Prof. K. Russell-Brown Spring 2022

Phone (352) 273-0912 TuTh 1:15–2:40 PM

OH: Mondays 11:00-1:00PM MLAC 106

(or by appointment)

RussellBrownK@law.ufl.edu

**CRIMINAL LAW §A**

LAW 5100 -3 credits

(Section 1)

**COURSE DESCRIPTION**

The course is an introduction to substantive criminal law, how society regulates, prevents and punishes socially undesirable behavior. It covers the elements of basic criminal offenses, including homicide and sexual assault and inchoate offenses (conspiracy, attempt). We will also examine related factors regarding criminal offending, such as culpability and mental state. The course addresses the principles of justification and excuse. The course will also address the role of institutional actors, including police and prosecutors and the role of discretion.

**REQUIRED TEXT**

* Kadish, Schulhofer, & Barkow (2017, 10th ed.) *Criminal Law and Its Processes: Cases and* *Materials*

\*Additional course material may be assigned

**CLASS ATTENDANCE & CLASS PARTICIPATION**

Please plan to attend class, to arrive on time and to remain in class for the entire time period. The ABA requires “regular and punctual” attendance. Class attendance is an essential function of legal education and a primary obligation of each student. Students with four or five unexcused absences will be referred to Student Affairs and their absences may result in a grade reduction. Students with six or more absences may be dropped from the class.

The expectation is that students will attend each class, read all assigned materials prior to class discussion, participate regularly in class discussions, and be prepared to discuss the assigned material.

**COMPUTERS & CELL PHONES**

The use of computers and other electronic devices used for notetaking, communication and/or access to the internet is not permitted. Please silence your cell phones.

**COURSE GRADE & FINAL EXAMINATION**

Your final course grade will be based primarily on an in-class final examination.

The final examination for this course is scheduled for **Tuesday, May 10, at 8:30 AM.**

**COURSE WORKLOAD**

Students should expect to spend, on average, two hours of preparation for every hour of class instruction.

**GRADING SCALE**

Grading for this course will adhere to UF Law’s mean and mandatory distributions, detailed in the below chart. For further information of UF Law grading policies, visit <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

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| --- | --- |
| **Letter Grade** | **Point Equivalent** |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0  |

UF Law’s policy on make-up exams or other course work can be found at:

<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>

**ACCOMMODATIONS**

Requests for classroom accommodations must be made with the Office of Disability Resources. The UF Office of Disability will provide documentation to the student who must then provide documentation to UF Law’s Office of Student Affairs.

**ONLINE COURSE EVALUATIONS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](https://gatorevals.aa.ufl.edu/students/) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](https://gatorevals.aa.ufl.edu/public-results/).

**COVID-19 PROTOCOL**

If you have Covid symptoms, complete the screening and schedule a test via [ONE.UF](https://click.info.gator360.ufl.edu/?qs=62992c27c2d2093af81a2646a4841c3a14b58c86d9f232fdaa94009d6db5989bc518357d663a78535313d8b81fa22ddbe4b79abf3a9abd9c92730d8a020fe865).  If you test positive for Covid-19 through a PCR, rapid antigen, or any at-home test, please call the DOH Covid-19 Operations team at 352-273-9790 to report your case.

If you are feeling ill, please stay home and get tested.  Staff should contact their supervisors, who will determine whether you may work remotely or should use sick leave.  Faculty who test positive but feel well may teach their classes remotely.  Faculty who test positive but are sick should cancel or reschedule class.  Please note that it is important that all classes start in person this semester unless the course is designated as an online course.

If you come in close contact with someone who has tested positive, please visit [ONE.UF](https://click.info.gator360.ufl.edu/?qs=62992c27c2d2093af81a2646a4841c3a14b58c86d9f232fdaa94009d6db5989bc518357d663a78535313d8b81fa22ddbe4b79abf3a9abd9c92730d8a020fe865) to report your exposure on the screener.  A close contact remains someone who was within six feet of you for at least 15 minutes during the 48 hours before they began to experience Covid symptoms. The Office of Student Affairs will continue to provide support for students who are sick or withheld from campus. The Office of Student Affairs will provide these students with class recordings.

UF Health strongly encourages everyone to become fully vaccinated against Covid-19.  The CDC recently revised its definition of who is considered fully vaccinated to individuals who (1) received a booster and (2) completed the primary series of the Pfizer or Moderna vaccine within the last six months; or completed the primary series of the Johnson & Johnson vaccine within the last two months.

