

CRIME AND PUNISHMENT
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW
SPRING 2024 SYLLABUS – LAW 6936 – 2 CREDITS

Professor Matthew Kim
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Office Hours: Monday 3:30 p.m. – 5:30 p.m.

MEETING TIME:

Monday 1:15 p.m. – 3:15 p.m.

CLASSROOM LOCATION:

Holland 285A

COURSE DESCRIPTION AND OBJECTIVES:

This seminar will examine leading scholarship on various topics in criminal law, such as the determinants of crime, policing, prosecutorial discretion, wrongful convictions, sentencing, and incarceration. The seminar is geared toward students interested in reading and discussing legal scholarship in criminal law. In addition to exposing students to the substance of leading scholarship in the field, the seminar also aims to expose students to a range of different scholarly methodologies and enable students to produce original scholarship based on individual research. Guest speakers and authors may address students during the semester.

STUDENT LEARNING OUTCOMES:

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

1. Gain an understanding of leading scholarship in various criminal law issues
2. Understand different methodologies in criminal legal research
3. Apply the scholarly process and produce original scholarship

REQUIRED READING MATERIALS:

The required textbook for this course is Paul Robinson's *Would You Convict? Seventeen Cases that Challenged the Law* (hereafter WYC). In addition, handouts and materials will be assigned over the course of the semester and will be posted on Canvas.

COURSE EXPECTATIONS AND GRADING EVALUATION:

Your grade will be based on a final paper (50%), paper proposal (1%), paper outline (1%), six response memos (18%), two class presentations (20%), and class participation (10%).

You will be required to write a final paper on a topic of your choice within the field of criminal law. The final paper must be no less than 25 and no more than 30 pages of double-spaced, 12-point text or equivalent. Your final paper will be graded based on the originality of your ideas, persuasiveness of your arguments, clarity of writing, quality of references, length, and timely submission.

In addition, you will be required to turn in a proposal and outline during the semester, and I will provide feedback on your submission. The proposal and outline will be graded based on timely submission. To be clear, you will receive full credit for the proposal and outline as long as you make a good faith effort and submit the proposal and outline before the deadline. If your proposal and outline are not submitted in time or do not reflect a good faith effort, you will not receive any credit.

You will also be required to submit 6 semi-weekly response memos, each worth 3% of your grade. The memos should be no more than 2 pages of double-spaced, 12-point text or equivalent. In the memos, you should reflect on one or more research papers (indicated by the notation “RP” below) and other reading assigned that week and pose questions for discussion. The memos will be due 24 hours before the start of class (1:15 p.m. on the Sundays before class). You will be graded based on the depth of ideas and questions posed, clarity of writing, length, and timely submission. You are free to choose the weeks in which you will write your memos, but please keep in mind that you cannot write a response memo for the first week and last week, so you should plan accordingly.

You will be required to give a presentation on one RP of your choosing. The presentation should provide an overview of the article, present strengths and weaknesses of the article, and pose questions for discussion. I am happy to meet with you to discuss your presentation before you present. You are free to write a response memo on the article for which you choose to give a presentation. The presentation will be worth 10% of your grade.

You will be required to give a presentation on your final paper in the penultimate or final class, depending on class enrollment. The presentation should provide an overview of your paper. The presentation will be worth 10% of your grade. For this presentation, if you wish to use visual aids or a PowerPoint presentation, you will have to submit them via email to me (matthew.kim@ufl.edu) 24 hours before the start of the class (1:15 p.m. on the Sunday before you present).

In evaluating your class participation, I will take into account a number of considerations, including the professionalism and civility you display in class, your preparedness, and your class attendance. I expect everyone to be familiar with at least one RP each week and be prepared to discuss it in class. I also expect everyone to be civil in the manner in which they conduct themselves in class discussions. Please do not arrive late to class or leave early, absent extenuating circumstances.

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and UF Law. Attendance will be taken at each class meeting. Students are responsible for ensuring that they are not recorded as absent. Students are allowed 2 unexcused absences during the course of the semester. A student who fails to meet the attendance requirement will be dropped from the course. UF Law’s policy on attendance can be found [here](#). Please note the religious holiday exemption below.

OBSERVANCE OF RELIGIOUS HOLIDAYS:

UF Law respects students’ [observance of religious holidays](#). The following guidelines from UF apply:

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

COMPLIANCE WITH UF HONOR CODE:

Academic honesty and integrity are fundamental values of the UF community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits the use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments unless expressly authorized by the professor to do so.

