

Philosophy of Punishment  
CCJ 4933 | POT 4936 | PHI 4930  
2:00 - 4:50 Th

**Instructor:** Hugh LaFollette  
**Office:** Room 225 DAV  
**Phone:** (727) 553-4830  
**Email:** [hughlafollette@tampabay.rr.com](mailto:hughlafollette@tampabay.rr.com)  
**WWW:** [stpt.usf.edu/hhl/](http://stpt.usf.edu/hhl/)

## Readings

*A Reader on Punishment*, R. Duff and D. Garland (eds) [RP]  
*The Rich Get Richer and the Poor Get Prison*, J. Reiman [RGR]  
*Life on the Outside*, Jennifer Gonnerman [LO]  
essays on web [www]

## Requirements

Class Participation (25 points)  
Critical Evaluation of the Reiman text (25 points)  
Short critical evaluations of essays from the Duff / Garland text (25 points)  
Long Critical Paper **OR** a Final exam (25 points)

### Class Participation

The grade will be based on the quality and frequency of your comments, questions, and answers. It is critical that you read each assignment carefully **before** class. If you do not wish to have this portion of your grade based on your class participation, you may choose to write a long (2500 word) critical paper instead. If so, you must notify me **in writing** no later than February 4.

Although I will not give a grade for attendance, it will affect your participation grade.

### Critical Evaluation of the Reiman text

Reiman makes various empirical claims about the causes of crime, ways to reduce crime, the extent of white color crime, the severity of punishments for the poor, and the benefits of current criminal policy for the rich. These are important claims, which, if true, would have significant implications for criminal policy. Let's find out which ones are true. During the term each student will choose three important empirical claims Reiman makes ([see](#) pp. 3-4] and then evaluate each in a 800-1200 word paper. You will search the literature, and especially government web sites, for data that supports, contradicts, or qualifies, his claims. You will email me a copy **and** post your written evaluations on Blackboard. **Due** by 8:00 am on the day when we will be discussing the claim. No more than two of these papers can be turned in the same day.

### Critical Evaluation of Essays from the Duff/garland Anthology

Each student will choose three essays from this anthology, and write a 800-1200 word critical discussion of each. These will be emailed to me and copies posted on Blackboard. **Due** by 8:00 am on the day when we will be discussing the essay. No more than two of these papers can be turned in the same day. Topics on [page 4](#).

### Long Critical Paper (2500 word critical essay)

I will give out suggested paper topics. Due exam day. No extensions except under extraordinary circumstances. If you want comments, you must submit a draft no later than 21 April.

## Resources on the Class Web site

- information on writing, plagiarism, [links](#), etc.

## Readings

Date	Topic	Reading
Jan 13	introduction	
Jan 20	What should be criminal?	<a href="#">Wertheimer</a> ; <a href="#">Smith</a> ; <a href="#">email me</a>
Jan 27	deterrence, and retribution	1-70; 210-17; 174-209 [RP]; <a href="#">Dolinko</a> [www]
Feb 3	rehabilitation, communication, incapacitation	284-306; 241-80; 95-111 [RP]
Feb 10	abolition, restorative justice	336-51 [RP]; <a href="#">Barnette</a> ;
Feb 17	theories of responsibility	<a href="#">email me</a> ; <a href="#">Lewis</a>
Feb 24	<b>no class</b>	
Mar 3	sentencing	115-76; 306-32 [RP]
Mar 10	an empirical critique of the current system	1-54 [RGR]
Mar 17	<b>spring break</b>	
Mar 24	the attack on the poor	55-102 [RGR]
Mar 31	white collar crime	103-56 [RGP]
Apr 7	why we continue	157-202 [RGR]
Apr 14	adjusting to the outside: one story	<i>Life on the Outside</i>
Apr 21	reentry: the evidence	<a href="#">disenfranchisement</a> ; <a href="#">reentry</a> ; <a href="#">collateral consequences</a>
Apr 28	<b>no class</b>	
May 5	<b>final exam</b>	

