



**Criminal Law Spring 2023**

**MW 10:30-12:00**

**Professor Sandra Guerra Thompson**  
[Sgthompson@Central.uh.edu](mailto:Sgthompson@Central.uh.edu)

**Executive Assistant: Mr. Harold Bradford**  
[hpbradford@Central.uh.edu](mailto:hpbradford@Central.uh.edu)

**Office Hours:**

Mondays 2:30-3:30 or by appointment  
Office 430W. Zoom available as well.

**Required Materials:**

Joshua Dressler and Stephen P. Garvey, *Cases and Materials on Criminal Law* (9th edition) and *Supplementary Readings* (available on Blackboard). *Note:* The book entitled “Understanding Criminal Law” by Dressler is a supplementary aid that may be helpful. A copy is in the library.

**Introductory Comments**

This substantive criminal law course aims to provide you with four basic competencies to equip you to practice criminal law (or whatever other field of practice you may choose) and to prepare you to take the Bar Exam. First, the course will familiarize you with *blackletter criminal law*: the elements of various *offenses*, e.g., robbery, rape, murder, etc., and *defenses*, e.g., insanity, self-defense, etc. In particular, you will be tested on the blackletter law that is tested on the Uniform Bar Exam.

A second area of competency this course will provide is the skill of *statutory analysis*. Using traditional common law statutes as our focal point, you will learn to deconstruct a criminal statute in order to identify each element. This is a core competency that criminal lawyers should possess.

Third, this course will prepare you to address the fundamental *ethical* and *philosophical* issues regarding the punishment of human beings for wrongdoing. We will consider the goals of the criminal justice system in imposing punishment. Do we seek to exact retribution? To deter others? To promote rehabilitation? In addition, we will learn that prosecutors have a different set of ethical obligations than all other lawyers. Whereas criminal defense attorneys and other lawyers have an ethical obligation to represent their clients zealously, a prosecutor's role is to promote justice for all members of society, including the person who stands accused of a crime. We will study the rules of professional conduct that apply to prosecutors and defense attorneys.

A fourth thing this course will do is to introduce you to some of the *practice skills* you will need to handle criminal law cases as a lawyer. Such skills include, for example, making oral arguments for trial or appellate courts based on substantive criminal law issues. You will be asked to play the role of a prosecutor or defense attorney and present arguments to the judge.

In real life, the best lawyers bring all four competencies to bear in every case— they are generally familiar with blackletter criminal law, they can analyze and research the pertinent statutes that apply to their clients' cases, and they utilize their practice skills within the bounds of their ethical obligations. They are also in tune with the fundamental philosophical issues of punishment that typically come into play when prosecutors decide what charges, if any, to seek, as well as at the sentencing hearing after a conviction.

This course will provide you with a fair mix of all these approaches. We will cover quite a lot blackletter law, but we will not confine our study to the mere recitation of the elements of offenses or defenses. Rather, we will also consider the fundamental questions of what purposes the punishment of wrongdoing should serve, and we will consider these questions in the context of problems designed to show you how the punishment issues play out in the real, day-to-day work of prosecutors, defense attorneys, judges, and jurors. Through in-class exercises, you will be asked to play the role of prosecutor or defense attorney and make the kinds of decisions that real lawyers make every day. It is my hope that these exercises will bring the course to life for you in a way that a simple lecture cannot.

### **Attendance Policy**

**You should “sign in” each day during class via an electronic attendance link.** You must attend 80% of the classes taught, or you will be dropped. In other words, you may miss no more than five classes. Since you may have to be absent due to illness, family emergency or other pressing matters, please use your absences carefully so as not to run into a problem abiding by this rule. It is not necessary to notify me if you will be absent.

### **Grading and Final Exam**

Your final grade will be determined from one three-hour exam given at the end of the semester. The final exam will consist of multiple-choice questions like those you will see on

the Uniform Bar Exam as well as one essay exam. You will be tested on your knowledge of the traditional common law offenses and defenses that we study in class. The final exam will be closed book and proctored on the scheduled exam date and time.

