Sul Ross State University—Rio Grande College

Criminal Justice 4308
Constitutional Rights of Prisoners & Detainees
Fall 2018

Professor: Martin Guevara Urbina, Ph.D.
Classroom: Web
Class Meeting: Online

Office: 201 (Faculty Building)
Phone: 830-703-4820 (office, direct line)
Hours: Monday and Tuesday 12:00 to 5:00. Even though this is an online course, you are welcome to visit the Professor’s office anytime.
E-mail: murbina@sulross.edu

Course (Catalog) Description: A study of the First, Fourth, Fifth, Sixth, Eight, and Fourteenth Amendment rights and the theories behind those rights, as they relate to convicted prisoners and pretrial detainee. The impact of court decisions on prisons and jails. Liability and immunity of correctional personnel.

Student Learning Outcomes (SLOs):
1. Demonstrate proficiency in the application of legal concepts, theoretical applications, scientific principles, and historical trends in the criminal justice arena.

2. Demonstrate competency in the application of basic research methods, to include: research design, statistical analysis, and uses of empirical findings and interpretations.

3. Demonstrate the application of organizational principles, cultural, social and behavioral knowledge, critical thinking skills and cognitive thought processes within the criminal justice arena.

Objective: Constitutional Rights of Prisoners & Detainees will offer a sound and holistic analysis of various statutory and constitutional rights of prisoners and detainees in the US, combined with a legal, historical, sociological, and criminological examination of American jurisprudence, to include law, order,
and justice. While the focus will be primarily, but not exclusively, on the functions and dynamics of statutory and constitutional rights of inmates, particular attention will be given to what I call a symbiotic triangle—law, society, and in/justice—giving us insight into the nature of law, legal systems, and legal institutions. For instance, some legal scholars approach the legal system from an outside rather an inside perspective, which focus on legal rules and procedures as seen from inside the legal system, often in an idealized form. Specifically, the intent of this course is to provide the student with a detailed understanding of 10 main topics, which are best expressed in the following questions:

1. What is law, and, by extension, order and justice?

2. Pragmatically, philosophically, politically, economically, culturally, and socially, what do we mean by constitutional rights of prisoners and detainees?

3. What are the primary objectives of statutory and constitutional rights for inmates?

4. What are the most influential theoretical and philosophical ideologies behind modern constitutional and statutory rights of inmates and detainees? How has the judicial system, in the context of legal rights, evolved in the US? What are the links between time and space?

5. What FORCES have driven and/or continue to drive legal reform as it pertains to inmates? What role do politics, the media, symbolism, power, social norms, and society play in the making and implementation of constitutional rights for prisoners? Likewise, what role have historical EVENTS played in shaping and re-shaping constitutional rights for inmates?

6. WHO has played the most significant role in “shaping and reshaping” judicial reform as it pertains to prisoners and detainees? What are the reasons of amending existing laws?

7. What is the scope and nature of current “critical” issues in jurisprudence? For instance, should undocumented people (“illegal immigrants”) be granted the same constitutional rights as their counterparts; that is, US citizens and legal residents?

8. What is the significance, implications, and ramifications of “globalized legislation and sanctions,” and, by extension, constitutional rights for prisoners and detainees in the US and abroad?

9. What are the avenues for the establishment of a rational, effective, and just legal system?

10. What is the future jurisprudence, in the context of constitutional and statutory rights for prisoners and detainees?

The next set of questions is essentially definitional in nature. It is essential that we share the same definitions of an issues, event, situation, or problem if we are to come to a common understanding of both the problem and any possible solutions/remedies. Consequently, the class’s first segment deals with defining “Law,” as it pertains to prisoners and detainees and placing it in a global context.

The last set of questions is more analytical. A particular truism about jurisprudence, criminological, sociological, and theoretical aspects of the nature of society is as follows: There are many typologies of criminological, sociological, and legal theories as there are authors writing textbooks about the subject. The five-fold approach we will take is an amalgam of several such typologies:
History—When deemed appropriate, we will make use of historical events, situations, and circumstances to better understand the subject matter by its totality. It is essential that we obtain an understanding and appreciation for historical ruptures and discontinuities as we try to bridge existing gaps. According to an African proverb, “Until lions have their own historians, histories of the hunt will glorify the hunter.”

