

CRIMINAL LAW
COURSE INFORMATION AND SYLLABUS

Professor: Zina Makar
Email: zmakar@ubalt.edu
Office: AL 1113
Class Times: Tu/Thu 9:00a – 10:15a, AL 608

Office Hours: Tuesdays 12-1p (by appointment)

My office is located in AL 1113. I do group office hours so students are welcome to come by my office to either talk, ask questions, or simply listen. I am also happy to meet outside of office hours with small study groups or individuals about class, internships, etc. Please email me to set up an appointment for an in-person or remote meeting.

Law Scholar: Sarah Williams (sarah.williams@ubalt.edu)

Sarah will be responsible for teaching your law scholar sessions; these sessions are a valuable opportunity to ensure understanding of the material covered in the course. I sincerely request that you treat Sarah with the utmost level of professionalism, respect, and kindness throughout the course.

Admin. Assistant: Tiffany Ralph (tralph@ubalt.edu)

Required Texts

- Cynthia Lee & Angela P. Harris, CRIMINAL LAW (4th ed. 2019)

Suggested Materials

- Joshua Dresser, UNDERSTANDING CRIMINAL LAW (6th ed. or later). This is an excellent treatise and useful reference for complicated areas, although it covers far more than we will cover in a semester. The library has several copies of recent editions for reference, it is also relatively cheap to rent on-line.

Key Links

Class Canvas page: <https://ubalt.instructure.com/courses/2942>

GOALS AND LEARNING OUTCOMES

Course goals include: (a) developing knowledge and understanding of core criminal law doctrine and its sources with particular emphasis on statutory analysis; (b) gaining an understanding of the actors and institutions involved in the criminal legal system as practiced by prosecutors, defense attorneys, and judges; and (c) engaging in the discourse and debates that affect the development of criminal law.

Upon successful completion of this course, students should be able to: (a) explain core criminal law concepts; (b) identify the elements of various crimes as set out in cases and statutes; (c)

employ tools of statutory construction and apply criminal law doctrine to new factual scenarios from the perspective of a prosecutor, defense attorney and/or judge; and (d) discuss and critique the way criminal law is carried out, including the role of discretion, as well as articulate the differing perspectives of those involved in criminal cases by participating in classroom discussion and/or debates.

METHOD OF EVALUATION

Your final grade will be based on three factors: (1) a mid-term exam to be given at the date listed in the class schedule below, representing 20% of the final grade, (2) a final exam to be given during the December examination period, representing 80% of the final grade, and (3) adjustments based upon your professionalism in and outside of class. The caliber of your professionalism may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Professionalism includes, among other things, treating your fellow students—and all members of our community—with kindness and respect. Professionalism also includes attendance and participation. To fully participate in class, you must have read the materials and made a good-faith effort on any relevant work that was assigned.

Please note that grading in Criminal Law is subject to a mandatory curve. This curve is explained in the student handbook:

All first-year courses and Civil Procedure II are subject to the following grading guidelines: Each faculty member teaching a section of any first year course shall have an average grade for the section taught by that faculty member, i.e., the arithmetic average of all of the grades assigned to students in the section, that is no lower than 2.67 and is no higher than 3.00. Grades shall be distributed within the required first year courses as follows: between 15-25% shall be grades of A or higher and between 7-14% shall be grades of C- or below, except that, in each section of Introduction to Lawyering Skills the 7-14% range of grades of C- or lower is recommended but not required.

Optional “Knowledge Checks”: I will post short formative assessments on Canvas after some (but not all) classes so that you can get feedback on how well you understand the material going into class. I **do not** grade your answers, but instead post a sample answer that you can review as soon as you submit. Occasionally, and instead of posting a question with a sample answer, I will recommend that students engage with one another through the discussion page on Canvas. I recommend that you take advantage of this opportunity to test your knowledge and stay on top of the material!

CLASS EXPECTATIONS

Attendance

Regular class attendance is mandatory. A student who exceeds four absences may be compelled to withdraw from the course or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools. Note that under this policy, there are no “excused” or “unexcused” absences (with the exception for religious holidays). Classes will be recorded and available for students who need to make-up a class. Please follow-up with the professor should you need to make-up a class.

