

CRIMINAL LAW SYLLABUS (LAW 516 § 2)

Fall 2021

DAY/TIME/ROOM: M/W 1:30 – 2:45 pm (Room 204)

INSTRUCTOR: Prof. Jennifer Brobst; Office 244, jbrobst@siu.edu, 618-453-8702

OFFICE HOURS: For safety reasons due to the pandemic, I will not be holding in person office hours. *Please feel free to email me anytime if you have questions. I am also happy to set up a zoom appointment. From time to time, I may contact you to set up an appointment to check in and see how you are doing.*

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: The criminal justice system is designed to ensure public safety and enforce social order and requires substantial public trust and respect in order to be sustained. It is a system we inherited from Britain, and has evolved significantly with time, but the American system has, in many ways, become recognized internationally as the most punitive in the Western world. While the public must be protected from harm, the system must be fair, concepts which are persistently matters of public debate. Criminal law is predominately governed by state law and therefore varies by state and regional culture. Your comfort level will be challenged in this course by arguing for and against the application of laws you may not agree with. Your legal education will be a critical time for you to reconsider your views and gain the knowledge and professional skillset to protect the public and the rights of individuals as defendants, victims of crime, and the community of which you are a part.

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, and 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.

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

GRADED ASSIGNMENTS:

- Essay Writing Assignment (10% of course grade) [in-class, closed-book]
- Midterm (20% of course grade)[closed book bar exam style multiple choice]
- Final Exam (70% of course grade) [comprehensive, closed book bar exam style multiple choice and essay]

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 materials from our Academic Support Library in Room 230 for Criminal Law Bar Exam materials and practice bar exams.* Nearly all assignments in this course will be in bar exam format.
- **DO NOT USE FLASHCARDS OR OUTLINES FROM A COMMERCIAL VENDOR OR OBTAINED ONLINE FROM OTHER STUDENTS OR LAW SCHOOLS**

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 and clear lack of preparation may be counted as an absence.

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 (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.

CLASS EMAIL AND TWEN: 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.

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. 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:

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, <https://salukicare.siu.edu/>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618- 453-3135.

COVID-19. SIUC's policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website (<https://siu.edu/coronavirus>), which includes the Saluki Safety Plan. People can also send email to pandemicinfor@siu.edu. If students have any specific concerns regarding their health and safety, please do not hesitate to contact the professor or law school administration.

DATE	SUBJECT	READING ASSIGNMENT FOR CLASS (subject to revision) [Chapters in Podgor casebook; individual cases found on Westlaw]	OUT OF CLASS ASSIGNMENTS
WEEK 1 M 8/16	Criminal Justice System and Charging Procedure Overview	(1) Chapter 1 (Podgor) pp. 1-15 (2) Ch. 3 pp. 79-90 (3) Skim sample charging documents [see TWEN]	
W 8/18	PART ONE: Distinct Elements	(1) <u>State v. Whittaker</u> , 551 S.W.3d 498 (Mo. Ct. App. 2018) (2) Ch. 4 pp. 113-119 (actus reus) (3) Ch. 7 pp. 239-241 (concurrency and standards of proof)	
WEEK 2 M 8/23	Omission, Possession, and Status Offenses	Ch. 4 pp. 120-136	Actus reus exercises distributed on TWEN
W 8/25	Common law specific and general intent	Ch. 5 pp. 137-143 (common law mens rea)	
WEEK 3 M 8/30	Codifying Mens Rea	(1) Ch. 5 pp. 144-163 (Model Penal Code mens rea) (2) Ch. 5 pp. 188-195 (Strict Liability)	Practice Essay #1 distributed with rubric
W 9/1	PART TWO: Select charges Possession and Trafficking	(1) Ch. 3 pp. 91-96 (statutory interpretation review) (2) 21 U.S.C. 841 (trafficking) (look up at https://www.law.cornell.edu/uscode/text/21/841) (3) Ch. 8 pp. 308-310 (lesser included offenses) (4) <u>State v. Richland</u> , 200 Vt. 401 (2015)	
WEEK 4 M 9/6	LABOR DAY HOLIDAY		
W 9/8	Larceny	(1) <u>State v. Chambers</u> , 22 W. Va. 779 (1883) (2) Ch. 10 pp. 387-399	
F 9/10 10:00 – 11:15 am Room 204	Larceny by Trick, Receiving, Fraud, and Embezzlement	(1) Ch. 10 pp. 400-409 (2) <u>Piggly Wiggly No. 208, Inc. v. Dutton</u> , 601 So. 2d 907 (Ala. 1992) (3) Handout on distinctions among theft offenses [see TWEN]	<i>Makeup class for midterm week</i>
WEEK 5 M 9/13	Larceny review	Review and Practice Essay #2 (written in class)	
W 9/15	Arson and Burglary	(1) <u>Mathews v. State</u> , 849 N.E.2d 578 (Ind. 2006) (arson) (2) Ch. 10 pp. 419-424 (burglary) (3) Handout on multiplicity of offenses [see TWEN]	
WEEK 6 M 9/20	Assault and Battery	(1) <u>Carter v. Commonwealth</u> , 269 Va. 44 (2005) (2) <u>State v. Harris</u> , 556 S.W.2d 468 (Mo. Ct. App. 1977) (3) <u>State v. Coria</u> , 146 Wash. 2d 631 (2002) (dissent) (4) <u>State v. Wilson</u> , 471 Kan. App. 2d 1 (2008) (5) Handout on violent crimes – definition of elements [see TWEN]	
W 9/22	Robbery and Kidnapping	(1) Ch. 10 pp. 409-419 (robbery) (2) <u>State v. Thomas</u> , 196 N.C. App. 523 (2009) (kidnapping) (3) <u>Wilson v. State</u> , 521 S.W.3d 123 (Ark. 2017) (robbery)	