Theory—Theoretically, we must investigate which theories provide the best guidance in our search for “truth and reality.”

Law and Society—In a society where most behavior is governed by some type of law, it is vital that we explore the relationship between law and society. To some scholars, laws are a measure of culture; crime, another element of all known cultures, is the violation of those laws. In essence, why do we have laws? Do we need laws? Does law makes a difference?

Philosophy—While sociological and criminological theories might serve as “road maps” to everyday life, philosophy gives “meaning” to human existence. It enables us to better appreciate what matters most at the END of the day.

Poetry—Even though poetry is one of the oldest forms of dialogue, it is seldom mentioned in academic discussions. Yet, poetry allows us to transcend the unknown ... it allows us to dream the impossible ... to dream the impossible dream. “Invent the age, invent the metaphor. Without a credible structure of law a society is inconceivable. Without a workable poetry no society can conceive a [person].” --Archibald MacLeish, Apologia, 1972.

The final question has policy overtones. First, we must briefly look at the nature and process of human behavior, in the context of the US judicial system, with a focus on legal rights. Next, we turn to the more difficult task of linking jurisprudence, sociological, and criminological theory, particularly those we will review, to behavior, legal rights, research, and practices.

Overall, this course is designed to introduce you to the nature and dynamics of statutory and constitutional right of inmates within the context of the legal system and, by extension, social interactions and, ultimately, human behavior in the world. By introducing you to influential issues that provide the frameworks to studying a wide variety of phenomena, I intend this course to be a basis for further, more in-depth study in the areas that interest you.

Course Context: As an upper-level course, this class may include controversial, sensitive, and/or adult material. For instance, what should “we” do with foreign nationals who are currently detained in immigration facilities for no crime other than entering the country without documentation? Yet, they are not being released or deported because their country of origin will not take them back. Thus, students are expected to have the mentality and readiness for upper-level content and rigor.

Course Structure: This course will be presented in modules. Please note that the ENTIRE course will be taught online via Blackboard.
Required Texts:
[ISBN: 978-1593455033]

[ISNB: 978-0-398-07812-6]

Optional Readings:


Fogel, David (1979). “… we are the living proof”: *The justice model of corrections*. Cincinnati: Anderson.


**Recommended Readings**

**Books:**


**Book Chapters:**


**Refereed (Peer-Reviewed) Journal Articles:**


Encyclopedia, Magazine, and Other Publications:


Weekly Assignments: There will be ten (10) Weekly Assignments, each worth 10 points for a total of 100 points. The “Weekly Assignments” will be discussed further the first week of class. Please do NOT panic! Handouts will be posted to assist you as you prepare your weekly assignments.

Activities/Participation: Please complete the reading assignments as assigned to avoid falling behind, and, more fundamentally, to capture the essence of the class. During the semester, I will be posting a question or a statement for you to respond (100 points) and post for ALL students to read. Again, please do NOT panic! If you do the reading, you should be fine. Participation in these “exercises” will be equated into your final grade.

Reviews (Book, Article, Movie):

Required Book Review (50 points): For your Book Reviews you are asked to read and make critical judgment about one book (50 points). Here is the complete citation for the required book review:


The Book Review is limited to 3 to 5 typed pages. The logistics of the Book Reviews will be discussed in class and handouts will be provided to assist you with the writing assignments.

Article Review (50 points): An article will be provided (or posted online) your review and assessment.

Movie Review (50 points): A movie title will be provided (or posted online) for your review and assessment.

