

**UNIVERSITY OF CALGARY – DEPARTMENT OF HISTORY  
HTST 673 (WINTER 2017) – TOPICS IN LEGAL HISTORY**

**CRIME AND PUNISHMENT IN EARLY MODERN ENGLAND, 1550-1800**

Instructor: Dr. Ken MacMillan

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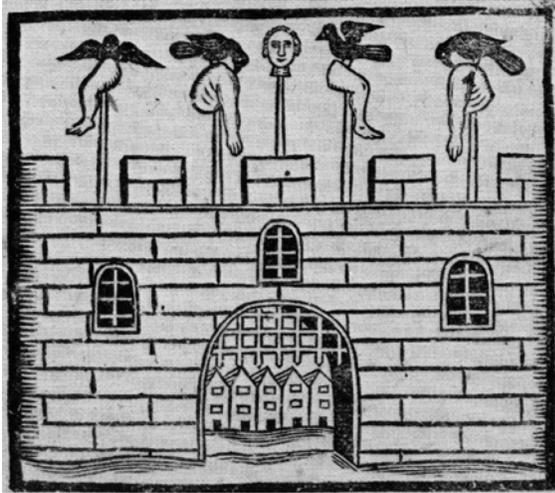
Office Hours: Monday 1:30-2:30pm; or by appt.

Seminar Location: SS 639

Seminar Hours: Monday 3-5:45 pm

Email: macmillk@ucalgary.ca

**Introduction**



This seminar will introduce participants to the history of crime and punishment in early modern England. This period witnessed significant changes in the criminal justice system. In the late-sixteenth and seventeenth century, the system was primarily attuned to the rural countryside, where people lived in small communities, knew each other well, shared similar occupations and socio-economic statuses, and conformed to familiar boundaries of behaviour. In the eighteenth century, people increasingly moved to large urban centres, especially London, where they became more anonymous, clashed with the wealthy 'middling sort', and shared a wide variety of social norms based on status, occupation,

gender, and environment. These changes required significantly different approaches to crime and punishment than were used previously. It will be our job in this seminar to map out these changes and understand why they occurred and what impact they had on English society.

**Structure and Learning Outcomes**

The seminar will begin with the examination of a discreet, though by no means exhaustive, body of periodical literature that will introduce us to the central themes of the course. Participants will then present on the primary materials historians use to study crime and punishment and the secondary literature historians have produced based on these investigations. We will conclude with the preparation and presentation of primary-source based research essays, using an important body of sources available online. Although learning the course content is a useful outcome of this seminar, it is also an opportunity for participants to continue developing skills of critical importance for historians. These include critical and abstract thinking, research in primary and secondary sources, effective oral and written articulation, and an understanding of cause and effect and continuity and change.

**Reading Material**

There are no books to purchase for this course. We will rely on periodical literature available through *Historical Abstracts* for the first section of the course and participants will use library, online, and other resources for the remaining sections.

## Grade Distribution

Participation	20%
Primary Source Presentation	10%
Secondary Source Presentation	10%
Research Presentation and Critique	10%
Research Proposal and Paper	50%

All assignments will be awarded percentage grades, according to the Department of History's approved table. This seminar relies heavily on presentations, which means there can be no extensions on presentations unless there are exceptional circumstances.

## Participation

Participation is an important component of this seminar. Participants are expected to engage with weekly readings during the first several weeks, and with presenters during the remaining weeks. There will be no opportunity to make up for participation points lost because of absence. At the instructor's discretion, in exceptional circumstances (generally, significant personal illness or family emergencies) some of these grades may be recovered with additional written work. The participation grade will be assigned at the end of term based on the overall performance in the course. Participants should expect a one-third letter grade reduction (e.g. A- to B+) for each class missed and an automatic fail on this component for missing more than two seminars without legitimate medical or personal reasons.

