I. COURSE OVERVIEW

Welcome to law school and to criminal law! I am looking forward to getting to know you over the course of the semester and to exploring criminal law together. Criminal law is about regulating conduct that society deems harmful and worthy of special condemnation. It involves weighty questions of when and whether, in the name of punishment, the government can deprive people of liberty, civil rights, and even life. As such, it raises challenging and important issues. It is a high-impact, high-stakes body of law—one that has a special significance in the United States today, given the tremendous size and scope of the criminal legal system, mass incarceration, and the role that the criminal legal system plays in reproducing and reinforcing social inequality.

This course covers the principles of substantive criminal law: the objectives of criminal law, the principles of punishment, constitutional constraints on punishment, the elements that define criminal conduct, and common defenses to criminal charges. To the extent time allows, we will cover the major policy issues related to the criminal legal system: whether it functions effectively to serve its social objectives, its relationship to social inequality, and arguments and ideas for reforming the current system.

II. LEARNING OBJECTIVES

By the end of this course, you should be able to:

1. Articulate the purpose of criminal law, as distinct from civil law and other forms of regulation.
2. Identify the sources of criminal law, including state and federal legislation, local ordinances, the common law, and the Model Penal Code.
3. Understand constitutional constraints on criminal law and identify potential constitutional problems in a criminal statute.
4. Understand and apply the core concepts of criminal liability (actus reus, mens rea, and causation).
5. Identify the elements in a criminal statute and evaluate whether they are met by a given fact pattern. (Note: This also requires familiarity with principles of statutory interpretation.)
6. Know the definitions of the types of criminal homicide and evaluate whether a given set of facts meets them.
7. Understand the justification and excuse defenses covered in class, and assess whether they are available in a given fact pattern.
8. Know the elements of and defenses to the crimes of attempt, conspiracy, and solicitation, and accomplice liability, and assess potential liability for each.
9. Understand the policy implications of the criminal law doctrines we study in class and evaluate the pros and cons of different approaches.
10. Understand how the criminal legal system relates to social inequality.
11. Understand critiques of the current system and discuss proposed alternatives to it.

Your final exam will assess these learning objectives, so I suggest keeping them in mind as you prepare for the exam.

III. READING ASSIGNMENTS AND CLASS PARTICIPATION

Our textbook is JOSHUA DRESSLER & STEPHEN P. GARVEY, CRIMINAL LAW: CASES AND MATERIALS, EIGHTH EDITION. All reading assignments in “D&G” refer to this book. I also recommend, but do not require, a copy of JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW. Reviewing the chapters in this book that correspond to the D&G readings will provide additional context.

In addition to readings from the textbook, many reading assignments will include supplemental materials, including cases, articles, practice problems, podcasts and other media. These will be posted on Canvas.

I will assign approximately 30 page of reading per class. This course is four credit hours, which means that you should expect to spend at least eight hours a week on out-of-class work for this course. (See American Bar Association Standard 310, which requires 2 hours of out-of-class work for every in-class credit hour.)

At the end of this document is an outline of the topics we will cover and the order in which we will cover them. This outline does not include the reading assignments for each class. I will post those on Canvas at least one week ahead of time throughout the semester. I post readings week-by-week so that I can adjust the readings to match the pace we are moving in class, and to allow flexibility to tailor readings to your interests and events that happen during the semester.

In class participation: You will be assigned to a team for the semester. Teams will take turns being “on call” during class. I will announce which teams are on call at least one week in advance. When a team is on call, I will call on members of that team to answer questions about the assigned materials for that day. I encourage you to meet with your team before classes when you are on call in order to prepare (virtually or in person if safe to do so). Teams may also find it beneficial to study together, exchange notes, and generally support one another throughout the semester. When I call on you, please know that the questions I ask are not intended to test you, so you should not be worried about getting the answer right! I call on people in an effort to engage everyone in the discussion and to bring different voices and perspectives into the conversation. For many of the questions I ask, there will not be a clear ‘right’ answer—only arguments and considerations supporting one approach or another.

Exemptions from being “on call”: I understand that from time to time, you may have personal circumstances that result in being unprepared on a day when your team is on call. Everyone is allowed one exemption from participation during the semester. Please email me, cc’ing our teaching assistant, Annaliese Schiersch, by 12 pm on the day of class to let us know that you do not want to be called on that day. You do not need to explain why. If you need to exempt yourself from participation more than once during the semester, please email me to discuss the circumstances. More than one unexcused exemption will impact your participation grade (see Grading policy below).
I will often ask those who are not “on call” on a given day to voluntarily join the discussion. Volunteering to participate will also factor into your participation grade (see Grading policy below).