### **Classroom Administration**

You are expected to be prepared to discuss the lecture material that I assign for each day of class. I will call on you at random to discuss the facts, issues, findings, and holdings in the main cases. I will not accept sloppy recitations, so please be prepared to give a clear recitation of the facts of the case and discuss the court's decision. If you will not be prepared for class, I ask that you notify me by email ([sgthompson@Central.uh.edu](mailto:sgthompson@Central.uh.edu)) prior to the start of the class so that I may refrain from calling on you that day.

In addition, I will divide the class into two larger groups, Group 1 (last names A-L) and Group 2 (M-Z). From time to time, you will be asked to prepare to argue a motion or present oral arguments on a case we will be studying. I will assign each group alternately to play the role of prosecution or defense.

During class discussions, I will assume that you understand the terminology in the materials that you have read. Thus, I recommend that you refer to a good legal dictionary if you do not understand a legal term, phrase, or word that appears in the assigned reading.

### **Classroom Feedback and Open Door Policy**

I would appreciate your feedback about how you think the course is going. I prefer to hear your concerns early in the course rather than simply at the end when the school administers formal evaluations. I also LOVE talking to students about their career prospects, planning second-year schedules, taking questions from class, and any other matters that may concern them. Feel free to drop me a line or give me a call.

### **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](http://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](http://www.uh.edu/caps/outreach/lets_talk.html)

### **COVID-19 Information**

Students are encouraged to visit the University's [COVID-19](#) website for important information including diagnosis and symptom protocols, testing, vaccine information, and post-exposure guidance. Please check the website throughout the semester for updates.

### **Reasonable Academic Adjustments/Auxiliary Aids**

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact [the Justin Dart Jr. Student Accessibility Center](#) (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

### **Recording of Class**

I will endeavor to record the class sessions via audio or video recording and post them in a folder on Blackboard for your educational use.

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 [Justin Dart, Jr. Student Accessibility Center](#). 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.

### **Resources for Online Learning**

The University of Houston is committed to student success and provides information to optimize the online learning experience through our [Power-On](#) website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact [UHOnline@uh.edu](mailto:UHOnline@uh.edu).

### **UH Email**

Please check and use your Cougarnet email for communications related to this course. To access this email, [login](#) to your Microsoft 365 account with your Cougarnet credentials.

### **Title IX/Sexual Misconduct**

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

### **Security Escorts and Cougar Ride**

UHPD continually works with the University community to make the campus a safe place to learn, work, and live. Our Security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety please call [713-743-3333](tel:713-743-3333). Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called Cougar Ride that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

### **Syllabus Changes**

Please note that the instructor may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible by email.

### **Helpful Information**

**Coogs Care:** <https://uh.edu/dsa/coogscare/>

**Student Health Center:** <https://www.uh.edu/healthcenter/>

## Readings and Homework Assignments for Criminal Law

**Note:** Readings from Dressler's Criminal Law text are indicated by "casebook" and readings from the supplementary materials are indicated by "Supplement on Blackboard." The Model Penal Code (MPC) is found in the appendix to your casebook.

### 1/18 Goals of the Criminal Justice System: Why Punish?

Supplement on Blackboard: "The Shelley Grant Pre-sentence Investigation Report" and "A Healing Circle in the Innu Community of Sheshashit"

Casebook: 31-53

#### Homework due prior to Day 1:

**Due by 1/17** by email. Please submit a 1-page discussion of what sentence you, as a judge in New York, would impose on Shelley Grant. You should be precise in stating whether you are imposing a sentence of probation for a specific amount of time, and, if so, what conditions she will have to meet while on probation, or whether you instead sentence her to a term of incarceration. Explain your reasons and what goals you hope to accomplish by imposing the sentence. This is a mandatory albeit ungraded assignment. It cannot help your grade, but the failure to show a good faith effort in timely completing the assignment will negatively impact your final grade.

