

47:202:466:01
POLITICS OF CRIME AND JUSTICE
Spring 2021 Syllabus

Professor: Robert (Bob) Apel, Ph.D.
Office: Center for Law and Justice, Room 579H
Phone: 973-353-5216
E-mail: robert.apel@rutgers.edu

Class Location: Zoom
Class Time: Tuesday and Thursday, 11:30 am to 12:50 pm
Office Hours: By appointment

COURSE DESCRIPTION

Why is American society so punitive? It is not because the U.S. is so dangerous compared to other countries, or because crime is so much worse today than in the past—aside from gun violence, the U.S. is not even an international outlier, not to mention recorded crime is as low as it has ever been. It is not because the U.S. is a politically conservative country—both Democrats and Republicans are responsible for the “mass” features of today’s criminal legal system (e.g., mass incarceration, mass surveillance), implying there has been bipartisan support for punitive measures (and bipartisan resistance to retrenchment of the carceral state). It is not because harsh punishment is an efficient and effective crime control—punitive justice policies are enormously expensive, are weakly correlated with crime rates, are subject to diminishing marginal returns, and actually worsen crime in the long run.

If not these, then what explains why American society is so punitive? In this course, we will see that crime and justice are powerful rhetorical tools. Responses to crime at any given moment are a complex function of who society is afraid of, who is deemed worthy of protection, whose interests are represented among the powerful, and what underlying issues political elites see fit to frame as criminal in nature in order to divert attention away from causes rooted in social conditions. There is thus an element of social and political construction of crime and responses to crime, and these are subject to change over time. In this course, we will give politics and mass media privileged roles as we seek to better understand why American society is so punitive toward certain groups of people who commit certain kinds of crime (but lenient toward other groups of people who commit other types of crime), and what this reflects about political interests as well as collective anxieties over other social issues.

Course Objectives

- Describe the basic features of growth in punitivity in the American criminal legal system from the 1960s to today.
- Understand the origin of the law-and-order movement, outline some of the principal policies that emerged from the movement, and identify contemporary law-and-order rhetoric used in the public sphere.
- Acknowledge crime policy making as partly rooted in social anxieties that are exploited for political gain, and shed light on who (or what) is the perceived threat targeted by specific crime policy agendas.

- Explain some of the political barriers to rational reform of the criminal legal system, and provide some political solutions to limit the damage of law-and-order policy making.

Course Prerequisites

Basic knowledge of the criminal justice system and criminological theories is assumed but will not be required. This comprises the equivalent of the material covered in Introduction to Criminal Justice (47:202:103) and Criminology (47:202:102).

COURSE MATERIALS

Required Articles (Perusall)

Articles to be discussed each week will be posted at the beginning of the semester on Perusall (<https://perusall.com>), which is a collaborative annotation program for course reading material. Perusall is a tool to help students become active rather than passive learners, and is designed to transform reading from a solitary experience into a collective one. Students engage with course readings (and with each other) by commenting, requesting clarification of difficult-to-understand concepts, posting responses to classmates’ questions, “upvoting” insightful comments, linking outside material with the reading content (e.g., relevant books or journal articles, newsworthy events), etc. Because annotations are anonymous (to other students, but not to the instructor), students can ask questions or make comments about the material without feeling self-conscious.

As soon as possible at the start of the semester, students are expected to create a Perusall user account and enter course code APEL-NQT4M to register for this particular course. Although students may access the readings through the Rutgers University library, the annotations may only be done in Perusall.

COURSE GRADING

Course grading will be based on the following criteria, described in more detail below:

In-class discussion	15%
Perusall markup	55%
<u>Reflection essays</u>	<u>30%</u>
	100%

The grading scale that will be used for the final semester grades is as follows:

A	90% to 100%
B+	87% to 89%
B	80% to 86%
C+	77% to 79%
C	70% to 76%
D	60% to 69%
F	Below 60%

In-Class Discussion (15%)

Because this course is a seminar, attendance during the scheduled class period is mandatory, except during the three weeks devoted to documentaries. It is imperative that students be present and ready to participate in discussion about the prevailing topic, and students should anticipate being called on by the instructor to contribute. The discussion will focus on the reading as well as on discourse about crime and punishment that students have encountered in news media.

