

CRIMINAL JUSTICE REFORM SEMINAR
University of Florida Levin College of Law
Spring 2023 Syllabus
LAW 6936 – 2 Credits

Professor Pamela Marsh
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Meeting Time: Mondays 3:30 p.m. – 5:30 p.m.

Location: Holland Hall 355D

Office Hours: Tuesday 11:00 a.m. – 12:00 p.m.

Professor Marsh is also available by appointment via phone and Zoom.
Students are welcomed and encouraged to meet with Professor Marsh.

Notes and updates for this course will be posted regularly on CANVAS.

Course Description:

While the United States continues to house more prisoners per capita than any country in the world, there is also growing bi-partisan momentum around criminal justice reform. This course will highlight the roles and interests of key stakeholders in the criminal justice system — including judges, prosecutors, law enforcement, correctional officers, private prison executives, as well as scholars and advocates for criminal defendants and the incarcerated — to assess prospects for and resistance to system-wide reform. We will also consider comparative international models, situating the U.S. criminal justice system in a global context. Readings will include case law, social science literature, and comparative law texts. Grading will be based on participation, weekly assignments, and a 25-page legal analysis paper. This seminar provides an opportunity to satisfy the Advanced Writing Requirement.

Course Objectives/Learning Outcomes:

At the end of this course, students should:

- Have an understanding of the development of the U.S. Criminal Justice system and why the U.S. incarcerates a larger percentage of its population than any other country in the world.
- Identify both sides of the issues pertaining to incarceration and decarceration, diversion and rehabilitation programs;
- Understand why incarceration remains the most common criminal penalty in the United States, as a result of philosophical preferences and various stakeholder interests.
- Comprehend potential reform measures and discuss the advantages and disadvantages of both prison and criminal justice reform options.
- Understand the impact of conviction and incarceration upon re-entry into community and effects of post-conviction supervision, electronic monitoring, and restoration of certain rights.
- Have a working knowledge of policing strategies and proposals for police training and reform.

Required Reading Materials:

No textbook is required. Instead, you are required to read and prepare materials that will be posted on Canvas. Please be sure to register for the Canvas course and have the materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments. Please see Canvas for each session's assignments. Optional resources will be provided on Canvas should you want to explore more deeply than we can cover during class time.

Course Expectations:

Each class session will involve a mix of lecture, exercises, and discussion, all focusing on the week's assigned material. The requirements for the seminar are as follows:

- *Preparation, Attendance, and Engagement:* Each class session will require you to read and/or view materials. You are expected to read and view those materials before class, so that you are prepared to discuss them in the seminar. Readings will be posted on Canvas.
- *Weekly Work Product:* As this is a writing seminar, there will be weekly written assignments, increasingly focused on your paper as the semester progresses. A few weeks will require you to submit a 500-700 word critical analysis (around one page) related to the readings for the week or a specific assignment due on Monday by 5:00 p.m., so I have time to review them before class. The majority of the weekly work products will be paper-related submissions and will be due on Fridays at 12:00 p.m.. Please submit all your work as a PDF document, 12 point font, Times New Roman or Garamond, single-spaced on Canvas. Instructions will be provided on Canvas.
- *One-on-one meeting with Prof. Stein:* Choosing a viable and novel thesis is often the most difficult part of this process, so I encourage everyone to brainstorm from the beginning. Please see below under "Grades" for dates pertaining to development of your paper topic.
- *Paper Presentation.* At the end of the semester, you will be required to make a 15-minute presentation of the argument(s) you make in your final paper.
- *Final Paper.* A final paper of 25 pages, not including title page and table of contents, is required. The paper will be due on **Monday, April 24, 2023**. The seminar paper must be primarily of an analytical rather than descriptive nature. Factors relevant to the grading of papers (in no particular order) are Depth of Research; Organization and Clarity; Thoroughness; Originality; Accuracy and Professionalism; Compliance with Directions; Addressing Marsh's Comments from Draft, Citations, and Strict Compliance with Honor Code (including proscriptions against plagiarism and use of AI writing tools). Your paper will be run through anti-plagiarism software. This seminar is structured in such a way as to satisfy the College of Law's Advanced Writing Requirement. According to the Faculty Handbook:

All J.D. candidates must complete—under close faculty supervision—a major, written product that shows evidence of original scholarship based on individual research. Students often satisfy this requirement in a seminar course... The general standard for fulfillment of the advanced writing requirement is one or more papers that are cumulatively at least 25 pages of double-spaced, 12-point text or the equivalent.