### 1/23 Proportionality of Punishment (Eighth Amendment law)

Casebook: 73-93

### 1/25 Statutory Clarity and Statutory Interpretation

Casebook: pp. 1-12 (through note 2 at p. 12) & pp. 109-124

### 1/30 The Act Element; Voluntary Act Requirement

Casebook: pp. 133-145

Model Penal Code (MPC): §§1.13(9), 2.01 (1), (2)

### 2/1 Omissions

Casebook: pp. 146-159

MPC: 2.01(3)

#### In-class exercise:

Group 1 (A-L) for the prosecution; Group 2 (M-Z) for the defense. Assume you are litigating the case of *Barber v. Superior Court*. Assume that the doctors are charged only with murder. Please prepare to argue a motion to the trial court to dismiss the charge of murder pending before Dr. Barber. The defense will first argue that the facts the government intends to prove (which would have been stated in the indictment) are not sufficient to support a murder charge. The prosecution will then take the opposite position.

### 2/6 Mens Rea; Issues of Proving Culpability at Common Law

Casebook: 161-173

**2/8 Model Penal Code Approach to Mens Rea**

Casebook: 173-182

**2/13 Strict Liability Offenses at Common Law**

Casebook: 190-208, 501-505

**2/15 Causation**

Casebook: 231-255

**2/20 Murder and Premeditation; Manslaughter: “Heat of Passion” Killings**

Casebook: 257-260, 281-311; MPC § 210.

**2/22 Unintentional Killings**

Casebook: 324-342

**2/27 Felony-Murder Rule and Misdemeanor-Manslaughter Rule**

Casebook: 342-374

**3/1 Basic Definitions: Larceny, Burglary, Battery, Robbery, Kidnapping & Arson**

Casebook: 979-982, 986-995, 168 n.1, 822-824, 975 n. 5 & 6, 165 n.3, MPC §§ 220.1 & Articles 221, 222.

**3/6 Attempt**

Casebook: 766-802, 818-822

**3/8 Solicitation & Conspiracy**

Casebook: 825-839;

Supplement on Blackboard: Highfill v. Texas

A Midterm Exam will be distributed as a take-home assignment to do over spring break. This exam is a mandatory, ungraded assignment. The failure to submit the assignment will negatively affect your final grade.

**3/20 Discussion of Midterm**

**3/22 Conspiracy—Mens Rea & Actus Reus**

Casebook: 839- 864

**3/27 Accomplice Liability**  
Casebook: 893-919, 932-937

**3/29 Mistakes of Fact and Mistake (or Ignorance) of Law**  
Casebook: 208-229  
Supplement on Blackboard: Julio Marrero Aftermath

**4/3 Ethical Duties of Prosecutors**

Supplement on Blackboard:

“Chapter 2: The Charging Decision” Ethical Dilemmas for Prosecutors Sample  
Indictment (of Eddie Ray Routh, in Erath County, Texas)

In the “Ethical Dilemmas” materials, please pay close attention to these provisions in the ABA Model Rules of Professional Conduct: Preamble [1]-[9] & 3.8. In the National Prosecution Standards, please focus on Standards 1-1.1-2-6.3, 4-1.1-4-4.1. In the Criminal Justice Standards, please focus on Standards 3-1.2, 3-4.4.

**Study Question:** After reviewing the materials on Ethical Dilemmas for Prosecutors and the chapter on The Charging Decision, what guidance, if any, can you find in any of the ethical codes or from the chapter that might inform the prosecutor’s decision to charge Marrero?

**4/5 Rape/Sexual Assault**  
Casebook: 417-432, 439-460

**4/10 Rape/Sexual Assault**  
Casebook: 471-496

**4/12 Self-Defense**  
Casebook: 524-548

**4/17 Self-Defense**  
Casebook: 556-575

**Oral Arguments in State v. Norman:** Please be prepared to present oral arguments to the North Carolina Supreme Court. Group 1 for the defense, Group 2 for the prosecution.

**4/19 Necessity and Duress**  
Casebook pp. 53-55, 589-595, 605-613, 617-625

**4/24 Intoxication & Insanity**

Casebook: pp.637-666

**4/26 Insanity & Review Session**

Casebook: 667-681

Feel free to send questions in advance of the review session.