

**CONCEPTS OF CRIMINAL LAW
JUSTICE STUDIES 14**

Fall, 2004

Tuesdays & Thursdays, 10:30- 11:45 A.M.

Lecturer: Dan Peak
Phone: (408) 398-2070
Office Hours: Tuesday & Thursday 7:00 a.m. – 8:30 a.m., and 12:00 p.m. to 1:00 p.m. on Tuesdays, or by appointment
Email: dpeak@email.sjsu.edu
Web: [http://www2.sjsu.edu/faculty/peak/or www.danpeak.com](http://www2.sjsu.edu/faculty/peak/or/www.danpeak.com)

COURSE DESCRIPTION

This course is an introduction to criminal law, including historical development, underlying philosophies, and important elements of crimes. The goal of this course is to give the student with a professional career objective in law enforcement or related fields a more comprehensive familiarity with crime and punishment. Topics include sources of criminal and correctional law; the legal process, criteria of criminal responsibility, and some principles of evidence and proof. The determinative sentencing laws and the more recent indeterminate sentencing in the form of the three-strikes and one-strike laws will be thoroughly discussed.

REQUIRED READING

Required text: Gardner, T. J., and Anderson, T. M., Criminal Law (8th ed. 2003) published by Thomson Learning.

Other reading includes statutes and cases available on the internet. In the early sessions, the additional material will be accessible by hyperlink from the course schedule on line, or by typing the provided web addresses into a connected computer. In later sessions the student should be able to find the material on his or her own. World Wide Web access is a requirement of the course. All documentation and assignments will be posted on the World Wide Web at <http://www2.sjsu.edu/faculty/peak/> so students should check there regularly.

GRADING

Student's mastery of the material will be evaluated through observation of the student's class participation and the student's performance on quizzes and a final examination.

Communication: Students should not hesitate to telephone at the above provided number or drop by the office at any time. Email communications are encouraged.

Course Grade: All assignments are graded ABCDF. The final grade will be based on a weighted average of the quizzes and test grades. Please note that University and Departmental guidelines require a serious and compelling reason to drop a course. A course cannot be dropped because of grades alone.

If you need course adaptation or accommodations because of a disability, or if you have emergency medical information to share with me, or if you need to make special arrangements in case the building must be evacuated, please see me during office hours

SCHEDULE OF TOPICS, ASSIGNMENTS AND DUE DATES
Subject to Changes

Topic I: ELEMENTS OF CRIMINAL CONDUCT

August 26 & 31

Introductions and Course Schedule. Origins of the law in general and criminal law in particular. Differentiate between common law, case law and statutory law. Explanation of the concept of *stare decisis*, and case reporting. How to find and read cases using the internet.

Read: Gardner, Chapters 1 & 2 (Scan, only, no need to read too closely.)

September 2 & 7

Actus Reus and *Mens Rea*, the essential elements of crime. Burden of proof: BRD. Special attention will be given to "attendant circumstances," which are additional requirements for criminal liability, and are either part of the act or state of mind. Types of evidence, including circumstantial, direct and documentary evidence, will be compared. Process of a case through the criminal justice system.

Read: Gardner, Chapter 3,

September 9 & 14

Mens Rea: Criminal Responsibility and the capacity to form intent. An examination of the various mental conditions that may excuse crime or prevent punishment of an accused. This section focuses on psychological impairment in relation to criminal liability, including insanity.

Read: Gardner, Chapter 5. Read California Penal Code §§25-29.

Topic II: Aiding and Abetting, Conspiracy and Inchoate Crimes

September 16 & 21

Vicarious liability for acts committed by others, and punishment for crimes intended but not completed.

Read: Gardner, Chapter 4

Topic III: Crimes Against the Person

September 23 (Brief Quiz)

Homicide a continuum of reduced mental state from capital murder to negligent manslaughter. The importance of attendant circumstances in homicides. Causation of harm.

Read: Gardner, Chapter 13

September 28 & 30

Violent crimes, including Assault & Battery, and domestic violence, including: assault, mental abuse and rape which take on particular importance when committed against a family member or cohabitant. Students will discuss how the laws related to domestic violence differ from the treatment of other similar crimes, not committed against family members, and why there is a special need for this differential treatment.

Read: Gardner, Chapter 14

Topic IV: Crimes Against Property

October 5 - 14

Theft related crimes differ in the degree of violence involved or the intent of the perpetrator. The continuum from simple or petty theft to grand theft to robbery, extortion, carjacking. Burglary will be distinguished from theft offenses. Kidnapping will be compared to extortion.

Read: Gardner, Chapters 15, 16 and 17

Topic V: Sexual Offenses

October 19 (Brief Quiz) & October 21 & 26

This section will cover sexual offenses from rape to child molestation and related crimes as well as Penal Code §290 sexual offender registration requirement.

Read: Gardner, Chapter 18 & 19

Sexual assault statutes Penal Code §§261-269 & Penal Code §290

Topic VI: Possessory Crimes. Substance Abuse and Related Crimes

October 28 & November 2

Possession as the *actus reus* is generally related to drug abuse, but there are other crimes included, such as possession of certain weapons and pornographic material. The class will discuss the pros and cons of the trend in California toward the decriminalization of drug offenses. Driving under the Influence of drugs and alcohol will be highlighted and distinguished from simple possession. Possession for sale or transportation will be distinguished from simple possession.

Read: Gardner, Chapter 20.

Penal Code §§1000 et seq and Penal Code section 1210.1, subdivision (e)(3)(A)

Topic VII: Constitutional and Statutory Limitations to Government Power

November 4 (Brief Quiz) & 9

The power of government to limit behavior and punish wrongdoing is limited by the various constitutions and by statutes. These limitations include jurisdictional limitations as well as limitations on how the government can impact basic human rights as provided in the U.S. Constitution and the Bill of Rights.

Read: Gardner, Chapters 9– 12 (This area not tested, so close reading is not required.)

Topic VIII: Sentencing Provisions

November 11 - 18

This section will cover the history and purposes of sentencing in general and the determinate sentencing rules of California in particular, following the historical transformation of the law from indeterminate to determinate and back to indeterminate sentencing. The "three strikes laws", the sex offense one strike laws and the gun one strike law will be discussed. Various sentencing alternatives will be considered, from community service work to castration. Capital punishment will be briefly considered.

Read: Gardner, Chapter 8 & Various Penal Code sections on sentencing

Topic IX: Defenses to Crime

November 23 (No class on November 25th Happy Holiday) & November 30

Various defenses, including defense of self and others, and necessity will be compared.

Read: Gardner, Chapters 6 & 7

Topic X: Gangs and White Collar Crimes

December 2– 9

This section will cover various crimes and enhancements, not included in the other sections, like the additional penalties for gang participation and the federal control of commerce. Civil punishment which is much like criminal punishment, such as forfeitures will also be addressed.

Read: Chapters 20, 21 and 22 (Scan only)

Final Examination: Thursday, December 16 at 9:45 am