

**RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
PROGRAM IN CRIMINAL JUSTICE**

CRIMINAL LAW: THEORY AND PRACTICE

FALL 2017

01:202:309:01

T/Th 5-6:20

TIL - 116

Instructor: Philip Nettl, Esq.
Phone: (732) 745-9000
Email: philnettl@gmail.com
Office Hours: by appointment

**Learning Goals:
A Statement of Principles**

The Program Committee for the Program in Criminal Justice at Rutgers University in New Brunswick has adopted a series of learning goals for students who complete the major. These goals represent the consensus of the faculty regarding the concepts a student should grasp and the skills a student should acquire in the course of completing the major. These goals guide the choices faculty make about the structure of the curriculum and the requirements for our majors. Moreover, they guide faculty and instructors preparing course material and teaching courses.

The Program in Criminal Justice will provide students with a rich understanding of crime and criminal justice in the United States and abroad through an interdisciplinary approach that blends a strong liberal arts educational experience with pre-professional instruction in the field of criminal justice. Graduates of the program will be well-informed citizens on the topic of crime and justice, and qualified for graduate study or for employment as practitioners in a variety of legal, policymaking, and law enforcement fields.

Criminal justice majors graduating from a research university should be able to use critical thinking, factual inquiry, and the scientific approach to solve problems related to individual and group behavior. In addition, students should have an understanding of the legal, political and policymaking processes that affect criminal justice systems in the United States and elsewhere in the world. Finally, students should be familiar with the institutional structures and latest developments in the field in order to engage in meaningful debate about current public policy issues.

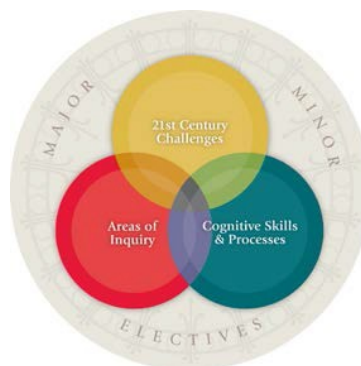
Learning Goals for Criminal Justice Majors

1. Competence:

- a.) **Theory.** Students who complete the major in criminal justice should understand and be able to articulate, both orally and in writing, the core

theoretical concepts that form the foundation of analysis and research in criminology and criminal justice today. Core concepts are derived from explanations of crime from a variety of perspectives, including biogenic, psychological, and sociological approaches. There are myriad theories of crime that are informed by these perspectives, including, classical, control, critical, ecology, labeling, learning, strain, and trait-based approaches. Theoretical literacy should extend to multicultural and international understanding.

- b.) **Institutions.** Students who complete the major in criminal justice should understand the special role of three types of institutions: Police, Corrections, and Courts. In addition, students should know how institutional forms vary across jurisdictions and how these institutions interact with and influence each other.
 - c.) **Research Methods.** Students who complete the criminal justice major should be familiar with the tools, techniques, and data sources necessary for empirical analysis. Students should understand the various ways that empirical analysis is used in the scientific approach: for description, for developing, and for testing theories. They should be able to analyze data using computer applications and should be familiar with basic statistical techniques and regression analysis. They should be able to read and assess research from a wide range of sources, including general interest, academic, and government publications.
2. **Critical Thinking:** Upon completion of the major students should be able to apply their understanding of core concepts and quantitative tools to analyze and research real world problems, and evaluate alternative policy proposals on a range of criminal justice issues, from micro-level analyses relevant to particular cases to management concerns to macro-level analyses of legislative and other broad-scale policies. Accomplishment of this goal will require that students can apply their literacy and numeracy skills to different institutional structures, within the U.S. and across countries.
 3. **Scholarship:** Qualified majors should have an opportunity through such avenues as advanced coursework, internships, and faculty interactions to conduct independent research on matters of central relevance to the field of criminal justice.



COURSE OBJECTIVES

This course will provide students with a solid foundation to enable those who will, in greater or lesser degree, participate directly in the process of the criminal law and for others an understanding of the Criminal Law sufficient to bring an informed intelligence to the challenge of solving some of the most vexing problems of our times. Finally, students should be familiar with the institutional structures of the Courts, the Prosecution, the Defense and Law Enforcement in order to engage in meaningful debate about current Public Policy Issues, impacting the Criminal Law and its Processes.

GRADING:	Exam #1	40%
	Exam #2	40%
	Presentation (written or oral)	10%
	Class participation	10%

The final grade will be assigned based upon the following scale:

A	=	90-100	C	=	70-74.9
B+	=	85-89.9	D	=	60-69.9
B	=	80-84.9	F	=	below 60
C+	=	74-79.9			

REQUIRED TEXTS

CRIMINAL LAWS AND ITS PROCESSES: CASES AND MATERIALS. (9th Edition).
Kadish, S. H., Schulhofer, S. J., & Steiker, C. S. ISBN: 9781454817550

SUGGESTED READING

American Law Institute: Model Penal Code and Commentaries (1980-1985)
Encyclopedia of Crime and Justice (S.H. Kadish ed., Macmillan and Free Press, 1983)
Criminal Law by Wayne LaFave (West Publishing Company, 3rd Ed. 2000).
Understanding Criminal Law by Joshum Drossier (Mathew Bender, 2nd Ed. 1995)
Criminal Law: The General Part by Glanville William (2nd Ed. 1961).
Textbook of Criminal Law by Glanville Williams (2nd Ed. 1983).
Rethinking Criminal Law by George Fletcher (Little Brown 1978).

