

Monday/Wednesday 1:00 P.M. – 2:30 P.M., 1220 Weill Hall

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Office hours Mondays 3:00-4:00, Thursdays 11:00-12:00, 4122 Weill Hall

During his first stint as Chief of the New York City Police Department, William Bratton often claimed that the crime rate has the same meaning for a police department as profits have for a business—that the crime rate is the “bottom line” of policing. Bratton intended this claim as a practical statement about how police departments should be managed, and especially about the form that police performance measures ought to take. But like all practical statements about what criminal justice policy and practice should be, it is also a philosophical claim about the goals that should govern society’s response to crime.

In this course we will question the philosophical position that Bratton expressed, exploring the idea that concern about crime itself should and does compete with other priorities. Good criminal justice policy and practice should promote public safety, but it should also (at minimum) express appropriate censure for wrongful actions, and it should respect the ideals of individual liberty and social equity as well. It is this range of goals—not the single goal of crime reduction—that both justifies public efforts to control crime and motivates important policy actors. To make appropriate decisions about criminal justice, policymakers and practitioners need to grapple with what these goals mean and with how they can be accomplished.

In the first part of the course, we will review classic and contemporary readings in philosophy and criminal justice to explore these goals in detail. Why is each goal important? What does it demand? What are its limits in policy and practice? Who are its champions? How is it possible to tell how well a policy advances it? Obviously the answers to all of these questions are contested: “Safety”, “censure”, “liberty”, and “equality” mean different things to different people, and we do not all rank them in the same way (one person’s fair trade of liberty for order may strike another as the first step toward a police state). But by trying to answer questions like these, and by debating the different answers that we arrive at, we will develop a thorough understanding of key interests and values in this field. In the process, we will have developed a framework for drawing together the wide range of information that is relevant to any specific crime control proposal and evaluating that proposal’s merits. It is in that sense that this course aims to introduce you to one way of thinking about crime.

In the second part of the course, we will use our framework to analyze the three major criminal justice institutions—cops, courts, and corrections—focusing particularly on proposals for reform in each of these areas. In each case, we will review current research and analyses of different strategies, aiming to understand which proposals strike a tolerable balance among the competing aims of the field. The topics we will explore do not cover every institution relevant to crime control, and we can only touch on a few

aspects of each institution we do cover. But these sessions will give you experience using our analytic framework to help evaluate some of the most prominent debates about criminal justice reform today.

Requirements

1. Regular class attendance, participation, and preparation—*i.e.*, do the readings and be ready to talk about them. I may also ask you to prepare summaries of the readings or presentations for the class. (15%)
2. Five canvas posts; a link to the sign-up sheet is [here](#). These posts should be brief (300-500 words) but focused reactions to one of the themes covered by the session's readings. Submit your post for each session you have chosen by 8:00 AM the morning class begins, and preferably the night before (15%).
3. One short policy memo on a topic to be assigned, due October 11. I will hand out the memo topics and requirements one week before it is due. (25%)
4. One term paper (approx. 15 pp.) analyzing a crime control strategy, due December 16 at 5:00 PM. The term paper is flexible, but in general it should focus either on (1) evaluating some particular *proposal* for addressing an important crime-related problem (i.e. asking whether that proposal accomplishes what any anti-crime strategy ought to accomplish), or (2) analyzing a crime-related *problem*, and asking what the best response is. The problems and proposals you examine can be as specific or general as you like—anything from the public safety challenges faced by a particular neighborhood, to broad crime policy issues at the national level. (45%)
5. A very brief proposal for your term paper (one or two paragraphs is plenty), due October 19. Your proposal should describe the subject you have chosen and how you plan to analyze it, including the kind of research you plan to do. (Usually that will mean a review of relevant academic literature; tell me which fields you expect to investigate and some examples of material that appears relevant. Occasionally you may plan to conduct interviews or analyze data, but that is not necessary.) (*required but ungraded*)

All of the readings listed are required except where noted. Please do all the required readings before you come to class. There is a fair amount of reading, but the rest of the course workload isn't heavy, so the readings should be manageable. Class discussions won't work if you don't read. Hopefully, you will find the readings interesting and useful!