## Seminar Schedule

### Part I: Readings

The numbers after the topic refer to the articles listed below. Please note that these articles are listed alphabetically by author surname; participants should review the set of articles first and read them in the order that makes sense to them, likely either chronologically or thematically.

#### Jan. 9: **Introduction**

Jan. 16: **Historiography**: 11, 12, 16, 26

Jan. 23: **Punishment**: 1, 7, 10, 13, 19

Jan. 30: **Gender**: 3, 9, 14, 28, 30

Feb. 6: **Reporting**: 8, 18, 22, 24, 25

Feb. 13: **Procedure**: 4, 17, 20, 21, 27, 29

Feb. 27: **London**: 2, 5, 6, 16, 23

### Part II: Presentations and Research

Mar. 6: **Research Day** – no class – Review <https://oldbaileyonline.org>.

Mar. 13: **Primary Source Presentations**

Mar. 20: **Secondary Source Presentations**

Mar. 27 – Apr. 10: **Research Essay Presentations**

## Reading Material for Part I

Each of the following articles are available for PDF download on *Historical Abstracts*, which is accessible through the University of Calgary library website.

### Abbreviations

AJLH: American Journal of Legal History

CSH: Cultural and Social History

JBS: Journal of British Studies

HJ: Historical Journal

LHR: Law and History Review

LJ: London Journal

P&P: Past and Present

### Articles

1. Susan Amussen, 'Punishment, Discipline, and Power', JBS 34 (1995), 1-34
2. J. M. Beattie, 'Sir John Fielding and Public Justice', LHR 25 (2008), 61-100
3. J. M. Beattie, 'The Criminality of Women', Journal of Social History 75 1975, 80-116
4. J. M. Beattie, 'Scales of Justice', LHR 9 1991, 221-67
5. Mary Clayton, 'The Life and Crimes of Charlotte Walker', LJ 33 2008, 3-19
6. Simon Devereaux, 'The Making of the Penitentiary Act', HJ 42 1999, 405-44
7. Simon Devereaux, 'Recasting the Theatre of Execution', P&P 202 2009, 127-74
8. Simon Devereaux, 'From Sessions to Newspaper?', LJ 32 2001, 1-27
9. Laurie Edelstein, 'Accusation Easily to be Made', AJLH 42 1998, 351-90
10. Paul Griffiths, 'Contesting London Bridewell', JBS 42 2003, 283-315
11. Cynthia Herrup, 'Law and Morality', P&P 106 1985, 102-23
12. Joanna Innes and John Styles, 'The Crime Wave', JBS 25 1986, 380-435
13. K. J. Kesselring, 'Felony Forfeiture and the Profits of Crime', HJ 53 2010, 271-88
14. K. J. Kesselring, 'Bodies of Evidence', Gender and History 27 2015, 245-62
15. Peter King, 'Decisions-Makers and Decisions-Making', HJ 27 1984, 25-58
16. Norma Landau, 'Gauging Crime in ... London', Social History 35 2010, 396-417
17. Matthew Lockwood, 'From Treason to Homicide', Journal of Legal History 34 2013, 31-49
18. Randall Martin, 'Henry Goodcole', Seventeenth Century 20 2005, 153-84
19. Randall McGowen, 'Body and Punishment', Journal of Modern History 59 1987, 651-79
20. Andrea McKenzie, 'The Practice of Peine Forte et Dure', LHR 23 2005, 279-313
21. Dana Rabin, 'Drunkenness and Responsibility', JBS 44 2005, 457-77
22. Robert Shoemaker, 'Print and the Female Voice', Gender & History 22 2010, 75-91
23. Robert Shoemaker, 'The Old Bailey Proceedings', JBS 47 2008, 559-80
24. Robert Shoemaker, 'The Street Robber', CSH 3 2006, 381-405
25. Anthony E. Simpson, 'Popular Perceptions of Rape', LHR 22 2004, 27-70
26. Bruce P. Smith, 'English Criminal Justice Administration', LHR 25 2007, 593-634
27. Bruce P. Smith, 'The Presumption of Guilt', LHR 23 2005, 133-71
28. Jessica Steinberg, 'Violence and Prostitution', Canadian Journal of History 50 2015, 239-61
29. David M. Turner, 'Disability and Crime', CSH 9 2012, 47-64
30. Garthine Walker, 'Rape, Acquittal and Culpability', P&P 220 2013, 115-42

