

UConn–HUGS Executive LLM Program
Criminal Law – Syllabus
Professor David Thaw
Summer Semester 2023

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Final Version (12 July 2023)

Course materials (slides, exams, etc.) are primarily administered through HuskyCT. Most of the teaching resources also are mirrored on my individual website at www.davidthaw.com/teaching/crim.

There is one book required for this class:

- Casebook (CB): Joshua Dressler and Stephen P. Garvey, Cases and Materials on Criminal Law (6th ed., 2012)

Students must complete the reading for each session in advance of the class period for which they are assigned. For example, for the **26 June 2023 (Monday – Evening Session)** class period, students should read pages 29-32, 32-38, 39-48, 49-51, 51-54, 54-56, and 56-61 in the Casebook (CB).

Dates/topics marked in blue are asynchronous/remote content. Dates/topics marked in purple are “tentative” topics we will cover if time permits.

Grading:

- Final Examination: 70% (details TBD)
- Practice Mid-Term: 15% (see notes in Course Schedule)
- Quizzes: 15% (see notes below)
- Class Participation: (see notes below)

Quizzes: There will be a quiz **at the beginning of class** on **Saturday July 1** and on the day of the Practice Mid-Term. After each practice, we will review and discuss the answers. Your answers on the quizzes **will be graded** for correctness. **Quizzes and the Practice Mid-Term will be conducted with HuskyCT, so please bring a compatible device to class.**

Class Participation: Students are expected to arrive on time and remain until the end of class, unless otherwise given permission by the Professor. Class participation therefore does not comprise a “formal” component of the course grade, as all students are expected to be present. Unexcused absences or missing parts of multiple classes may result in grade penalties up to the loss of a letter grade for the course. Further absences will be referred to the Associate Dean for appropriate action.

Students are expected to be prepared to participate in class discussions. Above average or exceptional class participation may be considered favorably in breaking “ties” in grade curves or when a student is on the edge between two letter grades for the course.

Thoughts on Learning Criminal Law as a non-U.S. student:

My job with this course is to help you under U.S. Criminal Law. This can often be confusing to non-U.S. students, for two primary reasons. First, there is no one single criminal law in the United States. Each jurisdiction has a separate criminal code (each State, the Federal government collectively, and the individual non-State jurisdictions). Second, the U.S. criminal law is a combination of the common law evolved from the European Commonwealth nations (e.g., the United Kingdom) and various attempts at formal codification of that common law or of other proposed systems, such as the Model Penal Code.

Furthermore, many states' criminal laws "conflict" – what is the legal doctrine in one state may require an opposite ruling on the same facts in a different state. Similar conflicts exist with the federal criminal law, which mostly runs "parallel" to state/tribal/territorial criminal law. Federal "substantive" criminal law generally does not supersede state criminal law.

And if this were not confusing enough already, the states have widely varying naming conventions for their courts. For example, in Connecticut, the Superior Court is the trial court, the Connecticut Appellate Court is the intermediate appellate court, and the Connecticut Supreme Court is the state's highest court. By contrast, in New York, the Supreme Court is the trial court, the Supreme Court, Appellate Division is the intermediate appellate court, and the New York Court of Appeals is the state's highest court. Other states use varying naming conventions, some of which have changed over time.

How does a U.S. law student make sense of all this?

First, it is important to note that for the U.S. bar examination, two criminal "codes" primarily are tested: 1) the "Common Law (Doctrine)" as it is implemented by a majority of U.S. jurisdictions; and 2) the Model Penal Code, as published by the American Law Institute (rather than as implemented by any specific jurisdiction).

Second, notwithstanding the conflicts and naming differences we will encounter, the overwhelming majority of criminal law in the United States follows a set of common themes derived from the Common Law (Doctrine) and the Model Penal Code. Furthermore, almost all states and the federal government use a three-tiered judicial system – trial courts, intermediate appellate courts, and a "highest" court of final appeal. Looking for and following these common threads in the readings and lectures can help students learn more easily and also prepare themselves to study criminal law in any U.S. jurisdiction.