Major Project: The logistics of the project, which will be submitted as a formal paper, will be discussed in detailed during the first part of the class. Illustration: some agencies (law enforcement and penal system) allow citizens to go in and observe. Some law enforcement agencies, for instance, allow “ride alongs.” Hence, you could arrange to participate in a series of “field” activities. At the end of the shift/session, write down what you observed. Describe how it compares with what you have learned in class (like, deviant behavior, constitutional rights for prisoners and detainees, policy implications and consequences). For instance, based on your observations, what are the links between constitutional right for defendants, media, age, gender, race, ethnicity, research, and practice?
Your project, which is **required** (100 points), **will be shared with the rest of the class at the end of the semester**, allowing other students to provide feedback (vis-à-vis a short reaction comments), if time allows. Papers (approximately 8 to 12 pages in length) must be typed. Late papers will **not** be accepted. Do not submit (post) your only copy of any paper without **saving** your essay in case assignments are lost or destroyed. In effect, make sure that you have a backup copy of the latest version. Note: The project will be discussed further in class.

**Mini-project:**

This should be a fun exercise that allows you to explore (critically) some aspect of human behavior as it pertain to **constitutional rights for prisoners and detainees** in greater depth with less evaluation anxiety than you would have in a full-length paper assignment. I would like you to try to and choose a project that you will enjoy, and that will stimulate your thinking about the concepts covered in this course.

Mini-projects are **optional**. You will receive “extra credit” points for completing mini-projects. If your mini-project is **adequate**, you will receive one percentage point. This point(s) will be added on to your final grade at the end of the semester.

You may turn in your mini-projects any time during the semester. The projects will be of greater value if they are done thoughtfully. Thus, you may not submit more than three (3) mini-projects.

There is no minimum or maximum length requirement. Typically you will submit a three to five page typed paper as the final product of each mini-project. Some projects, however, may require longer (or shorter) write-ups. Your analysis should illustrate or explore some phenomenon relevant to the course, while knowledgeably using concepts, principles, and language in the context of **constitutional rights for prisoners and detainees**.

Attached to the end of the syllabus are descriptions of some mini-project options. Some of them will make more sense to you as we progress through the course. If you think of an **alternative** you would like to do as a mini-project, please feel free to ask me about it. Again, I am looking for you to implement class material—especially critical issues/perspectives—when describing the phenomena you choose to explore.

**Make-up Work:**

A **tentative** schedule of assignment will be provided (posted) at the beginning of the semester. However, it is possible that the schedule will be **modified** during the semester. Hence, if you fail to log on as discussed herein, it is the student’s responsibility to check with the Professor (or the Professor’s website) regularly to determine the deadlines for weekly readings, assignments, and activities. To this end, as noted above, make-up exercises will **NOT** be given, unless otherwise specified. For missed readings, weekly assignments and activities (i.e., “special circumstances”), it is the student’s responsibilities to find out what make-up work is required. If you have any difficulties getting the assignments or making the deadlines, please contact me right way.
Note: Unless otherwise specified, all assignments and activities are due on the scheduled due date. **No late assignments will be accepted.**

Grades: There are a total of 450 points available in this course. Grades will be based on the total points for the semester. Specifically, grades will be assigned by comparing your performance to the best possible score (450) as follows:

Weekly Assignments: 100 points*
Reviews: 150 points
Required Project: 100 points
Activities/Participation: 100 points**

Total........................................450 points

*Tentatively, Weekly Assignments will count for 100 points. However, it is possible that the total possible points (i.e., 100) will be increased, or reduced. If increased, the TOTAL POSSIBLE points discussed herein (i.e., 450) will add to more than 450 points. If reduced, the TOTAL POSSIBLE points discussed herein (i.e., 450) will add to less than 450 points.

**Similarly, if the 100 Activities and Participation points are either increased or reduced, only the total possible points for Activities/Participation that are utilized will be equated in the final grade distribution. In such case, the TOTAL POSSIBLE points discussed herein (i.e., 450) will add to less (or more) than 450 points. Note: Mini-project points will be added to your point total at the end of the course.

