

# Criminal Law

## Law A505 | Spring 2018

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**COURSE TIMES:** Mon., Wed., Fri. 10:30 a.m. – 12:20 p.m., Room 133

**OFFICE HOURS:** Mon. & Wed., 3:30 – 5:00 p.m., Room 409

**COURSE SITE:** <https://canvas.uw.edu/courses/1134309>

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### I. COURSE OVERVIEW

#### 1. Learning Objectives

Criminal law is about how we use some of law's heaviest artillery – punishment and stigma – to govern behavior. Because criminal law regulates everyday life from how we conduct ourselves sexually to what happens if one gets drunk and hurts someone, knowledge of this subject will benefit you regardless of which path in the law you choose. This course explores the fundamental principles, purposes and concepts in criminal law including:

- prominent penal rationales, including deterrence, incapacitation, retribution, rehabilitation and restorative justice;
- constitutional constraints on criminalization and punishment;
- actus reus, mens rea, causation, legality and other building-block concepts of criminal law construction;
- in-depth study of the crimes of homicide, rape, theft, burglary and robbery;
- additional exposure to other common crimes and social challenges such as assault, child abuse, elder abuse, euthanasia, domestic violence, identity theft, narcotics offenses, and violations of firearms laws;
- defenses (and non-defenses) including self-defense, defense of others, battered spouse syndrome, defense of habitation, defense of property, necessity, duress, insanity, and intoxication;
- liability for aiding and abetting (complicity) and attempts; and
- the inchoate offense of conspiracy.

You will also learn techniques of statutory interpretation and see how changing social values influence the evolution and interpretation of the laws. These are important fundamental skills to being an effective attorney and advocate in a wide array of fields.

## **2. Textbook and Supplemental Materials**

- CYNTHIA LEE & ANGELA HARRIS, CRIMINAL LAW: CASES & MATERIALS (3d ed. 2014).
- EXCERPTS AND VISUAL AIDS POSTED ON THE WEB SITE.

## **3. Office Hours**

Office hours are Mondays and Wednesdays from 3:30 to 5 p.m., or by appointment. Please feel welcome to email me to schedule a time to talk or to send a question or two. I am happy to talk to you either in person or over the phone.

## **4. Course Timing**

At the mid-point of each one hour, 50 minute session, there will be a five-minute break. I strongly encourage you to stand up to stretch and move around. I also encourage bringing snacks and drinks into class to fuel up. If you have to use the facilities outside of the five-minute break, please slip discreetly out of class.

There are two major advantages of our one hour, 50 minute session timing and five-minute breaks. First is the ability to delve into discussion of the important issues involved in criminal law. The second advantage is that in May, when you are most in need of time, we will not have any Friday classes. Moreover, we will end by May 23, to give you about two weeks to synthesize, study and do an outstanding job on your finals.

## **5. Expectations and Assessment**

In addition to making you an informed professional regarding some of the most important questions of our times, criminal law helps prepare you for the bar and practice. Criminal law questions may appear as multiple-choice and essay questions on the bar exam. To prepare you, your assessment includes:

- (1) class participation, including discussion, interactive questions,\* and group collaborative activities (20%); and
- (2) final exam\*\* (80%). Set for Wednesday, June 6, 2018, at 8:30 a.m.

**\*Interactive Questions to Check Your Comprehension Instantly.** We will intersperse class with interactive instant-feedback questions that you will answer by either (1) logging onto <https://pollev.com/mdfan> or (2) texting mdfan. To enhance learning while reducing stress, how many you get *correct* will not hurt your grade but

your *participation* will count. If you are on the margin of a grade, I will use extraordinary performance to bump.

**\*\*Final Exam.** The final exam will be three hours in length. You may use your casebook, visuals and charts posted online jointly or personally-prepared outlines. Laptop users are to use Exam4 in Open (No Internet Access) mode. Class participation is important too because I exercise discretion to “bump” your grade up or down based on outstanding class participation or the converse.

## **6. Preparedness and Attendance**

**Preparedness, Participation and Attendance:** Punctual class attendance, preparedness and active participation are essential to your learning and success and the creation of a rewarding and dynamic class experience for all. This class uses a participatory method of teaching and collaborative projects that build on prior classes.