## Class Policies and Information

### Written Assignments

- All written assignments must be typed, include a title and your name
- All written assignments should be submitted electronically, as an **attachment** to an email. Papers should be in wpd, rtf, or doc format.
- Name your file using the following convention: **lastname, firstname assignmentname** (e.g., Jones, Judy Reiman 2).
- I make all my comments electronically [see link on web].
- Assignments are due at 8:00 am on the specified date. I deduct one step in grade for each day (**or part of a day**) an assignment is late.
- Use a consistent reference system.

### Plagiarism

Important! If you use someone else's words, you must include them in quotation marks and give an appropriate citation. If you use someone else's ideas, even if you do not use their exact words, you must give an appropriate citation. [see [explanation](#), p. 5 ].

### General Information

- You should attend class.
- This is a time consuming class. Expect to spend at least two hours out of class for every hour in class. If you do not, you will not do well. Do not be surprised.
- I use a standard grading scale; I give pluses and minuses.
- I take the grading scale seriously: a 'B' means your work is good—above average; an 'A' means your work is exceptional.
- You may take notes or tape lectures if you wish; you cannot sell them.

### Class Conduct

- Pay attention.
- Be respectful of others; be civil.
- Arrive late only under extraordinary circumstances. If you must leave early, tell me before class, and sit near the door.

## Checking the Empirical (or quasi-empirical) Claims

Reiman makes various empirical claims about the causes of crime, ways to reduce crime, the extent and seriousness of white color crime, the severity of punishments for the poor, and the benefits of current criminal policy for the rich. These are important claims, which, if true, would have significant implications for criminal policy. Let's find out which ones are true. During the term each student will choose three important empirical claims Reiman makes, and then evaluate each in a 800-1200 word paper. Due by 8:00 am the day we will discuss the claim. You can do only two of these on the same day.

Following are some of his claims. You may choose any of them. You may also choose others, but to do so, you **must** have them approved by me to insure that they are clear and controversial.

At least one claim you evaluate must be one about which you are at least initially skeptical.

You do not have to claim that he is either right or wrong. You can indicate the ways in which he is right and the ways in which he is wrong. Or you can identify the ways in which he is right, even though he may imply claims that are false. In these cases, you should assess the empirical evidence **and** identify the problems with his implications.

Pp.	Claim
16	Government expenses for criminal justice have skyrocketed in the past 20 years, especially relative to government spending on education
18ff	The huge increase in government expenditures has had little effect on crime rates; most decline in crime is traceable to other factors.
22	Most people think we are too soft on crime. We are not.
25ff	Although young people do commit crimes more often than older adults, "there are problems with attributing crime to youth."
28-31	Poverty is a known source of crime.
31-2	Prison is a known source of crime.
33-5	Guns are a known source of crime.
35-42	Drug policy causes crime.
42	There are known strategies of preventing crime: "preventing child abuse and neglect, enhancing children's intellectual and social development, providing support and guidance to vulnerable adolescents, and working extensively with juvenile offenders."
43-5	There are social benefits of having crime.
55ff 62ff	In the U.S. "crime" "is reserved primarily for the dangerous actions of the poor. . . . the reality of crime is created in a way that promotes a particular image of crime: the image that serious crime—and therefore the greatest danger to society—is the work of the poor."
61	"The general public loses more money <i>by far</i> (as I show below) from price fixing and monopolistic practices and from consumer deception and embezzlement than from all the property crimes in the FBI's Index combined."
65ff	TV feeds the supposition that crime is one-on-one harm.
76-81	Unsafe workplaces kill far more people than are killed by "violent" crime.
81 ff	Negligence in health care kills far more people than are killed by "violent" crime.
84-90	By selling dangerous products, companies kill far more people than are killed by "violent" crime.

