SYLLABUS, LOUISIANA CRIMINAL LAW


Grading and Classroom Guidelines

Class preparation for each and every class is essential to your doing well in this course. Unlike the undergraduate, the law student is not the passive recipient of “lectured” wisdom. The greater part of legal learning is active learning -- indeed, self-teaching. Therefore, a legal education involves hard work, discipline, dedication, and taking responsibility for one’s own education. The professor’s job is to teach you how to learn the law. Your task is to learn.

To learn Socratically, you must read -- probingly and critically -- the daily assignments before coming to class. The best way to guarantee, as a first-year law student, that you are critically reading the cases is to prepare a brief of each case, as explained later in these Cases and Materials. Also, you must think about and analyze all of the problems and questions presented in class, even when someone else is attempting an answer. In other words you should formulate your answers to all the questions presented in class -- which, by the way, tend to be very much like the questions you will see on the final examination -- and then you should compare your proposed answer to those of other students who happen to be answering in class, keeping an eye out for similarities, dissimilarities, and points of criticism. (After class, you should repeat the same analytical steps in your notes.) This is the essence of active, dialectical learning, or what is commonly referred to as the “Socratic Method.” Finally, you must commit yourself to participating fully in class discussion as a way to test your analytical abilities, for these are the same abilities that will be tested on the final examination. In short, raise your hand and enter the classroom debates.

Legal learning, then, is not rote memorization; to be sure, important principles, statutes, and even case names need to be memorized, but these bits of knowledge must then be employed in the analytical solution of legal problems. Legal learning consists in the active development and practice of the ability to think critically and express thoughts lucidly and persuasively. In other words, it is less important (although it is necessary and it is assumed) that you know the rules of law than that you learn the lawyer’s skill of understanding and applying the rules of law to solve factual problems. Suppose you are learning to play chess. Everyone must learn the “rules,” that
is, the names of the pieces and the ways they are able to move and capture opponents. After you do that, are you already a “chess player?” Are you ready to “take a chess exam” by entering a tournament? Or must you first learn to apply the rules in numerous “practice games”?

It is the same in law school: you will be tested on your strategy and gamesmanship, not on the rules. Everyone, or almost everyone, will know the rules of Criminal Law by the end of the semester. But the final examination will test your skill in applying the rules -- that is, it will test your legal analysis. Hence, a rigorous and challenging discussion of the cases and statutes is the goal of each class, with the student just as responsible as the professor for analyzing and making comments on the materials -- the student being restricted in the freedom to participate in this critical dialogue only by the “traffic control” requirement that a hand be raised and the student be recognized before joining the debate.

These pedagogical reasons provide the “positive” incentive for your thoroughly preparing each day’s assignment. There is also another reason, which springs from a professor’s duty to instill the norms of professionalism, including thorough preparation for every task: your final grade in this course will be based solely upon the final examination (a 3-hour closed-book essay test), except that, within the professor’s discretion, for superlative or poor class preparation and participation, your final grade may be raised or lowered by as much as one full grade (e.g., “C” to “B-” or “C” to “D+”). (Being prepared to explain or discuss the cases is the required or expected, not superlative, participation.)

Furthermore, anyone who in the professor’s estimation is not adequately prepared for class recitation when called upon will have his or her final grade automatically lowered by one half grade (e.g., “C+” to “C”), and thereafter the negative grade increment can be removed only by the student’s voluntary and superlative class participation. (By the way, “unprepared” does not mean that you merely have given a wrong answer; it means that you are unable to discuss the case or give an informed or plausible answer to questions concerning a case.) A second unpreparedness will result in another negative grade increment; and it will obviously be even harder to remove a two-decrement negative grade by voluntary participation.

The prudent course, therefore, is not to attend class when you are unprepared, or to attend, turn in an Unprepared Slip (UP Slip), sit on the last row, and NOT initial the roll sheet. (Adequate preparation, to repeat, means that you have read and briefed the cases and are ready to engage in meaningful discussion of them.) You must notify my assistant Ms. Harvey (contact information in right heading of p. 1 of this Syllabus) at least three (3) hours before class that you will not be prepared for class that day and therefore wish to avail yourself of the UP slip option.

Indeed, in view of the large number of “cuts” available (explained in the next section), the rule-of-thumb for this course is easy to remember: do not -- for any reason or under any circumstances -- come to class late or unprepared, subject only to the exception for attendance on the back bench with a UP slip when unprepared but on time. Thus, your attendance at class and sitting in your assigned seat constitute your professional certification that you are prepared: you are now a graduate student preparing for entry into a learned profession, and you will be expected to conduct yourself accordingly, such as by arriving for class on time and prepared. Since the Loyola Time-Keepers seem unable to synchronize all clocks in the Law Building, set your watches to the clock in our classroom, and when you are late for class by that clock’s time, you are late and should NOT enter. I will enter the classroom and close the door behind myself precisely at the
starting time of each class; so if the door to the classroom is closed, do NOT enter. Therefore, do
yourself a favor: arrive early and review your notes before class.

