

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
CRIMINAL JUSTICE PROGRAM
PROF. LENNOX S. HINDS

CRIMINAL LAW: THEORY AND PRACTICE

01:202:309

FALL 2011

TTH – 6:40 – 8 p.m.; Lucy Stone A142

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 education 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.

OBJECTIVES

This course originally was called by the misnomer “Criminal Law of New Jersey.” It never was taught with that limited Jurisdictional focus and we have therefore renamed it to more accurately reflect its focus on the analysis and close readings of the Model Penal Code and also the state statutes including, Title 2C: The New Jersey Code of Criminal Justice.

Students will be provided with a solid foundation to enable those who will, in greater or lesser degree, participate directly in the process of the application 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.

COURSE OUTLINE

As in the 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 (For example, **Actus Reus**, **Mens Rea**, and the various **Justifications and Excuses**). While we do not believe that mastery of the detailed elements of many particular crimes is an appropriate goal for a basic 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.

Therefore we have detailed two offense categories **Rape** and **Homicide**. The growing complexity and importance of **Sentencing Procedure** and **Sentencing Guidelines** pose a dilemma for a basic undergraduate course but the subject is too important to be ignored. We have provide a texture summary of current **Sentencing Procedures** and the **Jurisprudential Issues** underlying them.

1. **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
Nix v. Whiteside

II. **JUSTIFICATION OF PUNISHMENT**

- *Perspectives on Punishment

CASE STUDIES:

Regina v. Dudley
U.S. v. Bergman
State v. Chaney
U.S. v. Jackson
U.S. v. Johnson

- *What to Punish

Bowers v. Hardwick

III. DEFINING CRIMINAL CONDUCT-THE ELEMENTS OF JUST PUNISHMENT

- *Actus Reus – Culpable Actions
- *Omissions
- *Mens Rea – Culpable Mental States
- *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
Santillanes v. New Mexico
People v. Olsen
Morissette v. U.S.
Staples v. U.S.
State v. Guminga
State v. Baker
Cheek v. U.S.
U. S. v. Albertini

IV. RAPE

- *New Jersey Code 2C: 14-1 thru 2C: 14-2
- *Actus Reus
- *Deception
- *Mens Rea
- *Force, Nonconsent, & Resistance
- *The Marital Exemption
- *Problems of Proof
- *Cross-Examination & Shield Laws

CASE STUDIES:

State v. Rusk
People v. Evans
Boro v. Superior Court
Commonwealth v. Sherry
Commonwealth v. Fischer
People v. Liberta
United States v. Wiley
State v. Delawder
Government of Virgin Island v. Scuito

V. HOMICIDE

- *New Jersey Code 2C:11-1 thru 2C: 11-4
- *The Premeditation – Deliberation Formula
- *The Provocative Formula
- *Distinguishing civil & Criminal Liability
- *The Line Between Murder & 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
State v. Williams
Commonwealth v. Malone
U.S. v. Fleming
People v. Phillips
People v. Smith
State v. Canola
McClesky v. Kemp

VI. THE SIGNIFICANCE OF RESULTING HARM

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

CASE STUDIES:

People v. Acosta
People v. Arzon
People v. Warner Lambert
People v. Kevorkian
Stephenson v. State
Commonwealth v. Root
State v. McFadden
Commonwealth v. Atencio
Smallwood v. State
People v. Rizzo McQuirter v. State
U.S. v. Jackson
U.S. v. Mandujano
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 & 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. Abbott
U.S. v. Patterson
People v. Ceballos
Durham v. State
Tennessee v. Garner

IV. DISPOSITION OF CONVICTED OFFENDERS

- *New Jersey Code 2C:43
- *Procedure at Sentencing
- *Constitutional Requirements
- *Challenging the Presentence Report
- *Appellate Review
- *Parole Revocation
- *Determinate – sentence Movement

REQUIRED TEXTS

Title 2C: New Jersey Code of Criminal Justice, West Publ. Co. Available at University Bookstore.

Selected Chapters from **CRIMINAL LAW & ITS PROCESSES CASES & MATERIALS**. Kadish, Schulhofer Paulsen, Seventh Edition, Little, Brown & Co.

SUGGESTED READINGS

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 La Fave (West Publishing Co. 3d. 2000).

Understanding Criminal Law by Joshum Drossier (Matthew Bender, 2d. ed 1995).

Criminal Law: The general Part by Glanville Williams (2d, ed 1961)

Textbook of Criminal Law by Glanville Williams (2d, ed 1983)

Rethinking Criminal Law by George Fletcher (Little Brown 1978)