

Legal Studies 190.007

Spring 2021

Professor Rebecca Goldstein

[rgoldstein@berkeley.edu](mailto:rgoldstein@berkeley.edu)

Office hours by appointment

Wednesdays 2-5pm

Remote meeting details:

<https://berkeley.zoom.us/j/97743848123?pwd=cHMyMzBGZWVkam85U1RMNkJaSThhZz09>

Meeting ID: 977 4384 8123

Passcode: gobears

## **Criminal Justice in the United States: Policing, Mass Incarceration, and Paths to Reform**

### **Course description**

This course will examine policing and mass incarceration in the contemporary United States. The first half of the course will explore policing, considering how the modern police emerged, whether police reduce crime, and why police violence persists. The second half of the course will turn to mass incarceration, examining how the U.S. came to incarcerate people at a greater rate than any nation in history, along with the individual and social consequences of incarceration. For both policing and mass incarceration, we will devote significant focus to the prospects for reform.

### **Learning objectives**

At the end of this course, students should be able to:

1. Describe the problems currently facing the systems of policing and prisons in the United States,
2. Critically evaluate arguments about policing and incarceration made by both scholarly and popular commentators,
3. Take sides in current debates over policing and incarceration, and
4. Propose and defend reforms to bring about more just and effective systems of policing and incarceration.

### **Course requirements and evaluation**

The final grade will be calculated as follows:

Class participation	25%
Reading reaction assignments	25%
Draft reform proposal	25%
Final reform proposal	25%

Class participation (25% of final grade): There are three components to class participation:

- Students are expected to complete the readings and participate in class discussions.

- Starting with the second week of class, I will assign a pair of students to lead the class discussion each week. That pair of students will be required to schedule a meeting with me to go over their discussion plan before class (likely sometime on Tuesday).
- In the final week of class, students will give brief presentations about their final papers (details TBA).

Reading reaction assignments (25% of final grade): Beginning with the second week of class, on Monday evenings by 5pm, students will be required to circulate two to three paragraphs of reactions to the readings by email to the entire class and to me. On Tuesday evenings by 5pm, students will be required to circulate one paragraph of reactions to their classmates' reactions to the readings.

Reform proposal (draft is 25% and final is 25% of final grade): By **February 24** (and preferably sooner), students are required to schedule an office hours meeting with me to discuss ideas for the reform proposal assignment. The reform proposal is to be a policy memo proposing and defending a new policy to improve the criminal justice system in a specific city, county, or state, or at the federal level. The audience for the proposal is a policymaker or group of policymakers whom you will identify (e.g., police chief, chief judge, corrections department leader, city council, mayor, governor). This assignment is intended to be written and to be completed individually. However, if students wish to work in pairs, or if they wish to use another medium to convey their proposal (e.g., audio, video, or a website), they must propose this alternative to me at an office hours meeting by **February 17**. Students will submit a complete draft of their reform proposal to me via bCourses by **March 29**. Students will present their proposal to their classmates in class on **April 28**. Students will submit a final draft of their reform proposal to me via bCourses by **April 30**. (A more detailed grading rubric for the draft and final reform proposals will be circulated during the first two weeks of the course.)

### **Texts**

All texts will be posted online at the course website, with one exception. The book *Homeward: life in the year after prison* by Bruce Western is required reading, and students must bring a copy to class on the weeks when we discuss the book.

### **Policies**

- General: Please be on time and prepared to class. There will be a 15-minute break in the middle of each class.
- Guest speakers: We will have several guest speakers during the semester. It is likely that students will not agree with everything the guest speakers say. It is absolutely critical that students are respectful towards the guest speakers.
- Video: This is a small seminar, so students' video needs to be on during class, absent a compelling circumstance discussed with me in advance.
- Snacks: This is a long class meeting in the middle of the afternoon (and dinnertime for anyone in Mountain, Central, or Eastern time zones), so please feel free to eat during our class meeting!

### **Academic integrity**

Please review Berkeley's Academic Integrity Policy: <http://sa.berkeley.edu/conduct/integrity>. University rules require that you comply with this policy. If you have questions as to what it requires, please contact me.

### **Accommodation**

Students who require accommodation for a disability should refer to policies here: <https://dsp.berkeley.edu/students>. As the instructor, I must receive an official accommodation notice from DSP as soon as possible.

## **Readings**

### **Part I: Policing**

#### **Week 1: January 20**

##### **Introduction: How did the modern police emerge?**

- Walker, Samuel and Charles Katz. *The Police in America: An Introduction* (Ninth Edition). 2018. Chapter 2.
- Oliver, Willard M. *August Vollmer: the father of American policing*. Carolina Academic Press, 2017. Introduction and Chapter 14.
- MPD 150. 2020. "Enough is Enough: A 150-year performance review of the Minneapolis Police Department." p. 8-15.
- Flamm, Michael W. *Law and order: Street crime, civil unrest, and the crisis of liberalism in the 1960s*. Columbia University Press, 2005. Introduction and Chapter 5.

