Crime and Punishment in U.S. History

The United States incarcerates more of its people per capita than any other nation on the planet. How did this come to be?

This course examines how Americans have defined, represented, and punished crime, from the colonial period to the present day. Main course themes include changing conceptions of personal agency and criminal responsibility; rival theories of penal practice (retribution, deterrence, rehabilitation, and incapacitation); the emergence and historical development of the major state institutions of criminal justice that we now take for granted (including prisons, police, and prosecutors); evolving constitutional standards of due process and the rule of law; the strange science of criminology; radical critiques of the penal system; representations of crime and punishment in popular culture (from the penny press to The Wire); and the enduring significance of race and racism in the American criminal justice system. We will discuss an eclectic mix of historical texts and genres — criminal codes, trial records, true-crime journalism, historical studies, and works of political and social theory.
Learning Goals:

1. To develop a strong historical knowledge of the history of crime and criminal justice in the United States, from the early republic to the present.

2. To foster critical reading, thinking, and analytical skills.

3. To strengthen oral communication, written expression, and research skills.

Requirements and Grading:

1. Regular attendance & informed class participation. This course is organized around lectures and discussions of assigned readings. Each student is expected to read all texts by the assigned date, bring the texts to class, and be prepared to actively discuss them. You cannot pass this course without attending class regularly. 

   20 % of the final grade

2. Essay (4 pages), due Monday, Feb. 2 in my mailbox in the History Department, Olin-Sang 2d floor. Topics will be posted on Latte.

   10 % of the final grade

3. In-class Midterm Exam on March 3.

   15 % of the final grade

4. A primary-source research paper (10-12 pages) on an aspect of the history of crime and punishment in the United States. The essay must be grounded in the student’s own research in primary and secondary sources. Papers with thin bibliographies (fewer than six items, not counting reference works) or which do not make use of the sources listed in the bibliography are unacceptable. The essay must present a well-supported historical argument; it must not be purely descriptive. A one-page statement of the research topic and a preliminary bibliography are due on Monday, Mar. 16, in my mailbox in the History Department Office, 2d Floor, Olin-Sang. The final paper is due on Monday, April 27, at 12 Noon in my mailbox.

   25 % of the final grade

5. A comprehensive, three-hour final exam. Tentative date is Monday, May 4, 6-9 PM.

   30 % of the final grade

Course Rules:

1. You must complete all assignments to receive a passing grade.

2. Late papers will automatically be marked down one grade per day (e.g., from B to B-).

3. If you have a question about a grade, please come to my office hours. I will not discuss grades over the phone or via e-mail. I am happy to discuss questions about the course material via e-mail. Check your Brandeis e-mail daily for late-breaking course updates.

4. Academic Honesty: The Brandeis University policy on academic honesty is distributed annually as section 4 of the Rights and Responsibilities Handbook. I take this policy very seriously. Instances of alleged dishonesty will be reported to the appropriate university authorities. http://www.brandeis.edu/studentaffairs/srcs/index.html
5. **Accommodations:** If you are a student with a documented disability at Brandeis University and wish to request a reasonable accommodation for this class, please see me immediately. Please keep in mind that accommodations cannot be provided retroactively.

6. **Electronics:** Because they detract from the educational environment, laptops and tablets are not allowed in this class without an accommodation. No cell phones, texting devices, recorders, etc.

**Required Readings:**


Copies of the required books are available for purchase in the Brandeis Bookstore:

- Anthony Lewis, *Gideon’s Trumpet* (1964)

**Recommended Background Readings**


**SCHEDULE OF MEETINGS AND ASSIGNMENTS**

**I. FIRST PRINCIPLES**

T, Jan. 13  
Introduction: Crime and Time  
Reading: Darrow, “Address to the Prisoners of Cook County Jail” (1902)

Th, Jan. 15  
Responsibility, Justice, and the Rule of Law  
Reading: Fuller, “The Case of the Speluncean Explorers” (1949)

**II. COLONIAL AMERICA**

T, Jan. 20  
Public Punishments, Pain, and Shame  
Readings:  
- Laws Divine, Moral, and Martial, Virginia (1611)  
- Massachusetts Body of Laws and Liberties (1648)  
- Bradford, “Wickedness Breaks Forth” (1642)  
- Meranze, “Penalty & the Colonial Project” (2008), pp. 178-96

