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

NOTE: Normally, some adjustments in the syllabus become necessary. 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 as we proceed through the materials. I will announce any changes during class sessions and on TWEN.

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 1-37 is a reference to pages 1 through 37 of the required casebook, BONNIE, COUGHLIN, JEFFRIES & LOW, CRIMINAL LAW (3d ed. 2010); TA 11 refers to page 11 of Appendix A [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. I suggest that you not rely 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 part of the legal terrain that you must learn to navigate.

Please expect us to fall behind from time to time. Thus, assignment numbers will not always match class periods; sometimes it takes 2 or 3 class sessions to fully cover the materials in one assignment; other times, not. We will follow the assignment order, but we must remain flexible.

OBJECTIVES: At the beginning of each major topic area, the 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

Casebook (T): BONNIE, COUGHLIN, JEFFRIES & LOW, CRIMINAL LAW (3d ed. 2010).

T = Text (or Casebook)  Tw = TWEN Materials
TA = Text Appendix A  SA = Specific Assignment
TB = Text Appendix B  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
   T 1-37
   NOTE: We will discuss “Testing Cases” [T 3-7] in class. To prepare for our discussion, you are required to complete a Special Assignment which has been circulated. If you need another copy of the assignment, please obtain one from the box on my office door.
   MODEL PENAL CODE § 1.04 [TA 13-14]
   ALA. R. CRIM. P. 26.8

☐ ASSIGNMENT 2 - Criminalization
   T 37-64
   Lawrence v. Texas – T 38-50
   MODEL PENAL CODE §§ 230.2 [TA 81-82]; 251.1 [TA 96]
   ALA. CODE §§ 13A-6-65(a)(3); 13A-11-9(a)(3); 13A-11-73

THE CRIMINAL ACT

☐ ASSIGNMENT 3 - The Criminal Act - The Conduct Requirement; Previous Definition
   T 65-98
   Martin v. State – T 68
   Re v. Manley – T 74-76
   Kolender v. Lawson – T 85-92
   MODEL PENAL CODE §§ 1.02(1)(d) [TA 11-12]; 1.05 [TA 14]; 2.01(1), (2), (4) [TA 20]; 241.5 [TA 88]; 250.6 [TA 94]
   ALA. CODE §§ 13A-1-4; 13A-2-1(1); (2); 13A-2-3; 13A-10-9; 13A-11-9

☐ ASSIGNMENT 4 - The Criminal Act - Interpreting Conduct Elements
   T 98-118
   Keeler v. Superior Court - T 98-108
   People v. Sobiek - T 108-111
   MODEL PENAL CODE § 210.0 [TA 60]
   ALA. CODE §§ 13A-6-1(a)(3)
   ORE. REV. STAT. ANN. § 163.005(3) [TB 34]
ASSIGNMENT 5 - The Criminal Act - Omissions; Possession

T 118-140
   Billingslea v. State - T 118-126
   United States v. Nevils - T 134-140
   MODEL PENAL CODE § 2.01 [TA 20]
   ALA. CODE §§ 13A-2-1(3); 13A-2-3; 13A-11-72(a)-(b); 13A-11-84(a)

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 6 - The Criminal Mind - Mens Rea

T 156-185
   Regina v. Faulkner - T 161-163

ASSIGNMENT 7 - The Criminal Mind - Modern Codes

T 185-200
   MODEL PENAL CODE § 213.6(1) [TA 69]
   ALA. CODE §§ 13A-2-2; 13A-2-3; 13A-2-4

ASSIGNMENT 8 - The Criminal Mind - Ignorance / Mistake

“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. - [Everyone 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)

T 201-212 (through n. 6), 214-219
   State v. Fo - T 201-204
   MODEL PENAL CODE §§ 2.04 [TA 22-23]; 3.09 [TA 36]; 213.6(1) [TA 69]
   ALA. CODE § 13A-2-6

ASSIGNMENT 9 - The Criminal Mind - Intoxication

T 220-232
   Director of Public Prosecutions v. Majewski - T 220-225
   MODEL PENAL CODE § 2.08 [TA 26]
ASSIGNMENT 10 - The Criminal Mind - Federal Law

T 233-250
Morissette v. United States - T 234-244

ASSIGNMENT 11 - The Criminal Mind - Federal Law (continued)

T 250-267
United States v. Freed - T 250-254

ASSIGNMENT 12 - The Criminal Mind - Wilful Blindness

T 312-322
United States v. Heredia - T 312-321

SUBSTANTIVE OFFENSES

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.

