

Welcome to Criminal Law! This is a difficult, challenging course, but it also is an important, interesting course, one that will repay the hard work you and I will put into it.

This is a list of readings from the casebook and other sources. The list is not exhaustive. There will be certain other readings and projects, including certain individual projects, and it may at times become necessary to deviate from the syllabus. I will attempt to let you know sufficiently in advance if this occurs.

Certain readings are set out in CAPITAL letters. These cases or readings are to be emphasized. Others are in lower case; this indicates that our treatment of the case will be by lecture, and it accordingly indicates that you should not concentrate on that case as heavily as upon other readings. I hope that this device will help you manage the reading better!

I. FOUNDATIONS

A. Statutes: They Are the Key

-Notes 1, 3, 4 (14-15); PEOPLE V. LATOUR (“bank” robbery) (16); Notes (17)

B. Two Types of Crime Elements: Mens Rea; Actus Reus

-Text (23); United States v. Zandi (23) (possession); Notes (26); PROBLEM 1B (26) (flying while intoxicated)

C. Proof Beyond a Reasonable Doubt

-United States v. Zandi (27); Notes (27); PROBLEM 1C (28) (flying again)

D. The Process of a Criminal Case

-Text (29-33)

E. What Competencies are Needed?

-Notes on Competencies (754, in ch. 14); DECOTIIS & STEELE ARTICLE (754); Notes (759)

End Class 1

(when all was in page form,) 18 pgs

F. A Real-Life Exercise

-SIMULATION EXERCISE No. 1 (burglary charge) (34-36); also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO.1; articles 221.1-221.2 (791)

II. HOMICIDE

A. “Mapping” Homicide Laws

-Note 3 (37); Chart or “Map” (38)

B. The Traditional “Pennsylvania Pattern”

1. Malice, Aforethought, Premeditation, Etc.—only in some states

-Text at § 2.02 (39); CAL. PENAL CODE SECTIONS (39-40), Notes (40-42)

2. Intentional Murder: First or Second Degree?

-Commonwealth v. Carroll (42); NOTES (46); PEOPLE V. ANDERSON (47); NOTES 1, 5-7 (51-53); People v. Perez (53); PROBLEM 2A (I dare you to kill him)(54)

End Class 2

(when all was in page form,)19 pgs

	<ul style="list-style-type: none"> -Text (55); People v. Conley (55); NOTES (57-58) 	
	3. “Heat of Passion”: Voluntary Manslaughter—only in some states <ul style="list-style-type: none"> -CAL. PENAL CODE 192(a) (40); Notes (c)-(d) (60-61); PROBLEM 2B (66) (Carroll as manslaughter?) 	
	4. “Depraved Heart”: Unintentional Murder <ul style="list-style-type: none"> -CAL. PENAL CODE 188 (39); Notes 1-2 (66-67); NOTE (3) ON UNITED STATES V. FLEMING (68) (drunk driving murder); Notes 4-5(69) 	
	5. Involuntary Manslaughter and Criminally Negligent Homicide <ul style="list-style-type: none"> -Notes 1-2 (75); PROBLEM 2C (81) (thriller skier) 	
	C. Model Penal Code Homicide	
	-Text (83); NOTES 1-4 (83-84); State v. McCown (87) (omission of “malice”)	
	D. Texas’s Homicide Laws	
	-TEX. PENAL CODE § 19.01-.02, .04-.05; NOTE 3 (95); Notes (92)	
End Class 3		15 pgs (plus statutes)
<hr/>		
	<ul style="list-style-type: none"> -LAY V. STATE (93) (Texas murder law); NOTES 4-5 (96) -Note on How to Read Cases (photocopied handout 1); STATE V. RIVERA (handout) (stabbing/shooting); STATE V. MARTINEZ (handout)(not manslaughter); NOTES (handout (5-6)) 	
	E. Different Kinds of Felony Murder	
	<ul style="list-style-type: none"> -Notes 1, 3 (103); STATUTES (105); STATE V. ANDERSON (106) (shotgun); Notes (110); Note on Merger (111); Commonwealth v. Kilburne (112); Note (1) on Causation (113); PROBLEM 2E (129) (cocaine sale and gun battle) 	
End Class 4		16 pgs
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	<ul style="list-style-type: none"> -Commentary to Model Penal Code (119); Roth & Sundby article (120); Crump article (120); CRUMP ARTICLE (125) (“good” and “bad” felony murder laws) 	
	F. A Real-Life Exercise	
	-SIMULATION EXERCISE NO. 2 (134-36) (Texas; heat of passion jury argument, use statute #2); Note on Explaining the Charge (handout 7); CRUMP TEXT (handout 7)	
III.	CRIME ELEMENTS: ACTUS REUS AND MENS REA	
	A. Counting the Elements - and Proof BRD	
	-Notes (137-41); PROBLEM SET 3A(142-44)	
End Class 5		(when all was in page form,)18 pgs
<hr/>		
	-PAGES 210-218 ON THE LOGIC OF STATUTES omit part E)	
	B. Actus Reus	
	1. The “Five Elements”: Act, Circumstances, Etc.	
	-Notes (141-142)	
	2. Voluntary Act	
	-PROBLEM SET 3B (142)(Problems in Analyzing Elements); STATE V. SOWRY (146) (marijuana in jail); Note 1 on State v. Barnes (147); Note 4 on Case Illustrations (148)	
	3. Omission as Actus Reus	
	-Notes 1-2 (top 149); NOTE 6 (151)	
End Class 6		17 pgs

