

CRIMINAL LAW § 3
LAWS 524
FALL 2025 -- PROF. SETH STOUGHTON

COURSE DESCRIPTION

This course provides an introduction to substantive criminal law, meaning the content and scope of various crimes and defenses. Students will compare and contrast the common law, Model Penal Code, and state law, with particular emphasis on understanding different approaches to crimes and defenses. This is a required first-year course.

COURSE GOALS & OBJECTIVES

By the end of this course, you will:

- Be familiar with the basic principles and structures of criminal law;
- Be able to read and apply criminal statutes; and
- Be able to recognize and apply common criminal defenses.

COURSE INFORMATION

Professor: Seth Stoughton
Office: Room 325
Telephone: (c) 434-262-2484
(o) 803-777-3055
Email: SWStough@law.sc.edu
Class Meetings: We meet in Room 395 from 2:40-4:05pm on Mondays and Wednesdays

Casebook & Other Assignments:

- Dressler & Garvie, Criminal Law (9th ed.), ISBN 978-1-64708-770-8; and
- Additional reading materials, which will be made available via the course site

Office Hours: I do not have set office hours; you can either swing by when I'm in the office (I'm always happy to see you!) or email me to set up a specific appointment. I am generally in the building from about 8:30am-5pm on Mondays and Wednesdays and from 10:30am until 4pm on Tuesdays and some Thursdays.

If there is an urgent need to reach me, you may call or text my cell (above). Please use your best judgment about calling or texting after hours, and remember to tell me who you are if you text me!

1) General Information

1.0 - Course Website

The syllabus and all supplemental materials will be hosted on TWEN.

1.1 - Why Law School Learning Sucks (tl;dr – it’s unfamiliar and intentionally confusing)

Welcome to law school! The next three years represent a significant step in your professional development, one that is fundamentally *unlike* most prior educational experiences. No doubt you are familiar with traditional pedagogical methods in which lectures, the primary means of conveying information, are supplemented by course books and other written materials.

Law school learning is NOT like that. In law school, you have to tackle the reading assignments *in depth* before each class. You must essentially teach yourself the raw material and use the lectures as a guide to help you sharpen your understanding of the relevant concepts. And, making it even more difficult, you have to do all of that while essentially learning an entirely new language – the language of law. This requires you to simultaneously develop and apply a suite of new skills.

Happily, all of the skills you need to thrive in law school are *learnable*; they will improve with practice. Throughout your law school career—and especially in the first semester—you should focus not just on learning the material, but also on learning *how to learn* in law school. This is ultimately an individual endeavor; what works for you may not work as well (or at all) for your classmates and *vice versa*. As a general guide, however, you can approach law school learning in three distinct phases: Prepare, Participate, and Perpend.

Prepare (Before Class). Preparation is key to success in law and in law school. You should strive to be fully prepared in every class. Being “fully prepared” means reading the assigned material a sufficient number of times, taking notes as needed, for you to:

- 1) Familiarize yourself with the materials, including the facts, legal questions, procedural posture, rules, reasoning, and holding of each case you read;
- 2) Develop well thought out answers to any questions raised in the material, especially the notes; and
- 3) Think proactively about how this topic fits in with topics you’ve already discussed; try to anticipate how prior class discussions may be relevant to the *next* class’s discussion.

In all likelihood, you will need to read through the material multiple times to be fully prepared, especially at the beginning of your law school career.

Participate (During Class). Like most law professors, I highly value interactivity in the classroom. You can expect some requests for volunteers along with a substantial amount of Socratic cold calling. “Cold-calling” refers to the selection of a student or multiple students (who did not volunteer) to answer questions or engage in a back-and-forth discussion. The Socratic Method is a critical thinking technique in which the dialogue between the instructor and the student(s) is intended to critically examine the topic under discussion.

