ASSIGNMENTS: This syllabus informs you of the topics we will cover during the semester as well as provides you with your reading assignments.

NOTE: The syllabus is still in the formative stage. We are using a new casebook so some adjustments may be necessary. Additionally, we meet only 3 times a week instead of the usual 4 class periods. Our sessions are also longer than normal sessions (75 minutes rather than 50). Therefore we will cover more materials during each class session. I may need to make adjustments and announce those adjustments as we proceed through the materials based on our experiences with the new casebook and 3-session per week schedule.

As part of your participation in this course, you must read every assignment before class. Simply look under the next “Assignment” and you will see listed the reading assignment(s) for that session of class. Always check the assignment carefully; sometimes an assignment may continue on the next page of the syllabus.

Normally, all assignments for this course will be contained in the course syllabus. We will proceed through the course in the order established by the syllabus. If any new cases or materials are added, this information will be provided before the affected class session.

All assignments in the syllabus refer either to our casebook or to the required materials which may be supplied as we proceed through the course. For example, T 2-29 is a reference to pages 2 through 29 of the required casebook, WAYNE R. LAFAVE, MODERN CRIMINAL LAW (5th ed. 2011); TA [11] refers to page [11] of the Appendix [MODEL PENAL CODE] in the back of the casebook. You will need to obtain any assigned Alabama (or other state) statutes or court rules from the Library unless I post them on TWEN. I discourage relying solely on Westlaw or Lexis for this purpose because you should be learning how to find printed legal materials. Westlaw and Lexis are helpful and quick, but books remain significant part of the legal terrain that you must learn to navigate.

Please expect us to fall behind or even get ahead from time to time. Thus, assignment numbers will not always match class periods. We will follow the assignment order, but we must remain flexible.

OBJECTIVES: At the beginning of each major topic area, this syllabus states certain objectives. The objectives are for illustration only. Certainly, they are not all-inclusive. You should add appropriate objectives as you study the materials for this course.

LEGENDS


T = Text (or Casebook)  Tw = TWEN Materials
TA = Text Appendix     TBA = Materials To Be Assigned

THE CRIMINAL JUSTICE SYSTEM

OBJECTIVES: 1) To examine the court systems and the processing of criminal cases [throughout the semester].
“THOUGHT STIMULATOR”: “We must recognize that agencies of criminal justice are part of a system, that each jurisdiction is dependent on others, and that all must function effectively or none will.” RAMSEY CLARK, CRIME IN AMERICA 131 (1970).

**PUNISHMENT**

OBJECTIVE: To itemize, evaluate, and critique punishment rationales, goals, methods and results.

“THOUGHT STIMULATOR”: “[E]very act of authority of one man over another, for which there is not an absolute necessity, is tyrannical. It is upon this then that the sovereign’s right to punish crimes is founded; that is, upon the necessity of defending the public liberty, entrusted to his care, from the usurpation of individuals; and punishments are just in proportion, as the liberty, preserved by the sovereign, is sacred and valuable.” CESARE BECCARIA, AN ESSAY ON CRIME AND PUNISHMENTS (1819).

□ ASSIGNMENT 1 - Introduction to course / Principles of Punishment

  *U.S. v. Bergman* (T 15-22)
  MODEL PENAL CODE § 1.04 (TA [9])
  ALA. R. CRIM. P. 26.8

□ ASSIGNMENT 2 - Criminalization

  *Commonwealth v. Poindexter* (T 32-33)
  *State v. Whitmarsh* (T 37-39)
  MODEL PENAL CODE §§ 213.2–213.3 (TA [63])
  ALA. CODE §§ 13A-6-61(a)(3); 13A-6-62(a)(1); 13A-6-63(a)(3); 13A-6-64(a)(1)

□ ASSIGNMENT 3 - Void-for-Vagueness

  *Locke v. State* (T 51-54)
  *Locke v. Rose* (T 55-56)
  *Rose v. Locke* (T 56-61)
  ALA. CODE § 13A-1-6

□ ASSIGNMENT 4 - Retroactive Enforcement

  *Wilson v. State* (T 63-65)
  *State v. Mullen* (T 69-73)

□ ASSIGNMENT 5 - Other Constitutional Limitations

  *Lawrence v. Texas* (T 74-85)

□ ASSIGNMENT 6 - Other Limitations / Authority

  *Perkins v. North Carolina* (T 96-98)
  *Pierce v. Commonwealth* (T 102-105)

**THE CRIMINAL MIND**

OBJECTIVES: 1) To define, examine and distinguish particular mental states; 2) To align particular mental states with the proper elements of crimes; 3) To distinguish crimes not requiring a mens rea element; 4) To identify, define,
analyze and critique strict liability crimes; 5) To continue the study of the concept of blameworthiness; 6) To note, evaluate and critique the mistake-of-fact concept; 7) To study the effect of lack-of-capacity on the mens rea requirement.

