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Fall 2018
W 1:00 – 2:40 PM
350 Holland

RACE, CRIME & JUSTICE
Seminar [2 credits]
LAW 6936, Section 067E

COURSE DESCRIPTION

This course examines the interplay of race, crime, and the law in the U.S. The course has two interrelated and underlying themes. First, the role of history as context for understanding contemporary laws that govern the criminal justice system. Second, how existing laws, their applications within the justice system, might be restructured and re-imagined to further racial justice. Course readings and class discussions will examine a variety of topics including legally sanctioned segregation (e.g., slave codes and Jim Crow), lynching, sundown towns, racial profiling, capital punishment, and incarceration. The assigned readings primarily focus on Blacks and Whites. However, we will also read and discuss material on other racial groups, including American Indians, Latinos/as, and Asian Americans. The course readings combine legal, historical, political, empirical, and sociological materials.

REQUIRED MATERIAL

- K. Russell-Brown (2009) *The Color of Crime*, 2d ed. (NYU Press)
- Reading Packet (Target Copy)
- TWEN postings (and some handout sheets)

Please note that additional reading may be assigned.

COURSE REQUIREMENTS

Class Participation	20 percent
Research Presentation	30 percent
Research Paper	50 percent

ATTENDANCE, CLASS PARTICIPATION & ASSIGNMENTS

It is expected that students will attend class regularly, read assigned materials prior to the class discussion, and participate in class discussions. During the semester, students will complete short writing assignments. All assignments are due at the beginning of class (hard copies only). Please plan to remain in class for the entire time period. If you need to leave class before the end time, or plan to arrive after the start time, please notify the professor in advance.

ACADEMIC CONDUCT

Academic honesty and integrity are fundamental values of the University community. Please review the UF Student Honor Code: <http://www.dso.ufl.edu/students.php>

RESEARCH PAPER AND THE ADVANCED WRITING REQUIREMENT

According to the Student Handbook, all J.D. candidates are required to produce, with close faculty supervision, a major writing project. The writing must show evidence of original systematic scholarship based on individual research. Students typically satisfy this requirement in a seminar course.

There are two required papers for this course (thirteen pages each). Together they will fulfill the Advanced Writing requirement.

RESEARCH PRESENTATIONS

Students will be required to present a summary of their research. This presentation will include background information on their chosen research topic, cases and reports that establish the importance of the topic in contemporary times. When appropriate, students will identify solutions or proposed changes to address the issue. Each presentation will be followed by a student-led question and comment session.

COURSE WORKLOAD

Students should expect to spend, on average, approximately two hours preparing for every one hour of class.

GRADING SCALE

Grading for this course will adhere to the Levin College of Law's mean and mandatory distributions, detailed in the below chart. For further information, visit <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0

B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
F (Failure)	0.0

ACCOMODATIONS & OTHER POLICIES

Requests for classroom accommodations must be made with the Office of Disability Resources. The UF Office of Disability will provide documentation to the student who must then provide documentation to the Law School's Office of Student Affairs.

Students are expected to complete online course evaluations. Evaluations are done the last few weeks of the semester. Students will be given specific times when they are to complete the evaluations at <https://evaluatons.ufl.edu>

For information on UF Law grading policies visit <http://www.law.ufl.edu/students/policies.shtml#9>

LEARNING OBJECTIVES

After completing this course, students should be able to:

1. Discuss definitions of race, crime and justice
2. Identify how U.S. laws have shaped the ways that various racial groups have experienced the criminal justice system
3. Discuss seminal Supreme Court cases on race and the justice system
4. Describe types of Jim Crow legislation
5. Describe racial profiling and its impact on various racial groups, policing and society at large
6. Identify legal and policy responses to identified problems within the justice system
7. Research and write a paper on an important issue of criminal justice

