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## PROFESSOR DONNA YOUNG

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Office Visits: Office hours TBA. I encourage students to meet with me outside class hours to discuss relevant issues raised in and outside the classroom. I welcome drop-in visits and I am happy to schedule appointments - see me before or after class, or e-mail me.

Legal Assistant: Sherri Meyer, Rm. 301, 445-3335.

Teaching Assistants: Paige Monachino, Mary Jane Morley, and Delaney Rives

### OVERVIEW AND OBJECTIVES

This course provides a survey of the common law and statutory foundations of criminal law and the policy choices that underlie the boundaries of criminal liability. It is designed to familiarize you with the fundamental constructs of substantive criminal law. These constructs require an understanding of the general structure of criminal law including the basic elements necessary for defining criminal behavior (*mens rea*, *actus reus*, *causation*); the examination of core principles used to define homicide, inchoate offenses, accomplice liability, sexual assault and theft crimes; and the elements of various full and partial defenses (*self-defense*, *defense of others*, *defense of habitation*, *intoxication*, *necessity and duress*). In addition, the course will contribute to the acquisition of essential legal skills (legal synthesis, analysis, strategies and reasoning, statutory interpretation, advocacy, communication, professionalism and critical thinking) and values (professional responsibility) inherent in the study and practice of criminal law.

### REQUIRED CASEBOOK

Joshua Dressler and Stephen Garvey, *Cases and Materials on Criminal Law*, 7th Ed. (West Academic Publishing, 2016)



## TEACHING METHOD

Students will be called on randomly to help lead the discussion of the reading material. Each student is expected to have read the assigned materials in advance and to contribute to classroom discussion. Classroom discussion is encouraged even when not called on. I will use power points to outline the materials and to facilitate discussion. These power points are not a substitute for detailed student notes.

## ASSESSMENT

My Plan: To provide one final closed-book exam worth 100% of your final grade. You will be given two mandatory *practice* exams in addition to short exercises in class and via the class Canvas site. The first practice examination will cover “causation” and “elements of a crime” and will be scheduled for the 50 minute period following the completion of the materials on causation. This practice exam is MANDATORY, but will not be formally graded. A model answer and comments will be provided and individual meetings with your TA’s and/or with me will be arranged in order to discuss your progress. The second practice exam will be administered via Canvas (subject-matter TBD). You will be given a model answer and grading guide and asked to grade your own exams (These grades will not count toward your final grade). Feedback will be given. Periodically, you may be given short exercises to complete and submit electronically.

## PARTICIPATION AND PROFESSIONAL CONDUCT

Participation/Attendance:

You are expected to attend class regularly (please refer to the attendance policy in the Albany Law School Student Handbook), arrive on time at the beginning of each class and stay until class is over. You are expected to read the assignments prior to each class and be prepared to provide full, insightful answers to questions that you may be asked. Each student will be called on randomly to lead discussion of assigned materials. Class discussions are important. If you are unable to attend a class please try to notify me in advance. Participation in class should be professional and respectful.

Use of Electronics in Class:

Please refrain from instant messaging, e-mailing, surfing the internet, shopping, playing games, writing papers, doing homework, etc. during class time. Do not display material on screen which may be distracting or offensive to your neighbor. Please turn off cell phones when you are in the classroom. **Audio or video recording of the class is prohibited without my prior permission.**



### **E-Mail Policy:**

E-mail will be the primary mode of communication outside the classroom. Please check it regularly. I encourage students to E-mail me outside class hours with any questions or comments about the class. Though E-mail correspondence is generally considered informal, please keep in mind that E-mail communication within the law school should conform to the standards of professional communication expected in legal practice - e.g. write in complete sentences, address the recipient by name and title (if necessary), sign your name at the end of the message, acknowledge receipt of E-mail messages addressed personally to you. I will answer each E-mail as promptly as I can. E-mail messages sent by me to the class should be opened and read as promptly as possible. Before your scheduled exam at the end of the semester I will conduct an “e-review” (students are encouraged to E-mail me questions which I will answer and forward to the entire class).

For interesting arguments against and for using a laptop in class, please read:

**“Leave Your Laptops at the Door to My Classroom”** By Darren Rosenblum, JAN. 2, 2017, New York Times.

<https://www.nytimes.com/2017/01/02/opinion/leave-your-laptops-at-the-door-to-my-classroom.html>

**“Laptops Are Great. But Not During a Lecture or a Meeting”** By Susan Dynarski [https://www.nytimes.com/2017/11/22/business/laptops-not-during-lecture-or-meeting.html?\\_r=0](https://www.nytimes.com/2017/11/22/business/laptops-not-during-lecture-or-meeting.html?_r=0)

**“Law Students Who Use Laptops Aren’t Any Dumber Than Those Who Don’t”**

<https://abovethelaw.com/2018/01/law-students-who-use-laptops-arent-any-dumber-than-those-who-dont/>



## ASSIGNMENTS

The following list of assignments will be covered in this course. There is flexibility in the schedule and therefore I expect that the amount of material covered in each class will vary depending on the subject matter, complexity of materials, depth of classroom discussion and other factors - approximately 2-4 cases will be discussed per class. Please pace yourself and try to stay at least two to four cases ahead of class discussion. The reading assignments include notes, comments, and commentary which will not always be discussed in class. They are nonetheless important in providing context and guidance for critical reading and analytical reasoning.

