PROFESSOR

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OFFICE HOURS

Monday 1:00-4:00PM
Wednesday 1:00 – 4:00PM
By Appointment

MEETING TIME

Wednesday 4:00 – 6:45; Lefrak Small Conference Room

COURSE DESCRIPTION

This graduate seminar is designed to prepare you for the courts and sentencing portion of the general comprehensive examination in the Department of Criminology and Criminal Justice. It will focus primarily on contemporary research on criminal courts and on integrating themes and concepts that cut across multiple domains of the general comprehensive exam. Specific topics that will be examined include research and theorizing on prosecutorial discretion, plea-bargaining practices, sentencing guidelines, mandatory minimums and three strikes laws. Particular attention will also be devoted to the study of racial, gender and class disparities in criminal punishment.

COURSE EXPECTATIONS

The primary goal of this course is to provide a general overview of criminal court sentencing systems and their relation to other core institutions in the criminal justice system in order to better prepare you better for the general comprehensive examination. Students gain a nuanced understanding of contemporary theoretical perspectives and empirical research in the field. Because the course is designed to assist students who are at different stages of exam preparation, the structure, assignments and expectations for the course will be tailored to each student, and individual students will play an active role in guiding the direction of the course in order to help them best prepare for the comprehensive exams.

RECOMMENDED TEXTS

OTHER USEFUL TEXTS TO CONSULT


COURSE ASSIGNMENTS AND GRADING

Your grade in this course will be determined by the effort you put forth in the class. Because the course is designed to prepare you for the courts and sentencing portion of the comprehensive examination, the goal of the recommended assignments is to provide additional structure to your independent study efforts. You are expected to attend class, complete the recommended essays and study questions, and to provide constructive feedback on other students’ essays, but your final grade in the class will be calculated to reflect your overall effort in the course rather than the average of scores from individual assignments.

FINAL GRADE DISTRIBUTION

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TENTATIVE COURSE SCHEDULE: (SUBJECT TO CHANGE AS NECESSARY)

Week 1: INTRODUCTION (1/23)

The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing testes of the civilization of any country.

~Winston Churchill~

TOPICS/READINGS

SYLLABUS
READING LISTS

Week 2: THE CHANGING CRIMINAL COURT SYSTEM (1/30)

Thirty year ago…the word “sentencing” generally signified a slightly mysterious process which…involved individualized decisions that judges were uniquely qualified to make. The situation today is much more complex...

~Cassia Spohn~

OVERVIEWS


Additional Readings:

Comp Prep Essay: Write an essay in which you trace the most important historical developments in criminal sentencing. Be sure to explain the fundamental reasons for the changes that occurred. What are the most important recent developments in criminal sentencing? What do you foresee to be the future of sentencing systems in America?
Week 3: **THE ROLE OF THE PROSECUTOR (2/6)**

*Most extant and proposed determinant sentencing systems have ignored prosecutorial discretion in charging and plea-bargaining practices.*

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**OVERVIEWS:**


**RESEARCH:**


**Additional Readings:**


Frohmann, Lisa, 1997; Convictability and Discordant Locales: Reproducing Race, Class, and Gender Ideologies in Prosecutorial Decision Making; *Law & Society Review* 31: 531.


**Comp Prep Essay:** Assess the current state of research on plea-bargaining and prosecutorial discretion in the United States. What are the strengths and weaknesses of this research? What do we know for sure about prosecutor and guilty pleas? What theoretical perspectives (if any) have been useful for understanding prosecutorial decision making? What needs to be done next in terms of research in this area? What are some of the key challenges to completing this research? What are the key policy issues with regard to the role of the prosecutor in the US criminal justice system?
Week 4: CRIMINAL TRIALS AND THE JURY (2/13)

If criminals wanted to grind justice to a halt, they could do it by banding together and all pleading not guilty

~Dorothy Wright Wilson~

OVERVIEWS:


JURY SENTENCING:


THE TRIAL PENALTY


Additional Readings:


Comp Prep Essay: Assess the current state of research on jury sentencing and trial penalties in the United States. What are the strengths and weaknesses of this research? What do we know for sure about how juries make decisions? Why don’t more states have jury sentencing? What role do trial penalties play in the function and the US criminal justice system? What needs to be done next in terms of research in this area? What are some of the key challenges to doing research on jury sentencing and trial penalties? Should jury sentencing be abolished? Expanded? Why?

Week 5: Mock Comprehensive Exam Question Due (2/20)
Week 6: GOALS AND THEORIES OF SENTENCING (2/27)

Deciding how much to punish is an agonizing process in which conflicting aspirations compete.

~Andrew von Hirsch~

OVERVIEW:


THEORETICAL PERSPECTIVES:
James Eisenstein and Herbert Jacob. Felony Justice.


