



POLI 203
Race, Innocence, and the End of the Death Penalty
Mondays, Wednesdays, 3:35–4:25 pm
Stone Center 103, Spring 2016

Prof. Frank R. Baumgartner
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Office hours: M, W, 2:00-3:30 pm and by appointment

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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. Your TA will lead the discussion section and calculate grades. Note that your grade includes exams, quizzes, papers, attendance in the evening speakers events, and participation in your discussion section.

Discussion sections:

Section	Day	Time	Building and Room	TA
600	Monday	10:10	Hamilton 425	Rob
601	Monday	12:20	Hamilton 420	Rob
602	Tuesday	12:30	Hanes Art Center 118	Josh
603	Tuesday	2:00	Dey 202	Josh
604	Wednesday	10:10	Hamilton 423	John
605	Wednesday	11:15	Hamilton 150	Amy
606	Wednesday	2:30	Hamilton 420	Amy
607	Thursday	9:30	Hamilton 420	John
608	Thursday	12:30	Hamilton 420	Amy
609	Friday	9:05	Carolina 213	Mitch
611	Friday	11:15	Woollen Gym 302	Mitch
612	Thursday	3:30	Wilson 217	Mitch
613	Tuesday	9:30	Murphey 220	Josh
614	Wednesday	9:05	Greenlaw 104	Rob

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 20 years, the numbers of death sentences and executions have 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. North Carolina has sentenced just four individuals to death since 2011, a period during which over 2,000 homicides have occurred; there were no death sentences state-wide in 2015. 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 In 2013 this law was rescinded but the cases remain in the courts and will certainly be in the news during the upcoming semester.

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 public attention has 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 years have seen 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; the authors, main characters, or clients of all three of your required books; a mother who was sentenced to 22 years in prison but exonerated 11 years after the crime by her daughter, an attorney; and an entire cast of characters from the 2010 Carolina common read book, *Picking Cotton*; 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.

I will also make available a number of optional events for you. The Carolina Summer Reading Program book this year, *Just Mercy*, is directly related to the subject matter of this course, and is required reading for you. Sister Helen Prejean, a notable death penalty reformer, will be receiving an honorary degree in the May commencement. So there is a lot of interest on campus this year on this topic. From February through April the Carolina Union will be hosting a cartoon exhibition featuring work by Pulitzer prize-winning editorial cartoonists as well as by death-row inmates. You should visit this and contemplate the work. I will also arrange a number of visits to Raleigh's Central Prison. These are subject to the rules of the prison, which mean they can only be on Mondays or Fridays at 9am, are limited to 30 students at a time, and require conformance with many rules and regulations about appearance, dress, jewelry and possessions, and demeanor. Central Prison houses death row with 148 individuals as well as the death chamber, where North Carolina has carried out executions since 1910. The same small room has housed the electric chair, served as a gas chamber, and been the location of lethal

injections. I strongly recommend that you make the effort to visit the prison, as previous students have found the visits deeply moving. As other opportunities arise, I will try my best to make those available to you as well. This class is full of emotionally wrenching content that could have a big effect on you if you let it. Please don't treat it like just another class; it's literally about life and death.

One thing this class is specifically 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, judges, juries, or the families or survivors of crime have in deciding how to punish the guilty? How much do we owe to defendants who cannot afford an attorney? Do they deserve "gold plated" legal aid, or just something "good enough?" How good is good enough? 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. But our debates should not be about whether this or that religious perspective on the issue is correct or incorrect, and we should conduct our debates with civility and respect.

Assignments will include active participation in the lecture and in discussion sections; two 5-7 page (double spaced) papers; quizzes and exams to be conducted in lecture or in your discussion 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. 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 with these percentage weights:

Participation including in lecture and discussion section	10
Quizzes and exams in lecture and discussion section	20
Two papers, equally weighted	30
Attendance in discussion section	10
Attendance at the speakers series	10
Final exam	20

Missed class and late assignments: 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. 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 you will be graded both on participation and attendance in discussion. Missing discussion section twice will lead to reductions in your attendance grade there, and missing 5 times means you will get no credit for the attendance portion of the grade. 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. 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. 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 books on line or at the bookstore.