Free and easy-to-access vaccines remain available through the Student Health Care Center, the health department, UF Health pharmacies, UF Health Physicians practices and over 30 retail pharmacies and health practices in the community.  You may explore vaccine availability [here](https://coronavirus.ufhealth.org/vaccinations-2/vaccine-availability/vaccine-availability-alachua/#uf).

**Masks**

*Masks are expected*. *In addition to being fully vaccinated, UF Health advises everyone to wear an N95 or KN95 mask in indoor settings.  That is the best protection against the Omicron variant.  Students may request masks through the Office of Student Affairs.**Everyone is expected to wear masks in all UF Law buildings, including classrooms, hallways, our library, the second floor of Bruton-Geer, and in the Commons when you are not actively eating or drinking.*

**ACADEMIC HONESTY**

Academic honesty and integrity are fundamental values of the University community.

Please review the UF Student Honor Code: <http://www.dso.ufl.edu/students.php>

**LEARNING OBJECTIVES**

1. Know basic principles and overview of U.S. criminal law
2. Describe justifications for punishment
3. Identify elements of numerous criminal offenses
4. Differentiate within and across categories of crimes (e.g., homicide, inchoate offenses, and sexual assault)
5. Strengthen ability to read, digest, and critique court cases
6. Evaluate relevant Model Penal Code provisions
7. Identify relevant legal and policy considerations for justice system practice

***COURSE OUTLINE***

Week of January 17

**TOPIC**: Course Introduction & Overview

Ch. 1, Institutions and Processes

 Reading: pp 1-7

Ch. 2, Justifications for Punishment

Why Punish?

Reading: pp 96-101; 107-108; 116-118

 Complexities of Crime Control (Theories of Punishment)

 Reading: pp 118-121; 125-132

What to Punish?

 Reading: pp 150-156

Week of January 24

**TOPIC**: Ch. 3, Defining Criminal Conduct

Introduction and Principles of Legality

 Reading: pp 157-160; 162-172; 176-180

* + - *Commonwealth v. Mochan* (1955)
		- *McBoyle v. U.S.* (1931)
		- *Yates v. U.S.* (2015)
		- *Keeler v. Superior Court* (1970)

 Proportionality

 Reading: pp 202-211

* + - *Ewing v. California* (2003)

Culpability (Actions)

Reading: pp 221-234

* + - *Martin v. State* (1944)
		- *People v. Newton* (1970)

Week of January 31

**TOPIC**:Ch. 3,Defining Criminal Conduct (cont’d)

Culpability (Omissions)

Reading: pp 234-238

* + - *Jones v. U.S.* (1962)
		- *Pope v. State* (1979)

Culpability (Actions v. Omissions)

Reading: pp 253-255

* + - *Barber v. Superior Court* (1983)

Mens Rea (MPC)

Reading: pp 258-262; 270-272

* + - *Regina v. Cunningham* (1957)
		- *Elonis v. U.S.* (2015)

Mens Rea (MPC & Statutory Construction)

Reading: pp 277- 287 (begin with n. 3); 276-277 (n. 1; n. 2)

* + - *U.S. v. Jewell* (1976)

 Mistake of Fact

 Reading: pp 287-294

* + - *Regina v. Prince* (1875)

Week of February 7

**TOPIC**: Ch. 3, Defining Criminal Conduct (cont’d)

Strict Liability

Reading: pp 303-313

* + - *Morissette v. U.S*. (1952)
		- *Staples v. U.S.* (1994)

Vicarious Liability

Reading: pp 313-315

* + - *State v. Guminga* (1986)

Mistake of Law

Reading: pp 325-333; 344-350

* + - *People v. Marrero* (1987)
		- *Cheek v. U.S.* (1991)
		- *Lambert v. California* (1957)

Week of February 14

 **TOPIC**: Ch. 4, Rape

 Overview & Actus Reus (Force)

 Reading: pp 351-359; 364-368; 373-376; 384-388; 391-392

* + - *State v. Rusk* (1981)
		- *State in the Interest of M.T.S.* (1992)
		- *M.C. v. Bulgaria* (2003)

Rape (Consent, Deception, Mens Rea)

Reading: pp 396-399; 407-411; 413-420

* + - *People v. Evans* (1975)
		- *Commonwealth v. Sherry*  (1982)
		- *Commonwealth v. Fischer*  (1998)

