

Rutgers, The State University of New Jersey
Criminal Justice Program
Prof. Lennox Hinds

CRIMINAL LAW: THEORY AND PRACTICE

01:202:309

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Website: <http://nbcjm.rutgers.edu>

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 to 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 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.

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 (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 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.

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 basis undergraduate course but the subject is too important to be ignored. We have provided 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. Milken

U.S. v. Gemewtera

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
People v. Olsen
Morissette v. U.S.
Staples v. U.S.
State v. Guminga
State v. Baker
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
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 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
State v. Williams
Commonwealth v. Malone
U.S. v. Fleming
People v. Phillips
People v. Stewart
Hines v. State
People v. Burton

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. Campbell
People v. Kevorkian
Stephenson v. State
Commonwealth v. Atencio
Smallwood v. State
People v. Rizzo
McQuirter v. State
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. Abbott
U.S. v. Patterson
People v. Ceballos
Durham v. State
Tennessee v. Garner

VIII. 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 Publishing Co. Available at
- Livingston Bookstore

- Selected Chapters from Criminal Laws and Its Processes Cases and Materials.
Kadish, Schulhofer Paulsen, 8th Edition, Little Brown and Company

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 LaFave (West Publishing Company, 3d ed 2000).
Understanding Criminal Law by Joshua Dresser (Mathew Bender, 2d. ed 1995)
Criminal Law: The General Part by Glanville William (2d ed 1961).
Textbook of Criminal Law by Glanville Williams (2d ed 1983).
Rethinking Criminal Law by George Fletcher (Little Brown 1978).