CRIMINAL LAW
Professor Byron L. Warnken
COURSE MANUAL & SYLABUS – FALL 2015

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Introduction

This is my 112th semester in the classroom. The rules of the course are set forth in this Course Manual. The document is not helpful if you are not familiar with its content. If you ask a question (other than a substantive Criminal Law question), the response will likely be: “It is in the Course Manual.” Students are responsible to know the content of this Course Manual or, at least, go to the Course Manual and before asking a question.

Course Materials

This course is online through TWEN, and you register through Shavaun O’Brien (room 1112; 410-837-4635; sobrien@ubalt.edu), my administrative assistant. I have been a law professor since 1977. I have taught Criminal Law since 1978. I have used my own course materials since 1980. I update and change the materials every course. I even change the course materials during a course if a new case is decided that proves to be an excellent “teaching” case. Knowing that I am always looking for new materials, I reserve the right to amend the class assignments until seven days before class. For example, I just added a case that was decided April 1, 2015. You are responsible for all assigned material. For each class, the assigned pages correspond with the class number, e.g., Class #1 includes all pages that start “1-.”

There are two advantages when creating one’s own course materials, and they outweigh the one disadvantage. First, I know why the next case and the next hypothetical problem are in the materials. Second, I am able to – and do – update the materials for each course. Keeping course materials current is essential in light of legislative enactments and judicial decisions that constantly change the law, particularly in the field of criminal law.

In October 2013, after years of work, I published a three-volume, 34-chapter, 1,769-page
treatise, titled *Maryland Criminal Procedure*. All 28 of the classes in Constitutional Criminal Procedure I and all 28 of the classes in Constitutional Criminal Procedure II come from the treatise, and the students are assigned the treatise. In Criminal Law, there are nine general classes, all of which come from the treatise. Nine classes, in my judgment, too small an amount of material to justify requiring law students to purchase the treatise. Therefore, I have provided you with an edited version of the treatise material for class #1 through class #9. For the final 19 classes, I have provided you with an edited version of 110 jury instructions and commentary from the Maryland Criminal Pattern Jury Instructions (MCPJI), for which I worked for 31 years, prior to my retirement in 2012. For 24 of those years, I served as the Reporter, preparing the textual commentary that supports the jury instructions.

The course materials include the following for each of 28 classes: (1) my chart that provides an overview of that class; (2) my (a) edited treatise materials, and/or (b) jury instructions and edited commentary from MCPJI; (3) two heavily edited appellate opinions; (4) analysis questions for each opinion, which are designed to guide your analysis and understanding and to assist you in preparing for class; (5) a hypothetical problem that provides the basis for discussion and application of the law for that class; (6) a 123-page outline that provides a (a) class preview, (b) midterm exam review, and (c) final exam review; (7) a 77-page outline that provides a quick summary of the course material; and (8) for class #10 through class #28, my charts of the actus reus and mens rea for each offense and each variation of that offense.

You have textual material in the form of (1) the casebook, (2) the preview/review outlines, and (3) the quick summary. I urge you to use these materials and nothing else. You do not need a hornbook for this course because the course materials provide all the law you need. Commercial outlines are not helpful for this course. In addition, you have my charts. In addition, the 42 offenses (in 110 variations) covered in this course, plus defenses, have been “outlined” for you by the MCPJI, which published its Second Edition in 2012.

I also provide you with other materials on a “for what it’s worth” basis. You are not responsible to read these materials, and they will not be tested. They are (1) First-Year Success: Winning the Battle in the Most Important Year (An Insider’s Guide to Law School); (2) Glossary of Criminal Law Terms & Abbreviations; (3) Steps in the Criminal Justice System; (4) About Professor Warnken; (5) Curriculum Vitae of Professor Warnken; and (6) Writings of Professor Warnken.

**Course Personnel**

Professor:  Professor Byron L. Warnken (room 1109; 410-837-4640 (law school); 410-868-2935 (cell): bwarnken@ubalt.edu).

Administrative assistant: Shavaun O’Brien (room 1112; 410-837-4635; sobrien@ubalt.edu).

Senior Law Achievement Workshop (LAW) scholar: Third-year day law student Philip Motsay (410-241-8140; philmotsay@gmail.com).

