

Course description: The objective of this course is to examine the philosophical underpinnings of both substantive and procedural criminal law. The substantive sections will emphasize human nature and social norms, while the procedural sections will emphasize criminal justice. We will examine many of the prominent legal cases that are covered during the first year of a typical law school curriculum, but our focus will be on philosophical analysis and moral evaluation of the law.

Required texts

- *Criminal Law Stories*, Coker and Weisberg
- *Criminal Procedure Stories*, Steiker

Required written work

- *Two 4-6 page papers* (25% each, due in class on February 19 and April 23)
- *Midterm exam* (15%, in class on March 3)
- *Final exam* (25%, in classroom)
- *Case brief and take-home assignments* (10%): (1) You will sign-up to be the class expert on one of the cases we read; this consists of briefing the case (we'll discuss that) and posing a few questions to the class. (2) There is also a short take-home assignment for March 31 and April 2.
- *Grading:* The papers should be at least partly critical (i.e., not purely expository) and should be submitted as a hard copy (no electronic submissions). Paper topics will be suggested. Late papers will be penalized unless their lateness was excused *prior to* the due date. One excuse for lateness that will not be accepted is "other academic work," so plan accordingly. The examinations will be primarily noncritical and will test your understanding of material covered in both the texts and class.

Office hours: Tuesdays and Thursdays, 11:00-12:00, West Range Café

General policies

- *Participation:* The course will involve quite a bit of discussion and small group activities. If you end up with a borderline grade, then active participation over the course of the semester may tip the balance in your favor. On the other hand, poor participation (and attendance) may tip the balance the other way. Active participation means bringing questions/comments to each class, responding to my questions, and participating in the discussion and small group activities.
- *Attendance:* You are expected to attend all the classes, but you will be permitted four absences without penalty (you do not need to provide an excuse). Additional absences will result in a reduction of your overall grade.
- *Laptops/phones:* You may use a laptop in class to take notes, but do not text or otherwise use your phone/computer in class.
- *Email:* Philosophy can be difficult to discuss via email, and so you should generally use email only as a tool to set up a one-on-one meeting or phone call with me if office hours conflict with your schedule. If circumstances do not permit this, then you may ask course-related questions via email (lwh8ra@virginia.edu). I do not discuss grades via email, but I'm happy to go over a graded paper/exam with you in person.

Schedule of topics and readings**Substantive Criminal Law** (*Coker/Weisberg text*)

- **Introduction: Morality and Law**
 - January 13: Lecture and handout (no reading)
- **Foundational Principles of Criminal Law**
 - January 15: Principle of Legality and *Commonwealth v. Keller*
 - January 20: Principle of Guilt and *Robinson v. California*
 - January 22: Mens rea and ignorance: *Staples v. United States*
- **General Principles of Criminal Law: Homicide and Rape**
 - January 27: Homicide and mens rea: *People v. Berry*
 - January 29: Consent, force, and rape: *State v. Rusk*
- **Justifications and Excuses**
 - February 3: Self-defense and *State v. Wanrow*
 - February 5: Insanity and *Clark v. Arizona*
 - February 10: Entrapment and *Jacobson v. United States*
- **Prevention, Causation, and Inchoate Crimes**
 - February 12: Attempt and *People v. Rizzo*
 - February 17: Accomplice liability and causation: *State v. Tally*
 - February 19: Free speech and harm: *US v. Rahman* (first paper due)
- **Punishment**
 - February 24: Punishment and proportionality: *Ewing v. California*

Procedural Criminal Law (*Steiker text*)

- **Justice, Democracy, and Law: What is a just state of affairs?**
 - February 26: Comparative justice and *Powell v. Alabama*
 - March 3: **Midterm examination (in class)**
 - March 5: Federalism and fairness: *Mapp v. Ohio*
 - March 17: Rawls and desert: *Gideon v. Wainwright* and *Strickland v. Washington*
 - March 19: Adversarial contest or search for truth? *Brady v. Maryland*
 - March 24: Procedure and fairness: *Miranda v. Arizona*
 - March 26: Liberty and privacy: *Hoffa v. United States*
 - March 31: **No class: Take-home assignment on *Duncan v. Louisiana***
 - April 2: **No Class: Take-home assignment on *Duncan v. Louisiana***
 - April 7: Privacy and *Katz v. United States*
 - April 9: Reasonableness and *Terry v. Ohio*
 - April 14: Security and liberty: *US v. Brignoni-Ponce* and *US v. Martinez-Fuerte*
 - April 16: Plea bargaining: *Bordenkircher v. Hayes* (and *NY Review of Books* article)
 - April 21: Juries and fairness: *Batson v. Kentucky*
 - April 23: Liberty and preventative justice: *US v. Salerno* (second paper due)
 - April 28: Sentencing and separation of powers: *United States v. Mistretta*
 - TBA **Final examination**