

**CRIMINAL LAW**  
**Professor Russell Covey**  
**Spring 2010**

Required Texts:

1. JOSHUA DRESSLER, CASES AND MATERIALS ON CRIMINAL LAW (5th ed.) (Thomson/West 2009)
2. PAUL H. ROBINSON, CRIMINAL LAW CASE STUDIES [CLCS] (4<sup>th</sup> ed.) (West 2009)

Recommended Hornbook:

JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW (Lexis/Nexis); or WAYNE LAFAVE, PRINCIPLES OF CRIMINAL LAW (Thompson/West).

**Syllabus & Readings:**

Week 1

- A. Introduction**  
Procedural basics: 1-19  
Review Model Penal Code, reprinted in back of casebook
- B. Legality and the Role of Statutes**  
92-113; CLCS 35-40: Baker case,  
Supplement of problem cases (to be posted on TWEN)

Week 2

- C. Principles of Punishment**  
Theories of punishment: 30-48  
CLCS 21-27: Dudley & Stephens
- D. Introduction to the General Part I: Mens Rea**  
1. Mens rea basics: 149-170; CLCS 8-13: Landis

Week 3

2. Strict liability: 175-194; (Garnett under MPC)
3. Mistake: 194-213; CLCS 41-61: Marrero

Week 4

- E. Introduction to the General Part II: Actus Reus**  
Voluntary act requirement & omissions: 127-148; CLCS 62-68: Billingslea
- F. Causation:** 214-234; CLCS 73-77: Wood

Week 5

**G. Criminal Homicide**

1. Overview; Intentional killings: 235-238, 253-264
2. Manslaughter: 264-295; (Cather problem – Frank’s liability under common law and MPC)

Week 6

3. Unintentional killings: 295-315; CLCS 14-20: Williams (under MPC)
4. Felony murder: 315-337; CLCS 1-7: McCarty

Week 7

5. Capital Punishment: 345-361; Tookie Williams case (supplement)

**H. Rape**

Overview; Forcible rape: 385-389, 404-421, 425-434; (Berkowitz under MPC)

Week 8

**I. Attempt**

1. General principles and mens rea: 729-745
2. Actus reus: 745-765; CLCS 78-85: Phillips

\*\*\*\*\* **Spring Break** \*\*\*\*\*

Week 9

3. Impossibility & abandonment: 772-789; CLCS 86-93: Thomas

**J. Accomplice Liability**

1. General principles & mens rea: 848-868; CLCS 99-106: Mondello

Week 10

2. Actus reus & the limits of accomplice liability: 868-894; CLCS 94-98: Bailey (under MPC)

**K. General Defenses – Justification**

1. Self defense: 497-524 (Goetz under MPC)

Week 11

2. Battered Woman Syndrome: 525-548; CLCS 137-143: Leidholm
3. Defense of others, necessity: 549-566, 572-579; CLCS 121-132: Schlict & Daschner

## Week 12

### **L. Excuse**

1. Duress: 579-603; CLCS 115-120: Green
2. Intoxication: 603-611; CLCS 107-114, 144-146: Weaver & Kingston

## Week 13

3. Insanity: 611-631; CLCS 147-152: Yates
4. More on M’Naghten: 631-656; (Poe’s Tell-Tale Heart under M’Naghten)

## Week 14

5. Infancy and RSB: 656-679, 715-718; CLCS 169-174: Sandifer

### **M. Conclusion/Make-Up Day**

CLCS 162-168: Cabarga

## **Overview**

This course is designed to provide a highly interactive introduction to criminal law. The course places a special emphasis on mastering the skills of statutory interpretation. As you will quickly see, we will spend a substantial portion of our class time learning to interpret and apply criminal statutes to complex factual problems.

## **Class Arguments**

We will conduct one or more in-class arguments between appointed teams of prosecution and defense counsel during almost every class session. Prosecution teams will be appointed in advance. Defense teams will be assigned in class. The arguments will be based on cases set out in CLCS, and on a few occasions, on cases or problems in the Dressler book or in supplemental material provided by me. We will typically devote the final 30-40 minutes of class to these arguments.

In general, assigned prosecution teams should prepare an “indictment” setting forth the charges and the alleged facts and conduct of the defendant that establishes an offense. Be sure to allege in your indictment facts that satisfy each and every element of each charge. The indictments should not set forth the evidence that the prosecutor relies on to establish the facts. Rather, the indictment should succinctly state the conduct and circumstances that the prosecutor believes he or she can prove based on the evidence, and which are alleged to constitute a criminal violation. We will discuss these concepts in further detail in class. A sample indictment is appended to this syllabus which you may wish to use as a model.