IMPORTANT ADVICE AND DISCLAIMERS

(1) *The Syllabus Involves a Lot of Skipping Around.* Here and there, my coauthors see the subject differently from me. That's always the way it is with coauthors. I think the book is the best available and I'm proud of it, but it is too encyclopedic. Sometimes, the introductions aren't "introductions"—they try to cover every detail. Also, there are notes, problems, and whole sections that cover obscure subjects.

The result is that I use the book, since it's the best I can use, but I assign only the readings that I think are useful. I've tried to keep the readings going in order through the book, but that's not always possible, and there are some assignments that skip a few pages, or occasionally many, pages. And some of the readings involve chopped up pieces—again, because I want to assign only what's useful.

(2) *A Suggestion: Mark the Assigned Items with a Highlighter or Tab.* One way to deal with this problem, both while reading and in class, is to mark the assigned items with a highlighter or tab. From experience, I know that it can be distracting to follow in class when items are fragmented. Unfortunately, it is the best that we can do. I strongly suggest the highlighter/tab-marking approach.

(3) *Trying to Select the Best Material and to Cover the Subject Adequately.* My philosophy is to try to assign you the best readings I can. Your time is valuable, and you spend a lot of time reading in a law school course. I have mud-wrestled with this syllabus. The secretaries are weary of re-doing it. But another philosophy of mine is that the professor should spend a lot of time before ever stepping into the classroom. Also, I want to cover this subject adequately. Even if you don't concentrate on practicing criminal law, it will come up in your law practice. Besides, you should be in a position to evaluate our process and lead others to improve it.

(4) *Supplementation to Cover Texas Law, Too.* Some professors concentrate on California law, and that's heavily what's in the casebooks. Some professors do that even in Texas, where almost all of our students end up in Texas. Just between you and me, California criminal law is primitive and dysfunctional. (Keep our secret and don't tell any Californians I said so.) The Texas Penal Code is one of the best in the country. We will cover a lot of general law from other states, including California, but it would be irresponsible not to cover a big chunk of Texas law. I have included supplementary materials in a photocopied Handout that you will have received along with this syllabus, and I have included a photocopy of many sections of the Texas Penal Code, which we will study.

