

SPRING 2022: Values, Ethics & Criminal Justice Policy / CRIM 700.001

Andrew Novak, Instructional Assistant Professor

Online synchronous / asynchronous / in-person hybrid

Class period: Thursdays, 10:30 to 11:45 am

Office hours: 15 minutes after class each week, or by appointment

Classroom: Music/Theater Building 1008

About the Instructor

I am Instructional Assistant Professor of Criminology, Law and Society at George Mason University (Instructional Associate Professor as of August 2022). My research is primarily on the death penalty, human rights, and comparative law. I have an M.Sc. in African Politics (London), a J.D. (Boston), and a Ph.D. in law (Middlesex). I am licensed to practice law in New York and Washington, DC.

Email: anovak2@gmu.edu

Grading scale for the class

I will not use the grades “D+” or “D-.”

98-100 A+ / 93-97 A / 90-92 A- / 88-89 B+ / 83-87 B / 80-82 B- / 78-79 C+ / 73-77 C / 70-72 C- /
60-69 D / <60 F

In addition, in the event that I must calculate grade fractions, I will always round up to the next highest point if you have a 0.45 or higher.

Grading rubric

12 weekly quizzes (18 points each): 216 points

Discussion board posts (2 points each): 24 points

First installment of final paper: 20 points

Final paper: 100 points

Total = 360 points

Attendance

We meet either synchronously online or in person 11 times in addition to the introductory class on January 27. Your attendance is expected. If this class meets in person, you will have the option of joining online instead of in person. An online attendance and an in-person attendance count the same.

Failing to attend 8 times (not including the introductory class) will result in a 36 point deduction from your final grade (the equivalent of 10%). Multiple excused absences for medical reasons, including for coronavirus, will not count if you keep me apprised of the situation to the best of your ability.

Late work policy

If you are late taking a weekly quiz, please let me know as soon as possible and I will keep it open for up to 48 hours longer. All the quizzes must be completed before I grade them, because grading will reveal the answers. If you missed a quiz for which I have already released the answers, you may still take a portion of the quiz for partial credit at my discretion.

If you are late posting on the Discussion Board in a given week, your post will be subject to a 50% reduction. This is because the previous week's Discussion Board posts are designed to generate discussion in class, and a late post does not serve this purpose. Posts that are irrelevant, disrespectful, or toxic are not appropriate for the Discussion Board.

If your draft paper or your final paper are late, they will be subject to a flat 10% grade reduction regardless of when they are submitted. I would rather read a good paper that's a week late than a bad paper that's a day late. However, if it is not submitted by the time I calculate grades, you must ask me for an incomplete before your final grade is submitted. I cannot change a final grade unless I made a calculation error. At the end of the semester, I will give you a drop-dead deadline after which I will not accept late work.

Finally, I advise that your research not contain interviews or surveys that you have administered yourself. This constitutes research on human subjects and requires ethical clearance from the university. In theory, it is possible to get this ethical clearance, but I have never done it. This process will take a month or two, so plan on it early in the semester, especially since there is a risk of rejection.

Coronavirus and Diversity/Inclusion

All students taking courses with a face-to-face component are required to take Safe Return to Campus Training prior to visiting campus. Training is available in Blackboard (<https://mymason.gmu.edu>). Students are required to follow the university's public health and safety precautions and procedures outlined on the university Safe Return to Campus webpage (www2.gmu.edu/safe-return-plan). Similarly, all students in face-to-face and hybrid courses must also complete the Mason COVID Health Check daily, seven days a week. The COVID Health Check system uses a color code system and students will receive either a Green, Yellow, or Red email response. Only students who receive a "green" notification are permitted to attend courses with a face-to-face component. If you suspect that you are sick or have been directed to self-isolate, please quarantine or get testing. Faculty are allowed to ask you to show them that you have received a Green email and are thereby permitted to be in class.

As a faculty member and designated "Responsible Employee," I am required to report all disclosures of sexual assault, interpersonal violence, and stalking to Mason's Title IX Coordinator per university policy 1412. If you wish to speak with someone confidentially, please contact the Student Support and Advocacy Center (703-380-1434) or Counseling and Psychological Services (703-993-2380). You may also seek assistance from Mason's Title IX Coordinator (703-993-8730; titleix@gmu.edu).

