



**POLI 203**  
**Race, Innocence, and the End of the Death Penalty**  
**Mondays, Wednesdays, 2:30–3:20 pm**  
**Hamilton Hall Room 100**  
**Spring 2018**

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Prof. Frank R. Baumgartner  
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Office hours: M, W, 3:20-5:00 pm and by appointment

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Teaching assistants:

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Graduate Research Consultant: Kevin Roach (note extra office hours above). Kevin will be available for help with the research component of your project, no matter what section you are in. Your TA will also help.

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Discussion sections (section 1 is the main lecture):

Section	Time and Day	Place	Instructor / TA
001	MoWe 2:30PM - 3:20PM	Hamilton Hall - Rm 100	Baumgartner
600	We 3:35PM - 4:25PM	Hamilton Hall - Rm 0351	Caron
601	We 3:35PM - 4:25PM	Tate Turner Kuralt - Rm 0114	Lancaster
602	Th 3:30PM - 4:20PM	Graham Memorial - Rm 0038	Lancaster
603	Th 3:30PM - 4:20PM	Dey Hall - Rm 0302	Stern
604	Th 5:00PM - 5:50PM	Hamilton Hall - Rm 0351	Lancaster
605	Th 5:00PM - 5:50PM	Hamilton Hall - Rm 0150	Stern
606	Fr 8:00AM - 8:55AM	Hamilton Hall - Rm 0420	Caron
607	Fr 9:05AM - 9:55AM	Hanes Hall - Rm 0107	Caron
608	Fr 10:10AM - 11:00AM	Peabody - Rm 0306	Roach
609	Fr 11:15AM - 12:05PM	Woollen Gym - Rm 0301	Norton
610	Fr 12:20PM - 1:10PM	Greenlaw - Rm 0318	Norton
611	Fr 1:25PM - 2:15PM	Alumni - Rm 0205	Norton
612	Fr 9:05AM - 9:55AM	Wilson – Rm 0202	Roach
613	Fr 12:20PM - 1:10PM	Carolina Hall – Rm 0104	Stern
614	Fr 11:15AM - 12:05PM	Greenlaw – Rm 0302	Roach

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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 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 five individuals to death since 2011, a period during which over 2,000 homicides have occurred; there were no death sentences state-wide in 2015, just one in 2016, and none again in 2017. The 2009 Racial Justice Act allowed condemned inmates to present statistical evidence that racial bias may have affected their sentencing. In a 2015 Supreme Court decision, Justice Stephen Breyer called for a “full briefing” on the constitutionality of the death penalty nationwide. Controversies continue, and the death penalty will certainly be in the news during the upcoming semester. Whether here in North Carolina, or nationally, the issue is a hot one.

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. (The Salem Witch Trials should convince us all that false accusations, and perhaps the execution of factually innocent individuals, have been with us since ... 1692. So it is definitely not new.) 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 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 jail or on death row for crimes of which they were later found to be innocent; their attorneys and advocates; survivors of crimes for which the wrong person was sent to jail; a man who as a teenager was wrongly sent to prison for the murder of his parents, who had been killed by another; and others with harrowing personal tales of injustice. 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.

Pending permission from the prison staff, I hope to arrange a number of visits to Raleigh’s Central Prison. These are subject to the rules of the prison, which means 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 143 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.

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 that might upset you if needed, and take a break once in a while; the material is tough.

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. 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.

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.

The first book you will read is called *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.) A number of unanswered questions remain from the research we did, so in this class I'm going to ask for your help in filling those gaps / improving the book for its next edition. Your research projects will be designed to push into areas where we might add new sections to the book next time, or go deeper into some areas where we only scratched the surface in the book. A set of suggested research projects will be on the course web site. Each of you will work on a research project this semester, alone or in a team, to address one of them. If you do a fantastic job, you may end up seeing it included in the next edition of the book. No matter, you should learn from doing your own research on this topic.

Assignments will include active participation in the lecture and in discussion sections; your individual contribution to a series of collective projects culminating in original research projects; quizzes and exams to be conducted in lecture or in your discussion section; and a final exam. The

research projects will be designed to force you to go deeper or further than we did in the textbook that you will use in class, documenting facts and patterns associated with homicides and capital punishment in the US or abroad. A set of possible assignments will be made available on the course web page by the first meeting of the class. These group assignments may take the form of traditional papers (10 pages double spaced per student involved), or other forms (such as videos, dynamic data presentations, or multimedia projects), with equivalent content. They should have full academic citations, should be written in a professional manner, and should use what is covered in class as a starting point, not an end point. Your teaching assistants will have full authority to make assignments in discussion sections as well.

