

**CRIMINAL LAW**  
Professor Mae C. Quinn  
University of Florida Levin College of Law  
**Syllabus - Fall 2018**

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**Contact Information:**

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Office Hours: Thursday 3:30-5:30 and by appt.

**Class Meetings:**

Days: Tuesday, Wednesday & Thursday  
Time: 1:00-1:50pm  
Classroom: HH-382  
Final Exam: Dec. 4, 2018 at 8:30am

**Course Description and Learning Outcomes/Goals:**

In this course you will learn foundational concepts in substantive criminal law and its practice. Perhaps curiously, we begin our studies at the end of the criminal process by focusing on punishment and sentencing. Through these materials you will learn about the historic rationales for, and underlying goals of, the criminal justice system.

From there we will turn to the sources of criminal law, focusing in part on criminal statutes, rules for interpreting them, and constitutional limits on criminal and sentencing laws. We will also cover general elements of crimes, including actus reus, mens rea, and causation/result.

With this groundwork complete, we will delve more deeply into criminal proceedings – looking at how criminal charges are lodged, defended against, and proved in our system of justice. In doing so, we will examine various specific criminal offenses including homicide, rape, drug crimes, and inchoate offenses. In the final part of the semester we will consider the law of defenses and explore a range of legal defenses to criminal charges

Throughout the semester we will study these concepts as they present themselves not just in written laws, appellate cases, and rules – but in action. You will consider perspectives of various stakeholders in the criminal justice system and society at large in order to help you master existing doctrine and develop nuanced understandings of criminal law as lived and applied. We will further reflect on how politics, class, race, gender, and other factors may impact the administration of criminal law and sentencing in this country – and how awareness of such concerns might be used to shape policies and practices.

Further you will be encouraged to develop your professional skills as competent and ethical attorneys through classroom discussions, exercises and problems, simulations, courtroom observation, and the final exam. Finally, this course will begin to familiarize you with substantive concepts, as well as the question format, you will encounter on the bar examination's criminal law section.

**Required Texts, Readings, and TWEN:**

The casebook for this course is JOSHUA DRESSLER AND STEPHEN P. GARVEY, CRIMINAL LAW CASES AND MATERIALS (7<sup>th</sup> Edition).

Additional assigned/supplemental readings, as well as various study aids, will be provided throughout this course. Some will be provided as in-class handouts while others will be made available through electronic distribution on CANVAS. Therefore, please be sure you are able to access the CANVAS site for our class.

As you prepare for the final exam, you are welcome to use any study aids that may help you better understand the material for this course. For instance, while I do not think it is necessary to succeed in this course and it is not a required text, in the past some students have found Professor Joshua Dressler's study guide, UNDERSTANDING CRIMINAL LAW, to be useful.

Our casebook's publishers offer a "Casebook Plus" version of the text at an additional cost. But again, the "Casebook Plus" version of the Dressler & Garvey book is NOT required for this course. Some may find the wide array of "Plus" materials to be overwhelming and/or confusing. Others may find it useful.

### **Attendance Policy:**

This is a professional school and you are expected to conduct yourselves as professionals at all times. Consistent with the requirements of the American Bar Association, the entity that helps regulate our profession, "regular and punctual class attendance" is mandatory. It will be monitored by way of a sign-in sheet and falsifying the sign-in sheet in any way will be considered an Honor Code violation.

If you are absent without valid excuse (illness and religious holidays count as valid excuses) on a day you are assigned to be "on call" (see below), your class participation and professionalism points (also described below) will be reduced accordingly. Students absent five or more times from class – whether an "on call" day or not – will be referred to student affairs and may face grade reduction or dismissal from the course.

For a range of reasons and as a matter of long-standing generally practice, I do not record class. Instead, I like to meet one-on-one with any student who, with valid excuse, misses class. During that meeting I take the time to walk the student through my class notes, review hypotheticals and exercises we might have discussed in class, and answer any questions the student might have. If you wish to schedule a one-on-one session after missing a class with valid reason, please email me to schedule an appointment.

