

**CRIMINAL LAW
SPRING 2013
PROFESSOR MOOHR**

The casebook for this course is *Criminal Law*, by Malone, Marcus & Moohr (7th ed. 2012).

Preparation, participation, and regular class attendance are essential to gaining an understanding of criminal law. I expect you to be able to discuss the assigned material, which means you must read and brief the cases.

The attached assignment schedule is designed to aid your preparation for class. Please note that additional and/or substitute readings will almost certainly be assigned. I will advise you of such changes through announcements in class and/or by email. Check to be sure you receive emails from your UH account. You are responsible for all of the assigned reading, including readings that we do not discuss in class. You are also responsible for discussions in class, including those that do not have a reading component.

Mr. Shaun Cassin is your tutor. The tutorial sessions will meet on Fridays from 10:30 to 11:30 a.m., in room 3 BLB, beginning this Friday, January 25. Although attendance is voluntary, past experience shows that students usually find the tutorials very helpful. Mr. Cassin's email address is sacassin@central.uh.edu.

Regular class attendance is required by Law Center and ABA policy. According to these standards, you must have attended 80% of the classes in order to take the final examination. This is a most generous standard and is not to be viewed as endorsed by me. Do not forget to sign the attendance roll *before* you leave the classroom.

Professional conduct is expected during class. Professional conduct includes the use of laptops only for classroom purposes. Please be on time, do not leave early, do not come and go during class, and generally do not disturb the discussion.

Your final grade is largely determined by your performance on a closed book examination. Final grades may reflect substantive contributions to class discussion. The exam is scheduled for May 2 at 9 a.m.

Should you have questions, want to discuss larger issues, or just visit, I am available after class, during office hours, by appointment, or by just knocking at my office door.

Office: TU II 120
Email: gmoohr@uh.edu
Phone: 713-743-0896
Office Hours: Monday 1 to 3 p.m.

ANCILLARY READING

There are many useful books for those interested in criminal law. Most of the books on the following list are on reserve in the library. I can also recommend books and articles on more specific subjects, should you be interested.

Treatises

American Law Institute, Model Penal Code and Commentaries
Joshua Dressler, Understanding Criminal Law
Joshua Dressler, ed., Encyclopedia of Crime and Justice (2nd ed.)
Wayne LaFare & Austin Scott, Criminal Law
Paul H. Robinson, Criminal Law

Classic Treatments

George Fletcher, Rethinking Criminal Law
H.L.A. Hart, Law, Liberty and Morality
H.L.A. Hart, Punishment and Responsibility
Herbert Packer, The Limits of the Criminal Sanction
Glanville, Williams, Criminal Law, The General Part

Miscellaneous

Lawrence M. Friedman, Crime and Punishment in American History
Leo Katz, Bad Acts and Guilty Minds: Conundrums of the Criminal Law
A. H. Loewy, A Criminal Anthology (collecting significant law review articles).
Nigel Walker, Why Punish?

Current Commentary

Michelle Alexander, The New Jim Crow
William J. Stuntz, The Collapse of American Justice (2011)

ASSIGNMENT SCHEDULE

CH. 1 – ABOUT CRIMINAL LAW

Class 1, Jan. 15

I. Why Punish?

Pages 23-45; *Jones, Dudley & Stephens, Bergman, Jackson*

Class 2, Jan 17

II. What to Punish?

Pages 1-5, 12-22, 394-99; *Jones, Lawrence, Dodge*

Class 3, Jan. 22

III. The Basis in Common Law

Pages 60-74, *Palendrano, Weishaupt*

IV. Selected Constitutional Limitations

Pages 94-106; *Barton, Potts, Lawrence, Kolender*

CH. 2 – THE ACT REQUIREMENT (ACTUS REAS)

Class 4, Jan. 24

I. Voluntary Act

Pages 113-23; *Kilbride, Hinkle*

II. Omission

Pages 123-29; *Pestnikas, Campbell*

III. Possession

Pages 129-34; *Valot, Buckley*

CH. 3 – THE MENTAL REQUIREMENT (MENS REA or CULPABILITY)

Class 5, Jan 29

I. Why *Mens Rea* Matters

Pages 81-86, 135-36, *Morissette*

II. Acting Purposefully

Pages 136-47; *Smith, Hood*

Class 6, Jan. 31

III. Acting Knowingly

Pages 147-57, 161- 65; *Fabritz, Int'l Minerals, Flores-Figuero, Giovanetti*

Class 7

IV. Acting Recklessly and Negligently

Pages 166-85; *Welansky, Huggins, Howk, Goff, Hanousek*

Class 8

V. Mistakes of Fact and Law

Pages 184-200; *Short, Mancuso, Clegg, Ratzlaff*

Class 9

VI. Strict Liability or Action Without Culpability

Pages 202-08; *Staples, Miller*

VII. Vicarious Liability

Pages 208-13; *Davis, Zeta Chi*

CH. 5 – SPECIFIC OFFENSES

Classes 10 and 11

I. Larceny

A. Take and Carry Away

Pages 255-71; *Topolewski, Hufstetler, Olivo, Rivera, Thompson, Caruso*

B. Personal Property

Pages 272-88; *Ashworth, Lund, Stewart, Farraj*

C. Intent to Deprive Permanently

Pages 288-94; *Chadwell, McGraw*

Classes 12 and 13

II. Rape

A. Force, Fear, and Resistance

Pages 337-62; *M.T.S., Iniguez, Berkowitz, MTS, Thompson*

B. By Coercion and Fraud

Pages 363-71; *Caracciola, Bolsinger*

C. Consent, Mistake

Pages 371-80; *Lopez, Fischer*

Class 14

III. Homicide

A. Murder

1. Intent to Kill or Inflict Bodily Harm (Malice)

Pages 430-41; *Myers, Thompson, Geiger*

Class 15

2. Depraved Heart Murder (Implied Malice)

Pages 441-53; *Knoller, Hemphill*

Class 16

3. Felony Murder and Its Discontents

Pages 453-64, 471-94; *Howard, Barnett, Maudlin, Jackson, Aaron*

4. Degrees of Murder

Pages 513-36; *Austin, Scott* [We may not cover this material in class]

Class 17

B. Manslaughter, Voluntary and Involuntary

Pages 513-36; *Soto, Najere, Faulkner, Welansky*

CHAPTER 6. INCHOATE OFFENSES

Class 18

II. Attempt [skipping solicitation]

A. Mens Rea; Actus Reas

Pages 588-626; *Casey, Lee, Mahboubian, Brown*

Class 19

B. Completed Attempts; Abandonment; Impossibility

Pages 626-55; *Lightfoot, Staples, Henley, Dlugash, Oviedo*

Classes 20 and 21

III. Expanded Criminal Liability

A. Conspiracy

1. Mens Rea; Actus Reas

Pages 655-79; *McChristian, Feola, Bruno, Direct Sales*

2. Object of the Agreement; Completed Conspiracy

Pages 686-89, 696-705; *Donoghue, Pinkerton*

B. Accomplice Liability

Assignments to be announced

CHAPTER 7. GENERAL DEFENSES

Class 22

I. Defense of Self

Pages 707-46; *Goetz, Rupp, Shaffer, Bechtel*

Class 23

II. Defense of Proprety

Pages 761-71; *Ceballos*

Class 24

II. Duress and Necessity

Pages 781-805; *Metcalf, Bailey, Warshow*

Class 25

III. Intoxication

Pages 832-46; *Heideman, Stasio*

Class 26

IV. Insanity

Pages 846-77, Handout; *M'Naghten, Johnson, Brawner*