

Rutgers, The State University of New Jersey
Program in Criminal Justice
Professor Arun Lavine, Esq.
(609) 577-3233
al929@scarletmail.rutgers.edu

CRIMINAL LAW: THEORY AND PRACTICE
SPRING 2017 01:202:309
Mondays 6:00 pm to 8:40 pm
Website: <http://criminaljustice.rutgers.edu>

Office Hours: By appointment

Learning Goals: A Statement of Principles

The Program Committee for the Program in Criminal Justice at Rutgers University in New Brunswick has adopted a series of learning goals for students who complete the major. These goals represent the consensus of the faculty regarding the concepts a student should grasp and the skills a student should acquire in the course of completing the major. These goals guide the choices faculty make about the structure of the curriculum and the requirements for our majors. Moreover, they guide faculty and instructors preparing course material and teaching courses.

The Program in Criminal Justice will provide students with a rich understanding of crime and criminal justice in the United States and abroad through an interdisciplinary approach that blends a strong liberal arts educational experience with pre-professional instruction in the field of criminal justice. Graduates of the program will be well-informed citizens on the topic of crime and justice, and qualified for graduate study or for employment as practitioners in a variety of legal, policymaking, and law enforcement fields.

Criminal justice majors graduating from a research university should be able to use critical thinking, factual inquiry, and the scientific approach to solve problems related to individual and group behavior. In addition, students should have an understanding of the legal, political and policymaking processes that affect criminal justice systems in the United States and elsewhere in the world. Finally, students should be familiar with the institutional structures and latest developments in the field in order to engage in meaningful debate about current public policy issues.

Learning Goals for Criminal Justice Majors

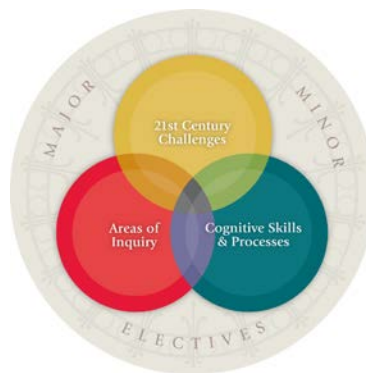
1. Competence:

- a.) **Theory.** Students who complete the major in criminal justice should understand and be able to articulate, both orally and in writing, the core theoretical concepts that form the foundation of analysis and research in

criminology and criminal justice today. Core concepts are derived from explanations of crime from a variety of perspectives, including biogenic, psychological, and sociological approaches. There are myriad theories of crime that are informed by these perspectives, including, classical, control, critical, ecology, labeling, learning, strain, and trait-based approaches. Theoretical literacy should extend to multicultural and international understanding.

- b.) **Institutions.** Students who complete the major in criminal justice should understand the special role of three types of institutions: Police, Corrections, and Courts. In addition, students should know how institutional forms vary across jurisdictions and how these institutions interact with and influence each other.
- c.) **Research Methods.** Students who complete the criminal justice major should be familiar with the tools, techniques, and data sources necessary for empirical analysis. Students should understand the various ways that empirical analysis is used in the scientific approach: for description, for developing, and for testing theories. They should be able to analyze data using computer applications and should be familiar with basic statistical techniques and regression analysis. They should be able to read and assess research from a wide range of sources, including general interest, academic, and government publications.

- 2. **Critical Thinking:** Upon completion of the major students should be able to apply their understanding of core concepts and quantitative tools to analyze and research real world problems, and evaluate alternative policy proposals on a range of criminal justice issues, from micro-level analyses relevant to particular cases to management concerns to macro-level analyses of legislative and other broad-scale policies. Accomplishment of this goal will require that students can apply their literacy and numeracy skills to different institutional structures, within the U.S. and across countries.
- 3. **Scholarship:** Qualified majors should have an opportunity through such avenues as advanced coursework, internships, and faculty interactions to conduct independent research on matters of central relevance to the field of criminal justice.



COURSE OBJECTIVES

This course will provide students with a solid foundation to enable those who will, in greater or lesser degree, participate directly in the process of the criminal law and for others an understanding of the Criminal Law sufficient to bring an informed intelligence to the challenge of solving some of the most vexing problems of our times. Finally, students should be familiar with the institutional structures of the Courts, the Prosecution, the Defense and Law Enforcement in order to engage in meaningful debate about current Public Policy Issues, impacting the Criminal Law and its Processes.

