

CRIMINAL JUSTICE LAW 513 - Fall 2009

Professor Virginia E. Hench - Office #208

Office Hours: 1:00-2:00 Tues & Thurs or by Appointment

Sk8legal@prodigy.net or hench@hawaii.edu

Class web site for all class related announcements etc.: <http://www.henchlaw.org>

NOTE: I am having some website problems, so email me to receive the syllabus. I will let you know when the website hosting problem is fixed!

CLASS: This is a four credit class, meeting twice per week. **Thus, each class meeting constitutes two classes.** It is very important NOT to miss class without permission from Dean Jarman. Class meeting time is Tuesdays and Thursdays, from 2:00 - 3:40 pm, CR 2.

PREPARATION: To prepare for class,

Read and UNDERSTAND all assigned materials for the particular class, and review previous materials.

Be prepared to:

Look up and be able to explain the meaning of all legal terminology and other words of importance to the meaning of the materials.

identify and present the *relevant* facts, applicable law, applicable public policy arguments, reasoning of the majority opinion, and any concurring and/or dissenting opinions.

analyze and critique the strong and weak points of the reasoning in each part of the materials, including being able to explain why one may be more persuasive than the other.

DURING CLASS: Students are expected to arrive on time, be seated, and quiet down at the scheduled starting time without having to be told. Students are to be prepared and to participate in class discussions. Students are expected to volunteer, in addition to being prepared when called upon. Snacks and beverages are permitted if they are not noisy, smelly, or otherwise disruptive to the class. Do not play computer games or use your laptop for non-class-related purposes. **Violators may be banned from bringing their laptops to class and may incur negative grade adjustments for poor class participation.**

CLASS PARTICIPATION: Class participation is required, and graded. Students are expected to check their UH email and all relevant notice boards including <http://www.henchlaw.org> (the class website) during the semester for any announcements or changes. You are responsible for noting when classes are and are not scheduled, and for any changes that may be posted. Outstanding class participation can raise your final grade one increment (from a B+ to an A-, for example). Students will be called on at random. There is no presumption that because you were called on recently that you will not be called on again.

PASSES: You are permitted TWO and only TWO passes, provided that the pass is on the table (not the lectern) in the front of the room, dated, with your name on it, BEFORE the starting time of the class. A pass may only be used if you are present in the class room. A pass cannot be used to excuse an unexcused absence.

DISRUPTIVE BEHAVIOR will be penalized. This includes talking during class, except as part of class participation; arriving late, leaving early, failing to silence cell phones and other devices, and using the computer for non-class-related purposes, text messaging and the like during class. Repeated disruptions may result in your grade being lowered from one increment to one letter. Repeated disruptions may result in your expulsion from, and failure of the class. Cellular phones, pagers, and similar devices are to be **TURNT OFF** and sound silenced during class time as the sounds are extremely disruptive to the class.

FINALS: There will be one final exam. That, plus your class participation, will determine your grade for this four-credit course. The final will be open-book, open-notes, but no electronic devices may be used. Further details will be provided during the semester. There will be an optional un-graded practice mid-term at approximately mid-semester so that you can become accustomed to law school exams.

ASSIGNMENTS: Please note: This is an *approximate guide* to where we will be at different points in the semester. It is not a contract, and **IT IS SUBJECT TO CHANGE**. You will not be called on for anything beyond the assigned date. Please note also that *we will NOT necessarily cover everything in class*. You are expected to master the non-covered materials on your own, and to bring them up in class if you have problems or are unsure whether you understand them. Abbreviations: In the syllabus n. means note; nn. means notes; p. = page, pp. = pages; Prob. = Problem(s). For purposes of this syllabus, ‘do’ means to prepare so that you can discuss the assigned material.