The readings are available electronically in the course Canvas site. The "Files" section has separate folders that contain the readings for each class session. I will alert you ahead of time if I need to make changes to the readings.

For further information about academic expectations, accommodations, and resources for student-well being and mental health in this class and elsewhere in the Ford School, please visit <http://fordschool.umich.edu/academics/expectations>. Because of the nature of the topics we discuss in this course and the way we will discuss them, the Ford School's

Statement on Inclusivity merits especially close attention. The diverse perspectives and experiences that you and your classmates bring to class are an invaluable resource for our discussions and your learning. Be open to and respectful of the contributions that others make.

Accommodations for Students with Disabilities. If you believe you need an accommodation for a disability, please let me know at your earliest convenience. Some aspects of the course may be modified to facilitate your participation and progress. As soon as you make me aware of your needs, I can work with the Services for Students with Disabilities (SSD) office to help determine appropriate academic accommodations. Any information you provide will be treated as private and confidential.

Schedule of Class Topics and Readings

September 4 **Introduction**

September 9 **Crime and Criminal Justice through the Age of Mass Incarceration**

John Pfaff, *Locked In* (New York: Basic, 2017), pp. 1-18, 51-77, 105-23.

Background Materials to Browse

Bureau of Justice Statistics. "The Justice System", n.d.

FBI, *Crime in the United States*, 2017

Rachel Morgan and Jennifer Truman, "Criminal Victimization, 2017"

The Experience of Crime and Criminal Justice

Jill Leovy. *Ghettoside* (New York: Random House, 2015), pp. 3-27.

Susan Burton and Cari Lynn. *Becoming Ms. Burton* (New York: The New Press, 2019), pp. 26-33, 75-84, 107-114.

PART I: GOALS

1. Safety

September 11 **Incapacitation**

Franklin Zimring and Gordon Hawkins. "Elements of a Theory," ch. 3 in *Incapacitation* (New York: Oxford Univ. Press, 1995), pp. 42-59.

Danielle Sered. *Until We Reckon* (New York: New Press, 2019), p. 79-88

Incapacitation and the Rise of Mass Incarceration

William Barr, "The Case for More Incarceration" [excerpts] (Washington, DC: National Institute of Justice, 1992), pp. 1-9, 14-19

Edwin Zedlewski. "When Have We Punished Enough?" in *Public Administration Review*, vol. 45 (Nov. 1985), pp. 771-779.

John J. DiIulio and Anne Morrison Piehl. "Does Prison Pay? The Stormy National Debate over the Cost-Effectiveness of Imprisonment," *The Brookings Review*, fall 1991, pp. 28-35.

September 16 **Deterrence**

Cesare Beccaria. *Of Crimes and Punishments*, trans. Jane Grigson, (Marsilio Publishers, 1996), sections 15, 19, 20.

David Kennedy. "Pulling Levers: Getting Deterrence Right", *NIJ Journal* no. 236 (1998), pp. 2-8.

David Kennedy, Mark Kleiman, and Anthony Braga. "Beyond Deterrence", in eds. Nick Tilley and Aiden Sidebottom. *Handbook of Crime Prevention and Community Safety* (New York: Routledge, 2018).

Rod Brunson. "Focused Deterrence and Improved Police-Community Relations", *Criminology and Public Policy*, vol. 14 (2015), pp. 507-511.