Grade Distribution:

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<thead>
<tr>
<th>Percentage</th>
<th>Grade</th>
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<tbody>
<tr>
<td>90-100%</td>
<td>A (Excellent)</td>
</tr>
<tr>
<td>80-89%</td>
<td>B (Better than Average)</td>
</tr>
<tr>
<td>70-79%</td>
<td>C (Average)</td>
</tr>
<tr>
<td>60-69%</td>
<td>D (Below Average)</td>
</tr>
<tr>
<td>Below 60%</td>
<td>Failing</td>
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Please be aware of **class expectations, rules, and University/College Policies**, which follow:

Attendance Policy: This course is “Web” based. Students are expected to log-on regularly, check the calendar for due dates and respond to all emails. Thus, it is to your advantage to log-on regularly. For instance, if you do not participate, you cannot learn the discussed material. Additionally, you will not be able to discuss the assigned readings. Much of the learning in class is through discussion with other students. In the process, feel free to ask questions and/or make comments that might enhance our understanding of **constitutional rights for prisoners and detainees** and related issues. Also, do not hesitate to share experiences that may help to enhance our understanding of the nature and significance of deviant behavior within the context of the criminal justice system. (Please reference Sul Ross State University—Rio Grande College Catalog for additional information.)
**Punctuality:** It is of extreme importance that you complete the readings and writing assignments on time to avoid falling beyond. I understand that it is not possible at times, but please do not make it a routine.

**Classroom etiquette:** Above all, always respect yourself and others; be patient; be willing to explore new ideas (perspectives); and restrict questions and comments to the topic being discussed.

**Incomplete Grades:**
PLEASE AVOID INCOMPLETE GRADES. ALL ASSIGNMENTS ARE DUE ON THE DATES OUTLINED IN THE SYLLABUS. It is the responsibility of students to notify the Professor if they cannot make an assignment or will not be able to log-on to the class. Please call me at 830/758-5017 if you do not plan to participate in a class discussion question or feel you will be missing an assignment. If I do not hear from you in regards to missed assignments, I will not allow an excuse for the missed work.

**Class Responsibilities and Conduct:**
You will be responsible for all information posted anytime during the semester. You will be responsible for obtaining announcements or amendments you may have missed. Any student who is intentionally abusive, disruptive, or disrespectful vis-à-vis posted discussions, activities, or emails will be asked immediately amend such communication, AND possibly dropped from the course. Any student who has been asked to amend “unjustified” communication twice will be reported to the Department Chair or Academic Dean. You are expected to show respect to yourself, other students, and your Professor.

**Academic Honesty (Reference Sul Ross State University—Rio Grande College Catalog):**
Rio Grande College expects its students to maintain high standards of personal and academic conduct. Students who take part in academic dishonesty are subject to disciplinary action. Academic dishonesty includes, but is not limited to, cheating on an examination or other academic work, plagiarism, collusion, and the abuse of resource materials. The faculty member is responsible for initiating action for each case of academic dishonesty. Discover any academic dishonesty by a student, may be reported to the Department Chair or Academic Dean.

**Disability Services:**
**ADA (Americans with Disabilities Act)**
Sul Ross State University is committed to equal access in compliance with the Americans with Disabilities Act of 1973. It is the student’s responsibility to initiate a request for accessibility services. Students seeking accessibility services must contact Mary Schwartz, M. Ed., L.P.C., in Counseling and Accessibility Services, Ferguson Hall, Room 112. The mailing address is P.O. Box C-122, Sul Ross State University, Alpine, Texas 79832. Telephone: 432-837-8691. E-mail: mschwartz@sulross.edu.

**Drop Policy:**
If you discover that you need to drop this class, you must contact the Records Office and ask for the necessary paperwork. Professors cannot drop students; this is always the responsibility of the student. The Record’s Office will give a deadline for which the paperwork and form, if required, must be returned, complete and signed. If you discover that you are still enrolled, FOLLOW-UP with the Records Office immediately. You are to attend class until the procedure is complete to avoid penalty for absence. Should you miss the deadline or fail to follow the procedure, you will receive an F in the course.
Library Services:
Library information and technology focus on research skills that prepare individuals to live and work in an information-centered society. Librarians will work with students in the development of critical reasoning, ethical use of information, and the appropriate use of secondary research techniques including: exploring information resources such as library collections and services, identify sources such as subject databases and scholarly journals, executing effective search strategies, retrieving, recording, and citing relevant results correctly, and interpreting search results and deciding whether to expand the search.

