

***Criminal Law***  
**Law 5100 Class 21405**  
**3 credits**  
**Course Policies & General Syllabus: Fall 2018**

Professor Lea Johnston  
Office: 305 Holland Hall  
Phone: (352) 273-0794  
Email: JohnstonL@law.ufl.edu

Section III  
Room 355B  
M, T, W 9:00 – 9:50 a.m.  
Office Hours: T 2:30 – 4 p.m.

**Course Coverage:** This course will cover the basic principles of substantive criminal law, including the elements of crime, justifications for punishment, and defenses. We will review two crimes, homicide and rape, in depth. We will also cover inchoate offenses and complicity.

**Student Learning Outcomes:** After completing this course, students should be able to:

- Articulate and defend the values underlying criminal law;
- List the elements of various common law crimes and defenses;
- Trace the evolution of fundamental criminal concepts, such as mens rea, from their common law to modern incarnations;
- Identify and establish, from a given fact pattern, possible common law or statutory crimes that have been committed and plausible defenses;
- Sculpt, from a given fact pattern, a strategy to adduce sufficient evidence on each element of a crime so as to establish that crime beyond a reasonable doubt;
- Sculpt, from a given fact pattern, strategies to defend a client from a given criminal charge;
- Identify and consider social justice implications in our substantive criminal law;
- Describe how and why laws change in response to changing mores and the consequences of such changes on society;
- Apply strategic and practical considerations to the practice of criminal law;
- Read a case and pull the holding and rules from that case; identify ambiguities in those rules given language and factual context; synthesize those rules into the broader framework of rules from other cases; and apply that body of case law to novel factual situations.

**Assessment of Student Learning:** I will assess your attainment of competency in these learning outcomes through an in-class examination at the end of the semester.

**Required & Suggested Materials:** Section numbers in the tentative syllabus refer to sections of the Dressler & Garvey case book below. The suggested treatise complements our case book.

Required — JOSHUA DRESSLER & STEPHEN P. GARVEY, CRIMINAL LAW CASES AND MATERIALS (7th ed. 2016) – Casebook Plus Hardcover (includes a hardcover copy of the casebook along with a virtual “learning library” of resources)

Suggested — JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW (7th ed. 2015).

**Secondary Sources:**

If you want additional explanation, I suggest consulting these treatises:

WAYNE R. LAFAVE, CRIMINAL LAW (5th ed. 2010)

PAUL ROBINSON & MICHAEL T. CAHILL, CRIMINAL LAW (2d ed. 2012)

Additional practice problems may be found here:

KATHRYN CHRISTOPHER & RUSSELL CHRISTOPHER, CRIMINAL LAW: MODEL PROBLEMS AND OUTSTANDING ANSWERS (2012)

**TWEN:** You will need to sign up for the TWEN site for this course. Go to [lawschool.westlaw.com](http://lawschool.westlaw.com). Click on the link for TWEN. Click on “drop/add course.”

**Workload and Assignments:** ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Criminal Law has 3 “classroom hours” of in-class instruction each week, requiring at least 6 hours of preparation outside of class. This requirement will be met through your completing the assigned reading in the case book and assigned practice materials.

At the end of this document is a general syllabus with topics to be covered in the course. Tentative assignments for the first two weeks of class are included in a separate syllabus. I will update the syllabus weekly through the TWEN site.

**Attendance Policy:** Attendance is required. On the first day of class, I will circulate a seating chart. Your seat that day will be your seat for the semester. At the beginning of each class meeting, students must sign an attendance roster. Missing more than six classes is grounds for dismissal from the course. Please make sure you are present and prepared on your on-call day (see “classroom preparation and conduct” below). Please plan accordingly. An unexcused absence on your on-call day may lower your grade.\*

---

\* University recognized religious holidays are exempt. Please provide me with advance notification of such absences.

