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Criminal Law

University of Minnesota Law School
LAW 6009, Sections B & D
Spring 2014
3 Credits, Grading: A/F

Professor Francis X. Shen

Wed, Thur, Fri: 11:15 am – 12:10 pm
Location: Mondale Hall, Room 40

Administrative Memo & Syllabus

Instructor: Dr. Francis X. Shen
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Office Hours: Wednesdays, 12:15-1:15 pm (near the Sullivan Café)
Thursdays, 1:30-2:30 pm (in my office, Room 330)
and by appointment *and* any time the door to my office is open

Required Text: JOSHUA DRESSLER & STEPHEN P. GARVEY, CASES AND MATERIALS ON
CRIMINAL LAW (6th ed. 2012)

Model Penal Code (in casebook Appendix)

Optional Text: JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW (6th ed. 2012)

Final Exam: Monday, May 12, 2014, 8:30 am – 11:30 am. See Section IV below.

Grading: See Section IV below.

TWEN: courseid=171614 ([Link](#))

SSG: Lokys Gust, gustx071@umn.edu

I. Course Aims and Objectives

Aims. This primary aim of this course is to provide you with a strong foundation for understanding, discussing, and practicing criminal law in the United States. This aim will be accomplished primarily through an introduction to core concepts, definitions, and problems in substantive criminal law,¹ as well as through an introduction to the structure and nature of the American criminal justice system; an introduction to criminal codes and their interpretation; and exposure to controversies related to the design and operation of the criminal justice system.

Specific Learning Objectives. By the end of this class, students will:

- Be familiar with black letter criminal law, including the requisite *mens rea* and *actus reus* elements of selected offenses, and be able to spot criminal law issues in given fact patterns.
- Be familiar with general defenses to crimes such as: self-defense, necessity, duress, and insanity.
- Apply correct criminal law rules to given facts to make persuasive arguments about what charges a prosecutor might file, what defenses might be offered, and what result the courts should produce.
- Understand the importance of criminal statutes in the modern criminal law, and practice statutory interpretation skills in the criminal law context.
- Think critically about the normative foundations and assumptions of the criminal law doctrine, and reflect on where, and how, criminal law doctrine is in need of revisiting.
- Appreciate the political, social, economic, moral, religious, and scientific contexts which both shape, and are shaped, by the criminal law.
- Learn about pathways to practice in the criminal law, and have opportunities to meet practitioners experienced in these professions.
- Have opportunities to further develop legal writing and oral presentation skills.

¹ A note on terminology: “Often the term ‘criminal law’ is used to include all that is involved in ‘the administration of criminal justice’ in the broadest sense. As so employed it embraces three different fields, known to the lawyer as (1) the substantive criminal law, (2) criminal procedure, and (3) special problems in the administration and enforcement of criminal justice.... The phrase ‘criminal law’ is more commonly used to include only that part of the general field known as the substantive criminal law.... “ Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 1, 5 (3d ed. 1982). *CRIMINAL LAW*, Black’s Law Dictionary (9th ed. 2009). In this course, we will cover only “substantive criminal law”.

II. Course Format and Procedures

Class meetings. This is a three-credit course offered in the Law School. The course will meet for 55 minutes three times a week (11:15 – 12:10 pm, Wednesday, Thursday, and Friday) over the course of the semester. *Please note that several classes have been re-scheduled due to conflicts. These dates are noted in the class schedule that follows.*

Each class session will involve a mix of lecture and discussion. Lecture and discussion will be grounded in the assigned reading material, and will also at times incorporate additional materials to be distributed by the Professor in advance of the class. Additional contextualizing background on the relevant law and policy may also be provided via lecture.

TWEN. Course materials will be posted on the TWEN site, and I will send email via the TWEN site as well. I may also, on occasion, use some TWEN features in class. Thus, it is a requirement of the course that you register for the TWEN course.

Class Outlines and Visual Presentations. With a few exceptions, basic class outlines will be distributed via TWEN email the morning of each class. This will allow you to incorporate the text of the outline into your notes. For classes in which a visual presentation is used, a .pdf version of the visual materials will be posted to the TWEN site after class. Please note that the Powerpoint slides and other materials posted on the course TWEN site are only for use by students in this semester's course, and may not be distributed to anyone else without express permission.