ABA Out-of-Class Hours Requirement: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Each class is approximately 2 hours in length, requiring at least **4 hours of preparation** outside of class including reading the assigned materials, writing critical analyses, and developing your final paper.

Grading:

There is no final exam for this class. This course follows the Levin College of Law's grading policies found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

Grading will be based on five components:

- Topic proposal and discussion with Professor Marsh 10% [Due February 7th]
- Rough draft of paper or Substantive Outline 15% [Due February 24th]
- In-class paper presentation and discussion 20% [Classes 9 – 12]
- Final paper 35% [Due April 24th]
- Semester participation 20%

READING ASSIGNMENTS

**Class 1: The Role of Prisons: Who, How, and Why Do We Incarcerate?
January 23, 2023**

- Michel Foucault, Discipline & Punish 3-11 (1979)
- Stephen Sowle, A Regime of Social Death: Criminal Punishment in the Age of Prisons, 21 N.Y.U. Rev. L. & Soc. Change 497, 498-508, 527-28, 538-40, 558-59 (1995)
- Kathleen O'Toole, The Stanford Prison Experiment: Still Powerful After All These Years, Stanford News (Jan. 8, 1997)
- Sharon Dolovich, Incarceration American-Style, 3 Harv. L. & Pol'y Rev. 237, 237-259 (2009)

**Class 2: The Rise of Mass Incarceration and the "Decarceration Age"
January 30, 2023**

- Michelle Ye Hee Lee, Washington Post, *"Yes, U.S. locks people up at a higher rate than any other country,"* (July 7, 2015). [Available as a pdf document on Canvas]
https://www.washingtonpost.com/news/fact-checker/wp/2015/07/07/yes-u-s-locks-people-up-at-a-higher-rate-than-any-other-country/?nid=top_pb_signin&rcId=RNv4XJ6PKFDE7E7QWP4ZURASWM&account_location=ONSITE_HEADER_ARTICLE
- William Stuntz, The Pathological Politics of Criminal Law, 100 Mich. L. Rev. 505 (2001)
- Pew Center on the States, One in 100: Behind Bars in America 3-10 (2008)

- James Forman, Jr., Racial Critiques of Mass Incarceration: Beyond the New Jim Crow, 87 N.Y.U. L. Rev. 101, 102-115, 123-28, 139-41 (2012)
- Joan Petersilia & Francis Cullen, Liberal but Not Stupid: Meeting the Promise of Downsizing Prisons 2 Stan. J. Crim. L. & Pol'y 1, 1-13 (2015)
- *Brown v. Plata*, 131 S.Ct. 1910, 1922-27, 1932-35 (2011)
- Jonathan Simon, Editorial: Mass Incarceration on Trial, 13 Punishment & Society 251, 251-255 (2011)

Class 3: Prison Industry Stakeholders I
February 6, 2023

- Judge Mark W. Bennett, How Mandatory Minimums Forced Me to Send More Than 1,000 Nonviolent Drug Offenders to Federal Prison, Nation (Oct. 24, 2012)
- Richard A. Oppel, Jr., Sentencing Shift Gives New Leverage to Prosecutors, N.Y. Times (Sept. 25, 2011)
- Cindy Chang, Part 2: North Louisiana Family Is a Major Force in the State's Vast Prison Industry, Times Picayune (May 14, 2012)
- Avlana Eisenberg, Incarceration Incentives in the Decarceration Era, 69 Vand. L. Rev. 71, 93-119 (2016)

Class 4: Prison Industry Stakeholders II
February 13, 2023

- American Civil Liberties Union, Banking on Bondage: Private Prisons and Mass Incarceration 9-17, 27-33, 36, 38-41 (2011)
- Sharon Dolovich, How Privatization Thinks: The Case of Prisons, in Jody Freeman and Martha Minow, eds., Government by Contract: Outsourcing and American Democracy 128-147 (2009)
- Amy E. Lerman and Joshua Page, The State of the Job: An Embedded Work Role Perspective on Prison Officer Attitudes, Punishment & Society 503-529 (2012)
- Charles Lane, Baltimore Behind Bars: Public-Union Power Enabled Scandalous Corruption Among The City's Correctional Officers, City Journal (Spr. 2014)