“THOUGHT STIMULATOR”: “Accountability plays an important role in criminal law. Morality plays an equally important role. If moral culpability is lacking, the actor should not be punished; notions of accountability cannot override this premise. This holds true no matter how repulsive the act or the actor. It is the responsibility and function of criminal law to fashion punishment so as not to exceed an individual’s criminal culpability.” David S. Rutkowski, A Coercion Defense for the Street Gang Criminal: Plugging the Moral Gap in Existing Law, 10 NOTRE DAME J. OF LAW, ETHICS & PUBLIC POL. 137, 226 (1996)

☐ ASSIGNMENT 7 - The Criminal Mind - “Mens Rea” / Intent

- Regina v. Cunningham (T 113-115)
- State v. Rocker (T 117-120)
- Ford v. State (T 124-128)
- Smallwood v. State (T 129-133)
- Sandstrom v. Montana (T 135-139)

MODEL PENAL CODE § 2.02(2)(a) (TA [16])
ALSA CODE § 13A-2-2(1)

☐ ASSIGNMENT 8 - The Criminal Mind - Knowledge / Wilful Blindness

- State v. Beale (T 140-142)
- U.S. v. Jewell (T 145-148)
- Barnes v. U.S. (T 150-153)

MODEL PENAL CODE § 2.02(2)(b) (TA [16])
ALSA CODE § 13A-2-2(2)

☐ ASSIGNMENT 9 - The Criminal Mind - Recklessness / Negligence

- State v. Hazelwood (T 156-159)
- State v. Larson (T 161-164)
- State v. Cushman (T 171-173)

MODEL PENAL CODE § 2.02(2)(c)-(d) (TA [16])
ALSA CODE § 13A-2-2(3)-(4)

☐ ASSIGNMENT 10 - Strict Liability

- State v. Stepniewski (T 175-182)

MODEL PENAL CODE §§ 2.02(3)-(4) (TA [16-17]); 2.05 (TA [19])
ALSA CODE §§ 13A-2-3; 13A-2-4

☐ ASSIGNMENT 11 - Ignorance or Mistake of Fact or Law

“THOUGHT STIMULATORS”: “It has been thought that to shoot at a block of wood thinking it to be a man is not an attempt to murder, and that to put a hand in an empty pocket, intending to pick it, is not an attempt to commit larceny, although on the latter question there is a difference of opinion.” OLIVER WENDELL HOLMES, THE COMMON LAW (1881); “Ignorance of the law is no excuse for breaking it. - [E]veryone must feel that ignorance of the law could never be admitted as an excuse, even if the fact could be proved by sight and hearing in every case. - Public policy sacrifices the individual to the public good. . . . [T]o admit the excuse at all would be to encourage ignorance.” OLIVER WENDELL HOLMES, THE COMMON LAW (1881)

- State v. Sexton (T 188-193)
**People v. Marrero** (T 194-199)

*Model Penal Code §§ 2.02(9) (TA [17]); 2.04 (TA [18])
*AL. Code §§ 13A-2-6

**THE CRIMINAL ACT**

☐ **ASSIGNMENT 12 - Voluntary Act**

*State v. Caddell* (T 213-221)

*Model Penal Code § 2.01(1)-(2) (TA [15])
*AL. Code §§ 13A-2-1(2); 13A-2-3

☐ **ASSIGNMENT 13 - Possession as an Act**

*People v. Gory* (T 230-233)

*Smith v. State* (T 234-236)

*County Court of Ulster County v. Allen* (T 239-245)

*Model Penal Code § 2.01(4) (TA [16])
*AL. Code §§ 13A-2-1(1); 13A-2-6

☐ **ASSIGNMENT 14 - Omissions**

*State v. Williquette* (T 246-250)

*Model Penal Code § 2.01(3) (TA [15])
*AL. Code §§ 13A-2-1(3); 13A-2-3

**SUBSTANTIVE OFFENSES**

**HOMICIDE**

OBJECTIVES: 1) To introduce the study of particular substantive crimes; 2) To identify, examine and critique the common law homicide crimes; 3) To compare, distinguish and critique the modern code homicides; 4) To identify and study the mens rea requirements in homicide offenses; 5) To examine and critique the specific homicide offenses such as felony murder and capital murder.

