

University of Wisconsin-Madison
Philosophy 304: Philosophy and Criminal Punishment (3 credits)
Fall 2018

As of 2018, there are 2.3 million people incarcerated in the United States. Incarceration is a prominent form of criminal punishment: harmful government action aimed at those who have violated the law. Are these acts of punishment *morally justified*? Is criminal punishment *in any form* morally justified? If criminal punishment is sometimes morally justified, *what conditions* (e.g., a lack of racial bias, proportionality between the crime and the punishment, an aim at rehabilitation) must the punishment meet?

In this class, we will use philosophical tools to examine the ethical justifications that have been given in defense of criminal punishment, and then deploy that framework to evaluate how punishment is actually practiced in the United States. Topics include: Is it a *morally good thing* for those who have committed morally terrible crimes to suffer for what they have done? Is it morally permissible to “punish” innocent people if this will prevent future crime? Is punishment in the United States *proportional* to the crimes committed? Do those who have committed crimes lose certain rights that other people retain? How do middle-class and wealthy people have an advantage over poor people in the criminal justice system? How might racial bias be detected and eliminated from the practice of punishment?

The goal of the course is to help students develop an informed position regarding the moral tenability of criminal punishment in the United States and regarding the merit of proposed reform measures.

Class Meetings:

Monday/Wednesday/Friday, 11:00 to 11:50am, 2261 Humanities

This class meets for three 50-minute class periods each week over the fall semester and carries the expectation that students will work on course learning activities (reading, writing, reviewing, etc.) for about 2 hours out of classroom for every class period. See below for additional information about meeting times and expectations for student work. The instructional mode is primarily face-to-face; students are also required to take online quizzes and post to an online discussion board.

Instructor:

Josh Mund (josh.mund@wisc.edu)

Office Hours: Wednesdays, 1:00 to 3:00pm, 5142 Helen C. White Hall

(You're very welcome to meet with me at a different time; email me to make an appointment).

Primary Course Learning Objectives:

This course will enable you to

1. Think critically about arguments
2. Interpret complex texts accurately and analyze them logically

Secondary Course Learning Objectives:

This course will enable you to

3. Explain (to someone who has no background in criminal justice or philosophy) the different theories of how to justify criminal punishment (and explain the theory that says it *can't* be justified), and explain the arguments for and against these theories
4. Decide which theory you believe is true and defend that position
5. Describe prison conditions and the effect of incarceration on released prisoners in the U.S.

6. Describe evidence regarding the effect of wealth and race on criminal punishment
7. Take a position on whether criminal punishment in the U.S. can be morally justified and defend that position
8. Describe and explain key concepts in ethical theory (to someone who has no background in criminal justice or philosophy)
9. Define key concepts in the logic and argumentation

Grading:

- 10%: Online, open-book reading quizzes, to be done before the class period during which the reading is covered
- 8%: Attendance and Participation: Your grade will be based either on submitted activities at the end of class, or simply on attendance
- 10%: Online Discussion Board Responses: approximately once per week, you will (i) respond to the prompt, (ii) ask a question about the reading or topic, and (iii) EITHER comment on another student's response, OR give an answer to someone else's question
- 20%: In class quizzes at the end of each unit (4-5 throughout semester)
- 20%: 3-4 short response papers (~3 pages double spaced)
- 12%: Conduct 3 "interviews" with someone outside of class, explain course concepts to that person, and report what they do or do not agree with (10%)
- 5%: Find an article, video, podcast, event, etc., that is relevant to the course topics and a write short reflection on the content (twice during semester)
- 15%: Final exam (December 18, 2018; 2:45-4:45pm)
- Extra credit: Visit Dane County Court and describe what you saw

Grading Scale

93-100%: A

88-92%: AB

83-87%: B

78-82%: BC

70-77%: C

60-69%: D

< 60%: F

Course Expectations:

- I hope everyone will be actively engaged during class and ask lots of questions. Throughout the semester, if you have suggestions about what would make it easier for you to participate or be engaged, please be in touch with me.
- Please bring the readings to class each day.
- Please do not use phones during class. Keep them put away and on silent. You may use laptops but only in the back 2 rows of the class. (I ask you to do this to help people who might be distracted if your computer is in their line of sight).
- Besides our in class meetings, email is the main way to communicate about the course. Please check your email somewhat regularly for announcements. Feel free to email me about any issues

regarding the class; if you haven't gotten a response in 48 hours, send a follow up email or talk to me in class.

