

CRIMINAL LAW

LAWS #524, § 3

Fall Semester 2024

Mondays & Wednesdays 2:40-4:05 p.m.

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Office Hours: Mondays & Wednesdays 12:10-2:30 and 4:10-5:40; Thursdays 9:30-10:35

INTRODUCTION AND COURSE OBJECTIVES

The criminal law is perhaps the most dramatic example of government's power over individuals. Violators of criminal laws are not only punished but receive the condemnation of the community. It is therefore essential that we understand the principles under which society assigns criminal liability.

Our study of criminal law will, of course, refer to specific crimes, but it will concentrate on issues that transcend individual crimes and individual jurisdictions. We will discuss the British common law and the Model Penal Code (MPC), on which the criminal laws of many states are based, and we will make occasional mention of South Carolina's law, but this is not a course on any particular state's criminal law. Thus, you will not memorize all of *any* jurisdiction's criminal code; rather, you will seek to understand the concepts that legislators and courts consider when deciding how to write and interpret criminal statutes.

Specifically, this course will enable you to appreciate that the decision to punish certain conduct, or to define crimes or defenses in certain ways, reflects underlying assumptions about the appropriate principles of criminal punishment. You will see, and learn to recognize, how those purposes are reflected in doctrines, judicial decisions, and statutory language. You will learn a great deal of criminal-law doctrine, and you will learn to use statutes and to make arguments based on analogies to precedent. You will also be introduced to the difficulties involved with interpreting ambiguous statutes, and you will begin to learn skills and techniques of statutory interpretation.

We're all familiar somewhat with the criminal law, and it is a perennial subject of television shows for good reason: Criminal cases and the criminal-justice system are inherently interesting because of the drama that accompanies crime and the decision to punish it. I hope that you bring some of that excitement and passion to class.

TEXTS

The required texts are as follows:

- RUSSELL L. WEAVER ET AL., CRIMINAL LAW: A CONTEMPORARY APPROACH (West Academic, 5th ed. 2024), ISBN 978-1-68561-458-4 (Casebook).
- KATHY SWEDLOW, CORE CRIMINAL LAW (Carolina Academic Press 2021), ISBN 978-1-5310-1898-6. You can use the book independently as a study aid, but we will also discuss several of the book's questions in class as review exercises.
- Additional materials will be posted on TWEN and/or distributed in class.

I recommend (but do not require) that you purchase one of the following two study aids:

- PAUL H. ROBINSON & MICHAEL T. CAHILL, CRIMINAL LAW (Wolters Kluwer Law & Business, 2d ed. 2012), ISBN 978-1-4548-0731-5.
- JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW (Carolina Academic Press, 9th ed. 2022), ISBN 978-1-5310-2172-6.

You are free to read any other study aids you desire, but please keep in mind the goals of the course. An outline or canned brief will not assist you in integrating the lessons of the course, relating certain cases to others, interpreting statutes, and applying the lessons in cases we read to new fact patterns.

ADDITIONAL RESOURCES

The CrimProf Blog, http://lawprofessors.typepad.com/crimprof_blog/, is designed to be a tool for law professors to post new scholarship and learn of goings-on in criminal justice. In serving those goals, the blog regularly posts information about recently decided cases, recently published articles, and accounts of interesting events relating to criminal law and criminal procedure.

The National Criminal Justice Reference Service, <https://www.ojp.gov/ncjrs/new-ojp-resources>, has links to various materials on criminal law and procedure that you may find helpful.

Student memberships are available from the National District Attorneys Association, <http://ndaa.org/>, and the National Association of Criminal Defense Lawyers, <http://nacdl.org>.

CLASS DISCUSSIONS

I use a mix of Socratic dialogue, lecture, and volunteer participation. Class discussions focus on identifying and critiquing the arguments that were offered, or that could have been offered, in the cases. We will often use problems and hypotheticals to develop your ability to apply caselaw, to think about the language and implications of the cases we read, and to construct arguments when precedent leaves issues unsettled. Where problems are included within an assignment, work

through them on your own or in groups in advance of class and/or as a way of preparing for the final exam. I am happy to read written responses to the problems and to discuss your responses.

When the Casebook includes examples of criminal statutes from different states, spend a few minutes studying those statutes—not to memorize the criminal law of those jurisdictions, but to see how statutory language reflects policy judgments and how different statutory language can lead to different results in particular cases. For the exam, you will be expected to know the common law and the provisions of the Model Penal Code that we study, but you will not be expected to know the details of the criminal statutes of any state.

Classes will be recorded on Zoom and the links will be posted on TWEN. The recordings will be deleted after 30 days or on the day of the exam, whichever is earlier. Students may not distribute, save, or copy the class recordings or any portion thereof. Students are welcome to watch class recordings as many times as they wish—no special code or permission is necessary to access the recordings. Watching a class on Zoom (even in real time) does not count as class attendance.