COURSE OUTLINE

Week of August 13

TOPIC: Course Overview and Approach

TOPIC: Defining Race: Race and Crime as a Research Topic

Derrick Bell (1992) “The Space Traders”
Michael Omi (1997) “Racial Identity and the State”
Documents & Data on Race and Criminal Justice

- (1) “Statistical Policy Directive No. 15” (1977);
- (2) UCR, “Arrests by Race” (2016)
- (3) Control Rates by Race in Criminal Justice System

Week of August 20

TOPIC: Race, Race Relations and Law: A Look Back

J.C. Smith (1994) American Slave Codes (selected statutes)
K. Russell-Brown (2009) *The Color of Crime*, Ch. 3, “History’s Strange Fruit”
(pp. 35-42)
U.S. Constitution (Article 1; Amendments 13, 14, &15)

TOPIC: Judicial and Legislative Actions

- *Dred Scott v. Sanford* 60 U.S. (19 How.) 393 (1857)
- *Elk v. Wilkins* 112 U.S. 94 (1884)
- *Plessy v. Ferguson* 163 U.S. 537 (1896)

Week of August 27

DUE: PAPER TOPIC DUE (include three sources)

TOPIC: Judicial and Legislative Actions (cont’d)

NOTE: The *Without Sanctuary* text will be on reserve (law library). Plan to spend approximately one hour reviewing the book.

Lynching:

- K. Russell-Brown, *The Color of Crime* (re-read pp. 43-52)
- U.S. Data, “Persons Lynched by Race: 1882-1970” (TWEN)
- J. Allen (2000) *Without Sanctuary: Lynching Photography in America*
- Equal Justice Initiative (2017) “Lynching in America: Confronting the Legacy of Racial Terror”) <https://eji.org/reports/lynching-in-america>
- Alachua County lynchings
- U.S. Senate Apology for Lynching (2005) (access online)
<http://landrieu.senate.gov/lynching/resolution.pdf>

Week of September 3

NOTE: NO CLASS THIS WEEK

Week of September 10

TOPIC: Judicial and Legislative Actions (cont'd)

Racially-Restricted Movement

- Sundown Towns (TWEN)

Asians and U.S. Law

- P. Johnson, (1996) “The Social Construction of Identity in Criminal Cases” *Mich. J. of Race & Law* 1: (pp. 359-377)
- *Yick Wo v. Hopkins* 118 U.S. 356 (1886)
- Alien Land Laws, Florida Constitution, Art. 1, Sect. 2
- *Korematsu v. U.S.* 323 U.S. 214 (1944)

Jim Crow

- P. Murray (1997) “States’ Laws on Race and Color” (Florida statutes)
- “The Negro Motorist Green Book” (1953) (access online)
- I. Wilkerson (2010) *Warmth of Other Suns* excerpts (TWEN)

Racially-restrictive covenants

- *Shelley v. Kraemer* 334 U.S. 1 (1948)
- Racially-restrictive covenant (Gainesville)

Week of September 17

TOPIC: Judicial and Legislative Actions (cont'd)

<i>Sweatt v. Painter</i>	339 U.S. 629 (1950)
<i>McLaurin v. Oklahoma</i>	339 U.S. 637 (1950)
<i>Hawkins v. Bd. of Control</i>	47 So.2d 608 (1950)
<i>Hernandez v. Texas</i>	347 U.S. 475 (1954)
<i>Brown v. Board of Education</i>	347 U.S. 483 (1954)
<i>Brown v. Board of Education</i>	349 U.S. 294 (1955)

Week of September 24

DUE: DETAILED OUTLINE

TOPIC: Contemporary Issues

a. Capital Punishment

- “Death Row U.S.A.” (Spring 2017) (access online)
<http://www.naacpldf.org/files/about-us/DRUSASpring2017.pdf>
- *Harris v. Alabama* 513 U.S. 504 (1995)
- *McCleskey v. Kemp* 481 U.S. 279 (1987)
- N. C. Racial Justice Act [Adoption (2009) and Repeal (2013)]
- Innocence Project <https://www.innocenceproject.org/about/>
- *Hurst v. Florida* 577 U.S. ____ (2016)