Attendance will be recorded via a greeting from each student typed in the Zoom chat window. Two absences during the semester will be allowed without any penalty (nor will an excuse be demanded by the instructor), beyond which 1 percentage point will be deducted for each unexcused absence. Late arrivals will also not be tolerated, and students who arrive more than 10 minutes late to class risk forfeiting 0.5-percentage point of their discussion grade for each occasion.

Perusall Markup (55%)

Prior to each class meeting, students will read one *Annual Review* article posted on Perusall, each of which is about 15-25 pages in length. Perusall grades are based on “quality scoring,” which is an assessment of the student’s level of engagement with the reading material. The scoring for each reading is as follows:

- 3 = Demonstrates exceptionally thoughtful and thorough reading of the entire assignment.
- 2 = Demonstrates thoughtful and thorough reading of the entire assignment.
- 1 = Demonstrates superficial reading of the entire assignment or thoughtful reading of only part of the assignment.
- 0 = Demonstrates superficial reading of only part of the assignment.

Grades are an average of the quality scores of the student’s seven best annotations per article, meaning students should aim to contribute well more than seven annotations, as they stand to boost their quality score. Although quality scoring is performed by an algorithm, the instructor may override the assigned grades and students may appeal their scores to the instructor. An example of how annotations are scored is available here: <https://perusall.com/downloads/scoring-examples.pdf>.

Perusall annotations are due by 11:00 am on the day of each class meeting, so the instructor has time to review comments and confusion reports ahead of the class meeting. Annotations after that time will not be allowed.

Documentary Reflection Essays (30%)

On three occasions during the semester, students will watch a documentary of 90-120 minutes in length, and submit a 1,000-word reflection essay. The instructor will air the documentaries via Zoom during both regularly scheduled course meetings for the week. Students will thus not be required to attend both course meetings, and may choose which one they prefer to attend. Students may also elect to watch the documentaries on their own time (be advised that doing so might require renting or purchasing the documentary), in which case attendance will not be expected.

The objective of these essays is to critically engage with the issues portrayed in the documentary, but otherwise, students have complete discretion over the essay content. For example, they may choose to provide a personal anecdote related to the subject of the documentary, describe the documentary’s relevance for contemporary portrayals of crime and the criminal legal system, apply concepts from readings and class discussion, or even challenge the claims of the documentary.

COURSE POLICIES

Class Announcements: As needed, e-mail will be utilized to post course announcements (e.g., class cancellation due to inclement weather) as well as to occasionally provide links to items that are relevant for the topics covered in this course (e.g., newspaper articles, journal articles).

Classroom Climate: Disruptive behavior in the classroom cheats other students of the opportunity to learn. Examples include arriving late to class, leaving and re-entering the classroom during the seminar, talking excessively, using cell phones, eating, reading outside material, and persisting in speaking without being recognized. The instructor reserves the right to ask disruptive students to leave the classroom.

Academic Integrity: The instructor will uphold Rutgers University policies concerning ethical behavior and academic integrity, and students are expected to familiarize themselves with these policies. The relevant principles, policies, and disciplinary procedures can be accessed from the university's website at <http://academicintegrity.rutgers.edu>.

ACCOMMODATION AND SUPPORT STATEMENT

Rutgers University Newark (RU-N) is committed to the creation of an inclusive and safe learning environment for all students and the university as a whole. RU-N has identified the following resources to further the mission of access and support:

For Individuals with Disabilities: The Office of Disability Services (ODS) is responsible for the determination of appropriate accommodations for students who encounter barriers due to disability. Once a student has completed the ODS process (registration, initial appointment, and submitted documentation) and reasonable accommodations are determined to be necessary and appropriate, a Letter of Accommodation (LOA) will be provided. The LOA must be given to each course instructor by the student and followed up with a discussion. This should be done as early in the semester as possible, as accommodations are not retroactive. More information can be found at <https://ods.rutgers.edu>. Contact ODS at (973)353-5375 or ods@newark.rutgers.edu.

For Individuals Who Are Pregnant: The Office of Title IX and ADA Compliance is available to assist with any concerns or potential accommodations related to pregnancy. Students may contact the Office of Title IX and ADA Compliance at (973)353-1906 or TitleIX@newark.rutgers.edu.

For Individuals Seeking Religious Accommodations: The Office of the Dean of Students is available to verify absences for religious observance, as needed. Students may contact the Dean of Students at (973)353-5063 or DeanofStudents@newark.rutgers.edu.