September 18 **Rehabilitation**

Francis Allen. "The Decline of the Rehabilitative Ideal", in eds. Andrew von Hirsch and Andrew Ashworth *Principled Sentencing*. (Boston: Northeastern Univ. Press, 1992), pp. 23-30

Francis Cullen. "Correctional Rehabilitation", in ed. Erik Luna. *Reforming Criminal Justice*, vol. 4 (Phoenix: Arizona State Univ., 2017), pp. 235-260

Jessica Mitford. *Kind and Usual Punishment*. (New York: Knopf, 1973), pp. 95-113, 118-130

Susan Burton and Cari Lynn. *Becoming Ms. Burton* (New York: The New Press, 2019), pp. 99-106.

September 23 **Prevention**

Ronald V. Clarke. "Introduction" [excerpt], in ed. Ronald V. Clarke, *Situational Crime Prevention: Successful Case Studies*. (Guilderland: Harrow and Heston), pp. 2-33.

Geoffrey Canada. *Fist, Stick, Knife, Gun*, rev. ed. (Boston: Beacon Press, 2010), pp. vii-ix, 107-122, 135-146, 151-164, 177-81

Sara Heller. "Summer Jobs Reduce Violence among Disadvantaged Youth", *Science*, vol. 346 (2014), pp. 1219-1223

Bobby Scott. "Investing in Our Nation's Youth to Help Disrupt the 'Cradle to Prison Pipeline'", *CBCF News*, Spring 2008, p. 40

Optional: Paul Butler. "Do the Brothers Need Keepers? How Some Black Male Programs Perpetuate the Chokehold", in Chokehold (New York: New Press, 2017), pp. 149-170.

2. Censure

September 25 **Just Deserts**

C.S. Lewis. "The Humanitarian Theory of Punishment," *The Twentieth Century: An Australian Quarterly Review*, vol. 3 (1949), pp. 5-12.

Andrew von Hirsch. *Doing Justice*. (Northeastern Univ. Press, 1976), pp. 45-51, 66-73

Andrew von Hirsch, "Structure and Rationale: Minnesota's Critical Choices," *The Sentencing Commission and Its Guidelines*. (Northeastern Univ Press, 1987), pp. 84-106

Paul Butler, "Retribution, for Liberals", *UCLA Law Review* vol. 46 (1999), pp. 1873-1894

September 30 **Justice for Victims**

Danielle Sered. *Until We Reckon*. (New York: The New Press, 2019), pp. 88-128.

Susan Herman. *Parallel Justice for Victims of Crime* (National Center for Victims of Crime, 2010), pp. 1-7, 55-70

3. Liberty

October 2 **Due Process**

Samuel Walker. *Popular Justice* (Oxford Univ. Press, 1998), pp. 180-185.

Wilkinson v. Austin, 544 U.S. 74 (2005)

Jeannie Suk Gersen. “Unpopular Speech in a Cold Climate”, *The New Yorker*, March 14, 2019

William Stuntz, *The Collapse of American Criminal Justice* (Cambridge: Harvard Univ. Press, 2011), pp 69-85, 216-230.

Naomi Murakawa. *The First Civil Right* (New York: Oxford Univ. Press, 2014), pp. 131-147, 152-6.

Optional: Danielle Allen. *Cuz* (New York: W.W. Norton, 2017), pp. 70-80

October 7 **The Reach of the Criminal Law**

William Stuntz, “The Pathological Politics of Criminal Law” [excerpt], *Michigan Law Review* vol. 100 (2000), pp. 506-511

William Stuntz, *Collapse of American Criminal Justice* (Cambridge: Harvard Univ. Press, 2011), pp. 257-264.

Tracy Maclin, “Race and the Fourth Amendment” [excerpt], *Vanderbilt Law Review* vol. 51 (1998), pp. 375-9

Stanley Cohen, “The Punitive City” [excerpt], *Contemporary Crises* vol. 3 (1979), pp. 341-52.

Constraining Discretion (Prosecutors’, for example)

John F. Pfaff, “Prosecutorial Guidelines,” in ed. Erik Luna. *Reforming Criminal Justice*, vol. 3 (Phoenix: Arizona State Univ., 2017), pp. 101-20.