Grades will be calculated with these percentage weights:

Quizzes in lecture and discussion section	5
Initial draft of research project	10
Research project (your individual portion of collective project)	30
Participation in discussion section	15
Attendance in discussion section	10
Attendance at the speakers series	10
Final exam	20
Total	100

Missed class and late assignments: Please make your life simple and just come to class, every time. Same with your discussion sections. Please don't miss ANY of the evening speakers. We will not take attendance in the big lectures, but we will be noting who participates, and if you are not there, you will not get credit for that. If I sense that attendance is low I may well make a pop quiz happen, so poor attendance will be costly. 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 (zero) 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, in class, 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.

- 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.

- Garrett, Brandon L. 2011. *Convicting the Innocent: Where Criminal Prosecutions Go Wrong*. Cambridge: Harvard University Press.
- Howard, Marc Morjé. 2017. *Unusually Cruel: Prisons, Punishment, and the Real American Exceptionalism*. New York: Oxford University Press.
- Jen Marlowe and Martina Davis-Correia, with Troy Anthony Davis. 2013. *I am Troy Davis*. Chicago: Haymarket Books.

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](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.

**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.

## Weekly schedule and discussion topics

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.

### Week 1, Jan 10, Introduction and overview

### Week 2, Jan 17, The US Supreme Court Invalidates (1972) and Validates (1976) Capital Punishment, Creating the "Modern" Death Penalty System

(No class on Jan 15, happy Martin Luther King, Jr. Day)

- *Deadly Justice*, Ch 1-2

### Week 3, Jan 22, 24, Race, Gender, Heinousness, and Geography

- *Deadly Justice*, Ch 3-6

### Week 4, Jan 29, 31, Reversals, Delays, Exonerations, Methods, Stays

- *Deadly Justice*, Ch 7-11

### Week 5, Feb 5, 7, Mental Illness, Public Opinion, Cost, Deterrence

- *Deadly Justice*, Ch 12-15

### Week 6, Feb 12, 14, The Decline of the Death Penalty and Conclusions

- *Deadly Justice*, Ch 16-17

**Speaker 1: February 12, LaMonte Armstrong and Theresa Newman**

### Week 7, Feb 19, 21 How Innocent People Get Convicted

- *Convicting the Innocent*, Ch 1-4

**Speaker 2: February 19, Darryl and Nannie Howard**

### Week 8, Feb 26, 28 Innocence, Mistakes, and Flaws, continued

- *Convicting the Innocent*, Ch 5-9

Guest lecture on Monday February 26, Brandon Garrett, University of Virginia Law School

**Speaker 3: February 26, Penny Beersten and Katie Monroe**

### Week 9, Mar 5, 7 Review, Questions, and Catch-up

**March 7: first draft of research projects due in lecture**

**Speaker 4: March 5, Gary Griffin and Ken Rose**

**Spring Break, Mar 10-18**

**Week 10, Mar 19, 21 Introduction to the Troy Davis case**

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

**Speaker 5: March 19, Chris Turner**

**Week 11, Mar 26, 28, Troy Davis, part 2**

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

**Speaker 6: March 26, Kimberly Davis**

**Week 12, Apr 2, 4, America's System in Comparative Perspective**

- *Unusually Cruel*, Ch 1-4

**Speaker 7: April 2, Jerome Morgan**

**Week 13, Apr 9, 11 Continuation on Comparative Perspectives**

- *Unusually Cruel*, Ch 5-9

Guest lecture on Monday April 9, Marc Howard, Georgetown University

**Speaker 8: April 9, Marty Tankleff, introduced by Marc Howard**

**Week 14, Apr 16, 18 North Carolina: From Mandatory Death to the Racial Justice Act to the "Restoring Proper Justice Act" and a 10 year Moratorium**

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

(These readings available on the course web site.)

**Week 15, Apr 23, 25 Conclusion and Review**

(Note: Class on April 25 will be conducted by the TA's and will focus on the exam)

**Final research projects due in lecture, April 25**

**Final Exam: Place and Time tba according to the Registrar's schedule**