Preliminary Syllabus
Criminal Law
University of Alabama
School of Law
Fall 2016

Professor:          Office Hours:
Stephen Rushin               Tue, 9:35 -10:35 AM
Office 318                   Wed, 10:45-11:45 AM

Class Meetings:               Textbook:
Tue, Wed, and Fri          Kaplan, Weisberg & Binder
8:20 – 9:30 AM, Room 175     Criminal Law: Cases & Materials
                                           (7th Ed) (ISBN #: 9781454806981)

Course Summary and Objectives:
This course examines the foundations of criminal law in the United States. Since each of
the fifty states has a slightly different criminal law code, our primary objective will be to
identify common themes and principles that cut across various different jurisdictions. For
the most part, we will be reading case law from the Kaplan, Weisberg, and Binder
textbook. We will also study the Model Penal Code (MPC).

Course Format and Expectations:
We will be using traditional Socratic Method this semester. I promise to make the cold-
calling process as stress free as possible (more details to follow during our first class
meeting). I have tried to assign as little reading as necessary for each class period. I will
determine your grade for the class based on a 3.5 hour, in-class exam at the end of the
semester on Tuesday, December 13 at 9:00 AM. The exam will be a combination of
multiple-choice questions, a fact pattern essay, and a policy essay.

The multiple-choice questions on the exam will closely resemble those found on the
multi-state portion of the bar exam. Later this semester, I will provide you with two
practice fact pattern essays and two practice policy essays. You may use the textbook and
any personal notes during the exam. You may not use commercial outlines on the exam.
You may use your computer to type your exam answers. I will grade all exams
anonymously and on the standard law school curve.

There will be no class on Friday October 14 and Friday November 4. If needed, I will
announce make-up dates for these classes as early in the semester as possible.

How to Read the Textbook:
I will be assigning around 20 pages of reading per class. We will normally read about 3
significant cases each class. While I will spend most of the class time discussing the cases
listed next to each reading assignment, we will occasionally discuss some of the cases
from the notes as well.
Note on Required Textbook:
The page numbers for this syllabus are keyed to the most recent (7th) edition of the textbook. You can typically find used copies of this edition through online retailers for around $100. Various online retailers also rent this textbook for the semester for around $30-40. Students may also purchase an older version of the textbook. The content of the 6th edition is very similar to the content of the 7th edition. But be warned that the page numbers in this syllabus match the 7th, not 6th edition. If you buy an older edition, it will be your responsibility to find and read cases/sections identified for each class.

Reading Schedule:

I. Why do people break the law? Why do we punish people for breaking the law?

Class #1 p. 1-19, 21-27 (introductory material)

Class #2 p. 29-30 (read), 31-77 (skim with intent of formulating definitions for the following terms: utilitarianism, retribution, deterrence, rehabilitation, incapacitation, the expressive argument, proportionality) but read Hendricks (p. 64-66)

Class #3 p. 78-91, 101-103, 104-109 (Graham, Kennedy, Ewing [proportionality], Appendri [sentencing designs], Blakely-Booker [revolution in sentencing])

II. The Criminal Act [MPC 2.01]

Class #4 p. 115-128 (Proctor [actus reus], Jones [omission])

Class #5 p. 128-148 (Maldonado and Barger [possession], Lawrence [harm requirement])

Class #6 p. 148-167 (Newton and Martin [voluntariness], Robinson and Johnson [status crimes])

Class #7 p. 167-170, 176-185 (Keeler [legislativity], Rogers [retroactivity], Morales [specificity])

III. The Guilty Mind [MPC 2.02]

Class #8 p. 194-196, 202-212 (Dillard, Wulff, Shelton and Lambert [guilty mind])
Class #9 p. 221-22, 225, 236-257 (chart on p. 225 [categories of culpability]), *Ryan* [mistake], *Bray, Baker, Cheek* [mistake of law])

Class#10 p. 258-273 (*Twitchell* [mistake of law excuse], *Hendershott, Cameron, Engelhoff* [capacity for mens rea])

IV. **Causation**

[MPC 2.03]

Class #11 p. 275-283, 287-296 (*Regina* [but-for causation], *Hubbard* [violent acts], *Rhoades* [proximate cause/foreseeability])

Class #12 p. 296-310 (*Root, Hamilton, Stephenson* [intervening causes])

Class #13 p. 311-319 (*Kevorkian* [intervening causes], *Levesque* [duties and omission])

V. **Murder**

[MPC 210]

