

COURSE SYLLABUS

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Course: **Criminal Law**

Semester: **Fall 2013**

Meeting Schedule: **Mondays and Wednesdays – 11:30 a.m. – 1:00 p.m.**

Room: **103**

Textbooks	Primary Text	Optional (NOT REQUIRED)
Author	Joshua Dressler and Stephen P. Garvey	Joshua Dressler
Title and edition of text	Cases and Materials on Criminal Law, 6th Ed.	Understanding Criminal Law, 6th Ed.
Publisher/year	Thompson Reuters (West)/2012	Mathew Bender & Co. (Lexis Nexis)/2012
ISBN	978-0-314-27982-8	978-0-7698-4893-8

A note on textbooks:

The Dressler treatise (Understanding Criminal Law) is not required, and we will not be doing any work from it directly. It is suggested as an optional aid because it covers most of the same material as your text, but in no way is this recommendation intended to imply that you need the optional text to succeed in this course. It is a helpful companion piece if you are having difficulty understanding a concept in class, however. Before you purchase a copy, you may want to determine if there is a copy available in the Hamline Law Library or another local law library. Please note that if you do read the treatise, it will be most beneficial to refer to it after you have done everything you can to work through the regular assignment in the casebook.

Course Description

The focus of the Criminal Law course is substantive law. This focus contrasts with courses in criminal procedure, offered in your 2L and 3L years, which examine procedural and constitutional issues raised by the government's investigation and prosecution of crimes.

Criminal Law includes common law concepts, as well as statutory interpretation and an introduction to some constitutional law concepts. In this course, we will examine the societal function of criminal law to control or punish behavior from a descriptive and normative perspective, i.e., what the law is and what you think the law should be. We will also study the elements of criminal liability: the criminal act, the criminal state of mind, and the absence of a justification or excuse. Moreover, we will analyze the legislature's power to define and grade offenses—and discuss appropriate limits on that power and other relevant policy considerations—in the context of the Model Penal Code, and select federal and state criminal statutes.

Learning Outcomes for the Course

This course will focus on the following goals:

1. Students will learn to spot the basic legal issues in a criminal law problem, and learn the most common options in the form of legal rules that different states have developed to address these issues;
2. Students will learn how to identify and apply the legal rules to factual situations and make valid judgments about how particular cases should come out;
3. Students will learn to compare and contrast any alternative rules, and make a reasoned argument about which of the alternative rules is the most sound, based on legal theories and policy considerations;
4. Students will learn how to make an argument about why a case should come out in a particular way, and to learn how to make such an argument from various points of view (e.g., as a prosecutor, as a defense attorney, as a judge), using the case facts, the legal rules, theories of punishment and other policy concerns;
5. Students will learn to identify the types of policy concerns that inform the law of criminal punishment and evaluate the assumptions and values that underlie those policy considerations; and
6. Students will begin to learn the necessary skills and habits of an independent professional who works in conditions of uncertainty, e.g., organizing materials and “answers” to problems on your own without significant supervision or validation for that organization (as lawyers do when they organize cases for trial), working steadily and with perseverance, and collaborating with classmates as you will with professional colleagues.

Course Expectations

HUSL Policies on attendance, lateness and preparation

The program of instruction at the School of Law is based on an active and informed exchange between instructor and student and between student and student. Regular, prepared class attendance helps develop skills essential to the competent practice of law. A student who violates the attendance policy, including the instructor's specification of class expectation described below, may lose his or her right to take the exam in the course, to receive course credit or may receive other penalties described below and in Academic Rule 108. Persistent or frequent lateness or unpreparedness may also be the basis for reduction of the grade awarded in a course. See Academic Rule 108 for further details.

Attendance Policies in this Course

Regular and punctual class attendance is required. Missing more than three classes without prior approval or explanation as to the reason for your absence is grounds for being withdrawn from the class or a deduction of one-half letter grade in your final grade. Please be on time for class; late arrivals are disruptive.

Preparation Policies and Classroom Participation

You are expected to have read and briefed the assigned readings in preparation for class. You will be responsible for knowing all of the assigned material, even if we do not cover every page of the assigned reading in class. While you will figure out your own methodology, many law students find it effective to read actively by using the following techniques: (1) take notes and write case briefs; (2) think about the legal or policy implications raised by the readings; and (3) identify questions to raise in class and think about possible answers to those questions in anticipation of classroom discussion.

Assignments labeled "Background" will not be discussed in class in much detail, if at all, and are intended to provide context for other readings. You only need to skim the background material.

Students are also expected to participate fully in class discussions. I will use a mix of calling on students at random ("cold-calling") and accepting comments from volunteers to facilitate our class discussion. My emphasis for your classroom participation is less on whether you give the "right" answer, and more on whether you give a well-reasoned response based on your understanding of the day's readings. Failure to prepare the day's assignment is not a basis to avoid answering a question posed in class, however. You will still be required to think through the legal issue "on-the-spot," but without the benefit of adequate preparation. This course will not be a lecture course, and the quality of our classroom discussion will depend on your level of preparedness and active participation.

Finally, to the extent time permits, we will work through problems in class to develop a better understanding of some legal concepts. We will do some of this work in small-group settings to give you the opportunity to collaborate with your classmates in analyzing legal issues, a skill that you will need to use as a practicing lawyer, and to practice making arguments in a public setting.