*For this reason, we will combine several pedagogical approaches. These include reading "traditional" full cases, reading (much shorter) excerpts of cases (designed to address a specific point), and direct lecture (to introduce and later summarize key concepts). **It is very important when reading each case to understand which approach is being used – generally indicated by the "length" of the reading.***

I strongly encourage all students to come to me with questions – both during class and at other times. You may ask questions about subjects from a previous class during subsequent classes.

COURSE SCHEDULE

This course is organized into ten Parts, each of which is divided into several Units (1.1, 1.2, etc.).

The material expected to be covered in each class is broken out by session and listed in **bold underline** in the Course Schedule. **As this is a highly-compressed class, these dates are subject to change if we fall behind.** In the Professor's experience, it is more important that students have time to understand each concept than it is to "rush ahead" as many later concepts in the course build upon earlier ones.

Extra time is planned in this schedule in case we fall behind. Additional time is reserved for review.

19 June 2023 (Monday – Pre-Recorded Video)

- *Introduction to the Course*

- *Syllabus and Course Materials Preview*

1. The American Federalist Republic
 - 1.1. The Constitution and the Structure of Government
 - 1.1.1. Background
 - 1.1.2. The United States Constitution (<https://www.law.cornell.edu/constitution>)
 - 1.2. Mechanics of the United States Government
 - 1.3. U.S. State and Jurisdictional Government(s)/Structural Variations
2. Criminal Law Constitutional Authority/"Sovereigns"
 - 2.1. State Criminal Law Authority/Tenth Amendment
 - 2.1.1. General Police Power
 - 2.1.2. Limits of the Federal Constitution
 - 2.2. Federal Criminal Law Authority
 - 2.2.1. Commerce Clause
 - 2.2.2. Monetary, Wire, Mail, and Computer Fraud
 - 2.2.3. International Issues and Immigration/Citizenship
 - 2.2.4. Military Law

24 June 2023 (Saturday – Daytime Session)

3. Basics of Criminal Law
 - 3.1. Nature, Sources, Limits [CB 1-5]
 - 3.1.1. Common Law/Historical Ties
 - 3.1.2. Model Penal Code
 - 3.1.3. Modern Relationships with the Legislature
 - 3.1.4. Modern Relationships with the Judiciary
 - 3.2. Basics of Criminal Procedure
 - 3.2.1. Pre-Trial Procedures [CB 6-7]

- 3.2.2. Trial Procedures [CB 7-9]
- 3.2.3. Standards of Proof [CB 9-13, 13-18]
- 3.2.4. Jury Nullification – *State v. Ragland* [CB 18-28]
- 3.3. Principle of Legality
 - 3.3.1. Introduction [CB 92]
 - 3.3.2. *Commonwealth v. Mochan* [CB 92-95]
 - 3.3.3. *Keeler v. Superior Court* [CB 95-105]
 - 3.3.4. *City of Chicago v. Morales* [CB 113-119]

26 June 2023 (Monday – Evening Session)

- 4. Theories of Punishment
 - 4.1. Introduction [CB 29-32]
 - 4.2. Retribution ("Moral" Justifications) [CB 39-48]
 - 4.3. Deterrence ("Utilitarian" Justifications) [CB 32-38]
 - 4.4. Application of Punishment – Whom, When, and How Much?
 - 4.4.1. *The Queen v. Dudley and Stephens* [CB 49-51]
 - 4.4.2. Degrees of Punishment
 - 4.4.3. *People v. Du* [CB 54-56]
 - 4.4.4. *People v. Superior Court (Du)* [CB 51-54]
 - 4.4.5. Notes/Comments [56-61]

28 June 2023 (Wednesday – Evening Session)

- 5. Elements of a Crime
 - 5.1. *Actus Reus*
 - 5.1.1. Introduction [CB 127]
 - 5.1.2. Voluntary Act
 - 5.1.2.1. *Martin v. State* [CB 128-130]
 - 5.1.2.2. *State v. Utter* [CB 130-136]
 - 5.1.3. Omissions
 - 5.1.3.1. *People v. Beardsley* [CB 136-142]
 - 5.1.4. Acts vs. Omissions
 - 5.1.4.1. *Barber v. Superior Court* [CB 142-147]
 - 5.1.5. Social Harm [CB 147-148]

