

SUL ROSS STATE UNIVERSITY
RIO GRANDE COLLEGE
DEL RIO - EAGLE PASS – UVALDE
CRIMINAL JUSTICE PROGRAM
DEPARTMENT NATURAL AND BEHAVIORAL SCIENCES
CRIM 3305 CRN # 21082 : SUBSTANTIVE LAW
SPRING 2023 SYLLABUS

2023 SPRING WEB ONLINE DIGITAL COURSE TITLE & CALENDAR PERIOD: CRIM 3305: Substantive Law; CRN # 21082 – Wednesday January 18, 2023 through Friday May 10, 2023

PROFESSOR: Dr. Sergio J. Gonzalez J.D.

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BIOGRAPHY:

JUDICIAL JURISDICTION: Misdemeanor Criminal; Juvenile; DWI/ DRUG Specialty Court; Juvenile, Probate; Divorce; Child & Adult Protective Services, & Civil.

August 2017-Present: Adjunct Professor SRSU-Rio Grande College.

January 1, 1999-Present: Court-At-Law Judge, Val Verde County. November

2, 1990-1998: General Practice of Law with Law

Offices of Gonzalez, Gonzalez & Gonzalez, 313 Pecan Street, Del

Rio, Texas. Criminal Felony & Misdemeanor, Juvenile, Divorce & Child Custody, Protective Orders, Child Protective Services, Probate, Guardianships & Civil Matters.

May 4, 1986: Juris Doctorate Degree, O.W. Coburn School of Law, Oral Roberts University, Tulsa, Oklahoma.

August 14, 1981: Bachelor of Arts Degree, St. Mary's University, San Antonio, Texas.

May 2, 1976: Del Rio High School Graduate, Del Rio, Texas.

CONTINUING LEGAL EDUCATION STUDY HOURS: January 1, 1999-Present: 770.00 Total CLE; 115.75 Total Ethics, State Bar of Texas.

VOLUNTEER STUDENT INTERNSHIP: This Spring 2023 SRSU Criminal Justice Student(s) have the unique opportunity to participate and experience first-hand on how their respective classroom learnings apply to the Judiciary, Magistration, Adult & Juvenile Probation Department, Jury Selection, & Jury Trial. Four (4) volunteer junior/senior internships are available at the Val Verde County Court-At-Law, DWI Specialty Court, & the Adult & Juvenile Probation Departments. Email me ASAP @sjg17iz@sulross.edu if you are interested. Intern will be interviewed and required to read & sign a Confidentiality Agreement.

COURSE DESCRIPTION: The goal of this digital course is to master the elements of substantive law and procedural due process in the enforcement of criminal law. This course will provide a foundation for understanding the rule of law and purpose of law in an attempt to maintain an ordered society. Civil liberties of the constitution are addressed and civil liabilities influencing the criminal justice system are explored.

TEXTBOOKS:

“Digital Online Access” Chapter Assignments 1-14, Criminal Law, 13th edition (2018), Thomas J. Gardner & Terry M. Anderson, Cengage Learning, ISBN-10: 1337501298 (Loose leaf bundle), ISBN-13: 9781305966420 (Digital Access MindTap stand-alone).

Access MindTap through the course link provided in Blackboard. You will be taken to a new page where you will be prompted to create an account with Cengage. This is a MUST one-time process. If you have previously completed this step, you will be taken directly to the payment options screen. After registering for Cengage, you will be prompted to purchase access to MindTap.

FREE TWO-WEEK ACCESS by MindTap is temporarily available beginning 01/18/2022. Thereafter you will be required to have selected and purchased the best option to access your Cengage MindTap assignments via Blackboard.

ONLINE COURSE: Important that a minimum of two (2) chapters be completed each month in this Cengage/MindTap digital course that is fully integrated into Blackboard. First, in Blackboard under “Course Content” click on “MindTap Access & Spring 2022 Syllabus CRIM 3305-Substantive Law”. Second, click on “Start Here: Register to Access MindTap”. Second, read “Important Info” paragraph, it relates to your computer allowing popups to be able to access course content. Third, set up your Cengage/MindTap account & click on “Click Here to Access MindTap-CRIM 3305-W01:”. Once you have purchased the option that best suits you will have access to each chapter 1-14 assignments & activities.