(5) *Pay Attention to the Difference between Capitalized and Noncapitalized Assignments in the Syllabus.* The syllabus is set up with some readings that are printed in all-capitals, which signals that you should be ready to answer questions about those readings. Other readings are in lower case, meaning that they are to be read, but with less emphasis. Please pay attention to this system of differential emphasis. Occasionally I hear from a student who says, "I can't read in different ways and I emphasize everything." That's unwise, not only for this course, but also because lawyers absolutely must be able to read differently.

(6) *Delete This Page—You Won't Need It After Absorbing This.* The syllabus is easier to refer to without this page. Many students print the syllabus and stick it into the book to keep it there and have it handy. In any event, you'll want to have the syllabus each time you do the reading.

- PROBLEM 3C (154) (overdose; dumping)
- 4. Possession
 - Note 1 (154); UNITED STATES V. ZANDI (155) (constructive possession); Notes (156)
- 5. Circumstances
 - Notes (bottom 160); COMMONWEALTH V. NOEL (161) (intoxicated horsemanship)
- 6. Harm
 - Notes 1, 3 (162)
- 7. Causation
 - Notes 1-3 (including State v. Rivera) (162) (stabbed and shot); TEX. PENAL § 6.04(a) (but for, only); PROBLEM 3D (168) (first four paragraphs only) (street racing)

C. *Mens Rea*

- 1. Varieties of Mens Rea; Proof
 - Notes 1-2 (170); PROBLEM 3E (170) (bigamy)
- 2. General or Specific Intent; Traditional Approaches
 - Note 1 (171-72); UNITED STATES V. KIMES (173) (assault on officer)
 - Notes 1-2 (174)
- 3. Model Penal Code
 - Notes (175); MPC § 2.02 (175) (Note: Texas is similar, except that it uses “Intentionally” rather than “Purposefully”); NOTES 1, 3, 4, 5; PROBLEM 3F (178) (bumped car)
 - UNITED STATES V. LYNCH (183) (archeological resource); Notes (184)
 - Notes 1-2 (185); PEOPLE V. HALL (186) (skier)

End Class 7

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- 4. Transferred Intent, Different Crime, and “Ostriches”
 - Note 1 (1989)
 - Note (bottom 189); Note 1 (191); UNITED STATES V. HEREDIA (192)(marijuana ostrich); TEX. PENAL § 6.04(b); NOTE 5 (208)
- 5. Strict Liability Crimes
 - Notes (middle 198); City v. King (198) (test refusal); Note 2 (199)

D. *Real World Exercises*

- Note on Proof Outlines (207); Note 1 (207)
- SIMULATION EXERCISE NO. 3 (208) (indictment), also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO. 2 (murder case, BUT only through evidence part)

End Class 8

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- SIMULATION EXERCISE NO. 4 (209)(charge on murder) also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO. 2 (only through evidence part)

IV. THE BURDEN OF PROOF BEYOND A REASONABLE DOUBT

A. *The Burden is a Constitutional Requirement*

- Note 1 (225); In re Winship (227); Note 1 (228); Note 1 (bottom 230-32)

B. *Elements, Defenses, and Affirmative Defenses*

- TEX. PENAL CODE 2.01-.04; Note 1 (bottom 232-33)
- C. *Explaining the Burden***
 - Notes 1-2 (234); PROBLEM 4B (237) (attorneys' definitions)
 - Note 1 (first paragraph only) (240); NOTE 2 (240-41)
- D. *The Policy Debate***
 - VOLOKH ARTICLE, n GUILTY MEN (242); Notes (244); PROBLEM 4C (245) (murder acquittal); Note 2 (266); Problem 4D (Note 1 only) (247) ("We're sorry"); Note 1 (248); NOTES (249-50) (ethics)
- E. *Particular Kinds of Evidence***
 - 1. Scientific and Circumstantial Evidence
 - STOGSDILL V. STATE (252) (murder acquittal(?)); NOTES (257-60)

