

**POLI 203**  
**Race, Innocence, and the End of the Death Penalty**  
**Mondays, Wednesdays, 1:25–2:15 pm**  
**Hamilton (Pauli Murray) Hall, Room 100**  
**Spring 2022**

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Office hours: M 2:15-3:15 (in person)

W 3:30-4:30 (zoom)

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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 has traditionally supported the death penalty in the abstract. But across the country since the mid-1990s, the numbers of death sentences and executions have been declining. Admissions to death row have also slowed to a trickle, compared to previous decades. North Carolina has sentenced no more than 3 individuals to death in any single year since 2010, and has not carried out an execution since 2006. The 2009 Racial Justice Act allowed condemned individuals to present statistical evidence that racial bias may have affected their sentencing. In a 2015 US Supreme Court decision, Justice Stephen Breyer called for a “full briefing” on the constitutionality of the death penalty nationwide. President Trump jump-started federal executions and added several pro-death penalty justices, so Justice Breyer’s call for a briefing might not lead to the result he would prefer. On the other hand, President Biden has vowed to end the federal death penalty, and states have continued to move away from the punishment, imposing very few sentences and carrying out even fewer executions. Several states have recently abolished the death penalty, including long-time users Virginia and Illinois. These are the trends we’ll explore this semester.

This class will be accompanied by a distinguished speaker 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 prison or on death row for crimes of which they were later found to be innocent; their attorneys and advocates; and family members of those killed but where the state arrested and convicted the wrong person, leaving the guilty one free. These speakers will offer harrowing personal tales of injustice but also stories of strength and courage. We may have various guest speakers in class as well, and I expect a number of phone calls from various death rows around the country. These individuals have real-world experience and can speak to the issues in ways that no professor can match. So you will learn a lot from them.

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. Also, note that much of the material is upsetting and can be triggering. There is no way around that, given the subject matter. So, protect yourself, skip some passages in the readings if they might upset you, and take a break once in a while; the material is tough. Many descriptions of the legal cases start out with descriptions of the underlying crime; you can skip those if you want. Trust me, they are all terrible.

One thing this class is specifically not about is whether any of us personally support or oppose the death penalty. 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. I also want you to engage with an important matter of public policy, not as it should be or as you assume it is, but as it works in practice. Theory and reality are sometimes not the same. And, we want to treat those who disagree with us with respect and dignity, and to learn to discuss heated matters with civility. That’s a good lesson for all of us.

This is a political science class, 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? 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? What about the guarantee of “equal justice under law”? 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, ideological, or cultural perspective on the issue is correct or incorrect, and we should conduct our debates with civility and respect.

You will read two books that are central to the topic being discussed. The first book is *Deadly Justice: A Statistical Portrait of the Death Penalty*. I wrote that with several former students from this class. (The royalties from the book, by the way, go to the Political Science Department and will be used for student-oriented activities, including the expenses associated with the speakers series for this class.) This book is designed as the on-going text for this class, so please read it carefully, and pay attention to the resources associated with the book website, available at my UNC web site: <http://fbaum.unc.edu/books/DeadlyJustice/index.html>. Become familiar with the resources and links available there.

The other book is called *Right Here, Right Now: Life Stories from America’s Death Row*. It contains almost 100 short vignettes and stories from writers currently living on death row. Please don’t try to read too many of these stories in a short time. Read one or two and let them sink in. We will discuss them occasionally in class and you may discuss them in greater detail in your recitation sections. I will not be lecturing on this material as it is self-explanatory. Engage with this material on your own outside of class.

You will write four short response essays related to the stories told in *Right Here, Right Now*. These will be due through your section’s Sakai site and will be due at 5pm on the Wednesday of weeks 4, 6, 8, and 10 as indicated in the weekly schedule below. These essays should engage with the material in Parts 1&2, 3&4, 5&6, and 7&8, respectively. (That is, the first essay, due on

the Wednesday of week 4, engages with essays in the first two parts of the book; two weeks later you have to write on sections 3 and 4; and so on.) Because the stories you are reading are highly personal, your response can be personal as well. Write about what the stories tell you. There is no need to give academic sources in your response. Linking the stories to the broad themes discussed in lectures is a good idea, but not a requirement. Just engage deeply with the material.

