

Review and Instructions for Exam 1

In general, the Chapter Materials posted on the class site are designed to highlight *and* supplement the text materials. Within the Chapter Materials, topics and terms in bold type reflect the key topics and terms in each module. These topics and terms typically focus on common law/traditional and contemporary/Model Penal Code concepts. A full understanding of these topics and terms, in addition to the court decisions in the chapters identified below, represents the primary “testable” material, and these are listed below.

Chapter 1 Key Topics and Terms

Natural law, deviance, crime, criminal law

- **Natural Law**: a system of right or justice held to be common to all humans and derived from nature rather than from the rules of society
- **Deviance**: crime in terms of accepted behavior or acceptable behavior
- **Crime**: conduct that is defined as illegal by criminal law
- **Criminal Law**: the body of law that defines crimes and provides for their punishment

Mala in se, mala prohibita

- Mala in se: wrong or evil itself
 - Ex: murder, robbery, larceny, rape
- Mala prohibita: something is wrong or evil because it is defined as that
 - Ex: speeding

Felonies, misdemeanors

- Felony: a crime punishable by death or confinement in prison for more than 12 months. Death is reserved for more serious felonies, like first-degree murder.
- Misdemeanors; a crime punishable by a fine or a period of incarceration less than 12 months

Criminal procedure

- Criminal Procedure: the body of law that provides the lawful processes and procedures to investigate, adjudicate, and punish individuals for crimes

Characteristics of civil law cases vs. criminal law cases

- Criminal Law embodies and enforces the norms and values of society, punishes offenders for violation of criminal law, and helps protect the community, while ensuring a fair process for alleged offenders
- Civil Law is the system of law concerned with private relations between members of a community rather than criminal, military, or religious affairs
 - Examples of civil lawsuits: personal injury cases, contract disputes

Incapacitation, retribution, deterrence, rehabilitation

- **Rehabilitation**: “planned intervention that is intended to change offenders for the better.”
 - Example: requiring a drug abuser to complete a treatment program may benefit society in the long run because the individual may desist from drug use
- **Incapacitation**: the act of removing an individual from society so he or she can no longer offend, serves an important community protection function.
- **General Deterrence**: concerned not with the offender, but with other would-be offenders. The assumption is that when would-be offenders see a criminal held accountable, they opt to abide by the law for fear of suffering the same fate
- **Specific Deterrence**: serves to discourage the offender from committing additional crimes once he or she is released from confinement (if this ever occurs).
- **Retribution**: using punishment to achieve societal “vengeance” or “just deserts”. This concept that the offender has earned the punishment through his crime.

Code of Hammurabi, Twelve Tables of Roman law, common law, Model Penal Code
Federal and state constitutions, statutory law, case law

- **Code Hammurabi**: assembled by the 6th Babylonian king, Hammurabi in 1760 B.C. the code expressed a strong “eye for an eye” philosophy
- **Twelve Tables**: the first secular written legal code. The code was named as such because the laws were literally written into 12 ivory tablets. Contained a strong element of retributive justice
- **Common-Law**: the part of English law that is derived from custom and judicial precedent rather than statutes
 - The body of English law as adopted and modified separately by different states of the US and the federal government
- **Model Penal Code**: a set of suggested criminal laws proposed by the American Law Institute in 1962. A group of legal scholars and practitioners developed this set of suggested criminal laws to reflect “best practices” and common understandings across the country by definition of crimes and related provisions.
 - Used as a source of guidance by legislators in drafting or revising their own criminal codes of law.
- State criminal law:
- Federal criminal law:
- **Statutory Law**: refers to the laws or statutes in the federal criminal codes of law enacted by Congress and the state codes of criminal law enacted by the individual state legislatures
- **Case Law**: the collection of past legal decisions written by the court and similar tribunals in the course of deciding cases, analyzed by using previous cases to decide current ones

Characteristics of the adversary system, including participants, burden of proof, standards of proof
General aspects of American court structure, including the nature of trial and appellate courts

- **Burden of proof**: the government’s responsibility to prove that a person committed a