Distance Education Statement:
Students enrolled in distance education courses have equal access to the university’s academic support services, such as Smarthinking, library resources, such as online databases, and instructional technology support. For more information about accessing these resources, visit the SRSU website. Students should correspond using Sul Ross email accounts and submit online assignments through Blackboard, which requires secure login information to verify students’ identities and to protect students’ information. The procedures for filing a student complaint are included in the student handbook. Students enrolled in distance education courses at Sul Ross are expected to adhere to all policies pertaining to academic honesty and appropriate student conduct, as described in the student handbook. Students in web-based courses must maintain appropriate equipment and software, according to the needs and requirements of the course, as outlined on the SRSU website.

The Rio Grande College Quality Enhancement Plan (QEP):
Sul Ross State University Rio Grande College is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS). As part of the reaffirmation process, SACS requires every institution to develop a Quality Enhancement Plan (QEP) that enhances student learning. Rio Grande College has developed a QEP called Putting Your Words to Work that requires students to write different kinds of papers and deliver oral presentations for courses in all departments. Rio Grande College is committed to enhancing students’ written and oral communication skills which means that students should be writing and speaking significantly more in courses across all departments.

To prepare for the increased number of written assignments, students should make every effort to enroll in English 3312 in their first semester at RGC. Students should expect to write and speak professionally in all courses, not just English classes. In this course, Constitutional Rights for Prisoners and Detainees, students will write various papers and present student work to other students and the Professor, as discussed herein. If you have questions about the QEP, please contact Dr. Sarah Moreman, QEP Coordinator, at smoreman@sulross.edu.

Again, I want this class to be useful to you in your future careers. As such, if I can assist you in any way, please stop by and see me or call/e-mail me. If a problem is to arise during the semester, please contact me immediately so that we can work out a solution. Do not wait until it is too late to remedy the problem.
## Tentative*
### Schedule of Classes and Assignments

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<thead>
<tr>
<th>Week</th>
<th>Topic</th>
<th>Reading</th>
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<tr>
<td>Week 1</td>
<td><strong>Focus</strong>: Detail class expectations; provide a foundation for the study of statutory, constitutional, and international rights; &amp; provide an introduction &amp; broad overview of the subject matter: constitutional rights of prisoners and detainees.</td>
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| Week 2| Female prisoners: A 21st Century profile  
**Focus**: Explore the characteristics of female prisoners in the US, paying particular attention as to how and why female criminality has shifted over the years. | Urbina:  
Preface, Chapters 1 & 2 |
| Week 3| Life before prison; the road to prison  
**Focus**: Detail the realities that women experience before their arrest and subsequent incarceration; and examine the intertwining forces that “pave” the road to jail or prison. | Urbina:  
Chapters 3 & 4 |
| Week 4| Life behind bars . . . cages of steel  
**Focus**: Examine the everyday realities of living behind prison bars, as people who broke the law, but, nonetheless, as people trying to cope with the challenges they confront, like not being able to see their young children. | Urbina:  
Chapter 5 |
| Week 5| Health care in prison: A question of justice  
**Focus**: With inmates’ health care being a critical element for their rehabilitation, how they serve their time in prison, and the prospect of “survival” once released from prison, health care service delivery will be analyzed. | Urbina:  
Chapter 6 |
| Week 6| Living under the same roof; critical issues: 21st Century challenges  
**Focus**: With the American penal system already being the largest in the developed world, the multiple challenges currently confronting both inmates and the correctional system will be examine. | Urbina:  
Chapters 7 & 8 |
| Week 7| “Reflection Week”:  
**Focus**: “Reflection Week” is designed to give students the opportunity to reflect (think and act) on what has transpired during the first half of the semester, and, more fundamentally, how things “fits” into their broader academic career, professional life, and personal life. |  |
| Week 8| Movie: *12 Angry Men*  
**Mid-Term Exam**: The selected movie gives students a vivid illustration as to how various historical and legal elements are tied, and, more importantly, how they influence judicial proceedings in American jurisprudence, including final outcomes. | Urbina:  
Chapters 9 & 10 |
| Week 9| Life after prison . . . the shadow of the night . . .  
**Focus**: Detail the experience of prisoners once they are released from prison; how they integrate with society; challenges they face upon release; and prospects for staying out of prison. |  |