### ONE:

#### Chapter One: Introduction / Setting the Stage

**Introduction/Proof BARD/Presumption Innocence/Jury Nullification**  
(*Owens v. State*; *State v. Ragland*)  
Pages 1-29.

#### Chapter Two: Principles of Punishment

**Theories of Punishment / Who Should be Punished/ How Much**  
(*The Queen v. Dudley and Stephens*; *People v. Superior Court (Du)*;  
*People v. Du*)  
Pages 31-64; 601-605.

### TWO:

#### Chapter Three: Modern Role of Criminal Statutes

**Principle of Legality: Previously Defined Conduct**  
(*Commonwealth v. Mochan*; *Keeler v. Superior Court*)  
Pages 93-107.

**Values of Statutory Clarity/Statutory Interpretation**  
(*In Re Banks*; *Desertrain v. City of Los Angeles*; *Yates v. United States*)  
Pages 107-132.



**THREE:**

**Chapter Four: Actus Reus**

MPC §1.13, §2.01  
NY Penal Law §§15.00 & 15.10

**Voluntary Act / Omissions / Social Harm**

(Martin v. State; State v. Utter; People v. Beardsley; Barber v. Superior Court)  
Pages 133-156.

**Chapter Five: Mens Rea**

MPC §2.02, §2.04  
NY Penal Law §§ 15.00, 15.10, 15.10, 15.15, 15.20

**The Nature of Mens Rea / Intent / MPC approach / Knowledge**

(United States v. Cordoba-Hincapie; Regina v. Cunningham; People v. Conley; State v. Nations)  
Pages 156-178.

**FOUR:**

**Chapter Five: Mens Rea - Continued**

**Strict Liability**

(Morissette v. United States; Staples v. United States; Garnett v. State)  
Pages 185-205.

**Mistake and Mens Rea**

(People v. Navarro; People v. Marrero)  
Pages 206-222.

**FIVE:**

**Chapter Six: Causation**

**Actual Cause / Proximate Cause / Concurrence of the Elements**

(Velazquez v. State; Oxendine v. State; People v. Rideout; NOTES 1 – 10 on pages 242-246; Velazquez v. State; State v. Rose); MPC §2.03  
Pages 229-252.



**IN-CLASS PRACTICE EXAM**

**SIX:**

**Chapter Seven: Criminal Homicide**

MPC §210.2, §210.3

**“Human Being:” Intentional Killings**

(People v. Eulo; State v. Guthrie; Midgett v. State; State v. Forrest)  
Pages 235-256; Skim 256-265; 265-285.

**Manslaughter: Heat of Passion**

(Girouard v. State; People v. Casassa)  
Pages 285-313.

**SEVEN:**

**Chapter Seven - Continued**

**Unintentional Killings**

(People v. Knoller; State v. Williams)  
Pages 316-333.

**The Felony Murder Rule**

(People v. Fuller; People v. Howard; People v. Smith; State v. Sophophone)  
Pages 333-363.

**EIGHT:**

**Chapter Eight: Rape and Related Sexual Offenses**

**Overview. Statistics. Social Context. Forcible Rape**

(State v. Alston; Rusk v. State; State v. Rusk)  
pp. 407-420; 433-450.

**Mens Rea. Rape Shield Laws. Statutory Rape**

(Commonwealth v. Lopez; State v. Herndon; State v. Wilhelm; Garnett v. State)  
pp. 477-485; 490-496; review 198 – 204; 496-500



## **NINE and TEN**

### **Chapter Nine: General Defenses to Crimes**

#### **Categories of Defenses / Burden of Proof**

(Patterson v. New York; Paul H. Robinson – “Criminal Law Defenses.”)  
Pages 501-520.

#### **Self-Defense: General Principles, Reasonable Belief Requirement**

(United States v. Peterson; People v. Goetz)  
Pages 521-548.

#### **The Reasonable Person: Objective, Subjective or a Mixed Standard**

(State v. Wanrow; State v. Norman; State v. Norman)  
Pages 548-572.

#### **Defense of Others / Habitation / Necessity / Intoxication**

(People v. Kurr; State v. Boyett; United States v. Veach)  
Pages 575-586; 590-594; 601-608; 634-642.

## **ELEVEN:**

### **Chapter Ten: Inchoate Offenses**

#### **Overview / Attempt: Mens Rea/Actus Reus/Preparation v. Perpetration**

(People v. Gentry; United States v. Mandujano; Commonwealth v. Peaslee)  
Pages 761-775; 779-786.

#### **Preparation vs. Perpetration - Continued**

(People v. Rizzo; People v. Miller; State v. Reeves; Problem on Page 799)  
Pages 787-799.

## **TWELVE:**

### **Chapter Ten - Continued**

#### **Impossibility / Abandonment / Conspiracy**

(People v. Thousand; Commonwealth v. McCloskey; People v. Carter; Pinkerton v. United States; People v. Sconce)  
Pages 800-820; 836-844; 886-889.



**THIRTEEN:**

***Chapter Twelve: Theft (IF TIME PERMITS)***

***Introduction / Larceny / Mens Rea***

*(Lee v. State; Rex v. Chisser; United States v. Mafnas; Topewski v. State)*  
Pages 961-971.

***Personal Property of Another: Mens Rea / Embezzlement***

*(Lund v. Commonwealth; People v. Brown; People v. Davis; Rex v. Bazeley)*  
Pages 975-992.

**FOURTEEN:**

**Catch Up/Review**