



# Criminal Law (Volume I)

Fall 2015

Course Director(s): Jamie Cameron



## NOT FOR PUBLICATION

All items protected by copyright have been cleared through the Course Kit and Copyright Clearance Centre of York University Printing Services.

# TABLE OF CONTENTS

## Volume I

<b>PREFACE</b> .....	1
<b>I. INTRODUCTION</b>	
<b>A. Harm and the Criminal Law</b> .....	9
Hockey Violence.....	9
A Note on Mixed Martial Arts .....	22
The Harm Principle.....	24
<i>R v Malmö-Levine; R v Caine</i> .....	25
<i>R v Labaye</i> .....	29
Prostitution Related Offences .....	32
<i>Bedford v Canada (Attorney General)</i> .....	32
<i>Carter v Canada</i> .....	35
<b>B. Sources of Law</b> .....	36
<i>Frey v Fedoruk</i> .....	37
<b>C. Basic Principles of Criminal Law</b>	
1. <u>The Presumption of Innocence</u> .....	44
<i>Woolmington v DPP</i> .....	44
<i>R v Oakes</i> .....	49
2. <u>Reasonable Doubt</u> .....	57
<i>R v Lifchus</i> .....	57
<i>R v Starr</i> .....	60
3. <u>Vagueness</u> .....	63
<i>R v Nova Scotia Pharmaceutical Society</i> .....	63
<b>II. ACTUS REUS</b>	
<b>Introduction</b> .....	67
<b>A. Elements of the Offence</b> .....	67
<i>Hutt v The Queen</i> .....	67
<i>R v Grilo</i> .....	71
<i>R v Lohmes</i> .....	74
<i>R v Davis</i> .....	78

<b>B.</b>	<b>Defining the “Actus” Reus</b> .....	82
	1. <u>Voluntariness</u> .....	82
	<i>R v Lucki</i> .....	84
	<i>R v Wolfe</i> .....	85
	<i>R v Makin</i> .....	86
	<i>Ryan v The Queen</i> .....	88
	2. <u>Omissions</u> .....	90
	<i>Fagan v Commissioner of Metropolitan Police</i> .....	90
	<i>Moore v The Queen</i> .....	94
	<i>R v Miller</i> .....	98
	<i>R v Thornton</i> .....	101
<b>C.</b>	<b>Causation</b> .....	105
	Homicide Chart .....	106
	1. <u>Causation and Homicide</u> .....	107
	<i>R v Smithers</i> .....	107
	A Note on <i>R v Shanks</i> .....	111
	<i>R v Harbottle</i> .....	112
	<i>R v Nette</i> .....	118
	2. <u>Intervening Cause</u> .....	126
	<i>R v Smith</i> .....	126
	<i>R v Maybin</i> .....	128
	3. <u>Causation and "Joint Endeavour"</u> .....	134
	<i>R v JSR</i> .....	134
<b>D.</b>	<b>Assault and Actus Reus</b> .....	139
	1. <u>Sexual Assault</u> .....	140
	<i>R v Chase</i> .....	140
	<i>R v V(KB)</i> .....	143
	2. <u>Consent</u> .....	146
	(a) <u>Limits on Consent</u> .....	147
	<i>R v Jobidon</i> .....	147
	<i>R v J.A.</i> .....	157
	(b) <u>Fraud and Consent</u> .....	166
	<i>Problems: Fraud Three Ways</i> .....	166
	<i>R v Cuerrier</i> .....	169
	<i>R v Mabior</i> .....	181
	<i>R v Hutchinson</i> .....	189