Junior Law Achievement Workshop (LAW) scholar: Second-year day law student Marie Langlois (443-286-0244; Marie.Langlois@ubalt.edu or MLang927@gmail.com).

LAW scholars provide (1) strategies for class preparation; (2) extra problems; (3) weekly review of course materials already covered in class; (4) 14-class cumulative review session for the midterm exam; and (5) 28-class cumulative review session for the final exam. Attendance at LAW
sessions is not required, but it is highly recommended. The LAW scholar review sessions will be conducted on Thursday from 4:30 to 5:30 p.m. in a room TBA. Phil and Marie will offer a review session for the Midterm Exam on Friday, October 2, from 5:30 to 7:00 p.m., in a room TBA. They will offer a review session for the Final Exam at the end of the semester on a date and time TBA.

Neither Phil nor Marie is required to “take” the course again, and it is not their job to know the course materials to the degree that I do. Nonetheless, Phil earned an A+ in Criminal Law in fall 2013, and this is his fourth semester as Law Scholar for Criminal Law. Marie earned an A in Criminal Law in fall 2014, and this is her second semester as Law Scholar. Not only are Phil and Marie both exceeding bright, they are also very caring people. They can and will offer excellent insight into understanding the course materials and my expectations of you. To encourage uninhibited discussion among you, Phil, and Marie, (1) I will not be present during any LAW scholar session; and (2) although UofB requires LAW scholars to take attendance, your attendance or lack of attendance will never be disclosed to me.

Course Coverage

Criminal law is a microcosm of all law and demonstrates policy considerations that usually make sense. This course overlaps other law school courses, giving a holistic perspective of the law. For example, this course touches on concepts addressed in Contracts, Torts, Property, Constitutional Law, Evidence, Commercial Transactions, Business Organizations, and Professional Responsibility. My course emphasizes Maryland law for three reasons.

First, Maryland is a jurisdiction in which criminal law is both common law and statutory. Thus, using Maryland law produces basically the same coverage as a nationally published criminal law casebook. Second, criminal law and criminal procedure, when combined, are one of the six subjects tested on the six-hour Multistate Bar Exam (33 questions out of the 200 questions) and one of the 11 subjects tested during five and two-thirds hours on the Maryland Essay Bar Exam (ten 25-minute essays and one 90-minute “performance testing” essay). The multistate examiners test general principles of criminal law, including the common law, and the Maryland examiners test Maryland criminal law. Third, about 90% of UofB graduates take the Maryland Bar Exam and practice law in Maryland. About 10% of UofB graduates join either a State’s Attorney’s Office or the Office of the Public Defender, and about 25% of UofB graduates practice some criminal law.

The first nine classes of the course address general criminal law concepts, which are more abstract and more difficult than the offenses and defenses, which are covered in the final 19 classes. The first nine classes have a “building block” effect, containing concepts that are used regularly in the last 19 classes. The following is a class-by-class overview of the course.

