

Spring 2023 SYLLABUS – CRIMINAL SENTENCING LAW AND POLICY

PROFESSOR:

Scott A. Martin (Adjunct)

CLASS TIME:

Monday, 5:30-7:30pm

COURSE DELIVERY:

This is a face-to-face class. Students are expected to attend class in-person and comply with Law Center attendance policies.

REQUIRED BOOK:

Demleitner, Berman, Miller & Wright, *Sentencing Law and Policy: Cases, Statutes, and Guidelines*, Fifth Edition (2022)

CONTENT:

The purpose of this course is to examine the law and policy of criminal sentencing. The course will explore why society punishes; who holds the power to set sentences (the social institutions); what elements factor into sentencing decisions (offense and offender characteristics); and how sentencing and punishment decisions are made (procedure and proof). The course will also explore the typical outcomes of the sentence decision, including the most expensive and visible outcome: imprisonment. Finally, the course will consider sentencing-review doctrines, including new laws and advocacy surrounding “second look” sentencing mechanisms, and the role of executive clemency.

The course will appeal to students who are interested in the substantive, procedural, and policy aspects of criminal justice.

LEARNING OBJECTIVES/OUTCOMES/GOALS:

From taking this course, students will be able to (1) demonstrate a detailed understanding of the law and policy of criminal sentencing, and (2) engage in legal analysis and reasoning, problem-solving, and written and oral communication relating to the law and policy of criminal sentencing.

GRADE:

- **Final Exam**

The exam will be a closed book, timed assessment given at the end of the semester. The exam will consist of short answer/essay/multiple-choice-style questions.

- **Class Participation**

You are expected to do the reading and be prepared to discuss the materials. If you are on time, prepared, and participate in class, you will receive full credit for your participation. If your class participation is poor, your final grade will be dropped by 1/3 of a letter grade. You may pass twice without any negative effect to your final grade.

READINGS:

The reading assignments are drawn from the casebook (outlined below) and will be made at the end of each class. **First-day assignment: pp. 1-20, 29-42.* The course topics are as follows:

Ch. 1-The Purposes of Punishment and Sentencing

Social Purposes of Sentencing (pp. 1-20, 29-42)

Purposes in Practical Context (pp. 42-79)

Ch. 2-Who Sentences?

Sentencing in the Courtroom (pp. 81-97)

Legislatures and Commissions (pp. 97-112)

Prosecutors (pp. 113-23)

Appellate Court Guidance (pp. 123-30)

Ch. 3-Regulating Discretion

Origins of Sentencing Guideline Structures (pp. 131-40)

Development and Structure of State Guideline Systems (pp. 140-56)

Structure of the Federal Sentencing Guidelines (pp. 156-72)

Departures & Discretion Under the Federal Guidelines (pp. 172-78)

Advisory Guidelines: The Aftermath of Booker (pp. 178-206)

Departures and Variances in Federal Practice (pp. 206-13)

Ch. 4-Sentencing Inputs: The Crime and Its Effects

Which Crime? (pp. 215-42)

Assessing Offense Seriousness (pp. 242-79)

The Role of Victims and the Community (pp. 279-87)

Ch. 5-Sentencing Inputs: The Defendant's Record and Background

Prior Criminal Record (pp. 289-317)

The Cooperative Defendant (pp. 317-30)

The Defendant's Character and Circumstances (pp. 331-70)

The Persistent Effects of the Defendant's Race (pp. 370-79)

Ch. 6- Procedure and Proof at Sentencing

Formal Trial, Informal Sentencing (pp. 381-400)

The Resurgent Jury Trial Right (pp. 400-18)

Rebuilding Guideline Procedures (pp. 418-29)

Ch. 7-Sentencing Outcomes: The Scale of Imprisonment

Incarceration Trends (pp. 431-41)

Competing Explanations for Growth? (pp. 441-58)

Limiting Imprisonment Under the Eighth Amendment (pp. 470-76)

Reconsidering Mass Incarceration (pp. 490-99)

Ch. 8-Sentences Reconsidered

Judicial Reconsideration of Sentences (pp. 501-29)

Executive Reconsideration of Sentences (pp. 529-69)

CONTACT INFORMATION:

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COUNSELING AND PSYCHOLOGICAL SERVICES (CAPS): CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. See: http://www.uh.edu/caps/outreach/lets_talk.html.

The Texas Lawyers' Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

RECORDING OF CLASS

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart,

Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use the instructor's recordings for their own studying and notetaking. The instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in disciplinary action.

PREFERRED NAME/PRONOUN:

I want to address each of you in a manner that corresponds to your identity. I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. Feel free to reach out to me if this should change any time during the semester or if you have concerns about how I or your classmates address you. I will try my best to honor your preferences.