SYLLABUS

CRIMINAL LAW – SECTION 3

(LAW 5100)

3 credits

Fall Semester 2021

Professor Kenneth Nunn

**Professor’s contact information**

**Office Location:** Rm. 314 HOL

**Phone:** 273-0660

**Email:** nunn@law.ufl.edu

**Office Hours:** Please see below.

**Required and recommended textbooks and other course materials**

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

Recommended: Dressler, *Understanding Criminal Law* (any edition is fine)

**Course description**

This course is an introduction to the substantive law of crimes, including principles of punishment, elements of typical crimes, responsibility and defenses.

**Course objectives & student learning outcomes**

This course is intended to acquaint you with the basic principles of criminal law, including the nature of crimes, justifications of punishment, actus rea, mens rea, elements of typical crimes, complicity, inchoate crime, responsibility and defenses. This course should also familiarize you with the basics of case analysis and statutory construction.

After completing this course, students should be able to:

1. Describe the basic principles of criminal law.

2. Understand the various theories of punishment and how the resulting criminal law is shaped by these theories.

3. Demonstrate an understanding of the policy issues relevant to power control and conduct control concerns in the criminal law.

4. Understand how to read a fact pattern and identify pertinent issues of criminal law.

5. Demonstrate an understanding of case analysis and statutory construction.

**Evaluation**

Your grade for the course will be based predominately on the grade you receive on your final examination. Each student will be expected to comment on at least one case or problem during the course of the semester. Class participation and preparation are factors which may count for +/- 0.75 grade points on your final grade.

**Final examination**

The final examination may contain multiple-choice, short answer or traditional law school essay questions. All material and concepts covered in the course may be tested on the exam, including matters discussed in class for which there are no specific readings and assigned readings not specifically discussed in class. Exams will be graded anonymously by exam number.

**Policy related to make-up exams or other work**

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/>

**Statement related to accommodations for students with disabilities**

Students requesting classroom accommodation must first register with the Office of Disability Resources (<https://disability.ufl.edu/>).  The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. Do not contact me or have the Disability Office contact me on your behalf. Please work the Assistant Dean for Student Affairs (Brian Mitchell) or your appointed contact in the Office of Student Affairs. Students with disabilities should follow this procedure as early as possible in the semester.

**Information on UF Law grading policies**

Grade Points Grade Point Grade Point

A (Excellent) 4.0 C+ 2.33 D- 0.67

A- 3.67 C (Satisfactory) 2.00 E (Failure) 0.0

B+ 3.33 C- 1.67

B (Good) 3.00 D+ 1.33

B- 2.67 D (Poor) 1.00

The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

**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 [ufl.bluera.com/ufl/](file:///C%3A%5CUsers%5Cnance%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5C70WP0DTB%5Cufl.bluera.com%5Cufl%5C). Summaries of course evaluation results are available to students [here](https://gatorevals.aa.ufl.edu/public-results/).

**Academic honesty /misconduct**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**Office Hours**

I will have regular office hours on Wednesdays from 2:00 to 3:00 p.m. via ZOOM, starting on Wednesday, September 1, 2021. As mandated by the University, I will also hold in-person office hours on Fridays from 10:00 to 11:00 a.m., starting on Friday, September 3, 2021. In-person office will be held at one of the picnic tables south of the Student Commons. In case of inclement weather, in-person office hours will take place in the Student Commons. In addition, I am happy to meet with you by appointment, if either of these times do not work. Please contact me via email or Canvas to set up an appointment.

**Class attendance policy**

Please note that the American Bar Association requires "regular and punctual class attendance... to satisfy residence and class hours requirements." A sign in sheet will be used to record attendance for each class. Falsifying the sign in sheet will considered a violation of the Honor Code. Students are allowed **two** unexcused absences. **If** you are absent more than **two** times, your absence will need to be excused. Students with more than **four** absences in total will be referred to student affairs and may be dropped from the class. Class will start promptly at the announced time. Students who are repeatedly tardy may not be permitted to enter once class has begun.

**COVID-19 and Heath Safety Policies**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions.

* ***Masks***. "Faculty, staff, and students may wear masks at any point while on campus, including during class or office hours. However, as of now, no one may require or ask students to wear masks on any location on campus [other than during office hours]. Faculty and staff may not otherwise pressure students to wear, or not wear, masks." According to the University's statement of August 6, 2021, "we expect everyone to wear a mask at all times when inside any UF facility, even if you are vaccinated."
* ***Vaccines***. According to the University's statement of August 6, 2021, "students should aim to be fully vaccinated but if unable should strive to have at least one shot of the Pfizer or Moderna vaccine no later than August 22." More information about vaccines and how to get one can be found here: <https://coronavirus.ufhealth.org/vaccinations/>
* ***Please exercise good judgment***. When it comes to the challenges of in person teaching in the middle of a pandemic, we are all in this together. It is very important that we all exercise good judgment and have consideration for others in order to have a healthy and productive semester.
* ***Sanitizing supplies***. Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* ***Physical distancing from me***. The current state of affairs that mandates high-density in-person classes but forbids mask or vaccine requirements is highly irresponsible given the surge in COVID-19 cases, especially in our state and region, and the most recent advice from the CDC that we should all wear masks in settings such as classrooms. I will wear a face mask whenever I am at the College of Law, including the classroom, even though I am fully vaccinated. Since I will not know your vaccination status. students WILL maintain physical distancing from me at all times in and outside of my classroom, especially if you are not wearing a face mask.
* ***Symptoms***. If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  (See <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.)
* ***Absences due to illness.*** Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work. (See <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>).”

