

Rutgers, The State University of New Jersey  
Criminal Justice Program  
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CRIMINAL LAW: THEORY AND PRACTICE

Fall 2013 01:202:309

Tuesdays/Thursdays 6:40pm-8:00pm

Lucy Stone Hall, Room A142

Website: [criminaljustice.rutgers.edu](http://criminaljustice.rutgers.edu)

## **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.

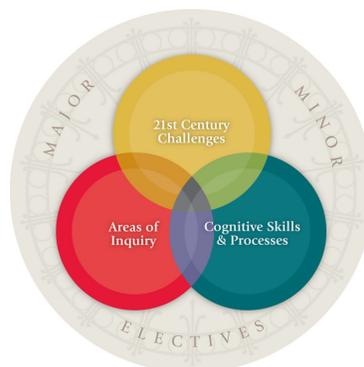
## **Learning Goals for Criminal Justice Majors**

### **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 originally was called by the misnomer “Criminal Law of New Jersey.” It never was taught with that limited Jurisdictional focus and we have therefore renamed it to more accurately reflect its focus on the analysis and close readings of the Model Penal Code and also to state statutes including, Title 2C: The New Jersey Code of Criminal Justice.

Students will be provided 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.

## **REQUIRED TEXTS**

*TITLE 2C: NEW JERSEY CODE OF CRIMINAL JUSTICE.* (2012 or any edition).  
Published by West Law. 2012 edition ISBN: 9780314948618

*CRIMINAL LAWS AND ITS PROCESSES: CASES AND MATERIALS.* (8<sup>th</sup> Edition).  
Kadish, S. H., Schulhofer, S. J., & Steiker, C. S. ISBN: 9780735557949

## **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, 3<sup>rd</sup> Ed. 2000).  
Understanding Criminal Law by Joshum Drossier (Mathew Bender, 2<sup>nd</sup> Ed. 1995)  
Criminal Law: The General Part by Glanville William (2<sup>nd</sup> Ed. 1961).  
Textbook of Criminal Law by Glanville Williams (2<sup>nd</sup> 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 all classes; if you expect to miss one or two classes, please use the University absence reporting website <https://sims.rutgers.edu/ssra/> to indicate the date and reason for your absence. An e-mail is automatically sent to me. 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 (for example, **Actus Reus, Mens Rea** and the various **Justifications and Excuses**). 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.

Therefore we have detailed two offense categories **Rape** and **Homicide**. The growing complexity and importance of **Sentencing Procedure** and **Sentencing Guidelines** pose a dilemma for a basis undergraduate course but the subject is too important to be ignored. We have provided a texture summary of current **Sentencing Procedures** and the **Jurisprudential Issues** underlying them.

### 1. **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

### II. **JUSTIFICATION OF PUNISHMENT**

- \*Perspectives on Punishment

**CASE STUDIES:**

Regina v. Dudley & Stephens  
U.S. v. Milken  
U.S. v. Gemewtera  
U.S. v. Jackson

\*What to Punish

Bowers v. Hardwick  
Lawrence v. Texas

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  
Morissette v. U.S.  
Staples v. U.S.  
State v. Guminga  
State v. Baker  
Cheek v. U.S.

IV. **RAPE**

\*New Jersey Code 2C:14-4 thru 2C:14-2

\*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.  
People v. Evans  
Boro v. Superior Court  
Commonwealth v. Sherry  
Commonwealth v. Fischer  
People v. Liberta  
United States v. Wiley  
State v. DeLawder  
Government of Virgin Islands v. Scuito

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  
State v. Williams  
Commonwealth v. Malone  
U.S. v. Fleming  
People v. Stamp  
People v. Phillips  
People v. Stewart  
Hines v. State  
People v. Burton  
State v. Canola

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  
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

**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