### **Laptop Computer Policy:**

To further provide a professional and respectful environment without distractions where we can engage in meaningful conversations about sometimes difficult and/or personal topics, the use of laptop computers and other electronic/recording devices is not permitted in class. Violation of this policy will result in loss of all credit toward your semester's grade for class participation and professionalism. You will also face the possibility of disciplinary action under the Honor Code.

### **Office Hours and Availability Outside of Class:**

I love talking with students about criminal law, criminal practice, careers, and other matters that may be helpful to your success in this course or professional development. I am available to meet during my office hours, Thursdays from 3:30-5:30 pm, by appointment, and during periodic optional small-group gatherings that I will hold during the semester. In person conversation is my strong preference over email exchanges, which sometimes can be misinterpreted or lead to confusion.

However, you may send substantive course-related questions to me by email at [mae.quinn@law.ufl.edu](mailto:mae.quinn@law.ufl.edu) (do not use CANVAS for this purpose). Before any question is emailed to me, I expect you to make every effort, on your own, to grapple with the concept about which you are inquiring. In addition, I may respond to your question with further questions to help push you to engage further with the material. I also reserve the right to share your question and my response with the entire class if I feel it would be helpful to the group. I will withhold the name of the inquiring student from any such shared exchanges.

As the end of the semester approaches, I will share more details about how to schedule a one-on-one or study group meeting with me during the final exam study period. To help maintain your well-being and mine, I will not respond to any questions – by email or otherwise – once the exam period begins on Friday, November 30 (which is two business days before your Criminal Law exam will be administered). Therefore, make sure to have all your course-related questions answered by Thursday, November 29, 2018 at 4:00pm.

### **Student Participation, Assessment, and Grading:**

Your grade in this course will be based primarily on a three-hour final examination which will consist of three essay questions. Each question will be worth 31 points, for a total possible raw score of **93 points**. On the exam you are likely to be called upon to: (1) engage in open-ended issue spotting and analysis; (2) respond to directed inquiries in role as a criminal justice system stakeholder; and/or (3) grapple with legislative, policy, sentencing or systemic considerations.

During the final exam you may refer to all assigned course materials (textbook, CANVAS materials, and handouts), your class notes, and any outlines or study aids you have prepared yourself or in cooperation with other students in this course. You may not consult any other sources, such as the Dressler study guide, hornbooks, commercial outlines, or the Internet.

Up to **5 points** towards your final raw score in this course will be awarded based on your in-class participation and professionalism during your “on call” days and otherwise. Students will know in advance which day each week they will be officially “on call.”

You have two “free pass” days throughout the semester to use on your “on call” days. That is, beyond excused absences, you may email me at least two hours in advance of class on two different occasions to let me know you are not prepared to be called upon during the class session. I do not need to know the reasons. I understand that real life, and all it entails, can sometimes get in the way of academic concerns. However, keep in mind that classroom participation and professionalism are components of your final grade. If I call on you, you are not prepared, and you have not given me advance notice, your participation grade will be negatively impacted.

More information about the “on call” system will follow. However, every student is expected to read every assignment, to be prepared for class, and to bring the assigned readings to class each day – whether or not an “on call” day. This is a difficult course. You will not do well if you do not stay up to date with your readings and periodically assess your comprehension of the materials covered.

As we will further discuss, all students are also required to visit and observe criminal case activities at a Florida courthouse at least one time during the semester, and to submit their written observations and reflections. Your written courthouse observation memorandum will earn you up to **2 points** toward your final raw score grade for the course.

3-HOUR, IN-CLASS, FINAL EXAM:	Up to 93 points
CLASS PARTICIPATION/PROFESSIONALISM:	Up to 5 points
COURT OBSERVATION EXERCISE:	Up to 2 points

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TOTAL: 100 Raw Score Points

Once final raw scores are computed for the entire class based on (1) final exam scores (2) professionalism and participation, and (3) court observation memorandum points, the “curve” or mandatory distribution for the class will be determined.