Week of February 21

**NOTE**: Class will not be held on Thursday, February 24.

**TOPIC**: Ch. 5, Homicide

 Introduction

 Reading: pp 443-447; 451-461

* + - *Commonwealth v. Carroll* (1963)
		- *State v. Guthrie (*1995)

Voluntary Manslaughter (Mitigation & Provocation)

Reading: pp 462-468

* + - *Girouard v. State* (1991)
		- *Maher v. People* (1862)

Voluntary Manslaughter/MPC

Reading: pp 479-490

* + - *People v. Casassa* (1980)

Involuntary Manslaughter

 Reading: pp 490-493

* + - *Commonwealth v. Welansky* (1944)

Week of February 28

 **TOPIC**: Ch. 5, Homicide (cont’d)

Involuntary Manslaughter (cont’d)

Reading: pp 496-502

* + - *People v. Hall*  (2000)
		- *State v. Williams (*1971)

Unintentional Murder

Reading: pp 509-512: 513-514

* + - *Commonwealth v. Malone* (1946)
		- *U.S. v. Fleming*  (1984)

Felony Murder

Reading: pp 517–520; 530-531; 533-535; 542-544; 546- 548-552

* + - *People v. Phillips* (1966)
		- *Hines v. State*  (2003)
		- *People v. Chun* (2009)
		- *State v. Canola* (1977)

Week of March 7

**NOTE:** UF SPRING RECESS (March 7-11)

Week of March 14

 **TOPIC**: Ch. 5, Homicide (cont’d)

 Death Penalty

 Reading: pp. 552-565; 567-573

* + - *Gregg v. Georgia* (1976)
		- *Atkins v. Virginia* (2002)
		- *McCleskey v. Kemp* (1987)

**TOPIC**: Ch. 6, Significance of Resulting Harm

 Causation

 Reading: pp 603-607; 610-614

* + - *People v. Acosta* (1991)
		- *People v. Arzon* (1978)

Intervention

Reading: pp 619-623

* + - *People v. Campbell* (1983)
		- *People v. Kevorkian* (1994)

Week of March 21

 **TOPIC**: Ch. 6: Significance of Resulting Harm (cont’d)

 Intervention (cont’d)

 Reading: pp. 626-629; 635-640

* + - *Stephenson v. State* (1932)
		- *Commonwealth v. Root* (1961)
		- *State v. McFadden* (1982)
		- *Commonwealth v. Atencio* (1963)

Attempt (Approaches)

 Reading: pp 641-646; 651-658

* + - *Smallwood v. State* (1996)
		- *People v. Rizzo* (1927)
		- *McQuirter v. State (*1953)

Attempt (MPC)

Reading: pp 666-669

* + - *U.S. v. Jackson* (1977)

Week of March 28

**TOPIC**: Ch. 6, Significance of Resulting Harms (cont’d)

Solicitation

Reading: pp 672-684

* + - *State v. Davis*  (1928)
		- *People v. Jaffe* (1906)
		- *People v. Dlugash* (1977)

 **TOPIC**: Ch. 7, Group Criminality

 Overview & Conspiracy (Actus Reus & Mens Rea)

 Reading: pp 691-692; 744-745; 748-751; 756-761; 766-769

* + - *Perry v. State* (2014)
		- *People v. Lauria* (1967)
		- *Pinkerton v. U.S.* (1946)

Week of April 4

**TOPIC**: Ch. 8, Exculpation (Justification and Excuse)

 Self-Defense

 Reading: pp 869-880

* + - *U.S. v. Peterson* (1973)
		- *People v. Goetz* (1986)

Self-Defense (Battered Victim’s Defense)

Reading: pp 903-908

* + - *State v. Norman* (1989)

Self-Defense (Retreat)

Reading: pp 919-920; 925-927

* + - *State v. Abbott* (1961)
		- *U.S. v. Peterson* (1973)

Defense of Property

Reading: pp 930-933

* + - *People v. Ceballos* (1974)

Week of April 11

 **TOPIC**: Ch. 8, Exculpation (Justification and Excuse) (cont’d)

 Duress

 Reading: pp 985-988

* + - *State v. Toscano* (1977)

Intoxication

Reading: pp. 1004-1007; 1014-1017

* + - *People v. Hood* (1969)

Insanity

Reading: pp 1030-1041

* + - *M’Naghten’s Case* (1843)
		- *U.S. v. Lyons* (1984)

Week of April 18

**TOPIC**: Review and Discussion

**NOTE**: Monday, April 25 is the last day of class for the spring semester

***University of Florida***

***Levin College of Law***

***Spring 2022***