**Discussion forum:** Periodically, I will post discussion questions in the discussion forum on Canvas. These questions may be about a topic we discuss in class or supplemental materials, such as news articles, podcasts or documentaries. Additionally, if you have questions about the class material, or if you come across something that you think is interesting for this course, I invite you to start a new discussion thread. I also encourage you to respond to questions posted by your classmates. Participating in the online forum in any of these ways will count toward your participation grade (see Grading policy below).

**IV. CONTENT WARNING AND RESPECTFUL CLASS DISCUSSION**

This course deals with difficult subject matter. Because criminal law is concerned with regulating harmful conduct, we will read about and discuss violence, abuse, and trauma. We will also read about discrimination and inequality based on race, ethnicity, gender, gender identity, sexual orientation, and socioeconomic status. Many of us may have had personal experiences with the criminal legal system and/or other forms of violence and trauma that will come up in this class. Reading and discussing these materials may be difficult and triggering. However, we must confront these difficult topics in order to practice criminal law and to think critically about how to improve the criminal legal system.

Because this class deals with such sensitive subject matter, it is especially important that class discussions adhere to norms of respect, empathy, and consideration. What does this mean? Before you make a comment, consider how that comment would be received by people who have different experiences and perspectives from your own. In particular, think about how your comment might sound to someone who has been arrested or incarcerated; to someone who has been victimized or experienced abuse and trauma; to someone who has witnessed victimization; and to someone who has experienced discrimination on the basis of their race, ethnicity, sexual orientation, gender identity, poverty, or other aspects of social identity. Your comments should be respectful and considerate of people with different experiences and perspectives.

If you have concerns about the nature of class discussion, you can take several actions:

1. I will post on Canvas a link to an anonymous suggestion box for students who wish to raise concerns anonymously. I will check this regularly.
2. I invite you to reach out to me to discuss a time to speak one-on-one about any concerns related to the nature of class discussion.
3. If you find a particular topic or set of readings to be especially triggering, you are free to leave class or skip the class in which we discuss that material. You do not need to explain your absence unless it would put you over three unexcused absences for the semester (see Attendance policy below) or your team is on call and you have already used your one unexcused exemption day. If either of these applies, please reach out to me and briefly explain that you are missing class because of sensitivity to the subject matter—no need to go into detail. While I can excuse you from class, I cannot excuse you from learning material that is covered on the final exam or other assignments. (Note: Materials on sexual assault and rape will not be on any assignments or the final exam.)

**V. CLASS POLICIES AND GRADING**

**A. Attendance**
I strongly encourage you to attend every class, as attendance is directly correlated with performance. I will take attendance at every class. That said, I understand that emergencies happen and you may have other pressing responsibilities. Everyone is allowed three absences during the semester. If you intend to miss class, please email me, cc’ing Annaliese, to let us know. You need not explain why you are missing class if you are within the allotted three absences. If you have special circumstances that require you to miss more than three classes, please email me to set up a time to discuss it. If you miss more than three classes without an excuse, your absences will adversely impact your participation grade (see Grading policy below).

Also please note: Per the American Bar Association and Seattle University School of Law rules, students who do not attend 80% of classes cannot take the final exam. This means that if you miss more than 20% of class meetings, you will automatically fail the course. If you have extenuating circumstances that might cause you to miss more than 20% of the class, please reach out to me and Kristin DiBiase, Associate Dean for Student Affairs at kdibiase@seattleu.edu, to discuss the situation.

B. Grading

Your grade in this course will be based on your participation (15%), completing the practice questions and midterm (15%), and your performance on a final exam (70%).

1. Participation (15%):

Active and engaged discussion is crucial to learning. The class will be more enriching if everyone contributes to it. Your participation grade will be based more on the quality of your participation than the quantity. In evaluating participation, I am not evaluating whether you know the answers, but whether you are approaching the class with interest and curiosity. In evaluating participation, I will consider:

- Being prepared when your team is on call, demonstrated by your ability to discuss the facts and holdings of the cases, the arguments on either side of the issue, and the considerations raised in the reading notes.
- Exempting yourself from being “on call” no more than once during the semester (unless you have discussed special circumstances with me).
- Volunteering to participate when you are not on call OR posting on the class discussion forum on Canvas at least twice during the semester.
- Displaying respect, empathy, and consideration during class discussion.
- Having no more than three unexcused absences during the semester.

If you do all of these things, you will receive a 100% for participation. For each of these that you do not accomplish, I will deduct 10 points from your score. I do not expect to make deductions for anyone in this class.

2. Midterm and practice exercises (15%):

There will be an ungraded midterm and several additional practice exercises throughout the semester. You will get 1 point of credit for submitting each practice exercise and 5 points for credit for submitting the practice midterm on time. Your grade will be the percentage of points you earn out of the total points available.