- At points in this class, we'll discuss some very controversial topics: while there are many open questions about the criminal justice system, it certainly involves a great deal of harm to various people. And that fact means that discussing this material can bring up strong emotions. This reaction is totally appropriate. But, I expect all of us to do the following two things during discussion: (1) Be polite: Pay attention when other people are talking, don't interrupt, and don't yell. (2) Respond to the *idea*, not to the particular person who expresses the idea. For example, say something like "I think doing X in such-and-such circumstances is wrong, and I believe that for the following reason." Don't say to your classmates "If *you* would do X in such-and-such circumstances, then *you're* a terrible person (for the following reason)."
- Academic dishonesty, including cheating and plagiarism, is treated very seriously. Any work you submit must be your own and must comply with the university guidelines on academic honesty: <https://students.wisc.edu/student-conduct/academic-integrity/>. Whenever you have a question about complying with the academic honesty requirements, feel free to talk to me. If you're in a situation where it's the night before an assignment is due and you can't finish, please do not think about plagiarizing. Instead, take a deep breath, go to sleep, send me an email or come talk to me, and take a modest late-penalty rather than running a very large risk.

Readings:

There are two course packets for the class, available at the University Bookstore. The first packet (with the readings for the first half of the course) is available now. The second will be available in October. Additional readings may be added; they will be available on the Canvas site.

Special Arrangements and Department Contact:

- If I can help accommodate a disability or any other issue that might get in the way of learning, please be in touch with me as soon as possible. See also the following McBurney Statement:

McBurney Disability Resource Center syllabus statement: "The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform faculty [me] of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. Faculty [I], will work either directly with the student [you] or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA." <http://mcburney.wisc.edu/facstaffother/faculty/syllabus.php>

- If you have a problem or issue regarding the course that you would like to discuss with someone not directly connected to the course, feel free to contact Jesse Steinberg, Assistant to the Chairperson, 5185 Helen C. White Hall, jesse.steinberg@wisc.edu.

Schedule

Date	Topic	Readings / Assignment Due
	Unit 1: Introduction, Logic, Ethics	
W 9/5	Introduction	Summary of Crime stats NYT article on Chicago Shootings NYT article on Prison conditions Readings for first quiz: “Imprisonment, Sociological Aspects” Paxson & Watson, <i>Why American Prisons Fail</i> , chapter 1 “The Whole Pie” “Correctional Control” “Wisconsin Incarceration Pie Chart” Reiter, Selection from <i>Mass Incarceration</i>
F 9/7	Logic and Arguments	
M 9/10	Logic and Arguments	
W 9/12	Ethical Theory: Consequentialism/ Utilitarianism	Shaw, “Consequentialism”
F 9/14	Ethical Theory: Consequentialism/Utilitarianism	
M 9/17	Ethical Theory: Deontology	
	Unit 2: Justifications of Criminal Punishment	
W 9/19	Utilitarianism as a theory of punishment	Primoratz, “Arguments Against the Utilitarian Theory” part 1 Ten, Selection from “The Utilitarian Theory” Primoratz, “Arguments Against the Utilitarian Theory” part 2
F 9/21		Quiz on Unit 1 (Logic, Ethics, Background Reading)
M 9/24	Utilitarianism as a theory of punishment	
W 9/26	Simple Retributivism	Ellis, “Simple Desert”, Rachels, “Punishment and Desert” OPTIONAL: Huemer, “Moral Knowledge”
F 9/28	Simple Retributivism	Ten, Selection from <i>Crime, Guilt, and Punishment</i> , pp. 113-114 Ten, Selection from <i>Crime, Guilt, and Punishment</i> , pp. 115-120
M 10/1	Simple Retributivism	
W 10/3	Rights Forfeiture	Goldman, “Paradox of Punishment,” pp.140-157
F 10/5	Rights Forfeiture	
M 10/8	Hypothetical Consent	Murphy, “Marxism and Retributivism,” pp. 121-139
W 10/10	Hypothetical Consent	
F 10/12	Empirical Evidence	
M 10/15	Empirical Evidence	Interview 1 due, 10:00am, on Canvas
W 10/17	Paternalism/Moral Education Theory	Morris, “A Paternalistic Theory of Punishment”, on Canvas Lewis, “The Humanitarian Theory of Punishment”, on Canvas