**Taping or recording of class sessions**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled.  The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding.  All other purposes are prohibited.  Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does notinclude lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

**Helpful health and wellness resources**

* *U Matter, We Care*: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit [U Matter, We Care website](https://umatter.ufl.edu/) to refer or report a concern and a team member will reach out to the student in distress.
* *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](https://counseling.ufl.edu/) or call 352-392-1575 for information on crisis services as well as non-crisis services.
* *Student Health Care Center*: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](https://shcc.ufl.edu/).
* *University Police Department*: [Visit UF Police Department website](https://police.ufl.edu/) or call 352-392-1111 (or 9-1-1 for emergencies).
* *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](https://ufhealth.org/emergency-room-trauma-center).
* *Statement on basic needs assistance*: Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs.  If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

**Canvas**

You need to regularly check the Canvas site for this class. Documents, schedule changes and notices will be posted on Canvas.

**Make up classes**

Make up classes may be scheduled for this class. Make up classes will not count toward your excused or unexcused absence total, however students will receive extra credit for their attendance. Make up classes may be either in person or offered via Zoom. Make ups will be announced in class and posted via email and the Canvas page.

**Subjects to be covered and assigned readings (tentative)**

Readings are from the assigned text for the course, Kadish, Schulhofer & Barkow, *Criminal Law and Its Processes* (10th ed. 2017). Reading assignments will be subject to changes announced periodically in class or posted on Canvas. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

GENERAL PRINCIPLES

*Aug, 24th*

A. Introduction to the Course

 Readings: 1-7

B. Why Punish?

 Readings: 96-106

*Aug. 26th*

A. Why Punish? (Cont.)

 Readings: 106-118

B. Theories of Punishment

 Readings: 118-132

*Aug. 31st*

A. What to Punish?

 Readings: 150-156; Handout—Problems (available on Canvas)

ELEMENTS OF CRIME

*Sep. 2nd*

A. The Principle of Legality

 Readings: 157-175 (stop after n. 2)

B. Acts

 Readings: 221-224

*Sep. 7th*

A. Acts (Cont.)

 Readings: 224-234

B. Omissions

 Readings: 234-253

*Sep. 9th*

A. Mens Rea—Introduction

 Readings: 258-268 (stop at the end of note 5)

B. Mens Rea--MPC

 Readings: 273-276 (stop before note 1); MPC 2.02, pp.1274-75

*Sep. 14th*

A. Mens Rea—MPC (Cont.)

 Readings: 277 (beginning with note 3) -287

B. Mens Rea--Statutory Construction

 Readings: 276-277, notes 1 and 2

*Sep. 16th*

A. Mistake of Fact

 Readings: 287-294

B. Mistake of Law

 Readings: 325-333

*Sep. 21st*

A. Mistake of Law (cont.)

 Readings: 338 (beginning with note on “willfully”)-350

B. Quasi-Mistakes of Fact

 Readings: 333-336

*Sep. 23rd*

A. Strict Liability

 Readings: 303-313

B. Vicarious Liability

 Readings: 313-317

RAPE

*Sep. 28th*

A. Rape & Force

 Readings: 351-359; 364-368; 373-380; 385-390

*Sep. 30th*

A. Rape & Consent

Readings: 396-413

B. Mens Rea & Rape

 Readings: 416-426

HOMICIDE

*Oct. 5th*

A. Premeditation

 Readings: 443-447 (stop after Cal. Penal Code); 451-462

*Oct. 7th*

A. Voluntary Manslaughter/Provocation

 Readings: 462-479

B. Manslaughter/Provocation: The MPC Approach

 Readings: 479-490

*Oct. 12th*

A. Involuntary Manslaughter

 Readings: 490-503

*Oct. 14th*

B. Unintentional Murder

 Readings: 509-513 (end with n. 4); 515 (beginning with n. 2)-517

*Oct. 19th*

A. Felony Murder

 Readings: 520 (beginning with People v. Stamp)-526; 542-552

CAUSATION AND RESULTING HARM

*Oct. 21st*

A. Causation

 Readings: 603-619

*Oct. 26th*

A. Intervention

 Readings: 619-626

B. Intervention (cont.)

 Readings: 626-633

EXTENSIONS OF CRIMINALITY

*Oct. 28th*

B. Attempt--Traditional Approaches

 Readings: 641-651

A. Attempt—Common Law Tests

 Readings: 651-666

*Nov. 2nd*

A. Attempt--MPC Approach

 Readings: 666-672

B. Solicitation/Impossibility

 Readings: 672-684

EXCULPATION

*Nov. 4th*

A. Self-Defense--Reasonable Belief

 Readings: 869-886

*Nov. 9th*

A. Self-Defense--Battered Victim Defenses

 Readings: 903-919

B. Self-Defense--Retreat

 Readings: 919-925

*Nov. 11th*

A. Self-Defense—Retreat (cont.)

 Readings: 925-930

B. Defense of Property

 Readings: 930-937

*Nov. 16th*

A. Duress

 Readings: 985-996 (stop prior to U.S. v. Fleming); 999 (beginning with note 4)-1001

B. Intoxication

 Readings: 1004-1010

*Nov. 18th*

A. Intoxication (cont.)

 Readings: 1010-1018

*Nov. 23rd*

A. Insanity

 Readings: 1018-1033