- Jen Marlowe 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.
- Stevenson, Bryan. 2014. *Just Mercy: A Story of Justice and Redemption*. New York: Spiegel and Grau.

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. Take the library's tutorial at <http://www.lib.unc.edu/instruct/plagiarism/> and ask me if you have any questions. The best outcome of a plagiarism accusation is to appear stupid and lazy; in other words, there are no good outcomes. 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.

Trigger Alert: Given the topics we are going to discuss throughout the term, almost the entire reading list could be upsetting to many or all of you, if you are paying attention. We will discuss sexual assault, human mutilation, official misconduct, racism, sexism, mass violence, homicide, torture, and miscarriages of justice. If this does not trigger you, you are not paying attention. On the other hand, it can get heavy and depressing at times, so pace yourself and take a break sometimes. Skip the hard or upsetting parts if you must. Remember, we cannot improve justice in our country by focusing on unicorns and rainbows; we have to confront the ugly parts in order to understand and fix them.

Note about the readings and attached schedule: 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!

Another note: In Fall 2015 I taught a course (POLI 490, Advanced Research on the Death Penalty) in which 22 students who had previously taken POLI 203 helped me write a book. We completed 20 chapters laying out the outlines of a book entitled *A Statistical Portrait of the Death Penalty*. I will use chapters of this book as the basis for many of the lectures, and make draft chapters of it available on the class web site as they are ready for review. Your feedback is essential to making this book as good as it can be. I plan to submit it to a publisher at the end of this semester and hopefully to use it in this class in the future. (Royalties will be donated to the Political Science Department and used for expenses associated with this class, such as the speakers series.)

Weekly schedule and discussion topics

Week 1, Jan 11, 13, Introduction and overview; The Death and Revival of the Death Penalty in 1972 and 1976 in the Supreme Court's *Furman* and *Gregg* Decisions

1. *Furman v. Georgia*, which invalidated the death penalty in 1972
2. *Gregg v. Georgia*, which established the “modern” death penalty in 1976
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 2, Jan 20, Capital Crimes, Capital Trials, and Capital Appeals

(No class on Jan 18, happy Martin Luther King, Jr. Day)

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, Jan 25, 27, The Life of a Death Row Attorney in a Hostile Environment

1. *Just Mercy*, Ch. 1-8, pp. 1–162.

Week 4, Feb 1, 3, More on Bryan Stevenson

1. *Just Mercy*, Ch. 9-Epilogue, pp. 163–314.

Speaker, Feb 1, Anthony Ray Hinton

Mr. Hinton served 30 years on Alabama's death row; he was innocent.

Cartoon exhibit opens at the Carolina Union, Feb 2

Week 5, Feb 8, 10, Race and Injustice

1. Baumgartner, Frank R., Amanda Grigg, and Alisa Mastro. 2015. #BlackLivesDon'tMatter: Race-of-Victim Effects in US Executions, 1977-2013. *Politics, Groups, and Identities* 3, 2: 209–21.
2. Rattan A, Levine CS, Dweck CS, Eberhardt JL. 2012. Race and the Fragility of the Legal Distinction between Juveniles and Adults. *PLoS ONE* 7, 5: e36680.
3. Eberhardt, Jennifer L., Paul G. Davies, Valerie J. Purdie-Vaughns, and Sheri Lynn Johnson. 2005/06. Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes. *Psychological Science* 17, 5: 383-6.
4. Smith, Robert J. and G. Ben Cohen. 2012. Capital Punishment: Choosing Life or Death (Implicitly). In Justin D. Levinson and Robert J. Smith, eds. *Implicit Racial Bias Across the Law*. New York: Cambridge University Press, pp. 229–43.

Speakers, Feb 8, Fernando Bermudez, LaMonte Armstrong, and Theresa Newman.

Bermudez served 18 years in New York; Armstrong served 18 years in North Carolina; both were innocent. Newman is an attorney with the Duke Innocence Project.

