

CRIMINAL LAW

Spring 2005

Professor Carolyn Ramsey

In this course, we will explore the criminal law from a variety of perspectives. We will study the reasons for punishing convicted criminals, as well as the elements of crimes and the defenses that the accused might raise. We will examine tensions between various state statutes, the common law, and the Model Penal Code. Although you will be responsible for learning criminal law doctrine, it is equally important for you to learn to make the best legal argument on each side of a case and to analyze the policy reasons for embracing or criticizing current laws.

Criminal law does not constitute a uniform body of rules across jurisdictions. In this class, we will often talk about majority and minority trends in the nation, rather than trying to learn the doctrine of all 50 states plus the District of Columbia.

Required reading assignments:

Our casebook is KADISH & SCHULHOFER, CRIMINAL LAW AND ITS PROCESSES (7th ed. 2001). Page numbers below refer to the casebook, unless otherwise indicated. The Model Penal Code (“MPC”) is in the casebook’s Appendix, starting on page 1031. Cases that do not appear in the casebook are accessible on Westlaw. The Westlaw cases are not edited, which will give you some practice at identifying the relevant issues in a full-text case (the kind you’ll encounter in the real world!).

Each *numbered* sub-heading in the syllabus below corresponds to approximately one day’s reading. However, we may go faster or more slowly than this estimated pace. It’s more important for you to grasp the material that we cover than to race through concepts with the goal of finishing every item in the initial course syllabus.

If I change an assignment, I will let you know by sending out an email, making a posting to TWEN, and/or announcing it in class (see “TWEN” below).

Final examination = almost 100 percent of the final grade

You will be required to take a *three-hour in-class exam* that will count about almost 100 percent of your final grade (with additions and deductions for class participation—see below). This exam will be *open book*, which means that you may consult your casebook and any outlines that you have prepared, borrowed, or purchased. The exam will be time-pressured. Hence, although you may bring outlines and other materials into the exam room, you may not have time to consult them.

Class participation points: 1 to 3 points added to or deducted from final exam score

Class attendance and class participation are very important to your comprehension of the course material, as well as to your grade. Broadly speaking, there are two types of participation – good and unsatisfactory. I will add 1 to 3 points to your final grade for “good participation;” I reserve

the right to subtract 1 to 3 points from your final grade for “unsatisfactory participation.”

“Good participation” means coming to class on a regular basis; doing the assigned reading carefully; being ready to answer questions if I call on you; and occasionally volunteering questions or comments. To be a good participant, you do *not* always need to have the “right” answer, but you *do* need to give in-class problem-solving your best shot and to demonstrate that you’ve read and thought about the assignment. It’s the *quality, not the quantity* of your participation that counts!

“Unsatisfactory participation” means being unprepared when I call on you; routinely coming to class late; carrying on conversations or surfing the Web when others (including myself) are speaking; and/or missing more than 20 percent of our class meetings.

Modified Socratic method: I will call on students randomly to present case facts and holdings and answer questions. If you’re unprepared, please place a note on the lectern prior to class. If I receive a note from you, I won’t call on you. You don’t need to explain why you’re unprepared. I also encourage you to volunteer, and I hope that many of you will do so from time to time.

The use of a modified Socratic method in my class is not designed to intimidate or humiliate you, but rather to teach you to be good lawyers. If you’re shy about public speaking, you need to start overcoming that inhibition now. I want to help you become better oral communicators, and my modified Socratic method is designed to facilitate that goal.

Getting in touch with me outside of class:

Office hours: TBA. If you can’t come to my office hours, you can make an appointment to meet me at another time.

Office number: 407

Email: carolyn.ramsey@colorado.edu

Phone: (303) 735-5028

TWEN

Please sign up for the class on TWEN. I often communicate with students via email, and I may make important postings to the class website.

TENTATIVE SCHEDULE (subject to modification!)

INTRODUCTION

1. Participants and Steps in the Criminal Justice Process:

1-12.

THE JUSTIFICATION OF PUNISHMENT

1. Theories of Punishment I: Retribution and Prevention

95-125.