GRADING

Your course grade will be based on your performance on the closed-book, no-notes final exam, subject to an adjustment for the quality and quantity of class participation. The exam will contain both multiple-choice questions and an essay question. Most, if not all, of the multiple-choice questions will be of the sort likely to appear on the Multistate Bar Exam, requiring you to know and apply established doctrine. Other questions may require you to state the elements of doctrinal tests or otherwise to demonstrate your knowledge of cases or principles that we have covered through the semester.

The essay will consist of a hypothetical scenario that will require you to analyze the legal issues presented and craft arguments about how those issues should be resolved. Unlike the multiple-choice questions, which will primarily test your knowledge of cases and established doctrine, this question will primarily test your ability to argue persuasively about how to resolve ambiguities in the established doctrine, and how to apply that doctrine to ambiguous factual situations. In making persuasive arguments about legal issues that have not been definitively resolved by precedent, you should be ready to employ arguments based on cases and doctrine, including the MPC and the common law. The exam may ask you to apply the common law, the MPC, a statutory formulation provided in the exam itself, or a combination of all three.

ASSIGNMENTS

You must complete the assigned Casebook Plus questions (denoted as CB+), by the date of the final exam. You need not complete the cumulative-review and black-letter-law questions, but I recommend that you do so; they are good tools for exam preparation.

This syllabus includes dates by which I recommend that you complete each chapter's multiple-choice questions, but there is no penalty for missing those deadlines. If you do the questions on time, they will serve as "formative assessment" tools that allow you to assess your progress in the course and to ask me any questions necessary to solidify your understanding of the material before we move on to the next portion of the course.

The grade you receive on the Casebook Plus questions will not become part of your course grade, but I require you to make a good-faith effort to answer the questions correctly. If you merely click-through the questions, you will be depriving yourself of the opportunity the questions provide to review material and to reinforce your understanding of important concepts.

Tuesday, August 20: *Folsom Prison Blues: Purposes of Punishment*

Casebook, pages 1-23.

Missouri Halloween Statute (M.R.S. § 589.426) (TWEN).

Monday, August 26: *What I Really Really Want: Voluntary Acts*

Casebook, pages 25-52.

CB+: Chapter 1.

Wednesday, August 28: *You Belong to Me: Possession and Omissions*

Handout on Constructive Possession

Casebook, pages 52-69.

Monday, September 2: No Classes (Labor Day)

Wednesday, September 4: *If You Could Read My Mind: Mental States*

Casebook, pages 71-100.

CB+: Chapter 2.

Monday, September 9: *I Want a New Drug*: Strict Liability; Intoxication
Casebook, pages 100-127.

Wednesday, September 11: *Hard to Say I'm Sorry*: Mistakes of Fact and Law
Casebook, pages 128-157.

Monday, September 16: *Just Give Me a Reason*: Causation
Casebook, pages 159-191.
CB+: Chapter 3.

Wednesday, September 18: *With or Without You*: Accomplice Liability—Actus Reus
Casebook, pages 193-212.
CB+: Chapter 4.

Monday, September 23: *Happy to Be Stuck with You*: Accomplice Liability—Mens Rea
Casebook, pages 213-224 and 237-256.

Wednesday, September 25: *Try*: Attempt
Casebook, pages 257-278.
CB+: Chapter 5.

Monday, September 30: *It's Just Impossible*: Abandonment and Impossibility
Casebook, pages 278-297.

Wednesday, October 2: *Later on, We'll Conspire*: Mens Rea for Conspiracy
Casebook, pages 299-329.
CB+: Chapter 6.

Monday, October 7: *It Takes Two*: Actus Reus for Conspiracy
Casebook, pages 329-350.

Wednesday, October 9: *Give Me a Reason to Stay:* Renunciation
Casebook, pages 350-374.

Monday, October 14: *Murder on My Mind:* Intentional Killings
Casebook, pages 375-406.
CB+: Chapter 7.

Wednesday, October 16: *Oops I Did It Again:* Unintentional Killings
Casebook, pages 406-433.

Monday, October 21: *Fight Song:* Battery
Casebook, pages 433-459.
CB+: Chapter 8.

Wednesday, October 23: *Every Breath You Take, I'll Be Watching You:* Assault & Stalking
Casebook, pages 459-490.

Monday, October 28: Rape—Force and Consent
Casebook, pages 491-515.
CB+: Chapter 9.

Wednesday, October 30: *You're Much Too Young, Girl:* Mens Rea; Statutory Rape
Casebook, pages 515-540.

Monday, November 4: *Been Caught Stealing:* Theft
Casebook, pages 541-564.
CB+: Chapter 10.

Wednesday, November 6: *Take the Money and Run: Robbery & Burglary*
Casebook, pages 564-588.

Monday, November 11: *Coward of the County: Self-Defense*
Casebook, pages 589-618.
CB+: Chapter 11.

Wednesday, November 13: *All You Need Is Love: Necessity*
Casebook, pages 618-639.

Monday, November 18: *Pressure: Duress; Insanity—M’Naghten*
Casebook, pages 641-672.
CB+: Chapter 12.

Wednesday, November 20: *Crazy for Loving You: Other Insanity Tests*
Casebook, pages 672-706.
CB+: Chapter 13.