Occasionally, a student decides to test the seriousness of this punctuality rule by attempting
to enter late. Don’t let it be you, for students are also subject to having their final grades augmented
or decreased based on their adherence to other norms of professionalism besides preparedness,
especially the norms of civility and punctuality. Any intentional breach of these norms of
professionalism will merit an automatic grade reduction.

Also, courtesy and considerateness are not only essential to a professional demeanor but
also to the learning process; so provide a supportive environment for your fellow students by
turning off all cell phones and computers BEFORE you enter the classroom. Also, I shall attempt
to end every class at the appointed time. If, however, I am still talking at the appointed time, please
do not, as some sort of “time” signal to me, start packing up your books. Bear with me a few
moments: I’ll soon finish my point and dismiss the class. Besides, my point might even be
important. . .

In sum, you should attend class now in the same way that you will be required to attend
work and court later -- on time and prepared. Hence, the following checklist of classroom decorum
will serve you as well in your later legal careers as in law school now:

1) **Arrive on time.** Be in your seat and ready to go when class starts. Since it is also disruptive
and distracting to the class, do not leave class early unless there is some emergency. (If you
plan to leave early, for business or pleasure, take one of your cuts that day.) My class is a
more important “appointment” than your trip to the dentist, et cetera, so do not ask for
permission to leave class early -- ever.

2) **Be alert and pay attention -- listen intently.** Law students must train their ears to follow
complicated conversations and process (note-taking, memorization, etc.) the complicated
information. Look interested, even if you are not -- especially if you are not.

3) **Do not talk to each other or pass messages.** You are not invisible; the professor is not a
video screen or hologram. Never attempt to help a student who is involved in the Socratic
dialogue -- that is cheating, and I will treat it as such under the Student Honor Code.

4) **Participate in the proceedings.** Show that you are prepared and ready, able, and willing to
engage the assigned material. If you are shy, overcome it (your grade will, of course, not
be lowered if you volunteer an answer and you are wrong, even though prepared). You
must learn how to speak, persuasively and analytically: you will spend 90 percent of your
working lives talking. Start honing your speaking skills now, not at your first job.

5) **Read more than the assignments.** Throughout the semester, you should read hornbooks,
treatises, and law-review articles on the topics you find difficult. And read these items
more than once: no one can master a law-review article or a chapter in a treatise until the
second or third reading.

6) **Know your environment.** Learn the professor’s quirks and dislikes (e.g., hats, gum,
commercial outlines and canned briefs on the desk, responding to questions with “yeah”
rather than “yes,” etc.) and respect them. This will help you later when you need to learn
and respect the quirks and dislikes of judges and senior partners (e.g., hats, gum,
commercial outlines and canned briefs on the desk, responding to questions with “yeah” rather than “yes,” etc.)

7) **Special treatment.** Never ask for, or expect, special treatment by asking for exceptions to these “Guidelines” and the norms of professionalism.

8) **Learn to speak and act like a professional.** Lawyers never respond to judges’ or senior partners’ questions with the flat-footed “I don’t know” or “Could you repeat the question?” The first answer indicates that the lawyer has not done adequate work on the topic, and the second signals that the lawyer is not paying attention. You will develop the ability to think on your feet by *never* using these self-defeating answers in my class. Like good football coaches and good music teachers, law professors push students so that they will excel. Thus, as a neophyte member of the legal profession, you need to speak, write, and analyze like a lawyer -- moreover, like a music student or athlete, you must get used to criticism, which is *always* intended to teach, to improve, to nudge you towards excellence.

If you follow this eight-item checklist and the pedagogical items in my “Introduction to the Study of Law,” you will achieve both your best possible final grades and the lawyer’s skills mandated by the Loyola College of Law Faculty in its “Learning Outcomes” document of 12 May 2015:

Loyola law students shall be able to identify legal issues and apply the legal rules relevant to the material facts of the issues. They shall be able to construct arguments and counter-arguments and adapt those arguments to changing facts and circumstances. Then, after conducting this sort of objective legal analysis, the students shall be able to construct persuasive arguments in both oral and written form.

Furthermore, Loyola students shall be able to listen actively and react to changing facts and expectations. Finally, Loyola students shall conduct themselves in accordance with the standards of a professional, including the requirement of adequate preparation for all legal tasks.

These lawyer’s skills will be evaluated and scored *vis-à-vis* the assigned Articles of the Louisiana Criminal Code and the jurisprudence interpreting and applying those Articles; and this evaluation will be in accord with the Grading Guidelines contained in this Syllabus.