4. Equality

October 9 **Racial Inequality in Criminal Justice**

Michelle Alexander. *The New Jim Crow*. (New York: Free Press, 2012), ch. 5

James Forman, Jr. *Locking Up Our Own* (New York: Farrar, Strauss, and Giroux, 2017), Introduction & ch. 4

October 14 **No Class-Fall Study Break**

October 16 **Writing your crime policy term paper**

PART II: STRATEGIES

1. *Punishment*

October 21 **Drug Courts**

Richard Boldt. “Problem-Solving Courts”, in ed. Erik Luna. *Reforming Criminal Justice*, vol. 3 (Phoenix: Arizona State Univ., 2017), pp. 273-304

Denise Gottfredson, Stacy Najaka, and Brook Kearley. “Effectiveness of Drug Treatment Courts: Evidence from a Randomized Trial”, *Criminology and Public Policy*, vol. 2 (2003), pp. 171-196.

Morris B. Hoffman. “The Rehabilitative Ideal and the Drug Court Reality”, *Federal Sentencing Reporter*, vol. 14, no 3-4 (Jan/Feb 2002), pp. 172-178.

Michael O’Hear. “Rethinking Drug Courts” [excerpt], *Stanford Law and Policy Review*, vol. 20 (2009), pp. 477-87.

Eric L. Sevigny, Harold A. Pollack, and Peter Reuter. “Can Drug Courts Help to Reduce Prison and Jail Populations?” *Annals of the American Academy of Political and Social Sciences*, vol. 647 (2013), pp. 190-209

October 23 **Restorative Justice**

Howard Zehr and Mark Umbreit. “Victim-Offender Reconciliation”, *Federal Probation*, vol. 46 (1982), pp. 63-68

Lawrence Sherman and Heather Strang. *Restorative Justice: The Evidence*. (The Smith Institute, 2007), pp. 12-13, 26-29, 62-4, 68-71, 78-9

Kathleen Daly. “Restorative Justice: The Real Story”, *Punishment and Society* vol. 4 (2002), pp. 55-79

Danielle Sered. “Displacing Incarceration”, in *Until We Reckon* (New York: The New Press, 2019).

October 28 **Community Corrections**

Joan Petersilia. “Community Corrections: Probation, Parole, and Prisoner Reentry”, in eds. James Q. Wilson and Joan Petersilia. *Crime and Public Policy* (Oxford Univ. Press, 2011), excerpts.

Andrew von Hirsch. “The Ethics of Community-Based Sanctions”, 36 *Crime and Justice* (1990), pp. 162-173.

Reforming Community Corrections

Mark Kleiman. *When Brute Force Fails*, excerpts (Princeton Univ. Press, 2009), pp. 34-41, 95-99

Mark Kleiman. “Community Corrections as the Front Line in Crime Control”, 46 *UCLA Law Review* (August 1999) 1909-25.

Mark A.R. Kleiman, Angela Hawken, and Ross Halperin. “We don’t need to keep criminals in prison to punish them,” *vox.com*, March 18, 2015

Philadelphia Office of the District Attorney, New Philadelphia D.A.O. Policies Announced March 21, 2019 to End Mass Supervision

Beth Schwartzapfel, “Want to Shrink the Prison Population? Look at Parole”, *The Marshall Project*, Feb. 11, 2019.

Vincent Schiraldi. “Parole and probation have grown far beyond resources allocated to support them”, *The Conversation*, August 16, 2018

October 30 **Scarlet Letters**

James Jacobs. *The Eternal Criminal Record* (Cambridge: Harvard Univ. Press, 2015), chs. 13-14.

Jessica Henry and James Jacobs. “Ban the Box to Promote Ex-Offender Employment”, *Criminology and Public Policy*, vol. 6 (2007), pp. 755-762

Jennifer L. Doleac. “‘Ban the Box’ does more harm than good”, *Brookings Institution*, May 31, 2016

Richard Freeman, “Incarceration, Criminal Background Checks, and Employment in a Low(er) Crime Society”, *Criminology and Public Policy*, vol. 7 (2008), pp. 405-11.