## Primary and Secondary Source Presentations

These assignments involve the preparation of formal 10-minute presentations accompanied by PowerPoint or similar presentation software, such as Google Slides. One increasingly popular form of presentation is the Pecha Kucha (Japanese for ‘chit-chat’), which involves showing 20 slides for 20 seconds each, accompanied by dialogue prepared by the presenter. Participants may, however, elect a different method of presentation provided that it is prepared in advance (rather than extempore) and uses presentation software. A one-page handout should accompany each presentation. It should highlight the major points discussed in the presentation, but should not merely be a copy of the presentation itself. In our first seminar, each participant will select one primary source and one secondary source from the lists below, and present on the date indicated. Your task, in essence, is to teach the material to the class. Please note that all aspects of the presentation will be graded; this includes your comprehension of the material, ability to explain it, preparation, delivery, and the quality and effectiveness of the presentation slides and handouts. You are not required to submit a review or analysis of the work you are presenting, but you must email the instructor the handout and presentation no later than midnight on the day you present.

### Primary Source Texts

Chapbooks in Ken MacMillan, *Stories of True Crime in Tudor and Stuart England*  
 William Lambarde, *Eirenarcha*  
*The Ordinary’s Account*  
*Proceedings of the Old Bailey*  
 Daniel Defoe, *Moll Flanders*  
*The Newgate Calendar*  
 William Hogarth, *A Harlot’s Progress, Industry and Idleness, Beer Street, and Gin Lane*  
 William Blackstone, *Commentaries on the Laws of England*, vol. 4  
 Jeremy Bentham, *Panopticon*  
 Patrick Colquhoun, *A Treatise on the Police of the Metropolis*

### Secondary Source Texts

Cynthia Herrup, *The Common Peace*  
 Malcolm Gaskill, *Crime and Mentalities in Early Modern England*  
 James Sharpe, *The Bewitching of Anne Gunter*  
 Krista Kesselring, *Mercy and Authority in the Tudor State*  
 J. M. Beattie, *Policing and Punishment in London, 1660-1750*  
 Peter King, *Crime, Justice, and Discretion in England*  
 Frances Dolan, *Dangerous Familiars*  
 Andrea McKenzie, *Tyburn’s Martyrs*  
 Peter Linebaugh, *The London Hanged*  
 Sandra Clark, *Women and Crime in the Street Literature of Early Modern England*

## Research Presentation and Critique

The research presentation will involve a 20-minute introduction to your research paper, followed by a formal critique and group discussion, for a total of about 45 minutes. The order of presentations will be determined by the instructor based on the subject matter and time period of the essays. Papers to be presented on Monday will be made available by the previous Friday and must be read by each participant before the class. This means that, depending on the day of presentation, drafts will be due at different times. Presenters should not read their paper, but rather introduce the topic, thesis statement, evidence used, and principal findings, and any particular difficulties or personal improvement involved in completing the project. Audiovisual support (eg. PowerPoint) is recommended but is not necessary. The grade will be based on the author's ability to communicate her or his findings, and their relevance, to the class. The critique will involve a 5-minute prepared written statement (2 double-spaced, typed pages), to be read by the participant who has been assigned to respond to the paper. It should address substantive issues about the paper – organization, argument, and use of sources – rather than style and grammar. The grade will be based on the critic's ability to raise questions and concerns that will assist the author in preparing a final version of the essay. The critique should be given to the author of the paper after delivery.

