SYLLABUS

FEDERAL CRIMINAL LAW

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Fall, 2019

Class Meeting: Tuesday 10:30 – 12:20
Office: By Appointment on Tuesday

All Reading assignments must be downloaded from BLACKBOARD

FINAL EXAM WILL BE A 3 QUESTION TAKE HOME EXAM

Course grade will be based on class participation and the final exam.

COURSE DESCRIPTION – This course focuses on a limited number of federal criminal statutes and cases and federal criminal procedural rules. Classes will be built around the main, recurring themes and issues in federal criminal practice. Among other topics, the course will consider federal jurisdiction, prosecution of state and local corruption, firearm and drug regulation, co-conspirator hearsay, other act evidence, discovery and sentencing and ethical issues for both the prosecutor and defense counsel. Case studies, statutes and rules are divided into teaching units for coverage in one or more class meetings.

LEARNING OUTCOME – Upon completion, students will have knowledge of federal substantive and procedural rules of law; the processes through which federal criminal law is created, applied, and changed; and, the policy underlying federal criminal law including ethics. Upon completion, students will be able to identify legal issues, their underlying facts and the resolution of the legal issues.

COURSE ACCOMMODATIONS - If you have special needs (alternative testing, etc.), please contact the Student Success Center in Monroe Library, Room 229, (504) 865-2990.
LEGAL RESOURCES

Georgetown Law Journal, Annual Review of Criminal Procedure (GLJARCrP)

American Criminal Law Review (ACLR)(Statutes)

Fifth Circuit Pattern Jury Instructions Criminal (PJl) - ca5.uscourts.gov

The Champion, National Association of Criminal Defense Lawyers

United States Attorney’s Manual (USAM)

Federal Rules of Criminal Procedure (FRCrP)

Federal Sentencing Guidelines Manual (FSGM)

Federal Rule of Evidence (FREvid)

CLASS TOPICS

United States Constitution

21st Century Due Process
   Article 1, Section 8, Clauses 1, 3 and 18
   Article 3, Section 2
   Article 6
   Amendments 4, 5, 6 and 8
   Amendment 10
   Amendment 14, Sections 1 and 5

White Out the Constitution

Most Presidents Ignore the Constitution

Department of Justice Discretion
   United States v. Cox, 342 F.2d 167 (CA5 1965)

Constitutional Basis for A Federal Criminal Statute: Regulate Interstate Commerce; Levy Tax; Protect Federal Money; Protect Federal Function; Enforce 14th Amendment

Substantial Economic Effect on Commerce

Commerce Depletion of Assets
United States v. Jennings, 195 F. 3d 795 (CA5 1999)

Commerce Gone Too Far
United States v. McCoy, 323 F.3d 1114 (CA9 2003)

False Statements
18 U.S.C. 1001
PJI 2.49 – False Statements
United States v. Herring, 916 F.2d 1543 (CA11 1990)

18 U.S.C. 1014 (Financial Institution False Statement)
United States v. Sandlin, 589 F.3d 749 (CA5 2009)

Exculpatory "NO"

Lessons To Be Learned

Grand Jury - Ethics
FRCrP Rule 6 - Grand Jury
USAM 9-11.000 Grand Jury
United States v. Hogan, 712 F.2d 757 (CA2 1983)
United States v. Walters, CA2 No. 17-2373 (12/20/18) NEED CITATION

Due Process - Ethics
Brady v. Maryland, 83 S.Ct. 1194 (1963)
United States v. Smith, 814 F.3d 268 CA5 2016)
United States v. Dvorin, 317 F.3d 438 (CA5 2016)
United States v. Chapman, (CA9 2019) NEED CITATION

Entrapment
Entrapment 101
PJI, 1.28 – Entrapment
USAM 9 – 18.000 Criminal Resource Manual 645 - Entrapment
Entrapment Cases
United States v. Twigg, 588 F.2d 373 (CA3 1978)

USAM 9-18.000 Criminal Resource Manual 648 - Outrageous Government Conduct

Mens Rea
Mens Rea 101
PJI 1.37; 1.38 – Mens Rea
Flores-Figueroa v. United States, 129 S.Ct. 1886 (2009)
United States v. Garrett, 984 F.2d 1402 (CA 5 1993)
United States v. Morgan, 311 F.3d 611 (CA5 2002)

Principals, Aid, Abet or Procure
18 U.S.C. 2
Aid and Abet Summary
PJI 2.06 – Aid and Abet
United States v. Spinney, 65 F.3d 231 (CA1 1995)

Misprision of Felony
18 U.S.C. 4
PJI 2.08 – Misprison

Circumstantial Evidence
PJI 1.07 - Direct and Circumstantial Evidence

Currency Violations
PJI 2.98; 2.99 - Currency
United States v. Martiarena, 955 F.2d 363 (CA5 1992)

Opinion Testimony
PJI 1.17 - (Expert) Opinion Witness
United States v. Johnson, No. 18-2023 (CA7 2019) NEED CITATION
United States v. Kelsey, No. 16-3125 (CA D.C. 2019) NEED CITATION
United States v. Garcia, No. 18-1735 (CA7 2019) NEED CITATION

Drugs
21 U.S.C. 841
21 U.S.C. 846
PJI 2.87; 2.89
Drugs 101
United States v. Burroughs, 876 F.2d 366 (CA5 1989)
United States v. Mays, 466 F.3d 335 (CA5 2006)

Firearms
18 U.S.C. 922(g)(1) - Convicted Felon in Possession of a Firearm
18 U.S.C. 922(d)(1) - Sale OR Transfer of a Firearm to a Convicted Felon
PJI 2.46; 2.47 - Firearms
United States v. Murray, 988 F.2d 518 (CA5 1993)

