

## THE POLITICS OF CRIME AND CRIMINAL JUSTICE

Political Science – 404  
Fall 2020

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CORONA NOTE: I am preparing this Syllabus in May 2010, and we still have no idea if this course will be in person or online in the Fall. Though RU will give some guidance in the middle of June, my hunch is that as things unravel (for better or worse!) change in plans will be the norm. I am assuming that caution will trump (no anything intended) and that we are likely, though not yet certainly, to be ONLINE. If so, I am determined that the course be terrific, notwithstanding lectures at a distance. I have already thought through two ways I hope to realize this. First, early in the semester, I will break the class up for a one time meeting with me in groups of about 7. The purpose here will be for me to get to know each of you in a way that the large class precludes (and indeed, given many students' failure to avail themselves of office hours, in a way that may allow me to know more about you than during the typical in class format). Second, I have already prepared an extensive list of speakers that we can bring in to share a lecture with me, to talk about their work etc, all in our WEBEX format. I think if I do this right, we can have a very rich, exciting course, and compensate for the ONLINE informality. And finally, I will be around not just in office hour times, but most of the week to discuss any of the lectures and readings. I promise—I will do anything in my power to make sure that our class is “as good as it gets.” And if you feel something is not working well—or if you have any questions—just let me know. I want to go into all this on the most positive of notes, and I really, really, mean it when I say I want it to work grandly!

### Selective List of Required Books

Weisburd, David and Braga, Anthony, eds., Police Innovation: Contrasting Perspectives.

Western, Bruce. Homeward: Life in the Year After Prison (2018)

Moskos, Peter, Cop in the Hood.

Heumann, Milton, Plea Bargaining, University of Chicago Press. (Digital version available by the time class begins)

Vidmar, Neil and Hans, Valerie, American Juries (only used copies available — either in our bookstore or on Amazon or in the library)

Stevenson, Bryan. Just Mercy (2014)

Conover, Ted, New Jack.

### **WEEK I: Introduction to the Legal System, Legal Research and the Problem of Crime**

Israel, Kamisar, La Fave, "An Overview of the Criminal Justice Process, pp. 1-32, depending on edition. (Sakai)

Lipsky, Michael, "Toward a Theory of Street-level Bureaucracy," (Sakai)

### **WEEK II: Crime, Crime Data and the Politics of Crime and Drugs**

Seidman, David and Couzens, Michael, "Getting the Crime Rate Down: Political Pressure and Crime Reporting," Law and Society Review, Vol. 8, No. 3 (Spring 1974), pp. 457-494. (Sakai)

Chiricos, Ted, "The Media, Moral Panics and the Politics of Crime Control," (6)

Lynch, James, "Crime in International Perspective," in Crime, pp.5-42. (Sakai)

Marie Gottschalk, The Prison and the Gallows, (2006), pp. 1-40, 236-263. (Sakai)

Gottschalk, Marie, Caught: The Prison State and the Lockdown of American Politics, Princeton University Press (2015), pp. 1-22, 255-283. (Sakai)

King, Ryan, Mauer, Marc, and Young, Malcolm, "Incarceration and Crime: A Complex Relationship," The Sentencing Project, 2005, (Sakai)

Tonry, Michael, "Racial Politics, Racial Disparities, and the War on Crime" Cole Part I Chapter II. (Sakai)

Fortner, Michael Javen, Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment. Harvard University Press (2015). pp. IX-XII, 1-23, 257-280. (Sakai)

Forman, James Jr. *Locking Up Our Own*. Farrar, Straus, and Giroux (2017), pp. 3-14, 217-239 (Sakai)

Decker, Scott H. et. al. “Policing Immigration: Federal Laws and Local Police.” Cole Part II Chapter VIII. (Sakai)

Nelson, Michael, “Responsive Justice? Retention Elections, Prosecutors, and Public Opinion,” Journal of Law and Courts (Spring 2014). (Sakai)

Marshall Project and Slate, “What Do We Really Know About the Politics of People Behind Bars,” Election 2020, CP

Ted Koppel, Lights Out (2015), 3-13, 207-249. CP

### **WEEK III: Impact Analysis, Policy Innovation, and the Police**

Weisburd, David and Braga, Anthony, eds., Police Innovation: Contrasting Perspectives, PP. 1-154, 225-304, 339-352.

