Prof. K. Russell-Brown Fall 2022

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

OH: Mondays 11:00-1:00PM 285C Holland Hall

(or by appointment)

[RussellBrownK@law.ufl.edu](mailto:RussellBrownK@law.ufl.edu)

**CRIMINAL LAW §A**

LAW 5100 (3 credits)

(Section 2)

**COURSE DESCRIPTION**

This course provides an introduction to substantive criminal law. We will examine how and why society regulates, prevents, and punishes socially undesirable behavior. The class covers the elements of basic crimes, including homicide, sexual assault, and inchoate offenses (e.g., conspiracy, attempt). The primary focus is on case law, supplemented by the Model Penal Code. Related issues, such as mens rea, actus reus, and causation, are covered as well. The course addresses partial and complete defenses to criminal actions, including justifications and excuses (e.g., self-defense, heat of passion). The course will also examine the roles of institutional actors, including legislators, judges, police, and prosecutors.

**REQUIRED TEXT**

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

\*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 period. The American Bar Association 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.

In the event that a student has to miss class for health reasons, the Office of Student Affairs records all classes via Mediasite. Student Affairs will determine whether students can access these password protected recordings. These recordings will be retained for a limited period of time. It is the student’s responsibility to contact the Office of Student Affairs as soon as possible after an absence.

**LAPTOPS & CELL PHONES**

The use of laptops 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, December 6, at 9:00 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 UF Office of Disability Resources. The Office will provide accommodations’ documentation to the student who must then provide the paperwork 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. 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/>

**COVID-19 INFORMATION**

Everyone is welcome to wear a mask. Right now, UF does not require faculty, staff, and students to wear masks. Masks, however, will be available in the classroom. UF Health states, “Please know that wearing a mask, being vaccinated and boosted, and continuing good hygiene practices remain our strongest universal tools to support the health of our community.” More information is available here: <https://coronavirus.ufhealth.org/campus-testing/>. The UF Student Health Center offers vaccines to students and we strongly encourage all students to take the recommended vaccines. <https://coronavirus.ufhealth.org/vaccinations-2/vaccine-availability/vaccine-availability-alachua/#uf>. Please do not come to class if you feel sick. If you test positive for COVID-19, please follow CDC guidance on when it is safe to return to class.

**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 practices

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**COURSE OUTLINE**

Week of August 22

**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 August 29

**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 September 5

**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 September 12

**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 September 19

**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 September 26

**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 October 3

**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 October 10

**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 October 17

**NOTE:**  Class will be held on Thursday and Friday of this week.

Class will be held Thursday, Oct. 20 (regular time)

Class will be held on Friday, Oct. 21, from 11:00 to 12:25PM [room TBD]

**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 October 24

**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 October 31

**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)

*State v. Abbott* (1961)

* + - *U.S. v. Peterson* (1973)

Defense of Property

Reading: pp 930-933

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

Week of November 7

**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

**TOPIC:** Property Crimes

[Additional case law material will be assigned]

Week of November 14

**NOTE**: This week class will be held on Monday and Tuesday

Class will be held on Monday, Nov. 14 from 3:00 to 4:25PM

Class will be held on Tuesday, Nov. 15 (regular time) [Final class]

Class will not be held on Thursday, Nov. 17.

Week of November 21

**NOTE**: The last day of classes for the fall semester is Tuesday, November 22. It is

a constructive Friday.

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**Levin College of Law**

**Fall 2022**