Socratic cold calling is designed, in part, to push students beyond their comfort zones, to force them to struggle with difficult concepts, complicated questions, and minute details. Some amount

of anxiety is not just natural, it is *intentional*. Research has consistently shown that what educational psychology refers to as *productive struggle* leads to substantial improvements in long-term learning.¹ You probably won't be comfortable on the receiving end of a cold-call in the short-term—it sucks, I know—but cold-calls will make you better prepared in the long-term.

Fully participating can't only happen in one direction, though! To get the most out of your classroom experience, ***ask questions!*** Ask questions in class; if you are confused or uncertain about something, there's a pretty good chance that a substantial portion of your classmates are *also* confused or uncertain about the exact same thing. Make a note of anything you want further elaboration on; even if you don't get the chance to explore the issue in class, you can always follow up with me immediately after class, via email, or in my office. Don't wait *too* long or you might forget the context of your own question.

Perpend (After Class). Law school classes are frustrating; you will often leave with just as many, if not more, questions than answers. Why did the professor focus on a particular part of a case? How would the rule from one case apply in a different case? What exactly does that unfamiliar word (e.g., “perpend”) mean?

To get the most out of your law school learning experience, take time *after* class to puzzle out answers to at least some of those questions. Look up unfamiliar words, re-read any portions of the material that you didn't fully understand, ask me (or a peer advisor or tutor) to clarify things, and talk through the issues with your classmates. The more you engage with the materials, in and out of class, the better you will understand them.

Perhaps most importantly, if when you have questions, ***come see me!*** Most professors do what we do largely because we love teaching! We love questions! Believe it or not, we were students once ourselves; we honor the professors and the mentors who helped us answer *our* questions by helping you answer *your* questions. And while there are plenty of alternative sources of information (e.g., study aids, hornbooks, Reddit, ChatGPT, your college roommate's cousin who is a lawyer, etc.), remember that your professor is ultimately the only one who will be grading your exam. We know *exactly* what we want you to learn and how we want you to learn it...and we're more than willing to tell you.

1.2 - Classroom Expectations

Attendance. Law school is a professional school, and you are expected to comport yourselves accordingly. That means, *inter alia*, attending every class in person that your health and personal circumstances allow.

Law school policy prohibits you from missing more than 10% of regularly scheduled classes. Regardless of the reasons for the absences, students with more absences must apply to the Dean of Academic Affairs for a waiver. You should know that this waiver has always been granted when the absences are professionally appropriate, including illness. Students who miss more than thirty percent of our class meetings must apply to the full faculty of the law school for a waiver.

¹ For a summary of relevant research, see <https://perma.cc/2SAX-NFLC>.

If you are experiencing or have recently experienced symptoms of *any* contagious illness (including, but not limited to any variant of COVID-19), please do not attend class. Take your health—as well as the health of your classmates and law school faculty and staff—seriously throughout law school. You can make an appointment online at Student Health Services through [MyHealthSpace](#).

Please note that, to promote the free discussion of potentially controversial ideas, I **do not** have class recorded. Students with a specific accommodation may have access to class recordings, but are specifically prohibited from sharing those recordings.

Preparation. You are also expected to be *fully prepared* for every class. Building on the previous discussion of what “fully prepared” (see, *supra*, Section 1.1), you should come to class knowledgeable enough to answer questions about the assigned reading, including any cases and notes, including critical thinking questions that are not in the material itself (e.g., about comparing and contrasting different cases, rules, or doctrines, or engaging in hypotheticals that build on but go beyond the assigned reading).

Advance/Prompt Notice. I expect you to attend and be fully prepared for each class, but I know full well that life sometimes gets in the way. If you are unable to be fully prepared for class, let me know as soon as possible *before* class (once class starts, I will assume everyone in the room who has not told me otherwise is fully prepared). If you are unable to attend class, let me know as soon as circumstances allow (either in advance or promptly after the fact in the event of an emergency). Notification need not include any sensitive information (for example, you are not expected to provide any details about your health or medical conditions), but should include enough information to establish that there is a professionally appropriate justification for the lack of preparation or absence.