You'll also write a more academic paper engaging with a narrowly focused theme relating to the material in the class; this is due at 5pm on the Wednesday of the 14<sup>th</sup> week of the semester. This is your opportunity to explore in more detail a particular aspect of the death penalty. You can choose any topic related to the materials discussed in class, with the approval of your TA. Please choose your topic and have it approved before the end of your recitation section in week 11. This paper should use academic and /or legal resources to go into detail on a topic such as cost, public opinion, deterrence, innocence, or whatever else interests you. You might explore a particular legal case in detail or use other methodologies. Your TA will help you choose a useful topic. Your TA's will not approve generic topics such as "does the death penalty deter" or "what is the moral justification for the death penalty" because these are invitations for plagiarism. Rather, they will encourage you to pick a very specific topic where you can explore the issue in detail. These papers should make use of at least 3 academic sources beyond the text for this course, not counting any journalistic sources that might also be helpful.

Books for all students to purchase and read carefully:

1. Baumgartner, Frank R., Marty Davidson, Kaneesha R. Johnson, Arvind Krishnamurthy, and Colin P. Wilson. 2018. *Deadly Justice: A Statistical Portrait of the Death Penalty*. New York: Oxford University Press.
2. Harris, Lynden, ed. 2021. *Right Here, Right Now: Life Stories from America's Death Row*. Durham, NC: Duke University Press.

Grades will be calculated as follows:

Assignment	Percent
Attendance and active participation in your discussion sections	10
Four short (300 word) essays in response to the readings in <i>Right Here, Right Now</i>	20
Advanced approval by your TA of your term paper topic before week 11	5
A six-page (1800 word) paper focusing narrowly on a particular element of the death penalty, with approval of your TA	20
Occasional quizzes throughout the term	15
Attendance at the speakers events	10
Final exam	20
<b>Total</b>	<b>100</b>

Spring 2022 Course Delivery: As long as it is possible to do so safely, we will be meeting in person this semester. I understand the ongoing COVID-19 pandemic may require changes to this plan and will be monitoring the situation closely. If I need to change the format of the course temporarily due to outbreaks of illness, I will announce this via email and the course Sakai site. Some of you may need to miss class because of illness or other factors related to the pandemic. Because of this possibility, I'll be recording all of the lectures and making them available

through the class Sakai page. Therefore, if you are sick, need to quarantine, or need to miss class for any reason, please use the zoom link to watch the lecture live, or use the Sakai page to watch the recording afterwards. Note that there will be no interactive opportunities for those watching remotely, but you can get the content. (I'll also post my lecture slides each day.)

We will follow the same procedures for the evening lectures by the outside speakers. Please attend in person if possible, consistent with university guidelines. That means, if you have been exposed, are sick, or might be contagious, watch the recording on-line. We'll be taking attendance at these evening events, so if you are not there you'll be marked as absent. If you watch the recording rather than attend in person, you'll need to write a short (50-100 word) response referring to specific elements of the lecture and share this with your TA. They will then record you as present rather than absent for the lecture. These recordings are unlikely to be high quality, and they will not really substitute for the real thing of in-person participation, but in the event that any of you are affected by Covid, they can be a back-stop. Come in person if possible, but not if you are sick.

Attendance at the speakers events is mandatory and we'll take attendance at the beginning. You can miss one lecture with no penalty, but two absences will lead to a loss of 5 points in your final grade for the semester, and three absences or more will cause a deduction of a full 10 points (that is, a full letter grade). Note that if you are sick there will be recordings as indicated above and you can have your absence changed to present if you write a short essay and your TA approves it.

Visit this site often: <http://fbaum.unc.edu/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. I'll also add material to this site whenever it is appropriate, and post the class slides. So get used to the site. You can also see earlier times I have taught the course, and materials there. If we have confidential materials, I will make those available through a class Sakai site as well, and your TA may correspond with you through Sakai, so monitor that as well.

**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. Of course, I'll announce any such changes as early as possible.

**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 Instrument at <https://studentconduct.unc.edu/sites/studentconduct.unc.edu/files/documents/Instrument.pdf>, and pay attention particularly to pp. 5ff. on "Academic Dishonesty." You should also 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/plagiarism/> and ask me if you have any questions. The best outcome of a plagiarism accusation is to appear

stupid and lazy; the other is that you appear unethical. In other words, there are no good outcomes.