This course seeks to create a learning environment that fosters respect for people across identities. We welcome and value individuals and their differences, including gender expression and identity, race, economic status, sex, sexuality, ethnicity, national origin, first language, religion, age and ability. We encourage all members of the learning environment to engage with the material personally, but to also be open to exploring and learning from experiences different than their own.

Course schedule

Initial online class meeting (January 27, 2022): ONLINE.

Week 1: **Normative Ethics** (February 3, 2022): NO MEETING. Quiz 1 and Discussion Board 1 are due at 10:30 am.

- David Thacher, “The Normative Case Study,” 111/6 *American Journal of Sociology* 1631-1676 (2006)

Week 2: **Virtue Ethics and Shame** (February 10, 2022): ONLINE. Quiz 2 and Discussion Board 2 are due at 10:30 am.

- Ernest J. Weinrib, “Corrective Justice in a Nutshell,” 52/4 *University of Toronto Law Journal* 349-356 (2002)
- Timothy Christie, Louis Groarke, William Sweet, “Virtue ethics as an alternative to deontological and consequential reasoning in the harm reduction debate,” 19/1 *International Journal of Drug Policy* 52-58 (2008)
- Excerpts from, John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press, 1989)

Week 3: **Utility and Harm Reduction** (February 17, 2022): ONLINE. Quiz 3 and Discussion Board 3 are due at 10:30 am.

- Excerpts from, Cass Sunstein, *Valuing Life: Humanizing the Regulatory State* (University of Chicago Press, 2014)
- Barack Obama, Executive Order 13563 (2011)
- Andrew Novak, “Toward a Critical Criminology of HIV Criminalization,” 29 *Critical Criminology* 57-73 (2021)

Week 4: **Duty and Drug Courts** (February 24, 2022): IN-PERSON. Quiz 4 and Discussion Board 4 are due at 10:30 am.

- Excerpts from, James Nolan, *Reinventing Justice: The American Drug Court Movement* (Princeton University Press, 2001)
- Toby Seddon, “Coerced drug treatment in the criminal justice system: Conceptual, ethical and criminological issues,” 7/3 *Criminology and Criminal Justice* 269-286 (2007)
- Martha Nussbaum, “Beyond Compassion and Humanity: Justice for Nonhuman Animals,” in Cass Sunstein and Martha Nussbaum (eds), *Animal Rights: Current Debates and New Directions* 299-320 (Oxford University Press, 2004)

Week 5: **Divine Command and Mercy** (March 3, 2022): ONLINE. Quiz 5 and Discussion Board 5 are due at 10:30 am.

- Excerpts from, Kathleen Dean Moore, *Pardons: Justice, Mercy, and the Public Interest* (Oxford University Press, 1989)
- Carol Steiker, “Tempering or Tampering? Mercy and the Administration of Criminal Justice” in Austin Sarat and Nasser Hussain (eds) *Forgiveness, Mercy, and Clemency* 16-35 (Stanford University Press, 2007)
- Giordana Campagna, “The Miracle of Mercy,” 41/4 *Oxford Journal of Legal Studies* 1096-1118 (2021)

Week 6: **Fairness and Hate Speech** (March 10, 2022): IN-PERSON. Quiz 6 and Discussion Board 6 are due at 10:30 am.

- Russ Manning, “Environmental Ethics and John Rawls’ Theory of Justice,” 3/2 *Environmental Ethics* 155-165 (1981)
- Patricia Faraldo-Cabana, “Towards Equalisation of the Impact of the Penal Fine: Why the Wealth of the Offender Was Taken into Account,” 3/1 *International Journal for Crime, Justice and Social Democracy* 1-15 (2014)
- Susan Moller Okin, “Justice as Fairness: For Whom?” in Robert Solomon and Mark Murphy (eds), *What Is Justice? Classic and Contemporary Readings* (2d ed., Oxford University Press, 2000)

No class on March 17 for Spring Break

Week 7: **Global Justice and Deliberative Democracy** (March 24, 2022): ONLINE. Quiz 7 and Discussion Board 7 are due at 10:30 am.

- Excerpts from, Charles Beitz, *Political Theory and International Relations* (Princeton University Press, 1979)
- Excerpts from, John Rawls, *The Law of Peoples* (Harvard University Press, 1999)
- Ezekiel Emanuel, et al., “An ethical framework for global vaccine allocation,” 369/6509 *Science* 1309-1312 (2020)

Week 8: **Social Contract and Disenfranchisement** (March 31, 2022): IN-PERSON. Quiz 8 and Discussion Board 8 are due at 10:30 am.