“THOUGHT STIMULATOR”: “The law only deals with conduct. An attempt is an overt act.” OLIVER WENDELL HOLMES, THE COMMON LAW (1881).

ASSIGNMENT 13 - Attempt - The Required Conduct

T 344-364
People v. Bowen & Rouse - T 345-350
MODEL PENAL CODE §§ 5.01 [TA 42-44]; 5.05 [TA 45-46]; 222.1 [TA 72]
ALA. CODE §§ 13-4-1(a); 13A-4-2
OPTIONAL READING: ALA. CODE § 13A-8-43; ALA. CODE § 13A-8-40(b)

ASSIGNMENT 14 - Attempt - Mens Rea

T 364-377
People v. Thomas - T 364-377

ASSIGNMENT 15 - Attempt - Impossibility; Abandonment

T 377-396
People v. Dlugash - T 377-382
Ross v. State - T 390-393
ALA. CODE § 13A-4-2

SEXUAL OFFENSES

OBJECTIVES: 1) To apply our acquired knowledge of criminal law analysis to se crimes, with particular focus on the crime of rape; 2) To identify, define, analyze, and distinguish specific se offenses; 3) To compare and distinguish common law and statutory crimes related to rape and se crimes; 4) To critique the crimes as appropriate.
“THOUGHT STIMULATORS”: “Stereo typically, rape is perceived as an infrequent crime committed by a
se-starved, weapon-wielding stranger, often black, on a provocatively dressed woman, often white, in a back alley.”
Lynn 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 16 - Sexual Offenses - Rape

T 397-418
State v. Rusk - T 400-409
Model Penal Code §§ 213.1 [TA 67-68]

ASSIGNMENT 17 - Sexual Offenses - Rape (cont’d)

T 418-443
State v. Smith - T 428-433
Ala. Code § 13A-6-61

ASSIGNMENT 18 - Sexual Offenses - Marital Se

T 443-446
Model Penal Code § 213.6(2) [TA 69]

ASSIGNMENT 19 - Sexual Offenses - “Statutory” Rape

T 446-458
Garnett v. State - T 447-453
Model Penal Code §§ 213.6(1) [TA 69]
Ala. Code §§ 13A-6-61(a)(2)-(3); 13A-6-62

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
ASSIGNMENT 20 - Justification

T 459-475
Commonwealth v. Markum - T 460-466

ASSIGNMENT 21 - Justification - Defense Against Aggression

T 475-495
People v. Goetz - T 475-481
MODEL PENAL CODE § 3.04 [TA 29-30]

ASSIGNMENT 22 - Justification - Defense Against Aggression (continued)

T 495-525
State v. Kelly - T 495-504
People v. Young - T 518-524
People v. Young - T 524-525

ASSIGNMENT 23 - Justification - Public Authority

T 526-539
Problem - United States v. Ehrlich man - T 526-530
Problem - United States v. Barker - T 532-537
ALA. CODE §§ 13A-3-22; 13A-3-27

ASSIGNMENT 24 - Excuses


T 539-562
United States v. Haney - T 541-548
MODEL PENAL CODE § 2.09 [TA 26-27]

ASSIGNMENT 25 - Entrapment

T 562-567
ALA. CODE § 13A-3-31 and Commentary
ALA. ACTS 1977, No. 607 § 650
Jacobson v. United States, 112 S. Ct. 1535 (1992) [TWEN]

