

**CRIMINAL LAW, Section C, Fall, 2010**  
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**Casebook:** Kadish, Schulhofer and Steiker, *Criminal Law and Its Processes*, Eighth Edition. Assignments refer to pages in the casebook.

Web site materials are available at the bottom of Prof. O'Brien's website, located in the Faculty Directory section of the Faculty and Staff section of the UMKC Law School Home Page.

**Recommended Supplementary Sources:** LaFare, *Criminal Law Hornbook*; Dressler, *Understanding Criminal Law*; Singer and La Fond, *Criminal Law: Examples and Explanations*

We will cover materials in the following order:

**I. Crime and Punishment: What do we punish and why?**

**Casebook:** 67-78; 106-125

*Regina v. Dudley and Stevens*; *United States v. Michael Milken*; *United States v. Gementera*; *Lawrence v. Texas*

**Web site materials:**

*My Life as a Slave*, Frederick Douglass

**II. Defining Criminal Conduct: The Elements of a Crime**

**A. Actus Reus—Culpable Conduct**

1. Voluntary Act.

**Casebook:** 182-192; MPC<sup>1</sup> §2.01

*Martin v. State*; *People v. Newton*

2. Omissions.

**Casebook:** 192-207

*Jones v. United States*; *Pope v. State*

3. Distinguishing Acts and Omissions:

**Casebook:** 208-212

*Barber v. Superior Court*; *Cruzan v. Director, Mo. Dept. of Public Health*

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<sup>1</sup>MPC refers to the Model Penal Code beginning on page 1071 of the casebook.

## **B. Mens Rea–Culpable Intent**

### 1. Basic Conceptions

**Casebook:** 212-232; MPC §§ 1.13 (9) & (10), and MPC §§ 2.02, 2.04;  
*Regina v. Cunningham; Regina v. Faulkner; State v. Hazelwood; Santillanes v. New Mexico; United States v. Jewell.*

### 2. Mistake of Fact

**Casebook:** 234-246;  
*Regina v. Prince; People v. Olsen; B. v. Director of Public Prosecutions; Garnett v. State*

### 3. Strict Liability

**Casebook:** 248-266; MPC § 2.05  
*United States v. Balint; United States v. Dotterweich; Morissette v. United States; Staples v. United States; State v. Guminga; State v. Baker; Regina v. City of Sault Ste. Marie.*

### 4. Mistake of Law

**Casebook:** 267-288  
*People v. Marrero; Cheek v. United States; United States v. International Minerals & Chemical Corp.; Liparota v. United States; Bryan v. United States; Bryan v. United States; United States v. Ansaldo; United States v. Oherholt; Lambert v. California*

## **C. Causation**

### 1. Foreseeability

**Casebook:** 509-522, MPC § 2.03  
*People v. Acosta; People v. Arzon; People v. Warner-Lambert Co.; Regina v. Cheshire; State v. Shabazz; United States v. Main*

### 2. Subsequent Human Actions

#### a. Intended to produce the result

**Casebook:** 523-536  
*People v. Campbell; People v. Kervorkian; Stephenson v. State*

b. Recklessly risk the result

**Casebook:** 538-543

*Commonwealth v. Root; People v. Kern; State v. McFadden;  
Commonwealth v. Atencio*

#### **D. Attempt**

1. *Mens Rea*

**Casebook:** 544-550; MPC § 5.01

*Smallwood v. State*

2. Preparation v. Attempt

**Casebook:** 554-570

*King v. Barker; People v. Rizzo; McQuirter v. State; United States v. Jackson;  
United States v. Harper; United States v. Joyce.*

3. Solicitation

**Casebook:** 571-575

*State v. Davis; United States v. Church*

4. Impossibility

**Casebook:** 575-588

*People v. Jaffe; People v. Dlugash; United States v. Berrigan; United States v.  
Olviado*

### **III. Vicarious Liability**

#### **A. Accomplice Liability**

1. *Mens rea*: Conduct of the Principal

**Casebook:** 589-609; MPC § 2.06

*Hicks v. United States; State v. Gladstone; People v. Luparello; Roy v. United  
States*