**Classroom Preparation and Conduct:** Our classroom is a community of learners in which the quality of your participation is important. Each student is required to be fully prepared to discuss the assigned material once a week. I will divide the room into students who will be “on call” one day a week (i.e., either on Mondays, Tuesdays, or Wednesdays). If we do not finish a case on a given day, the students on call the next day should be prepared to discuss that case. If, on one occasion, you would like to deviate from the norm, please email me prior to class on the Monday of the relevant week and identify the day of that week that you would like to be on call instead of your regularly scheduled day.

**Accommodations for Students with Disabilities:** Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to Dean Rachel Inman when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

**The Honor Pledge:** UF students are bound by The Honor Pledge, which states: “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honesty and integrity. On all work submitted for credit by students at the university, the following pledge is either required or implied: ‘On my honor, I have neither given nor received unauthorized aid in doing this assignment.’”

The Honor Code (<https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel (i.e., Dean Rachel Inman). If you have any questions or concerns, please ask me or Dean Inman.

**Final Exam:** The final examination will be an open book, limited-space examination. It may contain multiple choice, short answer, and traditional law school essay questions. The exam will focus on material discussed in class, but all material and concepts covered in the course may be tested to some degree. Exams will be graded anonymously by exam number. About three weeks prior to the end of the course, I will provide sample exams and model answers. The law school policy on delay in taking exams 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>.

**Review of Final Exam.** How to receive a copy of your exam: **After January 14, 2019**, students who wish to review their exams can do so in the office of my assistant, Sherrice Smith ([ssmith@law.ufl.edu](mailto:ssmith@law.ufl.edu)), who is in Holland 323 behind Technology Services. I will post the exam

questions, along with a model answer and best student answers, on our TWEN cite on the “past exams” page.

How to schedule a meeting to review your exam: I will meet with any students interested in discussing their exams between **February 5 and February 9, 2019**. I will post sign-up sheets on my door on January 14, 2019; please sign up for an appointment. Before a student meets with me, he/she must review his/her exam, compare it to the model answer, and be prepared with precise questions. I will not re-grade exams.

**Grading Policy:** Your grade for the course will be based predominately on the grade you receive on your final examination. Superb class participation may result in an increase in grade of up to 0.33 grade points; failure to participate when called on may result in a decrease in grade of up to 0.33 grade points.

I adhere to the College’s posted grading policy (<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>). Grades carry the following point equivalents:

<b>Letter Grade</b>	<b>Point Equivalent</b>
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

**Office Hours:** My office hours are on Tuesday from 2:30-4 pm. My office is in Holland 305.

**Online Course Evaluation:** Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

***Criminal Law***  
**Professor Johnston, Fall 2018**  
**Tentative Syllabus**

At the end of each class I'll announce the assignment for the next class. I try to adhere to the syllabus as closely as I can, but I'm sure we won't have time to cover all the listed items.

<b>Subject</b>	<b>Assignment</b>
	<u>Principles of Punishment</u>
1. The Criminal Justice Process	1.A-D.
• Owens v. State	
2. Theories of Punishment	2.A.
	<u>Actus Reus</u>
3-4. Voluntary Act	4.A
• Martin v. State; State v. Utter	
5. Omissions ("Negative Acts")	4.B1, 4C.
• People v. Beardsley	
	<u>Mens Rea</u>
6. Nature of "Mens Rea"	5.A-B.1.
• United States v. Cordoba-Hincapie; Regina v. Cunningham	
General Issues in Proving Culpability	
• People v. Conley	
7. General Issues in Proving Culpability	5.B.2.
• Model Penal Code § 2.02	
8. General Issues in Proving Culpability	5.B.2
• Model Penal Code § 2.02	
9. Mistake and Mens Rea — Mistake of Fact	5.D.1.
• People v. Navarro	
10. Mistake and Mens Rea — Mistake of Law	5.D.2.
• People v. Marrero	
11. Mistake and Mens Rea — Mistake of Law	5.D.2.

- Cheek v. United States

### Causation

12. Actual Cause 6.A.

- Velazquez v. State; Oxendine v. State

13. Proximate Cause 6.B-C.

- People v. Rideout; Velazquez v. State

Concurrence of Elements

- State v. Rose

### Criminal Homicide

14. Overview 7.A.1-3.

Intentional Killing — Deliberation-Premeditation 7.B.1.

