Massachusetts Cases and Materials – In addition to the material assigned from the texts you will required to read and be prepared to discuss certain Massachusetts cases and materials. These cases are listed below in the appropriate sections and will be made available to you either directly through TWEN or by citation.

Purpose: This course will give students a solid foundation for “Massachusetts Distinctions” which are often tested in the written section of the Massachusetts Bar Exam, as well preparing students to be competent practitioners in the area of criminal defense in Massachusetts Trial Courts.

This upper-level course will closely examine selected Massachusetts statutory, decisional and common law crimes as well as the related penalties. Focus will be on comparing the common law crimes that you learned in your foundational Criminal Law course to the Massachusetts distinctions. You will study Massachusetts’ law as it relates to:

- Criminal Homicide;
- Mental Health Issues: Competency, Diminished Capacity and Criminal Responsibility;
- Justification and Excuse;
- Attempt, Conspiracy, and Complicity;
- Criminal Trials and Appeal.

In addition to providing a basis for high performance on “Essay Day” of the Bar exam this course will serve as a comprehensive review of the common law crimes for Day One of the Bar Exam.
Grading: Periodic quizzes, the midterm and the final examinations combine to determine your grade in this class. You are expected to participate in all class discussion. Lack of such participation may impact negatively on your grade.

Course Requirements & Class Participation

Class Attendance:

Students must come to class prepared to brief cases and for class discussion. You are expected to be in class and to participate. Individuals who have more than three unexcused absences during the semester may have their semester grade lowered by as much as one-third of a grade.

Attendance is taken at the beginning of class. You will be marked absent if you are not present when attendance is taken.

Notes And Tape Recorders In Class

I follow the syllabus and I test what I teach. Do all of the assigned readings and attend class and you will be prepared for the exams. It is necessary that you develop an effective method of recording and retaining the materials as they are taught and discussed. Because classes are interactive it is not advisable to take copious notes. Research strongly indicates that students who attempt to use word processors to “transcribe” class discussions perform less well on exams than do those students who actively participate in class. Use of tape/digital recorders are allowed in this class and may be preferable for you.

The purpose of class is to learn the law through discussion. By doing so, you will develop the analytical skills necessary for excellence as a competent attorney. This is unlikely to be achieved if your focus in class is merely being a scribe.

CLASSROOM DECORUM

All students are expected at all times to conduct themselves in a civil manner as follows:

1. **Timeliness.** Arrive on time. Late arrivals are disruptive. Frequent late arrivals will be excluded from the classroom.

2. **Cell Phones and Messaging.** There will be no cell phone use in class, with the exception of extraordinary circumstances. All cell phones must be turned off before the class begins.

   If there is a family emergency requiring you to be reachable, approach me before class and inform me of the situation. In such an event you may keep your cell phone on if it has a “vibrate” only option.

   In the event that your cell phone or other device disturbs the class you will be told to leave the classroom immediately and will be marked as absent for the class.
3. **Laptop Computers.** While many colleges and professional school are banning laptop computers from classroom, I believe that they can be a useful classroom tool. Arrive early enough to start your laptop prior to class such that start up noises will not be disruptive to other students.

If I determine that you are using the computer for other than legitimate classroom purposes you will be immediately told to leave and will be marked absent for the class.

4. **Talking in Class.** This is an interactive class, and it is normal for there to be a bit of a “buzz” while we are discussing a case, a principle or a hypothetical. You are expected to listen while others are talking and to respond when called upon. Civility is expected at all times by all students.

5. **Eating/Drinking in Class.** Eating in class is strongly disfavored. I understand that stressed-for-time students are often unable to take meals at normal hours, and therefore snacks and drinks will be tolerated as long as they are not disruptive. I will not tolerate full meals, full “submarine” sandwiches, or anything of the like. I also will not tolerate undue noise such as stubborn plastic wrappers. I will ban all foods and drinks in class if, in my opinion, they are becoming a distraction.

