

## LEGAL ASPECTS OF CRIMINAL JUSTICE MANAGEMENT

### CJ625-75

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| Credit Hours: <b>Three (3)</b>              | Instructor: Michael Losavio<br>Phone: 852-3509           |
| Day/Time: <b>Wednesday, 5:30 pm-8:15 pm</b> | E-mail: Michael.losavio@louisville.edu <sup>1</sup>      |
| Room: Brigman 100A                          | Office: 209 Brigman Hall<br>Office Hours: By Appointment |

#### Overview:

Examination of the legal issues within criminal justice management, the effects of constitutional provisions, statutes, ordinances, and judicial decisions on justice administration. A discussion of the legal aspects of selection, promotion, assignment, and termination of justice employees. Emphasis is on the possible liabilities of managers and agencies for failure to adhere to legal requirements

Students should verify with their departments how this class is counted towards their course requirements.

Class participation, examinations, writing, and oral presentations are components of the course.

#### Course Objectives:

A student successfully completing the course will:

- Analyze fact situations relating to the application of particular rules and jurisprudence relating to criminal justice management.
- Identify consequences for the violation of those rules.
- To familiarize the student with the following:
  - o The location and use of law library research materials
  - o The sources of law governing personnel and administrative decisions
  - o The legal issues involved in managing criminal justice agencies
  - o The application of law to operational and personnel practices
  - o The relationship between law and policy

#### Course Requirements, Student Conduct and Grade Components

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<sup>1</sup> A response to e-mail should be made within two business days after it is received, except where noted that the instructor is unavailable for a period of time.

## **Course Requirements, Student Conduct and Grade Components**

Students are responsible for all assigned readings and material covered in class. Students missing class should arrange for class notes from another student in the class and check online materials.

Students are also responsible for checking BlackBoard regularly for announcements, assignments and requirements.

When sending email to the instructor, always note in the subject line the class number, section and semester of the class you are emailing about, e.g., ***CJ-395-1 Fall, 2035*** and include your full name. Use good email writing, e.g., short sentences, short paragraphs, short total email but do not simply reference an attachment with a summary description of its relevance.

Students are to act respectfully towards each other and the instructors/guest speakers. Students will refrain from *ad hominem* argument in their responses. The University of Louisville strives to maintain the campus free of all forms of illegal discrimination as a place of work and study for faculty, staff, and students.

In particular, sexual harassment is unacceptable and unlawful conduct and will not be tolerated in the workplace and the educational environment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment, even when carried out through computers or other electronic communications systems. Anyone experiencing Sexual Harassment can contact the PEACC Program at 502-852- 2663 and an advocate will explain your choices. This is a free and confidential service.” Students and Instructors are protected from Sexual Harassment according to the Affirmative Action policy, the Student Code of Conduct, and the U of L Computer Account Usage Agreement. Anyone who would like to receive more information or provide training to a classroom can contact a PEACC representative at 502-852-2663 and may use the educational modules provided by the PEACC Program.

It is vital to your professional success that you learn the discipline of respect towards all. It is expected of you in class at all times, and hoped for everywhere else.

Students shall comply with all university and college policies and the Justice Administration Honor Code, included below in this course outline.

## Your Work

### 1. **35% for Projects** You will do one team project as assigned

Multimedia tools are available at Ekstrom Library for video, audio, web and PowerPoint development.

Your team must have a mandatory project outline two pages submitted at the beginning of the third class both in paper form and electronically.

The project itself, constituting 30% of your grade, will be submitted at the beginning of class assigned for your presentation; you should be prepared to present the project, time permitting, during the final classes.

You will submit your proposal as a team, up to teams of four, for approval by the instructor; the rigor and breadth of the work required must be scaled directly in proportion to the number of students on the team. Presentations and class responses should be two hours in length.

### 2. **10 % for Student Tests.**

**If you must miss a test, contact me prior to the exam;** in an emergency leave me a phone or email message.

### 3. **15 % for activities, quizzes, participation, assignments, case summaries and chapter summaries.** Each student will be required to brief and present on chapters, readings and cases as assigned.

