



POLI 203
Race, Innocence, and the End of the Death Penalty
Mondays, Wednesdays, 2:00–2:50pm
Stone Center 103, Fall 2014

Prof. Frank R. Baumgartner
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Office hours: M, W, 3:00-5:00 pm and by appointment

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Teaching assistants: We have a stellar group of teaching assistants all of whom are advanced students in our PhD program. In addition, we have two younger PhD students who will help in various ways with the logistics of a class of this size.

Teaching assistants:

Derek Epp, derekepp@email.unc.edu, 300 Hamilton
Jelle Koedam, koedam@email.unc.edu, 300 Hamilton
John Lovett, jilovett@email.unc.edu, 459 Hamilton
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Class assistants / graders:

Daniel Gustafson, dgustaf@live.unc.edu
Thomas Loeber, tloeber@live.unc.edu

Each of you is expected to come to the lectures, and also to your assigned discussion section with your teaching assistant. Discussion sections are places to review concepts from the lectures, ask questions in a setting with fewer than 20 participants, discuss your reactions to the readings, lectures, and guest speakers, and engage with the material. Participation here is essential.

Discussion sections:

No.	Registrar's number	Day	Time	Building and Room	TA
1	600	Monday	10:00-10:50am	GL 104	Kelsey
2	601	Monday	11:00-11:50am	GL 106	Kelsey
3	602	Tuesday	2:00-2:50pm	CW 105	John
4	603	Wednesday	9:00-9:50am	AR 118	Derek
5	604	Wednesday	12:00-12:50pm	HM 570	Derek
6	605	Thursday	3:30-4:20pm	GM 038	John
7	606	Friday	9:00-9:50am	HM 570	Jelle
8	607	Friday	10:00-10:50am	HM 351	Jelle
9	608	Friday	11:00-11:50am	CB 024	Kelsey
10	609	Thursday	9:00-9:50am	HM 425	John
11	610	Friday	12:00-12:50PM	GA 309	Jelle
12	611	Wednesday	1:00-1:50PM	HM 523	Derek

This class is about a surprising political development that is happening right around us: The death penalty seems to be disappearing. A large majority of Americans supports the death penalty in the abstract. But across the country for about the past 15 years, the number of death sentences and executions has been declining; North Carolina has executed no one since 2006, and has no plans to do so in the near future. Admissions to death row have also slowed to a trickle, compared to previous decades. The 2009 Racial Justice Act allowed condemned inmates to present statistical evidence that racial bias may have affected their sentencing. In 2013 this law was rescinded but the cases remain in the courts.

Activists (many of them students) have brought attention to problems in the administration of justice as it relates to capital punishment, especially the potential to execute an innocent person. But these things are not new; problems in the administration of justice have been with us for a long time. Similarly, charges of racial bias in the application of the death penalty have been with us for many centuries. So we will try to understand why has public attention come to focus on the possibility of executing the innocent and why the legislature passed, then did away with, the Racial Justice Act. In sum, we'll be following real world events this semester, and we can rest assured that there will be many events of interest. Recent months have had national attention focused on problems with lethal injections, and we will focus on that as well.

This class will be accompanied by a distinguished speakers series, and attendance at these events is mandatory. In fact, this may be where you learn the most. The list of speakers includes several individuals who have served time in jail or on death row for crimes of which they were later found to be innocent; their attorneys and advocates; a prison warden who once administered executions using Florida's electric chair; the authors or main characters in two books you are going to read; a mother who was sentenced to 22 years in prison but exonerated 14 years after the crime by her daughter, who went to law school in order to learn to defend her mother; in all, you will be introduced to some of the most prominent death penalty attorneys and speakers in the nation. These individuals have real-world experience and can speak to the issues we will be discussing on ways that no professor can match. So you will learn a lot from them. (Note: the evening speakers may be scheduled in a different room than the class lecture. I will announce the room in class as soon as I know it, and post it on the class web site as well.)

One thing this class is not about is whether any of us personally support or oppose the death penalty. It may be difficult to separate your personal views on the topic, especially if they are related to your religious beliefs. No matter whether you support or oppose the death penalty, I will expect all to show respect for the views of others. Our task this semester is not to reach an individual decision about what we believe—that is a personal matter. Rather, I want us to analyze a true puzzle, which is how we got here and where we may be going.