## Research Proposal and Essay

The research essay involves an investigation into a topic of your choice, drawing on the *The Proceedings of the Old Bailey* website ([www.oldbaileyonline.org](http://www.oldbaileyonline.org)). This resource contains transcripts of cases tried between 1674 and 1913. Use the search engine to find several cases of interest to you. Your search can be based on specific crimes, verdicts, genders, punishments, ages, dates, or a combination of these criteria. Most cases are about one page long, but some are considerably longer. You should strive to examine about 20 pages of primary material, which will range anywhere from a few to perhaps thirty cases, depending on your topic. Gather at least ten secondary sources (journal articles, chapters in books, books) directly relevant to your topic. You may use the articles assigned to this seminar if they are relevant. The Old Bailey website has a bibliography that might help you find some relevant sources. Please feel free to consult the instructor regarding an essay topic or appropriate secondary material. The secondary literature should be used to place your paper into the context of other historians' writings on your subject, and to show in what ways your findings confirm or challenge historians' views. The paper should be approximately 5000 words (18-20 double-spaced pages).

A draft of the essay is due by noon on the Friday before you present the paper to the class on Monday. The paper should be submitted to the instructor via email (preferably in Adobe pdf format) and will be uploaded to D2L once it is received. Following the presentation and discussion of the paper, consider revisions along the lines suggested by your critic, the instructor, and classmates. Final versions of all papers are due on April 17. These should be in Adobe or Word and uploaded to the D2L Dropbox no later than midnight on the due date. The paper will be graded on originality, source base, use of source materials, organization, strength of argument, and writing style. Proper referencing style and format must be used, about which see *The History Student's Handbook* located at the Department of History website. References to the cases must include the case number (e.g. t16770425-6).

## **Important Departmental, Faculty, and University Information**

**Departmental Twitter Handle @ucalgaryhist** - For departmental updates and notifications

### **Writing:**

This course will include written assignments. Faculty policy directs that all written assignments (including, although to a lesser extent, written exam responses) will be assessed at least partly on writing skills. Writing skills include not only surface correctness (grammar, punctuation, sentence structure, etc.) but also general clarity and organization. Research papers must be properly documented.

### **Writing Support:**

Students are also encouraged to use Writing Support Services and other Student Success Centre Services, located on the 3<sup>rd</sup> floor of the Taylor Family Digital Library. Writing Support Services assist with a variety of assignments, from essays to lab reports. Students can book 30-minute one-on-one appointments online, sign up for 15-minute drop-in appointments, and register for a variety of writing workshops. For more information on this and other Student Success Centre services, please visit [www.ucalgary.ca/ssc](http://www.ucalgary.ca/ssc).

### **Copyright:**

The University of Calgary has opted out of the Access Copyright Interim Tariff proposed by the Copyright Board. This means that instructors in all University of Calgary courses will strictly adhere to Copyright Act regulations and the educational exceptions permitted by the Act for both print and digital course material. What this simply means is that no copyrighted material may be placed on course D2L or web sites without the prior permission of the copyright holders. In some cases, this may mean that instructors will require you to purchase a print course pack from the University of Calgary bookstore or that you will have to consult books on reserve at the library. For more information on the University of Calgary's copyright policy, see <http://library.ucalgary.ca/copyright>.

### **Red Box Policy:**

Essays and other assignments may be handed in to the red box located outside of the History Department office (SS 656). Please include the following information on your assignment: course name and number, instructor, your name and your student number. Assignments received after 4:00 p.m. will be date stamped with the date of the next business day. We do not time stamp any papers. Please do not bring your paper into the office to be stamped. The box is emptied promptly at 8:30 a.m. and at 4:00 p.m. Monday to Friday.

### **Departmental Grading System:**

The following percentage-to-letter grade conversion scheme has been adopted for use in all Canadian Studies, History, and Latin American Studies courses.