No Laptops. For pedagogical reasons, I generally prohibit laptops, tablets, and similar devices. The relevant research generally finds that notetaking on electronic devices tends to diminish attention and learning while significantly increasing distractions for both students using the device and students sitting nearby.² Additionally, students who take handwritten notes retain, on average, more material and better understand the material compared to students who take notes on laptops.³ I understand that there can be individual variation, however, and if the general prohibit presents any obstacle to your learning, please either communicate directly with me or contact the appropriate university office (see Disability Accommodations, below).

² Richard W. Patterson & Robert M. Patterson Computers and Productivity: Evidence from Laptop Use in the College Classroom, 57 ECON. EDUC. REV. 66 (2017); Faria Sana et al., Laptop Multitasking Hinders Classroom Learning for Both Users and Nearby Peers, 62 COMP. & EDUC. 24 (2013); Erping Zhu, et al., Use of Laptops in the Classroom: Research and Best Practices, 30 U. MICH. CENTER FOR RESEARCH ON LEARNING AND TEACHING 1 (2012); Carrie B. Fried, In-Class Laptop Use and its Effects on Student Learning, 50 COMPUTERS & ED. 906 (2008); Helene Hembrooke and Geri Gay, The Laptop and the Lecture: The Effects of Multitasking in Learning Environments, 15 J. COMPUTING IN HIGHER ED. 46 (2003). Separately, the first student to quote *any* line that is identifiably from the movie *The Princess Bride* will be immunized from cold calls for the first three weeks of the semester.

³ Pam A. Mueller & Daniel M. Oppenheimer, The Pen is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking, 25 PSYCH. SCI. 1159 (2014).

Stand During Cold Calls. As a general rule, please stand up when cold called and remain standing for the duration of the cold call. If this presents any challenges or issues, please either communicate directly with me or contact the appropriate university office (see Disability Accommodations, below).

AI Use. Generative artificial intelligence (AI) tools (such as ChatGPT, Claude, Copilot, Grammarly, or similar) can be valuable resources for learning, research, and skill development. It is a tool that you will encounter and almost certainly use professionally. However, the inappropriate use of AI, as with any tool, can undermine rather than enhance your learning and, later, your professional practice. My AI Use policy is designed to encourage the responsible, transparent use of emerging technologies while ensuring that your learning and work is the product of and reflects your own thinking, analysis, and developing skills.

In this class, you **may** use AI tools to:

- Brainstorm ideas or approaches for written assignments;
- Check grammar, spelling, or style on writing that you have drafted; and
- Receive feedback on written work you have already drafted yourself.

However, you **may not** use AI to

- Draft *any* portion of *any* written assignment, graded or ungraded;
- Provide summaries of assigned readings; or
- Provide feedback on *other student's* written work.

Any and all usage of AI on any written assignment must be **fully disclosed in writing** within the assignment itself (e.g., in a footnote or a “AI Usage” section). Your disclosure must include:

- The specific AI tool(s) used (name and version, if available).
- For each AI tool, a description of the specific task(s) for which you used the AI tool (e.g., “checked grammar in the second draft,” “generated a list of potential counterarguments,” etc.).
- For each task, any prompt(s) or instruction(s) you gave the AI tool.

Failing to disclose your use of AI will violate my classroom rules and may constitute cheating under the law school Honor Code. Misrepresenting any AI-generated content as your own original work will violate my classroom rules and may constitute plagiarism under the law school Honor Code.

1.3 - Disability Accommodations

The University of South Carolina provides high-quality services to students with disabilities, and I encourage you to take advantage of them. Any student with a documented disability should make arrangements for appropriate accommodations by bringing appropriate documentation to the Student Disability Resource Center in LeConte College Room 112A. Questions may be directed to the Center at (803) 777-6142, or sadrc@mailbox.sc.edu.

2) Grading & Assignments

2.0 - Grading

This course will follow the School of Law's standard letter grade system.

