“America is especially well endowed with social resources, but we have tended to take that social wealth for granted, consuming our inherited capital at a faster rate than we are replenishing it. Like an athlete who develops the muscles in his upper body but lets his legs grow weak, we have nurtured our strong rights tradition while neglecting the social foundation upon which that tradition rests. Communitarianism can be understood as democracy’s environmentalist movement, helping to heighten awareness of the political importance and endangered conditions of the seedbeds of civic virtue.” Mary Ann Glendon, 1994

In this course, we will ask what makes a “just society”? Central to this question is the problem of freedom and order—how do we reconcile our twin desires to promote both individual freedom and common good. Does too much freedom lead to social chaos? Does too much order lead to repression and conformity? What is the right balance? We will examine the role of law in balancing freedom and order and the intersection of law, justice, and good citizenship.

By the end of the course, we hope you can provide informed answers to these questions: Should individuals sacrifice their own interest in service of the collective good? Should they be required by law to do so? To what extent does our contemporary liberal democracy depend on the socially responsible action of its members? What does it mean to do community service and to engage in service-learning? What does citizenship mean? Is it a right-wing term referring to the sacrifice of the self to God and Country? Or is it a left-wing term reflecting a call for citizens to pay attention to the needs of the poor and disadvantaged? Neither? Both?

Some of the course readings articulate relevant social theories and concrete applications drawn from sociology, psychology, political science, and legal theory. The hidden agenda, of course, in the grand tradition of liberal studies, is to challenge you to develop your own philosophy of law, citizenship, and justice. To make the readings and class discussions concrete, students will participate in one of three service-learning projects and use these opportunities to reflect on their role in the larger society. In one project, you will assist a defense attorney and Skidmore alumnus in a death penalty appeal. In a sec-
ond project, you will participate in Skidmore’s Integrity Board and evaluates its effectiveness as a campus judicial system. And in a third project, you will learn the skills of a mediator and participate in the New York State Court’s Alternative Dispute Resolution Program.

**Readings**
Three books are required for all enrolled students:


The following book must be purchased by students working on the death penalty project only:


Students involved with the Integrity Board must purchase the following:


Students participating in the mediation training must purchase the following:


Many of the class readings will be articles available on E-Reserve:  
http://www2.skidmore.edu/library/reserves/index.cfm

**Class Participation**
Students will be expected to do all the reading prior to the scheduled class, as well as actively participate in all class discussions. Class participation is worth 25% of the final grade. This score is based on attendance and active participation in the discussion.

**Service-Learning Projects and Term Paper**
Students will choose between three service-learning projects, which are described below. A final paper related to the projects will be due on the last day of classes. Students will also develop a presentation on their project to be given to the whole class. Specific instructions for the projects and the completion of the paper will be provided in class. The project and project paper together are worth 25% of the final grade.

**Integrity Board Project**
Law, citizenship, and justice intersect right here at Skidmore each time the Integrity Board has a hearing. Students, faculty, and staff volunteer to serve on this board—that is the citizenship part. Students who appear before the board are charged with violating the
criminal law or the Skidmore Honor Code or both—that is the law part. And the board decides whether the student is in violation or not, and what the sanction should be—that is the justice part. Students who participate in the Integrity Board Project will join the board as a form of service-learning. They will learn about how the board operates, hear real cases, and meet weekly with board members to discuss the philosophy and practice of the board. The object of our inquiry will be to evaluate the effectiveness of the board and propose recommendations for its improvement. We hope that these students will continue to serve on the board next year and guide the implementation of the proposed changes.