Note: To keep attendance, this class will use attendance software called Qwickly. Qwickly is hosted on our Canvas page. To check-in for class you must log into our Canvas site for the course and enter the pin number provided at the beginning of class. Qwickly will automatically email you if you are marked absent for the day. If you believe this email was sent in error, please email my administrative assistant immediately. I reserve the right to count as “absent” a student who appears late repeatedly or without a valid explanation.

Class Recording Policy

Please bear in mind that the recording equipment is imperfect—and a recording is a poor substitute for attendance even under the best of circumstances. Any class recordings, audio or video, are for the sole use of that specific class instruction and study and may not be used or reproduced by students for any other purpose. Similarly, students may not capture video, audio, images or chat text from a class without permission from the instructor for use specific to that class instruction and study, and such images may not be used or reproduced by students for any other purpose. Faculty cannot reproduce students’ voices or images from the class for any other purpose without additional student consent. All such recordings are protected by a UB login process based on where they are posted.

Class Preparation

This class relies on everyone arriving fully prepared to participate in the day’s discussion and exercises. Readings must be completed before the class session to ensure the richest possible discussion. Even if you are not fully prepared, you will still be expected to contribute your analysis to the issues presented relying on legal theories, professional and personal experiences, and policies to justify your opinions.

Please Be Advised: I cold-call on students for a couple of reasons. First, the key to good lawyering is to be thoroughly prepared. I find that cold-calling most effectively motivates the largest number of students to prepare adequately for class. Second, talking in class is good practice for what you’ll have to do in actual practice, whether before a judge, mediator, with a partner or client, or simply when brainstorming a problem with your colleagues. Third, a lot of studies have found that relying on volunteers alone tends to privilege certain voices and I am always mindful of maintaining a diversity of perspectives and experiences in our classroom. There may, of course, be entirely unforeseen events that prevent you from participating in a given class. In such a circumstance, you should notify me via e-mail **before** class starts.

Professionalism

You are expected to treat your colleagues with respect and professionalism. To that end, I expect that you will observe basic professional courtesies such as arriving on time and turning off your cell phone and other electronic devices. Since one of the key goals of the class is learning how to make effective arguments, it is my hope that we can have lively class debates where all students feel comfortable participating and expressing their opinions. Respect for your colleagues is vital to fostering a healthy debate environment. At all times, remain mindful of the diversity of perspectives and experiences in our classroom and be respectful and civil as you articulate your arguments.

Collaboration

Because this course will at times, seek to replicate situations you will experience in real practice, there will be exercises that require close collaboration and group work. You will be required to work as a team on ungraded assignments and to work with a partner at times.

SYLLABUS

Please find below the topics and reading assignments for the semester. Please note that **LH** refers to “Lee and Harris” (aka our crim course textbook), **MPC** refers to the Model Penal Code (available via in LH), and **SR** refers to supplemental readings that provide social context (SRs are *not* tested but give students the opportunity to go deeper into issues that the law is connected to in order to understand nuances or affects a certain doctrine may create). Unless otherwise indicated, SRs are available in LH.

Please note that I may also add and provide supplemental materials, when or if necessary to our Canvas site. If I do so I will give the class prior notice to such changes. Additionally, reading assignments could change during the semester, depending on the flow of the class and progress made in covering particular subjects. **I will notify students in class and via Canvas if I’ve made any updates to the syllabus. To that end, always make sure that you have the latest version of the syllabus (see footer)!** You are free to read ahead within topics, but it is generally not a good idea to skip ahead to a major topic that has not yet been introduced in class or read multiple weeks in advance. It will be necessary to bring the course textbook with you to every class.

General Overview of the Course Layout: Criminal law is one of the most challenging and interesting areas of the practice. The basic framework of criminal law and the analytical processes you will learn in this course will be applicable throughout your entire legal education. But there is a lot to cover. This course will cover five main topics to give you the tools to approach and analyze criminal law issues in a disciplined and systematic way: (1) a general overview of the criminal legal system; (2) the basic components that make-up a crime; (3) the elements of core crimes; (4) defenses to those crimes; and (5) inchoate offenses.

