

Criminal Law – Section C  
Professor David Kwok  
Spring 2023  
Email: [dkwok@uh.edu](mailto:dkwok@uh.edu)  
Office: 431H  
Assistant: Amanda Parker

## **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 10:30am to 12:00pm.

## **Textbooks**

W. David Ball and Michelle Oberman, Criminal Law Casebook (2nd ed.). This casebook is open source and free for online use, available at <https://opencasebook.org/casebooks/4519-criminal-law-casebook/>

Paul Robinson, Criminal Law Case Studies (5th ed.)

## **Attendance Policy**

You should attend class sessions and arrive on time. 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 through an electronic attendance sheet.

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.

There will be a variety of individual and group written exercises which will count towards class participation. For individual written assignments outside of the examination process, students may discuss the problem with each other, but each student must independently write their own answers; submission of a group or copied answer (even in part) is unacceptable. For group writing assignments, submission of a single written answer is acceptable, but every group member is responsible for understanding and explaining the entire answer. Groups should not collaborate or discuss the problem with other groups.

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.

We are committed to ensuring inclusive online and classroom learning spaces, where you will be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed. In this course, all students are welcome regardless of socioeconomic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please feel free to reach out to me. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. I also encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity, Equity, and Inclusion committee. You can contact the committee directly at UHLCD&I@uh.edu.

## **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 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 a final examination. The final examination will be open book. The course also offers formative assessment throughout the semester, including feedback on sample problems and group work. These formative assessments directly impact your final grade through the participation mechanism.

## **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](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).

The Texas Lawyers' Assistance Program ("TLAP") also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

### **Accessibility & Accommodations**

UHLC is committed to ensuring that all students enjoy equal access and full participation.

If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out so that we may discuss options. If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is in room 44A TU-II in the Office of Student Services suite, and she can be reached at [sary@central.uh.edu](mailto:sary@central.uh.edu) or 713-743-7466. Requests for accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request.

If you observe religious or cultural holidays that will coincide with class sessions, please let me know as soon as possible, so that we may make arrangements.

### **Anti-Discrimination and Sexual Misconduct**

UHLC and the University of Houston are 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, a confidential reporting process is 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.

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

### **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 [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, nor with any other person or on any other platform. Classes may be recorded by the instructor. Students may use the 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. Such modifications may include changes to the mode(s) of assessment for the course. Notice of such changes will be announced as quickly as possible through email.

**Office Hours:** TBD. Please email me regarding a visit during office hours so that we can agree beforehand on a method of meeting (Zoom, in-person, etc.).

**Teaching Assistants:** Alex Dillard, [wadillar@cougarnet.uh.edu](mailto:wadillar@cougarnet.uh.edu), and Nathan Halaney, [nhalaney@cougarnet.uh.edu](mailto:nhalaney@cougarnet.uh.edu).

### Face Covering Policy

To reduce the spread of COVID-19, the University strongly encourages everyone (vaccinated or not) to wear face coverings indoors on campus including classrooms for both faculty and students.

### Presence in Class

Your presence in class each session means that you:

- Are NOT exhibiting any [Coronavirus Symptoms](#) that makes you think that you may have COVID-19
- Have NOT tested positive or been diagnosed 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 [Student 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. Consult the (select: [Undergraduate Excused Absence Policy](#) or [Graduate Excused Absence Policy](#)) for information regarding excused absences due to medical reasons.

### 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.

### Vaccinations

Data suggests that vaccination remains the best intervention for reliable protection against COVID-19. Students are asked to familiarize themselves with pertinent [vaccine information](#), consult with their health care provider. The University strongly encourages all students, faculty and staff to be vaccinated.

### 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).



## **Initial Assignment Schedule**

For the Robinson casebook, our class will focus on criminal liability under the “then existing law” analysis of each case.

### *Part I: Overview and General Principles*

Jan 18

Introduction & Theories of Punishment

Read: Ball/Oberman Section 1.1 to 1.6, Robinson 29-36 (Thomas Dudley)

Optional: B/O Section 1.7-1.8

Jan 23

Theories of Punishment, Proportionality

Read: Ball/Oberman Section 1.9 to 1.11

Jan 25

Legality Principle

Read: Ball/Oberman Section 2. Robinson 57-63 (Canna Baker)

Optional: Ethics Supplement

Jan 30

Actus Reus & Legality Principle

Read: Ball/Oberman Section 3. Robinson 95-101 (Ray Billingslea)

Feb 1

Mens Rea

Read: Ball/Oberman Section 4.1-4.7

Feb 6

The Model Penal Code Approach

Read: Ball/Oberman Section 4.8-4.17

Feb 8

Strict Liability Offenses

Read: Ball/Oberman Section 4.18-4.21 Robinson 65-81 (Julio Marrero)

Feb 13

Causation

Read: Ball/Oberman Section 5. Robinson 109-13 (Joseph Wood)

*Part II: Substantive Offenses*

Feb 15

Criminal Homicide: Intentional Killings

Read: Ball/Oberman Section 6.1-6.4

Feb 20

Intentional Killings, cont'd: Manslaughter

Read: Ball/Oberman Section 6.4

Feb 22

Unintentional Killings

Read: Ball/Oberman Section 6.5. Robinson 11-17 (John Landis)

Note: on Robinson page 15, section 192, temporarily disregard "in the commission of an unlawful act, not amounting to felony."

Feb 27

Felony Murder Rule

Read: Ball/Oberman Section 6.5. Robinson 1-10 (DeSean McCarty)

Mar 1

Tentative Midterm

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