

**PHIL 90L | PROBABILITY AND THE LAW**

STANFORD UNIVERSITY

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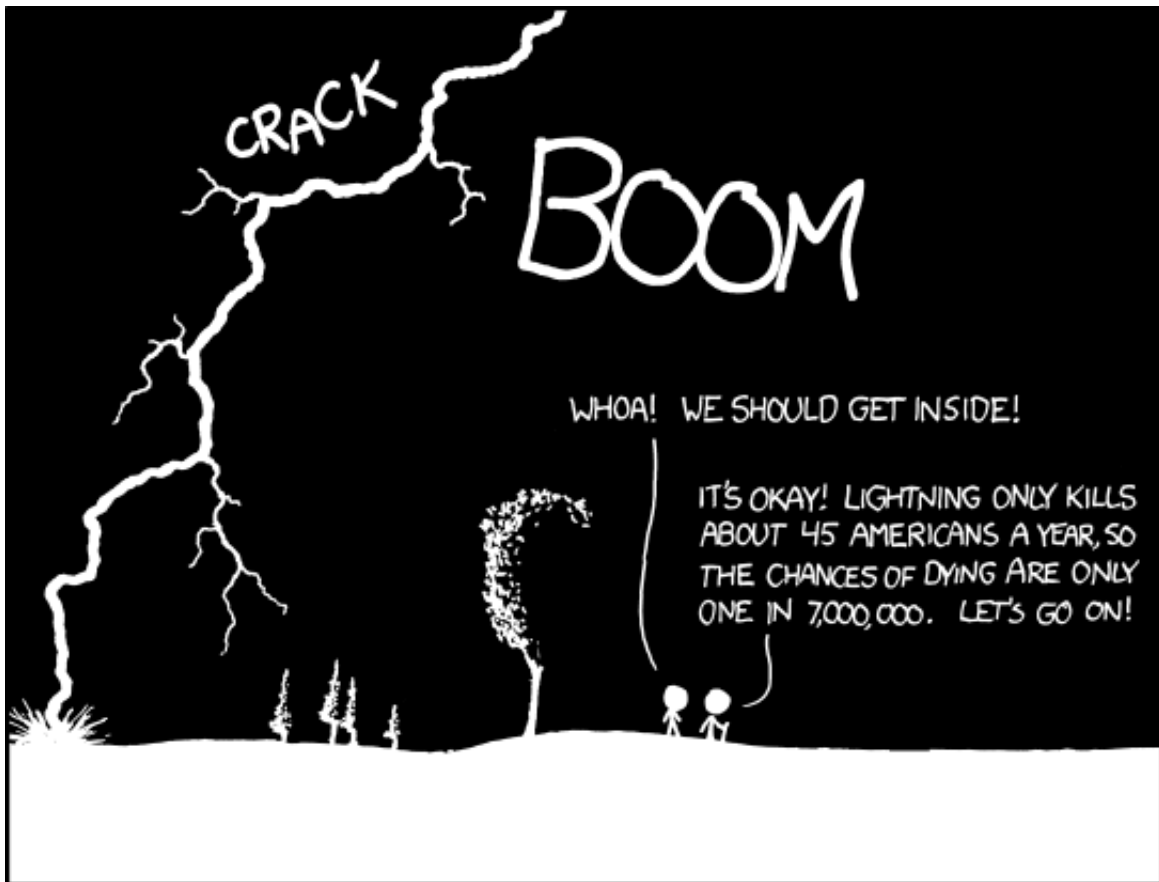
*course webpage:* [www.stanford.edu/~mdibello/phil90L/](http://www.stanford.edu/~mdibello/phil90L/)

*time:* Winter 2014

Fri 10:00 AM - 11:50 AM

*venue:* 160-120

What does it mean to prove guilt beyond a reasonable doubt? Can we interpret legal standards of proof probabilistically? What is the role of probability and statistics in the courtroom? How are quantitative methods changing legal proceedings? Movie excerpts, courtroom cases, and academic scholarship will help us address these questions. No statistical or legal background is expected.



THE ANNUAL DEATH RATE AMONG PEOPLE  
WHO KNOW THAT STATISTIC IS ONE IN SIX.