The Levin College of Law's mandatory distribution rules are posted on the College's website and this class adheres to that posted grading policy. The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

However, the following chart describes the specific letter grade/grade point equivalent in place:

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

#### **Further Assistance and Preparation for the Final Exam:**

Throughout the semester I will work with you to develop your test-taking skills. This will begin with an in-class group exercise regarding law school essay writing. At least twice during the semester we will also work on multiple choice questions to both assist you in mastering the materials and expose you to bar exam question format.

In addition, you will be given the opportunity to take an ungraded one-hour practice exam about mid-way through the semester. I will return the practice exams with individualized feedback and go over a model sample answer in class. You are encouraged to visit with me one-on-one to discuss your practice exam, my comments, and ways you might improve moving forward.

Towards the end of the semester I will provide a packet of additional sample questions from my past exams to help you prepare for this semester's final exam. I am happy to discuss these questions with you in general terms during my office hours. I will not review or provide written feedback on written responses to these questions.

Finally, I will hold a review session on the last day of class to provide an overview of all materials covered. Ground rules for that session, including how to provide me with your questions in advance, will be provided towards the end of the semester.

#### **Accommodations:**

The Levin College of Law is committed to ensuring all students are provided equal opportunity to participate fully in the law school and University community. Students seeking disability accommodations should register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter that must be presented to the College of Law's Assistant Dean for Student Affairs (Dean Mitchell) to request accommodations at the Law School. I would recommend students begin this process as early as possible in the semester to ensure their needs are met properly and promptly.

## **Code of Academic Conduct:**

All students who enter the Levin College of Law are governed by its Honor Code, found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>. They must also comply with the University of Florida's Student Conduct and Honor Codes, found here: <https://sccr.dso.ufl.edu/students/student-conduct-code/>.

These documents describe the rights and duties of students and provide the procedures to be followed in case of an alleged violation. Work for this course should be undertaken in full compliance with both the spirit and letter of these Codes. However, as a reminder, please take note of the following provisions of the Levin College of Law's Honor Code:

### **STATEMENT OF PHILOSOPHY AND DEFINITIONS:**

*...(b) Students at the College of Law benefit from the Honor Code because teaching and learning flourish best in an environment where mutual trust and respect form the bedrock of relationships within the community. The Honor Code helps create a community in which students can maximize their intellectual and academic potential.*

*(c) The Honor Code reminds all members of the law school community that success obtained through dishonest means is no success at all. Moreover, attendance at the College of Law is every student's first step in becoming a member of the legal profession. Essential to the well being of the legal profession is the presence of a sense of honor and ethical integrity among its members. The Honor Code is therefore an integral part of proper and complete professional training.*

*(d) The Honor Code furthers the goal of the College of Law to serve the public and the profession by producing attorneys dedicated to promoting justice, excellence, and respect for the law. The success of the Honor Code depends upon the diligence with which members of the College of Law community ensure that they, as well as others, uphold the letter and spirit of the Honor Code....*

### **VIOLATIONS OF THE HONOR CODE AND SANCTIONS:**

*...(a) Conduct Prohibited by the Honor Code. Students are prohibited from engaging in conduct that violates the Academic Honesty Guidelines (6C1-4.017). Actions identified in the Academic Honesty Guidelines are violations of the Honor Code.*

*(b) Consequences of Honor Code Violation. The following shall be consequences of an Honor Code violation:*

*1. Imposition of Sanctions. If a student is adjudicated responsible for a violation of the Honor Code or accepts responsibility for a violation, the student becomes subject to the sanctions authorized by 6C1-4.016(3).*

