“Scarcely any political question arises in the United States which is not resolved, sooner or later, into a judicial question.”  de Tocqueville, *Democracy in America*

“The second most important question to ask about a legal system is, ‘What is the law?’ The most important question, is ‘How is the law applied?’”  Oliver Wendell Holmes, "The Path of the Law"

What is “law & society?”  Well, given the pervasive nature of American law (as de Tocqueville noticed many years ago), it is, in many ways, anything we want it to be.  We could focus on campaign finance reform, for example, or the redistricting of Congressional districts.  We could study the disenfranchisement of convicted felons or norms like the use of chairs in Chicago to “save” shoveled street parking spots during the winter.  We could discuss lawyers and disbarment or consider the consequences of the election of judges.  We could examine popular portrayals of law in film and television and consider the extent to which those portrayals affect our expectations with respect to justice.  We could consider the role of courts in society, and whether life-tenured justices ought to undo the work of duly elected members of Congress and how courts retain their power given the limits on what they can do to enforce their rulings.

In short, our society is pervaded with “law,” and there are so many fascinating topics on which we might focus to study that.  I have chosen a few points of focus (criminal justice and sentencing, mass incarceration, civil law liability, and race) and am hopeful that, through the lens of this small slice of law and society, you will obtain an introduction to the ways in which law and society interact and a critical look at how well we do within our criminal and civil law systems obtaining justice, which should be the end goal in a judiciary set up within a democratic system.  We’ll begin and end all of our discussions with real-life examples.  The two texts I’ve chosen are perfectly suited to this task.  They’ll tell some stories and pepper in some statistics, and we’ll evaluate what they say using the social science.  I’ve also chosen some documentaries and films to start discussions of various topics, again paired with social science analysis.  I’m really excited about my choices, and I hope you will be too!  I want you enjoy the course material, but I hope that it also challenges you and moves you.  I also hope you find that we haven’t covered some topics well enough and that you will want to read/watch/listen to more.  You can investigate one topic in more depth in this course (you’ll participate in a Group Discussion, weighing both sides of a current public policy controversy), and then you can seek out some additional courses in our department (Civil Rights and Civil Liberties!  Administrative Law!  Judicial Politics!  Sex, Gender, and the Law!  Free Speech!  The Supreme Court! Constitutional Interpretation!)
Constitutional Law! And more!!) that’ll satisfy the rest of your curiosity! (We’re considering rolling out a new Minor in Law Studies sometime soon too – you might check that out as well!)

THE COURSE

This course is completely online. This means that the entire course will be conducted over UWM’s new CANVAS server. Obviously, then, you need to take any actions necessary to secure access to this website immediately. If you have any problems accessing the course site or any questions regarding the performance of CANVAS, you should contact the University Help Desk (https://www4.uwm.edu/technology/help/campus/) or try to answer your question yourself on the CANVAS site, which has a fantastic help system, including 24-hour live chat help (https://uwm.edu/canvas/home/).

The following describes course requirements and my policies. It will sound very firm and very crabby. And I will adhere to all of the policies and requirements as described below. I do expect a lot of my students, and hope you’ll rise to the challenge. But, just as an aside, I am so excited about this course! It is the result of a recent, complete overhaul of my old version of the course (which was textbook-based and boring) and students have been really enjoying the reading/viewing/listening so far. I know that many of you are taking one of your first online courses or perhaps your first course in Political Science, and that some of you are new to college, and I will absolutely take that into account; this is a lower division course, after all. But let’s work hard and think and learn great things together, okay?

COURSE REQUIREMENTS

Requirements include (nearly) weekly discussion questions (DQs) focused on the readings and (nearly) biweekly (e.g., every other week) responses (Rs) to your colleagues’ original postings. (See the below for due dates.) (We’ll take a few weeks “off” over the course of the semester (but only from DQs and Rs!!).) You will complete these discussion questions via CANVAS’s Discussions feature. Once you’ve posted to a given discussion question, you’ll be able to see all of your colleagues’ posts for that question so that you might read, learn from, and respond to your colleagues’ posts. To facilitate discussion over the course material and to keep you on track, weekly DQs need to be completed AT LEAST by Friday at 11:59pm. Responses to your colleagues’ DQ posts are due on the specified Friday by 11:59pm and can consider either of the preceding DQs. Hopefully, the schedule in this syllabus will make these deadlines clear – consult this syllabus, OFTEN! While I appreciate the appeal of flexibility in online courses, I also appreciate the need for deadlines to keep everyone on track. I hope this format maximizes both to the degree possible! And, given that we can’t react to this provocative reading face-to-face, we need to rely on these discussions to satisfy what I think will be a real need to talk about all the things we’re learning. It’s not as fun as a rousing, in-person discussion, perhaps, but it can be a fantastic experience, just the same!