	Date	Topics	Assignments
1	Aug. 25, 2009	I. ESSENTIAL CONCEPTS: Intro: Common law. A. Elements of Criminal Conduct; 1. <i>Actus Reus</i> a. Voluntary Act b. Which act is the <i>actus reus</i> ?	Background Reading pp. 2-14 in book - overview of criminal justice process. Do Handout 1 (Decina) .
2	Aug. 27, 2009	A. <i>Actus Reus</i> (cont'd) c. “Knowing” Possession d. Inaction (if duty to act)	Fox , pp. 21-27; Skip <i>Miranda</i> , Do Notes 1-4, pp. 34-35; See definition of “Voluntary Act” in HRS, & compare with statute in Note 5, pp. 35-36.
3	Sept. 1, 2009	B. <i>Mens Rea</i> a. Common Law <i>Mens Rea</i> : i. Specific Intent ii. General Intent	Do Prob. 2-1 pp 34-35; Do Trinkle . pp. 36-38; Rocker , pp. 38-43; Notes 1-3, pp. 43-44; Text: MPC Approach, pp. 44-46; Do Handout 2 .
4	Sept. 3, 2009	b. MPC, USC & HRS <i>Mens Rea</i> concepts: Note differences & similarities to common law 3. Other intent issues: i. Transferred Intent ii. Recklessness v. Mistake / Ignorance vi. ‘Strict Liability’ & Lack of Criminal Intent	Do Sagner , pp. 46-48, notes 1-8 pp. 48-49; Do Notes & Questions p. 54. Do Loge , pp. 55- 60, notes 1-3, p. 61; Do Morissette pp. 66-74; notes & problems pp. 74-75.
5	Sept. 8, 2009	Causation and Concurrence: 1. Need not be <i>sole</i> cause, just a cause a. unintended results of intended acts, b. preexisting conditions c. “eggshell” victims	Handout 3; Dlugash , pp. 101-09; do Grose , pp. 113-15; do Note p. 115 & Problem 2-7 p. 116; Do Velazquez , pp. 116-21 & notes pp. 121-124.

		2. intervening and superseding causes may break causal chain.	
6	Sept. 10, 2009	D. Constitutional Issues: 1 Presumptions 2. Due Process (Notice, opportunity to be heard) 3. Sources of Law: What makes a criminal law valid? E. Statutory Interpretation; 1. conduct not contemplated by drafters;	<i>Sandstrom</i> pp. 146-52, notes 1-2 pp. 152-53; <i>Trial of William Penn. (Handout 4)</i> ; Notes p. 171; <i>Caminetti</i> , pp. 171-179 & Notes & Questions, pp. 179-84.
7	Sept. 15, 2009	2. Definition issues: G. Police Power H. Overbreadth & Vagueness	Text <i>Defining Dangerous & Deadly</i> , pp. 232-33; <i>Davis</i> pp. 233-36; <i>Moore</i> , pp. 236-240 & note. <i>Bonadio</i> , pp. 241-46, note pp. 246-47; <i>Papachristou</i> , pp. 247- 52; <i>Morales</i> , pp. 252-261.
8	Sept. 17, 2009	III. PARTICULAR CRIMES: A. Property Crimes: 1. Larceny and Theft a. <i>mens rea</i> : Intent to Deprive. b. <i>Acti rei</i> : i. Trespassory taking (<i>caption</i>)	Handout 5 ; Text: Larceny & Theft, pp. 668-70; <i>Hugo</i> , pp. 670-76; <i>Donato-Morales</i> , pp. 676-682, Notes & Problems pp. 682-85; Text: <i>Actus Reus</i> , Taking And Carrying Away, p. 685; <i>Donaldson</i> , pp. 685-89; <i>Lee</i> , pp. 689-94;
9	Sept. 22, 2009	ii Carrying Away (<i>asportation</i>) c. Additional Issues in Theft and Larceny	Text, Taking: Larceny by Trick, pp. 694-95; <i>DeWald</i> , pp. 695-97; Prob. & nn. pp. 697-99; Text p. 700; <i>Bugely</i> , pp. 700-02; Text pp. 702-05 & Notes pp. 705-07; <i>Tortorelli</i> , pp. 707-11; Do pp. 711-15 & pp. 715-16.
10	Sept. 24, 2009	2. Embezzlement 3. Receiving and Transporting stolen goods. 4. Extortion 5. Robbery	Text, Embezzlement; <i>Lough</i> , pp. 721-26; Receiving, p. 727; <i>Autocephalous</i> , pp. 727-44 & notes pp. 744-47; Extortion, pp. 747-48; <i>Harrington</i> , pp. 748-53, notes pp. 754-56; Text, Robbery, pp. 756-57; <i>Jupiter</i> , pp. 757-66; Text, 766-67.
11	Sept. 29, 2009	6. Burglary, 7. Arson	<i>Cruz</i> , pp. 767-69; Problem & Notes pp. 769-70; Text & notes pp.770-771. Text, Burglary, pp. 771-75; <i>Wentz</i> , pp. 775-84; & Text pp. 784-85; <i>Massey</i> , pp. 785-89, Notes pp. 789-90; Text, Arson, pp. 790-91; <i>Rogers</i> , pp. 791-97.
12	Oct. 1, 2009	II. A. <i>Corpus Delicti</i> - applies to all crimes B. Crimes Against the Person: 1. Homicide: a. Murder: Common Law :	Handout 6 ; Text p. 394-95; <i>Grissom</i> , pp. 395-99 & notes pp. 399-402; Do <i>Webster</i> , pp. 414-420 & notes, pp. 420-22; Do <i>Langford</i> , pp. 441-44.
13	Oct. 6, 2009	Murder, cont'd: i. Intent to Kill	Text & notes pp. 445-47, <i>Kevorkian</i> pp. 447-57; Felony Murder: Notes 1-4,