Attendance. Please read and adhere to the Law School's Policies and Procedures page (Academic Rule 1.1, ABA Standards 304(b) and 304(d)), which requires regular class attendance and adequate preparation, starting with the first scheduled day of class. Students who join a class late are responsible for all information about course attendance and participation expectations, whether announced in class or noted in the syllabus. For this course, excessive unexcused absences and/or an excessive lack of preparation may reflect negatively on your final grade. I also reserve the option of awarding one or two additional grade points (e.g. B to B+) for consistent high-quality contributions in class.

I recognize that for the re-scheduled classes, conflicts may arise. I will be audio recording all of the classes so that you can listen to what you missed should you have a conflict.

Students will not be penalized for absence during the semester due to unavoidable or legitimate circumstances. Such circumstances include verified illness, participation in intercollegiate athletic events, subpoenas, jury duty, military service, bereavement, and religious observances. For complete information, please see:

<http://policy.umn.edu/Policies/Education/Education/MAKEUPWORK.html>

Participation in Class. I strongly encourage your participation in this course, and I will use a combination of cold-calling and volunteer responses in our classroom discussion. We will also utilize one small-group assignment, which I will discuss in class.

Cell Phones, Smart Phones, and Laptops. When you walk into the classroom, you are expected to silence your phones. Exceptions will be made only in exceptional circumstances, which you should discuss with me before class. Law school policy prohibits unauthorized use of laptops during class. You are expected to refrain from any computer use that is not germane to the class.

Law School policy prohibits unauthorized use of laptop computers during class, including, but not limited to, playing games, reading or writing e-mail, and internet surfing. Under University policy, students are not permitted to record any part of a class unless explicitly granted permission by the instructor. I reserve the right to lower your final grade in the event you fail to comply with the rules requiring regular attendance, adequate preparation, observing all deadlines, or computer usage.

III. Required Readings and Optional Exercises

Readings. The vast majority of the readings will be from the required casebook: JOSHUA DRESSLER & STEPHEN P. GARVEY, *CASES AND MATERIALS ON CRIMINAL LAW* (6th ed. 2012). Sections of the Model Penal Code, which is included in the casebook Appendix, will also be assigned. In addition, on a few occasions, I will circulate additional readings. These readings will be announced in class and posted on TWEN.

It is expected that you read the assigned pages, including the Notes and Questions when assigned, and that you come to class prepared to engage meaningfully with the material.

An optional text is the hornbook: JOSHUA DRESSLER, *UNDERSTANDING CRIMINAL LAW* (6th ed. 2012). No reading will be assigned from the hornbook, but for those who prefer an additional resource, this is the one I recommend (given that it tracks the casebook in terms of topical coverage). Please note however that because a focus of the course, and of the exam, will be *applying* legal rules to particular fact patterns, simply memorizing doctrine as presented in the hornbook will not necessarily help you improve the legal analytic skills that will be tested at the end of the semester.

Optional Exercises. There are no required assignments other than the reading preparation described above and the exam described below. However, there are additional, optional exercises that you can do in order to receive instructor feedback. These assignments will not be graded, and will thus not factor into your final grade (other than indirectly, to the extent that they help you learn the material and improve your exam performance).

Optional Exercise #1: Post in TWEN forum (on-going). Throughout the semester, you are welcome to post to the “Anything and Everything” forum. You can post either under your name or anonymously, and I will reply either in the forum itself, via email, or via discussion in class.

Optional Exercise #2: Post in TWEN a written response to designated questions. On occasion during the semester, I will flag certain casebook questions and/or circulate questions related to the assigned material. You may, if you wish, post a short written response to the question and I will review the assignments in class. Additional details will be provided in class.