Death Penalty Project
The concepts of law, citizenship, and justice also pervade institutions outside the walls of the academy. One of the primary areas where all three intersect is, of course, the criminal justice system. Law is made by the courts every single day and in every single community in America, but the achievement of justice within the system is often quite elusive. Public officials and citizens alike are expected to remain impartial so as to maximize the possibility of a just outcome, and yet human nature suggests that it is quite difficult for us to remain objective when faced with ideas and actions that violate our most basic convictions. Students who participate in the Death Penalty Project will tackle these weighty issues in a very pragmatic way. You will work closely with John Howley (’80), a New York attorney, on developing a clemency petition. The expectation is that you will engage in policy-oriented research with the aim of providing counsel with information that may (or may not) aid in the case.

Mediation Project
A local nonprofit organization, Mediation Matters, will be sponsoring a mediation training on two weekends in the Fall—September 17/18 and October 15/16. Mediation is a conflict resolution process that is used in close cooperation with the courts. Cases, such as landlord/tenant disputes, divorce settlement, and parent/teen conflicts are often referred by the courts and mediated by trained volunteers. We have had students participate in this training in the past and they have found it to be one of the most rewarding experiences of their Skidmore careers--both personally and professionally. In addition to participation in the training, you will be expected to observe and participate in actual mediations and write a final term paper about your experience. You can learn more about the program here in Saratoga at the following link: http://www.mediationswwc.org/index.asp

Exams
The midterm and final will be made up of questions based on the reading assignments. The exam will consist “short-answer” (about a paragraph) questions. For each reading assignment, we will provide a set of questions and the exam will be a sample of these questions. Each exam is worth 25% of the final grade. Unless there is a dire emergency, neither exam will be individually rescheduled.

Disability accommodations: Students with special needs requiring accommodations should us with a memo of accommodations in a timely manner, i.e., well before exams.
The Coordinator for Students with Disabilities, Cynthia Guile, is in the Office of Student Academic Services. You can make an appointment with her by calling extension 5180.

Exam Questions


Chapter 1
1. How is it that the debate over the ratification of the U.S. Constitution included a critical discussion about the balance between freedom and order?
2. What provisions of the U.S. Constitution specifically aim at the maintenance of public order?
3. What distinguishes Federalists from Anti-Federalists beyond the simple principle that one supported constitutional ratification and the other did not? Which side is likely more aligned with the notion of freedom, and which is aligned with order? Why?
4. How are modern communitarians the descendants of the Anti-Federalists?
5. Does your contemporary understanding of America’s constitution promote freedom over order? Order over freedom? Or does the constitutional text account for both in a sort of equilibrium? Explain (with specifics).

Chapter 2
1. Describe the conception of liberalism that is both at the heart of the American political system and the source of modern communitarian frustration. How is the U.S. Constitution at least partially responsible for the onset of hyperindividualism? Be specific.
2. What is meant by the communitarian call to “more properly balance rights and responsibilities?” How does that relate directly to the principles of freedom and order?
3. Describe the differences between liberal conceptions of the polity and communitarian ones.
4. What are the three primary concerns of the prescriptive communitarians? Describe each of the three.
5. Should Simcha Goldman be allowed to wear his yarmulke on duty? Why or Why not?

Chapter 3
1. Read the “Responsive Communitarian Platform” (to be distributed). Would you endorse it? Why or Why not?
2. What is this principle known as “the common good?” Can it be identified?
3. Communitarians regularly argue that certain ways of life are inherently better than others. With that in mind, should public tax dollars be spent on fostering certain values (say, religious values) at the expense of others? Why or Why not?
4. Does communitarianism represent a clear alternative to the liberal America we know so well, or does communitarianism represent a “third position” between the forces of liberalism and conservatism?
5. Briefly describe how a communitarian political regime would differ from the U.S. example.
Chapter 6
1. How is it that the “unwritten” Israeli constitution enables the government to promote policies specifically aimed at continuing Jewish statehood?
2. Are we to believe that “unwritten” constitutions foster greater political order, at the expense of personal freedom? Why or why not?
3. What is the difference between a mixed constitutional model like that found in the German Basic Law and a non-liberal constitutional model like that found in Israel?
4. How is it that the institutions of most political societies perpetuate that country’s constitutional aspirations? Provide at least one example from Germany, Israel, and the United States.
5. Imagine yourself as a constitutional framer. How might you alter the U.S. Constitution to more accurately reflect our growing interest in communitarian ideals? Would such a change be a good idea?


