.

D.C. Superior Court visit and write-up

Spend a few hours at the courthouse (500 Indiana Avenue NW; closest Metro stops: Judiciary Square and Archives). Try to observe some arraignments (conducted starting at 1 pm, Monday-Friday, and at 11 am on Saturday, in Courtroom C-10); some preliminary hearings (from 9 am Monday-Friday in courtroom 301), and parts of a "Felony I" trial (held before various judges—ask at the information desk on the first floor). Write a reaction paper of about 1000 words describing your observations (e.g. what impressed or troubled you, the role of the lawyers, questions regarding the proceedings, etc.). Post on Canvas by March 20.

I may give occasional in-class writing assignments. They will generally not be graded, but will count toward your participation grade.

Regular attendance and participation. Discussion and interchange are essential to learning in this class. I hope everyone will feel impelled to participate in the conversation. Remember also that participation means not only talking but also listening carefully. It means talking to each other, not just to me. So please learn each other's names as soon as you can.

I would like to meet with each of you early in the semester. It's not an interrogation—just a chance for me to get to know you better. I'll send you an invitation.

Approximate value of assignments: reading responses and D.C. Courthouse reaction paper, 20%; first paper, 20%; final paper (including earlier stages), 40%; attendance and participation, 20%.

Extensions and late papers: if you need an extension on an assignment please request it at least 24 hours in advance of the due date. Assignments turned in late without permission will be penalized.

Please arrive in class on time and stay till the end; observe common courtesies, such as not chatting in class, and treat everyone in the classroom with respect, even if you disagree sharply with their views (which I expect you sometimes will).

Laptops, tablets, phones, and other electronic devices are not permitted in the classroom.

Please print out the readings and bring those assigned for the day to class.

Other information

I encourage you to come to office hours or make an appointment to talk if my office hours aren't convenient for you; I welcome the opportunity to get to know you better outside of class. If you are having problems that interfere with your performance in the course or are otherwise making your life difficult, please let me know and feel free to come talk to me.

If possible, I will organize a visit to the D.C. Jail or Jessup Correctional Institution in Jessup, MD. Participation is voluntary.

Check Canvas and your email regularly for announcements and updated assignments. Make sure the email address I have (and Canvas has) for you is working.

Plagiarism and academic integrity

Cheating will not be tolerated. The rise of the internet as a research tool has engendered some confusion about what constitutes plagiarism and the legitimate uses of other people's work. Please read about Georgetown's [honor system](#) and especially "[What Is Plagiarism?](#)" We'll discuss this issue in class before relevant assignments.

Accommodations for students with disabilities

Students with disabilities should inform me at the beginning of the semester so appropriate accommodations can be provided.

Some useful online sources

[Oyez.](#) Concise summaries of US Supreme Court cases.
[Legal Information Institute.](#) Full court decisions et al.
[SCOTUSblog,](#) about current Supreme Court cases.
[Justice Policy Institute.](#)

[Prison Policy Initiative.](#)
[Death Penalty Information Center.](#)
[The Sentencing Project.](#)
[Prison Insider.](#) Information on imprisonment around the world.
[Stanford Encyclopedia of Philosophy.](#) Very good source, although TMI for most of you most of the time.
[Internet Encyclopedia of Philosophy.](#) More concise and accessible than the SEP.
[Legal Theory Lexicon.](#) Lawrence Solum (Georgetown Law).
[Famous Trials.](#) Douglas Linder (University of Missouri, Kansas City Law School).

SCHEDULE OF TOPICS AND READINGS

There will almost certainly be some changes in the schedule or readings. We may speed up or fall behind. Check Canvas and your email regularly for announcements. Except for the books, readings are on Canvas or online.

Readings are arranged roughly by topic, author, and title in subfolders in Canvas>Files>Readings. In some cases you will also find Further Readings subfolders. I'll say more about all that when it becomes relevant.

Early on please read *The Pink Guide to Taking Philosophy Courses*, in Canvas.

Date/General Theme	Topic	Reading
1. January 9 Aims and limits of the criminal law	What is criminal law?	No reading But start reading Forman for January 21 class
2. January 14	What should be regulated?	Mill, <i>On Liberty</i> (excerpts from chapters 1 and 4) Conly, "Three Cheers for the Nanny State" Badhwar, " Against Paternalism "
3. January 16	Case study: the legalization of recreational drugs	See instructions on Canvas (Aims and Limits>Drug legalization)
4. January 21 Contemporary mass incarceration	How we got here: Washington, DC in the late 20 th century	Forman, <i>Locking Up Our Own</i>
5. January 23	The system	Renaud, " Eight Keys to Mercy: How to Shorten Excessive Prison Sentences "
6. January 28	Visit of Momolu Stewart and Halim Flowers	Alexander, <i>The New Jim Crow</i> , chapter 2.

