

CONCEPTS OF CRIMINAL LAW

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Office Hours: Tuesday/Thursday 10:00 – 10:30 and 12:30 – 1:30; also Thursday afternoons 2:45 – 4:45

Catalog Course Description:

Historical development of philosophy of law and constitutional provisions, legal definitions, classification of crime, case law, methodology, and concepts of criminal law as a social force. No prerequisites.

Course Objectives:

1. To understand the theories of the criminal law.
2. To trace the development of American criminal law and the common law/statutory distinction.
3. To distinguish between tort and crime.
4. To understand the general principles of criminal culpability.
5. To understand justifications, defenses, and excuses.
6. To distinguish between crimes against persons and crimes against property.

Course Requirements:

Required Text: Joel Samaha, **Criminal Law, 7th ed.** Since there have been major changes from edition to edition of this textbook, you will need to get the 7th edition, the earlier editions are not current and the page numbers for assignments will not match earlier editions. It is available in the bookstore and a copy is on course reserve in the MLK Library.

Reading Assignments: Please complete all reading assignments before the class in which they are to be discussed. All tests, class discussions, and the final exams will be based on these readings. There will not be a large number of pages to read for each class, but students will be expected to know them well.

Testing and Evaluation: There will be approximately six in-class tests during the course periods and a final exam that will be administered at the final exam time assigned by the university in the Spring 2004 Schedule of classes (Monday May 24th, from 12:15 to 2:30). Of the in-class tests, every student may either miss one test or have the lowest test score dropped from the course grade calculation. These in-class tests will be administered approximately every second week of the semester. The precise dates of these in-class tests is not specified in advance in order to encourage class attendance and class preparedness. Class participation will also be taken into account in the final grading to the extent of one half-grade upward or downward. The total of the five in-class tests that will count for each student is 70% of the final grade. The final exam will also count for 30% of the final grade. The in-class tests and the final exam may cover anything discussed in class as well as the assigned readings up to that point in the course.

Class Discussion: Prepare be prepared to discuss everything in the reading assignments. Please bring your textbook to EVERY class meeting. **Please mute all cell phone ringers – but you can vibrate as much as you like.**

Other: Please see SJSU Catalog for the Add/Drop regulations, policies regarding grades of Incomplete, and for all issues of plagiarism and other questions of academic conduct. Students with disabilities who desire accommodation should see the instructor at the beginning of the semester. Classroom evacuation procedures are posted adjacent to the room.

Schedule of Assignments (all dates below are approximate and will likely vary slightly depending on this class's rate of progress through the course material):

January 29: Getting started; an introduction to the course, the professor and the textbook. **Please bring your textbook to this class and to every subsequent class meeting.**

February 3: Nature and Purposes of Criminal Law; Samaha Chapter 1.

February 5: Nature and Purposes of Criminal Law; Samaha Chapter 1 continued.

February 10: Constitutional limits: vagueness, Samaha, Chapter 2.

February 12: Constitutional limits: equal protection and free speech, Samaha Chapter 2.

February 17: Constitutional limits: privacy, Samaha Chapter 2.

February 19: Constitutional limits: cruel and unusual punishment, Samaha Chapter 2.

February 24: Actus Reus: The principle of action: voluntary action and status; Samaha Ch. 3.

February 26: The principle of action: omissions as acts, Samaha Chapter 3.

March 2: The principle of action: Possession and constructive possession as actus reus, Samaha Ch.3.

March 4: Mens Rea The principle of intention: purposely, knowingly, recklessly, negligently, and accidentally; Ch 4.

March 9: Mens rea cont'd, objective and subjective standards, strict liability Ch. 4.

March 11: Mens Rea continued.

March 16: Causation,;Samaha Chapter 4.

March 18: Parties to Crime: before, during, and after crime; Samaha Chapter 5.

March 23: Parties to crime: vicarious liability; Samaha Chapter 5.

March 25: Uncompleted crimes: mental and physical elements of attempt; Samaha, Ch. 6.

March 29 – April 2: Spring break – No classes!!!

March 30: Uncompleted crimes: impossibility and abandonment; Samaha Chapter 6.