Week 6, Feb 15, 17, Levon Bo Jones goes to death row

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

Week 7, Feb 22, 24, Levon Bo Jones goes free

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

Speakers, Feb 22, Gary Griffin and Ken Rose

Ken Rose is Senior Staff Attorney at the Center for Death Penalty Litigation. Before representing Bo Jones, he represented Gary Griffin, then on Mississippi's death row. Mr. Griffin is now a capital investigator in Jackson, Mississippi.

Week 8, Feb 29, Mar 2, The Geography of the Death Penalty

1. 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.
2. Donohue III, John J. 2014. An Empirical Evaluation of the Connecticut Death Penalty System Since 1973: Are There Unlawful Racial, Gender, and Geographic Disparities? *Journal of Empirical Legal Studies*, 11, 4 (December): 637–96. (For reference, you can just skim this as it is pretty dense.)
3. Scheidegger, Kent S. Mend It, Don't End It. Report to the Connecticut General Assembly on Capital Punishment, April 2011. (Read this in more detail, as it is a pro-death penalty rebuttal of the Donohue study above.)

Speakers, Feb 29, Beverly and Katie Monroe

Beverly was wrongfully convicted of murder and served 11 years for a crime that never even occurred. Katie is her daughter, a lawyer, who got her mom out of jail.

Week 9, Mar 7, 9, North Carolina's Revolutionary 2009 Racial Justice Act and its Aftermath

1. 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.
2. 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.
3. Racial Justice Act, 2009
4. Reform of the Racial Justice Act, 2011
5. Elimination of the Racial Justice Act, 2013
6. State of North Carolina v. Marcus Reymond Robinson, Order Granting Motion for Appropriate Relief, 91 CRS 23143, 20 April 2012.
7. State v. Robinson, (411A94-5), NC Supreme Court ruling vacating the 2012 State v. Robinson decision, 18 December 2015.

*****First paper due in lecture Wed Mar 9.*****

Speakers, March 7 "Serving Life" – Performances based on life stories from inmates

The inmates can't be with us, but their stories from Central Prison in Raleigh will cut deeply.

Spring Break, Mar 12-20

Week 10, Mar 21, 23 Public Opinion, Racial Sentiment, and Death Sentences

1. 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.

2. Baumgartner, Frank R., Suzanna DeBoef and Amber E. Boydston. 2009. *The Decline of the Death Penalty and the Discovery of Innocence* (New York: Cambridge University Press), ch 6 (public opinion)

Week 11, Mar 28, 30, Introduction to the Troy Davis case

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

Week 12, Apr 4, 6, Troy Davis, part 2

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

Speaker, Apr 4, Kimberly Davis

Kimberly's brother Troy was executed by the State of Georgia on September 21, 2011 amid a world-wide movement proclaiming his innocence.

Week 13, Apr 11, 13, Innocence in North Carolina and the US

1. Radelet, Michael L., and Marian J. Borg. 2000. The Changing Nature of Death Penalty Debates. *Annual Review of Sociology* 26: 43-61.
2. Baumgartner, Frank R., Suzanna Linn and Amber E. Boydston. 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.

Speakers, Apr 11, Duke Innocence Project attorneys

University-based innocence projects throughout the country work to free innocent individuals. Sometimes they succeed, but often they do not.

Week 14, Apr 18, 20, Mental Illness, Lethal Injection, Botched and Delayed Executions, and Torture

*****Second paper due in lecture Wed Apr 20.*****

Speakers, Apr 18, Jennifer Thompson, Ronald Cotton, Rich Rosen, and Mike Gauldin

2010 Carolina Common Read Picking Cotton focuses on the story of these individuals.

Week 15, Apr 25, 27, “Life in Prison with the Remote Possibility of Death” –

Unconstitutional, according to a Federal Judge; Review for Final Exam

1. *Glossip v. Gross*, which validated lethal injection in 2015, but in which Justice Breyer raised several issues in his dissent.
2. 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. (This decision was later rejected on appeal on procedural grounds.)

Final Exam: Thursday May 5, 4:00-6:00pm, 103 Stone Center