

**CJ 7331 Law and Behavioral Science**  
**TH 5:10-8:00**  
**Hill House Conference Room**  
**Fall 2018**

**Instructor:** Dr. Mark Stafford  
**Office:** Hill House 107  
**Office hours:** TH 4:00-5:00  
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**Course Description:** This course explores the relevance of behavioral science theory and research for law and criminal justice. Readings and lectures focus on diverse issues, such as the deterrent effects of legal punishment, sentencing, juries, and how the criminal justice system manages violent offenders.

**Course Objectives:** Students who complete this course will be able to identify, assess, and apply the:

1. types of research agendas that fall under the banner of “Law and Behavioral Science”;
2. behavioral science theory and research for many current policy debates about law and criminal justice; and
3. contributions and limitations of behavioral science for law and criminal justice policies.

**Required Readings**

Lawrence Friedman’s *Impact: How Law Affects Behavior*, Harvard University Press, 2016.

Other required readings are available on TRACS.

**Course Requirements**

Other than attending class and reading the assigned materials, the course requirements are identified below:

**Course papers** (30% of course grade):

You will be required to write two papers. Each paper should be about 15 typed, double-spaced pages and will count for 15% of the course grade. Each paper should deal with an instructor-approved topic about law and behavioral science. Illustrative topics are attached. The first paper will be due no later than the beginning of class on October 4th, and the second paper will be due no later than the beginning of class on November 29th. Late papers will be penalized one letter grade.

**Discussion** (30% of course grade):

Every student will lead one class discussion over the assigned readings. The order will be determined the first class day. The discussion leader will bring a set of pre-prepared questions to class to share with other students and to orient discussion. The questions

should not focus narrowly on details in the assigned readings, but instead should be broad-based and provocative.

**Exam** (30% of course grade):

There will be a take-home, comprehensive examination that will consist of essay questions requiring a thorough understanding of the readings and lecture materials. It will count for 30% of the course grade. The examination will be distributed in class on November 29th, and it will be due by 5:00 p.m. on December 6th.

**Participation** (10% of course grade)

**Policies**

***Students with a Disability***

If you are a student with a disability who will require an accommodation(s) to participate in this course, please contact me as soon as possible. You will be asked to provide documentation from the Office of Disability Services. Failure to contact me in a timely manner may delay your accommodations. More information can be found here:

<http://www.ods.txstate.edu>.

***Texas State University-San Marcos Honor Code***

As members of a community dedicated to learning, inquiry, and creation, the students, faculty, and administration of our University live by the principles in this Honor Code. These principles require all members of this community to be conscientious, respectful, and honest.

**WE ARE CONSCIENTIOUS.** We complete our work on time and make every effort to do it right. We come to class and meetings prepared and are willing to demonstrate it. We hold ourselves to doing what is required, embrace rigor, and shun mediocrity, special requests, and excuses.

**WE ARE RESPECTFUL.** We act civilly toward one another and we cooperate with each other. We will strive to create an environment in which people respect and listen to one another, speaking when appropriate, and permitting other people to participate and express their views.

**WE ARE HONEST.** We do our own work and are honest with one another in all matters. We understand how various acts of dishonesty, like plagiarizing, falsifying data, and giving or receiving assistance to which one is not entitled, conflict as much with academic achievement as with the values of honesty and integrity.

**ADDRESSING ACTS OF DISHONESTY**

Students accused of dishonest conduct may have their cases heard by the faculty member. The student may also appeal the faculty member's decision to the Honor Code Council. Students and faculty will have the option of having an advocate present to insure their rights. Possible actions that may be taken range from exoneration to expulsion.

The policies and procedures regarding Honor Code violations are presented at <http://www.txstate.edu/effective/upps/upps-07-10-01.html>.

## Schedule and Required Readings

August 30

### ***Introduction***

- (1) Lawrence Friedman's *Impact*, Chapters 1-2.
- (2) William Stuntz's "The Rise and Fall of Crime, the Fall and Rise of Criminal Punishment," in *The Collapse of American Criminal Justice*, 2011.
- (3) David Garland's "The Limits of the Sovereign State," *The British Journal of Criminology*, 1996.

September 6

### ***What is Law and Behavioral Science?***

- (1) Jack Gibbs' "Definitions of Law and Empirical Questions," *Law and Society Review*, 1968.
- (2) Richard Abel's "Law and Society," *Annual Review of Law and Social Science*, 2010.
- (3) Lawrence Friedman's "Coming of Age: Law and Society Enters an Exclusive Club," *Annual Review of Law and Social Science*, 2005.
- (4) William Chambliss' "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 1964.
- (5) John Monahan and Laurens Walker's "Twenty-Five Years of *Social Science in Law*," *Law and Human Behavior*, 2011.