The midterms and practice exercises will not be graded, but I will review them and provide general feedback to the class as a whole. I will also post model answers, along with a rubric of what I would look
for in grading the exam. If, after reviewing these materials, you have questions or want additional feedback, you are welcome to set up a time to meet with me or Annaliese to go over them.

3. **Final exam (70%)**

The final exam will be a timed, open book and open notes exam. There will be 3.5 hours allotted for the exam. I do not want time to be a source of stress for you on this exam. If you have thoroughly studied the material, organized your notes, and prepared with the practice midterm, you should have time to complete the without feeling rushed.

**C. Office hours and additional support outside of class**

I encourage you to come to office hours at least once during the semester. I am happy to discuss this class, criminal law related topics, law school generally, and career-related matters. You are welcome to come individually or in small groups.

I will hold regular office hours on Tuesdays from 2-4:30 pm. Please sign up for a slot in advance in order to avoid scheduling conflicts or having to wait. I will post a sign-up sheet on Canvas. If you are unable to make office hours during the regular window, or unable to get a slot, please email me, cc’ing Radigan Lander, to set up another time for a meeting. Office hours may be on Zoom or in person, depending on COVID safety precautions at the time.

Annaliese will hold office hours, as well. Annaliese will provide additional details about the time and location. Annaliese is available to provide additional support, mentorship, and resources, should you have questions about the work for this class or navigating the first year of law school more generally.

In addition, Annaliese and I will hold optional study sessions outside of class time, as needed, to go over materials related to this class and/or law school skills, such as briefing cases, tips for preparing for and taking exams, outlining, etc. If you would like to request a review session on a particular subject or skill, please email one or both of us.

**D. Email policy**

If you have questions about the class reading or discussion that you are unable to raise during class time, I encourage you to ask them. However, I would prefer you post these questions on the class discussion forum rather than emailing them to me—so long as you are comfortable raising them in a group forum. I ask you to do this because other students may have the same question, and it will benefit them to see your question and the answer. And before you post a question, please check to see if it has already been addressed on the forum. I encourage you to review and respond to other students’ questions on the discussion forum—doing so will count toward your participation grade.

If you are not comfortable raising your question in the group forum, or if you would like to connect with me about more individual matters (i.e., attendance, assistance with exam prep, feedback on assignments, any other concerns regarding the class material or discussion), you are welcome to email me. When you email me, please know that I will try my best to respond by the next business day, but I may be unable to respond faster than that.

**VI. UNIVERSITY POLICIES ON SUPPORT SERVICES AND ACCOMMODATIONS**

A. **Support for students with disabilities**
If you have, or think you may have, a disability (including an “invisible disability” such as a learning disability, a chronic health problem, or a mental health condition) that interferes with your performance as a student in this class, you are encouraged to arrange support services and/or accommodations by contacting Donna Deming, Associate Dean for Student Affairs (Office 210H, dcdeming@seattleu.edu). Disability-based adjustments to course expectations can be arranged only through this process.

B. Notice on Religious Accommodations

It is the policy of Seattle University to reasonably accommodate students who, due to the observance of religious holidays, expect to be absent or endure a significant hardship during certain days of their academic course or program. Please see, Policy on Religious Accommodations for Students (https://www.seattleu.edu/media/policies/Policy-on-Religious-Accommodations-for-Students---FINAL.pdf).

VII. Outline of Topics

Below is an outline of the topics I intend to cover and the order in which I intend to cover them. It may be useful for structuring your course outline. Please note that this is not a schedule of what we are covering in each class. Some of the topics in this list will take up multiple classes, whereas others will take only part of a class period. The specific reading assignments for each class will be posted on Canvas at least one week in advance. I reserve the right to deviate from this, if needed, to adjust to the pace of the class.

Part 1: Introduction

1. Background on criminal law and the criminal legal system
2. The criminal process
3. Principles of punishment and sentencing

Part 2: Constitutional limits on the criminal law

1. Due Process and fair notice
2. Eighth Amendment: cruel and unusual punishment
3. Equal protection

Part 3: Elements of a crime

1. Actus reus
2. Mens rea
3. Causation and concurrence

Part 4: Homicide, Rape and Related Sexual Offenses

1. Intentional killing
2. Unintentional killing
3. Felony murder
4. Rape and related sexual offenses (Note: This will be no more than one class session. It will be a policy discussion. I will not call on anyone. These materials will not be on the exam.)

Part 5: Defenses to crimes

1. Justification defenses
2. Excuse defenses
Part 6: Inchoate crimes and responsibility for the conduct of others

1. Attempt
2. Solicitation
3. Conspiracy
4. Accomplice liability

Part 7: Problems in the criminal legal system and proposals for reform

1. Misdemeanors and low-level infractions
2. Criminalization of poverty, mental illness, and substance use disorders
3. Alternatives to criminalization and incarceration