Assigned defense counsel’s job will be to persuade the jury that the defendant is not guilty of the offenses charged, is guilty of a lesser offense, or deserves a lesser sentence than that sought by the prosecutor. The jury (the class) will be responsible for rendering a verdict and imposing a

sentence. In order to perform these roles effectively, all students are expected to have read the CLCS case (or other assigned materials) carefully and to have considered the available legal arguments available to both the prosecutor and the defense.

### **Exam and Grading**

The indictments (graded honors/pass/fail) will constitute 5% of the final grade. The remaining 95% of the final grade will be based on the final exam, which will consist of a three-hour, closed-book examination at the end of the semester. The examination will be divided into two sections, a multiple-choice portion and an essay portion.

### **Participation**

Law school attempts to equip students not merely with a basic understanding of legal doctrine and institutions, but also with the rhetorical skills necessary to advocate publicly on behalf of clients. Active participation in classroom discussions contributes to development of those essential skills, and creates a more dynamic classroom environment that enhances everyone's learning experience. Thus, class participation is an integral component in a student's overall performance, and final grades will be adjusted, in my discretion, up or down by a maximum of one half of a letter grade.

Each class, I will try to call on as many students as possible, and you should be prepared to be called on randomly at times over the course of the semester. However, to help you be especially prepared, and to deepen the sophistication of the classroom discussion, I tend to call in a more or less predictable manner. If you expect that your turn is coming up, and you are not prepared to participate in discussion on that day, please let me know ahead of time. I will not call on you that day, but will return to you in a future class.

Needless to say, students are expected to keep up with the reading and to be prepared in every class. Failure to participate, or lack of preparation when called on in class, may result in loss of participation points. Students who are especially active and engaged will receive additional participation points in recognition of their contributions.

### **Attendance**

Attendance at classes is expected and is an aspect of professional responsibility. Per GSU policy, any student that misses more than six classes is presumptively removed from the course rolls. However, short of that eventuality, if you are unable to attend class on any occasion, you do not need to notify me in advance.

### **TWEN**

Every student in the class is required to register to the class website on TWEN. There, you will find a copy of the class syllabus, links to assigned cases, including those not included in your textbook, links to other interesting or helpful websites, and any other materials or handouts that I

assign or distribute over the course of the semester. I will post any changes in the syllabus here. You should also check the site for urgent notifications, e.g., class cancellations and the like.

In addition, **every student is required to make at least one (1) contribution to the discussion site** at some time over the course of the semester prior to the final exam. Your contribution should raise an issue of interest (and include your thoughts on the issue), clarify or seek clarification of a question raised in the reading or class discussion, or otherwise engage the class material in a meaningful way. Failure to make a contribution will result in loss of one participation point.

In lieu of direct email, please post all questions you have about any substantive, course-related matters to the TWEN website. If you don't know the answer to a question, at least 10 other students probably do not as well. It saves me time to answer questions once on TWEN, rather than multiple times in private exchanges with individual students. In addition, it educates everybody in the class. If you forget this rule and email a substantive question directly to me, I reserve the right to post it, without further permission, on the TWEN website.

The TWEN site is accessible by logging on to Westlaw and going to Covey's Criminal Law course. Please contact West Group technical support for assistance accessing the site. I will not be able to help you with technical issues.

**[Sample Indictment:]**

Class No. 1, January 11, 2010

State of Maryland	)	Indictment by Attorneys
v.	)	Tamara Thompson
Christopher Owens	)	Charlie Champion

The text of the indictment will appear here. You should identify the two most serious offenses that you think you can prove at trial. Remember that the “jurors” will only have a few moments to review this “indictment,” so keep it short and make it readable.

You should use outlines or bullet points, e.g.:

Count One (Driving Under the Influence)

- The Maryland statute outlaws “driv[ing] or attempt[ing] to drive any vehicle on a public highway while under the influence of alcohol.” Md. Code § 21-902(b).
- Christopher Owens, on the night of March 17, 1991, drove a vehicle – a truck – on a public highway while under the influence of alcohol.

Count Two (Driving with alcohol in the blood while under an alcohol restriction)

- Maryland law makes it a crime for any “individual [to] drive or attempt to drive a motor vehicle with alcohol in the individual's blood in violation of a restriction.”
- Christopher Owens had an alcohol restriction placed on his driver’s license by the Administration of Motor Vehicles that remained in effect as of March 17, 1991.
- Owens drove a vehicle – a truck – on March 17, 1991, with alcohol in his blood.

Penalties

- Count one: Any person who is convicted of a violation of § 21-902(b) is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both.
- Count two: Same.

Remember the following rules regarding the indictment:

1. You must use at least twelve-point font.
2. One page maximum, with a maximum of 350 words.
3. You do NOT have to use the entire page (and perhaps you should not!).