[10 DQs worth 35% of your grade total; 5 Rs worth 10% of your grade total]

In addition to the writing assignments, given that we’ll barely scratch the surface in terms of studying law and society, you’ll also have the opportunity to focus on one additional topic and do a little extra reading, writing, and critical thinking on it as you each participate in a group discussion of a particular and contemporary law and society issue. This assignment, detailed extensively in a separate handout (posted to the WEEK ONE module on CANVAS), will consider an important contemporary topic related to law and society. You’ll read and review one piece of social science literature (or legal scholarship) about the topic, and then present that paper, your Article Review, to your group via a CANVAS discussion. Your group colleagues
will do the same, you’ll read their papers, and then you’ll discuss the implications of your research for the current day policy problem via a Reaction, which considers your research alongside your colleagues’ research. You’ll then read one another’s Reactions and produce a Summation, which will consider all the research and all the Reactions to make the case for the “best” resolution of the policy controversy. Six topics for your consideration are detailed in the Group Discussion assignment – you’ll choose one on which to focus, along with, at most, 7 other colleagues. (I am seeking an email with your #1 and #2 preferences ON Monday, January 28th (not before), first-come, first-served!!) I’ll assign each of you to a group and email you a pdf of a particular piece of social science or legal research for which you’ll be responsible. There are three discussions set up for each group (Article Reviews, Reactions, Summations) (though you may (and I hope you do!) read through all of the groups’ work) where you’ll post your papers and engage in your group discussion. All aspects of this project are graded and have due dates specified below. The handout includes the rubric we’ll use in grading along with additional details on expectations.

[15% for your ARTICLE REVIEW; 5% for your REACTION; 5% for your SUMMATION]

Finally, we will have TWO QUIZZES, a Midterm and a Final, both using multiple question formats to maximize student performance (including multiple choice, short answer, and essay), and worth increasingly larger amounts as you learn how to take my online quizzes. You’ll be able to take the exam during a specific week during the semester, are expected to take it alone, without the guidance of anyone inside or outside of the course, in two hours, and are welcome to use your books and your notes. The idea is that, while they are open-book/note, the time constraint requires that you study and prepare before sitting down to take the exam, and I’d urge you to both study and get very organized to maximize your score.

[Midterm (Quiz #1) 10%; Final (Quiz #2) 20%]

The Grading Scale I use is the standard one*:

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*I reserve the right to curve grades should the need present itself.

A CAVEAT: PROFESSIONALISM AND ONLINE COURSES

One note before addressing course requirements and required readings: you will be expected to behave professionally in this class. That is to say, you will be expected to complete assignments on time and to carefully and thoughtfully complete all required reading. You will actively participate in online discussions in a constructive and literate way. I will not tolerate students who do not put forth every effort. Late work will not be accepted unless there is a major and substantiated complication which prevents completion, of which I am made aware immediately and prior to the due date of the assignment. The determination about whether or not it is “major and substantiated” will be made solely at the discretion of the instructor, and
documentation must accompany any request for an extension. I know all the excuses, so please do not test me. Do note that full documentation of everything, including illness or death in the family, is necessary for extensions. **And to repeat, I require notification BEFORE the missed assignment unless that is impossible due to documented emergency.** If you are having computer problems, you should notify me via email (sbenesh@uwm.edu) immediately and you must have some documentation of the computer issue. (Save screen shots, Help Desk incident reports, etc.) Sincerely-held religious beliefs are exempt from the documentation policy, though I still require advance notification of a missed deadline due to a conflict with a religious observance. (See [https://www4.uwm.edu/secu/docs/other/S1.5.htm](https://www4.uwm.edu/secu/docs/other/S1.5.htm) for UWM's policy on accommodation.)

**Online courses are demanding, and much of student success can be attributed to keeping up with the coursework and doing all the reading, which requires much self-motivation.** I do provide deadlines to help you stay current, and I will post at least twice weekly to remind you that you're taking the course (!! ☹️) and to direct your reading for the week, but as we do not meet face-to-face, it may seem easier to put this course on the back-burner. You do so at your own peril. Remember, you are receiving a full three credits for this online course. I am confident that you all want to earn those three credits. Keep up. Do the reading/viewing/listening (and do it carefully). And write thoughtful responses to the discussion questions, using a careful, critical analysis of the reading as your base. I am happy to give you all As…if you earn them!