**Effort:** Come to class prepared to participate even if this is by asking questions. Do the readings ahead of time, and then do them again after.

**Trigger Alert:** 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. This class 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. Some parts of the class can be upsetting, and some of the readings can be hard. But I hope you will find it to be worth it. Still, protect yourself and take a break when you need.

**Openness, Respect, and Emotions:** Another defining element of this course is that it's centered on a controversial topic where many people have strongly held opinions. It's a good lesson to become comfortable discussing things that are hard, with people who hold differing opinions. So, we'll pay careful attention in lectures and discussions to be clear about what we mean, to be straightforward about what we are saying, to be respectful of the opinions of others, to encourage those with opposing views to feel comfortable expressing them, and in making sure that if we disagree, we state our disagreements with the idea, not with the person expressing it. For the most part, our focus here is on facts, but because the topic is so controversial and emotional, we'll all want to be sensitive to how we express ourselves and how we listen to and engage with others who have different views or challenge our interpretations of the facts we study. I personally welcome such challenges and encourage respectful debate and discussion. Also note that much of the material involves crime, violence, and other emotionally hard things, and it can make you angry to read about it. Learning how to discuss and debate on anger-inducing topics without generating more anger is a good skill and one we can hope to work on all semester. You might be angry at the ugly facts of a terrible crime, or you might be angry about revelations of official misconduct by government officials. Whatever the source of the anger may be, let's discuss it with compassion and clarity.

**The teaching team:**Abby Cassario, [acassari@live.unc.edu](mailto:acassari@live.unc.edu)Colin Case, [crcase@live.unc.edu](mailto:crcase@live.unc.edu)Nicolás de la Cerda, [ndelacerda@unc.edu](mailto:ndelacerda@unc.edu)Alex Love, [ajlove@live.unc.edu](mailto:ajlove@live.unc.edu)Carlos Rueda-Canon, [ruedajc@live.unc.edu](mailto:ruedajc@live.unc.edu)Ranko Vranic, [rvranic@email.unc.edu](mailto:rvranic@email.unc.edu)

Please see your TA for their in-person or zoom office hours.

**List of sections, locations, and instructors.**

Recitation Section	Day	Time	Room	Instructor
600	R	5:00-5:50P	DE0401	Vranic
601	W	5:45-6:35P	AR0118	Rueda
602	T	3:30-4:20P	DE0401	Love
603	T	5:00-5:50P	SC0210	Love
604	W	2:30-3:20P	HM0420	De la Cerda
605	W	2:30-3:20P	HM0351	Baumgartner
606	W	3:35-4:25P	HM0423	De la Cerda
607	W	3:35-4:25P	HM0420	Rueda
608	R	3:30-4:20P	GM0038	Case
609	R	2:00-2:50P	DE0306	Vranic
610	R	2:00-2:50P	MU0202	Cassario
611	T	2:00-2:50P	DE0402	Love
612	R	3:30-4:20P	MU0111	Vranic
613	R	5:00-5:50P	MU0111	Cassario
614	T	2:00-2:50P	DE 0306	Cassario
615	F	8:00-8:50A	GL0103	Case
616	F	9:05-9:55A	CH0104	Case
617	F	2:30-3:20P	TT0113	Rueda

## Weekly schedule

### **Week 1: Jan 10, Introduction, and the 1972 *Furman* decision eliminating the “old” death penalty.**

Monday: no readings

Wednesday: *Deadly Justice*, ch1

### **Week 2: Jan 17, The 1976 *Gregg* decision and the “modern” death penalty system.**

Monday: MLK Day, no class

Wednesday: *Deadly Justice*, ch 2

### **Week 3: Jan 24, Who commits homicide? Who is victimized? Who gets executed? For which crimes?**

Monday: *Deadly Justice*, ch 3

**Evening speaker: Chris Turner**

Wednesday: *Deadly Justice*, ch 4

### **Week 4: Jan 31, Is the death penalty reserved for the “worst of the worst”? Or for those who commit crimes in the wrong places?**

Monday: *Deadly Justice*, ch 5

Wednesday: *Deadly Justice*, ch 6

**First essay due on Part I and II of *Right Here, Right Now***

### **Week 5: Feb 7, Is the death penalty reliable, or do sentences routinely get overturned? How long do individuals sit on death row before execution? Is that torture?**