## Volume II

<b>III.</b>	<b>MENS REA</b> .....	205
<b>A.</b>	<b>General Principles</b> .....	205
	<i>R v Sault Ste Marie (City)</i> .....	207
	<i>A Note on Kilbride v.Lake</i> .....	216
	<i>Reference re: section 94(2) of the Motor Vehicle Act</i> .....	218
<b>B.</b>	<b>Degrees of Mens Rea</b> .....	223
	<i>R v Buzzanga and Durocher</i> .....	223
	<i>R v Lewis</i> .....	229
	<i>R v Docherty</i> .....	232
	<i>R v Hinchey</i> .....	237
	<i>R v Barron</i> .....	241
	<i>R v Nurse</i> .....	247
	<i>R v Buttar</i> .....	249
	Problem: Uttering Threats.....	253
<b>C.</b>	<b>The Constitutionalization of Mens Rea</b> .....	254
	<i>R v Vaillancourt</i> .....	254
	<i>R v Martineau</i> .....	260
	<i>R v DeSousa</i> .....	265
	<i>R v Creighton</i> .....	270
	<i>R v Hundal</i> .....	280
	<i>R v Beatty</i> .....	285
	<i>R v Roy</i> .....	289
<b>D.</b>	<b>Culpable Homicide</b> .....	293
	1. <u>First Degree Murder: s.231(2) – Planned and Deliberate</u> .....	293
	<i>R v Droste</i> .....	293
	<i>R v Aalders</i> .....	297
	2. <u>Second Degree Murder: s. 229(a)(b)(c)</u> .....	300
	<i>R v Simpson</i> .....	300
	<i>R v Cooper</i> .....	302
	<i>R v JSR</i> .....	306
	<i>R v Shand</i> .....	308
	3. <u>Infanticide: s. 233</u> .....	312
	<i>R v LB</i> .....	313
<b>E.</b>	<b>Parties to Offences</b> .....	318
	<i>R v Briscoe</i> .....	318
	Problems: Parties to Homicide.....	324

	<i>R v Rochon</i> .....	327
<b>F.</b>	<b>Mistake of Fact</b> .....	333
	<i>Pappajohn v The Queen</i> .....	335
	<i>Sansregret v The Queen</i> .....	341
	<i>R v Ewanchuk</i> .....	342
	<i>R v Tutton</i> .....	350

### Volume III

<b>IV.</b>	<b>ALTERED STATES OF MIND</b> .....	357
<b>A.</b>	<b>Not Criminally Responsible (s. 16)</b> .....	360
	<i>M’Naghten’s Case</i> .....	360
	<i>Cooper v The Queen</i> .....	361
	<i>R v Abbey</i> .....	362
	<i>R v Chaulk</i> .....	364
	<i>R v Oommen</i> .....	372
<b>B.</b>	<b>Automatism</b> .....	377
	<i>R v Rabey</i> .....	377
	<i>R v Parks</i> .....	384
	<i>R v Stone</i> .....	388
	<i>R v Luedecke</i> .....	396
<b>C.</b>	<b>Intoxication</b> .....	401
	<i>R v Leary</i> .....	401
	<i>R v Bernard</i> .....	402
	<i>R v Daviault</i> .....	407
	<i>R v Tatton</i> .....	419
	A Note on Section 33.1 of the <i>Criminal Code</i> .....	428
<b>V.</b>	<b>DEFENCES</b> .....	431
<b>A.</b>	<b>Self-Defence</b> .....	431
	<i>R v Lavallee</i> .....	434
	<i>R v Cinous</i> .....	442
<b>B.</b>	<b>Necessity</b> .....	449
	<i>Morgentaler v The Queen</i> .....	449
	<i>Perka v The Queen</i> .....	450
	<i>R v Latimer</i> .....	458

<b>C.</b>	<b>Duress</b> .....	463
	<i>R v Hibbert</i> .....	465
	<i>R v Ruzic</i> .....	471
	<i>R v Ryan</i> .....	476
<b>D.</b>	<b>Provocation</b> .....	487
	<i>R v Hill</i> .....	487
	<i>R v Thibert</i> .....	493
	<i>R v Parent</i> .....	498
	<i>R v Tran</i> .....	500
	Problems: Provocation and the air of reality test .....	506
<b>E.</b>	<b>Entrapment</b> .....	509
	<i>R v Mack</i> .....	509
<b>F.</b>	<b>Legal Authority</b> .....	516
	<i>R v Ogg-Moss</i> .....	516

