**SHORT TITLE OF PROPOSAL:** New Course - Comparative Criminal Process

<table>
<thead>
<tr>
<th>Box 1: TYPE OF ACTION</th>
<th>ADD(NEW)</th>
<th>DEACTIVATE</th>
<th>MODIFY</th>
<th>OTHER</th>
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</thead>
<tbody>
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<table>
<thead>
<tr>
<th>Box 2: LEVEL OF ACTION</th>
<th>Non-Credit</th>
<th>Undergraduate</th>
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<table>
<thead>
<tr>
<th>Box 3: ITEM OF ACTION (check appropriate boxes)</th>
<th>APPROVAL SEQUENCE</th>
<th>DOCUMENTS REQUIRED</th>
<th>INFO COPIES</th>
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<tbody>
<tr>
<td>1. Experimental Course 1</td>
<td>AC</td>
<td>NOP</td>
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<tr>
<td>2. Course Title</td>
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<td>3. Course Credits</td>
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<td>4. Course Number</td>
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<td>5. Course Level</td>
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<td>6. Deactivate a Course</td>
<td>ABCDEF</td>
<td>NO</td>
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<td>7. Pre &amp; Co-Requisite</td>
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<td>NO</td>
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<td>8. Course Content</td>
<td>ABCD</td>
<td>NOP</td>
<td>a, b</td>
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<tr>
<td>9. New Course</td>
<td>ABCDEF</td>
<td>NOPQ</td>
<td>a, b</td>
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<tr>
<td>10a. Certificate Program (ug/g) exclusively within existing degree program</td>
<td>ABCDEFGHJK</td>
<td>NOQ</td>
<td>a, b, d</td>
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<tr>
<td>10b. Certificate Program (ug/g) where degree programs do not exist or where courses are selected across degree programs (12 or more credits)</td>
<td>ABCDEFGHIK</td>
<td>NOSR, 6</td>
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<td>11a. UG Concentration (exceeds 24 credit hours)</td>
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<tr>
<td>11b. Masters Concentration (exceeds 12 credit hours)</td>
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<td>11c. Doctoral Concentration (exceeds 18 credit hours)</td>
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<td>12. Program Requirements</td>
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<td>13. Program Title</td>
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<td>14. Off-Campus Deliver of Existing Program</td>
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<td>NO, 4</td>
<td>a, b, c, d</td>
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<td>15. Closed Site Program</td>
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<td>16. Program Suspension 9</td>
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<td>17. Program Termination</td>
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<td>18. Degree Program</td>
<td>ABCDEFGHIK</td>
<td>NOQRS, 3, 8</td>
<td>a, b, c, d</td>
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<td>19. New Center</td>
<td>ABCDEFGH</td>
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<td>20. Other</td>
<td>Varies</td>
<td>Varies</td>
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**Box 4: APPROVAL SEQUENCE**

<table>
<thead>
<tr>
<th>A Department</th>
<th>Chair:</th>
</tr>
</thead>
<tbody>
<tr>
<td>B Final faculty review body within each school</td>
<td>Chair:</td>
</tr>
<tr>
<td>C College Dean</td>
<td>Dean: <strong>John Doe</strong></td>
</tr>
<tr>
<td>D Provost and Senior Vice President for Academic Affairs</td>
<td>Provost: <strong>Jane Smith</strong></td>
</tr>
<tr>
<td>E Curriculum Review Committee (UFS subcommittee)</td>
<td>Chair: <strong>John Doe</strong></td>
</tr>
<tr>
<td>F University Faculty Senate</td>
<td>Chair:</td>
</tr>
<tr>
<td>G University Council</td>
<td>Chair:</td>
</tr>
<tr>
<td>H President</td>
<td>President:</td>
</tr>
<tr>
<td>I Board of Regents – approval</td>
<td></td>
</tr>
<tr>
<td>J Board of Regents – notification only</td>
<td></td>
</tr>
<tr>
<td>K MHEC – approval</td>
<td></td>
</tr>
<tr>
<td>L MHEC – notification only</td>
<td></td>
</tr>
<tr>
<td>M Middle States Association notification</td>
<td>Required only if the mission of the University is changed by the action</td>
</tr>
</tbody>
</table>
1. Approval automatically lapses after two offerings unless permanently approved by Action 9
2. Codes: a) Director of Library Services (Langsdale or Law) b) College Dean c) Planning Office d) EMSA
3. Letter of intent is required by USM at least 30 days before a full proposal can be submitted. Letter of Intent requires only the approval of the dean and the provost and is forwarded to USM by the Office of the Provost.
4. One-page letter to include: Program title & degree/certificate to be awarded; resources requirements; need and demand; similar programs; method of instruction; and oversight and student services *
5. One-page letter with description and rational *
6. One or two-page document that describes: centrality to mission; market demand; curriculum design; adequacy of faculty resources; and assurance program will be supported with existing resources. *
7. Learning objectives, assessment strategies; fit with UB strategic plan
8. Joint Degree Program or Primary Degree Programs require submission of MOU w/ program proposal
9. Temporary suspension of program to examine future direction; time not to exceed two years. No new students admitted during suspension, but currently enrolled students must be given opportunity to satisfy degree requirements.
10. Provide:
   a. evidence that the action is consistent with UB mission and can be implemented within the existing program resources of the institution.
   b. proposed date after which no new students will be admitted into the program;
   c. accommodation of currently enrolled students in the realization of their degree objectives;
   d. treatment of all tenured and non-tenured faculty and other staff in the affected program;
   e. reallocation of funds from the budget of the affected program; and
   f. existence at other state public institutions of programs to which to redirect students who might have enrolled in the program proposed for abolition.
11. University Council review (for a recommendation to the President or back to the Provost) shall be limited to curricular or academic policy issues that may potentially affect the University’s mission and strategic planning, or have a significant impact on the generation or allocation of its financial resources.