2.1 - Grading Criteria

Your grade in this course is consists of the following:

- 75% - Performance on the final exam
- 10% - Completion, with good faith effort, of a book essay (this is Pass/Fail)
- 10% - Completion, with good faith effort, of all writing assignments (this is Pass/Fail)
- 5% - Completion, with good faith effort, of a midterm (this is Pass/Fail)

2.2 - Grade Penalties

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), attending class while un- or under-prepared without providing appropriate notice and a professional explanation can negatively impact your grade by up to one letter grade.

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), missing class without providing appropriate notice and a professional explanation can negatively impact your grade by up to one letter grade.

Regardless of the grade as normally calculated (see Section 2.1 - Grading Criteria), failing to follow classroom or exam rules can negatively impact your grade, including dropping your grade to an F.

I retain the right to assign grade penalties as I deem professionally appropriate.

2.3 - Exam

I will provide information about the exam over the course of the semester.

2.4 - Book Essay

See the "Book Essay Assignment" document on the TWEN page.

This assignment is mandatory but graded on a Pass/Fail basis. To earn a Pass, your final product must demonstrate a good faith effort to complete the assignment to the best of your abilities.

2.5 - Writing Assignment(s)

Some number of times during the course of the semester, you are required to complete writing assignments. The purpose of these assignments is to both test your knowledge of the subject matter and improve the structure of your legal analysis. You should treat these assignments as a formative tool that you can use to prepare for your final exams in this class and others.

These assignments are mandatory but graded on a Pass/Fail basis. To earn a Pass, your final product must demonstrate a good faith effort to complete the assignment to the best of your abilities. Please note that each assignment may consist of multiple components, including a self-assessment, peer-assessment, and revision.

2.6 - Midterm

Near the middle of the semester, you will be required to complete a take-home midterm examination. The midterm will take approximately two hours and will include at least one essay question.

This assignment is mandatory but graded on a Pass/Fail basis. To earn a Pass, your final product must demonstrate a good faith effort to complete the assignment to the best of your abilities. Please note that the midterm may consist of multiple components, including a self-assessment, peer-assessment, and revision.

3) Syllabus

TOPICS	CLASS	ASSIGNMENT [§]
SECTION I: BACKGROUND INTRODUCTORY MATERIAL		
A. The Goals of Criminal Law <ol style="list-style-type: none"> 1. What <i>is</i> criminal law? 2. Why do we punish? 3. Whom should we punish? 4. How should we punish? B. The Structures of Criminal Law <ol style="list-style-type: none"> 1. Jury Trials 2. The Presumption of Innocence and the “Beyond a Reasonable Doubt” Standard 3. Jury Nullification 	Read <u>before</u> Class 1	<i>Skim pp. 1-6 (skip n. 1)</i> <i>Skim pp. 31-53</i> <i>Skim pp. 53-56</i> <i>Skim pp. 56-73</i> <i>Skim pp. 6-9</i> <i>Skim pp. 9-14</i> <i>Skim pp. 19-29</i>
SECTION II: PRINCIPLES OF CRIMINAL LAW		
A. Reading Criminal Statutes <ol style="list-style-type: none"> 1. Breaking Statutes into Elements 2. Interpreting the Elements 3. Applying Statutory Elements B. <i>Actus Reus</i> – “The Guilty Act” <ol style="list-style-type: none"> 1. Defining <i>Actus Reus</i> 2. Understanding <i>Actus Reus</i> 	1	Video 1 (download here) p. 133 & MPC § 1.05(1) Supp. 1
(con’t)	2	Supp. 2
3. Conduct		
a. The Voluntary Act Requirement	3	pp. 134-45 (skip n.10)
b. Omissions as “Acts”	4	pp. 146-57 (attend n. 2, p. 149)

[§] Assignment Key:

- Attend** - Read this material carefully.
- MPC §/§§ - Model Penal Code section/sections (starting on p. 995 of the casebook).
- n./nn. - Casebook note/notes. These are numbered and usually appear after cases, labeled “Notes and Questions.”
- p./pp. - Casebook page/pages.
- Skim** - Read in sufficient depth to understand the material, but no need to take extensive notes.
- Skip - Do you really need a key to understand what “skip” means?! I mean, really.
- Supp. - Supplemental reading material available on the TWEN site.
- Video - Video on TWEN site.