- Eli Levine, “Does the Social Contract Justify Felony Disenfranchisement?” 1 *Washington University Jurisprudence Review* 193-224 (2009)
- Ronald Hayduk, “Democracy for All: Restoring Immigrant Voting Rights in the U.S.,” 26/4 *New Political Science* 499-523 (2004)

Week 9: **Restorative Justice and Truth** (April 7, 2022): ONLINE. Quiz 9 and Discussion Board 9 are due at 10:30 am. *First Installment of Final Paper Due.*

- Excerpts from, Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (Routledge, 2002)
- Excerpts from, Martha Minow, *When Should Law Forgive?* (WW Norton, 2019)

Week 10: **Ethics of Care and Sex Offenders** (April 14, 2022): IN-PERSON. Quiz 10 and Discussion Board 10 are due at 10:30 am.

- Excerpts from, Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (Free Press, 1963)
- Excerpts from, Allyn Walker, *A Long, Dark Shadow: Minor-Attracted People and Their Pursuit of Dignity* (University of California Press, 2021)
- Scott De Orio, "The Creation of the Modern Sex Offender," in David Halperin and Trevor Hoppe (eds), *The War on Sex* (Duke University Press, 2017)
- Tony Ward and Karen Salmon, "The Ethics of Care and Treatment of Sex Offenders," 23/3 *Sexual Abuse: A Journal of Research and Treatment* 397-413 (2011)

Week 11: **Procedural Justice and Prisoner Litigation** (April 21, 2022): ONLINE. Quiz 11 and Discussion Board 11 are due at 10:30 am.

- Shai Danziger, Jonathan Levav, and Liora Avnaim-Pesso, "Extraneous factors in judicial decisions," 108/17 *Proceedings of the National Academy of Sciences* 6889-6892 (2011)
- Mark Coeckelbergh, "Ethics of Artificial Intelligence: Some Ethical Issues and Regulatory Challenges," 2019 *Technology and Regulation* 31-34.
- Mark Coeckelbergh, "Virtual moral agency, virtual moral responsibility: on the moral significance of the appearance, perception, and performance of artificial agents," 24 *AI & Society* 181-189 (2009)
- Julia Dressel and Hany Farid, "The accuracy, fairness, and limits of predicting recidivism," 4 *Science Advances* 1-5 (2018)
- Neil Vidmar, "Procedural Justice and Alternative Dispute Resolution," in Klaus Röhl and Stefan Machura (eds) *Procedural Justice* 121-136 (Ashgate 1997)

Week 12: **Non-Western Theories of Justice and Compensation** (April 28, 2022): IN-PERSON. Quiz 12 and Discussion Board 12 are due at 10:30 am.

- Excerpts from, Stephen Ellis and Gerrie ter Haar, *Worlds of Power: Religious Thought and Political Practice in Africa* (Oxford University Press, 2004)
- Excerpts from, Shannon Morreira, *Rights After Wrongs: Local Knowledge and Human Rights in Zimbabwe* (Stanford University Press, 2016)
- Excerpts from, Mathias Risse, *On Justice: Philosophy, History, Foundations* (Oxford University Press, 2020)

Final Paper Due: May 13, 2022 at 11:59 pm.

Honor Code

Sharing of instructor-created materials, particularly materials relevant to assignments or exams, to public online "study" sites is considered a violation of Mason's Honor Code. For more information, see the Office of Academic Integrity's summary of information about online study sites. The integrity of the University community is affected by the individual choices made by each of us. Mason has an Honor Code with clear guidelines regarding academic integrity. Three fundamental and rather simple principles to follow at all times are that: (1) all work submitted be your own; (2) when using the work or ideas of

others, including fellow students, give full credit through accurate citations; and (3) if you are uncertain about the ground rules on a particular assignment, ask for clarification.

For the full Honor Code, see academicintegrity.gmu.edu.

Disability Accommodations

If you have a documented learning disability or other condition that may affect academic performance you should (1) make sure this documentation is on file with Office for Disability Services (SUB I, Rm. 4205; 993-2474; <http://ods.gmu.edu>) to determine the accommodations you need; and (2) talk with me to discuss your accommodation needs. I want to be helpful.