Class #1: Criminal Law Classification, Sources of Criminal Law, & Interpretation of Criminal Law
Class #2: Criminal Jurisdiction (Subject Matter Jurisdiction, Juvenile Jurisdiction, & Personal Jurisdiction) & Venue
Class #3: Burden of Production
Class #4: Burden of Persuasion
Class #5: Criminal Actus Reus (Affirmative Act, Act of Possession, & Omission to Act) & Criminal Agency
<table>
<thead>
<tr>
<th>Class #</th>
<th>Category</th>
</tr>
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<tbody>
<tr>
<td>6</td>
<td>Criminal Transaction, Unit of Offense/Criminality, &amp; Merger</td>
</tr>
<tr>
<td>7</td>
<td>Criminal Mens Rea of Willfully, Specific Intent, Malice, &amp; Knowledge</td>
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<tr>
<td>8</td>
<td>Criminal Mens Rea of Gross Negligence or Recklessness, Negligence, &amp; General Intent, Plus Strict Liability, Mistake of Law, &amp; Mistake Fact</td>
</tr>
<tr>
<td>9</td>
<td>Incompetency to Stand Trial, Insanity (NCR), Diminished Capacity, &amp; Intoxication</td>
</tr>
<tr>
<td>10</td>
<td>Inchoate Crimes: Common Law Attempt &amp; Common Law Solicitation</td>
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<tr>
<td>11</td>
<td>Inchoate Crimes: Common Law Conspiracy</td>
</tr>
<tr>
<td>13</td>
<td>Crimes Against Property: Statutory Theft &amp; Statutory Misappropriation by a Fiduciary</td>
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<tr>
<td>14</td>
<td>Crimes Against Property: Common Law Forgery, Statutory Forgery, Common Law Uttering, &amp; Statutory Bad Check</td>
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<tr>
<td>15</td>
<td>Crimes Against Habitation: Common Law Burglary &amp; Statutory Burglary</td>
</tr>
<tr>
<td>16</td>
<td>Crimes Against Habitation: Common Law Arson &amp; Statutory Arson</td>
</tr>
<tr>
<td>17</td>
<td>Crimes Against Persons (Non-Sexual &amp; Non-Homicidal): Common Law Assault, Common Law Battery, Statutory Assault, &amp; Statutory Reckless Endangerment</td>
</tr>
<tr>
<td>20</td>
<td>Weapons Offenses</td>
</tr>
<tr>
<td>21</td>
<td>Sex Offenses: Common Law Rape &amp; Statutory Rape</td>
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<tr>
<td>22</td>
<td>Sex Offenses: Statutory Sex Offenses, Common Law Sodomy, Common Law Unnatural &amp; Perverted Sexual Practices, Statutory Child Sex Abuse, &amp; Statutory Sex Abuse of Vulnerable Adults</td>
</tr>
<tr>
<td>23</td>
<td>Homicide: Common Law Specific Intent to Kill Murder, Common Law Specific Intent to Do Serious Bodily Harm Murder When Death Is the Likely Result, &amp; Statutory Murder of a Viable Fetus</td>
</tr>
<tr>
<td>24</td>
<td>Homicide: Justification or Excuse of Intentional Murder &amp; Other Crimes Against Persons by Duress, Necessity, &amp;/or Self-Defense</td>
</tr>
<tr>
<td>25</td>
<td>Homicide: Justification or Excuse of Intentional Murder &amp; Other Crimes Against Persons by Defense of Others, Defense of Crime Prevention, Defense of Habitation or Property, &amp;/or Defense of Resisting Unlawful Arrest</td>
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</tbody>
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Class #26:  Homicide:  Common Law Voluntary Manslaughter (Mitigated from Common Law Specific Intent to Kill Murder &/or Common Law Specific Intent to Do Serious Bodily Harm Murder Based on Heat of Passion &/or by Imperfect Necessity-Based Defenses)

Class #27:  Homicide:  Common Law Depraved Heart Murder, Common Law Felony Murder, & Statutory Felony Murder


Class Dates, Times, & Attendance

This three-credit course has 28 classes, which are scheduled at a pace of two classes per evening. Each class is 75 minutes. Class meets on Tuesday and Thursday from 10:30 to 11:45 a.m. in room 803.

Under the ABA policy and the UofB policy, attendance is required. Each class in Criminal Law begins with a seven-minute, seven-question, multiple-choice Daily Quiz, which is administered online and which also serves as the attendance roster. If you arrive after 10:30 a.m., you will have less than seven minutes for the Daily Quiz. If you arrive after 10:37 a.m., you will receive a “zero” for that Daily Quiz, and you will be “absent” for that class. The reason for your absence or your lateness is immaterial because, in this course, there are no excused absences or unexcused absences – only absences. Moreover, there is no make-up for a Daily Quiz that is missed. Period. Do not ask. If you miss more than five classes, I have the right to preclude you from taking the Final Exam.

Students should bring a laptop to class. The laptop is for the limited purposes of (1) taking the Daily Quiz, and (2) taking notes. If you are caught, even once, using a laptop for any other purpose, you will be admonished, and you will receive a one-third of a letter grade reduction for the course. If you are caught twice using a laptop for any other purpose, you will be required to withdraw from the course with an “F.” Students are permitted to bring a tape recorder to audiotape the class. Students are encouraged to take the Midterm Exam and the Final Exam on a laptop, if they are in compliance with the Law School’s exam software policies and procedures.