CHAPTER ASSIGNMENTS, ACTIVITIES, & GRADING SCALE: Exams and assessments have been structured to mandate maximum participation in this self-directed course of study. Each Chapter contains “Chapter Reading”, important that you click on highlighted word to view

definition; “Chapter Video Case”, important you complete the full short video and answer the multiple (5) questions; “Chapter You Decide Part I “; & “Chapter Exam”. Each section mentioned herein develops points in calculating your grade. You have (2) retries to increase your point totals. Grading Scale: A-1890-1770; B-1769-1640; C-1639-1500; D-1499–1360; D-1359-0. Final semester grades are reported to the Office of Admissions & Records. Student grades are posted on Banner for review at the conclusion of each semester.

EXTRA CREDIT: Extra credit will be provided to EACH Student that sits in a LIVE Jury Trial @ the Val Verde County Court -At-Law Courtroom, 400 Pecan Street, 2nd Floor, Del Rio, Texas. Student(s) will be required to submit via Professor’s email (sjg17@sulross.edu) a minimum (2) report pertaining to observation, critical thinking theories as relate to Substantive Law Chapter topics, reading assignments, Video Case, & exams. Jury Trials are set in January, March 2023. Interested student(s) shall immediately email Professor Gonzalez for Jury Trial dates.

WEB COURSE: This course is “Web” based. Students are expected to log-on regularly, check the calendar for due dates and respond to all emails.

INCOMPLETE GRADE: It is the responsibility of students to notify the Professor if they cannot make an assignment or will not be able to log-on to the class.

EXTRA CREDIT: Extra credit will be provided to EACH Student that sits in a LIVE Jury Trial @ the Val Verde County Court -At-Law Courtroom, 400 Pecan Street, 2nd Floor, Del Rio, Texas. Student(s) will be required to submit via Professor’s email (sjg17@sulross.edu) a minimum (2) report pertaining to observation, critical thinking theories as relate to Substantive Law Chapter topics, reading assignments, Video Case, & exams. Jury Trials are set in January, March 2023. Interested student(s) shall immediately email Professor Gonzalez for Jury Trial dates.

DISABILITY SERVICES: ADA (Americans with Disabilities Act) Sul Ross State University is committed to equal access in compliance with the Americans with Disabilities Act of 1973. It is the student’s responsibility to initiate a request for accessibility services. Students seeking accessibility services must contact Mary Schwartze, M. Ed., L.P.C., in Counseling and Accessibility Services, Ferguson Hall, Room 112. The mailing address is P.O. Box C-122, Sul Ross State University, Alpine, Texas 79832. Telephone: 432-837-8691. E-mail: mschwartze@sulross.edu. Drop Policy: If you discover that you need to drop this class, you must contact the Records Office and ask for the necessary paperwork. Professors cannot drop students; this is always the responsibility of the student. The Record’s Office will give a deadline for which the paperwork and form, if required, must be returned, complete and signed. If you discover that you are still enrolled, FOLLOW-UP with the Records Office immediately.

ADA STATEMENT: SRSU Disability Services. Sul Ross State University (SRSU) is committed to equal access in compliance with Americans with Disabilities Act of 1973. It is SRSU policy to provide reasonable accommodations to students with documented disabilities. It is the student’s responsibility to initiate a request each semester for each class. RGC students seeking accessibility services should contact Paulette Harris, Executive Assistant to the Vice President and Dean, at

830-279-3023 or email pharris@sulross.edu. Ms. Harris's office is at 2623 Garner Field Road, Uvalde, TX 78801 (this is the mailing address, too).

LIBRARY INFORMATION: The Southwest Texas Junior College (SWTJC) Libraries at Uvalde, Del Rio, and Eagle Pass offer additional access to library spaces and resources. Del Rio, Eagle Pass, and Uvalde students may also use online resources available through SWTJC website, library.swtjc.edu. The SWTJC Libraries serve as pick-up locations for InterLibrary Loan (ILL) and Document Delivery from the Alpine campus. The Bryan Wildenthal Memorial Library in Alpine offers FREE resources and services to the entire SRSU community. Access and borrow books, articles, and more by visiting the library's website, library.sulross.edu. Off-campus access requires logging in with your LoboID and password. Librarians are a tremendous resource for your coursework and can be reached in person, by email (srsulibrary@sulross.edu), or phone (432-837-8123).