- 90-3 By allowing poverty to persist amidst wealth, we kill far more people than are killed by “violent” crime.
- 104ff “For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle and upper classes.” **[You can examine any single element of this claim. The elements are developed throughout this chapter, e.g.,**
- 109-19 arrested and charged
- 119-22 more likely to be convicted
- 122-35 Relative to street criminals, white collar criminals tend to be given a punitive slap on the wrist.
- 133-44 Ditto
- 161 “those who suffer most from the failure to reduce crime . . . are not in a position to change criminal justice policy. Those who are in a position to change the policy are not seriously harmed by its failure. . . . “
- 168 Crime is a means by which people who believe in the American dream pursue it when they find the traditional routes barred.”
- 171 “the identification of crime and poverty . . . [does not] produce sympathy for the criminal . . . ; it produces, or at least reinforces, the reverse: hostility toward the poor.”
- 175ff Those who are rich control the media, and seek to focus people’s attention on the poor, not on their (the rich’s) misdeeds.
- 177 The haves need—and use—ideology as the only means of maintaining their privileged positions.
- 178 There are enormous disparities in income and wealth.

### Claims in Duff/Garland Essays

Following are some claims on which you might want to write your papers. Explain what the author means by this claim, and specifically, how this claim shapes his views about punishment. Then evaluate the claim. You may also choose others, but to do so, you must have them approved by me to insure that they are clear and controversial.

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|------------|--|
| Murphy     | “greed is not [a psychological trait] . . . that invites fine moral and legal distinctions.”   |
| Feinberg   | “punishment is a conventional device for the expressions of attitudes of resentment and indignation.”  |
| Morris     | “A communicative component is a defining characteristic of punishment and in part distinguishes it from mere retaliation or acting out of revenge. . . . “   |
| Morris     | “It is a moral good, then, that one feel contrite, that one feel the guilt that is appropriate to one’s wrongdoing, that one be repentant, that one be self-forgiving, and that one have reinforced one’s conception of oneself as a responsible being.” |
| Von Hirsch | the “unfair advantage” theory cannot justify the “principle of proportionality” [116ff]  |
| Tonry      | Explain the tension between the principles of proportionality and parsimony. How does Tonry reconcile them? Is his solution defensible?  |
| Wilson     | Wilson is skeptical that we can prevent crime by improving economic conditions. Explain and evaluate his argument.   |
| N. Morris  | Under what conditions does Morris think we can justifiably incapacitate a criminal?  |

# Plagiarism

Plagiarism is widely accepted in high schools. But it is explicitly against USF's rules. Perhaps, though, some students do not understand exactly what plagiarism is. So I will explain.

## TYPES OF PLAGIARISM

(1) **Word-for-word.** Many people assume they can copy a sentence from a writer without including the words in quotation marks and giving a citation. **Wrong!** Exactly replicating another's words is plagiarism, even if it is only a sentence—or even a long phrase. Of course someone might stumble on the same sentence by chance, so it would be difficult to prove that someone has plagiarized if they copied only a single sentence. But once someone has copied several consecutive sentences, *the case is closed*.

(2) **Rephrasing.** “Aha,” someone might say, “if plagiarism is copying whole sentences word for word, I will not plagiarize if I rephrase the author.” **Wrong!** Merely changing a few words is still plagiarism. Consider the following:

Original

The problem, in its most general form, is this. As moral agents, we cannot play favorites—at least, not according to the conception of morality as impartiality. But as parents, we do play favorites. Parental love is partial through and through. And we think there is nothing wrong with this; in fact, we normally think there is something wrong with the parent who is not deeply partial where his own children are concerned. Therefore, it would seem, one or the other of these conceptions has to be modified or abandoned.

“Revised”

The general problem is that moral agents cannot play favorites, at least according to the principle of impartiality. Nonetheless, we parents do play favorites. Parental love is completely partial. We think this is morally acceptable. In fact, we think there is something objectionable about the parent who is not partial toward his own children. Therefore, it seems one of these conceptions must be modified or rejected.