Monday: *Deadly Justice*, ch 7

**Evening speaker: Jerome Morgan**

Wednesday: *Deadly Justice*, ch 8

### **Week 6: Feb 14, More on torture: sentencing innocent people to death, then reversing the sentence; the never-ending search for a “humane” method of execution.**

Monday: *Deadly Justice*, ch 9

Wednesday: *Deadly Justice*, ch 10

**Second essay due on Part III and IV of *Right Here, Right Now***

### **Week 7: Feb 21, Stays of execution, last minute delays, and mental health on death row.**

Monday: *Deadly Justice*, ch 11

Wednesday: *Deadly Justice*, ch 12

### **Week 8: Feb 28, Public opinion and cost**

Monday: *Deadly Justice*, ch 13

Wednesday: *Deadly Justice*, ch 14

**Third essay due on Part V and VI of *Right Here, Right Now***

**Week 9: Mar 7, Deterrence, and evolving standards / declining use.**

Monday: *Deadly Justice*, ch 15

**Evening speaker: Kristine Bunch**

Wednesday: *Deadly Justice*, ch 16

**Spring Break: March 12 to 20, have fun, be safe**

**Week 10: Mar 21, Conclusions from this long review of so many issues: Does the death penalty meet the goals of *Gregg*, or fail the test of *Furman*?**

Monday: *Deadly Justice*, ch 17

**Evening speakers: Gary Griffin and Ken Rose**

Wednesday: Review and catch-up, no readings.

**Fourth essay due on Part VII and VIII of *Right Here, Right Now***

**Week 11: Mar 28 Current legal arguments**

Monday: **The “Roper extension” argument: Should the age limit be 18 or 21 for the death penalty?;**

1. Jordan, Zoe. 2019. The Roper Extension: A California Perspective. *Hastings Law Journal* 71, 1: 197–228.
2. Blume, John H., Hannah L. Freedman, Lindsey S. Vann and Amelia Courtney Hritz. 2020. Death by Numbers: Why Evolving Standards Compel Extending Roper’s Categorical Ban Against Executing Juveniles from Eighteen to Twenty-One. *Texas Law Review* 98, 5: 921-951.

**Evening speakers: Dontae Sharpe, Ronnie Long, and attorneys Theresa Newman and Jamie Lau**

Wednesday: **Comprehensive assessments in Pennsylvania and Kansas;** Readings TBA and made available on the class website.

**TA approval of your research paper topic due in section this week**

**Week 12: Apr 4, What if public support for the death penalty is partly connected to white racial hostility toward blacks? What are the legal ramifications of that?**

Monday:

1. 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.
2. 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.



**Evening speaker: David Boyce**

Wednesday:

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, Caron, and Duxbury, *Racial Resentment and the Death Penalty*, manuscript under review, to be made available on the class website.

**Week 13: Apr 11, The death penalty normalizes extremely long prison punishments, such as “life without parole.” What should be the punishment for homicide?**

Monday: **How we got LWOP in the first place:** Baumgartner, Frank R., Tamira Daniely, Kalley Huang, Sydney Johnson, Alexander Love, Lyle May, Patrice McGloin, Allison Swagert, Niharika Vattikonda, and Kamryn Washington. 2021. Throwing Away the Key: The Unintended Consequences of “Tough-on-Crime” Laws. *Perspectives on Politics* 19, 4 (2021): 1233–1246.

Wednesday: **Review of levels of homicide / manslaughter and relevant punishments,** readings: Links to the North Carolina criminal code and punishment grid available on the class website.

**Week 14: Apr 18 The Racial Justice Act and the future of the death penalty in North Carolina.**

Monday: **Background**

- 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.
- 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.

**Evening speaker: Chris Ochoa**

Wednesday: **Decisions and the current status of the NC death penalty**

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

**Six-page research paper due on Wed, 5pm.**

**Week 15: Apr 25 Conclusions, Discussions, and Review**

Monday: Come with your questions and comments

**Evening speakers: Andrea Harrison and Katie Monroe**

Wednesday: Last day of class, come with your questions about the final exam

**Final exam: Monday May 2, 2022, 12:00 noon to 3:00 pm**