1. Summarize the conditions of the note for replenishing food.
2. What is the best solution? How could the solution be enforced?
3. Explain how either “water, drugs, oil, gasoline, cattle, or money” (pick one) may be similar to the food in Edney’s tale.
4. How is the “commons dilemma” a conflict between the individual and the collective?
5. Think again of a real world case and explain how this conflict (between individual and collective) is managed.


1. Describe one way that the crime control and due process models are similar and one way they differ.
2. How would an adherent to the crime control model define liberty? What would he or she use as an example.
3. How would an adherent to the due process model define liberty? What would he or she use as an example.
4. How is the concept of guilt treated differently by each model?
5. Referring to a well-know legal case of your choosing, identify how the outcome of the case illustrates the tension between the due process and the crime control models.


1. What are the two complementary approaches to service? How are they not complementary, but incompatible?
2. “Thinking that the national problem of civic apathy can be cured by encouraging voluntarism is like thinking that illiteracy can be remedied by distributing books on the importance of reading.” Explain.
3. “It is the nature of pedagogical authority that it exercises some coercion in the name of liberation.” Explain.
4. Select one of the “nine governing principles” that most resonates with you. Explain it.
5. How is our course similar to Barber’s approach? Applying Barber’s criteria, how might you alter our course?

1. What is the “egoistic” answer? Provide an example of someone egoistically acting for the public good.
2. What is the “collectivistic” answer? Provide an example of someone collectivistically acting for the public good.
3. What is the “altruistic” answer? Provide an example of someone altruistically acting for the public good.
4. What is the “principlist” answer? Provide an example of someone acting for the public good because of a principle.
5. How is principlism different from altruism?


1. What reasons caused many people in the 1970’s to believe the U.S. would abolish the death penalty?
2. How is the death penalty applied unevenly?
3. What is the *Atkins* decision, and what effect is it likely to have on the death penalty?
4. What does the research say about the deterrent effect of the death penalty?
5. Distinguish retributive versus restorative justice perspectives on the death penalty.


1. What are the principal arguments of the four major “camps” in the Furman decision?
2. What is meant by the term, “super due process”?
3. How does Georgia successfully achieve “super due process” with the revised death penalty statute it enacted after the Furman decision?
4. How do mandatory death sentences (like those introduced in North Carolina) achieve the level of super due process required by the Furman decision?
5. Describe what is meant by an “evolving standard of decency” in death penalty cases.


1. What is the racial breakdown of current inmates on death row?
2. Has it changed since the original Baldus study was conducted in the mid-1970’s?
3. What were the findings of the original Baldus study with regard to the impact of race on capital convictions?
4. Did the Court follow the central findings in the Baldus study? Why or why not?
5. How might class, or economic status, be a more accurate predictor of capital convictions?


1. What is a co-victim?
2. Explain Charisse Coleman’s private dilemma as she grapples with her political views on the death penalty and her family’s (especially her mother’s) very personal belief in the need for the type of justice that only comes with execution.
3. What primary lessons can we learn from the friendship between David Kaczynski and Gary Wright? Be specific.
4. Why is the trial process “the most stressful experience for co-victims”?
5. What is the role of Victim Impact Statements in a capital case?


Introduction and Chapter 1
1. Pick one of the four tasks of the Tocqueville Heights Community Justice Center and explain it.
2. What are Clear and Karp’s three reasons for believing community justice is a good idea?
3. Define community justice and apply the definition to one example of a community justice initiative described in Chapter One.
4. Explain one of the four “elements” of community justice.
5. Answer one of the three “questions” about community justice.