IV. Exam and Grading

Basis for Grades. Grading this course will be on the A/F scale. Under the Law School Academic Rules, the meaning of those grades are:

A+	4.333	}	Excellent to outstanding performance
A	4.000		
A-	3.667		
B+	3.333	}	Substantially better than adequate through very good performance
B	3.000		
B-	2.667		
C+	2.333	}	Minimally acceptable through adequate and somewhat above adequate performance
C	2.000		
C-	1.667		
D	1.000	}	Inadequate performance
F	0	}	Failing performance

Grading for the course will be based on the three-hour open-book examination described below. As mentioned above, excessive unexcused absences, an excessive lack of preparation, and/or unauthorized laptop use may reflect negatively on your final grade. Similarly, I reserve the option of awarding one or two additional grade points for consistent high-quality contributions in class.

Exam Format. The final exam will be a three-hour, in-class open-book examination consisting of essay questions. In general, the exam questions will require you to recognize the relevant legal issues, to understand the applicable rules of law, to apply those rules to the facts and issues identified, and to arrive at conclusions logically and with careful reasoning. As with all legal writing, precision and attention to detail will make for better answers. Additional details on the exam will be provided in class.

For purposes of this course, “open book” means that you may bring with you and consult: the Dressler and Garvey casebook; the course syllabus; all handouts distributed in class or contained in the course packet; designated materials posted on the TWEN site; and any notes and outlines for which you have played a substantial role in preparing. “Substantial role” means all material was prepared by students in this semester’s course and that you prepared at least 20 percent of the total. Commercially prepared outlines, student outlines from other courses, “model” exam answers, hornbooks (including Dressler), nutshells and the like are not permitted, in whole or in part, nor are study group outlines unless they meet the “substantial role” test above.

V. Academic Integrity

You are expected to abide by the Law School Academic Rules, which require regular attendance and adequate preparation, and to satisfy the [University's Teaching and Learning Student Responsibilities](#), which note student responsibility for attending class, for meeting all course requirements, observing all deadlines and course procedures, maintaining academic integrity, seeking academic help and accommodation as warranted, respecting intellectual property, and keeping the classroom in good order.

The University seeks an environment that promotes academic achievement and integrity, that is protective of free inquiry, and that serves the educational mission of the University. Similarly, the University seeks a community that is free from violence, threats, and intimidation; that is respectful of the rights, opportunities, and welfare of students, faculty, staff, and guests of the University; and that does not threaten the physical or mental health or safety of members of the University community.

As a student at the University you are expected adhere to the Board of Regents Policy: Student Conduct Code. Note that the conduct code specifically addresses disruptive classroom conduct, which means "engaging in behavior that substantially or repeatedly interrupts either the instructor's ability to teach or student learning. The classroom extends to any setting where a student is engaged in work toward academic credit or satisfaction of program-based requirements or related activities."

The Law School's Academic Rules can be found at:
<http://www.law.umn.edu/current/policies.html>

The University's Code of Student Conduct can be found at:
http://www1.umn.edu/regents/policies/academic/Student_Conduct_Code.html

You are encouraged to study together and to discuss information and concepts covered in class. With the exception of any clearly noted collaborative tasks, this permissible cooperation should never involve a student submitting as her/his own work as the work of another. If at any time you have questions about the right way to proceed, simply ask.

VI. Disability Accommodations & Mental Health

Students with disabilities should consult with the University's Office of Disability Services (612-626-1333) and the Law School's Assistant Dean of Students Office regarding any necessary classroom or exam-related accommodations. The University is committed to providing quality education to all students regardless of ability. Determining appropriate disability accommodations is a collaborative process. You as a student must register with Disability Services and provide documentation of your disability. The course instructor must provide information regarding a course's content, methods, and essential components. The combination of this information will be used by Disability Services to determine appropriate

accommodations for a particular student in a particular course. For more information, please reference Disability Services: <http://ds.umn.edu/student-services.html>

As a student you may experience a range of issues that can cause barriers to learning, such as strained relationships, increased anxiety, alcohol/drug problems, feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance and may reduce your ability to participate in daily activities. University of Minnesota services are available to assist you. You can learn more about the broad range of confidential mental health services available on campus via the Student Mental Health Website: <http://www.mentalhealth.umn.edu>