End Class 9

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- 2. Eyewitness Testimony
 - NOTES (260); Note 1 (266)
- F. *Real-World Examples of Dealing with Elements and the Proof Burden***
 - Handout (8-9) (sample prosecution voir dire)
 - SIMULATION EXERCISE NO. 5 (272) (defense voir dire; also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE No. 2)
 - Simulation Exercise No. 6 (272)(read only)(motion/acquittal)

V. ASSAULT, SEXUAL ASSAULT, AND RELATED OFFENSES

- A. *Assault***
 - Introductory Notes 4-5 (276); TEX. PENAL CODE § 22.01; 22.02; 22.04; 22.05; 22.07 (assault; aggravated assault; injury to a child; deadly conduct; terroristic threat); PROBLEM 5A (280) (differing assaults; consider Texas law, not MPC)
- B. *Stalking and Harassment***
 - TEX. PENAL CODE § 42.071; Tex. Penal Code § 42.07(a)
- C. *Domestic Violence***
 - Notes 4, 6, 7, 8 (287-88); PROBLEM 5D (291) (Warren Moon)
- D. *Sexual Assault (or "Rape")***
 - Note 1 (293-94); Notes 1-3 (295); Notes 1, 4-7 (326-27)
 - UNIFORM CODE MILITARY JUSTICE (296); UNITED STATES V. COBLE (297)(FORCE ALONE?); NOTES (300)
 - TEX. PENAL CODE 22.011(A-B)(some, force only; some, nonconsent)
 - REYNOLDS V. STATE (303)(recklessness, negligence); Note 1 (304)
 - PROBLEM 5F (351) (Kobe Bryant)
 - Rucker v. State (354) (held, not aggravated); TEX. PENAL CODE § 22.021 (amended, changing Rucker); Notes 1-2 (323)

VI. GENERAL DEFENSES

- A. *Burdens of Proof: Types of Defenses***
 - NOTES (334); Note 1 on Justification and Excuse (337); Notes on Alibi (338); Note 3 (341)(present non-credible alibi?)

End Class 10

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- B. *Justification***
 - 1. Self-Defense

- Preliminary Notes 1-3 (342); Notes on Deadly Force, Etc. (344); TEX. PENAL CODE § 9.31-.32; People v. Goetz (347)(reasonableness); PROBLEM 6A (345) (George Zimmerman); PROBLEM 6B (353) (Hockey Dad)
- 2. Defense of a Third Person
 - Note 2 (360); TEX. PENAL CODE § 9.33
- 3. Defense of Property
 - Notes 1-4 (365); TEX. PENAL CODE § 9.41-.42
- 4. Law Enforcement (Arrest)
 - Notes 1-2 (369)
- 5. Putting Various Defenses Together
 - PROBLEM 6C (371)(shooting of car burglar)
- 5. Public Duty
 - Tex. Penal Code § 9.21; Notes 1, 3 (374)
- 6. Necessity
 - Text [H] (375); STATE V. ROMANO (in note 2, 376)(driving drunk to avoid attack)

C. *Excuse*

- 1. Duress
 - Notes 2-3 (380-81); UNITED STATES V. CONTENTO-PACHON (drug carrier)(381)
- 2. Entrapment
 - Notes 3-4 (387-88); TEX. PENAL CODE § 8.06; PROBLEM 6E (393) (car sting)

End Class 11

- 3. Insanity
 - Notes 1-2 (394); Note 1 (a)-(d)(395)(four tests)(plus, abolition of the defense)
 - M'NAGHTEN'S CASE (397); TEX. PENAL CODE § 8.01; Parsons v. State (398) (M'Naghten plus resistible impulse)
 - DURHAM V. UNITED STATES (398); Notes (400)(product/mental disease)
 - Text (middle 401); Note 1 (404)(MPC "substantial capacity/appreciate")
 - PROBLEM 6F (405) (stoning children)
 - Notes on Narrowing or Abolishing (406-07)
 - Notes 1-2 on Commitment (407-08); Notes (410-11)