29 June 2023 (Thursday – Evening Session)

- 5.2. *Mens Rea*
 - 5.2.1. Introduction/History
 - 5.2.1.1. *United States v. Cordoba-Hincapie* [CB 149-151]
 - 5.2.2. Intent (Common Law)
 - 5.2.2.1. *Regina v. Cunningham* [CB 151-153]

- 5.2.2.2. *People v. Conley* [CB 153-159]
- 5.2.3. Intent (MPC)
 - 5.2.3.1. Introduction and Basic Distinctions [CB 159-164]
 - 5.2.3.2. *State v. Nations* [CB 164-168]
- 5.2.4. Strict Liability
 - 5.2.4.1. *Staples v. United States* [CB 176-185]
 - 5.2.4.2. *Garnett v. State* [CB 185-192]

01 July 2023 (Saturday – Daytime Session)

In-Class: *Quiz #1: Basics of Criminal Law, Punishment, Actus Reas and Mens Rea*

Reminder – this will be conducted with HuskyCT, please bring a compatible device to class.

In-Class: *Review of Quiz #1*

- 5.3. Mistake
 - 5.3.1. Mistake of Fact
 - 5.3.1.1. *People v. Navarro* [CB 193-197]
 - 5.3.2. Mistake of Law
 - 5.3.2.1. *People v. Marrero* [CB 197-207]
 - 5.3.2.2. *Cheek v. United States* [CB 207-212]

03 July 2023 (Monday – Evening Session)

(conducted asynchronously via video)

- 5.4. Causation
 - 5.4.1. Actual Cause
 - 5.4.1.1. *Velazquez v. State* [CB 213-214]
 - 5.4.1.2. *Oxendine v. State* [CB 214-218]
 - 5.4.2. Proximate Cause
 - 5.4.2.1. Introduction [CB 218-219]
 - 5.4.2.2. *People v. Rideout* [CB 220-229]
 - 5.4.2.3. *Velazquez v. State* [CB 229-232]
 - 5.4.3. Concurrence of the Elements
 - 5.4.3.1. *State v. Rose* [CB 232-234]

05 July 2023 (Wednesday – Evening Session)

- 6. General Defenses to Crimes: Justifications and Excuses
 - 6.1. Introduction [CB 461-467]
 - 6.2. Justifications
 - 6.2.1. Introduction [CB 478-480]
 - 6.2.2. Self-Defense

- 6.2.2.1. Objective Belief – *People v. Goetz* [CB 492-505]
- 6.2.2.2. Subjective Belief – *State v. Wanrow* [CB 506-513]
- 6.2.3. Defense of Others
 - 6.2.3.1. *People v. Kurr* [CB 530-534]
- 6.2.4. Defense of Property/Habitation/Law Enforcement
 - 6.2.4.1. *State v. Boyett* [CB 534-541]

06 July 2023 (Thursday – Evening Session)

- 6.2.5. Necessity
 - 6.2.5.1. *The Queen v. Dudley and Stephens* [CB 553-560, also Wikipedia:
https://en.wikipedia.org/wiki/R_v_Dudley_and_Stephens]
- 6.3. Excuse
 - 6.3.1. Introduction [CB 560-564]
 - 6.3.2. Duress
 - 6.3.2.1. *United States v. Contento-Pachon* [CB 564-572]
 - 6.3.2.2. *People v. Anderson* [CB 578-584]
 - 6.3.3. Intoxication
 - 6.3.3.1. *United States v. Veach* [CB 584-592]
 - 6.3.4. Insanity
 - 6.3.4.1. Introduction [CB 592-597]
 - 6.3.4.2. *State v. Johnson* [CB 599-611]

7. Homicide

- 7.1. Introduction – General Principles of Homicide
 - 7.1.1. Introduction [CB 235-238]
 - 7.1.2. Examples of Homicide Statutes [CB 238-247]
- 7.2. Intentional Killings
 - 7.2.1. Murder
 - 7.2.1.1. *State v. Guthrie* [CB 254-258]
 - 7.2.1.2. *Midgett v. State* [CB 258-261]
 - 7.2.1.3. *State v. Forrest* [CB 261-265]

