

Criminal Law – Section A
Professor David Kwok
Spring 2020
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Overview

The criminal law offers the strongest sanctions available in the U.S. legal system, and this course uses the backdrop of violent crime to introduce students to the statutory interpretation and legal argument surrounding such sanctions. We will cover offenses such as homicide and rape, along with defenses such as insanity and self-defense. We will explore how statutory interpretation ties into the underlying (and often conflicting) goals and purposes of the criminal law.

Class will meet on Mondays and Wednesdays from 9:00am to 10:30am.

Textbooks

Joshua Dressler, Cases and Materials on Criminal Law (6th ed.)

Paul Robinson, Criminal Law Case Studies (4th ed.)

Attendance Policy

You should attend class sessions and arrive on time. If you arrive late, out of respect for the other students and the class environment, please try to minimize the disturbance. The Law Center attendance policy requires attendance of 80% of all scheduled (or makeup) classes or a student risks being dropped from the class.

I will take attendance by distributing a roll sheet at the beginning of each class. Each student should personally initial by his or her name for that class session. It is your responsibility to ensure that you have initialed the roll sheet before you leave the classroom each day. Students who do not sign the roll sheet are deemed to have been absent. You may not sign the roll sheet if you miss more than 15 minutes of class.

Please note that you are responsible for managing your absences from class and ensuring that your total number of absences does not exceed the threshold for the class. Even if you have notified me that you will be absent, that absence still uses one of your available absences. An absence is an absence,

regardless of the reason, except for absences covered by the University and Law Center religious holiday policy.

Students who exceed six (6) absences will be reported to the Associate Dean. In addition, if a student exceeds the threshold by one absence, the student will take a grade reduction of 1/3 of a letter grade. Each additional absence will result in an additional report to the Associate Dean and an additional 1/3 of a letter grade drop.

Participation

I will call on students both to discuss cases and to comment on the issues we are discussing. Participation in the class discussion helps all of us in the learning process. Professional conduct is expected during class. Such professionalism includes respect for your fellow students in timeliness, preparation, and addressing different points of view. As we are all in the process of learning, the classroom discussion involves some risk-taking in considering new ideas and different arguments. Such possibilities can be combined with respect for the rest of the class. This semester there will be written exercises, which will count towards class participation.

If you are not prepared for a particular class, be sure to email me at least 10 minutes before the start of class, and I will refrain from calling on you. You may pass twice without any negative effect to your final grade. If you are unprepared for class when I call on you, you will be marked absent for the day.

Students with poor class participation will have their final grade dropped by 1/3 of a letter grade. The decision to drop a grade for participation is at my discretion and is non-negotiable. A drop for class participation can result from a combination of unpreparedness, not paying attention in class, and absences (even if you are within the six-absence limit).

In exceptional circumstances, a student may go up a 1/3 of a letter grade for making a substantial contribution to the class. Note that volunteering every class does not constitute a substantial contribution—quality, not quantity matters.

Learning Outcomes

Upon successful completion of this course, the student will be able to:

1. Utilize the elemental approach of statutory interpretation in identifying the fundamental elements of mens rea and actus reus in criminal statutory law.
2. Recognize and contrast the common law with the Model Penal Code approaches to criminal law.
3. Articulate the competing utilitarian and retributive interests in criminal sanctions.

4. Apply a given criminal statutory scheme to various fact patterns to generate a prediction regarding criminal liability reflecting both prosecution and defense arguments.

5. Appraise the value and impact of landmark case decisions.

Assessments

Besides the aforementioned attendance and participation policies, there will be an in-class, open book midterm that will account for 10% of your final grade. The remainder of your final grade will be primarily determined by your performance on an in-class final examination. The examination will be open book. The course also offers formative assessment throughout the semester, including feedback on sample problems and group work, but these formative assessments do not directly factor into the calculation of your final grade.

Preferred Name / Pronoun / Prefix

I will work to honor your request to address you by a particular name, pronoun or prefix (i.e., “Dr.”, “Ms.”). Please advise me of this preference early in the semester so that I may make appropriate notes in my records.

Counseling and Psychological Services

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

Office Hours: Mondays, 2:30-3:30p, or you may contact me via email to schedule an appointment.

Teaching Assistant: Robert Oakes, raoakes@central.uh.edu

Initial Assignment Schedule

Part I: Overview and General Principles

Jan 13

Introduction

Read: Dressler 1-28

Jan 15

Theories of Punishment

Read: Dressler 29-48; 51-69. Robinson 21-26

Jan 22

Proportionality of Punishment

Read: Dressler 69-91. Robinson 35-39

Jan 27

Actus Reus

Read: Dressler 127-47. Robinson 62-67

Jan 29

Mens Rea

Read: Dressler 147-59

Feb 3

The Model Penal Code Approach

Read: Dressler 159-74

Feb 5

Strict Liability Offenses

Read: Dressler 175-92

Feb 10

Mistake & Mens Rea

Read: Dressler 193-97. Robinson 41-52

Feb 12

Causation

Read: Dressler 213-32. Robinson 73-76

Part II: Substantive Offenses

Feb 17

Criminal Homicide: Intentional Killings
Read: Dressler 235-38; 254-65

Feb 19

Intentional Killings, cont'd: Manslaughter
Read: Dressler 265-76; 284-91

Feb 24

Unintentional Killings
Read: Dressler 294-307. Robinson 8-13

Feb 26

Felony Murder Rule
Read: Dressler 308-37. Robinson 1-7

Mar 2

Rape
Dressler 379-89; 397-452. Also Rape Supplemental Materials

Mar 4

In-class Midterm

A second assignment schedule will be distributed. We will cover Defenses, Excuses, Inchoate Offenses, Theft, and other topics as time permits.