September 13

### ***Legitimacy, Law, and the Shadow of Law***

- (1) Lawrence Friedman's *Impact*, Chapters 3-4, 7-9.
- (2) Jonathan Jackson et al.'s "Why Do People Comply with the Law?" *British Journal of Criminology*, 2012.
- (3) Tom Tyler and Jonathan Jackson's "Popular Legitimacy and the Exercise of Legal Authority," *Psychology, Public Policy, and Law*, 2014.
- (4) Robert Ellickson's "Of Coase and Cattle," *Stanford Law Review*, 1986.
- (5) Robert Mnookin and Lewis Kornhauser's "Bargaining in the Shadow of the Law," *The Yale Law Journal*, 1979.
- (6) Stephanos Bibas' "Plea Bargaining outside the Shadow of Trial," *Harvard Law Review*, 2004.

September 20

### ***Deterrence – Sean Roche for Part of Class***

- (1) Lawrence Friedman's *Impact*, Chapters 5-6.
- (2) Thomas Baker and Alex Piquero's "Assessing the Perceived Benefits-Criminal Offending Relationship," *Journal of Criminal Justice*, 2010.
- (3) Daniel Nagin and Greg Pogarsky's "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence," *Criminology*, 2001.
- (4) Greg Pogarsky et al.'s "Heuristics and Biases, Rational Choice, and Sanction Perceptions," *Criminology*, 2017.

- (5) Greg Pogarsky et al.'s "Offender Decision-Making in Criminology," *Annual Review of Criminology*, 2018.
- (6) Robert Svensson's "An Examination of the Interaction Between Morality and Deterrence in Offending," *Crime and Delinquency*, 2013.

September 27

***Deterrence Applications***

- (1) Mark Stafford's "Deterrence and Imprisonment," in Hayden Griffin and Vanessa Woodward's (eds.) *Routledge Handbook of Corrections in the United States*, 2018.
- (2) Kenneth Land et al.'s "The Short-Term Effects of Executions on Homicides," *Criminology*, 2009.
- (3) Christopher Seeds' "Disaggregating LWOP: Life Without Parole, Capital Punishment, and Mass Incarceration in Florida, 1972-1995," *Law and Society Review*, 2018.
- (4) Aaron Chalfin et al.'s "What Do Panel Studies Tell Us About a Deterrent Effect of Capital Punishment? A Critique of the Literature," *Journal of Quantitative Criminology*, 2013.

October 4

***First Paper Due***

October 4

***Sentencing***

- (1) Ben Feldmeyer and Jeffery Ulmer's "Racial/Ethnic Threat and Federal Sentencing," *Journal of Research in Crime and Delinquency*, 2011.
- (2) Amy Stauffer et al.'s "The Interaction Between Victim Race and Gender on Sentencing Outcomes in Capital Murder Trials," *Homicide Studies*, 2006.
- (3) Michael Tonry's "The Mostly Unintended Effects of Mandatory Penalties," *Crime and Justice*, 2009.
- (4) Jeffery Ulmer et al.'s "Prosecutorial Discretion and the Imposition of Mandatory Minimum Sentences," *Journal of Research in Crime and Delinquency*, 2007.
- (5) Jeffrey Nowacki's "Federal Sentencing Guidelines and *United States v. Booker*," *Criminal Justice Policy Review*, 2018.
- (6) Alen Beck and Alfred Blumstein's "Racial Disproportionality in U.S. State Prisons," *Journal of Quantitative Criminology*, 2017.

October 11

***Prisoner Reentry***

- (1) Daniel Mears et al.'s "Prison Visitation and Recidivism," *Justice Quarterly*, 2011.
- (2) Charis Kubrin and Eric Stewart's "Predicting Who Reoffends," *Criminology*, 2006.
- (3) Pamela Lattimore and Danielle Steffey's "Prisoner Reentry in the First Decade of the Twenty-First Century," *Victims and Offenders*, 2010.

(4) Daniel Nagin et al.'s "Imprisonment and Reoffending," *Crime and Justice*, 2009.

October 18

***Sex Crimes/Sex Offenders – Donna Vandiver for Part of Class***

- (1) Daniel Mears et al.'s "Sex Crimes, Children, and Pornography," *Crime and Delinquency*, 2008.
- (2) Christina Mancini et al.'s "It Varies from State to State," *Criminal Justice Policy Review*, 2011.
- (3) Christina Mancini et al.'s "Sex Offender Residence Restriction Laws," *Journal of Criminal Justice*, 2010.
- (4) Timothy Fortney et al.'s "Myths and Factors about Sexual Offenders," *Sexual Offender Treatment*, 2007.
- (5) Amy Anderson and Lisa Sample's "Public Awareness and Action Resulting from Sex Offender Community Notification Laws," *Criminal Justice Policy Review*, 2008.

October 25

***Risk/Dangerousness and the Law***

- (1) Richard Berk et al.'s "Forecasting Murder within a Population of Probationers and Parolees," *Journal of the Royal Statistical Association*, 2009.
- (2) Robert Prentky et al.'s "Sexually Violent Predators in the Courtroom," *Psychology, Public Policy, and Law*, 2006.
- (3) Lisa Sample and Timothy Bray's "Are Sex Offenders Dangerous?" *Criminology and Public Policy*, 2003.
- (4) Jennifer Skeem and John Monahan's "Current Directions in Violence Risk Assessment," *Current Directions in Psychological Science*, 2011.
- (5) Min Yang et al.'s "The Efficacy of Violence Prediction," *Psychological Bulletin*, 2010.
- (6) Marnie Rice and Grant Harris's "Violent Recidivism," *Journal of Consulting and Clinical Psychology*, 1995.