* Required by MHEC
O-1: Briefly describe what is requested: New course addition

For new courses or changes in existing courses (needed by Registrar):

New Title: Comparative Criminal Process

Course Abbreviation: Comparative Criminal Process

Old Title: Comparative Criminal Process

O-2: Set forth the rationale for the proposal:

Benefit to students:
- To introduce members of the class to general theories concerning the nature of the criminal process;
- To analyze elements of the Scottish and US systems of criminal process against a background of comparative models of the criminal process;
- To compare and contrast the Scottish and US systems of criminal process with each other and other modern legal systems;
- To examine the role of the major participants in the criminal process – the police, the prosecutor, the accused, the victim and witnesses;
- To encourage a critical evaluation of the Scottish and US criminal justice processes;
- To inculcate an appreciation of comparative legal methods;
- To increase the ability to search for information (or further information) on particular topics within the general field of criminal justice;
- To foster a capacity to act as part of a group in solving problems;
- To encourage the ability to express ideas clearly and cogently both orally and in writing;
- To increase the ability to analyze and evaluate complex conceptual arguments.

Benefit to Law School & University
To strengthen already existing links with Aberdeen University Law School, a top-rated (RAE 5) UK Law School.

O-3 Resources Needed: This is a self-supporting program in which all expenses are paid through tuition and fees.

<table>
<thead>
<tr>
<th>Personnel</th>
<th>Equipment</th>
<th>Expendables</th>
<th>Facility Costs</th>
<th>TOTAL COSTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start-up First Year</td>
<td></td>
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<tr>
<td>Annual Thereafter</td>
<td></td>
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</table>

Indicate probable source of additional funds, if needed:

O-4 Impact including OTS and Library resources (Complete a or b)

a) Impact was reviewed. All impacted units were contacted and understandings worked out. No unit objects to the proposal as currently submitted. The units contacted were:

Records Office (Richard Morrell)


Department Chair Signature

Date: 12/15/05

b) Impact was reviewed. All objections were worked out except those documented in attachments. Units contacted were:


Department Chair Signature

Date
Proposed by: Professor Michael Hayes  Date: 28th October 2005

Prepared by: Professors Peter Duff and Michael Pinard

Course Title: Comparative Criminal Process

Credit Hours: 3

Course Description (for inclusion in Law School Catalog):

This course will look at various key aspects of the criminal justice process in a comparative context. Among the topics to be examined are: police-citizen encounters; prosecutorial discretion; the role of the victim; the accused and the right to silence; plea-bargaining; juries; appeals; sentencing policy; and adversarial versus inquisitorial models of the process.

Course Prerequisites: None

Open Enrollment: Yes  Limited Enrollment: No

Suggested Approximate Class Size: 40

Type of course: Seminar: _____
Workshop: _____
Advocacy: _____
Scholarly Upper Level Writing Req: _____
Clinic: _____
Perspective Course: X

Concentrations: (check appropriate)

Business  Environmental  General  Public & Govt.  Criminal  X  Estate  IP  Real Estate  Int’l & Comp  X
Electronic  ___  Family  ___  Litigation & Advocacy  ___  Theories ___

Assessment Strategies:
Type of evaluation of student: (check appropriate)
Examination  X
25+ page Law Review Format Paper ___
Simulations ___
Draft Documents/Complex instruments ___
Short Assignments ___
Other (explain) ___

Text(s): Include author, title, publisher, date of publication, and if the text is required:

No set course text. There will be various excerpts from books, articles and cases set for each seminar. See attached syllabus for similar course run in Baltimore, Fall 2005.
Content Outline:

See description above and attached documentation for similar course run in Baltimore, Fall 2005. The course to be taught in Aberdeen in Summer 2006 will be more intensive and cover a wider range of topics.