Students take the seven-question, multiple-choice Daily Quiz on TWEN. Just prior to 10:30 a.m., make sure that (1) your laptop is closed on your desk; (2) TWEN is easily accessible, i.e., there is an icon on the desktop; and (3) your laptop is plugged in or it has sufficient battery. If you do not have a laptop, or you have a laptop and it is broken, see me in class five minutes before class, and I will provide you with a hard copy, which you must submit to me at the end of the Daily Quiz. The Daily Quiz is timed for seven minutes. Along with the Daily Quiz, you will receive a copy of the Problem for that class because Daily Quiz questions #6 and question #7 are taken from the Problem for that class because Daily Quiz questions #6 and question #7 are taken from the Problem for that class. At 10:30 a.m., I will instruct you to open your laptop, sign onto TWEN, and find the Daily Quiz. I will instruct you what the password is for that particular Daily Quiz on that particular day. At 10:37 a.m., you will no longer have access to the Daily Quiz.

IT IS AN HONOR CODE VIOLATION TO ACCESS ANY MATERIAL DURING THE DAILY QUIZ. Your computer will inform you of your Daily Quiz score for that quiz.
Between now and 9:00 a.m. on Tuesday, August 18, you must see Shavaun O’Brien, my administrative assistant, in room 1112, and sign an acknowledgement of the Honor Code policy, which provides: “I have read the Course Manual, and I know that it is an Honor Code violation to access any material during the Daily Quiz, including anything on a computer, any notes, any text, any materials, or anything.” This requirement to sign, acknowledging the Honor Code requirements, is new, and is based on the following incident.

In Spring 2015, one of my students, during the Daily Quiz, on multiple occasions, switched back and forth from the Daily Quiz to the course materials. Another student, who saw the first student and reported it. It was investigated by the Honor Board. In the hearing, the student admitted the conduct, but claimed that it was simply carelessness to have failed to read the Course Manual, and did not know that the Daily Quiz was closed book. The student was found guilty, but was not dismissed and did not receive an “F.” The student’s grade was reduced by two and one-third letter grades, and the student was required to write a letter of apology to the entire class. I want to ensure that this does not happen again.

Who Am I & Who Are You?

You can learn about me by reading “About Professor Warnken.” I want to learn about you. I am interested in you, and I am interested in your success, both during law school and beyond. That process starts with me knowing who you are. In the 1973 movie, “The Paper Chase,” Mr. Hart, the protagonist, was a first-year student at Harvard Law School. His toughest professor was Professor Kingsfield (that’s me), and the goal of Mr. Hart (that’s you) was to earn an “A” in Professor Kingfield’s class. The sad moment for Mr. Hart came at the end of the movie. He earned an “A” from Professor Kingsfield and encountered the professor on the elevator, only to realize that Professor Kingsfield had no idea who Mr. Hart was. That will not happen with you and me. I will know you now, and I will know you 12 years from now when I retire after 50 years of teaching.

You must help me in my quest to know you. First, you must sit in the same seat each class. During the first class, I will distribute a seating chart. In the box that corresponds with your seat, print -- in large, clear, block capped letters -- the name by which you wish to be called in class. The vast majority of students use their first name or a nickname, e.g., BILL SMITH, MARY JONES. A few students prefer an honorarium, e.g., MR. SMITH, MS. JONES, MISS JONES, MRS. JONES. I do not permit vacant seats. Therefore, on the first day of class, as necessary, some of you will be required to move forward to fill in vacant seats.

Second, identify yourself in class. If “I call on you,” by name, I know your name – at least at that moment. If “you call on me,” e.g., I seek a volunteer, you offer a comment, or you ask a question, I will not know who you are. When you begin speaking, you must identify yourself in the same manner as indicated on the seating chart. If you do not identify yourself, “the floor” will be given to another student. The requirement for you to identify yourself by name is waived only when you are certain that I know your name. I may have called on you earlier in that same class, but that does not mean that I know your name – yet. Third, please introduce yourself if we meet in the hall. Fourth, please stop by my office (1109) and introduce yourself.

Class Format & Preparation

This course does not use “the hidden ball trick.” For each class, the course materials contain (1) the law (in charts, text, outlines, jury instructions, and/or commentary accompanying the jury
instructions); (2) two heavily edited appellate opinions, with accompanying analysis questions; (3) a hypothetical problem; (4) a big outline that serves as a class preview, a midterm exam review, and a final exam review; and (5) a little outline that serves as a quick summary. Class assignments vary greatly in length, and you should plan accordingly. Class assignments are longer during the first nine classes (general concepts). Class assignments are shorter during the last 19 classes (offenses and defenses).