<b>SCHEDULE   READINGS</b>	
PART 1: Criminal cases	
<b>Jan 10th:</b> The O.J. Simpson trial	Dershowitz (1997), chap. 2
<b>Jan 17th:</b> Probability	Finkelstein and Levin (2001), sec. 3.1-3.2 <i>People v. Collins</i> (1968)
<b>Jan 24th:</b> DNA evidence	Wasserman (2008) and Devlin (2007)
PART 2: Quantifying standards of proof	
<b>Jan 31st:</b> Prisoners in a yard	Nesson (1979)
<b>Feb 7th:</b> Buses and gunshots	Thomson (1986) <i>Smith v. Rapid Transit, Inc.</i> (1945)
<b>Feb 14th:</b> Civil liability	Schmalbeck (1986) <i>Sindell v. Abbott Lab.</i> (1980)
<b>Feb 21st:</b> Psychological findings	Wells (1992) Pennington and Hastie (1991)
PART 3: Profiling and discrimination	
<b>Feb 28st:</b> Actuarial reasoning	Schauer (2003)[excerpts]
<b>Mar 7th:</b> Drug trafficking	Colyvan et al. (2001) <i>United States v. Shounibi</i> (1997)
<b>Mar 14th:</b> Wages and death penalty	<i>McCleskey v. Kemp</i> (1987) <i>Bazemore v. Friday</i> (1986)

#### MOVIES

We will watch two (or three) movies that are relevant for the topics of the course:

*Elevator to the Gallows* by Louis Malle (1958)

*Rashomon* by Akira Kurosawa (1950)

*The Minority Report* by Steven Spielberg (2002)

## COURSE REQUIREMENTS

- (1) Regular attendance [20% of the grade];
- (2) Weekly response papers, no more than one page long double-spaced. Response papers are **due every Friday at the beginning of class or before**. Only the **5 best response papers** will count toward your final grade [40% of the grade];
- (3) Final paper, 7-12 pages long double-spaced. **Paper is due March 20th** [40% of the grade]. (You have the option to hand in a preliminary draft by March 13th; the grade on your preliminary draft will serve as feedback but it does not count toward your final grade.)

## STUDENTS WITH DISABILITIES

Students who have a disability which may necessitate an academic accommodation or the use of auxiliary aids and services in a class must initiate the request with the Disability Resource Center (DRC). The DRC will evaluate the request with required documentation, recommend appropriate accommodations, and prepare a verification letter dated in the current academic term in which the request is being made. Please contact the DRC as soon as possible; timely notice is needed to arrange for appropriate accommodations (phone 723-1066; TDD 725-1067).

## REFERENCES

- Mark Colyvan, Helen M. Regan, and Scott Ferson. Is it a crime to belong to a reference class? *Journal of Political Philosophy*, 9(2):168–181, 2001.
- Alan M. Dershowitz. *Reasonable Doubts: The Criminal Justice System and the O.J. Simpson Case*. Simon and Schuster, 1997.
- Keith Devlin. Scientific heat about cold hit (manuscript). 2007.
- Michael O. Finkelstein and Bruce Levin. *Statistics for Lawyers (second edition)*. Springer, 2001.
- Charles R. Nesson. Reasonable doubt and permissive inferences: The value of complexity. *Harvard Law Review*, 92(6):1187–1225, 1979.
- Nancy Pennington and Reid Hastie. A cognitive theory of juror decision making: the story model. *Cardozo Law Review*, 13:519–557, 1991.
- Frederick Schauer. *Profiles, Probabilities, and Stereotypes*. Belknap Press, 2003.
- Richard Schmalbeck. The trouble with statistica evidence. *Law and Contemporary Problems*, 49(3):221–236, 1986.
- Judith J. Thomson. Liability and individualized evidence. *Law and Contemporary Problems*, 49(3): 199–219, 1986.
- David Wasserman. Forensic DNA typing. In Justine Burley and John Harris, editors, *Companion to Genetics*. Blackwell, 2008.
- Gary L. Wells. Naked statistical evidence of liability: Is subjective probability enough? *Journal of Personality and Social Psychology*, 62:793–752, 1992.