

# **SOCIOLOGY 313: Law and Society**

## **STUDY GUIDE 1**

### **Key Terms:**

<i>The People v Willie Monroe</i>	Change of Venue
Civil versus Criminal Law	Peremptory Challenge/Strike
Procedural versus Substantive Law	Quorum Rule Verdicts
Common Law	Grand Jury versus Petit Jury
Natural Law	Repressed Memory Evidence
Pretextual Stops	Spectral Evidence
Romano-Germanic Law	Trial by Ordeal
Magna Carta	Islamic Law
Baron de Montesquieu	Shari'a
Max Weber	Sard Law
Donald Black	Haddad Crimes
Emile Durkheim	Gypsy/Rom/Kris Romani
Karl Marx	<i>Sheppard v. Maxwell (1966)</i>
Oliver Wendell Holmes	<i>Furman v. Georgia (1972)</i>
Dysfunctions of Law	<i>Penry v. Lyunough (1989)</i>
Lobbyists	<i>Atkins v. Virginia (2002)</i>
Shadow Jury	<i>Williams v. Florida (1970)</i>
Rulemaking	<i>Colgrove v. Battin (1973)</i>
Police Discretion	<i>Ballew v. Georgia (1978)</i>
Plea Bargaining	<i>Johnson v. Louisiana (1972)</i>
Voir Dire	<i>Whren et. al. v. United States (1996)</i>
Kalvin and Zeisel trial study	

### **Short Essay Questions:**

- 1) Donald Black defines law as “governmental social control” that derives from litigation, legislation, and adjudication. Explain and illustrate (i.e., give an example) of what Donald Black means when he writes that:
  - a) the quantity of law varies inversely with other forms of social control
  - b) the quantity of law varies directly with social rank, and
  - c) downward law is greater than upward law
  - d) finally, contrast Donald Black’s view of the role of law in society with that of Karl Marx.

- 2) What are administrative agencies? [Define and give three (3) examples.] From where do the administrative agencies derive their power? Describe how the administrative agencies' processes of investigation, rulemaking, and adjudication differ from one another and evaluate how effective these agencies are as regulators of big industries.
- 3) Define the term "pretextual stop" as discussed in the reading. On what basis does Supreme Court Justice Scalia argue in support of the constitutionality of such stops? On what basis does Harris argue that they are fundamentally unconstitutional?
- 4) Explain the term "plea bargaining" as it exists in American jurisprudence. Discuss the pros and cons of plea bargaining. Refer to the case of *The People v. Willie Monroe* in your answer and discuss how it might be said to be a bad thing in this case. Why did Willie Monroe agree to it?
- 5) As described in class, identify the four major branches of lawmaking in the United States and give a specific example of lawmaking **for each one**. Why is it that the US Congress has allowed the American courts to acquire so much lawmaking power in such areas as abortion rights?
- 6) Distinguish how the following legal systems differ most from American jurisprudence:
  - a) Trial by ordeal
  - b) Saudi Arabian Islamic law
  - c) The Kris Romani of the Gypsies (Rom)
  - d) Sard Law
  - e) Amish
- 7) Compare and contrast the consensus (functionalist) perspective on law as it relates to the feminist legal theory. In answering this question, discuss how the two perspectives would explain the role of "the reasonable man" legal standard in adjudication. Discuss the historic *Roe v. Wade* decision of 1973 on the woman's right to an abortion and how a functionalist perspective would differ most from a feminist perspective in accounting for this decision.