		ii Intent to inflict GBH iii. depraved heart aka universal malice, iv. Felony Murder COMPARE WITH HRS	pp. 460-61 & pp. 469-71; <i>Salas</i> , pp. 483-91.
14	Oct. 8, 2009	b. Manslaughter: i. Common Law VMS. ii. MPC/HRS VMS equivalents: EMED	Text, Voluntary Manslaughter, pp. 493-94; <i>Camplin</i> , pp. 494-99, notes pp. 499-502.
15	Oct. 13, 2009	iii. Common Law IVMS iv. MPC/HRS Manslaughter	<i>Horton</i> , 550-52 & note p. 552; <i>Marshall</i> , pp. 553-54, <i>Feinberg</i> , pp.554-56 & notes, pp. 556-58; [Compare with probable outcome under HRS, in handouts].
16	Oct. 15, 2009	C. "Sex" Crimes c. Consent issues d. Force Issues	<i>Urban</i> , pp 559-63 & notes pp. 563-64; <i>Thompson</i> , pp. 564-73 & Notes & Problem pp. 573-75.
17	Oct. 20, 2009	Consent and force issues, cont'd.	<i>Garnett</i> , pp. 575-89& Notes & Text pp. 589-91; <i>Rusk</i> , pp. 591-604 & Notes pp. 604-7; <i>Baby</i> , pp. 607-19, notes pp. 619-24.
18	Oct. 22, 2009	D. Inchoate Crimes 1. Attempt a. <i>mens rea</i> : specific intent	Handout 7 ; Text pp. 798; <i>Dabney</i> , pp. 798-809 & notes & text, pp. 809-10; <i>Adkins</i> , 810-14, notes 814-15; <i>Harrison</i> , pp 815-29, notes pp. 829-31; Text pp. 831-32.
19	Oct. 27, 2009	b. <i>actus reus</i> : substantial step c. Impossibility of completion d. renunciation or abandonment	<i>Paluch</i> , pp. 832-35. Notes pp. 835-37; <i>Gravens</i> , pp. 837-41 & notes & text pp. 841-45.
20	Oct. 29, 2009	2. Accessoryship, Aiding and Abetting, 3. AAF / Hindering Prosecution & other post-crime assistance	<i>Oates</i> , pp. 845-49 & notes & text pp. 849-52; <i>Zierlion</i> , pp. 852-53; Notes & Text pp. 853-57.
21	Nov. 3, 2009	4. Solicitation 5. Conspiracy: Introduction a. agreement	<i>Disanto</i> , pp. 857-69; Text pp. 869-70; <i>Krulewitch</i> , pp. 871-73; Text p. 873; <i>Braverman</i> , pp. 873-76; Notes & Text 876-77;
22	Nov. 5, 2009	5. Conspiracy, cont'd; b. parties: 2 or more persons i. Wharton's Rule ii. Necessary Parties iii. unilateral and bilateral iv. Co-conspirator Liability - c. illegal objective & overt act e. The duration of the conspiracy	<i>Colón</i> , 877-86 & Notes & Text pp. 886-887; <i>Lee</i> , pp. 887-96 & Notes & Text pp. 897-98; Do notes 903-04; Text, pp. 904-05; <i>Falcone</i> pp. 905-07 & Notes & problems, pp. 908-10.
23	Nov. 10, 2009	III. AFFIRMATIVE DEFENSES A. Justifications: 1. self defense / defense of others 2. defense of habitation 3. defense of other property 4. prevention of felony	Handout 8. Goetz pp. 502-08 & notes & text pp. 508-10. Imperfect Self Defense, p. 510; Notes & text pp. 521-24; <i>Beeley</i> , pp. 524-27 & notes pp. 527-28; <i>McNeese</i> , pp. 528-34 & notes & text pp. 534-36.