DISABILITY POLICY & ACCOMMODATIONS

- Full disability policies and procedures are at <http://disabilityservices.rutgers.edu/>
- Students with disabilities requesting accommodations must follow the procedures outlined at: <http://disabilityservices.rutgers.edu/request.html>

ACADEMIC DISHONESTY

Rutgers University has a well-defined academic integrity policy, which will strictly enforced in this class. All students in this class should review and be familiar with the policy of the university, which can be found at:

[http://academicintegrity.rutgers.edu/files/documents/AI Policy 9 01 2011.pdf](http://academicintegrity.rutgers.edu/files/documents/AI_Policy_9_01_2011.pdf)

ATTENDANCE & PARTICIPATION

Students are expected to attend every class. Additionally, students are required to participate in class discussions throughout the semester. Ten percent of the course grade is based upon this performance. If you expect to miss one or two classes, please email me at philnettl@gmail.com to indicate the date and reason for your absence. You are expected to have the material read for the respective class.

COURSE OUTLINE

As in previous course at the 200 series, the substantive materials continue to focus on imparting an understanding of those basic principles and doctrines that come into play across the range of special offenses. While we do not believe that mastery of the detailed elements of many particular crimes is an appropriate goal for a basis undergraduate criminal law course. Nevertheless, it is important that students obtain an understanding of the basic principles as reflected in the detailed case studies of some particular offenses.

COURSE OUTLINE

- September 5 **Introduction:** Course requirements; overview of criminal law
- September 7,12: I. **HOW GUILT IS ESTABLISHED**
- *An overview of Criminal Trial Procedure
 - *The Adversary Trial Process
 - *Conviction by Guilt Plea
- CASE STUDIES:**
- People v. Zackowitz
 - Duncan v. Louisiana
 - U.S. v. Dougherty
- September 14,19,21: II. **JUSTIFICATION OF PUNISHMENT**
- *Perspectives on Punishment
- CASE STUDIES:**
- Regina v. Dudley & Stephens
 - U.S. v. Bernard L. Madoff
 - U.S. v. Gementera
 - U.S. v. Jackson
- *What to Punish
 - Bowers v. Hardwick
 - Lawrence v. Texas
- September 26, 28, October 3, 5, 10: III. **DEFINING CRIMINAL CONDUCT-THE ELEMENTS OF JUST PUNISHMENT**
- *Actus Reus – Culpable Actions
 - *Omissions
 - *Mens Rea - Culpable Mental Status
 - *Mistakes of Fact
 - *Mistake of Law
 - *The Abandonment of Mens Rea
 - *New Jersey Code of Criminal Justice 2C:3-1 thru 2C: 3-11, 2C:2-1 thru 2C:2-12
- CASE STUDIES**
- Martin v. State
 - People v. Newton
 - Pope v. State
 - Jones v. U.S.
 - Barber v. Superior Court
 - Regina v. Cunningham
 - Regina v. Faulkner
 - State v. Hazlewood

U.S. v. Jewell
Regina v. Prince
People v. Olsen
Garnett v. State
Morissette v. U.S.
Staples v. U.S.
State v. Guminga
State v. Baker
People v. Marrero
Cheek v. U.S.

October 12

MIDTERM EXAM

October
17,19,24,26

IV. **RAPE**

- *New Jersey Code 2C:14-1 thru 2C:14-12
- *Actus Reus
- *Deception
- *Mens Rea
- *Force, Nonconsent, and Resistance
- *The Marital Exemption
- *Problems of Proof
- *Cross-Examination and Shield Laws

CASE STUDIES:

State v. Rusk
State v. Thompson
State v. Mlinarich
State in the Interest of M.T.S.
M.C. v. Bulgaria
People v. Evans
Boro v. Superior Court
Commonwealth v. Sherry
Commonwealth v. Fischer
Tyson v. State
People v. Liberta
United States v. Wiley
State v. DeLawder
Government of Virgin Islands v. Scuito

October 31,
November
2,7,9

V. **HOMICIDE**

- *New Jersey Code 2c:11-1 thru 2C:11-4
- *The Premeditation - Deliberation Formula
- *The Provocation Formula
- *The Distinguishing Civil and Criminal Liability
- *The Line Between Murder and Manslaughter
- *The Felony-Murder Doctrine
- *The Death Penalty

CASE STUDIES:

Commonwealth v. Carroll
State v. Guthrie
Girouard v. State
Maher v. People
People v. Casassa
Commonwealth v. Welansky
People v. Hall
State v. Williams
Commonwealth v. Malone
U.S. v. Fleming
People v. Stamp
People v. Phillips
Hines v. State
People v. Burton
State v. Canola

November
14,16,21:

VI. **THE SIGNIFICANCE OF RESULTING HARM**

*New Jersey Code 2C:5-1 and 2C:2-3
*Causation
*Attempt
*Impossibility

CASE STUDIES:

People v. Acosta
People v. Arzon
People v. Warner Lambert
People v. Campbell
People v. Kevorkian
Stephenson v. State
People v. Kern
Commonwealth v. Root
Commonwealth v. McFadden
Commonwealth v. Atencio
Smallwood v. State
People v. Rizzo
McQuirter v. State
U.S. v. Jackson
U.S. v. Harper
U.S. v. Joyce
State v. Davis

November 30,
December 5,7

VII. **EXCULPATION**

*New Jersey Code 2C:3 and 2C:4
*Principles of Justification
*Protection of Life Person
*Protection of Property and Law Enforcement
*Choice of the Lesser Evil-The Residual Principle of Justification

- *Principles of Excuse
- *Duress
- *Intoxication
- *Mental Disorder
- *Changing Patterns of Excuse

CASE STUDIES:

People v. Goetz
State v. Kelly
State v. Norman
State v. Schroeder
Ha v. State
State v. Abbott
U.S. v. Patterson
People v. Ceballos
Durham v. State
Tennessee v. Garner

December 12 **Review**

TBD **Final Exam**