

CRIMINAL LAW: SPRING 2021

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TWEN: Criminal Law 2021

Class Meetings: Tuesdays 5:15 p.m.- 6:30 p.m. & Thursday 5:15 p.m. - 6:30 p.m.

Welcome to Criminal Law. This course introduces fundamental concepts that form the basis of our substantive criminal law. Whereas the Criminal Procedure course addresses the *processes and procedures* that govern the criminal justice system, *e.g.*, legal requirements for arrest, search warrants, custodial interrogation, this course considers the *substance* of criminal law. Substantive criminal law generally addresses (1) criminal law doctrine at common law and in statute, as well as the Model Penal Code, including elements of crimes and potential defenses; (2) penal theory, *i.e.*, the philosophical/jurisprudential bases governing criminal responsibility; and (3) statutory interpretation.

As the following representative questions suggest, criminal law addresses important issues in the philosophy of law:

- *What distinguishes criminal law from civil law?*
- *What is the role of the state and federal Constitutions in the making of criminal law?*
- *Why do we punish those who violate criminal law?*
- *Is it fair to hold someone criminally responsible even if the person did not intend to commit the violation?*
- *Under what circumstances can conduct that causes injury be legally justified or excused?*

I encourage you to actively engage the materials and concepts we encounter throughout the semester. By its nature, criminal law speaks to profoundly vital social questions. I look forward to exploring these questions with you.

COURSE OUTCOMES

At the end of this course, students who remain engaged throughout the semester will understand:

1. The elements, or building blocks, of crimes and the policy choices that are evident in the selection of offense elements;
2. The theories of punishment at work in the U.S. criminal justice system;
3. How criminal law has evolved and/or changed over time;
4. How to assess criminal law exam questions in a manner consistent with the bar exam.

REQUIRED READING:

Criminal Law: Cases and Materials (8th edition 2019 West Academic Publishing)
by Joshua Dressler & Stephen P. Garvey
Understanding Criminal Law (Supplement) (8th edition 2018 Carolina Academic Press)
by Joshua Dressler

****While I will not assign specific reading from *Understanding Criminal Law*, I strongly encourage you to consult the Supplement, as necessary, to aid your comprehension of the material we will cover in this course. It is also an indispensable resource for the development of your Criminal Law outline.**

CLASS TIME AND OFFICE HOURS

Class meets Tuesdays from 5:15 p.m.- 6:30 p.m. and Thursdays from 5:15 p.m.- 6:30 p.m. We will start and end on time. If you would like to speak with me outside of class, please feel free to contact me by email to set up an appointment. I check my VLS email frequently, but in order to ensure prompt communication, I ask that you please email me at both the DOJ and VLS email address above, or call the phone number listed above.

COURSE REQUIREMENTS AND EXPECTATIONS

1. Classroom attendance (virtually this semester) is required. Students are expected to read and abide by the VLS attendance policy as set forth in the student handbook.
2. ***Complete assigned reading material for each class. Unless specifically noted in the syllabus, please also read the notes that follow the cases, and come to class prepared to discuss the substance of the notes.***
3. I may modify reading assignments during the semester as time necessitates. I will post any additional class materials on The West Education Network (“TWEN”) website. You should log on to the TWEN site and enroll in this Criminal Law class.
4. I will notify you of changes to the syllabus via your VLS email, so please check your email regularly.
5. You are not permitted to use your phone or access the internet during class.
6. The final grade for the course will be based on your performance on the final exam and your timely completion of the mid-term examination. The mid-term will account for 25% and the final exam will account for 75% of your final grade. I will give you additional details about the timing, format, and content of the exams during the semester. There may be some adjustment up or down in the final grade based upon the quality of your classroom participation.

VIRTUAL CLASSROOM

We will be using Teams to meet during class time and TWEN for supplemental materials and submission of the exams. **Please make sure to log on to both prior to our first class.**

Arrive to our Teams class early and be prepared as you would for an in-person class. Please leave your video on during class time. If your video is off, I will assume you are away from your computer and will mark you as absent.