Reuben Miller and Forrest Stuart. “Carceral Citizenship”, *Theoretical Criminology*, vol. 21(2017), pp. 532-48

Recommended: Andrew von Hirsch and Martin Wasik. “Civil Disqualifications Attending Conviction: A Suggested Conceptual Framework”, *Cambridge Law Journal*, vol. 56 (1997), pp. 599-626

November 4 **Decriminalization**

Alexandra Natapoff. “Misdemeanor Decriminalization”, *Vanderbilt Law Review*, vol. 68, pp. 1055-1116

2. **Police**

November 6 **The Police**

Peter Moskos. “911 is a Joke”, in *Cop in the Hood*. (Princeton Univ. Press, 2008), pp. 89-110

Herman Goldstein. *Problem-Oriented Policing* (McGraw-Hill, 1990), ch 4

Tracey Meares. “Rightful Policing”, *New Perspectives in Policing*. (Washington, DC: National Institute of Justice, 2015)

Egon Bittner. *Aspects of Police Work* (Boston: Northeastern Univ. Press, 1993), pp. 120-132, 180-3

November 11 **Stop and Frisk**

Davier Bergner, “Is Stop and Frisk Worth It?” *The Atlantic*, April 2014.

Wesley Skogan. “Stop and Frisk as an Organizational Strategy: Lessons from New York and Chicago”, July 2017 (Forthcoming: *Cahiers de la Sécurité et de la Justice*)

Garry McCarthy, “Using Stop and Frisk Powers Responsibly”, pp. 12-21 in Nancy La Vigne, Pamela Lachman, Andrea Matthews, and S. Rebecca Neusteter, eds., *Key Issues in the Police Use of Pedestrian Stops and Searches*. Washington DC: Urban Institute, 2012.

Paul Butler. “Sex and Torture: The Police and Black Male Bodies”, in *Chokehold* (New York: The New Press, 2017), pp. 81-115.

November 13 **911 and Policing**

Guest Lecturer: Jessica Gillooly

Rebecca Neusteter, Maris Mapolski, Mawia Khogali, and Megan O'Toole. *The 911 Call Processing System: A Review of the Literature as it Relates to Policing* (New York: Vera Institute of Justice, 2019)

Police Executive Research Forum. *Missed Opportunities, Shared Responsibilities: Final Report of The Cambridge Review Committee* [excerpts]. June 15, 2010, pp. 1-9, 13-20)

Jessica Gillooly. "Want to Stop More Starbucks Scenarios? Train These People." *The Washington Post*. May 25, 2018.

November 18 **The Use and Abuse of "Broken Windows"**

James Q. Wilson and George L. Kelling. "Broken Windows: The Police and Neighborhood Safety," in *Atlantic Monthly*, March 1982, pp. 29-38

George Kelling and Catherine Coles. *Fixing Broken Windows* [excerpts] (Touchstone, 1997), pp. 114-131, 138-143.

Felice Freyer, Milton Valencia, and Danny McDonald. "Tensions flare as homeless and drug users spread into South End", *Boston Globe*, August 8, 2019.

Bernard Harcourt. "Policing Disorder", *Boston Review* vol 27, no. 2 (Spring 2002).

David Thacher. "Order Maintenance Policing", in ed. Michael Reisig and Robert Kane. *The Oxford Handbook of Police and Policing* (New York: Oxford Univ. Press, 2014), pp. 122-47.

Michael Jonas. "The complicated legacy of 'broken windows' policing", *Commonwealth*, Aug 11, 2019

November 20 **Policing Drugs**

Peter Moskos. "New Jack: Learning to Do Drugs", in *Cop in the Hood*. (Princeton Univ. Press, 2008), pp. 38-63.