SRSU DISTANCE EDUCATION STATEMENT: Students enrolled in distance education courses have equal access to the university's academic support services, such as library resources, online databases, and instructional technology support. For more information about accessing these resources, visit the SRSU website. Students should correspond using Sul Ross email accounts and submit online assignments through Blackboard, which requires secure login. Students enrolled in distance education courses at Sul Ross are expected to adhere to all policies pertaining to academic honesty and appropriate student conduct, as described in the student handbook. Students in web-based courses must maintain appropriate equipment and software, according to the needs and requirements of the course, as outlined on the SRSU website. Directions for filing a student complaint are located in the student handbook.

CHAPTER OBJECTIVES: Upon reading assigned chapters in the textbook with a thorough review of the key concepts, terms, case law and learning objectives within each chapter the student will acquire extensive knowledge of the following subject-matter materials to be inclusive on each examination.

Chapter 1: Criminal Law: Purposes, Scope, and Sources:

In this chapter we introduce criminal law and the role it plays in the American legal system. The learning objectives (LO) for this chapter are the following:

LO 1. Identify the branches of government, and their relationship to the criminal law.

LO 2. Describe the difference between public law and private law, including the difference between criminal law and tort law.

LO 3 List the reasons people commit crimes, & why they do not.

LO 4. Understand the four generally recognized goals of the criminal justice system.

LO 5. Know the meaning of police power.

LO 6. Identify the general limitations on the exercise of the police power by government.

LO 7. Describe the classifications of crimes and the principle of legality.

LO 8. List and describe five specific constitutional limitations on the power to create a criminal law.

LO 9. Define circumstances that would make a criminal law a status crime.

LO 10. Trace the origin of the common law to its place in criminal law today.

Chapter 2: Jurisdiction: In this chapter we discuss the basis of the power of a court to try a defendant charged with a crime. The learning objectives (LO) for this chapter are as follows:

LO 1. Explain why a state has general power to make criminal laws and to prosecute those who violate the law.

LO 2. List four of the specific powers granted to the federal government to make criminal laws.

LO 3. Draw the boundaries of congressional power under the Commerce Clause to regulate actions through criminal laws.

LO 4. Explain the basis for an international court to claim jurisdiction over a person charged with a violation of international law.

LO 5. Describe the “Federal Domain.”

LO 6. Identify the jurisdiction of military courts.

LO 7. Describe the jurisdiction of Indian tribal courts.

Chapter 3: Essential Elements of a Crime: In this chapter we examine the acts or states of mind that constitute elements of a crime. The learning objectives (LO) for this chapter are the following:

LO 1. Learn the meaning of and difference between actus reus and mens rea.

LO 2. Identify when a criminal statute includes a requirement of a specific intent.

LO 3. Write a simple criminal charge that does not have as an element a specific intent.

LO 4. List the Model Penal Code degrees of culpability and their accompanying mental states.

LO 5. Distinguish between motive and intent.

LO 6. Identify some of the similarities of strict liability crimes.

LO 7. Explain why the year-and-a-day rule is a rule of proximate cause.

LO 8. Identify the relationship between use of presumptions in the prosecution’s case and the Due Process Clause.

LO 9. Explain why a conclusive presumption is prohibited.

Chapter 4: Criminal Liability: In this chapter we examine the manner in which criminal liability is assessed, in particular for liability based upon acts and the relationship of those acts to crimes. The learning objectives (LO) for this chapter are the following:

LO 1. Identify when conduct has crossed the line between thinking about committing a crime and attempting to commit a crime.

LO 2. Explain the function of and need for corroborating evidence in solicitation prosecutions.

LO 3. Identify the steps that must be taken before one can be guilty of a conspiracy.

LO 4. Explain when, if ever, impossibility of committing the completed crime is a defense to a charge of attempt.