Chapters 2 and 3
1. How can crime problems within a community create a “tragedy of the commons”?
2. Define community context and community action and give an example of how context can affect action.
3. Clear and Karp must be crazy! They argue that removing criminals from the community can actually make the community worse off. Totally nuts! What’s the gist of their argument?
4. What is Clear and Karp’s critique of liberalism?
5. How do Clear and Karp reconcile liberty and order?

Chapter 4
1. How is a crime “both a practical and symbolic denial of community”?
2. In community justice, what are the tasks of the offender? Give an example.
3. In community justice, what are the tasks of the victim/onlooker? Give an example.
4. In community justice, what are the tasks of community institutions? Give an example.
5. In community justice, how can risk be addressed?
Chapter 7
1. What are community reparative boards and how do they exemplify the norm affirmation goal of community justice?
2. What are family group conferences and how do they exemplify the restoration goal?
3. What are community development corporations and how do they exemplify the equality goal?
4. What are drug courts and how do they exemplify the inclusion goal?
5. What is Austin’s Community Justice Council and how does it exemplify the stewardship goal?

1. To what extent does the USA PATRIOT ACT break with America’s tradition of liberalism?
2. What are the three most important provisions of the Act?
3. Explain what a “sneak and peek” search is.
4. Who qualifies as an “enemy combatant?”
5. Is the USA PATRIOT ACT constitutional? Why or Why not?


Introduction, chapters 1 and 2
1. How would a liberal view the specific characteristics of the Act? How would a communitarian?
2. What is the “slippery slope hypothesis?” What is the “Weimar hypothesis?”
3. Which provisions of the Act especially trouble Etzioni?
4. Describe how national survey data seems to encourage the continued use of legislation, like the USA PATRIOT ACT, to combat America’s security concerns.
5. How does Etzioni use the concept of correction and over-correction to demonstrate the need for a balance between the forces of freedom and order?

Chapters 3 and 4
1. What are the six measures concerning communications surveillance?
2. How do these six measures implicate (or interfere) with the Fourth Amendment to the U.S. Constitution?
3. According to Etzioni, what role do courts play in striking the delicate balance between freedom and order in contemporary America?
4. What are Etzioni’s “criteria for judging responses to bioterrorism?”
5. Does the public have a role combating bioterrorism, according to Etzioni?

Chapters 5 and 6
1. Etzioni argues that “reliable identification is essential for Homeland Protection.” Explain why.
2. Would national ID cards promote greater security? Why or why not?
3. Why, according to Etzioni, does the idea of nation-building as a tool to achieve greater security at home not make sense in the contemporary world?
4. What are the “limits of democratization?”
5. How does the success of America’s nation-building efforts in Germany and Japan in the mid-century actually prove that similar situations would not be nearly as successful now?
1. Nationwide, provide two key statistics on DWI offenders.
2. Nationwide, compare DWI offenders to other criminal offenders.
3. Compare Saratoga County DWI offenders to those nationwide.
4. Compare Saratoga County DWI sentences to those nationwide.
5. What are Karp’s recommendations for DWI sentencing?


1. Summarize the topic of this study. What research question does it try to answer?
2. Before this study, what was known about the answer to the basic research question? In other words, what did we know from prior research?
3. How were the data collected? What kind of research sample was used and how large was it?
4. What are the key research findings of this study?
5. Does the author(s) identify limitations to the study’s findings? Do you note any? Given the limitations of any one research study, what does future research need to establish?


1. What is victim-offender mediation and how does it attempt to meet the needs of both victims and offenders (refer specifically to the Boyes-Watson case study)?
2. How are the goals of victim-offender mediation different from the goals of traditional sentencing (refer specifically to the Boyes-Watson case study)?
3. What are victim impact panels and what rationales do Rojek et al. provide for their use?
4. What are the key findings from the Rojek et al. study?
5. What limitations do Rojek et al. see in the use of victim impact panels?