David Kennedy. "Eliminating Overt Drug Markets: The 'High Point' Strategy". *Deterrence and Crime Prevention*. (Routledge, 2008), pp. 142-65.

November 25 **Diversion**

Nicholas Kristof. “Seattle Has Figured Out How to End the War on Drugs”, *New York Times*, August 23, 2019.

Katherine Beckett. “Seattle’s Law Enforcement Assisted Diversion Program: lessons learned from the first two years”, unpublished report, 2014.

Susan E. Collins, Heather S. Lonczak, and Seema L. Clifasefi. “Seattle’s Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism,” *Evaluation and Program Planning*, vol. 64 (October 2017), pp. 59-67.

David Kroman. “Misdemeanor Arrests Decline in Seattle as Racial Disparities Remain”, *Crosscut*, October 25, 2018

Albany LEAD Program. One-Year Anniversary Report. April 5, 2017

November 27 **No Class – Happy Thanksgiving!**

December 2 **Red Flag Laws**

Sheryl Gay Stolberg. “‘Red Flag’ Gun Control Bills Pick Up Momentum With G.O.P. in Congress”, *New York Times*, August 6, 2019.

Richard Blumenthal and Lindsay Graham. “Federal Extreme Risk Protection Order Act” [bill summary]

Jeffrey Swanson *et. al.* “Criminal Justice and Suicide Outcomes with Indiana’s Risk-Based Gun Seizure Law”, *Journal of the American Academy of Psychiatry and the Law*, vol. 47 (2019), pp. 188-197

David Kopel. Testimony to the United States Senate Judiciary Committee Full Committee Hearing. “Red Flag Laws: Examining Guidelines for State Action”, March 26, 2019

ACLU of Rhode Island. “An Analysis of 18-H 7688 and 18-S 2492, Relating to Extreme Risk Protective Orders”, March 2018

Optional: Aaron Brown. “This Time I’ll Be Bulletproof: Using Ex Parte Firearm Prohibitions to Combat Intimate-Partner Violence.” Columbia Human Rights Law Review, vol. 50 (2019), pp. 159-219

3. *Courts and Beyond*

December 4 **Indigent Defense**

Amy Bach. *Ordinary Injustice*, (New York: Metropolitan Books, 2009), ch. 1.

Eve Primus. “Defense Counsel and Public Defense”, in ed. Erik Luna. *Reforming Criminal Justice*, vol. 3 (Phoenix: Arizona State Univ., 2017), pp. 121-45.

Cait Clarke and Christopher Stone. “Bolder Management for Public Defense”, Executive Session on Public Defense, Kennedy School of Government, Harvard University, 2001.

December 9 **Prosecutors**

Angela Davis. “The Prosecution of Black Men”, in *The Policing of Black Men* (New York: Random House, 2017).

Rachel Barkow. “Policing Prosecutors”, in *Prisoners of Politics* (Cambridge, Mass.: Harvard Univ. Press, 2019), pp. 143-64

Optional: David Alan Sklansky, “The Changing Political Landscape for Elected Prosecutors”, Ohio State Journal of Criminal Law, vol. 14 (2017), pp. 647-674.

December 11 **Pretrial Detention**

James Lartey. “TV made America's bail system famous. Now reformers want to end it”, *The Guardian* Aug 30, 2017.

Robin Steinberg and David Feige, “The Problem with NYC’s Bail Reform”, *The Marshall Project*, July 2015

Kamala Harris and Rand Paul, “To Shrink Jails, Let’s Reform Bail”, *New York Times*, July 20, 2017

Samuel Wiseman. “Pretrial Detention and the Right to be Monitored” [excerpt], *Yale Law Journal* vol. 123 (2013), pp. 1364-1381

Laura and John Arnold Foundation. “Developing a National Model for Pretrial Risk Assessment”, Nov. 2013; and “Results from the First Six Months of the Public Safety Assessment Court in Kentucky”, July 2014