LO 5. Identify the circumstances when abandonment of the criminal purpose can have an effect on liability for an attempt, or liability for criminal acts done in a conspiracy.

LO 6. State the rule for liability of one conspirator for actions of another.

LO 7. List the parties who can be treated as principals for purposes of criminal liability

Chapter 5: Criminal Responsibility and the Capacity to Commit a Crime: In this chapter we consider when a person has the capacity for criminal responsibility. The learning objectives (LO) for this chapter are the following:

LO 1. Learn when a child can be held responsible for violation of a criminal law.

LO 2. Distinguish between the method of imposing criminal liability upon a child under age 7 and a child of age 14.

LO 3. List the two prongs of the M’Naghten rule.

LO 4. Distinguish the “cognitive” approach to insanity from the “volitional” approach.

LO 5. Describe the difference between the M’Naghten rule and the “Substantial capacity” test.

LO 6. Identify the extent, if any, to which the voluntary use of drugs or alcohol may be used as an insanity defense or diminished capacity defense.

LO 7. Distinguish the “not guilty by reason of insanity” verdict from the “guilty but mentally ill” verdict.

LO 8. List factors that may present issues of a criminal defendant’s competency to be tried on criminal charges.

LO 9. Explain why a defendant of questionable competency should not be tried for a criminal violation.

Chapter 6: Law Governing the Use of Force: In this chapter we consider the rules governing the use of force by private persons or police officers. The learning objectives (LO) for this chapter are the following:

LO 1. Identify the three key points for determining when force is justified.

LO 2. Describe the “castle” doctrine and explain what it says.

LO 3. Determine how “stand your ground” laws affect the general rules for using force and the effect such laws have on the “castle” doctrine.

LO 4. List the circumstances that justify a police officer using non-deadly force in making an arrest.

LO 5. Explain why the Fourth Amendment applies to use of force by a police officer.

LO 6. Identify the circumstances that would justify the use of deadly force by a police officer.

LO 7. List the people who may use force in the discipline of children.

Chapter 7: Other Criminal Defenses: In this chapter we present several defenses a defendant may assert in a criminal prosecution. The learning objectives (LO) for this chapter are the following:

LO 1. Identify the kinds of immunity to criminal prosecution available, and their limits.

LO 2. Determine when, if ever, a mistake of fact or law may provide a defense.

LO 3. Distinguish between the defenses of duress and necessity.

LO 4. State why the Double Jeopardy Clause prohibits successive prosecutions for the same crime.

LO 5. Distinguish between a prosecution for the same offense and one for a separate offense.

LO 6. Define “acquittal” for purposes of the Double Jeopardy Clause.

LO 7. Identify the tests that determine when government inducements become entrapment.

LO 8. List the factors that determine when a speedy trial violation has occurred.

Chapter 8: Criminal Punishments: In this chapter we examine the kinds of punishments that may be imposed for violation of a criminal law and some limitations on those punishments. The learning objectives (LO) for this chapter are the following:

LO 1. Know the text of the Cruel and Unusual Punishment Clause.

LO 2. Explain the relationship between the Sixth Amendment and sentencing provisions that permit a judge to determine when an enhanced sentence should be given a criminal defendant.

LO 3. State the present status of the Federal Sentencing Guidelines.

LO 4. Identify the procedures a school official must follow before imposing corporal punishment on a student.

LO 5. Explain why the death penalty was declared unconstitutional in *Furman v. Georgia*.

LO 6. Identify at least three groups of persons who cannot be given the death penalty.

LO 7. State the present rule on the imposition of life without parole sentences for juveniles.

LO 8. Describe the kinds of evidence that must be produced if the prosecution seeks imposition of the death penalty after a jury has found the defendant guilty of the crime charged.

LO 9. Define “three strikes” laws and list the common characteristics of such laws.

Chapter 9: Free Speech and Public Order Crimes and the Bill of Rights: In this chapter we examine the extent to which the Bill of Rights, mainly the First Amendment, serves as a limit on the power of government to make criminal laws regulating conduct, such as speaking or assembling in public places. The learning objectives (LO) for this chapter are the following:

LO 1. Read and remember the First Amendment.