This is a political science class, not a class on doing politics. So we'll be taking a step back from the real world events we'll be reading about and asking some more basic questions. What is the role of public opinion in such a policy? What should it be? How do we gauge public opinion on a topic like capital punishment: in response to general questions, or only in the jury box with respect to a particular individual and after learning the facts in the case? How much discretion should police officers, district attorneys, and judges have in protecting us from criminals and on deciding on how to punish the guilty? How much do we owe to defendants who cannot afford an

attorney? How does one mount a political movement in favor of a group of individuals who may be despised by the vast majority in society? So there are some big questions here related to the very functioning of a democratic system. We should not shy away from discussing what this particular debate means about the functioning of our political system.

Assignments will include active participation in the lecture and in discussion sections; two 5-7 page (double spaced) papers; a set of exams to be conducted in section; and a final exam. The paper assignments will allow you to go into greater detail about items covered in class or to focus on the individual experiences of some of our speakers or other cases. In any case, they should be documented with academic sources or your own primary research, should be written in a professional manner, and should go beyond what is covered in class, not simply repeat information we have covered together. I will distribute more detailed paper topics as the time approaches. Your teaching assistants will have full authority to make assignments in discussion sections as well.

Grades will be calculated according to this formula:

Participation including in lecture and discussion section	15
Quizzes and exams in lecture and discussion section	20
Two papers, equally weighted	30
Attendance in discussion section and at the speakers series	15
Final exam	20

Missed class and late assignments: We will not take attendance in the big lectures. However, we will give random unannounced short quizzes. These will be very easy quizzes if you have done the readings and listened to the lectures, and will be used to encourage attendance, which means there could be a pop quiz if I see too few seats occupied in the lecture hall. In discussion sections and in the guest lectures, we will indeed take attendance, and missing these more than a few times will certainly affect your participation grade; missing class more than 5 times will lead to a full grade reduction in your final grade. Similarly, missing the final exam will lead to a 10 point reduction in your exam grade and a revised exam which may well be more difficult.

Papers are due at the beginning of the main lecture on the day they are due. Any late papers will be accepted but down-graded by 10 points after the class when they are due, then 10 more points each 24 hours including weekends; if you are late with the assignment, email the paper to your TA. Speakers events cannot be made up so you will lose 5 points if you miss two of them, and the full ten points on the scale above (that is, a full letter grade) if you miss three. Now, all this sounds very harsh and I apologize for that. If you know ahead of time you will miss an assignment for some good reason, contact your teaching assistant, by email, or in office hours and we may agree on an alternative, without any penalty. Similarly, if you have an illness or a university supported excuse then no penalties will apply. Just stay in touch.

Caveat: I consider the syllabus in a class to be a contract. However, I do reserve the right to make changes to the syllabus, including project due dates and test dates (excluding the officially scheduled final examination), when unforeseen circumstances occur. These changes will be announced as early as possible so that students can adjust their schedules.

Books for purchase: Buy these two books on line or at the bookstore.

- Jen Marlow and Martina Davis-Correia, with Troy Anthony Davis. 2013. *I am Troy Davis*. Chicago: Haymarket Books.
- John Temple. 2009. *The Last Lawyer: The Fight to Save Death Row Inmates*. Jackson, MS: University Press of Mississippi.

Other than that, all the required readings will be on the class web site. Visit this site often: <http://www.unc.edu/~fbaum/teaching.htm>, then look for our class. Some speakers may make things available to you and I will post them there as soon as I have them.

Disabilities: Please let me and/or your TA know in the first two weeks of class if you need any accommodation for a disability. No problem. But don't delay in letting one of us know.

Academic Honesty: Study together but make sure the work you hand in is your own. For all course work, the Honor Code applies; the student's signature on her/his work confirms that the Code rules were respected. Familiarize yourselves with the Code at http://honor.unc.edu/index.php?option=com_content&view=article&id=44&Itemid=71. You also need to familiarize yourself with the concept and practice of plagiarism in order to make sure that you avoid it. Plagiarism is defined as deliberate or reckless representation of another's words, thoughts, or ideas as one's own without attribution in connection with submission of academic work, whether graded or otherwise. Take the library's tutorial at <http://www.lib.unc.edu/instruct/plagiarism/> and ask me if you have any questions. Note that in the months before this class started the sitting US Senator from Montana just was forced out of his reelection because it came out he had plagiarized his MA thesis many years ago. The best you can come out of a plagiarism issue is to appear stupid and lazy. At worse, you are in danger of losing a degree. So, take it seriously, know the rules, and don't even come close to doing it. When you do research on-line, make sure you know what you copied from an on-line source, and what you typed up yourself based on your own interpretations. This is the stupid / lazy excuse for plagiarism. The unethical / venal one is doing it on purpose. Neither one makes you look like a genius!