I understand that life sometimes produces unavoidable obligations or emergencies necessitating an absence or rendering one less prepared for a day. It is better that you come to class and learn, rather than miss a class because of concern over not being fully prepared and fall behind. If the basis for an absence or a no-pressure pass for a class arises, please let me know in advance of class of the request and reason.

## **7. Internet Usage**

There is scientific evidence that Internet use in the classroom for non-class purposes hurts your academic performance and comprehension and also impairs the learning of your nearby peers.<sup>1</sup> If you use a computer in class, it should be used solely for class-related purposes: to type your notes, answer interactive questions, or check your notes. If I see you checking email, texting or surfing the Internet during class time, you will be automatically eligible for a grade bump-down if you are on the cutoff between two grades.

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<sup>1</sup> See, e.g. Susan M. Ravizza, Mitchell G. Uitvlugt, Kimberly M. Fenn 2016, *Logged In and Zoned Out: [How Laptop Internet Use Relates to Classroom Learning](#)*, PSYCH. SCI. 28(2):171-180; Susan M. Ravizza, David Z. Hambrick, Kimberly M. Fenn 2014, *[Non-Academic Internet Use Is Negatively Related to Classroom Learning Regardless of Intellectual Ability](#)*, COMPUTERS & EDUC. 78:109-114; Faria Sana, Tina Weston, Nicholas J. Cepeda 2013, *[Laptop Multitasking Hinders Classroom Learning for Both Users and Nearby Peers](#)*, COMPUTERS & EDUC. 62:24-31.

## **8. Recording Policy**

In criminal law, we discuss controversial issues freely and openly. People also may share experiences with the criminal justice system. Recording for general public dissemination interferes with the free exploration, expression and evolution of ideas. In addition, listening to a recording never translates as effectively as an in-class, in-person experience because learning is a multi-textured live process, not canned and one-dimensional. To ensure that the incentives are calibrated for you to get the optimal live experience, classes are not recorded for general dissemination. If you must miss class, please get the notes from a classmate and come see me if you have any questions about the material.

## **9. Access and Accommodation**

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or [uwdrs@uw.edu](mailto:uwdrs@uw.edu) or [disability.uw.edu](http://disability.uw.edu). DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

### **READING SCHEDULE**

**Class 1. Monday, March 26, 2018**

#### **I. CRIMINALIZATION & PUNISHMENT: RATIONALES & RESTRAINTS**

- Please fill out the quick questionnaire about you online at: <https://catalyst.uw.edu/webq/survey/mdfan/350241>
- Casebook pp. 1- 7 (to the end of the paragraph on retributivism); 102-103 (*Justice Isn't Blind*); 117-129 (*Graham v. Fla.*); 537-548 (*Lawrence v. Texas*)

through the case note).

**Class 2. Wednesday, March 28, 2018**

**II. CRIME COMPONENTS: ACTUS REUS AND MENS REA**

**A. Actus Reus**

- Casebook pp. 149-170, 177-180, 192-200 (*Jones*); 297-298; 952 (MPC § 2.01)

**Class 3. Friday, March 30, 2018**

**B. Mens Rea**

- Casebook pp. 201-202 (Intro only, skip *Regina v. Cunningham*), 203 (from Statutory Interpretation)-208; 215-237; 953-954, 956-957 (MPC §§ 2.02, 2.05).

**Class 4. Mon., April 2, 2018**

**C. Mistakes of Fact**

**D. Ignorance/Mistakes of Law**

- Casebook pp. 249-264; 271-278 (through *Cheek*); 509-515; 956 (MPC § 2.04).

**MID-WEEK BREAK**

*Weds., April 4, 2018*

*Professor Fan is at the University of Illinois to speak at an event on civil rights investigations of police departments by the U.S. Department of Justice.  
Enjoy the break and come energized to class on Friday morning.*

**Class 5. Friday, April 6, 2018**

**III. HOMICIDE**

**A. Intentional Homicides**

**1. Premeditation and Deliberation: 1st v. 2d Degree Murder**

- Casebook pp. 315-338; 984 (MPC §§ 210.0-210.2)  
(\*Advance note: there are very graphic details in the first child abuse case and the second rape-murder case decided by the Washington Supreme Court).