When you prepare for class, I recommend the following: (1) examine the chart for an overview; (2) read the text, outline, jury instructions, and/or commentary to learn the law; (3) for each of the two assigned cases, (a) read the analysis questions for a perspective on the issues, (b) make a written case brief, and (c) create an outline for discussion of the analysis questions; (4) create an outline for discussion of the hypothetical problem (some analysis questions and problems tie in to current material with previously assigned material); and (5) prior to class, review the chart, the class preview, jury instructions and commentary, your case briefs, your written answers to analysis questions, and your outline of the analysis for the hypothetical problem. Because some words and phrases may be foreign to you, I provide a Glossary of Criminal Law Terms and Abbreviations.

I assume that you are prepared for class, meaning that you understand the principles of law in the materials, and you are ready to refine the law’s philosophy, policy considerations, analytical framework, subtle nuances, and practical considerations. The class structure is more like a “workshop” than a lecture. Consequently, class time is spent more “at work” than in note taking, which is why you are permitted – even encouraged – to audiotape the classes.

Class Phase One

Phase one of each class consists of a seven-minute, seven-question, multiple-choice Daily Quiz. This is a closed book quiz. IT IS AN HONOR CODE VIOLATION TO ACCESS ANY MATERIAL DURING THE DAILY QUIZ. Three questions on the Daily Quiz test your understanding of the chart, the outline, the text, the jury instructions and/or the commentary, the class preview outline, and the quick summary, i.e., the law. Two questions test your understanding of the two assigned cases, with one question based on each case. Two questions test your understanding of the hypothetical problem.

Seven minutes after the start of the Daily Quiz, you will be instructed to “stop now please.” It is an Honor Code violation to fail to stop when instructed. If I even think that there might be an Honor Code violation, I will not deal with it. Instead, I will submit the student’s name to the Honor Board and let the Honor Board personnel sort it out. The seven questions on the Daily Quiz are designed, in part, to test you in this course, and, in part, to prepare you for the 200 multiple-choice questions on the Multistate Bar Exam, which includes 33 questions on Criminal Law and Procedure. Like the Multistate Bar Exam, the Daily Quiz seeks the “best answer” among four answers, recognizing that there may be no correct answer, four correct answers, or somewhere in between.

Class Phase Two

Phase two of each class includes my answers to all seven questions on the Daily Quiz and any general discussion or lecture that I choose to offer. For the first three questions on the Daily Quiz, I provide the analysis that supports the answer, meaning why the correct answer is the “best answer” and why each of the other three answers is either incorrect or, even if correct, is not the “best answer.” Although you will receive the answers for Daily Quiz questions #4 and #5, the
analysis may wait for our discussion of the two cases from which those two questions arise. The analysis for Daily Quiz question #6 and #7 will wait until we have discuss the hypothetical problem for that class, from which those two questions arise.

If you would like to challenge my answer to a Daily Quiz question, send me an email, no later than 24 hours after the Daily Quiz, explaining why you believe that another answer is the best answer. You may only submit one Daily Quiz challenge during the semester. I will not entertain any question about the Daily Quiz at the time that I provide the answers and the analysis to the Daily Quiz, because I do not want to compromise any Daily Quiz question in the event that one or more students may wish to challenge that answer. If you wish to discuss, but not challenge, a Daily Quiz question and/or answer, waive your right to challenge the Daily Quiz, and I will be happy to discuss any Daily Quiz question.

Class Phase Three

Phase three of each class takes about 55 minutes. It is a Socratic dialogue, covering the analysis and arguments relating to the two cases and the hypothetical problem. I will call on individual students to discuss (1) their analysis for the questions following the assigned cases, and (2) their analysis and arguments for the hypothetical problem, making appropriate arguments on behalf of the State and/or the Defendant.

The Socratic dialogue is designed to assist you in mastering essential “lawyering” skills. First, a Socratic dialogue teaches you to handle the integration of law and fact. Second, a Socratic dialogue teaches you to recognize how the analysis may change with even a minor change in the facts. Third, a Socratic dialogue teaches you to appreciate when your position is legally and/or factually sound and when it is legally and/or factually weak. Fourth, a Socratic dialogue teaches the attorney (that’s you) to handle oneself under the pressure that is inherent when appearing before a judge (that’s me).