INFORMATION ON UF LAW GRADING POLICIES:

UF Law’s mean and mandatory grade distributions are posted on UF Law’s website, and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A	4.0	C	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D	1.0
B-	2.67	D-	0.67
C+	2.33	E	0.0

UF Law’s grading policy is available [here](#).

STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES:

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. Students need to share their accommodation letter with me and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page (<https://ufl.instructure.com/courses/427635>).

STUDENT COURSE EVALUATIONS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. See [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

RECORDINGS OF CLASS

All classes will be recorded via Mediasite and be provided to students for excused absences. The Office of Student Affairs and I will determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact me and the Office of Student Affairs as soon as possible after an excused absence.

ABA OUT-OF-CLASS HOURS REQUIREMENTS:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Each weekly class time is approximately 2 hours in length, requiring at least **4 hours of preparation** outside of class, including reading the assigned materials.

OFFICE HOURS:

My regular in-person office hours are Mondays from 3:15 p.m. to 5:15 p.m. My office hours will be held in Holland 310. If you are unable to meet with me during my regularly scheduled office hours, please send me an email, and we will arrange another mutually convenient time. My email address is matthew.kim@ufl.edu. I encourage you to come see me during the semester and ask questions that you may have about the course.

LEGAL DISCLAIMER:

No lesson is intended to espouse, promote, advance, inculcate, or compel a particular feeling, perception, or belief. Any discussion surrounding race, color, national origin, or sex will be presented in an objective manner and without my endorsement of any particular point of view. To the extent possible, facts and theories will be presented along with different interpretations and viewpoints. I encourage you to engage in open discussions so that you reach your own opinions and conclusions. I will not judge you on your opinions, only on how you support your opinions with facts and legal reasoning.

HEALTH AND WELLNESS RESOURCES:

Law school can be a daunting experience, especially when life outside the law becomes challenging. UF Law provides numerous resources for your support, and I encourage you to seek help if you have concerns. Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

- *U Matter, We Care*: If you or someone you know is in distress, please contact umatter@ufl.edu, call 352-392-1575, or visit [U Matter, We Care website](#) to refer or report a concern and a team member will reach out.

- *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](#) or call 352-392-1575 for information on crisis services as well as non-crisis services.
- *Student Health Care Center*: Call 352-392-1161 for 24/7 information to help you find the care you need or [visit the Student Health Care Center website](#).
- *University Police Department*: [Visit UF Police Department website](#) or call 352-392-1111 (or 911 for emergencies).
- *UF Health Shands Emergency Room / Trauma Center*: For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS:

The following course schedule is offered as a guide to the direction of the course. Our pace will depend on the level of interest and the level of difficulty of the assigned readings. As such, the course schedule and assigned readings are subject to change.

1. 1/22 – Introduction to Legal Research in Criminal Law
 - a. RP: Martha Minow, *Archetypal Legal Scholarship: A Field Guide*
 - b. RP: Carol Steiker, *Promoting Criminal Justice Reform Through Legal Scholarship: Toward a Taxonomy*
 - c. RP: William Stuntz, *The Pathological Politics of Criminal Law*
 - d. Paul Robinson, *WYC*, pp. 178-90
2. 1/29 – Criminal Punishment and Its Alternatives
 - a. RP: Kevin Carlsmith, John Darley, and Paul Robinson, *Why Do We Punish? Deterrence and Just Deserts as Motives for Punishment*
 - b. RP: Adriaan Lanni, *Taking Restorative Justice Seriously*
 - c. RP: Pew Center on the States, *One in 100: Behind Bars in America 2008* (Washington D.C.: The Pew Charitable Trust, 2008)
 - d. Paul Robinson, *WYC*, pp. 28-43
3. 2/5 – Defining Crime and Identifying Its Determinants
 - a. RP: Stuart Green, *Looting, Law, and Lawlessness*
 - b. RP: Zachary Kaufman, *Protectors of Predators or Prey: Bystanders and Upstanders Amid Sexual Crimes*
 - c. RP: Steven Levitt, *Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not*
 - d. Paul Robinson, *WYC*, pp. 191-216
4. 2/12 – Policing
 - a. RP: Anna Lvovsky, *The Judicial Presumption of Police Expertise*
 - b. RP: Andrew Crespo, *Probable Cause Pluralism*
 - c. RP: Julian Cook, *Suspicionless Policing*
 - d. Paul Robinson, *WYC*, pp. 166-77
5. 2/19 – Prosecutorial Discretion