☐ **ASSIGNMENT 15 - Human Beings / Provocation**

*Hughes v. State* (T 257-261)

*Mullaney v. Wilbur* (T 268-275)

*Patterson v. New York* (T 275-280)

*Model Penal Code §§ 210.0(1); 210.1 (TA [56])
*AL. Code §§ 13A-6-1(a)(2)-(3); 13A-2-6

☐ **ASSIGNMENT 16 - Provocation**

*People v. Washington* (T 280-282)

*People v. Berry* (T 286-289)

*Model Penal Code § 210.3(1)(b) (TA [56])
*AL. Code §§ 13A-6-2(b); 13A-6-3(a)(2)
DEFENSES

CRIMINAL RESPONSIBILITY / MENTAL DISEASE OR DEFECT

OBJECTIVES: 1) To introduce the study of defenses; 2) To acquaint ourselves with the defense of insanity; 3) To identify, define, analyze, compare and distinguish various versions of the defense of insanity; 4) To review existing objections to the insanity defense; 5) To study and discuss possible alternatives to the defense.

“THOUGHT STIMULATORS”: “You may well come to the view that neither lawyers nor doctors offer much help in answering the question of why there should be a defense of insanity—and if you have, you are right. They do not have much to give.” Norval Morris, National Institute of Justice, Crime File Study Guide, Insanity Defense 1 (NCJ 97226, undated); “It should not be assumed that shifting the burden [of proof] one way or the other significantly alters the outcomes of trials involving the insanity defense. The defense itself rare, its success rate spotty.” DANIEL N. ROBINSON, WILD BEASTS AND IDLE HUMORS 189(1988).

□ ASSIGNMENT 20 - Competency to Stand Trial T 383-401

Pate v. Robinson (T 385-388)
Jackson v. Indiana (T 392-398)
MODEL PENAL CODE § 4.04 (TA [34])

□ ASSIGNMENT 21 - The Insanity Defense T 401-427

M’Naghten’s Case (T 402-404)
U.S. v. Brawner (T 406-417)
MODEL PENAL CODE §§ 4.01-4.03 (TA [33])
ALA. CODE § 13A-3-1

□ ASSIGNMENT 17 - Mens Rea Killings T 295-326

State v. Guthrie (T 295-303)
Hyam v. Director of Public Prosecutions (T 309-315)
U.S. v. Escamilla (T 321-323)
MODEL PENAL CODE §§ 210.2(1)(a); 210.3; 210.4 (TA [56-57])
ALA. CODE §§ 13A-6-2; 13A-6-3; 13A-6-4

□ ASSIGNMENT 18 - Killing by Unlawful Act - Felony Murder T 326-345

State v. Goodseal (T 326-331)
MODEL PENAL CODE § 210.2(a)-(b) (TA [56])
ALA. CODE §§ 13A-6-2(a)(3)

□ ASSIGNMENT 19 - Causation T 345-365

State v. Rose (T 347-348)
Kibbe v. Henderson (T 350-353)
Regina v. Blaue (T 355-358)
MODEL PENAL CODE § 2.03 (TA [17-18])
ALA. CODE §§ 13A-2-5

□ ASSIGNMENT 20 - Competency to Stand Trial T 383-401

Pate v. Robinson (T 385-388)
Jackson v. Indiana (T 392-398)
MODEL PENAL CODE § 4.04 (TA [34])

□ ASSIGNMENT 21 - The Insanity Defense T 401-427

M’Naghten’s Case (T 402-404)
U.S. v. Brawner (T 406-417)
MODEL PENAL CODE §§ 4.01-4.03 (TA [33])
ALA. CODE § 13A-3-1
DEFENSES

JUSTIFICATION AND EXCUSE

OBJECTIVES: 1) To identify, define, analyze, and distinguish specific defenses; 2) To distinguish between justification and excuse; 3) To critique some defenses; 4) To revisit the concept of blameworthiness.

