

SYLLABUS

1. Website Updates

On my website, <http://guweb2.gonzaga.edu/~dewolf/crim09/default.htm>, I have more information and resources. Please check it for recent amendments to the syllabus or reading list.

2. Text

The text we will be using is Kadish & Schulhofer, *Criminal Law and Its Processes: Cases and Materials* (8th ed. 2007, ISBN 978-0-7355-5794-9). I think you will find the casebook to be very stimulating, but also challenging. It covers not only the central concepts of criminal law, but provides lots of background on why the criminal law is the way it is and problems that are encountered in administering it.

3. The Model Penal Code

One of the unique things about criminal law is the way in which it is dependent upon statutes. Not only is the law derived from a statute (which makes it similar to other code courses like the UCC or tax), but the reliance on statute is a matter of principle. Whereas in tort law or contract law appellate courts are relatively free to adopt or evolve new concepts that do a better job of balancing the needs of the affected parties, in criminal law the principle is *nulla poena sine lege*—without a statute there is no crime. The hardest part of criminal law (at least in this course) is not memorizing the elements of different crimes, but learning how the complex (and highly technical) criminal codes operate. To give you a feel for working with the text of a statute, I have chosen a casebook that emphasizes the Model Penal Code, whose salient provisions are reprinted verbatim in an appendix to your casebook. You will be permitted to use the Code on that part of the exam that requires close analysis of the Code, and thus you need not memorize its provisions. However, you will need to know the general rules by which the Code operates and be familiar with how it differs from other approaches to criminal law problems.

4. Reading Assignments

There is much more that could be covered in this course than we will have time for. In particular, I have skipped large portions of the law of homicide, figuring that in the "real world" you will not have any difficulty identifying whether you have a homicide case, and if you do I assume you will have enough sense to realize that you will need more than this course to prepare you for dealing adequately with it. I have also skipped the sections on criminal procedure and the burden of proof and the treatment of theft offenses. The total reading comes to about 40 pages per day.

The exact page coverage will be indicated on the attendance sheet (see below).

5. Preparation and Attendance

I will expect you to come to class prepared. As an ABA-accredited institution, Gonzaga Law School is required to insure that you regularly attend class and come prepared to participate. To facilitate this process you will receive a "shingle"—a nameplate—that you should bring to each class and "hang out" on the front edge of your table. I will also prepare a back-up in case the first one is lost. That will let me know that you are ready to participate, and also help me learn your names faster. I will also give each of you a class attendance sheet that will contain each of the days

the class meets and a place for you to initial it. Each day that you attend class and are prepared (as indicated by placing your "shingle" out), you should initial the attendance sheet. At the end of the summer I will ask you to turn the sheet in, indicating your compliance with the attendance requirement.

I know there will be times during the semester when you are unable to attend, or unable to be prepared (for example: your father died and you go to attend the funeral; your child is in the hospital with appendicitis; you are stranded without transportation; etc.) I will assume that whenever you are absent (or present and unprepared) it is for a good cause, so it is unnecessary for you to tell me so. There may even be days when you need to take a vacation for the sake of your mental health. Since part of your task as a lawyer will be making similar determinations, please don't ask me for permission. I will trust you to make good decisions. By the same token, you are responsible to attend class regularly.¹

Being prepared means that you have read the assigned materials and that you have taken notes that include a summary of the principal cases and the notes that accompany them.

6. Exams

I have put several prior exams on file, along with sample answers. As you can see, part of the exam is multiple choice, based upon the application of general principles from the Model Penal Code. Because the Code operates in a technical way, it is ideal for right/wrong answers. You will also be expected to analyze a fact pattern according to the Model Penal Code provisions, and you will also be asked in at least one question to explain the differences that would be expected if the Model Penal Code did not govern that fact pattern.

¹I will be videotaping each class. Past years have also been videotaped and are available on iTunes.