*2. Bar Notification. If a student is adjudicated responsible for an Honor Code violation or accepts responsibility for a violation, the College of Law shall provide this information to any state or federal bar to which the College of Law becomes aware that the student has applied.*

*3. Flagging of Student's Records. If a student adjudicated responsible for an Honor Code violation or accepts responsibility for a violation, College of Law Student Affairs shall include this information and make a record of the proceedings against the student a permanent part of the student's file....*

## **Course Materials and Coverage:**

What follows is the tentative list of assigned readings, found in the main text of Dressler and Garvey's CRIMINAL LAW (denoted by page number), supplemental materials on CANVAS or otherwise ("SUPP"), and in the Model Penal Code ("MPC"). You can find the Model Penal Code as an Appendix at the end of the Dressler/Garvey text. You will note the readings are laid out in both an anticipated day-by-day calendar and outline format for your convenience.

At the end of each class I will tell you how far to read for the next class, usually based upon the day-by-day calendar of readings. If for some reason I do not tell you, please stay approximately 15 pages ahead of where we left off in the prior class session. We may not cover the entire reading list below and I reserve the right to modify the reading list as needed. Rest assured that you will be tested only on the subject areas covered. But you are responsible for everything you are assigned to read, whether or not we talk about it in class.

Keep in mind that, pursuant to American Bar Association Standards, for every hour of class time you are expected to spend not less than two (2) hours outside of class reading and preparing. Especially at the start of the semester, as you learn to brief appellate cases for classroom discussion, you may find yourself having to read cases more than once to spot and understand relevant issues. You are not alone.

We will primarily cover the materials through Socratic classroom conversations, problems and exercises, and simulations. I will generally use the once a week "on call" system mentioned above and may sometimes provide advance notice of a special problem or role I want you to prepare. Just as you might "brief" an assigned case for class, when sections of the Model Penal Code are assigned you would be well-served to outline or "brief" such sections for purposes of classroom discussion.

## **Tentative Assigned Reading List as Outline:**

### **I. Introduction to Criminal Law**

- A. Background & Introduction to the Criminal Process (1-7)
- B. Standard of Proof beyond a Reasonable Doubt (9-14)
- C. Presumption of Innocence (14-10)
- D. Fact-Finding and Juries – Generally (7-9)
- E. Modern Case Resolution Concerns/Realities
  - 1. Jury Nullification (19-30)
  - 2. Plea Bargaining (SUPP)
- F. Role of Prosecutor and Defense Counsel (SUPP)

### **II. Sources of Substantive Criminal Law**

- A. Common Law (SUPP)
- B. Modern Statutory Developments (SUPP)
- C. Model Penal Code (SUPP + skim 958-964)
- D. Intro to Florida Criminal Code (SUPP)
- E. Jury Instructions and Other Sources of "Law" (SUPP)

### **III. General Principles of Punishment**

- A. Aims/Goals of Criminal Punishment (31-52 [skip NQ's])
- B. Who Should We Punish? (52-53 [incl. NQ. 1])
- C. How Much Punishment?
  - 1. Sentencing Discretion and Statutes (54-72)
  - 2. Sentencing Discretion and Constitutional Concerns
    - A. Death Penalty Cases (75-82 & SUPP)
    - B. Other Cases – Gen (82-88)

### **IV. Criminal Statutes and Rules Relating to Construction**

- A. Statutory Interpretation Generally (122-132)
- B. MPC Principles (MPC 1.02)
- C. Intro to Florida Criminal Code Construction (SUPP)
- D. Constitutional Concerns (97-121 & SUPP)
  - 1. Ex Post Facto Prohibition
  - 2. Notice, Due Process & Void for Vagueness
  - 3. Overbreadth Doctrine & Arbitrariness