Zimring Franklin E., “The City that Became Safe: New York and the Future of Crime Control” 2010 (Sakai)

Wilson, James Q. and Kelling, George, “Broken Windows: The Police and Neighborhood Safety” Cole Part II Chapter I. (Sakai)

Mapp v. Ohio 367 U.S. 643 (1961), in Israel, Kamisar. (Sakai)

U.S. v. Leon (1984), in Israel, Kamisar. (Sakai)

Miranda v. Arizona 394 U.S. 436 (1966) in Israel, Kamisar. (Sakai)

Moran v. Burbine 475 U.S. - “Applying and Explaining Miranda,” in Israel, Kamisar. (Sakai)

"The Court Reaffirms Miranda: Dickerson v. U.S., Israel, Kamisar. (Sakai)

Western, Bruce. Homeward: Life in the Year After Prison [[[I am assigning this here to give us a better sense of the people being patrolled and processed. What we learn from this will remain with us as we examine police behavior, sentencing, and incarceration. I wasn't sure where to put this book, but I think it fits here. At the end of the semester, I will be eager to hear from you if it “works” here, or if you think it would have been more profitably included after court sections].

### **WEEKS IV and V: The Police**

Moskos, Peter, Cop in the Hood

Skolnick, Jerome, "A Sketch of the Policeman's Working Personality," (Sakai)

Tennessee v. Garner, (1985) in Israel, Kamisar, pp. 160-165. (Sakai)

Fyfe, James, "Police Use of Deadly Force," (Sakai)

Frank Baumgartner, Derek Epp, Kelsey Shoub, Suspect Citizens: What 20 Million Traffic Stops Tell Us About Policing and Race, Book Review In Perspectives (2019), CP

Mummolo, Jonathon, "Modern Police Tactics, Police Citizen Interactions, and the Prospect for Reform," *Journal of Politics* (2017) (Sakai)

"Making the Case for More Tech in Policing" NYT (2/10/20) CP

### **WEEK VI: Criminal Trials and Political Trials**

Frank, Jerome, "Modern Legal Magic," and 'Fight' Theory vs. the 'Truth' Theory," pp. 37-61 and pp. 80-102 respectively of Courts on Trial. If this book is not on reserve, the articles themselves will be Xeroxed and placed on reserve. (Sakai)

"The Adversarial System in Perspective: A Comparison of the Adversarial and Inquisitorial Court Process." in Cole Part III Chapter 13. (Sakai)

Kirchheimer, Otto, "The Political and Criminal Trial," in Law, Politics and the Federal Courts, Herbert Jacobs, Ed. (Sakai)

Vidmar, Neil and Hans, Valerie, American Juries

Frank, Jerome, "The Upper Court Myth," Courts on Trial op. cit., pp. 222-224, Xeroxed on reserve. (Sakai)

Batson v. Kentucky (1986) in Israel, Kamisar. (Sakai)

Newman, Jon, "To Save Our Justice System, End Racial Bias in Jury Selection" *New York Times* (5/27/16) (Sakai)

J.E.B. v. Alabama ex nel T.B., in Israel, Kamisar. (Sakai)

Pattis, Norm, "Let Jurors Have the Last Word on Illegal Searches," *NJ Law Journal* (7/4/16) (Sakai)

Packer, Herbert, "Two Models of the Criminal Process," Part I, Chapter I. (Sakai)

### **WEEKS VII & VIII: Local Criminal Courts and Plea Bargaining**

Gideon v. Wainright 372-U.S. 335 (1963), in Israel, Kamisar. (Sakai)

Argersinger v. Hamlin 32 L. Ed. 2d. in Israel, Kamisar. (Sakai)

Scott v. Illinois, in Israel, Kamisar. (Sakai)

North Carolina v. Alford, 400 U.S. 25. in Israel, Kamisar. (Sakai)

Blackedge v. Allison, in Israel, Kamisar. (Sakai)

WCNY News, “New Jersey Courts to Shift Away From Relying on Bail” (1/2/17) (Sakai)

Bordenkircher v. Hayes, in Israel, Kamisar. (Sakai)

Santobello v. New York, in Israel, Kamisar. (Sakai)

Marby v. Johnson, in Israel, Kamisar. (Sakai)

North Carolina v. Alford, in Israel, Kamisar. (Sakai)

Missouri v. Frye (Sakai)

Lafler v. Cooper (Sakai)

Cole, George, “The Decision to Prosecute,” in Cole Part III chapter 14. (Sakai)

Heumann, Milton, Plea Bargaining

Heumann, Milton , “Plea Bargaining: Lessons Learned, Issues Outstanding,” Harvard law and Policy Review—Online -2018 (Sakai)

Feeley, Malcolm, “The Process is the Punishment,” in Cole Part II chapter 16. (Sakai)

Brereton, David and Casper, Jonathan, “Does It Pay to Plead Guilty?” Law and Society Review: 1981-82, pp. 45-70. (Sakai)

Blumberg, Abraham, “The Practice of Law As a Confidence Game,” in Cole Part II Chapter 15. (Sakai)

Hanson, Roger and Ostrom, Brian, “Indigent Defenders, Get the Job Done and Done Well,” (Sakai)