4. Causation		
a. Actual Causation/Cause in Fact	5	231-37
i. “But For” Causation		
ii. Substantial Factor Causation		
b. Proximate “Causation”	6	pp. 237-49 (attend nn. 3-10) & n. 4 (pp 251-53)
C. <i>Mens Rea</i> – “The Guilty Mind”		
1. Defining <i>Mens Rea</i>		pp. 161-65
2. The Traditional Approach		pp. 165-73 (attend n. 7)
a. Specific Intent		
b. General Intent		
3. The Model Penal Code Approach	7 & 8	pp. 173-77 & attend MPC § 2.02
a. Intent		
b. Knowledge (<u>and</u> Willful Blindness)		pp. 177-82
c. Recklessness		
d. Criminal Negligence		
4. Reading Statutes for <i>Mens Rea</i>		pp. 182-89
5. Strict Liability Offenses	9	pp. 190-208
6. Mistakes of Fact	10	pp. 208-13
7. Mistakes of Law		pp. 213-30
D. Practicum: Analyzing <i>Actus Reus</i> & <i>Mens Rea</i>	11	Laptops Encouraged
SECTION III: CRIMES		
A. Homicide		
1. Overview	12	<i>Skim pp. 257-73; MPC §§ 210.0-210.5 & Supp. 3</i>
2. Intentional Killings		pp. 281-93
a. Premeditated Murder		
b. Voluntary Manslaughter	13	pp. 293-300 & 311-21
3. Unintentional Killings		
a. “Depraved Heart” Murder	14	pp. 324-42
b. Involuntary Manslaughter		
c. Felony Murder		pp. 342-45
1. Policy		<i>Skim pp. 345-54</i>
2. Limits	15	
i. “In Furtherance Of”		pp. 368-73
ii. “Inherently Dangerous”		pp. 354-63
iii. “Independent” Predicates		pp. 363-67
4. Affirmative Defense: Self-Defense	16	pp. 524-36 Video 2
a. “Reasonable Belief”	17	pp. 536-56

B. Rape, Sexual Assault, and Related Offenses		
1. Overview	18	<i>Skim pp. 417-28, 431-39, & Supp. 4</i>
2. Actus Reus		
a. The Resistance Requirement		pp. 445-56
b. "Forcibly"	19	pp. 439-45 pp. 460-70 pp. 471-83
1. The Traditional Approach		
2. Redefining Force		
3. Abandoning Force		
3. <i>Mens Rea</i>	20	pp. 457-60, 490-96, 501-05
Book Essay Due		
Take-Home Midterm Review	21	Laptops Encouraged
C. Inchoate Crimes		
1. Attempt	22	<i>Skim pp. 763-66</i>
a. Overview		pp. 766-67; MPC § 5.01
b. <i>Mens Rea</i>		pp. 773-80
c. <i>Actus Reus</i>	23	p. 770 n. 1; pp. 780-85, <i>skim pp. 785-802</i> pp. 818-22
2. Defense: Abandonment		
3. Conspiracy	24	pp. 831-33 (thru n. 1); MPC §§ 5.03-04 pp. 839-50
a. Overview		
b. <i>Mens Rea</i>		
c. <i>Actus Reus</i>	25	pp. 850-58 pp. 859-64 pp. 864-73, 835-39 pp. 873-78 pp. 879-83
1. Validity		
2. Scope		
d. Merger (Wharton's Rule)		
e. Defense: Renunciation		
REVIEW & EXAM PREPARATION	26	

The assignments set out in this syllabus are not set in stone; we may make adjustments over the course of the semester depending on where our combined interests take us. At various points in the semester, I may assign additional readings that provide different perspectives or raise new questions about the topics we cover in class. I will provide you with as much notice as possible before making any changes.