<b>Percentage</b>	<b>Letter Grade</b>	<b>Grade Point Value</b>	<b>Description</b>

Percentage	Letter Grade	Grade Point Value	Description
90-100	A+	4.00	Outstanding
85-89	A	4.00	Excellent—superior performance showing comprehensive understanding of subject matter.
80-84	A-	3.70	
77-79	B+	3.30	
73-76	B	3.00	Good—clearly above average performance with knowledge of subject matter generally complete.
70-72	B-	2.70	
67-69	C+	2.30	
63-66	C	2.00	Satisfactory—basic understanding of the subject matter.
60-62	C-	1.70	Receipt of a grade point average of 1.70 may not be sufficient for promotion or graduation.
56-59	D+	1.30	Minimal pass—marginal performance; generally insufficient preparation for subsequent courses in the same subject.
50-55	D	1.00	
0-49	F	0	Fail—unsatisfactory performance or failure to meet course requirements.

### Plagiarism:

Plagiarism occurs when one submits or presents one's work in a course, or ideas and/or passages in a written piece of work, as if it were one's own work done expressly for that particular course, when, in fact, it is not. As noted in *The History Student's Handbook* ([http://hist.ucalgary.ca/sites/hist.ucalgary.ca/files/history\\_students\\_handbook\\_2015.pdf](http://hist.ucalgary.ca/sites/hist.ucalgary.ca/files/history_students_handbook_2015.pdf)), plagiarism may take several forms:

- Failure to cite sources properly may be considered plagiarism. This could include quotations, and wording used from another source but not acknowledged.
- Borrowed, purchased, and/or ghostwritten papers are considered plagiarism, as is submitting one's own work for more than one course without the permission of the instructor(s) involved.
- Extensive paraphrasing of one or a few sources is also considered plagiarism, even when notes are used, unless the essay is a critical analysis of those works.

- The use of notes does not justify the sustained presentation of another author's language and ideas as one's own.

Plagiarism is a serious academic offence and written work that appears to contain plagiarized passages will not be graded. All such work will be reported to the Faculty of Arts' associate deans of students who will apply the penalties specified in the *University of Calgary Calendar*.

### **Universal Student Ratings of Instruction:**

At the University of Calgary, feedback provided by students through the Universal Student Ratings of Instruction (USRI) survey provides valuable information to help with evaluating instruction, enhancing learning and teaching, and selecting courses ([www.ucalgary.ca/usri](http://www.ucalgary.ca/usri)). Your responses make a difference. Please participate in USRI Surveys.

### **Student Accommodations:**

Students seeking an accommodation based on disability or medical concerns should contact Student Accessibility Services; SAS will process the request and issue letters of accommodation to instructors. For additional information on support services and accommodations for students with disabilities, visit [www.ucalgary.ca/access/](http://www.ucalgary.ca/access/).

Students who require an accommodation in relation to their coursework based on a protected grounds other than disability should communicate this need in writing to their Instructor.

The full policy on Student Accommodations is available at <http://www.ucalgary.ca/policies/files/policies/student-accommodation-policy.pdf>

### **Other Useful Information:**

- Faculty of Arts Representatives: 403-220-6551, [arts1@su.ucalgary.ca](mailto:arts1@su.ucalgary.ca), [arts2@su.ucalgary.ca](mailto:arts2@su.ucalgary.ca), [arts3@su.ucalgary.ca](mailto:arts3@su.ucalgary.ca), [arts4@su.ucalgary.ca](mailto:arts4@su.ucalgary.ca).
- *Safewalk and Campus Security*: 403-220-5333.

Please also familiarize yourself about the following topics by consulting the information at these links:

- *Freedom of Information*: <http://www.ucalgary.ca/legalservices/foip/foip-hia>
- *Emergency Evacuation Assembly Points*: <http://www.ucalgary.ca/emergencyplan/assemblypoints>
- *Safewalk*: <http://www.ucalgary.ca/security/safewalk>
- *Student Union Information*: <http://www.su.ucalgary.ca/>
- *Graduate Student Association*: <http://www.ucalgary.ca/gsa/>
- *Student Ombudsman Office*: <http://www.ucalgary.ca/provost/students/ombuds>