**ACADEMIC INTEGRITY**

**No form of academic dishonesty will be tolerated in this class.** Anyone found guilty of cheating or plagiarism or of any other violation of academic integrity will be assigned an **automatic grade of F IN THE COURSE** and will be prosecuted to the fullest extent through University channels. Notes on plagiarism can be found here [http://www.indiana.edu/~wts/pamphlets/plagiarism.shtml](http://www.indiana.edu/~wts/pamphlets/plagiarism.shtml) and here [http://guides.library.uwm.edu/c.php?g=56454&p=363101](http://guides.library.uwm.edu/c.php?g=56454&p=363101). UWM's policy can be found here: [http://www4.uwm.edu/dos/conduct/academic-misconduct.cfm](http://www4.uwm.edu/dos/conduct/academic-misconduct.cfm). Be sure you know the definition and know how to avoid it. **In fact, to be sure that you do,** your **first course assignment** is to take and pass the plagiarism quiz at [https://www.indiana.edu/~istd/test.html](https://www.indiana.edu/~istd/test.html). You WILL NOT receive a final grade in the course until you've have submitted a screenshot of your successful quiz completion. **BUT PLEASE DO IT RIGHT AWAY!!** I need a NEW completion, even if you've taken a course with me before and have taken the quiz, so that you can refresh your memory as to what constitutes plagiarism. As you may have already noticed, I am absolutely serious about this policy. It is indeed plagiarism to copy an author’s words without citation or attribution or to use a quote another author thought was particularly apt without attribution. We will notice the plagiarism and you will fail the course. **Consider this your ONLY warning.**

**SPECIAL NEEDS**

Any students with special needs due to a physical or learning disability should contact me as soon as possible. Every effort will be made to accommodate your needs. See [http://uwm.edu/arc/](http://uwm.edu/arc/) for more information.

**OTHER UNIVERSITY POLICIES**

Other University guidelines (including policies on sexual harassment, grade appeals, incompletes, and military call-ups) can be found here: [http://www4.uwm.edu/secu/SyllabusLinks.pdf](http://www4.uwm.edu/secu/SyllabusLinks.pdf).
REQUIRED MATERIALS

Frustration with current Law & Society textbooks on the market have led me to customize the course readings, maximizing their impact and their potential for enjoyment and minimizing the out-of-pocket cost to you. Hence, I’ve asked you to purchase two paperbacks, and obtain access to a few films, and will post the rest of the readings and other assignments on CANVAS, for you to view, listen to, or read (either in print or online on your iPad/Kindle).


You’ll also need to secure access to four films: *Kids for Cash* (2014), available to rent on Amazon.com, YouTube, iTunes, Vudu, or Google Play; *Erin Brockovich* (2000), which can be rented or bought at any number of video stores and retail outlets or online including via Amazon, iTunes, Vudu, and Google Play (it’s free on Cinemax, if you have a subscription); *Hot Coffee* (2013), a documentary that is currently available via DVD on Netflix, free to Amazon Prime members, or can be rented online via Amazon, YouTube, iTunes, Vudu, or Google Play; and *13th* (2016), available only on Netflix (streaming or DVD). (Anything else I assign to watch or listen to will be available via CANVAS.)

In addition, readings will be posted that generally take a more rigorous, social scientific approach, to one or more questions/issues raised by the assigned material. These are PEER-REVIEWED studies, which is the gold standard when it comes to science. This means that the author submitted his or her paper to an academic journal, that journal then sent it anonymously to three experts in the field who are asked to read it and evaluate it, and then the editor decided to publish it. This doesn’t mean the studies are perfect nor that they are “right,” but it does mean that they’ve been vetted by smart people, and that means something important when evaluating particular issues in law and society. I think the combination of provocative stories told in the text, podcasts, and films with political science research, wherever possible, will provide a good introduction to the questions associated with law and society, and to what the scholarly community knows about these issues.

In every case, I’ve also posted a Reading Guide for each week to take you through that set of materials, highlighting what I think are important points and posing questions for you to think about while considering the week’s reading/viewing/listening. It will likely be useful to have those handy as you read/watch/listen (and to take a peek at any associated DQs, too!).