I do not expect your analysis to be at my level. You are a first-year law student. There are many ways for you to be incorrect in your analysis. You may not understand the law. You may not understand the facts. You may be drawing irrational inferences from the facts. You may not be answering the question that I have asked. I will challenge you. If you have “screwed up,” I will call on other students to show how you “screwed up.”

Please do not take it personally. At that point, I will be using you as a teaching tool. If you have a “thin skin,” you are going to have a problem in this class and a problem in the practice of law. When my children (now attorneys at age 37 and 33) were growing up, there were times when I wanted to hug them and tell them it would be OK, but, at that moment, “tough love” was the appropriate approach. I would be delighted if you love me but, if you cannot, I would rather you hate me today, and love me five years from now, than vice versa. I am on your side, and we are all in this together.

If I call on you, do not read your answer or your analysis to the class. Instead, understand your answer and your analysis well enough that you and I can have a dialogue. If I call on you, and you are not prepared, you will lose one-third of a letter grade for the course. It is typical in Criminal Law (particularly in the first nine classes) for you to come to class with unanswered questions, even though you have diligently prepared the material. If you leave class with “the pieces having fallen into place,” it does not matter that you could not make them “fall into place” on your own prior to
class. However, if the material does not make sense, even after the material has been discussed in class, you should (1) attend the Law Achievement Workshop (LAW) scholar sessions, (2) work with a study group, and/or (3) set up an appointment with me.

I have been a law professor since 1977, and I have been teaching Criminal Law since 1978, which is before almost of you were born. I use my own teaching materials. If I call on you in class, you may be only two words into your answer, but I know exactly where you are going. Let’s assume that you are going in the wrong direction, and I do not have time, at that moment, to slowly turn you around. I may interrupt you with a follow-up question, or I may move to another student. If you are an attorney in court, the best way to be harmful to your client is to interrupt the judge, raise your voice and try to talk over the judge, and/or give the judge a dirty look in response to the judge’s ruling. In this classroom, I am the judge. Don’t hurt your client.

Students Contacting the Professor

I am willing to discuss with you any academic or non-academic topic, except I will not discuss course material with you that we have not yet covered in class, because that might place other students at a disadvantage. I recognize “professor-student” confidentiality. If you would like to meet with me, please use one or more of the following methods. (1) Sign up for a 20-minute appointment, using the office hour sign-up sheet on my office door (room 1109). Office hours are on Tuesday and Thursday from 1:00 to 2:00 p.m., from 4:00 to 5:20 p.m., and from 7:45 to 9:05 p.m. If I do not know you, please stop by and introduce yourself. (2) Call me to ask a question (410-837-4640 (UofB) or 410-868-2935 (cell)). (3) Identifying yourself by name, email me at bwarnken@ubalt.edu to ask a personal question or a course-related question about material we have already covered.

Course Grade

Eight years ago, the law faculty adopted a mandatory grade range for law students at UofB. For first-year courses (including Criminal Law), the mandatory grade range is a section-wide average of 2.67 to 3.00. A total of 15-25% of the grades must be an A+ (of which there is either none or one), an A, or an A-. A total of 7-14% of the grades must be C-, D+, D, D-, or F. If a student earns a D+ or below, the student is required to re-take the course, either with me or with another Criminal Law professor, at the student’s option. Thus, I am required, under the faculty mandated grade range, to grade you in the comparative with your classmates.

At the end of the semester, the numbers from your (1) 25 highest Daily Quizzes, (2) the Midterm Exam, and (3) the Final Exam will be totaled, based on their percentage of the course grade. The Daily Quizzes, the Midterm Exam, and the Final Exam are all graded anonymously. The 196 Daily Quiz multiple-choice questions are graded online (using your seven-digit student ID number), and the 14 Midterm Exam multiple-choice questions and the 56 Final Exam multiple-choice questions are graded online (using your exam number).

