



POLI 203
Race, Innocence, and the End of the Death Penalty
Mondays, Wednesdays, 11:15am–12:05 pm
Genome Science Building, Room G100
Spring 2020

Prof. Frank R. Baumgartner
313 Hamilton Hall, phone 962-0414
Office hours: M, W, 12:15–1:30 pm and by appointment

Email: Frankb@unc.edu
Web site: <http://fbaum.unc.edu/>

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 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 no more than 3 individuals to death in any single year since 2010, out of more than 4,000 homicides. The 2009 Racial Justice Act allowed condemned inmates 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 has vowed to bring back the death penalty, on the other hand. 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, but trends are toward reduced use of the punishment, here in our state and nationwide.

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; family members and members of the Durham prosecution team from the case of Deah Barakat, his wife Yusor Abu-Salha and her sister Razan, three Chapel Hill residents whose beautiful lives were taken by a hate-filled assailant in 2015. These speakers will offer harrowing personal tales of injustice but also stories of strength and courage. Several guest

speakers will come to class as well, offering personal insights into the work of a death-penalty attorney or judge. 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 in the past has meant that 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 piercings, and demeanor. Central Prison houses death row with 143 individuals as well as the death chamber, where executions have been carried out since 1910. The same small room has housed the electric chair, served as a gas chamber, and been the location of lethal injections. Though these are optional, I strongly recommend that you make the effort to visit the prison if you can, 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. Many descriptions of the 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. 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. 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 all read two books that are central to the topic being discussed, and then each of you will read one of seven different books, depending on your teaching assistant. 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.

You'll also read *Ghost of an Innocent Man*, which combines the story of Mr. Willie J Grimes, who was exonerated through the NC Innocence Inquiry Commission in 2012 after serving since 1987 for a crime he did not commit. The book alternates between explanations of the wrongful conviction then exoneration of Mr. Grimes and discussions of policy reforms and reformers leading to the creation of the Innocence Inquiry Commission, the only state judicial agency of its kind in the nation. Kendra Montgomery-Blinn, former Executive Director of the Commission, and Chris Mumma, Executive Director of the NC Center on Actual Innocence and Mr. Grimes' attorney, will be guest speakers in class.

Depending on your Teaching Assistant, each of you will read one of the books listed below, each of which focuses on an individual example, or a few examples, of wrongful conviction. Toward the end of the semester, we will devote two weeks of the main class lecture to student-led presentations of the contents of each of these books, so every student will be introduced to all of the stories, and we will discuss the common threads: prosecutor misconduct, faulty forensic evidence, eyewitness identifications gone wrong, jailhouse fabricators, and other causes of catastrophic miscarriages of justice. Note that two of the books deal not with exonerations, but with individuals who were actually executed despite claims of innocence.

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. Rachlin, Benjamin. 2017. *Ghost of the Innocent Man: A True Story of Trial and Redemption*. New York: Little, Brown and Company.

Books that different students will read, depending on your section (see below for the list):

1. Woodfox, Albert. 2019. *Solitary*. New York: Grove Press.
2. Marlowe, Jen, and Martine Davis-Correia, with Troy Davis. 2013. *I Am Troy Davis*. Chicago, IL: Haymarket Books.
3. Temple, John. 2009. *The Last Lawyer: The Fight to Save Death Row Inmates*. Jackson, MS: University of Mississippi Press.
4. Grisham, John. 2006. *The Innocent Man*. New York: Doubleday.
5. Liebman, James S., Shawn Crowley, Andrew Markquart, Lauren Rosenberg, Lauren

- White, Daniel Zharkovsky. 2014 *The Wrong Carlos: Anatomy of a Wrongful Execution*. New York: Columbia University Press.
6. Hinton, Anthony Ray, with Lara Love Hardin. 2018. *The Sun Does Shine: How I Found Life and Freedom on Death Row*. New York: St. Martin's.
 7. Prejean, Sister Helen. 2005. *The Death of Innocents: An Eyewitness Account of Wrongful Executions*. New York: Random House.

Assignments will be as follows:

Assignment	Percent
Attendance and active participation in your discussion sections	10
A five-page (1500 word) paper on a particular aspect of the book you read in section, as assigned by your TA	20
A five-page (1500 word) paper focusing narrowly on a particular element of the death penalty, with approval of your TA	20
Active participation in the development of a group presentation to the main class lecture, again as assigned by your TA	10
Occasional quizzes in lecture	10
Attendance at the speakers events	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 grade there, and missing 5 times means you will get no credit (zero) for the attendance and participation portion of the grade. (That's a full letter 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. 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.

Other than that, all the required readings will be on the class web site. 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.

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.

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.

Openness and Respect: 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.

Discussion Sections, TAs, emails, office hours, and books

#	Location	Time	TA	Book
001	Genome - G100	MW 11:15-12:05		
600	Hamilton - 0425	W 12:20-1:10	Kevin Roach	I Am Troy Davis
601	Hamilton - 0517	W 12:20-1:10	Isaac Mehlhaff	Wrong Carlos
602	Hamilton - 0423	W 12:20-1:10	Tyler Ditmore	Solitary
603	Wilson - 0202	W 1:25-2:15	Tyler Ditmore	Solitary
604	Hamilton - 0523	W 1:25-2:15	Kevin Roach	I Am Troy Davis
605	Hamilton - 0517	W 1:25-2:15	Isaac Mehlhaff	Wrong Carlos
606	Hanes Art - 0118	W 2:30-3:20	Sean Norton	The Last Lawyer
607	Hamilton - 0150	W 2:30-3:20	Kevin Roach	I Am Troy Davis
608	Hamilton - 0523	W 2:30-3:20	Isaac Mehlhaff	Wrong Carlos
609	Hamilton - 0423	W 3:35-4:25	Philip Warncke	Death of Innocents
610	Hamilton - 0420	W 3:35-4:25	Sean Norton	The Last Lawyer
611	Hamilton - 0150	W 3:35-4:25	Lauren Bauman	Sun Does Shine
612	Hamilton - 0423	TH 2:00-2:50	Christian Caron	Innocent Man
613	Hamilton - 0420	TH 2:00-2:50	Lauren Bauman	Sun Does Shine
614	Dey - 303A	TH 3:30-4:20	Sean Norton	The Last Lawyer
615	Dey - 0306	TH 3:30-4:20	Christian Caron	Innocent Man
616	Tate Turner - 0114	F 8:00-8:50	Tyler Ditmore	Solitary
617	Hamilton - 0351	F 8:00-8:50	Christian Caron	Innocent Man
618	Graham - 0213	TH 3:30-4:20	Philip Warncke	Death of Innocents
619	Hamilton - 0517	TH 5:00-5:50	Philip Warncke	Death of Innocents