Class #14 p. 325-340 (skim), 341-350, 355-356 (*Franklin* [second degree], *Watson* [first degree], mercy killing anecdote)

Class #15 p. 357-378, 380 (voluntary manslaughter cases: *Walker* [mitigation]], *Ex Parte Fraley* [cooling time], only need to skim *Rowland* [adultery as provocation])

Class #16 p. 375-382, 384-393 (*Berry* [modern provocation rules], MPC definition of manslaughter, *Wu* [reasonable person standard])

VI. **Unintentional Homicide**

[MPC 210]

Class #17 p. 397-401, 405-407, 409-412 (*Welansky, Williams* [involuntary manslaughter], midnight hazing at Texas A&M example)

Class #18 p. 412-436 (*Mayes* [reckless murder], *Martin* [felony murder])
VII. Capital Murder and Death Penalty
[MPC 210]

Class #20  p. 465-473 (read), 473-483 (Olsen [guided discretion]).

Class #21  p. 483-501 (read notes, Tison [mens rea limitation])

Class #22  p. 503-511 (McKlesky [race]), p. 513-520 (skim)

VIII. Justification, Excuse, and Mental Illness as Defense
[MPC 2.04, 2.09, Article 3 and 4]

Class #23  p. 521-522, 525-540, 546-547, 549-551 (MPC 3.04,
Gleghorn [self-protection], Leidholm [battered spouse],
MPC 3.09, note 12)

Class #24  p. 554-572 (Goetz, Abbott [reasonable self-defender],
Gardner [police use of defensive force], Ceballos
[defensive force])

Class #25  “Stand Your Ground” and “Protect Your Castle”
Reading material to be distributed

Class #26  p. 573-588 (Dudley & Stephens [necessity], MPC 3.02,
Unger [prison escape], Warshow [political necessity])

Class #27  p. 591-608 (Crawford, Hunter [duress], MPC 2.09)

Class #28  p. 613-625, 632-639 (Serravo, Smith [M’Naghten test and
back])

IX. Attempt
[MPC 5.01]

Class #29  p. 667-680 (Lyerla, Stone [mens rea], MPC 5.01)

Class #30  p. 681-690, 694-695 (Murray, McQuirter, Rizzo
[preparation v. attempt], Staples [abandonment])

Class #31  p. 698-709 (Lubow [solicitation], MPC 5.02, Booth
[impossibility]
Class #32  p. 715-724 (*Dlugash, Thousand* [impossibility])

X. **Complicity**  
[MPC 2.06]

Class #33  p. 725-740, 753-756 (*Ochoa, Formella* [complicit act])

Class #34  p. 756-771 (*Beeman* [intent to aid/encourage], MPC 2.06, *Wilson* [mental element], *Etzweiler* [unintended harm and combined standards])

Class #35  p. 776-780, 794-804 (The Killing of Yusuf Hawkins, *Christy Pontiac, Hilton Hotels Corp* [respondeat superior])

XI. **Conspiracy**  
[MPC 5.03]

Class #36  p. 805-815 (*Verive* [nature of conspiracy], *Griffin* [proof of formation])

Class #37  p. 820-835 (*Reico* [termination], *Lauria* [mens rea], *Diaz* [incidents])

Class #38  p. 840-861 (*Caldwell* [types of conspiracy], *Neapolitan* [RICO])

XII. **Rape**

Class #39  Reading TBD (if time allows)

Class #40  Reading TBD (if time allows)

XIII. **Review**

Class #41  Problem Set #1

Class #42  Problem Set #2

Class #43  Review

**Course Webpage:**
I have created a class TWEN page available at [http://lawschool.westlaw.com/](http://lawschool.westlaw.com/). There you will find this syllabus and any other supplemental material. I will also use this webpage to make announcements. I will also use this webpage to email you if an emergency requires me to cancel (or delay the beginning of) class. *It is very important that you sign up on TWEN and that you use an email address you check regularly when you sign up.*
Do not use your UA email address if you do not check it daily.

Attendance:
Class attendance is mandatory. A roll sheet will be circulated each day. If you do not sign it, you are absent, regardless of the reason for your absence. I am required to follow the law school's attendance policy, which states: “A student who is absent for any reason from more than three class hours per semester credit hour in a course may be dropped from the roll or not allowed to sit for the exam and receive an ‘F’ for the course. If a student’s absences exceed three class hours per semester credit, the Dean, after consulting with the professor, will determine whether the student will be withdrawn without a penalty or not be allowed to sit for the exam and receive an ‘F’ for the course.”