**ATTENDANCE**

You will be permitted five (5) cuts from class or UP Slips or a combination of both. No excuses need or should be given for these cuts, and no excuses (except those approved by the Student Petitions Committee) will be accepted for any absences beyond this number. *Remember:* turning in a UP Slip counts as an absence, so do *not* sign the Roll Sheet on days when you sit on the back bench.

The penalty for missing more than five (5) classes is explained in the current *Law Studies Bulletin:* “No student will be given credit for work done in any course in which he has failed to attend at least 80 per cent of the scheduled classes. . . . The student has the primary responsibility to keep a record of absences.” *Hence, on the sixth (6th) absence, you will not be permitted to sit for the final examination.*
A daily roll sheet will be passed around the room, and each student has the personal and professional responsibility to initial the roll on that day as proof of attendance. Make sure that you sign the roll sheet before leaving the classroom each day: if for some reason the roll does not come past your seat, you bear the sole responsibility to see me at the end of that class period and initial the roll sheet at that time. Do not request to sign the roll on a later date or at a later class; for example, do not try to remind me at a later date of your attendance on a prior date when you forgot to initial the roll sheet. The roll sheet is the complete and only record of daily attendance, and it must be timely initialed.

An alphabetical Seating Chart will be available at the start of the second class -- you should have chosen where you want to sit for the semester. Carefully locate your “box” on the Room Chart and legibly print your last name, preceded only by “Ms.” or “Mr.” -- also, make sure the lettering is placed for the Professor to be able to read it from the “Podium” or “Professor’s Desk” position on the seating chart.

FURTHER NORMS OF PROFESSIONAL COURTESY

Neither lap-top computers (imagine the distraction of 50 laptops clacking away while you are attempting to discuss a problem or answer a question) nor the tape-recording of classes is permitted. Also, the rules of the law school prohibit food (including gum) and beverages (including mid-day daiquiris) in the classroom. Appropriate dress is required, leaving to your good “fashion sense” exactly what is or is not appropriate attire in a professional school -- other than to point out two items in very bad taste that are absolutely prohibited: hats (including the always obnoxious “baseball cap,” whether worn forwards, backwards, or sideways), and any type of beach attire.

Also, do not wear shirts, caps, buttons, etc., bearing political slogans or campaign messages. This is a professional school composed of students from across the political spectrum who have come together to study law, not politics. Therefore, out of courtesy to your fellow students, do not wear your politics to class.

N. B. -- final reminder: turn off all cell phones and computers before entering class -- this is a crucial matter of modern courtroom decorum and professionalism. And again, NO COMPUTERS are allowed: in law school classes, you should be learning to think like lawyers, not type like court reporters.

My office hours are listed in the heading of this Syllabus and are also posted on the door of my office (LS 434). Appointments are also welcome -- contact my assistant, Ms. Dawn Harvey, at the e-mail on page 1. Also, I am always available for a few minutes of discussion immediately after each class period -- in fact, this is the ideal time to clarify your daily confusions and questions. Do NOT telephone me to discuss academic or other law-school matters. Do not email me: I will NOT respond. I prefer to talk to people, not phones or computer screens; so please come to see me during office hours, if there is something that you would like to discuss. For the same reason -- viz., the importance of personal, face-to-face communications with students -- let me be crystal clear: do not leave phone or e-mail messages. Instead, knock on my office door, enter, and have a seat.
By the way, the following bit of advice is generally unknown to students until it’s too late: if you think you’ll ever need or want a letter of recommendation from a professor, you’ll need to do research or some sort of extra project for that professor for a semester or two. Just being one of 50 or 60 students in a class does not provide enough particularized information for a professor to be able to write much other than bland generalities, such as “Student X was in my Criminal Law class and earned a final grade of B.” Furthermore, if you do a good job, you may be hired as an RA (Research Assistant).

CLASS ASSIGNMENTS

The assignment for the first class is pages 1-9; 15-55 of your Casebook, as well as the “Introduction to the Study of Law” document found on Blackboard.

After the first day’s assignment, you should remain 30 to 35 pages ahead of where the previous class ended -- following the page order and page count in the assigned pages listed below -- in order to be prepared for class participation. Material is covered more slowly at the beginning of the first semester, with the pace of coverage accelerating with the progress of the semester. Hence, while only 10 or 15 pages may be covered per class at the beginning of the semester, by the end it may be 35 pages per class. N.B.: There will be no general review session at the end of the semester. Instead, we have about 30 regularly scheduled review sessions called “class” -- hence, if studying properly, you will be continually reviewing throughout the semester.

Louisiana Criminal Law: Cases and Materials (N.B. -- these assigned pages may be modified during the semester): 1-9; 15-55; 72-81; 95-145; 151-52; 156-201; 206-20; 227-51; 260-305; 308-13; 317-22; 379-447; 359-378 (End of Semester).