18 U.S.C. 924(c)(1) - Possession of a Firearms In Furtherance of a Drug Trafficking Offense OR a Crime of Violence
PJI 2.48 - Firearms
United States v. Ceballos-Torres, 218 F.3d 409 (CA5 2000)

Entity Liability
United States v. Hilton Hotels Corp., 467 F.2d 1000 (CA9 1972)

Managerial Liability
United States v. Park, 95 S.Ct. 1903 (1975)

Harmless Error, Plain Error
FRCrP 52 – Harmless and Plain Error
Chapman v. California, 87 S.Ct. 824 (1967)
United States v. Sumlin, 489 F.3d 683 (CA5 2007)
United States v. Books, (CA7 2019) NEED CITATION
United States v. Figueroa-Coello (CA5 2019) NEED CITATION

FRCrP 29 - Motion for Judgment of Acquittal

Conspiracy

Conspiracy and Hearsay Versus the Confrontation Clause
FREvid 801(d)(2)(E)
United States v. Gooding 25 U.S. 460 (1827)
Melendez-Diaz v. Massachusetts, 129 S.Ct. 2527 (2009)

Crawford Matters of Interest

DID THE CAT COLLUDE WITH THE DOG

NOT FOR THE TRUTH
United States v. Evans, 950 F.2d 187 (CA5 1991)

General Conspiracy Statute - 18 U.S.C. 371
PJI 2.20 - Conspiracy

Conspiracy to Defraud the United States
USAM 9-42.001 Criminal Resource Manual 923 – Conspiracy to
Defraud the United States
Hass v. Henkel, 30 S.Ct. 249 (1910)
Hammarschmidt v. United States, 44 S.Ct. 511 (1924)

Conspiracy to Commit an Offense Against the United States
PJII 2.22 - Pinkerton Liability
United States v. Tilton, 610 F.2d 302 (CA5 1980)

Mail, Wire, Bank and Health Care Fraud
18 U.S.C. 1341 - 1348
PJII 2.59 – 2.61 - Fraud

Property Fraud

Honest Services Fraud

Other Act Evidence
FREvid, Rules 401 - 404(b)
PJII 1.30 – Other Acts
FREvid 404(b) – Steps for Admissability
United States v. Anderson, 933 F.2d 1261 (CA5 1991)
United States v. Sumlin, 489 F.3d 683 (CA5 2007)
United States v. Laflam, 369 F.3d 153 (CA2 2004)
United States v. Turner, 674 F.3d 420 (CA5 2012)
United States v. Asher, (CA6 2018) NEED CITATION
United States v. Hamdan, (CA7 2018) NEED CITATION

The Jury Will Disregard

Perjury
18 U.S.C. 1621 - 1623
PJII 2.69 - Perjury
Bronston v. United States, 93 S.Ct. 595 (1973)
United States v. Brown (Perjury), 459 F.3d 509 (CA5 2006)

Obstruction of Justice
18 U.S.C. 1503
PJII 2.65 – Obstruction of Justice

18 U.S.C. 1512

18 U.S.C. 1519
USAM 9-28.300 – Corporate Prosecution Factors
Bribery

Look For the Cow

18 U.S.C. 201
PJI 2.12 – 2.15 – Bribery – Illegal Gratuity
Bribery – Gratuity - Intent

18 U.S.C. 666
United States v. Thompson, 484 F.3d 877 (CA7 2007)
PHILLIPS
United States v. Shoemaker, 746 F.3d 674 (CA5 2014)
United States v. Tillmon, No. 17-4648 ( CA4 2019 )
PJI 1.37 – 1.38 – Knowingly – Wilfully To Act
PJI 18 U.S.C. 666(a)(1)(B) – Bribery Federally Funded Program
USAM CRM 1001 The Scope of 18 U.S.C. 666

18 U.S.C. 1951 - Bribery
Evans v. United States, 112 S.Ct. 1881 (1992)

18 U.S.C. 1951 - Extortion
United States v. Jennings, 195 F.3d 795 (CA5 1999)
United States v. Capo, 817 F.2d 947 (CA2 1987)
United States v. Carter, 530 F.3d 565 (CA7 2008)
United States v. Rashad, 687 F3d 637 CA5 2012

PJI 2.73 – 2.74 – Bribery - Extortion

Wire Fraud - Honest Services Bribery

18 U.S.C. 1951 - Robbery
United States v. McFarland, 311 F.3d 376 (CA5 2002)

Discovery
FRCrP, Rules 12, 16, 17, 26.2 (Jencks Act, 18 U.S.C. 3500) and 7
Brady v. Maryland, 83 S.Ct. 1194 (1963)
Brady’s Parents And Descendants

Initial Appearance, Bail
FRCrP Rule 5
18 U.S.C. 3142

GLJARCrP - Bail
Speedy Trial Act
18 U.S.C. 3161
GLJARCrP – Speedy Trial

Guilty Plea
FRCrP Rules 10 and 11
United States v. De Leon, No. 17-50881 (CA5 2019)
NEED CITATION

Sentencing
FSGM Guidelines Statutes
Sentencing Tables

Sentencing
Alleyne v. United States, 133 S.Ct. 2151 (2013)(Apprendi Revisited)

Sentencing Guidelines
United States v. Leon, 341 F3d 928 (CA9 2003)(Departure From Guidelines)
United States v. Rowan, 530 F3d 379 (CA5 2008)(Variance From Guidelines)
United States v. Taffaro, 5th Circuit NEED CITATION(Variance)
United States v. Villarreal, 920 F2d 1218 (CA5 1991)(Malpractice)

Venue
FRCrP, Rules 18 and 21

Statute of Limitations
18 U.S.C. 3282 and 3293

18 U.S.C. 922(q) Gun Free School Zone (After Lopez)