“THOUGHT STIMULATORS”: “Although the law of self-defense has evolved over some nine centuries, its basic parameters were established very early and have changed remarkably little.” CYNTHIA K. GILLESPIE, JUSTIFIABLE HOMICIDE 31 (1989); “There is a readiness to see women as less culpable than men for their acts, or at least, to see women’s acts as more likely to have arisen from experiences of victimization.” KATHLEEN DALY, GENDER, CRIME, AND PUNISHMENT 133 (1994); “Men who kill their wives often receive lenient sentences. Women who kill their male abusers, however, rarely receive any leniency from the courts. Their claims of self-defense are refused, they are silenced in the court system, and they are sentenced to lengthy prison sentences.” Shelley A. Bannister, Battered Women Who Kill Their Abusers: Their Courtroom Battles, in ROSLYN MURASKIN & TED ALLEMAN, IT’S A CRIME - WOMEN AND JUSTICE 316 (1993); “The prosecution of Bernard Goetz will remain with us as a focal point of our best efforts to find a just solution to the problem of defensive response to perceived dangers on the streets. The legal system succeeded in directing the public’s energies away from retaliatory action and into legal argument. But the issues are too deep, the fears too great, to settle the argument with a verdict and a sentence. As long as we fear mugging on the subway, we will be engaged by the burdens of pondering when self-defense should be a crime.” GEORGE P. FLETCHER, A CRIME OF SELF DEFENSE (1988); “Excuses are based on shifting assessments of the degrees of firmness and strength that are required of the average citizen.” Michael Corrado, Is There an Act Requirement in the Criminal Law?, 142 U. PA. L. REV. 1529, 1560-61 (1994).
□ ASSIGNMENT 27 - Domestic Authority / Higher Authority  

Willis v. State (T 555-558)  
Higher Authority (collection of cases) (TWEN):  
U.S. v. Elder  
Hill v. State  
Church of Lukumi Babalu Aye v. City of Hialeah

□ ASSIGNMENT 28 - Duress, Necessity and Choice of Evils  

State v. Warshow (T 560-564)  
U.S. v. LaFleur (T 568-570)

□ ASSIGNMENT 29 - Victim’s Consent, Conduct and Compromise  

Washington v. Glucksberg (T 577-582)  
State v. Hiott (T 585-586)

□ ASSIGNMENT 30 - Entrapment  

Jacobson v. U.S. [TWEN]  
Smith v. State [TWEN]  
ALA. CODE § 13A-3-31 and Commentary  
ALA. ACTS 1977, No. 607 § 650

□ ASSIGNMENT 31 - Rape - Force, Coercion and Fraud  

State v. Alston (T 599-603)  
State v. Thompson (T 607-610)  
People v. Evans (T 614-621)  
MODEL PENAL CODE §§ 213.1 (TA [62])  
ALA. CODE §§ 13A-6-61(a)(1); 13A-6-65(a)(1)

□ ASSIGNMENT 32 - Rape - Consent-Nonconsent / Immaturity, Incapacity  

Jones v. State (T 626-627)  
People v. Liberta (T 635-638)  
Owens v. State (T 640-642)  
MODEL PENAL CODE §§ 213.1(1)(d) (TA [62])  
ALA. CODE §§ 13A-6-61(a)(2)-(3); 13A-6-62; 13A-6-65

SUBSTANTIVE OFFENSES – AGAIN

SEXUAL OFFENSES

OBJECTIVES: 1) To apply our acquired knowledge of criminal law analysis to sex crimes, with particular focus on the crime of rape; 2) To identify, define, analyze, and distinguish specific sex offenses; 3) To compare and distinguish common law and statutory crimes related to rape and sex crimes; 4) To critique the crimes as appropriate.

“THOUGHT STIMULATORS”: “Stereotypically, rape is perceived as an infrequent crime committed by a sex-starved, weapon-wielding stranger, often black, on a provocatively dressed woman, often white, in a back alley.”  
Lyman Hecht Schafran, Writing and Reading About Rape: A Primer, 66 ST. JOHN’S L. REV. 979, 981 (1993); “The message of the law to men, and to women, should be made clear. Simple rape is real rape.” SUSAN ESTRICH, REAL RAPE 104 (1987).

□ ASSIGNMENT 33 - Rape - Consent-Nonconsent / Immaturity, Incapacity  

Jones v. State (T 626-627)  
People v. Liberta (T 635-638)  
Owens v. State (T 640-642)  
MODEL PENAL CODE §§ 213.1(1)(d) (TA [62])  
ALA. CODE §§ 13A-6-61(a)(2)-(3); 13A-6-62; 13A-6-65
ASSIGNMENT 33 - Rape - Mental State / Mistake of Fact

Director of Public Prosecutions v. Morgan (T 646-652)
Model Penal Code § 2.04(TA [18]); 2.11 (TA [22-23])
Ala. Code §§ 13A-2-6; 13A-2-7

ATTEMPTS

OBJECTIVES: 1) To seek to explain why attempts are punished as separate crimes; 2) To analyze why attempts are punished less severely than are completed crimes; 3) To identify and study the mens rea and actus reus elements of attempts; 4) To distinguish preparation from attempts.