2. Theories of Punishment II: Rehabilitation and Incapacitation

125-135

3. Sentencing and Punishment

135-43 (skip note after *Bergman*); 143-48 (skip the notes after *Jackson*); 150-56.

DEFINING CRIMINAL CONDUCT: THE BASIC INGREDIENTS

1. Actus Reus

173-181 (stop after note 5). Please consider how the cases in this assignment would be decided under MPC §§ 2.01(1) & 2.01(2) on 1041.

2. Omissions

182-187 (stop after note 3); 190-196 (stop after note 3); MPC § 2.01(3) on 1041.

3. Mens Rea

203-12 (stop after note 1); MPC § 2.02 on 1041-42 & MPC § 1.13(10) on 1040-41.

4. “Beyond a Reasonable Doubt” and Burdens of Proof:

35-50. In connection with *Patterson*, please review New York Penal Law § 125.20 & New York Penal Law § 125.25 at 393-94.

5. Mistake of Fact

225-35; MPC § 2.04(1) & (2) on 1043.

6. Strict Liability

235-49.

7. Mistake of Law

255-63 (skip *Cheek* and accompanying notes); 268-274; refer back to MPC § 2.04(1) & (2) on 1043 and also read MPC § 2.04(3).

HOMICIDE

1. Intended Killings I: Premeditated Murder

395-405; MPC §§ 210.0, 210.1, 210.2 on 1076-77.

2. Intended Killings II: Provocation & Extreme Emotional Disturbance
405-20 (stop at end of Note 3); MPC § 210.3(b) on 1077. In connection with *Cassasa*, please review the relevant New York statutes at 393-94.

3. Unintended Killings I: Criminally Negligent Homicide
425-39; MPC § 210.4 on 1077.

4. Unintended Killings II: Reckless Manslaughter
MPC § 210.3(a) on 1077.
People v. Hall, 999 P.2d 207 (Colo. 2000) (on Westlaw).

5. Unintended Killings III: “Depraved Heart” Murder
439-48.
Refer back to MPC § 210.2(b).

6. Felony Murder I: Basic Doctrine
448-55 (stop after note 5).

7. Felony Murder II: Inherent Dangerousness and Merger Limitations
459-71.

8. Felony Murder III: Killings Not in Furtherance of the Felony
471-83.

9. The Death Penalty I: Philosophical & Empirical Arguments
483-93.

10. The Death Penalty II: Constitutional Limitations
493-506; MPC § 210.6 on 1077-79.

RAPE

1. Actus Reus I
323-38; MPC § 213.0 & 213.1 on 1082.

2. Actus Reus II
338-46.

3. Mens Rea
351-54; 358-63.
People v. Mayberry, 542 P.2d 1337 (Cal. 1975) (on Westlaw).

CAUSATION AND ATTEMPT

1. Causation I: Foreseeability Issues

517-28 (stop after note on omissions); MPC § 2.03 at 1042-43.

2. Causation II: Subsequent Human Actions

530-43 (stop after note 4).

3. Causation III: Subsequent Reckless Actions

545-51.

4. Attempt I: Mens Rea

554-64.

5. Attempt II: Actus Reus—Preparation vs. Attempt

564-72; 575-78 (stop at end of Note on Statutory Reform; 581-84; MPC § 5.01 at 1060-61).

CONSPIRACY

1. Conspiracy I: The Consequences of a Conspiracy Charge

671-84.

2. Conspiracy II: Accessorial Liability

684-94.

3. Conspiracy III: Actus Reus

694-704; MPC § 5.03.

4. Conspiracy IV: Mens Rea

704-710 (through Note 1)

Commonwealth v. Camerano, 677 N.E.2d 678 (Mass. App. 1997) (on Westlaw).

EXCULPATION: JUSTIFICATION & EXCUSE

1. Self Defense I

749-63.

2. Self Defense II (The Battered Woman Defense)

763-85 (stop after note 7).

3. Insanity

842-845 (do not read material on Duress); 875-90; 905-909.