#### **Week 2: January 27**

##### **What and who are police for? What do the police do?**

- Goldstein, Herman. *Policing a Free Society*. Cambridge, Mass: Ballinger Pub. Co (1977). Chapters 1 and 2.
- Forman Jr, James. *Locking up our own: Crime and punishment in Black America*. Farrar, Straus and Giroux, 2017. Introduction and Chapter 3.
- MPD 150. 2020. "Enough is Enough: A 150-year performance review of the Minneapolis Police Department." p. 19-35.
- Hyland, Shelley S., and Elizabeth Davis. "Local police departments, 2016: Personnel." *Bureau of Justice Statistics, US Department of Justice* (2019).
- Listen: Public Enemy, "911 is a Joke," track 3 on *Fear of a Black Planet*, Def Jam Records/Columbia Records, 1990.
- Listen: KRS-One, "Sound of Da Police," track 7 on *Return of the Boom Bap*, Jive Records, 1993.

#### **Week 3: February 3**

##### **Do police reduce crime? If so, how?**

- Baumer, Eric P., and Kevin T. Wolff. "Evaluating contemporary crime drop(s) in America, New York City, and many other places." *Justice Quarterly* 31.1 (2014): 5-38.
- Seabrook, John. "Don't shoot." *New Yorker*, June 22 (2009).

- McCrary, Justin, and Deepak Premkumar. “Why we need police.” *The Cambridge handbook of policing in the United States*. 2019. 65-84.
- Wilson, James Q., and George L. Kelling. “Broken windows.” *Atlantic monthly* 249.3 (1982): 29-38.
- Harcourt, Bernard E. *Illusion of order: The false promise of broken windows policing*. Harvard University Press, 2009. Introduction.

#### **Week 4: February 10**

##### **Police and social control**

- U.S. Department of Justice Civil Rights Division. Investigation of the Ferguson Police Department. March 4, 2015. Selections.
- Chacón, Jennifer M. “Managing migration through crime.” *Colum. L. Rev. Sidebar* 109 (2009): 135.
- Crenshaw, K. W. (2011). “From private violence to mass incarceration: Thinking intersectionally about women, race, and social control.” *UCLA L. Rev.*, 59, 1418.
- Kraska, Peter B. “Militarization and policing—Its relevance to 21st century police.” *Policing* 1.4 (2007): 501-513.
- Listen: Jeru the Damaja, “Invasion,” track 5 on *New Jersey Drive, Vol. 2*, Tommy Boy Records, 1995.
- Listen: LL Cool J, “Illegal Search,” track 13 on *Mama Said Knock You Out*, Def Jam Records, 1990.

#### **Week 5: February 17**

##### **Police violence, police misconduct, and police exploitation**

- Listen to This American Life episodes: “Cops See It Differently” Parts 1 and 2 (or read the transcripts). Available at <https://www.thisamericanlife.org/547/cops-see-it-differently-part-one> and <https://www.thisamericanlife.org/radio-archives/episode/548/cops-see-it-differently-part-two>
- Listen to WBEZ Podcast 16 Shots: episode 2 (or read the transcript). Available at <https://podcasts.apple.com/us/podcast/16-shots/id1434130672?mt=2>
- Moore, Natalie Y. “Payback.” The Marshall Project, October 30 2018. <https://www.themarshallproject.org/2018/10/30/payback>
- Fenton, Justin. “Cops and Robbers” (Parts 1, 2, and 3). *The Baltimore Sun*, June 12, 2019.
- Listen: N.W.A., “F\*\*k tha Police,” track 2 on *Straight Outta Compton*, Ruthless/Priority, 1988.
- Listen: Tupac Shakur, “Changes,” track 2 on disc 2 of *Greatest Hits*, Amaru/Death Row/Interscope, 1998.

#### **Week 6: February 24**

##### **The challenge of police reform**

- Friedman, Barry. “Disaggregating the Police Function.” *U. Pa. L. Rev. (forthcoming 2020-21)* (2020). (please skim)
- Watch *Frontline* Season 34, episode 12: “Policing the Police”
- Listen to *Serial* Season 3, episode 3: “Misdemeanor, Meet Mr. Lawsuit” (or read the transcript).

- Listen to Serial Season 3, episode 6: “You in the Red Shirt” (or read the transcript – the story of Arnold Black) from 21:58 to 36:20, or optionally to the whole episode/read the whole transcript.
- “How Cities Lost Control of Police Discipline.” *New York Times* 22 December 2020.
- “Many California police reform efforts have stalled despite push from George Floyd protests.” *Los Angeles Times* 27 August 2020.
- “What happened to promises to disband the Minneapolis police?” *Rolling Stone* 14 December 2020.