08 July 2023 (Saturday – Daytime Session)

- 7.2.2. Manslaughter
 - 7.2.2.1. *Girouard v. State* [CB 265-272]
 - 7.2.2.2. *Director of Public Prosecutions v. Camplin* [CB 276-284]
 - 7.2.2.3. *People v. Casassa* [CB 284-291]
- 7.3. Unintentional Killings
 - 7.3.1. Unintentional Murder
 - 7.3.1.1. *People v. Moore* [CB 294-296]

- 7.3.1.2. *People v. Knoller* [CB 296-300]
- 7.3.1.3. *State v. Chauvin* [see notes below in Section 7.4.6]
- 7.3.2. Involuntary Manslaughter
 - 7.3.2.1. *State v. Williams* [CB 300-308]
- 7.4. Felony-Murder
 - 7.4.1. Introduction [CB 308-309]
 - 7.4.2. *People v. Fuller* [CB 309-310]
 - 7.4.3. "Inherently Dangerous Felony" Rule – *People v. Howard* [CB 318-326]
 - 7.4.4. "Independent Felony" (Merger) Rule – *People v. Smith* [CB 326-331]
 - 7.4.5. "In the Perpetration/Furtherance of" Rule – *State v. Sophophone* [CB 331-335]
 - 7.4.6. (Potential) Exceptions to the traditional "Merger Doctrine" – *State v. Chauvin*
 - 7.4.6.1. Amended Complaint: <https://www.mncourts.gov/mncourtsgov/media/High-Profile-Cases/27-CR-20-12646/AmendedComplaint06032020.pdf>
(note: *Chauvin* was convicted by a jury of second-degree felony murder (charge 1). The court did not adjudicate the charges of third-degree unintentional murder or second-degree manslaughter given his conviction on the first charge.)
 - 7.4.6.2. Minnesota Court of Appeals Ruling:
<https://mncourts.gov/mncourtsgov/media/High-Profile-Cases/27-CR-20-12646/Opinion-Published.pdf> [pp. 2-5, 24-27]
(note: the Minnesota Court of Appeals is the intermediate appellate court in Minnesota, and further appeal is pending to the Minnesota Supreme Court)

10 July 2023 (Monday – Evening Session)

- 8. Assault and Battery
 - 8.1. Assault – <http://defensewiki.ibj.org/index.php/Assault>
 - 8.2. Battery – <http://defensewiki.ibj.org/index.php/Battery>
- 9. Property Offenses
 - 9.1. Larceny
 - 9.1.1. Introduction [CB 893-894]
 - 9.1.2. "Trespassory Taking Away . . ."
 - 9.1.2.1. *Lee v. State* [CB 894-895]
 - 9.1.2.2. *Rex v. Chisser* [CB 895]
 - 9.1.2.3. *United States v. Mafnas* [CB 896-899]
 - 9.1.2.4. *Topolewski v. State* [CB 899-902]
 - 9.1.2.5. *Rex v. Pear* [CB 903-904]
 - 9.1.2.6. *Brooks v. State* [CB 904-906]
 - 9.1.3. ". . . of the Personal Property of Another . . ."
 - 9.1.3.1. *Lund v. Commonwealth* [CB 906-910]
 - 9.1.4. ". . . With the Intent to Steal the Property"

- 9.1.4.1. *People v. Brown* [CB 910-913]
- 9.1.4.2. *People v. Davis* [CB 914-918]
- 9.2. Embezzlement
 - 9.2.1. *Rex v. Bazeley* [CB 918-922]
- 9.3. Larceny-by-Trick
- 9.4. False Pretenses
 - 9.4.1. *People v. Ingram* [CB 922-924]
 - 9.4.2. *People v. Whight* [CB 924-927]
- 9.5. Robbery
- 9.6. Burglary
 - 9.6.1. *People v. Howard* [CB 318-326] (revisited – note key "burglary" distinction)
 - 9.6.2. Breaking-and-Entering (as distinguished from Burglary)

12 July 2023 (Wednesday – Evening Session)

In-Class:* *Lecture on IRAC/How to Write U.S. Law School/Bar Examination Essay Questions*
U.S. law school examinations are different than many other nations, particularly those with civil code traditions. For LLM students, the professor provides a lecture in each class describing the “typical” style of essay questions (also common on most U.S. bar exams), as well as discussing how essays will be graded. (* note: this will be a brief review; a full video will be posted as well.)

