



MASSACHUSETTS SCHOOL OF LAW at ANDOVER  
TENTATIVE CRIMINAL LAW SYLLABUS -- Fall 2020

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This is my personal cell phone use this number for calling or texting.  
Please use this for class related or business purposes only.

**Text:** *Criminal Law and Procedure – Cases and Materials*  
Thirteenth Edition, Donald A. Dripps, Ronald N. Boyce, Rollin M. Perkins  
ISBN# 978-1-63460-928-9

**Purpose:** This is the introductory course for statutory and common law Criminal Law intended as the foundation for the Bar Exam and competence for criminal defense practitioners.

**Grading:** The midterm and final examinations combine for **85%** of your final grade. In addition, there will be weekly assignments of MBE-type questions and/or fill-in-the-blank-element questions. These assignments will operate as quizzes and will combine to be **15%** of the semester grade. **I reserve the right at any time during the semester to modify and/or change the course grading.**

**Lack of attendance and/or class participation has the potential to impact negatively on the semester grade.**

**Please Note:** (1) Because no one can predict the course of the pandemic, it is possible that the structure and rules of the course will be modified on short notice. We will communicate any changes via TWEN email blasts, but you will need to routinely check the MSL website, Twitter and/or Facebook page for changes in case you miss any of the notifications.

(2) MSL is working on the assumption that classes will begin live and continue as in-person classes for the entire semester. It is possible, however, that one of the three additional situations will occur: (1) classes will start live but change to virtual if the scientific/medical information suggests we should no longer meet live, (2) by the beginning of the semester, we will not be able to conduct any live classes for the entire semester, in that case we will change to virtual classes or (3) we will not

be able to start live, but may be able to shift to live classes later in the semester. Your professors are preparing for all of these three possibilities.

(3) Some of you may have medical conditions or be responsible for the direct care of those who have medical conditions, which makes it unsafe for you to come to the building for live classes. In such a circumstance, please contact Assistant Dean Paula Kaldis, with a copy to Professor Rodriguez in order to arrange to take the classes remotely.

(4) If you do not return the Community Agreement Contract that Dean Coyne had disseminated earlier, you will not be able to take classes live. In such case, please contact Assistant Dean Paula Kaldis and copy Professor Rodriguez about taking the class remotely.

The administration has informed us that this will not excuse you from taking exams live, and you will need to arrange to take the exams in the building without other students being present. If you take an alternative exam, you will still have to wear a mask or face covering at all times, and otherwise comply with MSL's pandemic rules, while you are in the building.

(5) At this point, it is the goal of the administration that everyone will take the Criminal Law final exam on campus rather than online. The administration understands that the course of the pandemic is unpredictable and will continue to monitor the science/medical information with the health and safety of our students foremost in its thoughts. We will notify you if and when circumstances change.

## 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.

### Quizzes:

I **will not** permit any make-ups for missed weekly in-class and on-line TWEN quizzes.

### 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 form 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:***

**\*PLEASE NOTE THAT THIS IS A PRELIMINARY COURSE SYLLABUS THAT COVERS THE FIRST FOUR WEEKS ONLY OF THE FALL SEMESTER. I WILL EXPLAIN THE REASONS WHY DURING CLASS 1 OF WEEK 1.**

**\*YOU ARE RESPONSIBLE FOR ALL FOOTNOTES AT THE BOTTOM OF THE PAGE IN YOUR COURSE TEXTBOOK.**

### **WEEK 1**

- Class 1*** Introduction and Course Expectations:
- Class 2*** **Chapter 1: Criminalization, Definition and Classification**  
Section 1. ***Nature and Purpose of the Criminal Law***  
*In re Winship*
- Section 3. **Classification and Collateral Consequences**
- Chapter 6: Responsibility: In General**  
Section 1. **Mens Rea**  
*Elonis v. United States*  
*United States v. Bailey*  
*Flores-Figueroa v. United States*
- Section 2. **Negligence and Recklessnes**  
*Gian-Cursio v. State*  
*State v. Peterson*  
*Conroy v. State*  
*State v. Howard*

### **WEEK 2**

- Class 1:*** **Chapter 6: Responsibility: In General**  
Section 3. **Intent: General, Specific, and Conditional**  
*State v. Wickstrom*  
*Dobbs' Case*  
*Thacker v. Commonwealth*  
*Holloway v. United States*
- Section 4. **Other Peculiar States of Minds**  
*(A) Malice*  
*State v. Laughlin*
- Class 2:*** **Chapter 6: Responsibility: In General**  
Section 4. *Terrell v. State*  
*State v. Nastoff*
- Section 4. *(B) Knowledge/Scienter*  
*State v. Beale*  
*People v. Kanan*  
*United States v. Heredia*  
*(C) Wilfulness*  
*Fields v. United States*  
*Bryan v. Unites States*

\* Where Class 1 of a week falls on a school holiday be prepared to cover all materials due for the week in Class 2 of that week, as time allows, as well as in subsequent classes. 5

### WEEK 3\*

#### **Class 1:**

#### **Chapter 6: Responsibility: In General**

- Section 5. **Strict Liability**  
*Commonwealth v. Olshefki*  
*Staples v. United States*  
*Commonwealth v. Koczwara*
- Section 6. **Unlawful Conduct**  
*State v. Sealy*
- Section 7. **“Transferred Intent”**  
*Regina v. Smith*  
*Regina v. Faulkner*
- Section 8. **Motive**
- Section. 9 **Concurrence of Mens Rea and Actus Reus**  
*People v. Jeffers*  
*Thabo Meli and Others v. Reginam*

#### **Class 2:**

#### **Chapter 5: Imputability**

- Section 1. **The Necessity of an Act**  
*State v. Quick*
- Section 2. **What Constitutes an Act**  
*State v. Taft*  
*People v. Decina*  
*State v. Kimbrell*  
*(B) Aggravated Assault*  
*State v. Wilson*
- Section 4. **Negative Acts**  
*Biddle v. Commonwealth*  
*Commonwealth v. Teixeira*  
*Jones v. United States*  
*Davis v. Commonwealth*  
*Van Buskirk v. State*
- \* PowerPoint Presentation – Legal Duty to Act**

### WEEK 4

#### **Class 1:**

#### **Chapter 5: Imputability**

- Section 4. **Negative Acts**
- \* PowerPoint Presentation – Legal Duty to Act**
- Section 9. **Causation**  
*State v. Hallett*  
*People v. Roberts*  
*People v. Lewis*  
*Ex Parte Heigho*  
*People v. Stamp*  
*State v. Sauter*

**Class 2:**      **Chapter 5: Imputability**  
Section 9.      **Causation**  
                    *Letner v. State*

**Chapter 5: Imputability**  
Section 9.      **Causation**  
                    *State v. Leopold*  
                    *State v. Iten*  
                    *Regina v. Bengel and Another*  
                    *Lewis v. State*  
                    *Green v. State*