Week of October 1

TOPIC: Contemporary Issues, (cont’d)

b. Racial Profiling

- K. Russell-Brown, *The Color of Crime*, Ch. 4 (“Discrimination or Disparity?”)
- *Whren v. U.S.* 517 U.S. 806 (1996)
- NYPD: Stop & Frisk (access online)
 - *Floyd v. New York* (2013) [Case 1:08-cv-01034-SAS-HPB]
<http://ccrjustice.org/floyd> [Order on Liability excerpt; Order on Remedy, excerpt]
 - N. Peart, “Why is the NYPD After Me?”
New York Times, Dec. 17, 2011
<http://www.nytimes.com/2011/12/18/opinion/sunday/young-black-and-frisked-by-the-nypd.html?pagewanted=all>
 - Michael Bloomberg, “‘Stop and frisk’ is not racial profiling”
NYT, Aug. 18, 2013
http://www.washingtonpost.com/opinions/michael-bloomberg-stop-and-frisk-keeps-new-york-safe/2013/08/18/8d4cd8c4-06cf-11e3-9259-e2aaf5a5f84_print.html
- P. Butler (2017) “Sex and Torture: The Police and Black Male Bodies,” in *The Chokehold* pp 81-115 (TWEN)
- “Traffic Stops Statistics Study Act” (2000) [H.R. 1443]
- “Traffic Stops Along the Border Statistics Study Act” (2015) [H.R. 51]

Week of October 8

TOPIC: **Contemporary Issues** (cont'd)

c. Police Violence

- U.S. Dept. of Justice (2015) “The Ferguson Report” (Parts I-III; IV) https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (access online)
- The Guardian (2017) “The Counted: People Killed by Police in the US” <https://www.theguardian.com/us-news/series/counted-us-police-killings> (access online)
- Washington Post (2017) “Police Shootings Database” <https://www.washingtonpost.com/graphics/national/police-shootings-2017/> (access online)

Week of October 15

TOPIC: **Addressing Bias in the Justice System**

Implicit Bias

- <https://implicit.harvard.edu/implicit/aboutus.html>
- K. Russell-Brown (2017) “Making Implicit Bias Explicit” pp. 135-160 From *Policing the Black Man*, A. Davis, ed.).
- M. Bennett (2017) <http://www.yalelawjournal.org/forum/the-implicit-racial-bias-in-sentencing> (read section “C. Implicit Racial Bias in Sentencing”)
- M. Bennett, “Jury Instructions from Judge Mark Bennett (N.D. Iowa) https://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2017_sac/written_materials/2_instruction.authcheckdam.pdf
- L. Fridell (2008) “Racially Biased Policing: The Law Enforcement Response to the Implicit Black-Crime Association” (pp. 38-59)
- S. Johnson (2001), “Racial Derogation in Prosecutors’ Closing Arguments” in *Petit Apartheid in the Criminal Justice System*.

Week of October 22

TOPIC: **Research Presentations [4]**

Week of October 29

TOPIC: **Research Presentations [4]**

Week of November 5

TOPIC: **Research Presentations [4]**

Week of November 12

NOTE: There will be no class on Wednesday, November 14. The class will be rescheduled for earlier in the week. *This is the last week for this class*. No classes will be held on Wednesday, November 21.

IMPORTANT DATES

Wed. Aug. 27	DUE: Paper 1 topic with three sources
Wed. Sept. 5	NO CLASS
Wed. Sept. 26	DUE: Detailed Outline
Oct. 24, 31 & Nov. 7	Research Presentations
Wed. Nov. 7	DUE: Draft (at least two sections of paper)
Wed. Nov. 14	No Class (will be rescheduled for earlier in the week)
Wed. Nov. 21	HOLIDAY: No Class
Wed. Dec. 5	DUE: Research Paper

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