### **V. Elements of Crimes**

- A. Actus Reus
  - 1. Acts (127-136)
  - 2. Omissions (136-141)
  - 3. Attendant Circumstances & Social Harms (146-148)
  - 4. MPC Approach (MPC 2.01)
- B. Mens Rea
  - 1. Generally (149-153)
  - 2. Proving Mens Rea (153-156 [through n. 3 only] + SUPP)
  - 3. MPC Approach (159-163 [through n. 1 only] + MPC 2.02)
  - 4. Special Issues Regarding Mens Rea
    - a. Interpreting Mens Rea in Statutes (170-175)
    - b. Strict Liability (175-186 + MPC 2.05)
- C. Causation (for Result Crimes)
  - a. Case in Fact (214-215 + SUPP)
  - b. Proximate Cause (219-232 + SUPP)

- c. MPC Approach (MPC 2.03)
  - D. Concurrence of the Elements (232-234)
- VI. Specific Crimes and Offenses**
  - A. Homicide
    - 1. Overview (235-253)(skim)
    - 2. Intentional Killings
      - a. Murder/Premeditated Killings (253-264)
      - b. Manslaughter/Killing in Heat of Passion/EED (264-284)
    - 3. Unintentional Killings - Risks (295-315)
    - 4. Unintentional Killings - Unlawful Conduct (315-342, 377-384)
    - 5. MPC Approach (MPC 210.0-210.5)
  - B. Rape
    - 1. Overview (385-404)(skim)
    - 2. Force & Resistance (SUPP)
    - 3. Consent & Mens Rea (SUPP)
    - 4. Rape Shield Laws (470-475)
    - 5. MPC Approach (MPC 213.0-213.2, 213.6)
  - D. Inchoate Offenses
    - 1. Attempt (761-764; SUPP; 771-799)
      - a. Generally
      - b. Mens Rea
      - c. Actus Reus
      - d. MPC Approach (MPC 5.01)
    - 2. Conspiracy/Inchoate Offense
      - a. Generally
      - b. Mens Rea (836-855)
      - c. Actus Reus (856-864; SUPP)
      - d. MPC Approach (MPC 5.03)
    - 3. Defenses\* (816-820; 886-889)
  - F. Narcotics Offenses/"Victimless" Crimes
    - 1. Possession (SUPP)
    - 2. Possession with Intent to Distribute (SUPP)



## **VII. Defenses (and Other Bars to Prosecution/Punishment)**

- A. Introduction (501-504)
- B. Burden Allocations Generally (508-517 & 303-308)
- C. Failure of Proof, Mistake & Impossibility (206-221 & SUPP)
  - 1. Generally
  - 2. MPC (2.04)
- D. Inchoate Crimes & Abandonment/Withdrawal\* (above 816-820; 886-889)
- E. Self-Defense/Justification
  - 1. Generally (521-533; 533-548)
  - 2. MPC Approach (MPC 3.04; 3.09)
- F. Insanity (versus Incompetence)
  - 1. Generally (649-663 & 642-646)
  - 2. MPC Approach (4.01-4.04 [skim])
- G. Heat of Passion/Extreme Emotional Disturbance\* (above 508-517; 303-308)
  - 1. Generally
  - 2. MPC (MPC 125.25)
- H. Constitutional "Defenses" – Addiction/Alcoholism (728-745)