Class 5: Realigning Industry Incentives with Reform Goals
February 20, 2023

- Tracey Meares, Rewards for Good Behavior: Influencing Prosecutorial Discretion and Conduct with Financial Incentives, 64 Ford. L. Rev. 851, 852-55 (1995)
- Nick Tabor, What if Prosecutors Wanted to Keep People Out of Prison? Prison Reform (Mar. 27, 2018)
- Avlana Eisenberg, Incarceration Incentives in the Decarceration Era, 69 Vand. L. Rev. 71, 119-139 (2016)
- Ram Subramanian and Alison Shames, Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States, Vera Institute of Justice 3-19 (2013)
- Jessica Benko, The Radical Humaneness of Norway's Halden Prison, N.Y. Times (Mar. 26, 2015)

Class 6: Contemporary Topics in Prison Reform: Bail Reform, Electronic Monitoring, and Voting Rights Restoration
February 27, 2023

- Simon Montlake, One Woman's Plan to Reform a Bail System that Disadvantages Poor Defendants, Christian Science Monitor (July 25, 2018)
- Note, Bail Reform and Risk Assessment: The Cautionary Tale of Federal Sentencing, 131 Harv. L. Rev. 1125 (2018)
- Avlana Eisenberg, Mass Monitoring, 90 S. Cal. L. Rev. 123, 146-154 (2017)
- Edna Erez & Peter Ibarra, Does Surveilling Alleged Domestic Abusers Violate Their Rights?, Wash. Post (Sept. 6, 2018)
- Emily Bazelon, Will Florida's Ex-Felons Finally Regain the Right to Vote?, The New York Times Magazine (2018)

Class 7: Policing and Police Reform
March 6, 2023

- Barry Friedman, Disaggregating the Police Function, U. Pa. L. Rev. 26-64 (2021)
- Seth Stoughton, Law Enforcement's Warrior Problem, 128 Harv. L. Rev. F. 225 (2015)
- Jordan Woods, Policing, Danger Narratives, and Routine Traffic Stops, 117 Mich. L. Rev. 635, 635-645 (2019)

- Song Richardson, Implicit Racial Bias and Racial Anxiety: Implications for Stop and Frisks, 15 Ohio St. J. Crim. L. (2017)

SPRING BREAK: NO CLASS ON MARCH 13

**Class 8: Recidivism, Re-entry, and Rehabilitation
March 20, 2023**

Jake Tapper, This is Not Justice: A Philadelphia teenager and the empty promise of the Sixth Amendment, *The Atlantic*, 29-41 [Available as a pdf document on Canvas.]

<https://www.theatlantic.com/magazine/archive/2022/11/campaign-to-free-incarcerated-philadelphia-teenager-sixth-amendment/671527/>

United States Sentencing Commission, Length of Incarceration and Recidivism (June 2022) [Available as a pdf document on Canvas.]

<https://www.ussc.gov/research/research-reports/length-incarceration-and-recidivism-2022>

United States Sentencing Commission, Recidivism Among Federal Offenders: A Comprehensive Overview (March 2016) [Available as a pdf document on Canvas.]

<https://www.ussc.gov/research/research-reports/recidivism-among-federal-offenders-comprehensive-overview>

Audrey Jennings Hudgins, Tallahassee Democrat, Opinion, “*My son doesn’t deserve a natural life sentence in prison*” (January 1, 2023), 8A – 9A. [Available as a pdf document on Canvas.]

<https://www.tallahassee.com/story/opinion/2023/01/01/my-son-doesnt-deserve-a-natural-life-sentence-in-prison-opinion/69762627007/>

**Class 9: Four student paper presentations
March 27, 2023**

**Class 10: Four student paper presentations
April 3, 2023**

**Class 11: Four student paper presentations
April 10, 2023**

**Class 12: Remaining student paper presentations
April 17, 2023**

**Class 13: Wrap-up and Conclusions/Final Papers Due
April 24, 2023**

ADDITIONAL INFORMATION AND POLICIES

CIVIL DISCOURSE AND INCLUSIVE EXCELLENCE IN THE CLASSROOM:

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may trigger strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personal and professional identities, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

I encourage you to contact me via email to ask any question you may have about the course or more generally about the practice of law. Use of email should model the practices that will help you succeed in a business setting.

OBSERVANCE OF RELIGIOUS HOLIDAYS:

UF Law respects students' [observance of religious holidays](#).

- 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.

STATEMENT RELATED TO ACCOMODATIONS 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. It is important for students to share their accommodation letter with their instructor 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, available at: <https://ufl.instructure.com/courses/427635>.

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed two absences during the Spring semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who

fails to meet the attendance requirement will be dropped from the course. The law school's policy on attendance can be found [here](#).

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. Click [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.blucera.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

RECORDINGS OF CLASS

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

EXAM DELAYS AND ACCOMMODATIONS:

The law school policy on exam delays and accommodations can be found [here](#).