I grade the two 25-minute essays on the Midterm Exam and the five 25-minute essays on the Final Exam. I will not know which student goes with which exam number until after I have graded the exams and, for the Final Exam, submitted the Final Exam grades to the Dean’s Office. When I grade the two essays on the Midterm Exam, and when I grade the five essays on the Final Exam, I grade the entire class on the first essay, then the entire class on the second essay, and so on. The course grade breaks down as follows:

1. The Daily Quiz grade makes up 25% of the course grade. The raw score for the Daily
Quiz grade consists of the highest 25 Daily Quiz scores from among the 28 Daily Quizzes. Because the Daily Quiz tests you on individual cases, you will not be tested on individual cases on the Midterm Exam or the Final Exam. The Daily Quiz average is typically between 3.5 and 4.0. However, during the first nine classes, the Daily Quiz average is typically between 3.0 and 3.5. Scores are lower early in the semester because (a) students have not yet adjusted to the multiple-choice questions, and (b) the material is more difficult.

(2) A one-hour, closed book Midterm Exam will be administered on Sunday, October 4, from 9:00 to 10:00 a.m., in a room TBA. The Midterm Exam, which makes up 15% of the course grade, consists of two 25-minute essays, covering Class #1 through Class #14, and 14 multiple-choice questions (one question from each of the first 14 classes). The essays are 25 minutes each because the essays on the Maryland Bar Exam are 25 minutes each. On the Midterm Exam, you are not responsible for the material covered in the Midterm Exam Review Outline for Class #1 through Class #14 and the Quick Summary for Class #1 through Class #14.

In your preparation for the Midterm Exam, I provide two 25-minute practice essays. One practice essay is online. On Saturday, October 3, from 9:00 to 10:30 p.m., in a room TBA, I will offer an optional Midterm Exam review session, covering Class #1 through Class #14. Prior to the Midterm Exam review session, you should take, under exam conditions, the online practice essay. I will provide you with a sample answer and a grading critique sheet. During the review session, I will give you a second 25-minute practice essay. I will not collect your answers to the practice questions, but I will provide you with analysis. I will answer any question you have about the practice essays or about the material from Class #1 through Class #14.

On Friday, October 9, from 5:00 to 6:00 p.m., in a room TBA, I will offer an optional Midterm Exam Critique Session. If you would like to keep open the option of having me review, with you, on a one-on-one basis, your answer on one of the two essays on the Midterm Exam, you must attend the Midterm Exam Critique Session (attendance will be taken). It is my experience that those attending the Midterm Exam Critique Session understand the Midterm Exam and how they performed, and do not need a one-on-one 20-minute critique session.

(3) A three-hour, closed book Final Exam will be administered by the Law School at the end of the semester. The Final Exam, which makes up 60% of the course grade, consists of five 25-minute essays and 56 multiple-choice questions (two questions from each of the 28 classes). One of the five essays covers primarily Class #1 through Class #14, and four of the five essays cover primarily Class #15 through Class #28. For the Final Exam, I provide one three-hour practice exam, and a Final Exam Review Outline, both of which are online. The Final Exam does not test the 56 cases assigned throughout the course, and the Final Exam is limited to the material in the Final Exam Review Outline for Class #1 through Class #28 and the Quick Summary for Class #1 through Class #28.

One essay on the Final Exam is an actual essay from Practice Final Exam, which is the Summer 2014 Final Exam, which is online. I will not provide answers or analysis for the Practice Final Exam, which I encourage you to take under exam conditions and then critique among yourselves. One essay on the Final Exam is an actual or modified hypothetical problem from the 28 classes. To assist you in preparing for the Final Exam, I will offer an optional Final Exam Review Session, covering all 28 classes, on Tuesday, November 24, from 3:00 to 6:00 p.m., in a room TBA.
There is a potential for a one-third letter grade decrease based on lack of class preparation.

Accommodations under the Americans with Disabilities Act

If you believe you are entitled to accommodation under the Americans with Disabilities Act (ADA), see Leslie Metzger in the Dean’s Suite. If the Law School grants you accommodation, Leslie Metzger will coordinate the administration of your Daily Quizzes, Midterm Exam, and Final Exam.

Students Interested in Criminal Law as a Potential Career

If you are interested in criminal law, I suggest the following. (1) Satisfy the requirements for the UofB Criminal Law Concentration (I serve as Co-Faculty Adviser). (2) Become a member of the UofB Criminal Law Association (I serve as Faculty Adviser). (3) Become a student member of the Maryland State Bar Ass’n (MSBA) Criminal Law & Practice Section (I am a former Vice-Chair of the 22-member elected Section Council). (4) Become a student member of the Criminal Law Committee of either the Bar Ass’n of Baltimore City (I am a member and past Chair) or the Baltimore County Bar Ass’n (I am a member).