- State v. Guthrie; Midgett v. State; State v. Forrest

15. Intentional Killing — Manslaughter 7.B.2.a.

- Girouard v. State

16. Intentional Killing — Manslaughter 7.B.2.b-c.

- People v. Casassa

17. Unintentional Killings — Unjustified Risk-Taking 7.C.

- People v. Knoller

18. Unintentional Killings — Unjustified Risk-Taking 7.C.

- State v. Williams

19. Unintentional Killings — Unlawful Conduct 7.D.1.a-c.ii.

- People v. Fuller; People v. Howard

20. Unintentional Killings — Unlawful Conduct 7.D.1.c.iii-iv.

- People v. Smith; State v. Sophophone

### Rape

21. Overview 8.A-B.1.

Forcible Rape

- State v. Alston
22. Forcible Rape 8.B.1.
- Rusk v. State; State v. Rusk
23. Forcible Rape 8.B.2.
- Commonwealth v. Berkowitz; State of New Jersey in the Interest of M.T.S.

#### Justification Defenses

24. Categories of Defenses 9.A. (skim)
- Principles of Justification 9.C.1-2.a.
- Self-Defense
- United States v. Peterson
25. Self-Defense 9.C.2.a
- United States v. Peterson
26. Self-Defense — “Reasonable Belief” Requirement 9.C.2.b.i.
- People v. Goetz
27. Necessity 9.C.5.a-b.
- Nelson v. State

#### Excuse Defenses

28. Principles of Excuse 9.D.1-2.a.
- Why Do We Excuse Wrongdoers?
- Duress
- United States v. Contento-Pachon
29. Intoxication 9.D.3.
- United States v. Veach
30. Insanity Film
- “A Crime of Insanity”
31. Insanity 9.D.4.a-e.

- United States v. Freeman; State v. Johnson; State v. Yates

#### Inchoate Offenses

- |   |             |
|---|-------------|
| 32. Attempt — Overview  | 10.A-B.2.   |
| Attempt — Mens Rea  | 10.B.3.     |
| <ul style="list-style-type: none"> <li>• People v. Gentry</li> </ul>  |             |
| 33. Attempt — Mens Rea  | 10.B.3.     |
| <ul style="list-style-type: none"> <li>• Bruce v. State</li> </ul>  |             |
| 34. Attempt — Actus Reus  | 10.B.4.a-b. |
| <ul style="list-style-type: none"> <li>• United States v. Mandujano; Commonwealth v. Peaslee;</li> <li>• People v. Rizzo; People v. Miller</li> </ul> |             |
| 35. Attempt — Actus Reus  | 10.B.4.a-b. |
| <ul style="list-style-type: none"> <li>• State v. Reeves</li> </ul>   |             |
| 36. Attempt — Special Defenses  | 10.B.5      |
| <ul style="list-style-type: none"> <li>• People v. Thousand; Commonwealth v. McCloskey</li> </ul>   |             |

#### Complicity

- |  |           |
|--|-----------|
| 37. Accomplice Liability — General Principles  | 11.A.1-2. |
| <ul style="list-style-type: none"> <li>• State v. Ward; State v. Hoselton</li> </ul>   |           |
| 38. Accomplice Liability — Mens Rea  | 11.A.3.   |
| <ul style="list-style-type: none"> <li>• People v. Lauria; Riley v. State</li> </ul>   |           |
| 39. Accomplice Liability — Mens Rea  | 11.A.3.   |
| <ul style="list-style-type: none"> <li>• State v. Linscott</li> </ul>  |           |
| 40. Accomplice Liability — Actus Reus  | 11.A.4.   |
| <ul style="list-style-type: none"> <li>• State v. V.T.; Wilcox v. Jeffery; State v. Helmenstein; People v.</li> <li>• Genoa</li> </ul> |           |