TOPIC I: OVERVIEW OF THE CRIMINAL LEGAL SYSTEM		
CLASS	SUBJECT MATTER	READING ASSIGNMENT
WEEK 1		
Tu 8/22 – Class 1	The Aims of Criminal Law and Punishment <i>Regina, Suitte</i>	LH: 1-20 SR: 20-31
Th 8/24 – Class 2	Presumption of Innocence and Criminal Law Procedural Protections; <i>Curley</i>	LH: 38-49 MPC 1.02, 1.04, 1.12
Knowledge Check available on Canvas after Class 2		
WEEK 2		
Tu 8/29 – Class 3	Jury Nullification and Statutory Interpretation <i>Williams, Dauray</i>	LH: 49-57; 65-73 SR: 57-65 MPC: 1.12
Th 8/31 – Class 4	The Dilemma of Discretion <i>Kolender</i>	LH: 75-76; 81-88 SR: 96-100; 134-145 (<i>McCleskey</i>); 914-16
Knowledge Check available on Canvas after Class 4		

TOPIC II: COMPONENTS OF A CRIME ACTUS REUS AND MENS REA		
CLASS	SUBJECT MATTER	READING ASSIGNMENT
WEEK 3		
Tu 9/5 – Class 5	Actus Reus–Voluntary Acts and Omission <i>Martin, Decina, Beardsley</i>	LH: 147 (intro); 153-167 SR: 147-150 (<i>thought crimes</i>) MPC 2.01
Th 9/7 – Class 6	Mens Rea I–Development of Mens Rea <i>Cunningham, Yermian</i>	LH: 197-204 MPC: 2.02
WEEK 4		
Tu 9/12 – Class 7	Mens Rea II–Intent + MPC Approach <i>Yermian (cont'd), Holloway, Fugate</i>	LH: 204-212 MPC 2.02
Th 9/14 – Class 8	Mens Rea III – Knowledge <i>Jewell, Scott, Atkins, Morissette</i>	LH: 213-233 MPC 2.05
WEEK 5		
Tu 9/19 – Class 9	Mens Rea IV - Mistake of Fact and Law <i>Navarro, Marrero</i>	LH: 253-256; 261-268 MPC 2.04
Th 9/21 – Class 10	Mens Rea IV (cont'd) + Causation and Concurrence <i>Kibbe, Regnam</i>	LH: 301-2 (through prox. causation); 312-318 MPC 2.03

TOPIC III: CORE CRIMES		
CLASS	SUBJECT MATTER	READING ASSIGNMENT
WEEK 6		
Tu 9/26 – Class 11	Theft, Burglary, Robbery <i>Mills, Eichman</i>	LH: 573-588
Knowledge Check available on Canvas after Class 11		
Th 9/28 – Class 12	MIDTERM!	Covers Classes 1-11
WEEK 7		
Tu 10/3 – Class 13	Homicide I – Overview + Premeditation and Deliberation <i>Bingham, Gilbert</i>	LH: 319-324; 330-339 MPC 210.0 – 210.5
Th 10/5 – Class 14	Homicide II – Voluntary Manslaughter <i>Ambro, Berry, Dumlao</i>	LH: 342-362; 370-377 SR: 363-370 MPC 210.0 – 210.5
Knowledge Check available on Canvas after Class 13		
WEEK 8		
Tu 10/10 – Class 15	Homicide III – Depraved Heart and Involuntary Manslaughter <i>Malone, Knoller, Welansky Williams</i>	LH: 377-399 SR: 399-401 MPC 210.0 – 210.5
Th 10/12- Class 16	Midterm Review	
WEEK 9		
Tu 10/17 – Class 17	Homicide IV – Felony Murder <i>Hines</i>	LH: 389-402; 409-411 MPC 210.0 – 210.5
Th 10/19 – Class 18	Rape and Sexual Offenses I – Overview and Traditional Actus Reus <i>Rusk, Alston</i>	LH: 435-450; 455-463 SR: 450-455
Knowledge Check available on Canvas after Class 18		
WEEK 10		
Tu 10/24 – Class 19	Rape and Sexual Offenses II – Non-Consent Requirement, Statutory Rape <i>Berkowitz, Garnett</i>	LH: 463-473; 525-531 SR: 91 <i>Ind. L. J.</i> 1363; 511-519; 540-543 MPC 213 (new MPC sections)
Knowledge Checks available on Canvas after Class 19		