This revised version is still plagiarism. Of course if the student had acknowledged that she was paraphrasing the author, and had given an appropriate citation (see below), then that would not be plagiarism.

(3) **Using someone's ideas, even if not their words.** If you use someone else's ideas, even if not their words, and you do not give an appropriate citation, then you have plagiarized.

## WHY SHOULDN'T I PLAGIARIZE?

(1) **It undercuts the aims of education.** If you plagiarize you will not learn the skills you should learn—you are merely copying someone else's words and ideas.

(2) **It is theft.** And all theft is wrong, whether it is theft of an idea or an object.

(3) **You harm other students.** By plagiarizing you make professors more suspicious of students. This encourages them to make assignments that are plagiarism-proof rather than ones that are educationally sound.

(4) **You will get caught.** I am very good at spotting plagiarism, and tenacious at gathering evidence to establish that a student plagiarized. Think about it a minute: if you plagiarize from a good source—one that is likely to help your grade—the prof will likely know (or can easily find) the source. And if your writing style drastically changes from sentence to sentence or from paper to exam, then even a causal observer will notice. To plagiarize well—to plagiarize in a way that is likely to land you a decent grade and minimize the chance that you are caught—you would have to know the material so well, that it would be easier—and more educationally beneficial—to write the essay yourself.

## CITATIONS

If you use someone else's explicit words or their ideas, you should give an appropriate citation. That is, you should give: (a) title of the article or book, (b) if an article, the title of book or journal in which it appears, (c) date of publication, (d) if a book, the publisher and place of publication, and (e) the page number on which the quotation or idea appears, or (f) a proper (and workable) URL.

I am not concerned about the form of citation, although it may be wise to use a standard form, e.g., MLA..

## PENALTY

If you plagiarize, you fail the course. If the plagiarism is especially egregious, I will also turn you in to the dean's office for academic misconduct. **No excuses. No exceptions.**

## On Writing a Paper

Writing a philosophy paper, like cooking a gourmet meal, demands careful work if the author desires an intellectually tasty product. There is, however, no simple recipe ("a shake of humor, a pinch of fact, then stir") for success. Still, knowledge of general rules of argumentation can help. So I will offer a few suggestions for organizing a paper and for avoiding some pitfalls of argumentation.

First, mentally develop a rough outline of your paper. Ask yourself: "What is my principal thesis?" "How can I best support that thesis?" Usually your final paper will deviate from this initial design, but at least you will have a general plan of attack, and a chance to discover previously unnoticed difficulties with your argument.

Now the writing begins. As a general rule, start by informing the reader of your plan. Offer her a short introduction, stating your thesis and briefly explaining the strategy for defending that thesis. This introduction is a promissory note to the reader, a pledge to produce specified intellectual goods. Then you and your reader are ready for the core of the paper (which I'll discuss in detail momentarily.)

After completing the paper it's often advisable to include a short summary indicating how you've satisfied your introductory pledge. But even if a summary is unnecessary, you, at least, must make certain you have paid the note in full. If not, surgery is required.

Finally, recognize that you have only a first draft. Few good writers produce a final draft on the first try; none do it without years of practice. So . . . re-read your paper. Have you said what you wanted to say? Will the reader understand it? Is your argument plausible? Have you considered all likely objections? **Then revise, revise, revise!**

### ON THE STRUCTURE OF AN ARGUMENT

An argument is a series of statements in which one or more of the statements ('premises') serve as evidence or reasons for believing another statement ('conclusion'). A philosophy paper is a sustained argument (or a series of shorter, connected ones) in which the conclusion is the central thesis of the paper and the premises are the evidence offered in support of that thesis. However, as we all know, not all arguments are convincing. There are certain rules we must follow to produce a plausible argument. Now I can't, in such a brief space, provide a course in logic; still, there are a few observations about arguments which should be helpful:

*FIRST:* The premises must be true, or at least plausible. Since the premises are the foundation for the conclusion, if the premises are shaky, so is the conclusion. Note, though, that the premises themselves may be questionable. You may thus need to provide additional arguments supporting important, yet contested, premises. Consequently, don't appeal to controversial claims without backing them up. For instance, sweeping statements about the deterrence of the death penalty must be bolstered by supporting evidence.