2. *Mens rea*: Attendant Circumstances and Results

**Casebook:** 610-616

*State v. McVay; People v. Russell*

3. *Actus Reus*

**Casebook:** 616-623

*Wilcox v. Jeffery; State ex rel. Attorney General v. Tally, Judge*

4. Relationship between the Liability of the Parties

**Casebook:** 623-632

*State v. Hayes, Vaden v. State*

5. Corporate Entities

a. The Corporation

**Casebook:** 632-642

*New York Central & Hudson River Railroad v. United States; United States v. Hilton Hotels Corp.*

b. Corporate Agents

**Casebook:** 650-663

*Gordon v. United States; United States v. MacDonald & Watson Waste Oil Co.*

**B. Conspiracy**

1. Overview of Conspiracy

**Casebook:** 663-677; MPC § 5.03

*Krulewitch v. United States*

2. Accessorial Liability

**Casebook:** 677-687

*Pinkerton v. United States; State v. Bridges; United States v. Alvarez*

3. The *Actus Reus* of Conspiracy

**Casebook:** 687-695  
*Interstate Circuit Inc. v. United States*

4. The *Mens Rea* of Conspiracy

**Casebook:** 695-704  
*People v. Lauria*

5. The Scope of Agreement/Parties

**Casebook:** 704-721  
*Kotteakos v. United States; Anderson v. Superior Court; United States v. Bruno; United States v. Borelli; United States v. McDermott*

#### **IV. Homicide Offenses**

##### **A. Introduction and Legislative Grading of Intended Killings.**

1. Premeditation-Deliberation

**Casebook:** 381-390; MPC §§ 210.0 to 210.4  
*Commonwealth v. Carroll; State v. Guthrie*

2. Provocation

**Casebook:** 390-410  
*Girouard v. State; Maher v. People; People v. Casassa*

##### **B. Legislative Grading of Unintended Killings**

1. Standards of Liability; Civil vs. Criminal, Subjective vs. Objective

**Casebook:** 410-426  
*Commonwealth v. Welansky; Rex v. Bateman; State v. Barnett; People v. Hall; State v. Williams*

2. The line between murder and manslaughter

**Casebook:** 426-435  
*Commonwealth v. Malone; United States v. Fleming*

##### **C. Felony Murder**

1. The Basic Doctrine

**Casebook:** 435-447;  
*Regina v. Serne; People v. Stamp; People v. Washington*

2. “Inherently Dangerous Felonies”

**Casebook:** 447-452  
*People v. Phillips; People v. Stewart; Hines v. State*

3. The Merger Doctrine

**Casebook:** 452-457  
*People v. Burton*

4. Killings not in Furtherance of a Felony

**Casebook:** 457-466  
*State v. Canola*

**V. Exculpation and Excuse**

**A. Justification**

1. Defense of Life and Person

**Casebook:** 737-786; MPC §§ 3.04, 3.05  
*United States v. Peterson; People v. Goetz; State v. Kelly; State v. Kelly; State v. Norman; Commonwealth v. Sands; State v. Abbott; United States v. Peterson*

2. Protection of Property and Law Enforcement

**Casebook:** 786-797; MPC §§ 3.06-3.09  
*People v. Ceballos; Durham v. State; Tennessee v. Garner*

3. Choice of the Lesser Evil

**Casebook:** 798-804; 807-809; 814-817; MPC §§ 3.02, 3.11  
*People v. Unger; Borough of Southwark v. Williams; Commonwealth v. Leno; Commonwealth v. Hutchins; United States v. Schoon; Public Committee Against Torture v. Israel*

**B. Excuse**

1. Duress

**Casebook:** 831-850; MPC § 2.09

*People v. Toscano; United States v. Fleming; United States v. Contento-Pachon; Regina v. Ruzic*

2. Intoxication

a. Voluntary Intoxication

**Casebook:** 850-860; MPC § 2.08

*People v. Hood; State v. Stasio*

b. Involuntary Intoxication

**Casebook:** 860-863

*Regina v. Kingston*

**VI. Mental Illness.**

**A. Legal Insanity**

**Casebook:** 863-898; MPC § 4.01

*M’Naghten’s Case; The King v. Porter; United States v. Lyons; State v. Cresnshaw; State v. Guido*

**Web site materials:** *Pannetti v. Quarterman*

**B. Diminished Capacity**

**Casebook:** 901-911

*United States v. Brawner; Clark v. Arizona*