**Class 6. Monday, April 9, 2018**

- 2. Mitigating Murder to Voluntary Manslaughter**
  - a. Adequate Provocation Doctrine**
  - b. Extreme Emotional Disturbance Doctrine**
- Casebook pp. 338-373, 984-985 (MPC §§ 210.3(b))

**Class 7. Wednesday, April 11, 2018**

**B. Implied Intent and Unintentional Homicides**

- 1. Implied Intent: Depraved Heart Murder**
- 2. Involuntary Manslaughter**
- 3. Misdemeanor Manslaughter**
- Casebook pp. 373-396; 427-430; 984-985 (MPC §§ 210.3(a), 210.4)

**Class 8. Friday, April 13, 2018**

**C. Felony Murder**

- 1. The Inherently Dangerous Felony Limitation**
- 2. The Res Gestae Requirement**
- 3. The Merger Doctrine**
- 4. The Agency Rule**
- Casebook pp. 396-427, 984 (MPC § 210.2(b)).

**Class 9. Monday, April 16, 2018**

**D. Capital Punishment**

- 1. Moratorium and Revival**
- 2. The Influence of Race**

**3. Victim Impact Statements**

**4. New Avenues of Legal and Political Attack**

- Casebook pp. 985-988 (MPC § 210.6), 137-148 (Equal Protection and *McCleskey v. Kemp*); 110-117 (The Eighth Amendment and *Kennedy v. La.*), excerpts posted online.

**Class 10. Wednesday, April 18, 2018**

**IV. SEXUAL ASSAULT**

**A. The Force (Resistance) Element(s)**

- Casebook pp. 431-444 (through the note on *Rusk*), 452-461 (*Berkowitz* and note after it)

**Closing Arguments and Jury Deliberations in *Berkowitz***

**Class 11. Friday, April 20, 2018**

**B. Rape Law Reforms and Dilemmas**

- Casebook pp. 444-451, 461-486

**Class 12. Monday, April 23, 2018**

**V. THEFT, BURGLARY, ROBBERY**

- Casebook pp. 557-586; 998-1002 (MPC §§ 222.1-223.5)

**Class 13. Friday, April 27, 2018**

**VI. DEFENSES: JUSTIFICATION- BASED**

**A. Self-Defense & the Reasonableness of Fear**

- Casebook pp. 587-613; 625-629 (*Wanrow*), 964-966 (MPC § 3.04)

**Class 14. Monday, April 30, 2018**

**B. Battered Persons**

**C. Imperfect Self-Defense**

**D. Defense of Others**

**E. Defense of Habitation**

**F. Defense of Property**

- Casebook pp. 613-624; 629-649; 966-969 (MPC §§ 3.05-3.06), 973-974 (MPC § 3.09).

**Class 15. Wednesday, May 2, 2018**

**VII. THE BLURRED LINE BETWEEN EXCUSE AND JUSTIFICATION DEFENSES**

**A. Necessity**

**B. Duress**

- Casebook pp. 649-674 (through *Contento-Pachon*), 7-11 (*Regina v. Dudley & Stephens*), 963-964 (MPC § 3.02), 961 (MPC § 2.09)

**Class 16. Monday, May 7, 2018**

**VIII. DEFENSES (AND NON-DEFENSES): EXCUSE-BASED**

**A. Intoxication**

**B. Entrapment**

- Casebook pp. 679-691, 735-754, 960-961 (MPC § 2.08), 962-963 (MPC § 2.13)

**Class 17. Wednesday, May 9, 2018**

**C. Insanity**

- Casebook pp. 691-723, 975 (MPC §§ 4.01, 4.03)

**Class 18. Monday, May 14, 2018**

**IX. ATTEMPTS**

- Casebook pp. 793-796, 799-820, 976-978 (MPC § 5.01)

**Class 19. Wednesday, May 16, 2018**

**X. ACCOMPLICE LIABILITY (COMPLICITY)**

- Casebook pp. 821-840, 957-958 (MPC § 2.06)

**Class 20. Monday, May 21, 2018**

**XI. CONSPIRACY**

- Casebook pp. 841-866, 872-873 (*US v. Bruno*); 978-980 (MPC § 5.03)

**Class 21. Weds., May 23, 2018**

**Review Class**