

**UNIVERSITY OF CALGARY – DEPARTMENT OF HISTORY  
HTST 473 (FALL 2007) – CRIME AND CRIMINAL JUSTICE IN ENGLAND**

**Lecture Location: SS 109**

**Lecture Hours: Tuesday 1900-2150**

**Office Hours: Tuesday 1230-1330; 1730-1830**

**Course Website: [hist.dev.tri.ucalgary.ca/macmillk](http://hist.dev.tri.ucalgary.ca/macmillk)**

**Instructor: Dr Ken MacMillan**

**Office No: SS 628**

**Phone: 220-5927**

**Email: [macmillk@ucalgary.ca](mailto:macmillk@ucalgary.ca)**

### **Introduction**

Through an investigation of themes such as the development of crime and criminal law, legislation, courts, magistrates, juries, police forces, and prisons, this course seeks to answer a number of central questions. What were “crime” and “justice” in England? Were they discretionary concepts, based on the extent to which the act of an individual or group upset the social order? Were they participatory, based on the extent to which society wanted to identify or punish criminals? Were there different definitions based on class, gender, locality, and other factors? Or were they defined and enforced by a rigorous rule of law that applied equally to all people? As in any historical investigation, a chief concern will be to discern cause and effect and change and continuity over time. No prerequisite knowledge of crime or criminal justice history is required, although some basic knowledge of English history will be an asset. Students lacking such knowledge are encouraged to read any survey text of English history.

### **Reading List**

Cynthia Herrup, *The Common Peace* (Cambridge, 1987)

Supplemental chapters and articles available at instructor’s website

*The Proceedings of the Old Bailey* available at [www.oldbaileyonline.org](http://www.oldbaileyonline.org)

*The History Student’s Handbook* available at instructor’s website

One of:

Cynthia Herrup, *A House in Gross Disorder* (Oxford, 1999)

Martin Levy, *Love and Madness* (Perennial, 2004)

### **Grade Distribution**

<u>Activity</u>	<u>Deadline or Date of Activity</u>	<u>Value</u>
Preparation & Participation	Throughout Term	10%
Short Essay	October 16, 2007	20%
Research Essay	November 20, 2007	40%
Take Home Final Examination	December 4 to 10, 2007	30%

### **Preparation & Participation**

Each class will end with group discussions of the weekly material, particularly the assigned chapters and articles. You will be evaluated on this group activity at the end of term.

### **Short Essay**

This essay is to be based solely on Herrup's *A House in Gross Disorder* or Levy's *Love and Madness* (purchase only one of these). You may draw on Herrup's *The Common Peace* for context, but please do not use other materials. The paper should be 5 pages in length (1250 words) and reflect on the relationship between the formal rule of law and the informal practice of law, while also considering, as appropriate, factors such as class, gender, social norms, discretion, and boundary maintenance. In particular, was justice done in the case you have read? Please note that this is *not* a book review; engage with the material by developing and proving an argument. For this essay, reference notes can be made parenthetically; for example, (p. 56).

### **Research Essay**

This essay involves a primary source investigation into a topic of your choice. Begin by choosing several cases from the "Proceedings of the Old Bailey" ([www.oldbaileyonline.org](http://www.oldbaileyonline.org)), which contains transcripts of over 100,000 cases tried between about 1674 and 1834. Search the proceedings under the category "Crime, Verdict & Punishment"; your search can be based on a specific crime, verdict, gender, punishment, age, date, etc. In general, you will want to narrow your search until you have a small enough number of cases to manage, which will normally be between 10 and 15 (most cases are less than one page long). However, it is possible to prepare a strong paper using only one or two lengthy or particularly important cases. Gather a minimum of five secondary sources (journal articles, chapters in books, and books) *directly relevant* to your topic. The bibliography at the Old Bailey website might be helpful here. Do not use material from general textbooks, "popular" history, the internet, or class lectures, although you may use the assigned chapters and articles if their content is appropriate for your topic. Please feel free to consult the instructor regarding an essay topic or appropriate secondary material.

The paper should be approximately 2500 words (8-10 pages) and conform to the *History Student's Handbook* (including the proper use of footnotes or endnotes), which may be found at the instructor's website. References to the cases should conform to the copyright policy established at the Old Bailey website. Requests for extensions should be made in advance of the due date. Essays that have not been granted an extension will be subject to a grade deduction per day (e.g. from B+ to B), including weekends. The essay will be graded on a number of criteria, as indicated on the grading rubric located at the instructor's website.

### **Plagiarism**

Plagiarism is a serious academic offense that carries penalties ranging from failure in an assignment to expulsion. In general, plagiarism occurs when an author, either deliberately or without the exercise of reasonable judgment, passes off the efforts of another as one's own work. Some examples of plagiarism include submitting a paper written (in whole or in part) by a third party; work written by the author that has or will receive credit in another course; and extensive reciting or paraphrasing of other material, whether or not these are supported by notes. In all papers, accurately reference direct quotations (which should be enclosed in quotation marks) and

indirect paraphrases, ideas or information derived from another source, and all concepts or evidence that is not commonly known. Students are advised that they may be required to submit rough notes, source materials, and/or a digital copy of the essay, if requested.

### **Take Home Final Examination**

The final examination will be distributed in class on December 4 and is to be submitted to the instructor on December 10. It will be comprehensive in that it will test knowledge of all aspects of the course, including lecture material, readings, and discussions.

### **Course Outline and Readings**

The articles and chapters listed below are available at the course website in Adobe .pdf format.

Week 1 (Sep. 11): Introduction; The Anglo-Saxons

Reading: Herrup, ch. 1

Week 2 (Sep. 18): The Normans to the Tudors

Reading: Herrup, ch. 2; Robison, “Murder at Crowhurst”

Week 3 (Sep. 25): Tudor and Stuart England

Reading: Herrup, chs. 3-4; Amussen, “Punishment, Discipline, and Power”

Week 4 (Oct. 2): Criminal Procedure

Reading: Herrup, chs. 5-6; Wrightson, “Two Concepts of Order”

Week 5 (Oct. 9): Law and Lawyers

Reading: Herrup, chs. 7-8; Beattie, “Scales of Justice”

Week 6 (Oct. 16): Whigs and Punishment

Reading: King, “Decision-Making and Decision-Makers”; McGowen, “Body and Punishment”

**Short essay due**

Week 7 (Oct. 23): The Science of Legislation: Blackstone and Bentham

Reading: Beattie, “Criminality of Women”; Edelstein, “Accusation Easily to Be Made”

Week 8 (Oct. 30): The Criminal Classes?

No readings; Essay writing workshop

Week 9 (Nov. 6): Legislation and Courts

Reading: Wiener, “Judges v. Jurors”

**No class reading day, November 13**

Week 10 (Nov. 20): The New Police

Reading: Davis, “Poor Man’s System of Justice”; Philips, “A Weak State?”

**Research essay due**

Week 11 (Nov. 27): Rise of the Penitentiary

Reading: McGowen, “A Powerful Sympathy”; Bailey, “English Prisons”

Week 12 (Dec. 4): Conclusions

**Distribution of take home final examination; due December 10**