## **Part II: Mass Incarceration**

### **Week 7: March 3**

#### **Jail, prosecution, and sentencing: the path from arrest to incarceration**

- Gonnerman, Jennifer. “Before the law.” *The New Yorker* 6 (2014): 26-32.
- Listen to Charged, episode 2: “Criminogenic” (or read the transcript).
- Listen to Serial Season 3, episode 5: “Pleas Baby Pleas” (or read the transcript).
- Stuntz, William J. *The collapse of American criminal justice*. Harvard University Press, 2011. Introduction and chapter 9.

### **Week 8: March 10**

#### **What is mass incarceration?**

- Travis, Jeremy, Bruce Western, and F. Stevens Redburn. “The growth of incarceration in the United States: Exploring causes and consequences.” (2014). Pages 34-85, 91-101, 104-129.

### **Week 9: March 17**

#### **What caused mass incarceration?**

- Alexander, Michelle. “The new Jim Crow.” *Ohio St. J. Crim. L.* 9 (2011): 7.
- Forman Jr, James. “Racial critiques of mass incarceration: Beyond the new Jim Crow.” *NYUL Rev.* 87 (2012): 21.
- Enns, Peter K. “The public's increasing punitiveness and its influence on mass incarceration in the United States.” *American Journal of Political Science* 58, no. 4 (2014): 857-872.
- Pfaff, John F., “The Causes of Growth in Prison Admissions and Populations” (January 23, 2012). Available at SSRN: <https://ssrn.com/abstract=1990508> or <http://dx.doi.org/10.2139/ssrn.1990508>
- Hinton, Elizabeth. ““A War within Our Own Boundaries”: Lyndon Johnson's Great Society and the Rise of the Carceral State.” *The Journal of American History* 102, no. 1 (2015): 100-112.
- Listen: Dead Prez, “Police State,” track 5 on *Let's Get Free*, Loud Records/Columbia Records/Relativity Records, 2000.

### **March 24: No class (spring break)**

## **Week 10: March 31**

### **What are most prisons like? Who is incarcerated?**

- Sykes, Gresham M. *The society of captives: A study of a maximum security prison*. Princeton University Press, 2007. Preface to the 2007 edition (by Bruce Western).
- Western, Bruce. *Homeward: Life in the year after prison*. Russell Sage Foundation, 2018. Chapter 5.
- Listen to Ear Hustle Season 1, Episode 4: The SHU (available at <https://www.earhustlesq.com/episodes/2017/7/26/the-shu>) (or read the transcript).
- Prison Policy Initiative, “The Whole Pie 2020”: <https://www.prisonpolicy.org/reports/pie2020.html>
- Listen: Nas, “One Love,” track 7 on *Illmatic*, Columbia Records, 1994.

## **Week 11: April 7**

### **What is it like to leave prison?**

- Western, Bruce. *Homeward: Life in the year after prison*. Russell Sage Foundation, 2018. Introduction, Chapter 3, and choose one more chapter (other than Chapter 5).
- Listen to Ear Hustle Season 2 finale: “So Long” (or read the transcript).
- Listen to Charged, episode 5: “The Long Tail” (or read the transcript).

## **Week 12: April 14**

### **Societal consequences of incarceration**

- Pettit, Becky. *Invisible men: Mass incarceration and the myth of black progress*. Russell Sage Foundation, 2012. Chapter 1.
- Wildeman, Christopher. “Parental incarceration, child homelessness, and the invisible consequences of mass imprisonment.” *The ANNALS of the American Academy of Political and Social Science* 651.1 (2014): 74-96.
- Pager, Devah, Bruce Western, and Bart Bonikowski. “Discrimination in a low-wage labor market: a field experiment.” *American sociological review* 74.5 (2009): 777-799.
- Goffman, Alice. *On the run: Fugitive life in an American city*. Picador, 2015, Chapter 4, “Turning Legal Troubles into Personal Resources.”

## **Week 13: April 21**

### **Why are sentencing and prison reform so hard?**

- Barkow, Rachel Elise. *Prisoners of Politics: Breaking the Cycle of Mass Incarceration*. Harvard University Press, 2019. Selections.
- Dagan, David, and Steven Michael Teles. *Prison break: Why conservatives turned against mass incarceration*. Oxford University Press, 2016. Selections.
- Gonnerman, Jennifer. “Larry Krasner’s Campaign to End Mass Incarceration.” *The New Yorker*, October 22, 2018.  
<https://www.newyorker.com/magazine/2018/10/29/larry-krasnens-campaign-to-end-mass-incarceration>

## **Part III: Student presentations**

**Week 14: April 28**  
**Student presentations** (details TBA)