6. **Civility Above All Else.** Each of you will be treated at all times with courtesy and respect, and will treat others with equal civility at all times. In our class discussion we will argue issues but never personalities.
Class Assignments / Topics:

Week 1:

Class 1: Introductions and Course Expectations
Read and be ready to discuss this material for the first day of class:

Scheft: Introductory Material, pgs. 1-1 to 1-12:

The Sources of Criminal Law
1. Statutes
2. Common Law
3. Model Penal Code
4. Regulations

Anatomy of a Crime

A. Elements: The Building Blocks

B. Intent
   1. Specific Intent
   2. General Intent
   3. Malicious
   4. Reckless
   5. Negligent
   6. Strict Liability

C. Lesser Included Offenses

D. Right of Arrest
   1. Probable Cause
   2. Arrest Warrant
   3. Warrantless Arrest
   4. Criminal Complaint Application
   5. Misdemeanors
   6. Statute Present
   7. Statute Past
   8. In Presence
   9. Breach of the Peace
   10. Complaint presence breach of peace
   11. Felony

E. Burden of Proof

F. Penalties

G. Jurisdiction

H. Statute of Limitations – G.L. c. 277 §63

I. Venue

Class 2: Crimes Against the Person:

Assault G.L. c. 265, § 13A
Scheft: pgs. 4-1 to 4-2;
Week 2:

**Class 1:**

**Assault with intent to Murder or Maim G.L. c. 265 § 15**

Scheft: pg. 6-6  
Rogers: pg. 186

**Assault by Means of a Dangerous Weapon G.L. c. 265, § 15B**

Scheft: pgs. 4-3 to 4-5

**Armed Assault with the intent to Rob or Murder G.L. c. 265 § 18**

Scheft: pg. 26-6  
Rogers: pg. 191

**Armed Assault in a Dwelling House G.L. c. 265 § 18A**

Scheft: pg. 31-13  
Rogers: pg. 192

**Unarmed Assault with the intent to Rob or Steal G.L. c. 265 § 20**

Scheft: pg. 26-6  
Rogers: pg. 195

**Assault with intent to commit any Felony G.L. c. 265 § 29**

Scheft: pg. 4-15 (Notes)  
Rogers: pg. 205

**Class 2:**

**Assault and Battery G.L. c. 265 § 13A**

Scheft: 4-6 to 4-9  
Rogers: pgs. 175-176

**Assault & Battery on a Public Employee G.L. c. 265 § 13D**

Scheft: pgs. 5-1 to 5-3  
Rogers: pg. 179

**Attempted Assault & Battery by Discharging a Firearm G.L. c. 265 § 15E**

Scheft: pg. 4-15 (Notes)  
Rogers: pg. 190

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*Commonwealth v. Richards*, 363 Mass. 299 (1973) posted on TWEN
Week 3:

Class 1: Assault & Battery w/ a Dangerous Weapon (ABDW)
   G.L. c. 265 § 15B
   Scheft: pgs. 4-10 to 4-13
   Rogers: pgs. 188 to 189

Dangerous Weapons G.L. c. 269 § 10(a)(b)
   Scheft: 4-3, 18-1 to 18-6
   Rogers: pgs. 266 to 268

A&B by Means of a DW Serious Bodily Injury, DROs & Pregnancy
   G.L. c. 265 § 13A
   Scheft: pg. 4-6
   Rogers: pg. 176

Class 2: Mayhem G.L. c. 265, § 14
   Scheft: pgs. 4-16 to 4-18

Domestic Violence & Restraining Orders & Harassment Prevention Orders
   Scheft: 13-1 to 13-31

Week 4:

Class 1: Crimes Against the Person Confinement Offenses and Sex Offenses
   Kidnapping - G.L. c. 265, § 26 & (A) Parental Kidnapping
   Scheft: pgs. 7-1 to 7-6

Theft Offenses -- Larceny G.L. c. 266, § 30
   Scheft: pgs. 25-1 to 25-10;
   Rogers: pgs. 224 to 226

Class 2: Theft Offenses -- Larceny G.L. c. 266, § 30 (Con’t)
   Scheft: pgs. 25-1 to 25-10;
   Rogers: pgs. 224 to 226

Property Crime Embezzlement - G.L. c. 266, § 30
   Scheft; pgs. 25-1, 25-8 – 25-10;
   Rogers: pg. 225
   Rogers: Editor’s Note top of pg. 225 on Merger Clause

False Pretense - G.L. c. 266, § 30
   Scheft: pgs. 25-1, 25-4 – 25-7;
   Rogers: pg. 224
Week 5:

Class 1:  
Crime of Attempt - G.L. c. 274, § 6  
Scheft: pgs. 2-8 to 2-10;  
Rogers: pg. 301

Attempted Larceny G.L. c. 274, § 6  
Scheft: pgs. 25-11;

Larceny from the Person - G.L. c. 266, § 25  
Scheft: pgs. 27-1;  
Rogers: pg. 222

Larceny by Stealing in a Building – G.L. c. 266, § 20  
Scheft: pgs. 27-2  
Rogers: pg. 220

Shoplifting - G.L. c. 266, § 30A,  
Scheft: pgs. 28-1 to 28-4;  
Rogers: pgs. 228-230