Learning Goals:

- To introduce members of the class to general theories concerning the nature of the criminal process;
- To analyze elements of the Scottish and US systems of criminal process against a background of comparative models of the criminal process;
- To compare and contrast the Scottish and US systems of criminal process with each other and other modern legal systems;
- To examine the role of the major participants in the criminal process – the police, the prosecutor, the accused, the victim and witnesses;
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- To foster a capacity to act as part of a group in solving problems;
- To encourage the ability to express ideas clearly and cogently both orally and in writing;
- To increase the ability to analyze and evaluate complex conceptual arguments.

Note: Original syllabus shall be on file in the Office of the Academic Dean
Comparative Criminal Justice

Seminar 1 – The Role of the Prosecutor

Seminar 2 – The Defendant or Accused

Seminar 3 – The Victim

Seminar 4 – The Guilty Plea

Seminar 5 – The Jury

Seminar 6 – Appeals

Seminar 7 – Models of the Criminal Justice Process

Course text: Specific readings are set for each seminar. The course text is the seminal article: M Damaska, ‘Evidentiary barriers to conviction and two models of criminal procedure’, (1973) 121 University of Pennsylvania Law Review 506. This is a long and difficult article but well worth considerable persistence. It should be read quickly at an early stage (missing out pp. 546-554 and 565-576) and then you can return to it towards the end of the course when it should make much more sense and repay closer scrutiny.
SEMINAR 1: The Role of the Prosecutor

This seminar examines the role of the prosecutor in the investigation of crime, concentrating on prosecutorial discretion, and the nature and extent of control on that discretion.

Reading


Questions for consideration

1. What do you understand by the terms ‘principle of opportunity’ and ‘principle of legality’? Which of these do you think is preferable?

2. Is compulsory prosecution a myth? How does the principle of legality operate in practice?

3. How might one attempt to control prosecutorial discretion?

SEMINAR 2: The Defendant or Accused

The defendant is, in a sense, the object of the criminal process. But to what extent should she be required to co-operate in that process?

Reading


*Griffin v California* 380 U.S. 609, 85 S.Ct. 1229.

Questions for consideration

1. Should the defendant have a right to silence (a) at police investigation stage and (b) at her trial? What are the arguments for and against having a right to silence at each stage?

2. What sanctions, if any, can be applied to the accused who refuses to co-operate with investigators? Are these sanctions fair?

3. Should the defendant have a right to refuse to provide bodily samples? Is there a valid distinction to be made between requiring the accused to provide bodily samples and requiring her to answer questions?
SEMINAR 3: The Victim

The victim’s position in the criminal process is an ambiguous one. In a sense the victim is central to the process – without a victim there would not be (in most cases) a crime. At the same time however, the victim has not, in modern practice, occupied any specially recognised position, and in the vast majority of cases has little or no legal control over the process of prosecution.

Reading


Payne v Tennessee No. 90-5721

Questions for consideration

1. Why do we have criminal law (as opposed to solely civil law)? What role does the victim play in terms of the possible rationales?

2. What is the role of the victim in the U.S. criminal justice process?

3. In what ways could victims become more involved in the criminal justice process?

4. Should the victim of an offence (or her relatives) always be fully informed about the progress of ‘her’/‘their’ case?

5. Should the victim of an offence (or her relatives) be able to influence decisions such as the decision to prosecute or the offender’s sentence?

SEMINAR 4: The Guilty Plea

Should it be necessary always to have a trial? Since the adversarial model recognises the possibility of a guilty plea, it appears that the trial is a dispensable feature of such systems. This is not necessarily the case elsewhere. This seminar considers the most common way of avoiding trial, namely through plea bargaining.

Reading


W Pizzi, op. cit. (Seminar 1).

Questions for consideration

1. Should U.S. law abolish the guilty plea?

2. What incentives do adversarial systems offer to accused to encourage them to plead guilty? Should such incentives be offered?

3. Why might people plead guilty (apart from the fact that they are guilty)? Why does it matter if people plead guilty when they are not guilty?

4. How do jurisdictions which do not recognise a guilty plea manage to cope with the workloads?

SEMINAR 5: The Jury

The jury is regarded as the ‘flagship’ of Anglo-American criminal justice systems. In this seminar, we consider the extent to which this perception deserved? We also think about what the jury brings to the process and what it is supposed to do.

Reading


Batson v Kentucky 476 U.S 79, 106 S Ct 1712.

Questions for consideration

1. Should there be lay involvement in the criminal justice process?

2. If so what form should it take?

3. Should peremptory challenge be abolished in the U.S., as it has in both Scotland and England?

4. Is jury nullification justifiable?

SEMINAR 6: Appeals

In this class, we shall look at appeals procedures. These tend to reflect various tensions that are inherent in the criminal justice process.

Reading

you were (a) guilty and (b) innocent?

3. Why are certain types of relevant evidence (e.g. hearsay, previous convictions, similar facts) excluded in an adversarial system? Do you think that they should be excluded?

4. How do the rules on pre-trial disclosure of evidence differ in adversarial/inquisitorial systems? To what extent should each ‘side’ be compelled to disclose its case to the other before the trial? Is there any principled objection to full, mutual disclosure in adversarial criminal proceedings?