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WEEK 7 M 9/27	Sex Offenses	(1) <u>State v. W.R., J.R.</u> , 181 Wash.2d 757 (Wash. 2014) (2) <u>People in the Interest of DFAE</u> , 482 P.3d 489 (Colo. Ct. App. 2020)	
W 9/29	First Degree Murder	(1) Ch. 8 pp. 271-294	
WEEK 8 T 10/5 10am	Midterm		MIDTERM
WEEK 9 M 10/11	2 nd Degree Depraved Heart Murder and Voluntary Manslaughter	(1) Ch. 8 pp. 294-314	
W 10/13	Involuntary Manslaughter and Negligent Homicide	(1) Ch. 8 pp. 315-320	
WK 10 M 10/18	Felony Murder	(1) Ch. 8 pp. 320-338	
W 10/20	PART THREE: Defenses	(1) Ch. 15 pp. 541-562 (intro to affirmative defenses)	
WK 11 M 10/25	Self-defense	(1) Ch. 16 pp. 569-593 (2) Self-defense jury instructions in Louisiana (<u>State v. Rose</u> (2004)) [see TWEN]	
W 10/27	Defense of Others, Defense of Property, & Stand Your Ground	(1) Ch. 16 pp. 612-627 (2) <u>State v. Jones</u> , 416 S.C. 283 (2016) (stand your ground) (3) Ch. 16 pp. 601-611 (defense of others)	
WK 12 M 11/1	Entrapment, Necessity, and Duress	(1) Ch. 17 pp. 629-634 (necessity) (2) Ch. 17 pp. 640-647 (duress) (3) Ch. 18 pp. 649-661 (entrapment)	
W 11/3	Insanity and Intoxication	(1) Ch. 19 pp. 663-691 (insanity) (2) Ch. 20 pp. 695-712 (involuntary intoxication) (3) <u>State v. Griffin</u> , 159 A.3d 1240 (Me. 2017) (insanity/strict liability)	
WK 13 M 11/8	PART FOUR: Complex Topics	(1) Ch. 6 pp. 215-230 (causation) (2) Ch. 5 pp. 182-187 (transferred intent) (3) Ch. 5 pp. 175-180 (willful blindness)	
W 11/10	Veteran's Day Holiday		

DATE	SUBJECT	READING ASSIGNMENT FOR CLASS (subject to revision) [Chapters in Podgor casebook; individual cases found on Westlaw]	OUT OF CLASS ASSIGNMENTS
F 11/12 10:00 – 11:15 am Room 204	Inchoate Crimes	(1) Ch. 5 pp. 196-210 (mistake of fact and law) (2) Ch. 11 pp. 425-454 (attempt and impossibility)	<i>Makeup Class for Labor Day holiday</i>
WK 14 M 11/15	Inchoate Crimes	(1) Ch. 12 pp. 467-481 (solicitation) (2) Ch. 13 pp. 483–515 (conspiracy)	
W 11/17	Accomplice Liability and Abandonment	(1) Ch. 11 pp. 455-466 (abandonment & renunciation) (2) <u>State v. Zheng and Yu</u> , 2021 WL2817588 (Wash. Ct. App. 2021)	<i>Last day of class</i>
TBD	FINAL EXAM WEEK	3 hour exam – bar-style essays & multiple choice	