REQUIRED TEXTS

CRIMINAL LAWS AND ITS PROCESSES: CASES AND MATERIALS. (10th Edition).
Kadish, S. H., Schulhofer, S. J., & Steiker, C. S. ISBN: 9781454817550

SUGGESTED READING

American Law Institute: Model Penal Code and Commentaries (1980-1985)
Encyclopedia of Crime and Justice (S.H. Kadish ed., Macmillan and Free Press, 1983)
Criminal Law by Wayne LaFare (West Publishing Company, 3rd Ed. 2000).
Understanding Criminal Law by Joshua Dresser (Mathew Bender, 2nd Ed. 1995)
Criminal Law: The General Part by Glanville Williams (2nd Ed. 1961).
Textbook of Criminal Law by Glanville Williams (2nd Ed. 1983).
Rethinking Criminal Law by George Fletcher (Little Brown 1978).

DISABILITY POLICY & ACCOMMODATIONS

- Full disability policies and procedures are at <http://disabilityservices.rutgers.edu/>
- Students with disabilities requesting accommodations must follow the procedures outlined at: <http://disabilityservices.rutgers.edu/request.html>

ACADEMIC DISHONESTY

Rutgers University has a well-defined academic integrity policy, which will strictly enforced in this class. All students in this class should review and be familiar with the policy of the university, which can be found at:

http://academicintegrity.rutgers.edu/files/documents/AI_Policy_9_01_2011.pdf

ATTENDANCE & PARTICIPATION

Students are expected to attend every class. Additionally, students are required to

participate in class discussions throughout the semester. Ten percent of the course grade is based upon this performance. If you expect to miss one or two classes, please email me at lavinelaw@icloud.com to indicate the date and reason for your absence. You are expected to have the material read for the respective class.

COURSE OUTLINE

As in previous course at the 200 series, the substantive materials continue to focus on imparting an understanding of those basic principles and doctrines that come into play across the range of special offenses. While we do not believe that mastery of the detailed elements of many particular crimes is an appropriate goal for a basis undergraduate criminal law course. Nevertheless, it is important that students obtain an understanding of the basic principles as reflected in the detailed case studies of some particular offenses.

I. HOW GUILT IS ESTABLISHED

- *An overview of Criminal Trial Procedure
- *The Adversary Trial Process
- *Conviction by Guilt Plea

CASE STUDIES:

People v. Zackowitz
Duncan v. Louisiana
U.S. v. Dougherty

II. JUSTIFICATION OF PUNISHMENT

- *Perspectives on Punishment

CASE STUDIES:

Regina v. Dudley & Stephens
U.S. v. Bernard L. Madoff
U.S. v. Gementera
U.S. v. Jackson

- *What to Punish
- Bowers v. Hardwick
- Lawrence v. Texas

III. DEFINING CRIMINAL CONDUCT-THE ELEMENTS OF JUST PUNISHMENT

- *Actus Reus – Culpable Actions
- *Omissions
- *Mens Rea - Culpable Mental Status
- *Mistakes of Fact
- *Mistake of Law
- *The Abandonment of Mens Rea

*New Jersey Code of Criminal Justice 2C:3-1 thru 2C: 3-11, 2C:2-1 thru 2C:2-12

CASE STUDIES

Martin v. State
People v. Newton
Pope v. State
Jones v. U.S.
Barber v. Superior Court
Regina v. Cunningham
Regina v. Faulkner
State v. Hazlewood
U.S. v. Jewell
Regina v. Prince
People v. Olsen
Garnett v. State
Morissette v. U.S.
Staples v. U.S.
State v. Guminga
State v. Baker
People v. Marrero
Cheek v. U.S.