## Tentative Assigned Reading List as Day-by-Day Calendar:

Week	Tuesday	Wednesday	Thursday
1	8/14 Background/Process Intro [1-7] Proof BRD [9-14] P of I [14-19] Trial Juries - Generally [8-9] (1-7; 9-14; 14-19; 8-9)	8/15 Modern Case Resolution Realities Jury Nullification Plea Bargaining (19-30; SUPP)	8/16 Intro to Roles of Pros & Defense; Intro to Court Observations; Sources of Crim Law & Codes Intro (SUPP)
2	8/21 Punishment Intro Pun Gen + Utilitarianism (31-41)	8/22 Pun Gen + Retribution Who Should Be Punished? (41-52 [skip NQs])	8/23 MPC 1.02 (3) + SUPP In-Class Group Essay Exercise
3	8/28 How Much, Discretion & Limits (54-64; 64-72)	8/29 Discretion & Constitutional Concerns - DP & Proportionality (75-82; SUPP)	8/30 DP & Proportionality (cont'd) Non-DP & Proportionality (SUPP; 82-92)
4	9/4 Code Construx. Gen & FL (122-132 + SUPP) Code Construx. MPC (MPC 1.02 (3))	9/5 Codes Construx & Constitutional Considerations (97-114)	9/6 Constitutional Considerations (cont'd) (114-121 + SUPP)
5	9/11 Elements Overview Actus Reus Gen/CL AR-Voluntary Act AR-Possess/Special Act (137-143 + SUPP)	9/12 AR-Omissions AR-Atten Circum/Harm/Result AR-MPC Approach (143-154; 133 & 155-156 +MPC)	9/13 Mens Rea Gen/CL MR- Proof Issues (157-158; 161-165 [notes 1-2 & 7; 3 - skip "transferred intent"])
6	9/18 MR-MPC Approach MR-Code Construx (MPC 2.02; 168-172 [thru n.1]; 178-185)	9/19 MR-Strict Liability (185-197; MPC 2.05)	9/20 Cause: But For (229-230; SUPP; 235 [n. 3-4]) Proximate Cause (235- 241)
7	9/25 Causation-Proximate (cont'd) (241-249 + MPC 2.03) Concurrence Elements (232-234 )	9/26 Homicide - Overview (253-272-skim) Homicide-Intent/PM (273-280)	9/27 Homicide-Intent/PM (280-285) Homicide-MS/HOP/EED (285-297)

<b>*Solo Practice Essay Answer Due Monday, October 1 at 4:00pm</b>			
8	10/2 Homicide-MS/HOP/EED (cont'd) (297-303) Homicide-Risks (316-325)	10/3 Homicide-Risks (325-333)	10/4 Homicide-FM (333-337; [skim 337-345]; 345-353)
9	10/9 Homicide-FM (353-358; SUPP; 359-363)	10/10 MPC Homicide Approach Homicide Wrap-Up (377-384 + MPC 210.0-5)	10/11 Review of Practice Exam Rape-Overview (407-433 – skim)
10	10/16 Rape–Force & Resist (SUPP & 440-450)	10/17 Rape-MR & Consent (SUPP) Rape Shield (490-496)	10/18 MPC Approach (MPC 213.0-.2, & .6 + SUPP) In-Class Group Legislative Exercise
11	10/23 Inchoate/Attempt (Gen & MR & AR) (761-764; SUPP; 771-783 )	10/24 Inchoate/Attempt (AR & MPC) (783-799 + 816-820 + MPC 5.01)	10/25 Inchoate/Conspiracy Gen & MR (836-844 + 844-855)
12	10/30 Inchoate/Conspiracy AR & MPC (856-864 + 886-889 + MPC 5.03)	10/31 Narcotics as “Victimless” Crime (SUPP)	11/1 Intro Defenses/Burdens & Court Visit Discussion (501-504 + 508-517 + 303-308)
13	11/6 Defenses-FOP/Mistake/Imposs. Gen & MPC (206-221 & 2.04 & SUPP)	11/7 Defenses-Self Defense (521-533)	11/8 Defenses-Self-Defense (533-548 + MPC 3.04 + 3.09)
14	11/13 Defenses-Insanity (versus Incompetence) (649-663 + 642-646 + MPC 4.01- 4.04 [skim])	11/14 Constitutional “Defenses”- Addiction/Alcoholism (728-745)	11/15 Final Review Session
15	11/20 *Friday classes meet	11/21 Thanksgiving holiday	11/22 Thanksgiving holiday

Reading/study period ends Thursday, November 29

Final exam period begins Friday, November 30

**Criminal Law Exam: Tuesday, December 4 at 8:30am**