If the total number of classes you miss approaches the maximum, please come and talk to me. Should something occur that you believe will cause you to miss an inordinate number of classes, please contact the Associate Dean for Academic Affairs to discuss your options.

Disability Policy:
The Law School is committed to meeting the needs of students with physical, learning, and other disabilities, and provides appropriate accommodations and services tailored to each person’s specific requirements. The Law School and the University’s Office of Disability Services work together to help individuals with disabilities achieve and maintain individual autonomy. Students with disabilities are encouraged to contact the Associate Dean for Academic Affairs so that the individual’s needs for support services can be evaluated and accommodated in a timely manner.

Nondiscrimination Policy:
The University of Alabama is committed to providing an inclusive environment that is free from harassment or discrimination based on race, genetic information, color, religion, ethnicity, national origin, socioeconomic status, political beliefs, sex, sexual orientation, gender expression, gender identity, age, ability, size, or veteran status. The University of Alabama prohibits any verbal or physical conduct that threatens or endangers the health or safety of any individual or group, including physical abuse, verbal abuse, threats, stalking, intimidation, harassment, sexual misconduct, coercion, and/or other communication or conduct that creates a hostile living or learning environment. Harassment or other illegal discrimination against individuals or groups not only is a violation of University Policy and subject to disciplinary action, but also is inconsistent with the values and ideals of the University.

Recording Devices:
The use of recording devices in class, other than required to accommodate a disability under a plan established with the Associate Dean for Academic Affairs, is prohibited without my written prior permission. If you have another important reason why you need to use a recording device, please talk to me. I prefer students not use recording devices so everyone feels comfortable talking in class.
Policy on Academic Misconduct
All students in attendance at The University of Alabama are expected to be honorable and to observe standards of conduct appropriate to a community of scholars. The University of Alabama expects from its students a higher standard of conduct than the minimum required to avoid discipline. At the beginning of each semester and on examinations and projects, the professor, department, or division may require that each student sign the following Academic Honor Pledge: “I promise or affirm that I will not at any time be involved with cheating, plagiarism, fabrication, or misrepresentation while enrolled as a student at The University of Alabama. I have read the Academic Honor Code, which explains disciplinary procedure resulting from the aforementioned. I understand that violation of this code will result in penalties as severe as indefinite suspension from the University.”

See the Code of Student Conduct for more information.

Severe Weather Guidelines:
The guiding principle at The University of Alabama is to promote the personal safety of our students, faculty and staff during severe weather events. It is impossible to develop policies which anticipate every weather-related emergency. These guidelines are intended to provide additional assistance for responding to severe weather on campus.

UA is a residential campus with many students living on or near campus. In general classes will remain in session until the National Weather Service issues safety warnings for the city of Tuscaloosa. Clearly, some students and faculty commute from adjacent counties. These counties may experience weather related problems not encountered in Tuscaloosa. Individuals should follow the advice of the National Weather Service for that area taking the necessary precautions to ensure personal safety. Whenever the National Weather Service and the Emergency Management Agency issue a warning, people in the path of the storm (tornado or severe thunderstorm) should take immediate life saving actions.

When West Alabama is under a severe weather advisory, conditions can change rapidly. It is imperative to get to where you can receive information from the National Weather Service and to follow the instructions provided. Personal safety should dictate the actions that faculty, staff and students take.

The Office of University Relations will disseminate the latest information regarding conditions on campus in the following ways:
- Weather advisory posted on the UA homepage
- Weather advisory sent out through UA Alerts to faculty, staff and students
- Weather advisory broadcast over WVUA at 90.7 FM
- Weather advisory broadcast over Alabama Public Radio (WUAL) at 91.5 FM
- Weather advisory broadcast over WVUA-TV/WUOA-TV, and on the website at http://wvuatv.com/content/weather. WVUA-TV Home Team Weather provides a free service you can subscribe to which allows you to receive weather warnings for Tuscaloosa via e-mail or cell phone. Check http://wvuatv.com/content/free-email-weather-alerts for more details and to sign up for weather alerts.
In the case of a tornado warning (tornado has been sighted or detected by radar; sirens activated), all university activities are automatically suspended, including all classes and laboratories. If you are in a building, please move immediately to the lowest level and toward the center of the building away from windows (interior classrooms, offices, or corridors) and remain there until the tornado warning has expired. Classes in session when the tornado warning is issued can resume immediately after the warning has expired at the discretion of the instructor. Classes that have not yet begun will resume 30 minutes after the tornado warning has expired provided at least half of the class period remains.