Effort: Come to class prepared to participate even if this is by asking questions.

Intimidation Factor: I'm the author of some of the work discussed here, and an active researcher in the field. That can either be a cause not to critique and discuss, or an opportunity to engage with a person who is active in the field. Take advantage of it with me and with the speakers. Asking questions is good. Challenging what I say is good. Do it often.

Computers and cell phones: Turn them off, period. Pay attention to the discussion. Bring paper copies of the readings, and a pad and pen to take notes. Type your notes into a computer file after class; that will help you review and learn the material.

Weekly schedule and discussion topics

Note: Readings should all be done *before the Monday class*. Most of these readings are easy to understand but a few get technically difficult at times. Don't worry too much about any statistical presentations or legal concepts that you can't understand. However, do your best, and come to class with questions. You should definitely understand and pay careful attention to the concepts and conclusions being presented. I'll occasionally have quick quizzes designed to evaluate whether you've done the readings. This will be partially based on my sense of whether people are doing the readings. So, to avoid quizzes, come with questions and comments that show you have read the material!

Week 1, Wed Aug 20, Introduction and overview of the course

Week 2, Aug 25, 27, Historical background and statistics about the death penalty in America and how it works in North Carolina.

1. Jost, Kenneth. 2010. Death Penalty Debates: Is the capital punishment system working? *CQ Researcher* 20 (41, Nov. 19): 965-988.
2. Welty, Jeff. 2012. The Death Penalty in North Carolina: History and Overview. Working paper, UNC School of Government, April.

Week 3, Sep 3, How the death penalty came back so strongly in the 1970s

(No class on Sep 1, happy Labor Day)

3. Garland, David. 2010. *Peculiar Institution: America's Death Penalty in an Age of Abolition*. Cambridge: Harvard University Press. Chapter 9, New Political and Cultural Meanings, pp. 231-255.

Week 4, Sep 8, 10, Race and Executions

4. Frank R. Baumgartner, Amanda Grigg, and Alisa Mastro. 2014. Capital Punishment and the Invisible Black Male: Race-of-Victim Effects in US Executions, 1977-2013. Paper under review, *Politics, Groups, and Identity*.
5. Blume, John, Theodore Eisenberg, and Martin T. Wells. 2004. Explaining Death Row's Population and Racial Composition. *Journal of Empirical Legal Studies* 1, 1: 165-207.

Week 5, Sep 15, 17, Introduction to the Troy Davis case

6. *I Am Troy Davis*, pp. 1-160.

Week 6, Sep 22, 24, Troy Davis, part 2

7. *I Am Troy Davis*, pp. 160-271.

*Speakers, Wed evening Sept. 24: Jen Marlow and Kim Davis
Jen is author of your book, and Kim is Troy's younger sister*

(First paper topic proposal due in discussion section this week for approval.)

Week 7, Sep 29, Oct 1, New Arguments: Innocence, Cost, Mistakes, Incompetence, Randomness

8. Radelet, Michael L., and Marian J. Borg. 2000. The Changing Nature of Death Penalty Debates. *Annual Review of Sociology* 26: 43-61.
9. Baumgartner, Frank R., Suzanna Linn and Amber E. Boydstun. 2010. The Decline of the Death Penalty: How Media Framing Changed Capital Punishment in America. In Brian F. Schaffner and Patrick J. Sellers, eds. *Winning with Words: The Origins and Impact of Framing*. New York: Routledge, pp. 159–84.
10. Dieter, Richard C. 2013. *The 2% death Penalty: How a Minority of Counties Produce Most Death Cases at Enormous Costs to All*. Washington, DC: Death Penalty Information Center.