		5. law enforcement	
24	Nov. 12, 2009	B. Excuses: 1. Entrapment a. predisposition and/or b. outrageous gov't conduct c. Sentencing Entrapment.	Text pp. 964-65; Russell , pp. 965-76; Jacobson pp. 980-90 & Notes & q's pp. 990-94. Do Smith , pp. 1015-22, Notes & Questions pp. 1022-25. St Clair , pp. 1026-28; Notes & Qs, pp. 1028-32. Notes pp. 1044-46; Oakland Cannabis Buyers , pp. 1046-52 & notes pp. 1052-53.
25	Nov. 17, 2009	2. Duress & Necessity 3. Intoxication: Voluntary vs. Involuntary or Pathological 4. Addiction 5. Automatism 6. "Syndromes" 7. Insanity: a. The <i>M'Naghten</i> test	Langworthy , pp. 1053-61 & Probs & Notes pp. 1061-62; Hall , pp. 1062-68 & Notes pp. 1068-69; Do Fulcher pp. 1081-87 & notes pp. 1087-88; Stewart pp. 1088-96 & notes & Qs p.1096. M'Naghten , pp. 1104-06 & Notes pp. 1106-07.
26	Nov 19, 2009	b. Insane delusions c. Irresistible Impulse d. The "Product" Test e. ALI/MPC [Hawai'i version] f. Federal Test 8. Diminished Capacity/Responsibility 9. Attempts to Abolish the Insanity Defense.	White , pp. 1107-14 & Notes pp. 1114-15; Text, <i>The Irresistible Impulse Test</i> , p.1131; Turgeon , pp. 1131-35 & Notes & Text pp. 1135-42. Fisher , pp. 1142-46 & notes pp. 1147-49; Text, Attempts to Abolish the Insanity Defense pp. 1149-50 & Clark pp. 1150-70 & notes pp. 1170-72.
27	Nov. 24, 2009	LAST CLASS	REVIEW
28	Dec. 1, 2009	MAKE UP CLASS	Only if needed
29	Dec. 3, 2009	MAKE UP CLASS	Only if needed

You may take the exam on a computer, IF you arrange with DEAN Jarman's office to use EXAMSOFT Once the study period begins (Dec. 7), out-of-class questions will be handled by e-mail, distributed to the whole class. This makes sure that everyone has the same information. Also, once you take your exam, I cannot talk with you until I turn the grades in. It normally takes thirty days for me to grade the papers. Once I turn in my grades, they have to be processed by the administration. When the grades are ready, they will be posted. **If they have not been posted, they are not ready.**

GOOD LUCK ON FINAL EXAMS!