TA emails, office locations, and office hours:

Lauren Bauman, <lebauman@live.unc.edu>, Ham 303, M 3:30-6:30

Christian Caron, <cjcaron@unc.edu>, Ham 374B, TH 10:45-1:45

Tyler Ditmore, <tditmore@live.unc.edu>, Ham 300, F 9-12

Isaac Mehlhaff, <mehlhaff@live.unc.edu>, Ham 301, M 9-10, W 3:30-5:30

Sean Norton, <stnorton@live.unc.edu>, Ham 451, M 1-2:30 and TH 1:30-3:00

Kevin Roach, <kevroach@live.unc.edu>, Ham 374B, M 12:30-2:30, W 3:30-4:30

Philip Warncke, <pwarncke@live.unc.edu>, Ham 301, W 12:30-3:30

Graders:

Colin Case, <crcase@live.unc.edu>

Begum Icelliler, <bebegum@email.unc.edu>

Weekly schedule and discussion topics

Readings should all be done *before the Monday class*.

Week 1, Jan 8, Introduction and overview

Week 2, Jan 13, 15 *Furman, Gregg*, and the Modern Death Penalty System

- *Deadly Justice*, Ch 1-2

Week 3, Jan 22 Who Commits Homicide? Who is Victimized? Who gets Executed? For Which Crimes?

***** (Note: No class on Monday Jan 20, Happy MLK day) *****

- *Deadly Justice*, Ch 3-4

Week 4, Jan 27, 29 The Worst of the Worst?

- *Deadly Justice*, Ch 5

***** Special Guest on Jan 29: Robert Dunham, Executive Director, Death Penalty Information Center *****

***** Evening Speaker, Jan 29: Kirk Bloodsworth *****

Week 5, Feb 3, 5 Geography, reversals, delay, exonerations

- *Deadly Justice*, Ch 6-9

***** Evening Speaker, Feb 4: David Boyce *****

Week 6, Feb 10, 12 Lethal Injection, the Electric Chair, and Related Controversies

- *Deadly Justice*, Ch 10, 11

***** Special Guest on Feb 12: Henderson Hill, attorney for Curtis Flowers, RJA appellate attorney, and noted civil rights attorney *****

***** Evening Speaker, Feb 12: Kristen Bunch *****

Week 7, Feb 17, 19 Mental Health, Public Opinion, Cost, Deterrence

- *Deadly Justice*, Ch 12-15

***** Evening Speakers, Feb 19: Gary Griffin and Ken Rose *****

Week 8, Feb 24, 26 Assessing a Broken System

- *Deadly Justice*, Ch 16-17

***** Paper #1 due in section to your TA this week. This paper should go into detail about one of the topics from *Deadly Justice* but go well beyond the book. *****

***** Evening Speakers, Feb 26: Dontae Sharpe and Theresa Newman *****

Week 9, Mar 2, 4 North Carolina's Racial Justice Act and the Future of NC's Death Penalty

- (See the readings on the course web site.)

***** TBC: Special Guest on March 4: Judge Gregory Weeks, presiding judge in the 2012 RJA cases. *****

*****Evening Speaker, Mar 2: Jimmy Dennis*****

Spring Break, Mar 7–15

Week 10, Mar 16, 18 Ghost of the Innocent Man, I

- Ghost, Ch 1-12
*****Paper #2 due in section to your TA this week. This paper should focus on a particular part of the book your section read, and should contribute to your collective presentation about the book to the larger lecture class.*****
*****Evening Speakers, Mar 18: Panel Discussion on Healing after Hate*****

Week 11, Mar 23, 25 Ghost of the Innocent Man, II

- Ghost, Ch 13-24
*****Special Guest on March 25: Kendra Montgomery Blinn, former Executive Director, NC Innocence Inquiry Commission, currently Assistant District Attorney, Durham County*****
*****Evening Speaker, Mar 25: Chris Turner*****

Week 12, Mar 30, Apr 1 Ghost of the Innocent Man, II

- Ghost, Ch 25-36
*****Special Guest on March 30: Christine Mumma, Executive Director, NC Center for Actual Innocence*****

Week 13, Apr 6, 8 Student Presentations 1-4

- **Monday:** *The Death of Innocents; The Wrong Carlos*
- **Wednesday:** *Solitary; The Sun Does Shine*
*****Evening Speaker, Apr 7: Jerome Morgan*****

Week 14, Apr 13, 15 Student Presentations 5-7 and Discussion

- **Monday:** *The Last Lawyer; The Innocent Man*
- **Wednesday:** *I Am Troy Davis*; comparative discussion across the cases

Week 15, Apr 20, 22 Conclusions and Review

*****Evening Speakers, Apr 22: Andrea Harrison and Katie Monroe*****

Final Exam: Tuesday May 5, noon to 3pm