Additional Readings:


Comp Prep Essay: Identify the different philosophies of punishment utilized in the United States. What are the strengths and weaknesses of different philosophical approaches? What are the primary goals of sentencing? How do these goals complement or contradict one another? What are the major theoretical perspectives used to explain criminal sentencing? How do they differ from one another? How are they similar? How might these perspectives be integrated into one collective theory of sentencing? What might such a theory look like?
Week 7: **SENTENCING GUIDELINES (3/6)**

*Guidelines promulgated by commissions have altered sentencing patterns and practices, have reduced sentencing disparities...and have shown that sentencing policies can be linked to correctional resources.*

~Michael Tonry~

**THE SENTENCING COMMISSION**


**STATE SENTENCING GUIDELINES**


**Additional Readings:**


**Comp Prep Essay:** Assess the current state of research on state sentencing guidelines in the United States. What are the strengths and weaknesses of this research? How do state guidelines differ from one another? How are they the same? What are the different qualities or characteristics of different guideline systems? What needs to be done next in terms of research on sentencing guidelines? What are the key policy issues with regard to the role of sentencing guidelines in the US criminal justice system? Should sentencing guidelines be expanded? If so, how would you improve upon existing models?
**Week 8: FEDERAL SENTENCING GUIDELINES (3/13)**

The federal judge merely functions as an automaton by mechanistically applying the stark formulae set by a distant Sentencing Commission

~Stith and Cabranes

**OVERVIEWS:**

Tonry, Michael, 1998. *Sentencing Matters* Chpt 3 pgs. 72-99 (recommended)


**RESEARCH:**


**Additional Readings:**


**Comp Prep Essay:** Assess the current state of research on the federal sentencing guidelines. What are the strengths and weaknesses of this research? How do the federal guidelines differ from state sentencing guidelines? Describe and discuss the background and influence of the recent Supreme Court decisions in Blakely, Booker and Fanfan. What impact have these decisions had on federal sentencing practices? What does future research need to do to better study the impact of these decisions? What are some of the key challenges to implementing this research? What are the key policy issues with regard to the role of the federal guidelines in the US criminal justice system? Should they be abolished? Why or why not?

**Week 10: Mock Comprehensive Exam Question Due (3/27)**
Week 11: **EXTRALEGAL DISPARITIES (4/3)**

*Racism goes beyond prejudicial discrimination and bigotry. It arises from outlooks, stereotypes, and fears of which we are vastly unaware.*

~Judge Clyde Cahill~

**OVERVIEWS:**


Baumer (2013). Reassessing & Redirecting Research on Race and Sentencing. *JQ.*

**RESEARCH:**


**Additional Readings:**


Daly, Kathleen and Rebecca Bordt. 1995; Sex Effects and Sentencing: An analysis of the statistical Literature; *Justice Quarterly:* Vol. 12, pg. 141.


**Comp Prep Essay:** How are disparity and discrimination qualitatively different? Assess the research evidence for disparity vs. discrimination in the American courts. What factors are most important for predicting punishment? What are the strengths and weaknesses of this work? What findings are most consistent, and what needs to be done next to improve fairness and equality in sentencing?
**Week 12: DEPARTURES AND CONTEXTUAL VARIATIONS IN PUNISHMENT (4/10)**

_The evidence is conclusive that judges of widely varying attitudes on sentencing ... mete out widely divergent sentences..._ ~Marvin Frankle~

**GUIDELINES DEPARTURES**


**CONTEXTUAL DISPARITY**


**Additional Readings:**


**Comp Prep Essay:** Assess the state of research on departures and contextual disparity in sentencing. What are its strengths and weaknesses? What do we know for sure about disparities in departures and across contexts? What needs to be done next in terms of research in these two areas? What are the key policy issues and how effective are current U.S. sentencing policies in addressing each of these contemporary social problems?
Week 13: **MANDATORY PENALTIES AND THREE STRIKE LAWS (4/17)**

*Inflexible rules in fact considerably increase the scope for arbitrariness of decision*

~Jeremy Bentham~

**OVERVIEWS**


**EMPIRICAL STUDIES**


**Additional Readings:**


**Comp Prep Essay:** Assess the current state of research on mandatory penalties (including three strikes laws) in the United States. What are the strengths and weaknesses of this research? What do we know for sure about mandatory penalties and their effect on criminal justice decision making in the United States. To what extent have mandatory minimums contributed to modern prison growth? What needs to be done next in terms of research on mandatory penalties? What are some of the key challenges to doing this research? What are the key policy issues? Should mandatory penalties be abolished? Why or why not?
Week 14: RESTORATIVE JUSTICE AND ALTERNATIVE SENTENCES (4/24)

Intermediate sanctions are the greatest challenge to the empirical study of sentencing.
~Charles Ostrum~

ALTERNATIVE SANCTIONS

Tonry, Michael. Sentencing Matters. Ch. 4, 100-133.


RESTORATIVE JUSTICE AND PROBLEM SOLVING COURTS


Additional Readings:


Comp Prep Essay: Assess the current state of research on alternatives to incarceration in the United States. What are the strengths and weaknesses of this research? To what extend do intermediate punishments provide a viable alternative to prison? Which programs are most promising? Which are least promising? What do we know about restorative justice approaches to punishment? What needs to be done next in terms of research in this area? Should intermediate sanction and restorative justice programs be restricted or expanded? Why?
**Week 15:**  **SENTENCING AND CORRECTIONS (5/1)**

_The reason to support the death penalty is because it saves other peoples lives. It’s the only reason to be for it_”

~George W. Bush~

_I have inquired for…studies that might show that the death penalty is a deterrent, and I have not seen any research that would substantiate that point_

~Janet Reno~

**PUNISHMENT, CRIME AND OFFENDING**


**DEATH PENALTY**


**Additional Readings:**


Miles & Ludwig. 2007. Silence of the Lambda: Deterring Incapacitation Research. _JQC_ 23(4) 287


**Week 16:**  **Full Mock Comprehensive Exam (5/8)**