*Speaker, Wed evening Oct. 1: Ballard Everett
Ballard is NC coordinator for Conservatives Concerned About the Death Penalty and a consultant in Raleigh*

Week 8 Oct 6, 8, Public Opinion, Racial Sentiment, and Death Sentences

11. Peffley, Mark, and Jon Hurwitz. 2007. Persuasion and Resistance: Race and the Death Penalty in America. *American Journal of Political Science* 51, 4: 996-1012.
12. Baumgartner, Frank R., Suzanna DeBoef and Amber E. Boydstun. 2009. *The Decline of the Death Penalty and the Discovery of Innocence* (New York: Cambridge University Press), ch 6 (public opinion)

*Speaker, Wed evening Oct. 8: Greg Taylor and Chris Mumma
Greg was exonerated in 2010 after 17 years in prison; Chris, of the NC Center on Actual Innocence, was his attorney*

**Week 9, Oct 13, 15, The Long Run History of North Carolina's Death Penalty
(First paper due in lecture, Oct 15.)**

13. UNC Wilson Library Special Collections on the History of the Death Penalty: <http://www.lib.unc.edu/mss/exhibits/penalty/intro.html>
14. Kotch, Seth, and Robert P. Mosteller. 2010. The Racial Justice Act and the Long Struggle with Race and the Death Penalty in North Carolina. *UNC Law Review* 88: 2031-2132.

*Speakers, Wed evening Oct. 15, Beverly and Katie Monroe
Beverly was sentenced to 22 years in prison for a 1992 murder; Katie, her daughter, went to law school and learned to become a defense attorney, and got her mother released on the grounds of innocence in 2003. Katie now works for the Innocence Project.*

Week 10, Oct 20, 22, Levon Bo Jones goes to death row

15. *The Last Lawyer*, Part I, pp. 1-92.

*Speaker, Wed evening Oct. 22, LaMonte Armstrong and Theresa Newman
LaMonte was exonerated in 2013 and Theresa, from Duke Law School, was his attorney*

**Week 11, Oct 27, 29, Levon Bo Jones goes free
(First paper topic proposal due in discussion section this week for approval.)**

16. *The Last Lawyer*, Part II, pp. 93-234.

Speaker, Wed evening Oct. 29, Ken Rose
Ken is, of course, The Last Lawyer and an attorney for the CDPL in Durham

Week 12, Nov 3, 5, Passage of the 2009 The Racial Justice Act and its Aftermath

17. Racial Justice Act, 2009
18. Reform of the Racial Justice Act, 2011
19. Elimination of the Racial Justice Act, 2013
20. O'Brien, Barbara, and Catherine M. Grosso. 2011. Confronting Race: How a Confluence of Social Movements Convinced North Carolina to Go where the McCleskey Court Wouldn't. *Michigan State Law Review* 2011: 463-504.

Speaker, Wed evening Nov. 5: Darryl Hunt
Darryl was exonerated in 2004 after more than 19 years in prison for murder; he escaped the death penalty by one vote. He now directs a nonprofit agency designed to reform the criminal justice system and help former inmates adjust to society.

Week 13, Nov 10, 12, The first Racial Justice Act decision by Judge Weeks

21. State of North Carolina v. Marcus Reymond Robinson, Order Granting Motion for Appropriate Relief, 91 CRS 23143, 20 April 2012.

Speaker, Wed evening Nov. 12: Ron McAndrew
Ron took a position as a prison guard in Florida after relocating there following a divorce. Several years later he was warden of central prison, where he oversaw a number of electrocutions, including that of Jesse Tafero, whose head caught fire. Ron is now an advocate of abolition of the death penalty and speaks nationally to audiences of all types.

**Week 14, Nov 17, 19 North Carolina Innocence Inquiry Commission
(Second paper due in lecture, Nov 19.)**

Guest lecturer, in the regular class time, Kendra Montgomery-Blinn, JD, Executive Director, NC Innocence Inquiry Commission

**Week 15, Nov 24, Botched Executions, Shifting Methods of Execution over Time
(no Class on Wed Nov 26, Happy Thanksgiving)**

22. See various links on class web page, but no heavy readings for this week

Week 16, Dec 1, 3 "Life in Prison with the Remote Possibility of Death" – Unconstitutional, according to a Federal Judge; Review for Final Exam

23. Ernest Dewayne Jones v Kevin Chappell, Order Declaring California's Death Penalty System Unconstitutional and Vacating Petitioner's Death Sentence, CV 09-02158-CJC 16 July 2014.

**Final Exam: Friday Dec 5, 4pm. (Exam is in our normal lecture hall, 103 Stone Center).
Good luck!**