COURSE SCHEDULE

I’m going to reserve the right to edit this as necessary, but here is our outline of topics for the semester. All (except those from the required books and films) will be available on CANVAS under the relevant module (which are, like the syllabus, broken up into WEEKS). **Look at this schedule EVERY DAY. LOOK AHEAD and plan your time accordingly.** I cannot emphasize strongly enough that you need to CONSULT THIS SCHEDULE EVERY DAY!! Keep up or this course will not go well. Okay?? (I’m a broken record!!)
**WEEK ONE [JAN 22-JAN 25]**  
Introduction to the course. What is Law & Society?

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| READ Syllabus (CANVAS, email)  
READ Announcement (CANVAS)  
READ DQ, R, and Group Discussion Assignment Handouts (CANVAS)  
POST an Introduction, and any questions (CANVAS)  
LOOK OVER Group Discussion Topics and consider which you’d like to pursue (on CANVAS, under the WEEK ONE Module, in the Group Discussion handout)  
COMPLETE Plagiarism Tutorials/Quiz (WEEK ONE module) |

**WEEK TWO [JAN 28-FEB 1]**  
Starting with a story, PODCAST format: TRIAL ISSUES

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| EMAIL Professor Benesh with Group Discussion Preferences ON MONDAY, JAN 28!  
LISTEN to *Serial*, Season 1, Episodes 1-6 (Approximately 6 hours) (Link on CANVAS)  
READ Howe and Knott, “The Fallibility of Memory” (CANVAS)  
ANSWER DQ 1 by Friday, February 1st, 11:59pm |

**WEEK THREE [FEB 4-FEB 8]**

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| READ your assigned social science article, CAREFULLY, for the Group Discussion! Take notes!  
LISTEN to *Serial*, Season 1, Episodes 7-12 (approximately 6 hours) (Link on CANVAS)  
READ *Serial* Updates on CANVAS  
READ Antonio & Arone, “Damned if they do” (CANVAS)  
ANSWER DQ 2 by Friday, February 8th, 11:59pm  
POST R1 by Friday, February 8th, 11:59pm (this in response to a colleague’s post to DQ1 or DQ2). |

**WEEK FOUR [FEB 11-FEB 15]**  
More Stories, this time in BOOK format: MORE TRIAL ISSUES IN ORDINARY INJUSTICE

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| What's a Defense? (defense attorneys), A Troy Champion (judges)  
READ ORDINARY INJUSTICE, Intro, Chapters 1 and 2  
READ Croyle, “Measuring and Explaining Disparities…” (CANVAS)  
WORK on your Article Review!  
ANSWER DQ3 by Friday, February 15th, 11:59pm |
WEEK FIVE [FEB 18-FEB 22]

THIS WEEK:
Miss Wigg’s List (nonprosecution), Show Trial (overzealous prosecution), Conclusion

READ ORDINARY INJUSTICE, Chapters 3, 4 and Conclusion
READ Radelet and Pierce, “Race and Prosecutorial Discretion…” (CANVAS)

ANSWER DQ4 by Friday, February 22nd, 11:59pm
Post R2 by Friday, February 22nd, 11:59pm (in response to a post on DQ2 (if you’ve not responded to one of those posts yet), DQ3, or DQ4)

WEEK SIX [FEB 25-MAR 1]
Stories from the trenches on REPRESENTATION, DEATH PENALTY, JUVENILE JUSTICE, and RACE

THIS WEEK:
READ JUST MERCY, Intro, Chapters 1 – 6
LISTEN to PODCAST: Radiolab Presents: More Perfect, July 15, 2016 episode “Object Anyway”
READ SCOTUSBlog and NPR on the Supreme Court’s recent decision in Foster v. Chatman (CANVAS)
READ Baldus et al 1992 “Law and Statistics in Conflict” (CANVAS)
STUDY and ORGANIZE for MIDTERM

ANSWER DQ5 by Friday, March 1st, 11:59pm

WEEK SEVEN [MAR 4-MAR8]

THIS WEEK:
MIDTERM EXAM (QUIZ #1) will be open MONDAY, FEB 25TH starting at 8am and will remain open until the end of the day on Friday, MARCH 1ST (11:59pm) (so start it no later than 10pm if you want to get the full 2 hour allotment). The exam must be taken within that timeframe unless you have requested an accommodation due to a documented issue (see above for policies). The exam has a 2-hour time limit and you may only attempt it once. You may use your notes. You MAY NOT consult with anyone else, in the class or outside the class, while taking it.