*SECOND:* The premises must be relevant to the conclusion. A good contractor does not lay the foundation for a St. Pete high-rise in Tampa; neither does a good arguer offer premises unrelated to the conclusion. Consider the following argument: "Mothers who have abortions often have bad psychological reactions. Therefore, abortions should never be allowed." BAD. The premises are irrelevant (or at least they must be shown to be relevant) to the conclusion. People who get married may have adverse psychological reactions, too, but people generally don't advocate outlawing marriage. Besides, proponents of abortion use a similar argument: "Women who are unable to have abortions have bad psychological reactions. Therefore, abortions should be legalized."

Now it may be that one could produce an argument showing this fact is relevant. Without an argument, however, the psychological observation is interesting—it might even suggest that abortions are inadvisable—but it is not relevant to the stronger claim that all abortions should be legally prohibited. Again, note that one may need to argue that the premises are relevant (or irrelevant) to a conclusion.

*THIRD:* The premises must be sufficient for the conclusion. Premises must not only be related to the conclusion, they must also make the conclusion reasonable. For example, "I talked with

someone who will vote for Deputy Dog for President; therefore, Deputy Dog will be elected in 2004." My miniature poll is clearly relevant to the conclusion. It is just as clearly insufficient to make the conclusion reasonable. This argument commits the fallacy of hasty generalization.

*FOURTH:* The premises must be fair. Don't "forget" evidence that would appear to count against your claim. Consider all relevant data and demonstrate that your claim is most plausible in light of all the evidence.

### **Five don'ts for argumentation**

There are several seductive fallacies of argumentation which should always be avoided.

Fallacy-laden arguments are not just imperfect; they are lousy. Here are four of the most frequent ones:

1. Don't substitute rhetoric for argument.
  2. Don't beg the question: your conclusion should not be presupposed by your argument.
  3. Don't contradict yourself; your paper should not use or presuppose claims which are in conflict with one another.
  4. Don't just appeal to popular opinion or current practices.
  5. Don't distort your opponent's position (don't commit the straw person fallacy).
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1. "Our criminal justice system needs overhauling since the criminals are the only people with rights." BAD. This is mere rhetoric, a blatant appeal to emotion. Moreover, the claim is false.
  2. "The fitting punishment for first degree murder is that the murderer's life be taken. Therefore, the death penalty should be reinstated for first degree murder." BAD. Whether capital punishment is the fitting punishment for murder is the very question at issue; merely restating one's conclusion is not an argument.
  3. "Fetuses have the same right to life as any other human being. Therefore, abortions are immoral. However, if the presence of the child would create financial hardship for the parents, then abortion is permissible." BAD. The argument includes contradictory claims. The author states that fetuses have a serious right to life, yet claims that the fetus can be killed to avert family hardship. It's hard to see how one could have a serious right to life if it could be so easily overridden.
  4. "The death penalty should be reinstated because the majority of people think morality demands it." BAD. What the majority of people say—assuming that can accurately determined—is interesting; it may even be true. But if it's true, it's true whatever the people say. It's not true because they say it.
  5. "We should reject the death penalty since those who support it want to practice genocide against blacks." BAD. There may be problems with equal application of the death penalty, but it distorts the supporters' position to assume they wish to practice genocide.

### **A FINAL NOTE**

Generally, it is best to write your paper as if you were writing it for someone who holds the opposing position. Try to produce arguments which would seem at least plausible to the imaginary (opposing) reader.