ASSIGNMENT 34 - Attempts - Mental State / Acts

People v. Harris (T 662-666)
Regina v. Eagleton (T 672)
People v. Rizzo (T 673-675)
People v. Orndorff (T 675-676)
Commonwealth v. Skipper (T 677)
People v. Bowen (T 678-680)
U.S. v. Mandujano (T 681-684)
Model Penal Code § 5.01 (TA [38-39])
Ala. Code § 13A-4-2

ASSIGNMENT 35 - Attempts - Acts / Impossibility / Abandonment

U.S. v. Thomas (T 691-699)
People v. Staples (T 704-707)

CONSPIRACY

OBJECTIVES: 1) To identify, examine and critique the general characteristics of conspiracy.

ASSIGNMENT 36 - Conspiracy - Agreement / Mental State

U.S. v. James (T 715-719)
State v. St. Christopher (T 722-725)
Mitchell v. State (T 727-731)
Model Penal Code § 5.03 (TA [39-41])
Ala. Code §§ 13A-4-3; 13A-4-4

ASSIGNMENT 37 - Conspiracy - Mental State / Objective

People v. Lauria (T 732-738)
U.S. v. Feola (T 739-746)
Shaw v. Director of Public Prosecutions (T 748-750)

☐ ASSIGNMENT 38- Conspiracy - Impossibility / Overt Acts / Scope

Ventimiglia v. U.S. (T 756-759)
Braverman v. U.S. (T 763-765)
Kotteakos v. U.S. (T 768-770)
U.S. v. Bruno (T 773-774)
U.S. v. Michiana-Orovio (T 774-778)

☐ ASSIGNMENT 39- Conspiracy - Duration / Withdrawal / Plurality Requirement

Grunewald v. U.S. (T 780-784)
Iannelli v. U.S. (T 790-794)

LIABILITY FOR THE CONDUCT OF OTHERS

COMPLICITY

OBJECTIVES: 1) To identify, examine and critique the common law concept of principals and accomplices; 2) To compare, distinguish and critique the modern approach to complicity; 3) To review the mens rea requirement and study its application accessorial liability; 4) To identify, examine and critique the general characteristics of conspiracy; 5) To differentiate between the nature of complicity and conspiracy.

“THOUGHT STIMULATOR”: “If you share your friend’s crime, you make it your own.” [American proverb].

☐ ASSIGNMENT 40 - Complicity - Acts / Omissions / Mental State

Hicks v. U.S. (T 816-817)
Bailey v. U.S. (T 823-826)
Bogdanov v. People (T 828-829)
MODEL PENAL CODE § 2.06 (TA [19-20])
ALA. CODE §§ 13A-2-21; 13A-2-23; 13A-6-2(a)(3)

☐ ASSIGNMENT 41 - Complicity - Mental State / Foreseeability

State v. Gladstone (T 832-835)
People v. Marshall (T 839-840)
State v. Diaz (T 843-845)
U.S. v. Carter (T 847-850)
People v. Kessler (T 852-855)

☐ ASSIGNMENT 42 - Complicity - Principal-Agency Culpability / Withdrawal / Exceptions

People v. Superior Court (T 859-862)
State v. Adams (T 867-870)
State v. Cota (T 872-873)
State v. Beaudry (T 875-881)
State v. Akers (T 883-885)
SUBSTANTIVE OFFENSES (AGAIN)

OTHER CRIMES

OBJECTIVES: 1) To apply our acquired knowledge of criminal law analysis to specific offenses related to the taking of property; 2) To identify, define, analyze, and distinguish specific crimes in the theft family; 3) To compare and distinguish common law and statutory crimes related to theft; 4) To critique the crimes, as appropriate.

“THOUGHT STIMULATORS”: “Robbery was the only crime in which women were more likely to be victimized by strangers rather than intimates, other family members, or acquaintances.” Ronet Bachman, U. S. Dep’t of Justice, VIOLENCE AGAINST WOMEN 7 (Victimization Survey Report -1994); According to data reported by the Alabama Sentencing Commission, during June 2005 – May 2006, the top ten offenses committed by the inmates entering prison in Alabama were [rankings in parentheses]: Drug offenses (1, 5, 6), burglary III (2), theft II and I (3, 8, respectively), felony DUI (4), possession of a forged instrument II (7), robbery I (9), and receiving stolen property II (1). Only robbery is a crime necessarily involving force or violence by its definition, although any crime can be accompanied by violence. Murder was tied for 24th, and rape was not within the top 25. See ALABAMA SENTENCING COMMISSION, 2007 REPORT, at 54.

ASSIGNMENT 44 - Theft - Robbery / Trespass - Burglary (Somewhat of a review)

State v. Cunningham [TWEN]
State v. Garza Rodriguez [TWEN]
James v. State [TWEN]
Johnson v. State [TWEN]
Soto v. State [TWEN]

REVIEW

ASSIGNMENT 45 - REVIEW

END OF COURSE