Class 2:  
Larceny by Check – G.L. c. 266, § 37  
Scheft: pgs. 27-3 to 27-4;  
Rogers: pg. 231

Receiving Stolen Property - G.L. c. 266, § 60  
Scheft: pgs. 29-1 to 29-4  
Rogers: pg. 238

Uttering - G.L. c. 267, § 1  
Scheft: pgs. 30-1 to 30-5;  
Rogers: pg. 256

Forgery G.L. c. 267, § 5  
Scheft: pgs. 30-1to 30-5;  
Rogers: pg. 256

Week 6:

Class 1:  
PROPERTY CRIMES

Armed Robbery – G.L. c. 265, § 17  
Scheft: pg. 26-1  
Rogers: pg. 190

Unarmed Robbery G.L. c. 265, § 19
Scheft: pgs. 26-1;
Rogers: pg. 194

**Armed Robbery & Armed Robbery While Masked** G.L. c. 265, § 17
Scheft: pg. 26-5
Rogers: pg. 190

**Class 2:**

**Armed Assault in a Dwelling** G.L. c. 265, § 18(A)
Scheft: pg. 31-13
Rogers: pg. 192

**Use of a Firearm while Committing a Felony** G.L. c. 265, § 18(B)
Scheft:
Rogers: pg. 193

**Home Invasion While Armed** G.L. c. 265, § 18(C)
Rogers: pg. 193
Scheft: pgs. 31-11 to 3-12;

**Armed / Unarmed Assault w/ Intent to Rob or Steal** G.L. c. 265, § 20
Scheft: pg. 26-6
Rogers: pg. 195

**Stealing by Confining and Putting in Fear** G.L. c. 265, § 21
Scheft: pg. 26-6
Rogers: pg. 195

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**Week 7:**

**Class 1:**

**PROPERTY CRIME: HABITATION OFFENSES**

**Armed Burglary - G.L. c. 266, § 14**
Scheft: pgs. 31-9;
Rogers: pgs. 214-215

**Unarmed Burglary - G.L. c. 266, § 15**
Scheft pgs. 31-9;
Rogers: pg. 216

**B&E w/ Intent to Commit Felony – G.L. c. 266, § 16**
Scheft: pgs. 31-14;
Rogers: pg. 216

**B&E w/Intent to Commit Misdemeanor – G.L. c. 266, § 16A**
Scheft: pgs. 31-14;
Rogers: pg. 217
Class 2: Parties to Crime and Group Liability

PRINCIPAL:
Chapter 2 Offender Roles
Principal
   Scheft: pgs. 2-1;

ACCOMPlice & JOINT VENTURE:
   Scheft: pgs. 2-2 – 2-5;

Joint Venture:
   Commonwealth v. Wood, 2014 WL 3857252

Proof that Accomplice Knew the Principal carried a Weapon:

Week 8:

Class 1: ACCESSORIES:
   Commonwealth v. Sherman, 191 Mass. 439 (1906) posted on TWEN

Accessory Before the Fact - G.L. c. 274 § 2
   Rogers: pg. 313 - 314

Accessory After the Fact – G.L. c. 274 § 4
   Rogers: pg. 313 - 314

NOTE: See Protected Relative Defense
   Scheft: bottom of pg. 2-2;

Absolute Defense by Relatives
   Rogers: bottom of pg. 314;
   Commonwealth v. Sokorelis, 254 Mass.154 (1926) posted on TWEN

Class 2: CONSPIRACY:

Conspiracy – G.L. c. 274, § 7
   Scheft: pgs.2-11 to 2-14
   Rogers: pg. 302
NO Overt Act Requirement:


Object of the Conspiracy:


Massachusetts May Adopt Defense of Renunciation

Scheft: bottom of pg. 2-1;
Rogers: bottom of pg. 302


Week 8:

**Class 1:**

**SOLICITATION**

Solicitation of a Felony

Scheft: pgs. 2-15 to 2-16;

**Threats to Commit a Crime G.L. c. 275, § 2-4**

Scheft: 3-1 to 3-6
Rogers: pgs. 303-304

**Class 2:**

**Rape G.L. c. 265 § 22(B) and Aggravated Rape G.L. c. 265 § 22(A)**

Scheft: 9-1 to 9-6
Rogers: pgs. 197, 196

**Statutory Rape G.L. c. 265 § 23 and Aggravated Statutory Rape G.L. c. 265 § 23(A)**

Scheft: 9-8 to 9-10
Rogers: pg. 198

Week 10: Mid-Term Exam