IV. RAPE

*New Jersey Code 2C:14-4 thru 2C:14-2
*Actus Reus
*Deception
*Mens Rea
*Force, Nonconsent, and Resistance
*The Marital Exemption
*Problems of Proof
*Cross-Examination and Shield Laws

CASE STUDIES:

State v. Rusk
State v. Thompson
State v. Mlinarich
State in the Interest of M.T.S.
M.C. v. Bulgaria
People v. Evans
Boro v. Superior Court
Commonwealth v. Sherry
Commonwealth v. Fischer
Tyson v. State
People v. Liberta
United States v. Wiley
State v. DeLawder

Government of Virgin Islands v. Scuito

V. **HOMICIDE**

- *New Jersey Code 2c:11-1 thru 2C:11-4
- *The Premeditation - Deliberation Formula
- *The Provocation Formula
- *The Distinguishing Civil and Criminal Liability
- *The Line Between Murder and Manslaughter
- *The Felony-Murder Doctrine
- *The Death Penalty

CASE STUDIES:

Commonwealth v. Carroll
State v. Guthrie
Girouard v. State
Maher v. People
People v. Casassa
Commonwealth v. Welansky
People v. Hall
State v. Williams
Commonwealth v. Malone
U.S. v. Fleming
People v. Stamp
People v. Phillips
Hines v. State
People v. Burton
State v. Canola

VI. **THE SIGNIFICANCE OF RESULTING HARM**

- *New Jersey Code 2C:5-1 and 2C:2-3
- *Causation
- *Attempt
- *Impossibility

CASE STUDIES:

People v. Acosta
People v. Arzon
People v. Warner Lambert
People v. Campbell
People v. Kevorkian
Stephenson v. State
People v. Kern
Commonwealth v. Root
Commonwealth v. McFadden
Commonwealth v. Atencio
Smallwood v. State

People v. Rizzo
McQuirter v. State
U.S. v. Jackson
U.S. v. Harper
U.S. v. Joyce
State v. Davis

VII. **EXCULPATION**

- *New Jersey Code 2C:3 and 2C:4
- *Principles of Justification
- *Protection of Life Person
- *Protection of Property and Law Enforcement
- *Choice of the Lesser Evil-The Residual Principle of Justification
- *Principles of Excuse
- *Duress
- *Intoxication
- *Mental Disorder
- *Changing Patterns of Excuse

CASE STUDIES:

People v. Goetz
State v. Kelly
State v. Norman
State v. Schroeder
Ha v. State
State v. Abbott
U.S. v. Patterson
People v. Ceballos
Durham v. State
Tennessee v. Garner

FINAL EXAM: <http://finalexams.rutgers.edu>

Student-Wellness Services:

Just In Case Web App <http://codu.co/cee05e> Access helpful mental health information and resources for yourself or a friend in a mental health crisis on your smartphone or tablet and easily contact CAPS or RUPD.

Counseling, ADAP & Psychiatric Services (CAPS) (848) 932-7884 / 17 Senior Street, New Brunswick, NJ 08901/ rhscaps.rutgers.edu/ CAPS is a University mental health support service that includes counseling, alcohol and other drug assistance, and psychiatric services staffed by a team of professional within Rutgers Health services to support students' efforts to succeed at Rutgers University. CAPS offers a variety of services that include: individual therapy, group therapy and workshops, crisis intervention, referral to specialists in the community and consultation and collaboration with campus partners.

Violence Prevention & Victim Assistance (VPVA) (848) 932-1181 / 3 Bartlett Street, New Brunswick, NJ 08901 / vpva.rutgers.edu/ The Office for Violence Prevention and Victim Assistance provides confidential crisis intervention, counseling and advocacy for victims of sexual and relationship violence and stalking to students, staff and faculty. To reach staff during office hours when the university is open or to reach an advocate after hours, call 848-932-1181.

Disability Services (848) 445-6800 / Lucy Stone Hall, Suite A145, Livingston Campus, 54 Joyce Kilmer Avenue, Piscataway, NJ 08854 / <https://ods.rutgers.edu>/ The Office of Disability Services works with students with a documented disability to determine the eligibility of reasonable accommodations, facilitates and coordinates those accommodations when applicable, and lastly engages with the Rutgers community at large to provide and connect students to appropriate resources.

Scarlet Listeners (732) 247-5555 / <http://www.scarletlisteners.com>/ Free and confidential peer counseling and referral hotline, providing a comforting and supportive safe space.