

Fall 2020

CRIMINAL LAW SYLLABUS (LAW 516 § 2)

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**FIRST WEEK'S READING ASSIGNMENTS (be prepared, I call on students immediately):**

**Monday 8/17** - Chapter 1 (Podgor) pp. 1-15; Ch. 3 pp. 79-90 (see TWEN Criminal Law Section 2 course page under "Course Materials" to familiarize yourself with sample charging docs)

**Wed. 8/19** - *State v. Whittaker*, 551 S.W.3d 498 (Mo. Ct. App. 2018) [see TWEN]; Ch. 4 pp. 113-119 (actus reus); Ch. 7 pp. 239-241 (concurrency and standards of proof)

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**DAY/TIME/ROOM:** M/W 2:45-4:00 pm (Online) (*when safe to be in person – Auditorium*)

**INSTRUCTOR:** Prof. Jennifer Brobst; Office 244, [jbrobst@siu.edu](mailto:jbrobst@siu.edu), 618-453-8702

**OFFICE HOURS:** *Please feel free to email me anytime if you have questions. I am also happy to set up a zoom appointment one on one or with study groups. From time to time, I may contact you to set up an appointment to check in and see how you are doing.*

**REQUIRED TEXTBOOK:** ELLEN S. PODGOR ET AL., CRIMINAL LAW: CONCEPTS AND PRACTICE (4th ed. 2018, Carolina Academic Press) (available used and for rent), ISBN978-1-5310-0767-6

**ZOOM CLASSROOM:** This course will be conducted online synchronously via zoom until it is safer to hold class in person. Please see the TWEN home page for zoom access information. Hang in there, it's going to be okay. I use the various tricks of the online trade (polls, quizzes, breakouts), but what I really care about is in-depth analysis of complex cases and teaching you to learn to think carefully and calmly on your feet. This is a momentous year and I will be hosting several "Criminal Justice Policy Discussion Groups," where we can more informally discuss cutting edge topics in smaller groups.

**COURSE DESCRIPTION:** This three-credit required first year course will provide law students with a basic understanding of the American criminal justice system and the structure, policies, interpretation, and application of substantive criminal law. Substantive criminal law addresses common law charges and defenses, as well as related complex topics such as liability for the actions of others, and coverage of some key distinctions in the states that follow the Model Penal Code. Our course will not address criminal procedure (e.g., arrest, search and seizure, Miranda warnings for custodial interrogation, and sentencing) or evidence (e.g., admitting evidence and examining witnesses in criminal trials), which are separate courses taught in the second and third years of law school.

**THE IMPORTANCE OF CRIMINAL LAW:** That the criminal justice system touches on the morality of our society's conscience cannot be understated. Your comfort level will be challenged in this course by arguing for and against the application of laws you may not agree with or even find abhorrent. In order to reform the law, you must first understand the existing law and the criminal justice system, and the process of law reform. Your legal education will be a critical time for you to reconsider and refine your views and to gain tools to protect the public and the rights of individuals as defendants, victims of crime, and persons at risk of wrongful conviction.

### **LEARNING OBJECTIVES:**

- Students will learn to effectively advocate for defendants and the state within the criminal justice system, both orally and in writing.
- Students will learn to interpret and apply the general principles of criminal law and the specific elements of common law crimes and defenses to varying facts, as well as certain Model Penal Code distinctions.
- Students will learn to identify the relevant law in judicial opinions and to read complex statutes to identify and interpret applicable legal provisions.
- Students will also learn to understand the judicial standards in trial and appellate courts in determining whether to permit a charge or defense to be presented and what may constitute sufficiency of the evidence to support a conviction.

### **UNGRADED BUT MANDATORY PRACTICE ASSIGNMENTS**

- These are REQUIRED assignments, but I am not counting them toward your grade in order to allow you to take some time to acclimate to the expectations of law school. That being said, *failure to complete the midterm and all practice essays on time will prevent a student from taking the final examination.* Timely but unsatisfactory submissions may require a satisfactory re-write in order to pass the course, but only one re-write per assignment is allowed.
- Practice Essays [increasingly difficult bar-style essay questions] – *ungraded, but sample answers and rubrics provided*
- Mandatory Midterm [bar exam-style multiple choice] – *grade provided but does not count toward official grade*

### **COURSE GRADE:**

- Final Exam (100% of course grade) [comprehensive bar exam-style multiple choice and essay]
- *A Special Note to First-Year Students.* I highly recommend that students read the School of Law rules on course grading and class curves. Our rules do not require a percentage of certain grades or a guaranteed 4.0 for the highest grade. However, for the required first-year courses, “[t]he median grade in each section of each required first-year course shall be no lower than 2.85 and no higher than 2.95.” This is on a 4-point scale. In order to graduate from SIU School of Law, students must pass their required courses (with at least 1.8) and obtain an overall cumulative GPA of at least 2.300. In law school, it is normal to feel lost and a little confused at first, but don’t assume you are doing poorly if you feel that way. I suggest you use your practice assignments to identify serious red flags in your work and seek help *immediately* to redirect your studies as needed. Law school is a unique form of study and it is not a sign of weakness or lack of aptitude if you get advice on how to improve. See: <https://law.siu.edu/common/documents/rules-code/grading-system-20-21.pdf>

**ATTENDANCE:** Attendance is enforced in law schools due to accreditation standards by the American Bar Association. In accordance with [SIU School of Law Rule III](#), students may miss up to a maximum of four (4) classes in this course. There is no excused or unexcused absence policy at SIU; i.e., an absence is counted as an absence regardless of the reason. Students who exceed the maximum number of absences will be referred to the Associate Dean with the recommendation that the student be withdrawn from the course. Late arrival, early departure, and clear lack of preparation may be counted as an absence.