#### **Activities may include**

1. *Case Analysis* – legal analysis and presentation to class on a specific legal case
2. *Chapter Presentation* – presentation on a particular chapter in the assigned readings
3. *Policy Critique:* Each student will be required to submit a written critique of an operational/personnel policy from a criminal justice agency. Operational topics include, but are not limited to: use of force, SWAT operations, or pursuits. Personnel topics include, but are not limited to: recruiting, selection, pre-service training, basic training, field training, in-service training, promotions, supervision, evaluation, discipline, termination or retirement. The critique will offer an overview of the policies and practices of the agency and then evaluate the agency's actions. Emphasis is on the legal sufficiency of the agency's policies and practices. The review should identify the strengths/weaknesses of current practices with recommendations for improvement. Specific attention should be given to any practice which may be legally deficient. NOTE: Students will be required to interview at least two criminal justice practitioners in conjunction with this assignment. Specific topics will be assigned by the instructor after consultation with individual students. The specific requirements and format of the critiques will be discussed in class.
4. *Court Observation Summary:* Students must attend one, or more, court

sessions/hearings/trials and provide a brief (no longer than 2 pages) summary of their observations. Additionally, students should be prepared to discuss their courtroom observations in class. The total time spent attending a hearing/session must be the equivalent of one class session...two and a half hours. The “specifics” of this assignment will be discussed in class.

5. *Training Project Module* – Each student must outline how to conduct departmental training on the policy, practice or procedure
6. *Class Participation:* Graduate education is premised upon the intelligent exchange of information. Accordingly, each student will be required to participate in classroom discussions of the material. The classroom time will be used to expand the depth and breadth of the assigned material. Classroom participation will be worth up to 20 points, 2 points per day for each of the 10 designated "Discussion Days" (See VII.). Should a student be absent on a "Discussion Day" (See VII.), the 2 points available for that day are "lost" unless the student can provide satisfactory evidence that the absence was excusable. It the quality of the participation, not the quantity, that governs!
7. *Media Reports* – students will give brief presentations on media portrayals of the subject matter of the course, e.g. Daron Acemoglu, and James A. Robinson, *Why Nations Fail*
8. *Critique.* Additionally, each student will be required to submit a written critique (a form will be provided) of the oral presentations of the other students. Each student will critique both the substance (content) and delivery (style) of the presentation identifying strengths and weaknesses and offering recommendations for improvement. This critique is worth up to 10 points.

**40% - Research paper keyed to one of the topics for projects and containing significant legal analysis of the issues therein.** Each student will be required to demonstrate an understanding of the proper use of the basic legal research materials contained in the University of Louisville law library and online through Lexis. The assignment will be distributed and discussed during the first class periods.

### **PROJECT TOPICS- examples**

1. Analyze, legally and from social science data, the issues presented in particular cases and devise (and defend) appropriate responses to those issues.
2. Analyze, legally and from social science data and management principles, the issues presented by the use of computational analysis

- by police and devise (and defend) appropriate responses to those issues.
3. Analyze, legally and from social science data and management principles, the issues presented by the use of digital forensics and computational analysis by police and devise (and defend) appropriate responses to those issues.
  4. Analyze, legally and from social science data and management principles, the issues presented by the use of network forensics and computational analysis by police and devise (and defend) appropriate responses to those issues.

