

Revised 11/20/08

**DEPAUL UNIVERSITY COLLEGE OF LAW  
CRIMINAL LAW**

Professor John F. Decker  
Phone: 312.362.8740  
E-mail: [jdecker1@depaul.edu](mailto:jdecker1@depaul.edu)  
Office: 409

Spring 2009

**Books Required:**

1. Kadish, Schulhofer, *CRIMINAL LAW AND ITS PROCESSES* (Little, Brown and Company, 8th ed. 2008) (casebook).
2. Decker, *ILLINOIS CRIMINAL LAW: A SURVEY OF CRIMES AND DEFENSES, STUDENT EDITION* (4th ed. Lexis, 2006) (textbook with pertinent Illinois statutory provisions).

**Course Objective:**

This course will attempt to develop the analytical abilities of the respective students **and** sensitize them to essential matters relating to criminal prohibitions within the United States. With regard to the latter objective, the course will consider the type of activity which should be deemed illegal, the purpose of the criminal law and related sanctions, and primarily, the various conduct which has been described as illicit in our society. The requirements of a crime and the factors that result in exoneration from criminal liability will be considered in detail.

The student is responsible for gaining insight into these problems from a (1) common law, (2) "majority of jurisdictions," and (3) Illinois law perspective.

**Course Method:**

The instructor will rely on a combination of the Socratic and lecture approach.

**Class Attendance and Preparation:**

The instructor reserves the right to exclude any student from taking the final examination where the student has not regularly attended class or where the student has not regularly prepared for class.

Any student who fails to attend three or more class meetings may be excluded from the final examination. Any student who is not prepared for class on more than two occasions may be excluded from the final examination. Class participation means not only (1) **reading** the assignments from the casebook and textbook but also (2) **responding intelligently, when called on by the instructor**, about the facts, issues and

resolution of these issues in all cases, which are contained in the casebook, with the exception of cases discussed in the “note” materials of the casebook. Any student who does not attend class or who is not prepared for class when called on will be **excused only if** he or she provides the instructor with a **written excuse** at the earliest possible time explaining their failure to attend class or their lack of preparedness.

### **Evaluation:**

Although a variety of testing devices are available, a traditional comprehensive examination will be utilized. Because the subject matter of the course is relatively complex, such an approach was deemed most appropriate inasmuch as it allows the student to concentrate on the wide variety of problems which may be encountered in the criminal justice system.

Ideally, an examination should serve two functions: (1) provide students an opportunity to analyze problems(s) relating to the subject matter considered in class discussion or in class assignments, identify the relevant issue(s) within, formulate a solution (or alternative solutions) considering their knowledge of the subject matter and their ability to evaluate and appraise such matter, and thereafter intelligently express the solution(s) as well as all relevant matter considered and utilized in coming to such a solution(s) and, (2) provide the instructor a vehicle to ascertain a student's ability to analyze such problem(s) and solution(s) and the methodology used in arriving at such solution(s). Accordingly, the answer(s) to the question(s) asked must reflect the following: (1) a recognition of the issue(s); (2) an understanding of the applicable rule(s) of law; (3) an application of such rule(s) of law to the facts and issue(s) under consideration; (4) a consideration of the policy underlying the rule(s) to the issues and facts at hand; and, (5) an intelligent, rational and logical presentation of such analysis. Of course, the analysis is much more important to the instructor than the ultimate solution(s) chosen.

**With regard to the framework, the instructor will require either essay answers (to hypothetical questions), objective responses (to multiple choice questions), or both.** The single examination will be given at the regularly scheduled examination period set out for this course by the Administration of DePaul College of Law. The examination is **closed book**. The examination questions may be based on the assigned written materials, matters discussed in class, or both.

### **Laptops and Cell Phones:**

If you bring a laptop computer to class, it is to be used **EXCLUSIVELY** for taking notes. **Students found to be using their laptops in class to surf the internet, to send or receive e-mails or for other non-class-related purposes will be required to leave the class and will not be permitted to return for the remainder of the semester.** Students who do not comply with this classroom requirement will be reported to the Academic Integrity Committee and to the Assistant Dean of Students for disciplinary purposes.

**Absolutely no text messaging allowed during class.** Violators will likewise be reported for disciplinary purposes.

**General Outline of Course:**

I. Introduction

A. Why Prohibit? (Kadish pp. 121-32) (Decker §§1.02-1.03)

1. Conventional Morality Perspective
2. Libertarian Perspective
3. Utilitarian Perspective

B. Why Punish?

1. Retribution (Kadish pp. 79-92)
2. Deterrence (Kadish pp. 92-97)
3. Rehabilitation (Kadish pp. 97-101)
4. Isolation (Kadish pp. 101-05)

C. Constitutional Disproportionality of Sentences

1. Death Penalty Challenges (Kadish pp. 479-508)
2. Prison Sentence Challenges (Kadish pp. 172-82)

II. General Part

A. Actus Reus (Kadish pp. 182-212)

1. Commissions (Decker §2.02)
2. Omissions -- Breaches of Legal Duty (Decker §2.03) (Kadish pp. 821-31)
3. Status Criminality (Kadish pp. 911-20) (Decker §2.02[c])
4. Possession (Decker §2.04)

B. Mens Rea Generally (Kadish pp. 213-33) (Decker §2.05)

1. Intent (§2.06)
  - a. Specific
  - b. General
2. Knowledge (§2.07)
3. Recklessness (§2.08)
4. Negligence (§2.09)
5. Other Mental States--lecture
6. Presumptions and Inferences (Decker §2.06[d])

C. Mens Rea -- Negation by Mistake (Decker §§19.02-19.03)

1. Mistake of Fact (Kadish pp. 234-48)
2. Mistake Regarding Consent vs. Rape (Kadish pp. 291-359) (Decker §§8.02-8.03; 8.11[a], [b])
3. Mistake of Law (Kadish pp. 267-90)

D. Strict Liability Offenses (Kadish pp. 248-67) (Decker §2.10)

E. Causation (Kadish pp. 509-44) (Decker §6.11[e])

F. Attempt and Solicitation (Kadish pp. 544-88) (Decker Ch. 5)

G. Group Criminality

1. Accomplice Liability (Decker §§3.01-3.10)
2. Conspiracy (Kadish pp. 663-731, except Krulewitch) (Decker Ch. 4)
  - a. Agreement, Mental State, etc.
  - b. Pinkerton Rule, Wharton's Rule, Withdrawal, etc.
  - c. "Wheel," "Chain" and "RICO" Conspiracy
3. "Entity" Liability (Kadish pp. 633-50, 653-58) (Decker §§3.11, 3.12)
  - a. Corporate
  - b. Partnership

H. Exculpation

1. Burden of Proof Problems (Decker §17.13)
2. Self-Defense (Kadish pp. 737-86) (Decker §§17.02-17.05)
3. Defense of Another (Decker §§17.06-17.07)
4. Defense of Property (Kadish pp. 786-98) (Decker §§17.08-17.12)
5. Law Enforcement Objectives: Police and Citizen (Decker §§19.13-19.14)
6. Necessity (Kadish pp. 798-821) (Decker §§19.06-19.08)
7. Duress (Decker §§19.04-19.05)
8. Insanity (Decker §§18.02-18.08)
9. Intoxication (Decker §§18.09-18.12)
10. Infancy (Decker §§18.13-18.14)

III. Special Part

A. Homicide (Kadish pp. 373-466) (Decker Ch. 6)

1. Murder I
2. Murder II
3. Involuntary Manslaughter
4. Voluntary Manslaughter

B. Other Crimes--lecture

=