F 10/19	Paternalism/Moral Education Theory	
M 10/22		Quiz on Unit 2 (Justifications)
	Unit 3: The Harms of Criminal Punishment	
W 10/24	Prison Conditions	<ul style="list-style-type: none"> • Stubblefield, “Prisons Shouldn’t Coddle Inmates”, pp. 158-160 • Irwin, Selection from <i>The Warehouse Prison</i>, pp.161-165 • Cole, Selection from <i>Criminal Justice in America</i>, pp. 166-172 • Pollack, <i>Prisons and Prison Life</i>, pp.173-187 • Carroll and coauthors, “Mass Incarceration and Conditions of Confinement” pp. 188-193
F 10/26		<ul style="list-style-type: none"> • Bring Draft of your first response paper to class
M 10/29	Prison Conditions	<ul style="list-style-type: none"> • Carroll and coauthors, “Mass Incarceration and Conditions of Confinement” pp. 194-212 • Patrick, “Heat, Mold, Rats, and Spiders” pp. 213-218 • Fassler and Brown, “Prison Food is Making Inmates Disproportionately Sick”, pp. 219-234
W 10/31	Prison Conditions	<p>[We ran out of time and so didn’t get to these readings]</p> <ul style="list-style-type: none"> • Pollack, <i>Prisons and Prison Life</i>, pp. 235-240 • Childress, “Craig Haney: Solitary Confinement is a ‘Tried-and-True’ Torture Device” pp. 241-263 • Arehart-Treichel, “Solitary Confinement May Not Be Psychologically Harmful”, pp. 264-268 • Stern, “Chris Christie Vetoes Bill Banning Solitary Confinement...”, pp. 269-272
F 11/2	Prison Conditions	<p>Guest Speaker</p> <p>Response Paper 1 due, 10:00am, on Canvas</p>
M 11/5	Problems of Reentry	none
W 11/7	Problems of Reentry	none
	Unit 4: Restorative Justice	
F 11/9	Restorative Justice	<p>Selection from Umbreit & Armour, “Restorative Justice Dialogue”</p> <p>Restorative Justice Video: https://vimeo.com/127129467</p>
M 11/12	Restorative Justice	Scavenger Hunt Assignment Part 1 due, 10:00 on Canvas
W 11/14	Restorative Justice	
F 11/16		In-Class Quiz #3 (Paternalism, Harms of Criminal Punishment, Restorative Justice)
	Unit 5: Is Criminal Justice Appropriately Blind?	
M 11/19	Effects of Class/Wealth on criminal justice process	Barstow, “When Workers Die: U.S. Rarely Seeks Charges...”

W 11/21	Effects of Class/Wealth on criminal justice process	Cole, Smith, and DeJong on Bail
F 11/23	<i>Thanksgiving Break, no Class</i>	
M 11/26	Effects of Class/Wealth on criminal justice process	Interview 2 due, 10:00am, on Canvas Jaffe, “ ‘It’s not you, it’s your Caseload’ ...”
W 11/28	Effects of Race on criminal Justice process	Selection from Tonry, <i>Punishing Race</i> Lamberth, “Driving While Black”
F 11/30	Effects of Race on criminal Justice process	Reiman, “Is Racial Profiling Just?” Response Paper 2 due, 10:00 am, on Canvas
M 12/3	Effects of Race on criminal Justice process	OPTIONAL READING: Berdejo, “Criminalizing Race...” Graham and Lowery, “Priming Unconscious Racial Stereotypes” Spohn, “Thirty Years of Sentencing Reform”
W 12/5	Alternatives	Dreisinger, “Justice? Norway”
F 12/7	Alternatives	Scavenger Hunt Assignment Part 2 due, 10:00 on Canvas
M 12/10	Course Evaluations, Wrap Up	
W 12/12		<i>In-Class Quiz #4 (Abolition, Wealth, and Race)</i>

Interview 3 due Friday 12/14, 10:00am, on Canvas

Response Paper 3 due Monday 12/17, 10:00am, on Canvas

There may be modifications to the syllabus. If so, I will announce them.