D. *Voluntary Intoxication*

- Tex. Penal Code § 8.04 ("no defense")

E. *Mistake*

- Text [E] (418) (different meanings)
- 1. Of Fact
 - Note 2 (424); PEREZ V. STATE (424) (rape of a child)
- 2. Of Law
 - TEX. PENAL CODE § 8.03(b); UNITED STATES V. ALBERTINI (433, in note) (protester; court opinion later reversed)

F. *A Real-World Example*

- SIMULATION EXERCISE NO. 7 (440, also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE No. 2, but only through the evidence) (self-defense charge).
- [Simulation Exercise 8 (trial of Case File 2)—later.]

VII. THEFT AND RELATED PROPERTY CRIMES

A. Introduction to Four Offenses

-Note 1 (443); Note 4 (444)

B. Historical Offenses

1. Larceny

-Notes on Formal Requirements (444); PEOPLE V. MEYER (445) (chained coat); Notes (446); Note on Other Formal Requirements (first paragraph only; 7 elements) (446); PROBLEM 7A (448) (laptop)

2. Larceny by Trick

-King v. Pear (449) (inspecting horse)

3. Theft by False Pretenses: Title, Not Possession

-Note 3 (451); PEOPLE V. PHEBUS (452) (switched prices)

4. Embezzlement

-Note 2 (453); PROBLEM 7C (454) (employee takes \$)

End Class 12

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C. Federal Crimes: Mail Fraud; Bank Theft

-Notes (456); BELL V. UNITED STATES (456) (stolen check)

-Skilling v. United States (460) (honest services, only bribery/kickback)

D. Modern Consolidated Theft Laws

-PROBLEM 7D (461) (baseball ticket checks); TEX. PENAL CODE § 31.01 (2, 3, 4) (deprive, effective consent, appropriate); § 31.02-.03 (a-b); PROBLEM 7E (464) (switched prices)

-Notes on Modern Receiving (469); TEX. PENAL CODE § 31.03(b)(2), (c)(1-3)

-Notes on Belief (471); PROBLEM 7H (472) (bank error)

E. Other Crimes

-TEX. PENAL CODE § 32.21(a-b) (forgery); Tex. Penal Code § 34.42(b) (business practices)

-NOTES (477) (computer crimes); Note 3 on Identity Theft (478)

VIII. PROPERTY-AND-PERSON CRIMES

A. Robbery

-State v. Holmes (484) (keeping jewels); NOTES 1-2 (484); TEX. PENAL CODE § 29.02-.03; PROBLEM 8A (485) (carjacking; short distance)

B. Extortion

-Notes (490) [Note: in Tx., theft covers; see § 31.02].

C. Burglary and Criminal Trespass

-Notes 1-2 (496); TEX. PENAL CODE § 30.02, .05; RECONSIDER SIMULATION EXERCISE No. 1 (burglary charge) (34-36); also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO.1 (STATE V. BATES) (burglary—but is it?)

IX. SENTENCING

A. Utilitarianism, Kantianism, and Sentencing: Goals

-Notes 1-2 (505); Notes (506); NOTES AND QUESTIONS (506-07); PROBLEM 9B (507) (organ donor)

-Notes on Approaches (508); Problem 9C (509) (sentence lengths)

End Class 13

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-Beccaria Text (558); CRUMP TEXT and NOTES (513-516 (deterrence); newspaper items AND NOTES in Handout 16-17 (deterrence or other?); J.Q. Wilson Text and Notes (516-17) (incapacitation); Notes 1–2 (517); NOTES (bottom 518-20) (rehabilitation); Note 2, 3 (522); Kant Text (522); NOTES (523-24); Notes 4-5 (525-26); DURKHEIM TEXT (526) (retribution/condemnation) -UNITED STATES V. BERGMAN (527) (lenient); UNITED STATES V. OLIS (504) (harsh); Note on Revision (529)