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*Tentative schedule subject to change.*
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<thead>
<tr>
<th>Week 10</th>
<th>Use of force; corporal punishment; visitation; searchers</th>
<th>Palmer &amp; Palmer: Chapters 1-3</th>
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<tr>
<td><strong>Focus</strong>: Detail the major forces defining and shaping the nature of crime and punishment: historical, theoretical, cultural, financial, political, philosophical, ideological, etc.</td>
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<tr>
<th>Week 11</th>
<th>Use of mail/telephone; isolated confinement; religion</th>
<th>Palmer &amp; Palmer: Chapters 4-6</th>
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<tr>
<td><strong>Focus</strong>: Explore the prison experience, life behind bars, focusing on various issues that while sensitive and often polemic, are essential as to how inmates do their time in prison.</td>
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<th>Week 12</th>
<th>Legal service; disciplinary proceedings; parole</th>
<th>Palmer &amp; Palmer: Chapters 7-9</th>
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<tr>
<td><strong>Focus</strong>: From a judicial standpoint, analyze services and proceedings for inmates while incarcerated and in preparation for their release, vital elements for life after prison.</td>
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<tr>
<th>Week 13</th>
<th>Rehabilitation; civil &amp; criminal litigation</th>
<th>Palmer &amp; Palmer: Chapters 10-12</th>
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<td><strong>Projects are due</strong></td>
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<tr>
<td><strong>Focus</strong>: Detail the evolution, objectives, and dynamics of inmate rehabilitation; and examine the logistics of civil and criminal litigation, which is crucial for both inmates and correctional staff.</td>
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<th>Week 14</th>
<th>Litigation reform; human rights</th>
<th>Palmer &amp; Palmer: Chapters 13-14</th>
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<tr>
<td><strong>Focus</strong>: Examine past and current legislative reform as it pertains to prisoners and detainees; and explore the prison experience within the context of human rights.</td>
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<th>Week 15</th>
<th>Conclusion: Reflections and thoughts for the future</th>
<th>Nieling &amp; Urbina: Epilogue</th>
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<tr>
<td><strong>Focus</strong>: As the final week of regular class, the various topics discussed during the semester will tied together, placing them within a broader framework; that is, globalization, to include the globalization of knowledge. Concluding with recommendations for the future, as we continue the discourse on constitutional rights for prisoners and detainees.</td>
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| Week 16 | Final Exam: TBA |  |

*The syllabus is likely to be amended during the semester at the discretion of the Professor!*

**Note:** Projects will be due at the beginning of the class, and no late assignments will be accepted.
Mini-Project Suggestions

1. With fellow students, family members, or friends, discuss the issue of whether undocumented people should be entitled to the same statutory and constitutional rights as their counterparts; that is, US citizens and legal residents. WHY? Or, WHY NOT?

2. With fellow students, family members, boy-friends, or girl-friends, discuss the issue of whether the US criminal justice system is honoring international treaties, like Article 36 of the Vienna Convention, regarding prisoners and detainees.

3. Visit different courtrooms in the area (local, state or federal) during the prosecution of criminal defendants. Compare what you see with the descriptions in this class. Keep a diary of your experience.

4. Find interesting stories in newspapers and magazines pertaining to the constitutional rights of prisoners and detainees, like the prosecution, detention, and incarceration of Puerto Rican Nationalists (you might want to read Urbina’s article on Puerto Rican Nationalists), and report on them in class. Another topic could be the execution of foreign nationals, like Latinas and Latinos, in the US (you might want to read Urbina’s publications on the execution of Latinos). Explain what you find interesting about the stories.

5. Watch a documentary, video, or movie on the September 11, 2001 attack on the US and examine the influence of post 9/11 anti-terrorism legislation, like Patriot Act 1 & 2, on prisoners and detainees.