November 1

***Juries – Angela Jones for Part of Class***

- (1) Dennis Devine et al.'s "Jury Decision Making," *Psychology Public Policy, and Law*, 2001.
- (2) Shari Diamond and Mary Rose's "Real Juries," *Annual Review of Law and Social Science*, 2005.
- (3) Angela Jones et al.'s "Comparing the Effectiveness of Henderson Instructions and Expert Testimony," *Journal of Experimental Criminology*, 2017.
- (4) Nancy Pennington and Reid Hastie's "Explaining the Evidence," *Journal of Personality and Social Psychology*, 1992.
- (5) Dennis Devine and David Caughlin's "Do They Matter?" *Psychology, Public Policy, and Law*, 2014.

- November 8                    ***Eyewitness Identification and Confessions***  
 (1) Melissa Boyce et al.'s "Investigating Investigators," *Law and Human Behavior*, 2008.  
 (2) Saul Kassin's "The Psychology of Confessions," *Annual Review of Law and Social Science*, 2008.  
 (3) Amy-May Leach et al.'s "Lineups and Eyewitness Identification," *Annual Review of Law and Social Science*, 2009.  
 (4) R.C.L. Lindsay et al.'s "How Variations in Distance Affect Eyewitness Reports and Identification Accuracy," *Law and Human Behavior*, 2008.  
 (5) Evelyn Maeder and Logan Ewanation's "What Makes Race Salient?" *Criminal Justice and Behavior*, 2018.
- November 15                    ***Meetings of the American Society of Criminology***
- November 22                    ***Thanksgiving***
- November 29                    ***Second Paper Due***
- November 29                    ***Take-Home Exam Distributed***
- November 29                    ***Guns and the Law***  
 (1) Anthony Braga et al.'s "The Illegal Supply of Firearms," *Crime and Justice*, 2002.  
 (2) Christopher Koper and Evan Mayo-Wilson's "Police Crackdowns on Illegal Gun Carrying," *Journal of Experimental Criminology*, 2006.  
 (3) Matthew Makarios and Travis Pratt's "The Effectiveness of Policies and Programs to Reduce Firearm Violence," *Crime and Delinquency*, 2012.  
 (4) Philip Cook and John Donahue's "Saving Lives by Regulating Guns," *Science*, 2017.  
 (5) Andrew Leigh and Christine Neill's "Do Gun Buybacks Save Lives?" *American Law and Economics Review*, 2010.  
 (6) April Zeoli et al.'s "Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and their Associations with Intimate Partner Homicide," *American Journal of Epidemiology*, 2018.
- December 6                    ***Conclusions***  
 (1) Jeffrey Martin's "A Reasonable Balance of Law and Sentiment," *Law and Society Review*, 2007.  
 (2) Robert Scott's "The Limits of Behavioral Theories of Law and Social Norms," *Virginia Law Review*, 2003.
- December 6                    ***Take-Home Exam Due by 5:00 p.m.***

### **Illustrative Paper Topics**

To what extent have drug-control policies worked in the U.S.?

To what extent do police officers use racial profiling?

Should the juvenile justice system be abolished?

Is there much systematic evidence for the widely-held belief that juveniles can be more easily rehabilitated than adults?

How effective is intensive probation in reducing recidivism?

To what extent do sobriety checkpoints prevent driving under the influence?

Should there be mandatory prosecution for domestic violence?

Which law enforcement techniques are most likely to elicit false confessions?

What are the unintended consequences of mandatory punishments?

Should there be fewer long-term restrictions on ex-felons?

What impacts the functioning of juries?

How accurately can we predict the dangerousness of offenders?

What are some of the most important collateral consequences of imprisonment?

Do tough sentences reduce crime?

Should polygraph evidence be admissible in court?

Does registration of sex offenders make children safer?

Do prisoner reentry programs reduce recidivism?

Is there any systematic evidence that specialty courts, such as drug, DWI, mental health, and veteran courts, increase public safety?

Are poor defendants in the U.S. given adequate legal counsel and a fair trial?

### **Expectations and Guidelines for CJ 7331 Papers**

The purpose of each paper is to examine, in depth, a key issue/question about criminal law or criminal justice and how behavioral science theory and research inform that issue/question. Most such issues/questions are very complex. There is often conflicting evidence. There are often disagreements (sometimes very heated) among persons on different sides of an issue/question. There are often as many unanswered as answered questions. You should summarize what the issue is all about. Many key issues/questions have multiple parts. Then, summarize the existing evidence about it.

I expect you to write each paper using reputable sources, which is usually taken to mean scholarly journals/books and government publications. I am not interested in your personal experiences or anecdotal evidence. There is a plethora of reputable sources in the Texas State University library (most of which are available electronically). Please cite your sources in the body of each paper and document them fully in a reference list. Please use APA (American Psychological Association) format.