- a. RP: Edward Glaeser, Daniel Kessler, and Anne Piehl, *What Do Prosecutors Maximize? An Analysis of Drug Offenders and Concurrent Jurisdiction* (skip Part III)
 - b. RP: Stephanos Bibas, *The Need for Prosecutorial Discretion*
 - c. RP: Adam Gershowitz, *Prosecutorial Shaming: Naming Attorneys to Reduce Prosecutorial Misconduct*
 - d. Paul Robinson, WYC, pp. 44-54
6. 2/26 – Cash Bail and Its Alternatives
- a. RP: Aurelie Ouss and Megan Stevenson, *Evaluating the Impacts of Eliminating Prosecutorial Requests for Cash Bail*
 - b. RP: Muhammad Sardar, *Give Me Liberty or Give Me Alternatives: Ending Cash Bail and Its Impact on Pretrial Incarceration*
 - c. RP: Criminal Justice Policy Program, *Moving Beyond Money: A Primer on Bail Reform*
 - d. Melissa Etehad, *Sick Behind Bars: How a \$750 Bail Led to Jail and Failing Health*

3/3 – PAPER PROPOSAL DUE at 1:15 p.m. / APPOINTMENTS THIS WEEK

7. 3/4 – Defense Attorneys and Jury Trial
- a. RP: David Abrams and Albert Yoon, *Luck of the Draw: Using Random Case Assignment to Investigate Attorney Ability*
 - b. RP: Gabriel Chin and Richard Holmes, *Effective Assistance of Counsel and the Consequences of Guilty Pleas*
 - c. RP: Avani Mehta Sood, *Attempted Justice: Misunderstanding and Bias in Psychological Constructions of Criminal Attempt*
 - d. Paul Robinson, WYC, pp. 3-19

3/11 – SPRING BREAK

8. 3/18 – Wrongful Convictions
- a. RP: Richard Leo, *False Confessions: Causes, Consequences, and Implications*
 - b. RP: Myrna Raeder, *See No Evil: Wrongful Convictions and the Prosecutorial Ethics of Offering Testimony by Jailhouse Informants and Dishonest Experts*
 - c. RP: Alexandra Natapoff, *Snitching: The Institutional and Communal Consequences* (skip Part IV)
 - d. Peter Applebome, *Alabama Releases Man Held On Death Row for Six Years*
9. 3/25 – The Reach of Criminal Law
- a. RP: Megan Stevenson and Sandra Mayson, *The Scale of Misdemeanor Justice*
 - b. RP: Alexandra Natapoff, *Misdemeanors* (skip Part VI)

- c. RP: Issa Kohler-Hausmann, *Misdemeanor Justice: Control without Conviction*
- d. Noreen Sharif, *Madison Woman's Past Haunted Her. Free Legal Help Changed Her Life.*

3/31 – PAPER OUTLINE DUE at 1:15 p.m. / APPOINTMENTS THIS WEEK

10. 4/1 Sentencing

- a. RP: Carlos Berdejo and Noam Yuchtman, *Crime, Punishment and Politics: An Analysis of Political Cycles in Criminal Sentencing*
- b. RP: Ozkan Eren and Naci Mocan, *Emotional Judges and Unlucky Juveniles*
- c. RP: Nancy Gertner, *Against These Guidelines*
- d. Aaron Katersky and Meredith Deliso, *Former Staples Exec Sentenced in Varsity Blues Scheme, Marking End of Years-Long Case*

11. 4/8 Incarceration

- a. RP: Patrick Bayer, Randi Hjalmarsson, and David Pozen, *Building Criminal Capital Behind Bars*
- b. RP: John Stinneford, *Is Solitary Confinement a Punishment?*
- c. Atul Gawande, *Hellhole: Is Long Term Solitary Confinement Torture?*
- d. Paul Robinson, *WYC*, pp. 97-110

12. 4/15 Reflections & Class Presentations

- a. RP: Harry Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*
- b. William Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, and Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (Summary)
- c. Jennifer Gonnerman, *Three Years on Rikers Without Trial*
- d. Additional readings TBD depending on class enrollment

13. 4/22 Class Presentations

5/5 – FINAL PAPER DUE at 1:15 p.m.