Th, Jan. 22  
Bound Labor and the Rise of Race  
Readings:  
- “An Act Concerning Servants and Slaves” (Va., 1705)  
- Meranze, “Penalty & the Colonial Project,” pp. 196-204
T, Jan. 27  The Enlightenment Critique of Public Punishments  
Jefferson, *Notes on the State of Virginia* (1781-82)  
Rush, “Enquiry into the Effects of Public Punishments” (1787)  
The Bill of Rights (1791)  
Meranze, “Penality & the Colonial Project,” pp. 204-10

III. THE NINETEENTH CENTURY

Th, Jan. 29  The Birth of the Prison, Part I: Theories  
Readings: Foucault, “The Body of the Condemned” (1977)  
Bentham, “Panopticon” (1787)

M, Feb. 2  * First Essay Due at 12 Noon in Professor Willrich’s Mailbox

T, Feb. 3  Class Canceled  
Reading: Capote, *In Cold Blood* (1965), Part I

Th, Feb. 5  The Birth of the Prison, Part II: Practices  
McLennan, *Crisis of Imprisonment* (2008), Chapters 1 and 2

T, Feb. 10  Law and Disorder in the Jacksonian City  
Steinberg, “The Spirit of Litigation” (1986)  

Th, Feb. 12  Southern Slavery and the Criminal Law  
*State v. Mann* (NC, 1829)  
*State v. Will* (NC, 1834)

Feb. 16-20  February Break

T, Feb. 24  “Neither slavery, nor involuntary servitude, except as a punishment for crime”  
Readings: The 13th, 14th, and 15th Amendments (1865, 1868, 1870)  
Wells-Barnett, *Southern Horrors* (1892-1894)

Th, Feb. 26  Guiteau’s Brain: The Trial of the 19th Century and the Rise of Determinism  
Charles J. Guiteau Speaks to the Jury, 1/15/1882  
Judge Walter Cox’s Instructions to the Jury, 1/25/1882  
The Sentence, 2/3/1882

T, Mar. 3  In-Class Midterm
IV. THE TWENTIETH CENTURY

Th, Mar. 5  Socializing Justice in the “Modern City”
Willrich, “The Two Percent Solution” (1998)

T, Mar. 10 Special Event: This meeting will take place at 3:30-5 PM, Location TBA
Professor Elizabeth Hinton, Harvard University
“The War on Crime and the Roots of Mass Incarceration.”
Capote, *In Cold Blood* (1965), Part II

Th, Mar. 12 Anarchism, Terrorism, and the Rise of the Surveillance State
Readings: *Abrams v. United States* (U.S., 1919)
*Investigation Activities of the Department of Justice* (1919)

M, Mar. 16 12 Noon: Paper Proposals Due in Professor Willrich’s Mailbox

T, Mar. 17 A “Noble Experiment”?: Prohibition and the Roaring Twenties
Readings: Leopold and Loeb Trial Materials (1924)
Wickersham Commission, *Report on Alcohol Prohibition* (1931)
Chauncey, “Pansies on Parade” (1994)

Th, Mar. 19 Inventing the Public Enemy
Hickson, “The Gangster,” *Nation*, 7/10/1929

T, Mar. 24 The Liberal Moment
Reading: Lewis, *Gideon’s Trumpet* (1964), 1-122

Th, Mar. 26 The Due Process Revolution
Reading: Lewis, *Gideon’s Trumpet* (1964), 123-250

T, Mar. 31 Popular Culture Represents Crime and Punishment
Reading: Capote, *In Cold Blood* (1965), Part III

Th, Apr. 2 Tru Crime
Reading: Capote, *In Cold Blood* (1965), Part IV

Apr. 3-10 Spring/Passover Recess

V. CONTEMPORARY AMERICA

T, Apr. 14 Deindustrialization, Urban Crisis, and the Severity Revolution
Reading: Alexander, *The New Jim Crow* (2010), 1-139
Th, Apr. 16   Mass Incarceration and the Enduring Significance of Race  

T, Apr. 21   The Ultimate Punishment  
Reading: Garland, *Peculiar Institution* (2010), 1-150

Th, Apr. 23   Why So Harsh?: Understanding American Exceptionalism  

M, Apr. 27   12 Noon: Research Papers Due in Professor Willrich’s Mailbox

M, May 4    6-9 PM: Tentative Date for the **Final Exam**