

POLI 490
Advanced Research on the Death Penalty
T, Th, 3:30-4:45pm
Spring 2021

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Office hours: M, W 4-5pm, T 2:00-3:30 pm and by appointment

Class website: http://fbaum.unc.edu/teaching/POLI490_Sp21/poli490-Sp21.htm

Zoom address for class, office hours, and other meetings:

<https://unc.zoom.us/my/frankbaumgartner>

This course will focus on hands-on research projects relating to the death penalty. Students will work in teams organized by the instructor on such topics as a comprehensive analysis of the death penalty in Kansas, in conjunction with litigation going on in that state about the future of its death penalty, or other specific topics suggested by the instructor. The course will focus on hands-on research experience with aspects of data collection, verification and fact-checking, statistical analysis, graphical and narrative presentation, and writing.

Prerequisites: POLI 203 and permission of the instructor.

Because of the global pandemic, this course will be by remote instruction only. Mostly, it will be synchronous. On occasion there may be asynchronous elements announced ahead of time.

This course is part of an important initiative by the Institute of African American Research called [Student Learning to Advance Truth and Equity](#). IAAR-SLATE seeks to increase undergraduates' understanding of race, racism and racial equity. All courses, like ours, in the program will include at least six required activities that explore this topic. By enrolling in this course, you are also committing to joining in all of the assigned activities for the program, some of which are in-class and some of which take place outside of our class time. We will discuss some material together in our class, but we will also have opportunities to meet and learn from people whose work or lives help us understand race, racism and racial equity better. In some of the activities, you will also be able to dialogue with students in other courses who are also participating in the same required activities. Activities associated with the IAAR-SLATE program will be announced on the course web page or through the IAAR. Please stay up to date with these requirements.

This course will involve independent research, individually and in teams, as well as an important element of practical application. A judge in Kansas has agreed to hear arguments contesting the constitutionality of the entire death penalty system in that state. In response, attorneys for the plaintiff, including the local Kansas capital habeas unit (e.g., those public defenders in Kansas who focus on capital appeals), with outside counsels Henderson Hill and Cassandra Stubbs and others from the ACLU Capital Punishment Project, seek to compile a comprehensive assessment of the modern death penalty in Kansas. We are going to do work that contributes to this effort. Whether or not the judge rules to abolish the death penalty in that state will therefore be partly up to us and what we find. If we find, in our review, that the Kansas death penalty is administered

fairly, that it deters crime, that it is reserved for the “worst of the worst,” that it is geographically equitable, that different District Attorneys use the punishment sparingly and in relatively similar cases, that it is free from racial, social class, and gender bias, and in other ways it complies with the US and the Kansas constitutions, then presumably the judge will rule that the system may continue. If, on the other hand, our review reveals significant flaws in the system in contrast to constitutional requirements, then the outcome may differ. Of course, the case may well be appealed no matter what the judge rules. And, given the timing of legal proceedings, it may be years before we know the answer to these questions. In the meantime, we’ll do our work.

Note that we are not directly involved in this process and our research may or may not be used or presented to the judge. Similarly, each student will be involved in different parts of this research, and no individual student’s work will necessarily be included in whatever final report we collectively put together. Accuracy, professionalism, and credibility will be the keys to those decisions.

A few things will not matter whatsoever; most importantly, anyone’s opinions. We’ll do a comprehensive analysis of the death penalty and make no assumptions about whether it is a good or a bad thing, or whether it is constitutional or not. Rather, we’ll need first to establish what would be the key determining elements in any decision about whether it meets constitutional requirements, and then we’ll gather evidence about its history and functioning to allow us to reach a conclusion, based on facts, related to that question. And then we’ll repeat this process across as many different elements of the death penalty in Kansas as are relevant. So our first question will be: Where is the constitutional line? And the second question will be: What do the facts show?

The final product of this class will be a report to be made public, as a PDF document as well as a web page with additional resources including interactive elements. Each of you will work on parts of the report, and we will organize the work together, with each of you participating in its structure and design as well as in the research. We’ll then break out into teams that will focus on different elements of the report; each of you will participate in several teams, not just one. Each team will produce a draft section of the report. We will include the sections into the final report only if we collectively deem them to meet our high standards of, accuracy, professionalism, credibility, and relevance to the question at hand.