WEEK EIGHT [MAR 11-MAR 15]

THIS WEEK:
Victims, Juveniles, Race, Mental Health, Mothers, Civil Liability

READ JUST MERCY, Chapters 7 – 13
READ “Review of the Social Science Around Solitary Confinement” (CANVAS)
READ “From Time Out to Hard Time” (CANVAS)

ANSWER DQ6 by Friday, March 15th, 11:59pm
POST R3 by Friday, March 15th, 11:59pm (can be in response to post to DQ4 (if you’ve not responded to one from that DQ yet), DQ5, or DQ6)
**WEEK NINE [MAR 18-MAR 24]**

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| **SPRING BREAK!!**  
Enjoy! And catch up...and finish up those Article Reviews! |

**WEEK TEN [APR 1-APR 5]**

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| READ JUST MERCY, Chapters 14 – Post Script (and skim notes)  
WATCH Stevenson’s TED Talk  
WATCH/READ NYT Eyewitness/Police Test (CANVAS)  
READ Phillips, “Legal Disparities in the Capital of Capital Punishment” (CANVAS) |

**GROUP DISCUSSION:** Article Review DUE FRIDAY, APRIL 5TH, 11:59pm

**WEEK ELEVEN [APR 8-APR 12]**

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| WATCH 13th  
WATCH Kids for Cash  
READ Hartman & Doty 2015, “The Privatization of Punishment in the United States” (CANVAS)  
READ Guetzkow et al 2015, “If You Build It…” (CANVAS)  
READ your group members’ Article Reviews in preparation for your REACTION |

**ANSWER DQ 7 by Friday, April 12th, 11:59pm**

**WEEK TWELVE [APR 15-APR 19]**

**Switching Gears to Civil Litigation**

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| READ Chapter from *Legal Aspects of Property*...Part 7.1 and 7.3 (skip 7.5 and 7.6, skim rest) (CANVAS)  
READ Rhode, “Frivolous Litigation and Civil Justice Reform” (CANVAS)  
READ Felstiner, Abel and Sarat, *Emergence and Transformation of Disputes*... (CANVAS)  
WATCH Erin Brokovich  
WORK on your REACTION |

**ANSWER DQ 8 by Friday, April 19th, 11:59pm**

**POST R4 by Friday, April 19th, 11:59pm (can be in response to posts on DQ 6 (if you’ve not responded to a DQ6 post yet), DQ7 or DQ 8)**
WEEK THIRTEEN [APR 22-APR 26]

**THIS WEEK:**

WATCH *Hot Coffee*
SKIM McCann, Halton, Bloom, *Java Jive: Geneology of a Juridical Icon* (CANVAS) (It’s dense – see what you can get out of it. I’ve got lots of notes on it posted for you.)

**ANSWER DQ9** by Friday, April 26th, 11:59pm
**GROUP DISCUSSION: REACTION** due Friday, April 26th, 11:59pm

WEEK FOURTEEN [APR 29-MAY 3]

**THIS WEEK:**

READ Vernick et al, “Role of Litigation in Preventing…” (CANVAS)
READ Vernick, Rutikow, Salmon “Availability of Litigation…” (CANVAS)
READ Current events related to civil litigation (CANVAS)
READ your group members’ REACTIONS and work on SUMMATION

**ANSWER DQ10** by Friday, May 3rd, 11:59pm
**POST R5** by Friday, May 3rd, 11:59pm (in response to posts to DQ8 (if you’ve not responded to one yet), DQ9, or DQ10)

WEEK FIFTEEN [MAY 6-MAY 8]

**THIS WEEK:**

COMPLETE SUMMATION
STUDY and ORGANIZE for FINAL EXAM

**GROUP DISCUSSION: SUMMATION** Due on Last Day, WED, MAY 8TH, 11:59pm

EXAM WEEK [MAY 13-MAY 18]

**THIS WEEK:**

**FINAL EXAM (QUIZ #2)** will be available at 8am on MONDAY, MAY 13TH and will stay open until 11:59pm on FRIDAY, MAY 17TH (so start it no later than 10pm on the 17th if you want to get the full 2-hour allotment). The exam must be taken within that timeframe unless you have requested an accommodation due to a documented issue (see above for policies). The exam has a 2-hour time limit and you may only attempt it once. You may use your notes. You MAY NOT consult with anyone else, in the class or outside the class, while taking it. Same rules as last time apply: 2-hour limit, one attempt, complete the exam ALONE, feel free to use notes and readings.