For Individuals with Temporary Conditions/Injuries: Students who have experienced a temporary condition or injury that is adversely affecting their ability to fully participate should submit a request via <https://temporaryconditions.rutgers.edu>.

Absences: Per University Policy 10.2.7, students are responsible for communicating with their instructors regarding absences. The Office of the Dean of Students is available to verify extended absences. Students may contact the Dean of Students at (973)353-5063 or DeanofStudents@newark.rutgers.edu.

For English as a Second Language (ESL): Students experiencing difficulty in courses due to English as a second language (ESL) should contact the Program in American Language Studies via email at PALS@newark.rutgers.edu, to discuss potential supports.

For Gender or Sex-Based Discrimination or Harassment: Students who have experienced any form of gender or sex-based discrimination or harassment, including sexual assault, sexual harassment, relationship violence, or stalking, should know that help and support are available. Students who wish to report an incident may contact the Office of Title IX and ADA Compliance at (973)353-1906 or TitleIX@newark.rutgers.edu. Students may also submit an incident report using the following link: tinyurl.com/RUNReportingForm. Those wishing to speak with a staff member who is confidential and does not have a reporting responsibility may contact the Office for Violence Prevention and Victim Assistance at (973)353-1918 or run.vpva@rutgers.edu.

COURSE SCHEDULE

All readings are posted as p.d.f.'s on Perusall, and are expected to be annotated by 10:00 am on the day of the class they will be discussed. The articles are selected from the *Annual Reviews*, and are carefully curated to facilitate discussion of a wide range of political issues related to crime and criminal justice. *Annual Reviews* are written by subject matter experts and provide a critical synthesis of the evidence and roadmap for future research.

Week	Topic	Reading/Activity
1	Prison Boom	Tue, Jan 19: No Reading Thu, Jan 21: Clear (2021), "Decarceration Problems and Prospects," <i>Annual Review of Criminology</i> .

Politics of Law and Order

How and why did we get here? These articles explore the origin and contours of law-and-order politics, which represented a paradigm shift concerning crime and justice. While there were many components of this shift, it coalesced in the 1960s as a reactionary countermovement to voting and civil rights activism, growth of the social safety net with Lyndon Johnson's war on poverty, expansion of due process protections by the Warren Court, and political unrest which closed out the decade. It became convenient to link these in the public's mind with growth in the official crime rate that began at the same time (itself more apparent than real, as victim surveys documented a more or less steady decline in crime). The law-and-order movement was conceived in the 1960s in Barry Goldwater's presidential campaign, commenced in the 1970s with Richard Nixon's declaration of a war on drugs (he considered drug abuse "public enemy number one"), accelerated in the 1980s with Ronald Reagan's expansion of drug enforcement, and reached its peak in the 1990s with Bill Clinton's crime bill. Thus, while it was linked early on with conservatism, we will see that law-and-order rhetoric (and policy making) ultimately became a bipartisan affair.

2	Getting Tough	Tue, Jan 26: Gottschalk (2008), "Hiding in Plain Sight: American Politics and the Carceral State," <i>Annual Review of Political Science</i> . Thu, Jan 28: Beckett (2018), "The Politics, Promise, and Peril of Criminal Justice Reform in the Context of Mass Incarceration," <i>Annual Review of Criminology</i> .
3	Waging War	Tue, Feb 2: Provine (2011), "Race and Inequality in the War on Drugs," <i>Annual Review of Law and Social Science</i> .

		Thu, Feb 4: Gottschalk (2013), "Sentenced to Life: Penal Reform and the Most Severe Sanctions," <i>Annual Review of Law and Social Science</i> .
4	Restoring Order	Tue, Feb 9: Body-Gendrot (2011), "Public Disorders: Theory and Practice," <i>Annual Review of Law and Social Science</i> . Thu, Feb 11: Meares (2014), "The Law and Social Science of Stop and Frisk," <i>Annual Review of Law and Social Science</i> .
5	Widening Nets	Tue, Feb 16: Natapoff (2015), "Misdemeanors," <i>Annual Review of Law and Social Science</i> . Thu, Feb 18: Phelps (2020), "Mass Probation from Micro to Macro: Tracing the Expansion and Consequences of Community Supervision," <i>Annual Review of Criminology</i> .
6	Documentary #1	Tue, Feb 23: <i>The House I Live In</i> (2012) Thu, Feb 25: <i>The House I Live In</i> (2012)