VII. Professionalism

All students are expected to comply at all times with the Law School's [Honor Code](#) and the University's [Student Conduct Code](#). You should conduct yourself in this class and throughout your Law School career in accordance with the principles of professionalism applicable to practicing attorneys, the profession to which you aspire. The Hennepin County Bar Association Lawyers' Pledge of Professionalism says lawyers should encourage respect for the law and our legal system through their words and actions and be courteous to everyone during the course of their work. The Minnesota Supreme Court and MSBA Professionalism Aspirations say that "a lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms" and "lawyers and judges owe each other respect, diligence, punctuality, and protection against unjust and improper criticism and attack." I expect the same behavior in your interactions with me and other faculty, with your fellow students, and with Law School staff.

VIII. Class Schedule

I. Introduction

1. *Session 1: Wed., January 22, 2014.* Introduction to the Course; Proof and the Presumption of Innocence
 - a. Required: Pages 9-18; MPC § 1.12(1)
 - b. Optional Background: Pages 1- 9 (top)

II. Principles of Criminal Punishment

2. *Session 2: Thur., January 23, 2014.* Purposes of Criminal Law and Theories of Criminal Punishment
 - a. Required: Pages 29-51 (through the Notes and Questions after Dudley and Stephens); MPC § 1.02(1)
3. *Session 3: Fri., January 24, 2014.* How Much Can (and Should) the Criminal Law Punish?
 - a. Required: Pages 51-61

III. The Importance of Criminal Statutes

4. *Session 4: Wed., January 29, 2014.* What does the statute say? Clarity and Vagueness
 - a. Required: Pages 105-119; MPC §§ 1.04 to 1.05
5. *Session 5: Thur., January 30, 2014.* **Guest Speaker: Atty. Karen Lenertz, Minnesota Office of the Revisor of Statutes**
 - a. Required: Pages 119-126; MPC § 1.13
6. **RE-SCHEDULED SESSION.** *Session 6: Fri., January 31, 2014, 10:10-11:05 am.* Statutory Interpretation
 - a. (No new reading, but review again: Pages 119-126; MPC § 1.13)

IV. Acts (and Omissions)

7. **WE MEET IN ROOM 25 (because visiting admitted students will be joining us)**
Session 7: Fri., January 31, 2014, 11:15-12:10 pm. Actus Reus: What is a voluntary act?
 - a. Required: Pages 127-136; MPC § 2.01
8. *Session 8: Wed., February 5, 2014.* Omissions: When are you criminally liable for *not* acting?
 - a. Required: Pages 136-147 (through end of Notes and Questions)

NOTE: NO CLASS ON Thur, Feb 6 and Fri, Feb 7

V. Mental States

9. *Session 9: Wed., February 12, 2014.* Classifying Intent: The Model Penal Code
 - a. Required: Pages 148-156; 158-164 (skip Notes 4 and 5 until next class); MPC § 2.02
10. *Session 10: Thur., February 13, 2014.* Complicating Intent: Transferred Intent, Willful Blindness
 - a. Required: Pages 156-158 (on transferred intent); 164-168

WINTER BREAK: NO CLASS ON FRI, FEBRUARY 14, 2014

11. *Session 11: Wed., February 19, 2014.* Strict Liability and Statutory Interpretation
 - a. Required: Pages 169-185

NOTE: NO CLASS ON Thur, Feb 20 and Fri, Feb 21

12. *Session 12: Wed., February 26, 2014.* Mistake of Fact
 - a. Required: Pages 193-197; MPC § 2.04
13. *Session 13: Thur., February 27, 2014.* Mistake of Law
 - a. Required: Pages 197-212; MPC § 2.04

VI. Causation in the Criminal Law

14. **RE-SCHEDULED SESSION.** *Session 14: Fri., February 28, 2014, 10:10-11:05 am.* Actual Cause and Proximate Cause
 - a. Required: Pages 213-232; MPC § 2.03
15. *Session 15: Fri., February 28, 2014.* Actual Cause and Proximate Cause (continued)
 - a. No new reading

