

CRIMINAL LAW
Professor Robin Charlow

SYLLABUS
Fall 2017

Course Description:

This course covers the fundamental principles of substantive criminal law. It will examine the basic elements of crimes, including actus reus and mens rea; some general doctrines of criminal liability, such as complicity, causation, attempt, and conspiracy; an example of substantive crime grading (homicide); and some common defenses to crimes. The course will cover common law formulations, a variety of state and federal statutory codifications (with particular attention to New York law), and the Model Penal Code.

Learning Objectives:

By the end of this course, students should:

- have acquired a knowledge of the basic rules and policies of criminal law;
- understand how to read, analyze, interpret, and argue for different interpretations of criminal statutes, and appreciate how courts do this;
- recognize the roles that judicial common law, legislatively-enacted statutes, and the Model Penal Code have played in the development of the criminal law, and appreciate how and why criminal laws may be changed;
- understand how state and federal law interact with regard to crimes;
- have learned how to extract rules and policy from cases and statutes;
- be able to identify legal issues in facts, apply rules and policy to facts, and weigh evidence to reach factual inferences;
- be able to construct legal arguments and identify flaws in an argument;
- be able to present analysis orally and argue orally;
- know how to use policy to analyze and persuade;
- appreciate the different roles and work of prosecutors and criminal defense lawyers, and the considerations that enter into their respective decision-making;
- recognize ethical and professional dilemmas that may arise in the criminal context.

Professor's Contact Information & Office Hours:

office	100P
phone	(516) 463-5166
email	robin.charlow@hofstra.edu
secretary	Frances Avnet, Room 104

I maintain an “open door” policy instead of limited, specific office hours. That means you are welcome to stop by *any* time, separately or in groups, to ask questions about the course content or otherwise discuss school or related professional matters. Please formulate your questions beforehand

so we can use the time productively. If you prefer to meet at a specific time, or are unsuccessful finding me in, feel free to contact me to set up a convenient appointment.

Although it is a rare occurrence, if there are any last minute or emergency announcements regarding class or the course, I will contact you by email. You are expected to check your law school email account every day, just in case.

Electronics & Recording Policy:

Studies, surveys, and course evaluations report that students learn better and are more satisfied with the law school learning environment in classes in which electronic devices are not permitted. Students who do not use computers to take notes are more likely to filter, comprehend, and retain the important aspects of the material covered. Moreover, the majority of students find that classrooms are quieter, they can hear the teacher and other students better, and they feel more engaged in the classroom experience with fewer distractions. Accordingly, **you may NOT use any electronic devices, including computers and phones, during this class.** Students with a disability that requires special accommodation should make appropriate arrangements through the Office of Student Affairs as soon as possible.

Also, **you may NOT record this class** without my permission (which is not usually given).

Attendance & Lateness:

You are expected to arrive on time and prepared for each class.

The rules of the New York State Court of Appeals and the American Bar Association require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of the regularly-scheduled classes in this course. **Thus, you may miss no more than four class sessions.**

I will provide dated sign-in sheets for each regularly-scheduled class. **Your signature (or lack thereof) on these sheets shall presumptively determine your attendance at (or absence from) any given class; an empty assigned seat will also lead to the presumption that you are absent.** Each student is individually responsible for signing the attendance sheet. Falsification of sign-in sheets (by, for example, signing another student's name) is a violation of the Code of Academic Conduct.

The Office of Student Affairs has authority to excuse class absences for religious reasons and in cases of truly compelling hardship. If you wish to claim a particular absence as excused, and thus not counted against your maximum number of allowable absences, you must take that issue up with the Office of Student Affairs – NOT with me or my secretary. **My secretary will mark an absence as excused if and only if I receive a note or email from the Office of Student Affairs to that effect.**

If you exceed the permitted absences by not attending class, failing to sign in, or failing to occupy your assigned seat, you will be administratively withdrawn from the course. Any such

withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. Excessive absence may lead to additional sanctions, including but not limited to denial of certification of good and regular attendance to the New York State Board of Law Examiners or other state bar examiners.

Late arrivals are disruptive to the class. For this and other reasons, please make every effort to arrive on time to class, and to return on time from a class break. **If you are repeatedly late to class, your grade may be lowered.**

Grading:

Your grade for the course will be the grade you receive on the final examination. The final examination will be closed-book and consist of multiple-choice and essay questions. It will be graded anonymously, and the grades will comply with the parameters set by the Law School's mandatory grading curve. Although I rarely if ever do so, I reserve the right to increase or decrease your letter grade by one increment (e.g., from a "B" to a "B+") based on your in-class performance or on your excessive lateness throughout the semester.

Casebook:

KADISH, SCHULHOFER & BARKOW, CRIMINAL LAW AND ITS PROCESSES: Cases and Materials (10th edition)

Assignments:

The following assignments refer to pages of the casebook. I will announce at the end of each class how far you should read for the next class. Pages in brackets are background material that should be read but will not be reviewed in class. **This syllabus may be changed or supplemented according to instructions given in class.**

Please note that ABA rules require a minimum of two hours of homework for each class hour; consequently, expect to spend **at least** six hours each week reading and preparing for class.

	<u>Pages</u>
Chapter 2: Justification for Punishment & Legality	89-102, 118-125, 128-129, 160-162
Chapter 3: Elements of Criminal Conduct	
Actus Reus	221-234
Omissions	234-251
Mens Rea:	
Introduction	258-287
Mistake of Fact	287-303
Strict Liability	303-313, 319-325
Mistake of Law	325-350

Chapter 5:	Homicide	
	Introduction	[443-451]
	Premeditation/Deliberation	451-462
	Provocation	462-490
	Unintended Killings:	
	Civil vs. Criminal	490-507
	Murder vs. Manslaughter	509-517
	Felony Murder	517-552
Chapter 6:	Causation	
	Foreseeability	603-619
	Human Actions	619-641
	Attempt	
	Introduction; Mens Rea;	
	Preparation/Proximity	641-657
	Other Tests & MPC	657-672
	Solicitation	672-676
	Impossibility	676-690
Chapter 7:	Complicity/Accomplice Liability	
	Introduction; Mens Rea re Principal's Act	691-709
	Mens Rea re Result & Circumstances	713-727
	Actus Reus	727-733
	Liability of Different Parties	733-744
	Conspiracy	
	Introduction; Actus Reus; Mens Rea	744-748; 748-755; 755-764
	Accessory Liability	766-779
	Withdrawal; Punishment;	
	Unilateral vs. Bilateral	782-783; 800-803 (<i>Garcia & notes</i>)
Chapter 8:	Exculpation	869-870
	Justification	
	Protection of Persons	870-892, 895 n.4-902, 909-915, 919-930
	*Force in Law Enforcement	937-945
	Excuse	
	Introduction	982-984
	Duress	985-997, 1000 n.6-1001
	*Intoxication	1004-1014

***We may or may not cover topics with an asterisk (Use of Force in Law Enforcement, Intoxication), depending on whether time permits. If there is sufficient time, I will announce in class which of these, or any other additional topics or materials, to read.**