B. *Constitutional Limits*

-Notes on Cruel and Unusual (534)

End Class 14

15 pgs

C. *Sentencing Options*

1. Probation

-Notes 1, 2, 4, 5, 6, (539-40); PROBLEM 9F (540) (sign); Notes on Probation Revocation (541); PROBLEM 9G (541) (conditions; revocation)

2. Fines, Restitution, Diversion, Community Service

-Notes 2-3 (542) (fines); Notes 1-2 (middle 543) (restitution); Notes 1-2 (bottom 543) and STATE V. CURRY (544) (diversion); Notes on Community Service (544)

3. Incarceration

-Notes 1-2 (545)

4. Civil Remedies

-Notes (547) (fines, penalties)

D. *The Sentencing Hearing*

-Notes on Sources (548); Notes on Hearing (548-49)

E. *Parole*

-Notes (549); McDERMOTT v. McDONALD (550) (Due Process?)

-[and consider: Fed. Law abolishes parole; has “Supervised Release” after prison

F. *Discretionary or Determinate Sentencing?*

1. Discretionary Sentencing

-WILLIAMS V. NEW YORK (552) (discretion); NOTE 3 (553) (Davis)

2. Determinate Sentencing

-Crump Text (554); Note 4 (555)

G. *The Federal Sentencing Guidelines*

-NOTES (555 and 555-56); SENTENCING TABLE (557); NOTE ON STEPS (556-58); NOTES (560)

End Class 15

19 pgs

-Notes (561); UNITED STATES V. GEEVERS (561); Note 1 (middle 563)

-Note 1 on Preponderance (bottom 563); UNITED STATES V. BOOKER (564) (preponderance unconstitutional; advisory); Notes 1-2 (565)

H. *Sentencing Issues in Real Life*

-SIMULATION EXERCISE 10 (585; also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO.3) (robbery case, with rape)

-SIMULATION EXERCISE 12 (642) (compute juke box sentence);

SENTENCING COMMISSION OVERVIEW & RELEVANT GUIDELINES (556; also, go to <https://caplaw.com/sites/cl4/>, then click on FEDERAL

GUIDELINES)

End Class 16

15 pgs

-Simulation Exercise 11 (585; also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO.4;) (Smith) (PSI); Report in Case File No. 4 (923) (skim this; it's long)

I. *The Death Penalty*

-Furman v. Georgia (567); GREGG V. GEORGIA (568); Notes 1-2 (569)
-Notes on Statutes (571); TEX. PENAL CODE § 19.03 (572); TEX. CODE CRIM PROC. 37.071 (572); PROBLEM 9H, NOTE 1 (574); Problem 9H, Notes 3-4 (574)

-Note 3-5 (634) (insanity, juveniles, mentally handicapped)

J. *Capital Sentencing in Real Life*

-SIMULATION EXERCISE 14 (587; also, go to <https://caplaw.com/sites/cl4/>, then click on CASE FILE NO.5) (capital penalty hearing)

End Class 17

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X. PREPARATORY (OR INCHOATE) CRIMES

A. *Introduction*

-Notes 1-2 (589)

B. *Attempt*

-Notes on Statutes (590); Notes 1, 2, 4 on Elements (590); Problem 10A (562) (bottle as weapon); REID V. STATE (592) (attempted [assault]); Tex. Penal Code 15.01 (a), (d)

-Notes on Impossibility (596); PROBLEM 10B (601) (HIV)

C. *Solicitation*

-Notes 1, 3 (602); TEX. PENAL CODE § 15.03(a-b); GANESAN V. STATE (604) and Notes (murder solicitation)

D. *Conspiracy*

-Note 2 (608); Notes 1-2 (679-80); STATE V. PACHECO (610) (deputy murder plan)

-Note on Intent to Agree (614); NOTES 2-3 ON UNITED STATES V. FALCONE AND DIRECT SALES (614-15) (sugar for moonshine, morphine)

-Notes 1-3 on Overt Act (630); NOTE 5 ON PACHECO (620)

-Notes on Renunciation (624-25)

-TEX. PENAL CODE § 15.02(a), (c); PROBLEM 10D (625) (Alpha, Betty, etc.)