7. January 30	The role of race	Alexander, <i>The New Jim Crow</i> , chapter 3. Optional: <i>McCleskey v. Kemp</i> (1989)
8. February 4 Bias	Bias: explicit, implicit, secondary, structural, et al.	Kelly & Roedder, "Racial Cognition and the Ethics of Implicit Bias" Mullainathan, "Racial Bias, Even When We Have Good Intentions" <i>Batson v. Kentucky</i> (1986) Radiolab, " Object Anyway "
9. February 6 Punishment theory	Theories of punishment	Mauer & Nellis, <i>The Meaning of Life</i> Adams, "Punishment" Kant, "The Right of Punishing" Bentham on punishment Morris, "Persons and Punishment"
10. February 11	The death penalty	Death Penalty Information Center, Fact Sheet Reiman, "Justice, Civilization, and the DP" Van den Haag, "In Defense of the DP" DPIC, Recent Deterrence Studies
11. February 13	Sentencing	Listen: Witness to an Execution <i>Lockyer v. Andrade</i> German life imprisonment case Finish Mauer & Nellis, <i>The Meaning of Life</i>
February 18	No class (follow Monday schedule)	
12. February 20	Visit of Abbe Smith: what it's like to be a criminal defense lawyer	Smith, "What Motivates a Lawyer to Defend a Tsarnaev, a Castro or a Zimmerman?"
13. February 25	Other perspectives on punishment	Hampton, "The Moral Education Theory of Punishment" Lepore, " The Rise of the Victims' Rights Movement "
14. February 27 Forgiveness and restorative justice	Forgiveness and repentance	Lennon, " The Apology Letter " Griswold, "On Forgiveness" Radiolab, " Dear Hector "
February 28	First paper due	
15. March 3	Restorative justice	Tullis, "Can Forgiveness Play a Role in Criminal Justice?" Common Justice video Centre for Justice and Reconciliation, " About Restorative Justice " → → Allais, "Restorative Justice, Retributive Justice, and the South African Truth and Reconciliation Commission"
16. March 5	Class cancelled (fire alarm)!!	
Week of March 9: spring break		
17. March 17 Free will, determinism, and criminal justice	Free will and determinism	Radiolab, Blame (except "Dear Hector") Sider, "Free Will and Responsibility" Eagleman, "The Brain on Trial"
18. March 19	Insanity defense, addiction and free will	PBS Frontline, "From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense"

		Heyman, "Do Addicts Have Free Will?" Vohs and Baumeister, "Addiction and Free Will"
19. March 24 Criminal acts and criminal minds	Actus reus and mens rea	Model Penal Code selections Husak, "Intent" <i>People v. Young</i> (1962)
20. March 26	Do results matter?	Alexander and Ferzan, "Only Culpability, Not Resulting Harms, Affects Desert" Robinson, "The Bomb Thief and the Theory of Justification"
21. March 31 Justifications and excuses	Necessity: cannibalism on the high seas	<i>Regina v. Dudley and Stephens</i> (1884)
22. April 2	Self-defense: the subway vigilante	The Trial of Bernhard Goetz Dressler, "Self-Defense," 220-32
23. April 7	Self-defense: domestic abuse	<i>State of North Carolina v. Norman</i> (1989) Dressler, "Self-Defense," 236-46
April 9	No class—Easter break	
24. April 14 The jury	Discussion of "12 Angry Men"	Watch "12 Angry Men"
25. April 16 Obedience to law	Jury nullification	Butler & Leipold, exchange on "Racially Based Jury Nullification: Black Power in the Criminal Justice System"
26. April 21	Is there a moral obligation to obey the law?	King, "Letter from Birmingham Jail" Love, "I Just Don't, It's Illegal': Is There a Moral Obligation to Obey the Law?"
27. April 23	International criminal law	Adams, "What Is Law?" Jackson, "Opening Address for the U.S., Nuremberg Trials"
28. April 28	TBA	
May 5 (seniors) May 8 (all others)	Final paper due	