

Professor Robinson  
Advanced Criminal Law – Fall 2012

**COURSE DESCRIPTION**

This is a discussion-based class that uses as its coursebook a collection of "conversations" involving more than 100 criminal law professors debating the issues that they as a group believed to be those of greatest importance and interest. Each class or two takes up one "conversation" – a core text summarizing the arguments on an issue, critiques by three to seven commentators, followed by a reply by the core text author – and a real-world case that helps focus the discussion.

For each conversation, one student will present and defend the core text while another critiques it, followed by a general discussion among the class. The issues in debate include such topics as preventive detention, restorative justice, battered women, mercy, rape reform, general deterrence, negligence liability, self-defense, the significance of resulting harm, provocation, insanity, jury nullification, entrapment, and the death penalty. For a more detailed list, see the tentative syllabus posted on the course portal for next term's Advanced Criminal Law.

The conversations are taken from *Criminal Law Conversations* (Oxford 2009); the cases are from *Criminal Law Case Studies*, 4<sup>th</sup> ed. (West 2010) (this is a thin paperback supplement). These two volumes, which are the required books for the course, are on reserve at the library for your inspection (under the course name: Advanced Criminal Law).

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### **COURSE PROCEDURES**

**First Class.** All students who might be interested in registering for the class must attend the first class meeting. In preparation for the first class, it is suggested that you inspect the two required texts for the course (see below), both of which are on reserve in the library. You may wish to determine which of the "conversations" would be of greatest interest – for which you have an interest in serving as either its presenter or its critic. At the first class, those who commit to enrolling in the class will sign up in a randomly-selected order to be a Presenter or a Critic for one of the conversations listed on the Syllabus.

**"Conversations"** – Before each class, the Presenter and the Critic will submit a maximum two-page single-spaced summary of what they believe are the most important points. At the class meeting, the Presenter will briefly remind students of the main points of the core text and the Critic will offer points of criticism, drawn either from his or her own views or from the commentators.

**Principal Cases.** Associated with each conversation is a principal case. (See the tentative syllabus for the listing of which case is associated with which conversation.) The night before each class, students will post on the course website their proposed "sentence" for the defendant in the principal case that reflects his moral blameworthiness for the offense. In class, students should be prepared to explain and defend their sentence and also to analyze the criminal liability of defendant under both the Model Penal Code and the statutes that existed in the jurisdiction at the time of the offense (both of which are contained in the *Criminal Law Case Studies* volume). Students also may be asked in class to serve as a prosecutor or defense counsel for the case.

### **Grading**

The final grade for the course will be weighed as follows:

Class presentations (as Presenter or Critic) 25%

Class preparation and participation 35%

Final examination 40% (The final exam will be a take-home.)

### **Required Coursebooks**

Robinson, Garvey & Ferzan, eds., *Criminal Law Conversations* (Oxford 2009)

Robinson, *Criminal Law Case Studies*, 4<sup>th</sup> ed. (West 2010)

# ADVANCED CRIMINAL LAW

## TENTATIVE SYLLABUS

(as of March 29, 2012)

#	CLC Chapter*	CLCS4th Case**
1	Organize class and assignments for term	
2	2. Empirical Desert	24. Case of Richard Tenneson
3	3. Defending Preventive Detention	5. Case of William James Rummel
4	5. The Difficulties of Deterrence as a Distributive Principle	1. Case of DeSean McCarty
5	7. Results Don't Matter	10. Case of Joseph Wood
6	9. Remorse, Apology, and Mercy	25. Case of Alex Cabarga
7	1. Decision Rules and Conduct Rules: On Acoustic Separation in Criminal Law	4. Case of Thomas Dudley
8	13. Against Negligence Liability	3. Case of Bernice & Walter Williams
9	14. Rape Law Reform Based on Negotiation: Beyond the No and Yes Models	Case of Thomas Laseter – See Supplement
10	15. Provocation: Explaining and Justifying the Defense in Partial Excuse, Loss of Self-Control Terms	Case of John Gounagias – See Supplement
11	16. Objective Versus Subjective Justification: A Case Study in Function and Form in Constructing a System of Criminal Law Theory	19. Case of Motti Ashkenazi
12	17. Self-Defense and the Psychotic Aggressor	17. Case of Johann Schlicht
13	19. Self-Defense, Imminence, and the Battered Woman	20. Case of Janice Leidholm
14	21. Against Control Tests for Criminal Responsibility	21. Case of Barry Kingston
15	22. Abolition of the Insanity Defense	22. Case of Andrea Yates
16	23. Entrapment and the “Free Market” for Crime	23. Case of David Kenney Hawkins
17	25. Against Jury Nullification	16. Case of John Charles Green
18	27. In Support of Restorative Justice	15. Case of Jordan Weaver
19	29. The Heart Has Its Reasons: Examining the Strange Persistence of the American Death Penalty	Case of William King – See Supplement
20	Take home examination	

\* *Criminal Law Conversations* (Oxford 2009)

\*\* *Criminal Law Case Studies*, 4<sup>th</sup> ed. (West 2010) (Supplemental cases will be posted on the course portal.)