LO 2. Identify the difference between fighting words and merely rude language.

LO 3. Define a “clear and present danger.”

LO 4. List the circumstances that permit government to regulate speech based on content.

LO 5. Define obscenity.

LO 6. State when a threat becomes a “true threat.”

LO 7. Describe some ways one person might stalk another person in violation of a criminal law.

LO 8. Identify when an assembly becomes unlawful.

LO 9. State the basis for the Supreme Court’s decision that the Second Amendment is binding on the states.

Chapter 10: Homicide: In this chapter we discuss the various kinds and degrees of criminal homicide. The learning objectives (LO) for this chapter are the following:

- LO 1. Know the meaning of corpus delicti and its role in criminal prosecutions.
- LO 2. State the current status of the year-and-a-day rule and why its acceptance has waned.
- LO 3. State the elements of the “born alive” requirement.
- LO 4. Explain the doctrine of transferred intent.
- LO 5. List the homicides that do not require proof of intent to kill.
- LO 6. Identify which deaths that occur during the commission of a felony qualify as felony murder.
- LO 7. State the difference between voluntary and involuntary manslaughter.
- LO 8. List circumstances that could be sufficient to reduce a charge of murder to manslaughter.
- LO 9. Explain why the U.S. Supreme Court upheld the Oregon Death with Dignity Law.

Chapter 11: Assault, Battery, and Other Crimes Against the Person: In this chapter we examine assaults and related crimes against the person. The following are the learning objectives (LO) for Chapter 11 are as follows:

- LO 1. Identify the different elements that must be proved for conviction of an assault or a battery.
- LO 2. Know what kind of nonconsensual touching constitutes an assault or a battery.
- LO 3. Describe circumstances that warrant a charge of aggravated assault or battery.
- LO 4. List the various laws designed to protect children from assaults and other similar crimes.
- LO 5. List some of the defenses available to a charge of assault or battery.
- LO 6. Identify the “movement” requirement for a kidnapping conviction.
- LO 7. State how the crime of hostage taking differs from kidnapping.

Chapter 12: Sexual Assault, Rape, Prostitution, and Related Sexual Crimes: In this chapter we discuss sexual assault crimes and crimes related to sexual conduct. The learning objectives (LO) for Chapter 12 are the following:

- LO 1. Identify the degrees of sexual assault and the conduct that distinguishes them.
- LO 2. Learn the areas of questioning of a sexual assault victim that are prohibited by the rape shield law. • LO 3. List two exceptions to the rape shield law’s prohibitions.
- LO 4. State the mens rea requirement for a conviction for statutory rape.
- LO 5. State the conditions that must be shown for civil commitment of a sexual predator.

LO 6. Explain the reasons child pornography laws have been found unconstitutional.

LO 7. State the current status of federal acts such as the Child Online Protection Act.

Chapter 13: Theft: In this chapter we discuss the various forms of larceny or theft. The learning objectives (LO) for Chapter 13 are the following:

LO 1. List the property concepts that underlie property theft crimes.

LO 2. State the “money” rule and why it is an exception to general property rules.

LO 3. List four ways the taking element can be proved.

LO 4. Define “property of another” as it applies to theft of jointly owned property.

LO 5. Identify ways the taking requirement can be met in shoplifting.

LO 6. Advise a hypothetical merchant on how best to proceed when a suspected shoplifter is identified.

LO 7. Explain the ways credit card theft can be proved.

LO 8. Distinguish between forgery and uttering a forged instrument.

LO 9. Describe how a check-kiting scheme works.

Chapter 14: Robbery, Burglary and Related Crimes: In this chapter we discuss the theft crimes of robbery and burglary, as well as the related crimes of extortion and trespass. The learning objectives (LO) for Chapter 14 are the following:

LO 1. Describe what facts separate robbery from common theft.

LO 2. State when robbery becomes armed or aggravated robbery.

LO 3. List the requirements for home invasion robbery.

LO 4. State when purse snatching, or pickpocketing can become robbery.

LO 5. Distinguish robbery from extortion.

LO 6. Describe ways current state criminal codes modified the common law burglary offense.

LO 8. Distinguish criminal trespass from defiant trespass.