In-Class: *Quiz #2: Mistake and Causation, Justifications and Excuses, Homicide*
This Quiz will be graded for correct answers.

Reminder – this will be conducted with HuskyCT, please bring a compatible device to class.

In-Class: *“Practice” Mid-Term Examination – all course topics through Saturday July 8*
The “practice” mid-term examination is a tool the professor uses to give students the opportunity to tackle an examination, but without the pressure of answers being graded for correctness. Students will be given a scaled-down version of a final exam essay question. **The grading metric is whether you made a “good faith effort” to complete the exam.** This is to give you a realistic simulation that can help you “calibrate” your studying to make the most use out of the remainder of the in-person teaching, the review session, and your study week before the exam.

Reminder – this will be conducted with HuskyCT, please bring a compatible device to class.

In-Class: *Review of Quiz #2*

In-Class: *Review of Practice Mid-Term*

13 July 2023 (Thursday – Evening Session)

10. Inchoate Offenses & Conspiracy

- 10.1. Introduction [CB 708-711]
- 10.2. Attempt
 - 10.2.1. Introduction [CB 711-712]
 - 10.2.2. *People v. Gentry* [CB 717-721]
 - 10.2.3. *United States v. Mandujano* [CB 724-729]
 - 10.2.4. *Commonwealth v. Peaslee* [CB 729-732]
- 10.3. Solicitation
 - 10.3.1. *State v. Mann* [CB 772-773]
 - 10.3.2. *State v. Cotton* [CB 773-777]
- 10.4. Conspiracy
 - 10.4.1. *People v. Carter* [CB 777-780]
 - 10.4.2. *Pinkerton v. United States* [CB 780-785]
 - 10.4.3. *People v. Foster* [CB 804-809]

15 July 2023 (Saturday – Daytime Session)

In-Class: *Review Session*

The Professor will give a general overview of the class, key topics to remember, and how the full “picture” of the course fits together. The remainder of the review session time will be dedicated to student questions. **Students are highly encouraged to send questions in advance or bring questions to class this day.**

In-Class: *Review of Quiz #2 and Practice Mid-Term (cont.)*

In-Class: *Special Topics in American Law*

As is the professor’s tradition, any time remaining after the review session will be available for “special topics” discussion. Further detail will be provided approximately one week beforehand, depending on scheduling.

Again, please do not hesitate to ask questions at any time during the course!

FINAL EXAM INFORMATION

Self-Scheduled Final Exam: 21 July – 23 July 2023 (Friday – Sunday) Korea Standard Time

The Final Exam will most likely be an open-book take home examination, however this is subject to change.

Exam structure:

- “Traditional” multiple-choice section (similar to the bar exam)
- One “traditional” U.S. law school essay examination (issue spotting, analysis, persuasive argumentation, etc.)

The exam will be administered through HuskyCT. Exam duration and specific administration rules will be announced after confirmation with UConn Law officials. The Professor *anticipates* (but cannot promise) that students will be given eight (8) consecutive hours, self-scheduled, to complete the exam.

Exam-Specific Academic Integrity Guidelines:

All University of Connecticut and UConn School of Law guidelines apply. Additionally, for this class, the following rules also apply.

For “open-book” portions of the examination, students may use any offline or online resources **except that you may not under any circumstances communicate with another live human person about the exam, during the exam.** *(If you encounter technical difficulties, you should contact the appropriate UConn personnel.)*

Special Note on Artificial Intelligence/Large Language Models:

AI tools such as Large Language Models (e.g., OpenAI’s “ChatGPT”) have many useful purposes in society. It is the professor’s recommendation (as a computer science professor who knows at least *something* about this topic) that using such technologies is likely to be more harmful than helpful to your grade. That said, they are not strictly prohibited.

Instead, **if you make use of any AI or other automated tools, you must include an appropriate citation to any portions of your answer which use language from, language based upon, or otherwise integrate any thoughts or ideas which originated in or were contributed by the tool.**

(A standard bluebook footnote with a link to the tool is sufficient.)

Any violation of this policy will be considered “cheating” just as though you had copied material from another source directly.