Anderson, James M. and Heaton, Paul, “How Much Difference Does the Lawyer Make? The Effect of Defense Counsel on Murder Case Outcomes,” RAND Corporation Working Paper, 2011. (Sakai)

Christopher Robertson , Shima Baughman, and Megan Wright, “Race and Class: A Randomized Experiment with Prosecutors,” Journal of Empirical Legal Studies (Dec. 2019) CP

**WEEK IX: Sentencing**

“Sentencing Procedures,” in Israel, Kamisar. (Sakai)

Mann, Ken, Wheeler, Stan and Sarat, Austin, “Sentencing the White Collar Offender,” American Criminal Law Review (Spring 1980) (Sakai)

Eisinger, Jesse, *The Chickenshit Club*. Simon and Schuster (2017) pp. xi-xxi, 294-330 (Sakai)

Martinson, Robert, "What Works? Questions and Answers About Prison Reform," Cole Part III Chapter 21. (Sakai)

David Weisburd, David Farrington et al. What Works in Crime Prevention and Rehabilitation (Abstract—5/22/20) CP

Heumann, Milton, “Criminal Sentencing” Law & Social Inquiry (Winter 1990) (Sakai)

U.S. v. Salerno, 481 U.S., (1987), in Israel, Kamisar. (Sakai)

McCleskey v. Kemp, 481 U.S. - (1987), in Israel, Kamisar. (Sakai)

U.S. v. Booker, 2004, in Israel, Kamisar. (Sakai)

Moskos, Peter, In Defense of Flogging, Basic Books, 2011. p. 1-16, 146-154 (Sakai)

Morris, Norval and Tonry, Michael “Between Prison and Probation: Toward a Comprehensive Punishment System,” in Cole, Part III Chapter 20. (Sakai)

Wilhelm, Daniel F. and Turner, Nicholas R, “Is the Budget Crisis Changing the Way We Look at Sentencing and Incarceration?” , Vera Institute Working Paper, 2002. (Sakai)

Martin, Jonathan, and Ashley Parker. "Law and Order Issues, Once G.O.P.'s Strength, Now Divide the Party." The New York Times. (Sakai)

Dagun, David and Teles, Steven, *Prison Break*. Oxford University Press (2016), pp. ix-xiii, 77-93, 137-177 (Sakai)

**WEEK X: Toward a Larger Political Conception of Local Criminal Courts**

Stevenson, Bryan. Just Mercy

Klonoski, James and Mendelsohn, Robert, "The Allocation of Justice: A Political Approach," in Klonoski-Mendelsohn. The Politics of Local Justice, (Sakai)

Wald, John and Culver, John, "The Defeat of the California Justices: The Campaign, the Electorate and the Issue of Judicial Accountability," Judicature (April-May 1987). (Sakai)

Heumann, Miton, Cui, Gregory, and Kuchtyak, Mathew "Expunge-Worthy: Exploring Second Chances For Criminal Defendants", Criminal Law Bulletin, (2015). (Sakai)

James, Jacob, The Eternal Criminal Record, Harvard University Press, 2015, pp. 246-314. (Sakai)

### **WEEK XI: The Consumer Perspective as an Output Measure of Local Justice**

Casper, Jonathan, American Criminal Justice: The Defendant's Perspective, pp. 51-99; 168-175 (Sakai)

Casper, Jonathan and Tom Tyler, Bonnie Fisher, "Procedural Justice in Felony Cases," Law and Society Review, Vol. 22, No. 3 (1988) (Sakai)

### **WEEK XII: Correction I**

Conover, Ted, New Jack.

Sykes, Gresham, "The Society of Captives: The Defects of Total Power", Cole. (Sakai)

### **WEEK XIII: Correction II**

DiJulio, John, "Well Governed Prisons are Possible," in Cole, pp. 411-420.

Blumstein, Alfred, "Prisons," in: Crime, pp. 451-482. (On Electronic Reserve)

Tonry, Michael, "Racial Disproportion in U.S. Prison," Cole (Sakai)

Travis, Jeremy and Petersilia, Joan, "Reentry Reconsidered," Cole Part III Chapter 22. (Sakai)

Jonson, Cheryl Lero, and Francis T. Cullen. "Prisoner Reentry Programs." Crime and Justice 44.1 (2015): 517-75, pp. 517-575. (Sakai)

### **WEEK XIV: Corrections and Conclusions**

Wilson, James Q., "Crime & Public Policy," in Crime, pp. 537-558. (On Electronic Reserve)

Clear, Todd, "Imprisoning Communities" (2007), pp. 3-48, 175-208 (Sakai)

Spohn, Cassia. "Race, Crime, and Punishment in the Twentieth and Twenty-First Centuries." Crime and Justice, (2015). (Sakai)