VII. Criminal Homicide

16. *Session 16: Wed., March 5, 2014.* Homicide in Statute
 - a. Required: Pages 235-254; MPC §§ 210.1 to 210.4
17. *Session 17: Thur., March 6, 2014.* Degrees of Murder (Homicide and Intent): Deliberation and Premeditation
 - a. Required: Pages 254-265.
18. **RE-SCHEDULED SESSION.** *Session 18: Fri., March 7, 2014, 10:10 am – 11:05 am.* Problems in Actus Reus, Mens Rea, and Causation [Review of mid-semester writing exercise]

19. *Session 19: Fri., March 7, 2014.* **Guest Speaker: County Attorney Pete Orput, Washington County Attorney**
a. Materials to be distributed via TWEN
20. *Session 20: Wed., March 12, 2014.* Manslaughter (Homicide and Emotion): Heat of Passion Killings
a. Required: Pages 265-272; 284-291
b. Optional Background: Pages 272-284
21. *Session 21: Thur., March 13, 2014.* Homicide and (Different Kinds of Intent): Recklessness and Negligence
a. Required: Pages 294-307
22. **RE-SCHEDULED SESSION.** *Session 22: Friday, March 14, 2014, 10:10 am – 11:05 am.* Felony Murder
a. Required: Pages 308-310; 318-335
23. *Session 23: Fri., March 14, 2014.* Mid-Semester Review
a. No new reading

< **SPRING BREAK: March 17 – 21** >

VIII. Rape and Sexual Assault

24. *Session 24: Wed., March 26, 2014.* Statutory Perspectives
a. Required: Pages 389-404; MPC §§ 213.0 to 213.6
25. *Session 25: Thur., March 27, 2014.* Cases and Controversy
a. Required: Pages 404-415; 419-428; 440-446
26. *Session 26: Fri., March 28, 2014.* Cases and Controversy, cont.
b. Required: Pages 429-440 (top); 185-192; 457-460
27. *Session 27: Wed., April 2, 2014.* Contemporary Views
a. Readings to be Distributed

IX. General Defenses to Crimes

28. *Session 28: Thur., April 3, 2014.* Justification of Self-Defense – General Principles
a. Required: Pages 478-491; MPC § 3.04
b. Optional Background: Pages 461-467

NOTE: NO CLASS ON Fri, April 4

29. *Session 29: Wed., April 9, 2014. **Guest Speaker: Criminal Defense Attorney (and UMN Law alumnus) F. Clayton Tyler***

30. *Session 30: Thur., April 10, 2014. Justification of Self-Defense – Reasonable Belief*
a. Required: Pages 492-512

31. **RE-SCHEDULED SESSION.** *Session 31: Fri., April 11, 2014, 10:10 am – 11:05 am.* Justification of Necessity
a. Required: Pages 541-548; 553-560; MPC § 3.02

32. *Session 32: Fri., April 11, 2014. Excuse of Duress*
a. Required: Pages 564-572; MPC § 2.09
b. Optional Background: Pages 560-564

33. *Session 33: Wed., April 16, 2014. Insanity Defenses*
a. Required: Pages 592-611

34. *Session 34: Thur., April 17, 2014. Diminished Capacity Defenses*
a. Required: Pages 637-652; MPC § 4.01

X. Attempts (“Inchoate Offenses”)

35. *Session 35: Fri., April 18, 2014. Attempts and Mens Rea*
a. Required: 717-724
b. Optional Background: Pages 708-717

36. *Session 36: Wed., April 23, 2014. Attempts and Actus Reus*
a. Required: 724-745; 763-765 (section on Assault)

37. *Session 37: Thur., April 24, 2014. The Defense of Impossibility*
a. Required: 745-759

38. *Session 38: Fri., April 25, 2014. The Defense of Abandonment*
a. Required: 759-763

39. *Session 39: Tues., April 29, 2014. Catch-up, Review and Exam Preparation*
a. No new reading

<i>Final Exam, 3 hour, open-book: Monday, May 12, 2014, 8:30 am – 11:30 am</i>