-Text on Procedure (627)

End Class 18

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XI. MULTIPLE PARTIES TO COMPLETED CRIMES

A. *Pinkerton Liability*

-Note 3 (629); TEX. PENAL CODE § 7.02(b); PINKERTON V. UNITED STATES (630); PROBLEM 11A (632) (prostitution; extent?)

B. *Parties to Completed Crimes*

1. Historically

-Note 2 on Principals and Accessories (633)

2. Aiding and Abetting

-PEOPLE V. MOORE (640) (encouraging firearm crime)

3. MPC and Texas

- Notes (645); TEX. PENAL CODE § 7.02(a)(1, 2, 3); Rivera v. State (646); PROBLEM 11B (642) (map) (consider Texas law)
- NOTES 2-3 ON INNOCENT AGENT AND LEGAL DUTY (647)

C. Post-Crime Liability

- Tex. Penal Code § 38.05(a) (hindering); § 36.05 (tampering); Note 2 (649) (nonreporting)

D. Organization Liability

- TEX. PENAL CODE § 7.22, .23, .24; PROBLEM 11E (651) (throwdown prisoners)

E. RICO

- Notes 1-3 (652); Statute (653); SEDIMA V. IMREX CO. (654) (inflated bills)
- NOTE 2 ON DEFRIES CASE (639) (forfeiture)

End Class 19

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XII. CONTRABAND AND TERRORISM

A. Controlled Substances: Kinds of Crimes

- Notes (665); Statute (666-69) (read to understand the structure of the statute); PROBLEM 12B (670) (Rohypnol)
- Notes on Possession (672); THOMAS V. STATE (673) (insufficient evidence)

B. Terrorism

- Note on Enactments (679); PROBLEM 12F (683) (bomb advice?)

XIII. LEGALITY AND JUSTIFICATION OF CRIMES

A. Fair Warning

- Note 1 (687); Note 3 (690); ROGERS V. TENNESSEE (690)
- Notes 1-2 (691-92); People v. Kevorkian (693)

B. The Rule of Lenity

- Note 1 (694)

End Class 20

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C. Notice, Vagueness, Overbreadth

- Note 1 (697); Note 4 (698); Lambert v. California (699) (felony, registration); LANZETTA V. NEW JERSEY (700) (gangster); NOTE 1 ON UNITED STATES V. WILSON (699)

D. Justification of Crime Definition: Should It Be a Crime?

- Notes (10-12, front of book); PROBLEM 1A (12) (helmet law)

E. Noncrimes

- Notes 2-3 (717)

XIV. PERSPECTIVES

A. Noncriminal Crime Reduction

- Notes on Licensing (724); NOTES ON PHYSICAL CHANGES (724); Notes on Police Presence (725)
- UPenn/RAND Study Article (Handout)

B. Victims' Rights

- Notes (729); NOTE 3 ON N.G. CASE (732) (intrusive discovery)
- NOTE ON COMPENSATION (733-top 35)

-NOTE ON VICTIM PARTICIPATION (736)

-[Also consider: *Payne v. Tennessee* allowed “victim impact statements”]

C. Guilty Pleas

-Notes (744); NEWMAN V. UNITED STATES (744); Notes 2-3 on one or all defendants (745)

-Note on Numbers (748) (numbers); Problem 14B (749) (deciding); Note 1 (750) (court time)

-Notes 1, 4 (751-52); TULLOS V. STATE (752) (variance)

End Class 21

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Class Policies

Welcome to the Course in Criminal Law! This is a wonderful subject to study. It also is among the more difficult courses in law school, but it is among those in which hard work is likely to be rewarded in law practice.

It is necessary to implement policies for the course, so please understand the businesslike tone of the following items.

