**History 121D:**

# Crime and Punishment in Early Modern Europe

## Prof. Hilary Bernstein Office: 4235 HSSB

Winter 2020 Office hrs: W 1:30-3:30 p.m.

WF 9:30-10:45 a.m. bernstein@history.ucsb.edu

Girvetz 2119

**Description:** What were the legal practices of early modern Europe? How did early modern societies define crime, and what did these definitions say about their views of order and the individual? This course sets out to answer these questions by delving into the world of early modern secular courts, religious tribunals, and criminal legal procedures. We will find that the rights of the accused were very different than they are today and that torture was a common practice in proving guilt. We will then turn to early modern views of crime and criminals. How a society defines deviants tells us much about how it defines social and political order and

morality. In the sixteenth and seventeenth centuries, the societies of Western Europe were greatly concerned with crimes and threats that seem inconsequential to us today, such as witchcraft, heresy, blasphemy, and wandering. Yet they were also simultaneously developing concerns that retain their relevance. For example, what should be done with the poor, and should they be treated as unfortunates or deviants? As early modern thinkers and legal practitioners grappled with these issues, their views on crime, legal proceedings, and acceptable punishments began to change. Can we see in their discussions the birth of our own system of crimes and punishment?

**Requirements:**

*Discussion:* This course is organized as a lecture course with periodic discussions. The readings listed for each discussion are “due” on that day. It is important for you to come to discussion with your text(s) in hand, ready to share your thoughts on the readings, and ready to listen to the thoughts of your classmates.

*Attendance:* Attendance is required at lectures and discussions and will make up part of your participation grade. You are permitted to miss up to two class sessions without penalty or questions asked. Absences for normal illness count toward your two free absences. If you maintain perfect attendance throughout the quarter, you will receive extra participation credit.

*Readings:* The required texts for the class are listed below. You may obtain them at the UCSB Bookstore, and 2 copies of each have been placed on 2-hour reserve at Davidson Library. There will also be other short texts available on Gauchospace, marked by a (G) after the title.

Natalie Z. Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987)

Joel F. Harrington, *The Faithful Executioner: Life and Death, Honor and Shame in the Turbulent Sixteenth Century* (New York: Picador, 2013)

Lu Ann Homza, ed., *The Spanish Inquisition, 1478-1614: An Anthology of Sources* (Indianapolis: Hackett, 2006).

John H. Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Regime*, 2nd ed. (Chicago: University of Chicago Press, 2006).

Peter A. Morton and Barbara Dahms, eds., *The Trial of Tempel Anneke: Records of a Witchcraft Trial in Brunswick, Germany, 1663*, 2nd ed. (Toronto: University of Toronto Press, 2017).

Juan Luis Vives, *On Assistance to the Poor*, trans. Alice Tobriner (Toronto: University of Toronto Press, 1999).

*Graded Work:* In this course, you will be asked to write three short papers and to take a mid-term and final exam. The papers must each be 3 pages, double-spaced and are to be based on the readings for 3 of the 6 classes that include formal discussion. They are due in hard copy at the beginning of the relevant discussion class. It is up to you to decide when during the course of the quarter you would like to turn in your 3 papers, with the proviso that you must do at least one before the midterm exam. No late papers will be accepted. You may also do additional papers for extra credit (see below). The midterm exam will take place in class on Wednesday, February 12th, and the final exam is scheduled for Wednesday, March 18th at 8 a.m. In order to pass this course, you must complete each of these assignments. If you are caught cheating or plagiarizing on any of these assignments, you will be reported to Judicial Affairs, as University policy requires, and fail the course. Final grades will be determined using the following percentages:

 Participation: 15% Midterm Exam: 15%

 Three short papers: 45% Final exam: 25%

*Extra Credit:* There are four ways to earn extra credit in this course. First, if you maintain a perfect attendance record, you will receive extra credit toward your participation grade. Second, there will be an extra-credit lecture by Professor Sara Beam, a visiting scholar, on Friday, February 28th at 3:30 p.m. in HSSB 4080. Third, you have the option of writing any or all of the assigned papers for the class above the three required. For these extra credit papers, you will earn 1-2 extra points (depending on the quality of the paper) toward your overall course grade. Fourth, do at least 2 of the short papers before the midterm and attend a scheduled meeting on how to improve your writing shortly after the midterm.

**Schedule of Lectures and Readings:**

*Part One: Courts and Legal Systems in Early Modern Europe*

Week 1

Wed Jan 8: Introductory

Fri Jan 10: Courts, Law and Political Authority

Week 2

Wed Jan 15: The Continental Legal System

Fri Jan 17: The Continental Legal System in Theory and Practice; **Discussion**

 Readings: Langbein, *Torture and the Law of Proof*

Sara Beam, “Local Officials and Torture in Seventeenth-Century Bordeaux” (G)

Week 3

Wed Jan 22: English Common Law: Development of Jury Trials

Fri Jan 24: Jurors and the Law in Early Modern England

Week 4

Wed Jan 29: Uses of the Law in Early Modern Europe

Fri Jan 31: **Discussion**; Church courts

Reading: Davis, *Fiction in the Archives*

Week 5

Wed Feb 5: The Spanish Inquisition

Fri Feb 7: Heresy, Martyrdom, and Sedition; **Discussion**

Reading: Homza, ed., *The Spanish Inquisition*, Introduction and documents 3-7, 14-15, 17-18, and 20

*Part Two: Crime and Deviance in Early Modern Europe*

### Week Six

Wed Feb 12: **Midterm Exam**

Fri Feb 14: Crime, Violence, and Poverty in Early Modern Europe

### Week Seven

Wed Feb 19: Sorting the Poor: Deserving Poor and Criminal Vagabonds

Fri Feb 21: The Rogue and the Picaro; **Discussion**;

Readings: Juan Luis Vives, *On Assistance to the Poor*

 Paul Slack, *Poverty in Early Stuart Salisbury*, excerpts (G)

### Week Eight

Wed Feb 26: Female Crimes, Family Order, and Witchcraft

Fri Feb 28:The Great Witch Hunt: Prosecuting Witches

Optional Reading: Sara Beam, “Gender and the Prosecution of Adultery in Geneva, 1550-1700” (G)

*Part Three: A Changing Regime of Crime and Punishment?*

### Week Nine

Wed Mar 4: Prosecuting Witches, Cont

Fri Mar 6: **Discussion**; A Changing Regime of Punishment?

Reading: Morton and Dahms, eds., *The Trial of Tempel Anneke*

### Week Ten

Wed Mar 11: Executions and Executioners

Fri Mar 13: **Discussion**; Toward a Carceral Society

 Reading: Harrington, *The Faithful Executioner*