1. Provide two statistics on the extent of campus alcohol consumption.
2. Provide two statistics on the consequences of student drinking.
3. Select one category in Table 10.1 and define the problem, the strategic objective, and one tactic.
4. Identify one strategy that has demonstrated success, and one that is known to be ineffective.
5. Linking them to the environmental management approach, what tactics would you use to reduce drunk driving by Skidmore students?

Week 1 (9/7)

(Wednesday) Introduction to Course

(Friday) Project Groups (See separate schedules for Integrity Board and Death Penalty Friday Forum readings and topics)

Week 2 (9/12)

PART I: COMMUNITARIANISM

(Monday) Constitutional Perspectives on Freedom and Order
   Read: The United States Constitution http://www.constitutioncenter.org/
   Breslin, chapter 1

(Wednesday) Constitutional Perspectives: Liberalism vs. Communitarianism
   Read: Breslin, chapter 2

(Friday) Play: Alice and Kafka are Dead: Long Live the Rosenbergs. 8:00PM at Bernhardt Theater. Post-Play Discussion with David Kaczynski, Director of New Yorkers Against the Death Penalty and brother of Ted Kaczynski, the Unabomber.

Week 3 (9/19)

(Monday) Constitutional Perspectives: Communitarian Practices
   Read: Breslin, chapter 3

(Wednesday) Constitutional Perspectives: International Comparisons
   Read: Breslin, chapter 6
Week 4 (9/26)

PART II: FREEDOM AND ORDER
(Monday) Freedom vs. Order: The Tragedy of the Commons

(Wednesday) Freedom vs. Order: Due Process vs. Crime Control

Week 5 (10/3)
(Monday) Freedom vs. Order: Mandatory vs. Volunteer Community Service

(Wednesday) Freedom vs. Order: Is Voluntary Order an Oxymoron?

Week 6 (10/10)

PART III: THE DEATH PENALTY
(Monday) The Death Penalty: Introduction

(Wednesday) The Death Penalty: Constitutional Controversy
Read:

Week 7 (10/17)
(Monday) The Death Penalty: The Issue of Race
(Wednesday) **The Death Penalty: Impact on Victims**
Read:

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**Week 8 (10/24)**

(Monday) **Midterm**

**PART III: COMMUNITY JUSTICE**

(Wednesday) **Community Justice: What is it?**
Read: Clear and Karp, Introduction and Chapter 1

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**Week 9 (10/31)**

(Monday) **Community Justice: Theoretical Underpinnings**
Read: Clear and Karp, Chapters 2 and 3

(Wednesday) **Community Justice: Restorative Justice and the Case of Gary Geiger**
Read: Clear and Karp, Chapter 4

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**Week 10 (11/7)**

(Monday) **Community Justice: Programs in Action—Mediation and the Integrity Board**
Read: Clear and Karp, Chapter 7

**PART IV: THE PATRIOT ACT**

(Wednesday) **The Patriot Act: Introduction**
Read:
Review Website: Debating the Patriot Act
Week 11 (11/14)
(Monday) **The Patriot Act: Communitarian Critique**
Read: Etzioni, Introduction, Chapters 1 and 2

(Wednesday) **The Patriot Act: Topical Issues**
Read: Etzioni, Chapters 3 and 4

Week 12 (11/21)
(Monday) **The Patriot Act: Pragmatic Solutions**
Read: Etzioni, Chapters 5 and 6

(Wednesday) **Thanksgiving**

Week 13 (11/28)
PART V: DRUNK DRIVING
(Monday) **Drunk Driving: Law**
Read:

(Wednesday) **Drunk Driving: Law**
Read (Small groups will be assigned one of the following):
Week 14 (12/5)

(Monday) **Drunk Driving: Justice**
Visit: Saratoga County Victim Impact Panel
Read:

(Wednesday) **Drunk Driving: Citizenship**

Week 15 (12/12)

(Monday) **Synthesis**

Final Exam: 12/21 at 1:30 in TLC 202