This seminar will examine theories that seek to justify criminal punishment and will then analyze those theories in a series of case studies. We will explore retributive theory (punishment because it is “deserved”), utilitarian/consequentialist theory (punishment because of the consequences that it will produce), and expressive theory (punishment that expresses social values). Thereafter we will take up the elements of the criminal act, the guilty mind, justification and excuse, attempt, mental illness, the prison system, sentencing, policing, juvenile justice, and the death penalty. Our goal throughout the course will be to consider the ways in which criminal law enforcement allows us to better understand our society and its values.

Throughout the semester please consider the following questions:

1. Why do we punish?
2. How does our view of punishment shift with the particular crime?
3. Is the American criminal justice system in fact just?

Requirements:

Class Attendance and Participation (25% of final grade)
I will be giving you a grade for participation. This is an essential part of the class! You must arrive to class on time and turn off all cell phones. You may use computers or tablets to display readings, but not for notes. I expect everyone to come prepared and ready for an active discussion. Quality participation includes engaging with the readings, expressing your opinions on relevant issues (while respecting other students’ opinions and experiences), and asking questions when you need additional clarification. Remember that participation is about quality, not quantity.

Three Short Papers (50% of final grade)
During the semester, I will distribute three sets of paper topics. If you would like to create your own topic, draft a proposal and email it to me. It should relate to material that we will have covered, but you are free to get creative. These papers will be primarily based on the readings but may also require that you examine some outside sources that I will provide. They should be 4-6 pages double-spaced with one-inch margins in Times New Roman 12 point font. I am interested in helping improve your writing skills, and I expect you to take this seriously. I will be setting up meetings with everyone to discuss the first paper. This is mandatory. It is essential that you are a strong writer when you leave Brandeis, regardless of your career path.

Final Exam (25% of final grade)
The final exam will require you to demonstrate an understanding of the concepts and readings we cover in the class. It will consist of a take-home criminal fact pattern.

**Four-Credit Course (with three hours of class-time per week)**
Success in this 4 credit hour course is based on the expectation that students will spend a minimum of 9 hours of study time per week in preparation for class (readings, papers, discussion sections, preparation for exams, etc.).
Grading:
The papers count for 50% of your grade. If you show significant improvement on the second and third papers, they will get additional weight. I expect you to complete written assignments on time. Extensions will be given only for valid reasons. Participation counts for 25% of your grade. If you are nervous about speaking up in class, please talk to me during office hours so we can figure something out. I do not want to penalize shy students who attend regularly and complete the readings. Three or more unexcused absences will lower your participation grade by one letter grade. Students who miss more than five classes without valid reason will receive an F for class participation. The final exam will count for 25% of your grade.

Grading scale: 0-59% (F); 60-66% (D), 67-69% (D+), 70-72% (C-), 73-76% (C), 77-79% (C+), 80-82% (B-), 83-86% (B), 87-89% (B+), 90-93% (A-), 94-100% (A)

Grades are not negotiable. If you think I made a genuine error in my calculations, please let me know. If you are just unhappy your grade, I will reconsider the assignment, but in doing so, I reserve the right to lower the grade if I think my initial assessment was actually too generous.

Academic Integrity:
Do not plagiarize under any circumstances. If you are unsure of whether to cite something, err on the side of caution. You can find university resources here: https://lts.brandeis.edu/courses/instruction/academic-integrity/index.html
Please do not put me in the position where I have to report a case of academic dishonesty. This will destroy your chances of going to graduate school and create major academic problems.

Meetings:
I hope you will all take advantage of my office hours at some point during the semester. If you have a scheduling conflict, please let me know, and we can meet at another time. My goal is to be an accessible and approachable teacher. I’m happy to talk about the class, but I also want you to feel free to come by if you want advice about graduate school, law school, or just want to discuss politics, history, writing, or anything at all. My door is always open.

Book to purchase:


Additional readings will be available on Latte.

**Important dates:*
**
September 29 (Tuesday) – First paper topics distributed (if you want to create your own, send it to me by the Friday before for approval)
October 9 (Friday) – First paper due
October 27 (Tuesday) – Second paper topics distributed (if you want to create your own, send it to me by the Friday before for approval)
November 6 (Friday) – Second paper due
November 24 (Tuesday) – Third paper topics distributed (if you want to create your own, send it to me by the Friday before for approval)
December 8 (Tuesday) Third paper due
Final Exam: Take home due Tuesday December 15
WEEK 1
August 28
Course overview and introduction.

WEEK 2
September 1
A Reader on Punishment, introduction, pp. 3-31.

September 4 (Classical Theories of Punishment)
**No class, but read:
A Reader on Punishment, pp. 29-37 and 51-71.
Kant, "The Penal Law and the Law of Pardon."
Bentham, "An Introduction to the Principles of Morals and Legislation."

WEEK 3
September 8 (Classical Theories)
A Reader on Punishment, pp. 71-105.
Glueck, "Principles of a Rational Penal Code."
Lewis, "The Humanitarian Theory of Punishment."
Allen, "Legal Values and the Rehabilitative Ideal."

September 11 (Retributive Theories)
A Reader on Punishment, pp. 107-159.

WEEK 4
September 15 (No class)

September 18 Mixed Theories
A Reader on Punishment, pp. 191-237.

WEEK 5 What to Punish (The Criminal Act)
September 22 (Acts, Omissions, Possession, and Harm)
Latte:

September 25 (Voluntariness, Status, Legality, and Specificity)

WEEK 5
September 29 (the Guilty Mind) *First paper topics distributed

October 2 (Mistake, Capacity for Mens Rea)
WEEK 6 Justification and Excuse

October 6

October 9 *First paper due
Movie screening: Bernie Goetz Documentary

WEEK 7 Justification and Excuse

October 13 Battered Women and Bernie Goetz

October 16 (Stand your ground)
Latte:

WEEK 8

October 20 (Attempt)

October 23 (Mental Illness)

WEEK 9 What does punishment accomplish?

October 27 *Second paper topics distributed
_A Reader on Punishment,* pp. 387-445.

October 30 (Sentencing)

WEEK 10 Consequences of Punishment System

November 3
November 6 *Second paper due

Is crime declining due to harsh sentencing?

**WEEK 11 Policing**

November 10
Latte: Selected articles on policing, race, and contemporary controversies.

November 13
Latte: Selected articles on policing, race, and contemporary controversies.

**WEEK 12**

November 17 (Bail)
Latte: Selected readings on bail.

November 20 (Death Penalty)

**WEEK 13**

November 24 Juvenile Justice *Third paper topics distributed*
Screening of *Frontline: Juvenile Justice*


November 27
**No Class**

**WEEK 14**

December 1 (Juvenile Justice)
*Last Chance in Texas.*

December 4 (Restorative Justice)
*A Reader on Punishment*, pp. 319-387.

**WEEK 15**

December 8 *Third paper due*
Final Thoughts