TOPIC IV: DEFENSES		
CLASS	SUBJECT MATTER	READING ASSIGNMENT
WEEK 10 (cont'd)		
Th 10/26 – Class 20	Defenses I – Categories, Burden of Proof, Justification, Self-Defense <i>Goetz, Simon</i>	LH: 603-622 MPC 3.01-3.04
WEEK 11		
Tu 10/31 – Class 21	Defenses II – Self-defense cont'd, Defense of Others, Defense of Habitation <i>Stewart, Wanrow, Young, Brown, Ceballos</i>	LH: 623-653 MPC 3.05-3.06
Th 11/2 – Class 22	Defenses III – Necessity <i>Schoon, Hutchins, Eichorn</i>	LH: 657-675
WEEK 12		
Tu 11/7 – Class 23	Defenses IV – Excuse, Duress, Insanity <i>Contento-Pachon, Freeman</i>	LH: 675-681; 698-710 MPC 2.08-2.09
Knowledge Check available on Canvas after Class 23		

TOPIC V: INCHOATE OFFENSES		
CLASS	SUBJECT MATTER	READING ASSIGNMENT
WEEK 12 (cont'd)		
Thu 11/9 – Class 24	Inchoate Offenses I – Attempt <i>LaTraverse, Harris</i>	LH: 801, 807-816 MPC 5.01
WEEK 13		
Tu 11/14 – Class 25	Inchoate Offenses II – Attempt Mens Rea; Impossibility <i>Harris, Thomas</i>	LH: 814-16; 822-32 MPC 5.01-5.05
Th 11/16 – Class 26	Accomplice Liability – Actus Reus + Mens Rea and Limits <i>Pace, Foster, Roy</i>	LH: 833-41; 845-52 MPC 2.06
WEEK 14		
Tu 11/21 – Class 27	Conspiracy <i>Pacheco, Swain, Mothersill</i>	LH: 853-65; 873-78
Th 11/23 – Class 28	<i>No Class—Thanksgiving Holiday!</i>	
Knowledge Check available on Canvas after Class 27		
WEEK 15		
Tu 11/28 – Class 29	<i>Tentative Final Exam Review</i>	
Th 11/30 – Class 30	<i>Catch up class – TBD</i>	
Final Exam Date TBD	<i>*Criminal Law Final Exam!*</i>	

Additional UB Law Policies

Academic Integrity: Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. The School of Law Honor Code is available at https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

Course Evaluations: It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after grades are submitted.

Title IX Sexual Misconduct and Nondiscrimination Policy: The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy. If you are a student with a documented disability who requires an academic accommodation, please contact Erin Brady, Director of Student Support at ebrady@ubalt.edu. Note that classroom accommodation requests should be submitted 3 weeks before the start of the semester. Exam accommodation requests should be submitted no later than 2 weeks after the start of the semester.

Student Issues and Mental Health: For general student issues, students should contact Dean Paul Manrique (pmanrique@ubalt.edu; 410-837-5283). For mental health concerns, students can contact Dean Manrique or Stephen Mogar, the University's Clinical Case Manager (smogar@ubalt.edu). Dean Manrique's office is located in the AL 7th floor Dean's Suite, and he welcomes students to walk in. Both Dean Manrique and Mr. Mogar are also able to schedule phone and Zoom appointments.

Academic Support: For questions about academic challenges including preparing for and participating in your classes, reviewing and outlining for exams, and studying for and taking exams, students can contact Prof. Marta Baffy (mbaffy@ubalt.edu; 410-837-6370.). Prof. Baffy's office is located on the 5th floor in Room AL 513.