Policy on Laptop Use in Class

While you may bring laptops to class for note-taking, please be respectful of me and your fellow classmates when using your computer. Students using web browsers, electronic games, email or other messaging systems during class will be asked to leave class for that day. Repeated violations will result in a one-half grade reduction in your grade for the semester, at my discretion.

Class TWEN page

You are required to register on the TWEN course page. I will periodically post assigned readings, discussion problems and class materials on the TWEN page. I will alert you in advance of reading assignments posted to our TWEN page.

Final Exam and Grade

Your grade will be determined by a **closed-book, three hour exam during the final examination period at the end of the semester**. The exam will focus on the types of legal issues, cases, and analysis that we discuss in class, with an emphasis on your ability to spot legal issues presented by a certain set of facts and your legal analysis of those issues. As we get closer to the end of the semester, I will provide more information about the format of the examination and I will post practice exam questions and answers on our TWEN page.

Also, I reserve the right, consistent with Academic Rule 1-107(C)(5), to increase grades $\frac{1}{2}$ letter grade based on consistent and high quality class participation, and to lower grades based on excessive absences, consistent late arrivals, or lack of preparation or effort in class, or violation of the computer policy

READING ASSIGNMENTS:

PLEASE NOTE: These assignments are tentative and are subject to change throughout the course of the semester. Of course, you will be notified of any changes as far in advance as possible. While we will generally cover the relevant material from an assignment on the day it is assigned, some material may carry over to subsequent class sessions.

Class 1 (8/21): Trial by Jury; Proof of Guilt; Jury Nullification

- Background reading [skim]: pp. 1-9 (through Ch. 1.C. (Trial by Jury))
- pp. 9-28 (Proof of Guilt & Jury Nullification)

Class 2 (8/26): Theories of Punishment

- pp. 29-48
- TWEN Materials: Criminal Complaint in *State of Minnesota v. Kao Xiong*
 - Review complaint and be prepared to discuss whether Xiong should be prosecuted, and if convicted, what punishment is appropriate under the theories of punishment discussed in your casebook

Class 3 (8/28): Punishment & Proportionality

- pp. 51-61 (How Much Punishment)
- pp. 71-90 (Constitutional Principles re: Proportionality)

LABOR DAY (9/2): NO CLASS

Class 4 (9/4): Legality & Vagueness

- pp. 92-119

Class 5 (9/9): Statutory Interpretation and Actus Reus

- pp. 119-26 (Statutory Interpretation)
- pp. 127-47 (through Ch. 4.B. (Actus Reus))

Class 6 (9/11): Mens Rea

- pp. 149-68 (through Ch. 5.B.3.)

Class 7 (9/16): Strict Liability

- TWEN: Possible small-group problems on Actus Reus and Mens Rea
- pp. 174-92

Class 8 (9/18): Mistakes of Fact or Law

- pp. 193-212

Class 9 (9/23): Causation

- pp. 213-34

Class 10 (9/25): Homicide/Premeditation & Manslaughter

- Background reading [skim]: pp. 235-47 (Homicide Stats & State Statutes)
- pp. 254-65 (Homicide/Premeditation)
- pp. 265-76 (through Ch. 7.B.2.a.) (Voluntary Manslaughter)

Class 11 (9/30): Manslaughter

- pp. 276-91 (Voluntary Manslaughter continued)
- pp. 295-307 (Involuntary Manslaughter)

Class 12 (10/2): Felony Murder Rule

- pp. 308-37 (through Ch. 7.D.2)

Class 13 (10/7): Capital Punishment

- pp. 338-62 (through Ch. 7.E.2.a.)

Class 14 (10/9): Rape

- Background reading [skim]: pp. 379-85 & 389-97 (Rape Statistics & Statutes)
- pp. 397-419 (up to *Berkowitz*)

Class 15 (10/14): Rape

- pp. 419-46 (*Berkowitz* through Ch. 8.B.3.)

MIDTERM BREAK (10/16): NO CLASS

Class 16 (10/21): Justifications: Self-Defense

- Background reading [skim]: pp. 461-67 (Through Ch. 9.A.) & 478-80 (Through Ch. 9.C.1.)
- pp. 481-512

Class 17 (10/23): Justifications: Defense of Habitation & Necessity

- pp. 534-541 (Defense of Habitation)
- pp. 541-48 (Necessity -- through Ch. 9.C.5.a)

Class 18 (10/28): NO CLASS

Class 19 (10/30): Excuses: Duress and Intoxication

- Background reading [skim]: pp. 560-64 (Through CH. 9.D.1.)
- pp. 564-72 (Duress)
- pp. 584-92 (Intoxication)

Class 20 (11/4): Excuses: Insanity

- Background Reading [skim]: pp. 592-96 (Through *Post-Trial Disposition of Insanity Acquittes*)
- pp. 599-622

Class 21 (11/6): Attempt

- Background reading [skim]:708-11 (Through Ch. 10.A.)
- pp. 711-21 (mens rea through *People v. Gentry*)
- pp. 724-44 (actus reus)

Class 22 (11/11): Conspiracy

- pp. 777-804

Class 23 (11/13): Accomplice Liability

- pp. 828-59

Class 24 (11/18): Larceny

- 893-918

Class 25 (11/20): Embezzlement & False Pretenses

- 918-27

Class 26 (11/25): REVIEW

- Review session (and catch-up, if behind)
- Please come prepared with questions