(5) Become a student member of the Maryland Criminal Defense Attorneys Ass’n (MCDAA), which will entitle you to (a) continuing legal education programs, (b) access to an active and helpful ListServe, and (c) attendance at four annual dinner meetings, with a speaker, where you can meet some of the “players” in the criminal defense bar in Maryland (I serve on the MCDAA Board of Governors). (6) Attend continuing legal education programs sponsored by the MSBA and by local bar assn’s. (7) Intern for a judge, a prosecutor, and/or a criminal defense attorney.

The Professor’s Seven “Pet Peeves”

“Pet peeve” (1): Do not ask a question until you have read the Course Manual thoroughly and have determined the Course Manual does not provide the answer, which it probably does.

“Pet peeve” (2): Do not request to make up a Daily Quiz because the Course Manual makes it clear that there is no make-up of a Daily Quiz, regardless of the reason you missed the Daily Quiz.

“Pet peeve” (3): Do not fail to identify yourself in class, which is required by the Course Manual.

“Pet peeve” (4): Unless you expressly waive your right to challenge a Daily Quiz question, do not attempt to discuss a Daily Quiz question prior to the expiration of the 24-hour period for submitting a challenge because the Course Manual expressly prohibits that.

“Pet peeve” (5): Do not interrupt me in class or try to talk over me in class because the Course Manual expressly prohibits that.

“Pet peeve” (6): You must answer my question. Do not answer my question by asking a question.

“Pet peeve” (7): Do not attempt to discuss course material with me or with one of the LAW scholars before that material is covered in class because the Course Manual expressly prohibits that.

Information for the First Class

Warnken materials are found online in three different locations. (1) All Warnken course materials are on TWEN. (2) Locate Course Manual & Syllabus and First Class Assignment by going to (i) UofB home page, (ii) Current Students, and (iii) Fall 2015 Syllabi. (3) Locate (a) “About
Professor Warnken,” (b) Curriculum Vitae of Professor Warnken, and (c) Writings of Professor Warnken by going to (i) UofB home page, (ii) Schools & Colleges, (iii) Law School, (iv) Faculty, and (v) Faculty Profiles. If you have any questions, please contact Shavaun O’Brien (room 1112; 410-837-4635; sobrien@ubalt.edu), my administrative assistant.

There are 28 classes spread over 14 weeks. Each class (including the first class) starts with a seven-question, seven-minute, multiple-choice Daily Quiz. Thus, you must obtain and prepare the materials for the first class as soon as possible, because each student will take the first Daily Quiz, covering Class #1, on Tuesday, August 18, at 10:30 a.m., in room 803 of the Law Center. All students will take the Daily Quizzes, regardless of whether they have actually read this and have actually prepared the assignment.

Students take the seven-question, multiple-choice Daily Quiz on TWEN. Just prior to class, make sure that (1) your laptop is closed on your desk; (2) TWEN is easily accessible, i.e., there is an icon on the desktop; and (3) your laptop is plugged in or there is sufficient battery. The Daily Quiz is timed for seven minutes. You will be given a copy of the Problem for that class because Daily Quiz questions #6 and #7 are taken from the Problem. IT IS AN HONOR CODE VIOLATION TO ACCESS ANY MATERIAL DURING THE DAILY QUIZ.

At 10:30 p.m., I will instruct you to open your laptop, sign onto TWEN, and find the Daily Quizzes. I will instruct you what the password is for that particular Daily Quiz on that particular day. At 10:37 p.m., you will be locked out of TWEN. Your computer will inform you of your score for that Daily Quiz.

The first nine classes address general concepts. These classes are longer and more difficult. The last 19 classes address offenses and defenses. These classes are shorter and are less difficult. The case book has 517 pages. Classes #1 through #9 have 211 pages for an average of 23 pages per class. Classes #10 through #28 have 306 pages for an average of 16 pages per class. In sum, the casebook has 517 pages for an average of 18 pages per class.

**Syllabus**

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Mandatory reading:  Course Manual

Optional reading
- First-Year Success: Winning the Battle in the Most Important Year (An Insider’s Guide to Law School)
- Glossary of Criminal Law Terms & Abbreviations.
- Steps in the Criminal Justice System
- About Professor Warnken
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