Old and New Political Enemies

What, and who, do we seek to punish, and why? These articles consider the ways that lay notions of criminality are deeply intertwined with other social and political issues, and can be shaped and harnessed by political elites in service of other agendas. This was powerfully accomplished in the post-bellum South, as perpetuation of a "rape myth" justified lynching in response to a mere accusation of an attack of a white woman by a black man, despite lack of evidence of wrongdoing. We will see that "folk devils" are an embodiment of social anxieties. While the "criminalblackman" (a term coined by Katheryn Russell-Brown in her 1998 book, *The Color of Crime*) is the most enduring folk devil in the America psyche (and in American criminal law, as codified in the 100:1 federal mandatory minimum penalty for rock versus powder cocaine), new contenders for folk devil status emerge as society undergoes demographic and economic change. More recently, it has been politically useful to link criminality with Hispanic immigration.

7	Folk Devils	Tue, Mar 2: Schneider and Schneider (2008), "The Anthropology of Crime and Criminalization," <i>Annual Review of Anthropology</i> . Thu, Mar 4: Stuart et al. (2015), "Legal Control of Marginal Groups," <i>Annual Review of Law and Social Science</i> . Fri, Mar 5: DOCUMENTARY REFLECTION ESSAY #1 DUE
8	Racial Resentments	Tue, Mar 9: Hinton and Cook (2021), "The Mass Criminalization of Black Americans: A Historical Overview," <i>Annual Review of Criminology</i> . Thu, Mar 11: Murakawa (2019), "Racial Innocence: Law, Social Science, and the Unknowing of Racism in the US Carceral State," <i>Annual Review of Law and Social Science</i> .
9	SPRING RECESS	Tue, Mar 16: No Class Thu, Mar 18: No Class
10	Emergent Threats	Tue, Mar 23: Rosen and Venkatesh (2007), "Legal Innovation and the Control of Gang Behavior," <i>Annual Review of Law and Social Science</i> . Thu, Mar 25: Ryo (2019), "Understanding Immigration Detention: Causes, Conditions, and Consequences," <i>Annual Review of Law and Social Science</i> .

- 11 Documentaries #2 Tue, Mar 30: *The Central Park Five* (2012)
 Thu, Apr 1: *The Central Park Five* (2012)

Entrenched Political Interests

Who maintains, and who benefits from, the status quo? These diverse articles survey some of the potential barriers to reform of the criminal legal system. We will see that punitive justice is self-perpetuating for reasons that have little to do with public safety, and that calls for reform (e.g., lighter sentences for drug offenses, and even drug decriminalization, if not legalization) exist uncomfortably aside punitive entrenchment (e.g., harsher sentences for sex offenses). Public discourse about crime and justice is frequently moralistic and highly racialized, but while the rhetoric of punitive justice emphasizes the extraordinary (e.g., drug kingpins), the practice of punitive justice concerns the ordinary (e.g., street-corner sellers). Efforts to “follow the money” also betray the economic and political interests which underlie the punitive status quo.

- 12 Moral Entrepreneurs Tue, Apr 6: Roberts and Chen (2013), “Drugs, Violence, and the State,” *Annual Review of Sociology*.
 Thu, Apr 8: McCarthy (2014), “Human Trafficking and the New Slavery,” *Annual Review of Law and Social Science*.
 Fri, Apr 9: DOCUMENTARY REFLECTION ESSAY #2 DUE

- 13 Popular Sentiments Tue, Apr 13: Hutchings and Jardina (2009), “Experiments on Racial Priming in Political Campaigns,” *Annual Review of Political Science*.
 Thu, Apr 15: Sullivan and Hendriks (2009), “Public Support for Civil Liberties Pre- and Post-9/11,” *Annual Review of Law and Social Science*.

- 14 Fiscal Budgets Tue, Apr 20: Martin et al. (2018), “Monetary Sanctions: Legal Financial Obligations in US Systems of Justice,” *Annual Review of Criminology*.
 Thu, Apr 22: Graham and Makowsky (2021), “Local Government Dependence on Criminal Justice Revenue and Emerging Constraints,” *Annual Review of Criminology*.

- 15 Documentaries #3 Tue, Apr 27: *The Prison in Twelve Landscapes* (2016)
 Thu, Apr 29: *The Prison in Twelve Landscapes* (2016)

FINAL EXAMS Date to be determined: DOCUMENTARY REFLECTION ESSAY #3 DUE