CRIMINAL RESPONSIBILITY

MENTAL DISEASE OR DEFECT

OBJECTIVES: 1) To acquaint ourselves with the defense of insanity; 2) To identify, define, analyze, compare and distinguish various versions of the defense of insanity; 3) To review existing objections to the insanity defense; 4) 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 26 - Mental Disease or Defect

T 568-569, 595-605, 627-628  
M’Naghten’s Case - T 598 n.3-600  
Jury Instruction -Parsons v. State (TWEN)  
MODEL PENAL CODE §§ 4.01-4.03 [TA 37-38]  
ALA. CODE § 13A-3-1

☐ ASSIGNMENT 27 - Mental Disease or Defect (continued)

T 679-696  
Ruffin v. State - T 681-689

LIABILITY FOR THE CONDUCT OF OTHERS

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 28 - Complicity

T 757-768  
In Re v. Russell - T 759-762  
State v. Talley - T 765 n.4-766  
MODEL PENAL CODE § 2.06 [TA 24]

☐ ASSIGNMENT 29 - Complicity (continued)

T 768-786, 792-794  
United States v. Peoni - T 768-769  
Backun v. United States - T 769-771  
People v. Durham - T 774-778  
Regina v. Cogan & Leak - T 778-780  
Ex parte G.G., 601 So. 2d 890 (Ala. 1992) [TWEN]  
ALA. CODE §§ 13A-2-21; 13A-2-23; 13A-6-2(a)(3)

☐ ASSIGNMENT 30 - Conspiracy

T 794-812  
People v. Burleson - T 796-800  
MODEL PENAL CODE § 5.03 [TA 44-45]  
ALA. CODE §§ 13A-4-3
ASSIGNMENT 31 - Conspiracy (continued)

T 812-832

  *People v. Lauria* - T 812-818
  *Pinkerton v. United States* - T 819-822
  *Braverman v. United States* - T 826-828

**SUBSTANTIVE OFFENSES (AGAIN)**

**HOMICIDE**

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

ASSIGNMENT 32 - Homicide - Murder

T 856-874

  *State v. Brown* - T 859-867
  *People v. Anderson* - T 870 n.1(ii)-871
  *MODEL PENAL CODE §§ 210.0-210.5 [TA 60-62]*
  *Jury Instruction (Murder in first and second degrees) (TWEN)*
  *ALA. CODE tit. 14 §§ 314, 317, 318 [repealed]*
  *ALA. CODE §§ 13A-6-1 through 13A-6-4*

ASSIGNMENT 33 - Homicide - Murder (continued); Manslaughter

T 874-902

  *People v. Roe* - T 874-881
  *Freddo v. State* - T 884-886
  *Jury Instruction (Manslaughter in first and second degrees) (TWEN)*
  *ALA. CODE tit. 14 §§ 320, 322 [repealed] - Library*

ASSIGNMENT 34- Homicide - Manslaughter (continued)

T 902-921

  *United States v. Robertson* - T 909-918

ASSIGNMENT 35 - Homicide - Causation

T 921-939

  *State v. Pelham* - T 921-934
  *ALA. CODE §§ 13A-2-5*

ASSIGNMENT 36 - Homicide - Felony Murder

T 939-961

  *People v. Hansen* - T 945-957

ASSIGNMENT 37 - Homicide - Felony Murder (continued)

T 961-979

  *State v. Sophophone* - T 961-969
ASSIGNMENT 38 - Homicide - Capital Murder

T 980-992, 1104-1118 n.4
AL. CODE §§ 13A-5-40; 13A-6-2(a)
State v. Neelley - T 1108-1114
Neelley v. State - T 1114-1118 n."d"

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

State v. Cunningham (N.C. App. 1990) [“Cases” - TWEN]
State v. Garza Rodriguez (Ariz. 1990) [“Cases” - TWEN]

REVIEW

ASSIGNMENT 40 - REVIEW

END OF COURSE