Teams has a “raise your hand” function. Please use the “raise your hand” feature when you would like to speak. Please mute your microphone when you are not speaking.

Participation in our Teams class will be no less extensive than an in-class session. You should be actively engaged in answering questions, taking notes, writing down questions, etc. This will not only help your learning, but it will also help you stay engaged in the course. While I am happy to have volunteers answer questions, you can also expect me to call on students at times throughout the semester.

If you have any technology questions, please raise them as early in the semester as possible so that we can address them as soon as possible.

I will take attendance via the chat feature in Teams. Before class begins, please be sure to register your attendance by typing in the chat box. If you wish to speak with me about deviations from this, please do so before the first class so that possible accommodations can be explored.

READING ASSIGNMENTS¹

January 12

Introduction to Criminal Law

Distinguishing Criminal Law from Criminal Procedure

The Life of a Criminal Case/Sources of Criminal Law

Text: 1-29

January 14

Principles of Punishment

Text: 31-36 (excluding note 3); 36-44; 51-70

January 19

Proportionality of Punishment

Text: 71-90

January 21

Principle of Legality/Statutory Interpretation

Text: 91-114

January 26

Principle of Legality/Statutory Interpretation (cont'd)

114-127

Actus Reus (The Criminal Act)

Voluntary Act Requirement - Text: 129-141

¹ Please note that the Model Penal Code may be found in the Appendix at the end of the casebook.

January 28

Omissions – Text: 141-155

February 2

Mens Rea (The Guilty Mind) – Text: 157-161

“Intent” Under the Common Law and Model Penal Code – Text: 161-173

***Read very carefully the commentary pertaining to “The Model Penal Code Approach” (pages 169-173).*

February 4

Strict Liability Offenses – Text: 186-205

February 9

Mistake and Mens Rea

Mistake of Fact – Text: 205-210

Mistake of Law – Text: 210-226

February 11

Criminal Homicide

Common Law Origins and Statutory Reform – Text 251-254

As we will be referring to the statutes listed in pages 254-263 throughout our discussion of homicide, you should review these state statutes.

Intentional Killings: Degrees of Murder – Text 270-282

February 16

Homicide: Voluntary Manslaughter – Common Law Text: 282-291; 293-299

February 18

Homicide: Voluntary Manslaughter – Model Penal Code Text 300-310

February 23

Homicide: Unintentional Killing – Text 313-329

Mid-Term Exam Available on TWEN – To Be Submitted By February 25

February 25

Homicide: Unintentional Killing – Felony Murder – Text 329-341

March 2

NO CLASS – SPRING BREAK

March 4

NO CLASS – SPRING BREAK

March 9

Homicide: Unintentional Killing – Felony Murder – Text 341-358

March 11

**Defenses to Crimes – Distinguishing Justification and Excuse – Text
500-503**

Self-Defense – Text 516-527

March 16

**Self-Defense – Defense of Habitation/Property & Law Enforcement
Defenses** – Text 572-579
Necessity (“Choice of Evils”) – Text 580-588

March 18

Excuse: Duress – Text 601-614
Intoxication – Text 625-633

March 23

Excuse: Insanity – Text 633-653

March 25

Inchoate Offenses: Text 749-752
Attempt – Text 752-763; 766-774

March 30

Defenses to Attempt – Text 788-806

April 1

Inchoate Offenses—Conspiracy Mens Rea – Text 822-836

April 6

Conspiracy Actus Reus – Text 842-856

April 8

Defenses to Conspiracy – Text 865-875

April 13

Liability for the Conduct of Another – Text 877-885

April 15

Theft: Larceny – Text 947-960

April 20

Larceny – Text 964-976

April 22

Embezzlement – Text 977-981

Federal Mail, Wire, and Computer Fraud – Text 986-994