It will be up to us collectively to decide on the elements of our report. Some of the work we need to do is about background so that we are knowledgeable of the issues. Other parts relate to how similar studies have been done in other states, either comprehensive ones or ones focusing on particular elements of the death penalty. Those bits of background research probably will not generate sections of our report, but we need to do them in any case. A preliminary set of issues will include at least the following:

1. Background on the Kansas death penalty: history and recent controversies
2. Media coverage of capital punishment in Kansas
3. Geography of use of the death penalty in Kansas

4. A Baldus-type study of race, gender, and the use of the death penalty
 - a. Establishing lists of homicides, aggravated homicides, and linking those with capital prosecutions and death sentences
 - b. Reviewing the literature on similar studies
 - c. Conducting the regression analysis (Baumgartner will be the RA for this)
5. Analysis of *Hodes v. Schmidt* and interpretation of the “right to life” element of the Kansas constitution, including other cases where it has been invoked.
6. Cost issues
7. Deterrence issues
8. Other states that have abolished, and on what legal grounds
9. Style and legal writing standards, blue-booking
10. Other projects as we discover them

Grades will be determined as follows:

- Participation in weekly discussions throughout the term: 25%
- Involvement with and contributions to research teams throughout the term: 25%
- Completion of assigned sections of final report: 50%

Disabilities: Please let me know in the first two weeks of class if you need any accommodation for a disability. No problem. But don’t delay in letting me know.

Academic Honesty: Study together but make sure the work you hand in is your own or that of your team. 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 <https://studentconduct.unc.edu/honor-system>. 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.

Effort: Don’t come to class unprepared to participate. Drop the class immediately if you are not passionate and willing to work hard.

Weekly schedule.

Note: all classes are by remote instruction and take place on Tuesdays and Thursdays 3:30 to 4:45pm.

This syllabus contains only the topics. See the class web page for links to the readings and note that the web page will be continuously updated throughout the semester. Also note we may have some special visitors including members of the legal team, and if their schedules require it we will move some of the following assignments to other times, or have assignments during times initially scheduled as office hours / research weeks.

Week 1. Jan 19, 21. Introductions and Organization of teams

Tuesday: Introduction

Thursday: Student expression of interest, skills, and establishment of teams

Week 2. Jan 26, 28 *Hodes v. Schmidt* and the Kansas Constitution.

Tuesday: Student presentations of *Hodes* and discussion

Thursday: Review of constitutional questions relating to the death penalty, drawing from *Hodes*.

Week 3. Feb 2, 4 History of the death penalty in Kansas

Tuesday: Student presentations of this history, major events, and current political / legal standing of the system.

Thursday: Review of geography of homicides and death sentencing in Kansas

Week 4. Feb 9, 11 Review of the Washington State experience

Tuesday: The Study

Thursday: *State v. Gregory*

Week 5. Feb 18 Jury Selection study in California:

Tuesday (no class on Feb 16)

Thursday: Jury selection study

Week 6. Feb 23, 25 Virginia and Connecticut

Tuesday: Virginia

Thursday: Connecticut

Week 7. Mar 2, 4 Group Presentations, round 1, preliminary progress reports

Tuesday: First set of groups

Thursday: Second set of groups

Week 8. Mar 9 Research Week, office hours and group progress only

Tuesday: Class replaced with drop-in office hours

Thursday: (no class Mar 11)

Week 9. Mar 16, 18 Research Week, office hours and group progress only

Tuesday: Class replaced with drop-in office hours

Thursday: Class replaced with drop-in office hours

Week 10. Mar 23, 25 Group presentations, round 2

Tuesday: First set of groups

Thursday: Second set of groups

Week 11. Mar 30, Apr 1 Research Week, office hours and group progress only

Tuesday: Class replaced with drop-in office hours

Thursday: Class replaced with drop-in office hours

Week 12. Apr 6, 8 Group presentations, round 3

Tuesday: First set of groups

Thursday: Second set of groups

Week 13. Apr 13, 15 Compiling the Final Report

Tuesday: PDF Document draft presentation / plan

Thursday: Web site draft presentation / plan

Week 14. Apr 20, 22 Research Week, office hours and group progress only

Tuesday: Class replaced with drop-in office hours

Thursday: Class replaced with drop-in office hours

Week 15. Apr 27, 29 Final Presentations

Tuesday: Complete draft of PDF version of our report

Thursday: Complete draft of web site with interactive resources and background documents

Week 16. May 4, last day of class

Tuesday: Final presentations of report and website.

(Last updated: January 18, 2021)