1. *You Need Not Communicate with the Professor Concerning the Reasons for Your Absences.* If you are absent, I assume you have a reason. Exception: See Item 12 below!
2. *You Need Not Communicate with the Professor Concerning Your Unpreparedness.* If you are unprepared, my approach is to go ahead and call on you. The (mild) sanction is that you must admit it. (I may, however, call on you again, and I take repeated unpreparedness more seriously.)
3. *It Is Your Responsibility to Read Forward in the Casebook for Class.* Unless I otherwise indicate, we shall go straight through the syllabus. There will be a few occasions when we shall deviate.
4. *Hold Up Your Hand Before Talking; Realize that the Professor Must Determine When We Move Along.* This will be a large class, and there is no responsible way to teach it without covering a lot of ground. Please understand if I determine that we must move on.
5. *Stand Up and Speak Loudly Enough When You Are Called On.* Every student must speak loudly enough for everyone to hear. One of your abilities should be to speak persuasively to a group.
6. *You Must, in this Class, Speak in Class, without Excuses.* No one should be in law school who has too much stage fright to answer questions in class. If you aren't sure, try! And keep trying.
7. *Out of Class Assignments.* Every student, at some point, will be given an assignment that will involve document preparation, an oral presentation, or the like. These assignments will culminate in a simulated jury trial.
8. *Reading The Story of a Criminal Case: The State vs. Albert Delman Greene (Tan Paperback).* At certain points in the course, we shall use this book in addition to the casebook.
9. *Reviews.* Three times during the semester, I shall furnish video reviews of material covered up to that time.
10. *Practice Examination; Final Examination; Grading.* About the middle of the semester, we'll have a practice examination. It will not count toward your grade. Your grade will be determined by an anonymous final examination, based on a curve conforming to the law school average for first-year classes. At appropriate times, I'll help you know what to expect. In addition, repeated unpreparedness may affect your grade.
11. *Attendance.* It is required that you comply with the law school's attendance requirement: 80% attendance.
12. *Double Absences on Days of, or Within Two Days of, a Legal Writing Assignment Turn-In Date, Subject to Liberal Excuse.* There is one sensitive problem about attendance. The Lawyering Skills and Strategies course involves deadlines. Within two days before, numbers of students tend to skip. There are several disadvantages. First, a large percentage of the class then needs catch-up work. Repetition of basic issues becomes necessary. It's unfair to students who attend. Also, time management is essential to good lawyering.
Therefore, absences on the day an LSS assignment is due, and on the two days preceding, count as double absences. One absence counts as two. This rule is subject to a liberal excuse policy: a double absence can be excused if you tell me of a reason not involving LSS. This policy will be liberally administered.
13. *Seating Chart.* Please sit in your assigned seat, even if you come in late or leave early.
14. *Disability.* Any student with a disability requiring accommodation should explain both to the professor (except as to the exam, for which accommodation is to be arranged through the law school administration).

University of Houston Required Language:

Counseling and Psychological Services (CAPS)

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. www.uh.edu/caps/outreach/lets_talk.html.

Sexual Misconduct Policy

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system’s Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Names and Pronouns

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun, or if you have concerns about how I or your classmates address you.

Pandemic-Related Required Language:

Attendance via Zoom

This class will be taught or attended via this Zoom. The link will be emailed to the students directly.

- You must be logged in with a computer (not a phone) with your video camera turned on and microphone muted (note: the class will be set up to mute you automatically upon entry). Video must stay on for the entire class.
- You must identify yourself with your first and last name in the Zoom videoconferencing software.
- You must present yourself professionally in the video stream, both in attire and in conduct.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through email.

Courses Taught as HyFlex – In Person Attendance Required Language:

Face Covering Policy

To reduce the spread of COVID-19, the University [requires face coverings](#) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](#). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES \(CSD\)](#).

Required Daily Health Self-Assessment

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any [Coronavirus Symptoms](#)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19.