April 6: Conspiracy and solicitation; Samaha Ch. 6.

April 8: Justification: self-defense; Samaha Chapter 7.

April 13: Justification: defense of home and consent, Samaha Chapter 7.

April 15: Justification: resisting arrest, Samaha, Chapter 7.

April 20: Excuses: insanity, Samaha Chapter 8.

April 27: Excuses: age and syndromes, Samaha Chapter 8.

April 29: Excuses, Smaha Chapter 8 continued.

May 4: Criminal homicide: the meaning of death; Samaha Chapter 9.

May 6: Criminal homicide: murder; Samaha Chapter 9.

May 11: Criminal homicide: manslaughter; Samaha Chapter 9.

May 13: Assault, Battery, Criminal sexual conduct; Samaha Chapter 10.

May 18: Crimes against Habitations: Burglary and Arson; Samaha Ch. 11.

Monday May 24: Final Exam 12:15 -- 14:30 (per SJSU Schedule of Classes).

Public Health Model

The public health model outlines a defined set of steps to undertake for reducing the burden of diseases or injuries.

I. The first step of the model is to **identify the relative magnitude of the problem**. This is often done through the establishment of *surveillance systems* to quantify incidence or health outcomes.

II. The second step is to **identify causal factors** associated with the injury (i.e. risk factors). This determination might arise from information contained within the surveillance system. More often, though, it is done independently through analytic epidemiologic studies.

III. The third step is to **utilize the information** available on causal factors to **develop an intervention**.

IV. After implementation of the intervention, it is then appropriate to consider an **evaluation of its effect**. This evaluation may use data from the surveillance system to examine if there has been any change in the burden of disease.

Three types of intervention:

1. **Primary**- targets the overall population
2. **Secondary**- targets at risk populations
3. **Tertiary**- targets the problem to prevent further incidents

Cultural Competence¹



Groups create culture.



Culture is dynamic and changing

Culture- a. a **set of beliefs**, attitudes and values and standards of behavior that are passed from one generation to the next including language, worldview, dress, food, styles of communication, notions of wellness, healing techniques and practices, childrearing, identity, values, etc.

- **Dynamic and changing**- changes as conditions change and interactions with larger society
- Has a **set of assumptions** made up of beliefs that are so completely accepted that they are not stated, questioned or defended

Value base- ideals, customs, attitudes, practices and beliefs that one deems worthy and useful and that stimulate within that individual a strong emotional response

Cultural Competence- "the ability to understand , to the best of one's ability, the worldview of out culturally diverse clients and adapt our practices."

¹ Abney, Veronica "Cultural Competency in the Field of Child Maltreatment" The APSAC Handbook on Child Maltreatment, 2nd edition, 2002, Sage Publications, p.477-486.

Professionals of color are under-represented despite the over representation of clients of color in the child protection system.

- o 1996 National Child Abuse and neglect Data system: 254,613 children
- o African American: 15% total child population, 30% CPS
- o Alaskan Native: 1% total child population, 2% CPS
- o White: 67%, 56% cps
- o Asian Pacific Islander: 4%, 1%
- o Hispanic equally represented.

Professional values should include appreciation of:

1. Dynamics of difference and beliefs in multi-culturalism
2. Existence of individual and institutional bias and that it slants toward the worldview of the majority or dominant culture
3. The power of myths and stereotypes
4. The needs to empower the disenfranchised (locus of control rests within the individual)

a. **powerlessness** well accepted effect of abuse as well as the experience of the oppressed within dominant culture

1. Understand the influence of culture on perception
2. Study the history of racism and oppression
3. Gain knowledge of cultures, child-rearing practices, sex-roles, family structure, religious beliefs and traditions, worldview, community characteristics, levels of acculturation and assimilation
4. Understand social class and historical impact
5. Work from an unbiased theory
6. In determining what constitutes child maltreatment, professionals must take into account the physical and emotional harm to the child, the parent's intent, the socialization goals.

Culturally diverse model:

1. Accepts that cultures vary
2. Accepts that some cultural practices, despite having evolved to meet universal human needs may be destructive