**CLASS EMAIL AND TWEN NOTICES:** Per the law school regulations, students must regularly check and be responsive to email communications with faculty. Students are expected to regularly check the TWEN course page for updates and assignments.

## RECOMMENDED BUT OPTIONAL MATERIALS:

- *Gilbert Law Summaries on Criminal Law* (any edition), ISBN-978-1634593854, ISBN-10: 1634593855 (substance overview); and *Questions & Answers: Criminal Law* by Emily Marcus Levine & Paul Marcus (latest edition) (Carolina Academic Press) ISBN-13: 978-1531012403, ISBN-10: 153101240X (multiple choice practice questions - easy but helpful for beginners)
- *Free library resources:* Wayne LaFave, *Criminal Law (hornbook)* is an excellent resource for additional explanations on specific concepts if you need. In our law library, you can browse through the criminal law treatise section for similar resources and check them out (see section KF9219.3).
- *Check out our Academic Support Library for Criminal Law Bar Exam materials and practice bar exams.* Nearly all assignments and tests in this course will be in bar exam format.
- **DO NOT USE FLASHCARDS FROM A COMMERCIAL VENDOR** – make your own from your notes in the course for accuracy and greater learning (e.g., free software on [flashcardmachine.com](http://flashcardmachine.com)).

**TWEN:** This course will use Westlaw’s TWEN course platform for online access to materials and assignments. You must first register on TWEN to be able to access it, using your Westlaw username and password. This will be given to you during 1L orientation. When you register, be sure to use your preferred e-mail address (you do not need to use your SIU Law School account), because this is the address that I will use for any class announcements. To register as a law student, go to: <http://lawschool.westlaw.com>. TWEN is in the top bar in the middle, next to Law Resources. You will find course pages available and you will need to “add course”. Our course is “Criminal Law– Section 2”. You can also check out other courses and their syllabi for fun by temporarily scrolling through and adding other courses – no one minds, but you wouldn’t usually keep the course added once the semester gets under way or the professor might get a little confused. If, instead, you access the Westlaw system via [www.westlaw.com](http://www.westlaw.com) (as practicing attorneys do), which I often do to go directly to legal research first, at the top left of the page there should be a blue bar, with “All Content” on the left to “Tools” on the right -- “TWEN” is under “Tools”.

**WORKLOAD EXPECTATIONS:** A student should study and prepare for approximately 3 hours before each class. Students should take extensive notes in class, in an organized and selective manner, and take time after each class to re-read, correct and clarify their notes. The first semester of the first year of law school can be difficult, because most students are unsure how much preparation is required and what the level of competition is among their peers. You’ll know you’ve done enough of the right kind of preparation when you begin to anticipate the legal points of discussion in class and are able to argue either side of an issue.

**LAPTOP POLICY AND NOTE-TAKING:** Use of laptops, tablets, smartphones, and other electronic devices is permitted in this course during lectures, but only for academic purposes, such as review of notes or accessing assigned reading online. Research in adult learning has consistently shown that physically writing organized notes in class, which are later re-read, highlighted and organized in typed form is a proven strategy for better conceptual understanding and retention of material. Feel free to contact me or Academic Support for suggestions on note-taking, outlining, and exam preparation strategies.

**CLASS RECORDINGS:** Unauthorized recording or distribution of class recordings and lectures will be prohibited.

**EMERGENCY PROCEDURES:** We ask that you become familiar with Emergency Preparedness @ SIU. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

**DISABILITY POLICY.** SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or [disabilityservices.siu.edu](http://disabilityservices.siu.edu). You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations. Accommodation request and renewal forms can be found here: <https://law.siu.edu/academics/>.

**SALUKI CARES.** The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-2461, or [siucares@siu.edu](mailto:siucares@siu.edu),

**COVID-19.** As a condition of on-campus enrollment, all SIUC students are required to engage in safe behaviors to avoid the spread of COVID-19, including the requirement that all students wear a mask in campus buildings, including classrooms, laboratories, and studios when others are present, regardless of social distancing. Students are expected to follow physical or social distancing guidelines by keeping at least 6 feet from others and practicing good hand hygiene. Failure to comply with this policy may result in dismissal from the current class session. If the student refuses to leave the classroom after being dismissed, the student may be referred to the Office of Student Rights and Responsibilities. SIUC will follow federal, state and county public health recommendations and mandates in all decisions relating to university operation. Students should regularly review the link for the SIUC COVID-19 response.