#### Grading Scale

A=94-100

B=85-93

C=70-84

D=60-69

F=0-59

| <b>Required Texts</b>   |  |
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|   | Grossman, Dave, et al, On Combat, The Psychology and Physiology of Deadly Conflict in War and in Peace 3rd Edition, ISBN-13: 978-0964920545  |
|   | Aitchison, Will, <i>The Rights of Law Enforcement Officers</i> (2015), 7th Edition, Labor Relations Information System, ISBN, -  |
|   | Cripe, Clair A. and Michael G. Pearlman and Daryl Kosiak, <i>Legal Aspects of Corrections Management</i> , (2013), Third Edition, Jones & Bartlett, ISBN 13: 978-1-4496-3940-2.                                    |
|   | Kappeler, Victor E., <i>Critical Issues in Police Civil Liability</i> (2006), 4th Edition, Waveland Press, ISBN 1-57766-441-8  |
|   |  |
| Supplemental Materials On-line, via these links, Lexis Academic Universe and as hand-outs   |  |
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| <b>Introduction to Basic Legal Citation (online ed. 2014)</b><br>by Peter W. Martin <a href="http://www.law.cornell.edu/citation/">http://www.law.cornell.edu/citation/</a> |  |
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|   | Federal Bureau of Prisons - <a href="http://www.bop.gov/">http://www.bop.gov/</a>  |
|   |  |
|   | Kentucky Department of Corrections - <a href="http://corrections.ky.gov/">http://corrections.ky.gov/</a>   |
|   | United States District Court for the Western District of Kentucky - <a href="http://www.kywd.uscourts.gov/">http://www.kywd.uscourts.gov/</a>  |
|   | Information for <i>pro se</i> prisoners - <a href="http://www.kywd.uscourts.gov/pro_se_litigation.php">http://www.kywd.uscourts.gov/pro_se_litigation.php</a>  |
|   | Constitution of the United States of America - <a href="http://www.law.cornell.edu/constitution/constitution.overview.html">http://www.law.cornell.edu/constitution/constitution.overview.html</a>                 |
|   | Kentucky Constitution - <a href="http://www.lrc.ky.gov/legresou/constitu/intro.htm">http://www.lrc.ky.gov/legresou/constitu/intro.htm</a>  |
|   | United States Code, Title 18 – Part III, Prisons and Prisoners <a href="http://www.law.cornell.edu/uscode/html/uscode18/usc_sup_01_18.html">http://www.law.cornell.edu/uscode/html/uscode18/usc_sup_01_18.html</a> |
|   | Federal Rules of Criminal Procedure- <a href="http://www.law.cornell.edu/rules/frcrmp/">http://www.law.cornell.edu/rules/frcrmp/</a>   |
|   | Federal Rules of Appellate Procedure - <a href="http://www.law.cornell.edu/rules/frap/">http://www.law.cornell.edu/rules/frap/</a>   |
|   | Federal Rules of Evidence - <a href="http://www.law.cornell.edu/rules/fre/index.html">http://www.law.cornell.edu/rules/fre/index.html</a>  |

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The texts will be supplemented with other articles and various internet law sources.

The tentative schedule of these topics is included; however, it is subject to change as the course progresses. Additional readings may be assigned per class period and topic time frames may be adjusted to accommodate guest speakers. Changes in the schedule and readings will be announced in class and/or an e-mail note to the class. It is your responsibility to have read the material prior to the class period(s) in which the topic(s) will be presented or discussed and to be prepared to discuss the topics during class discussions.

The University of Louisville is committed to providing access to programs and services for qualified students with disabilities. Students with disabilities, who need reasonable modifications to successfully complete assignments and otherwise satisfy course criteria, are encouraged to meet with the instructor as early in the course as possible to identify and plan specific accommodations. If you are a student with a disability and believe you require accommodation to participate in and complete requirements for this class, contact the Disability Resource Center (Robbins Hall, 852-6938) for verification of eligibility and determination of specific accommodations. Students may be asked to supply a letter from the Disability Resource Center or other documentation, which will assist in modification planning.

Students should locate and note any university deadlines, including drop dates and late withdrawal dates, from the University of Louisville web site.

All opinions given regarding specific fact patterns and the law are strictly hypothetical and are not legal advice in any manner. There is no attorney-client relationship through any discussions in or out of class between the instructor and any current students. Students needing legal counsel should contact the Lawyer Referral Service of the Louisville Bar Association.

**CJ 625 COURSE SCHEDULE**

Note: The Instructor reserves the right to change the course schedule and content and the student evaluation methods as needed. Additional handouts and on-line materials will be assigned.

| All Classes are in McCandless 101, Southern Police Institute |  |
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| <b>Date</b>  | <b>Readings</b>  |
|  | <p><b>Chapter references are to</b><br/> <b>Grossman</b><br/> <b>Cripe, Pearlman and Kosiak</b><br/> <b>Kappeler</b><br/> <b>Aitchison</b></p> <p>Citations via the web links set out above: Kentucky Rules of Court: Rules of Criminal Procedure (RCr) Civil Procedure (CR); Federal Rules of Criminal Procedure (Fed. R. Crim. P.); Federal Rules of Appellate Procedure (F.R.A.P.); United States Code (USC)<br/> <i>Additional readings will be assigned via class or e-mail</i></p>   |
| Jan 12   | <p>Introduction and Overview of Criminal Justice Process<br/> Introduction and Overview of the Legal System for the Administration of Justice in the United States<br/> Introduction and Overview of Legal Issues in Criminal Justice Management<br/> <b>Martin</b>, A Basic System of Citation</p> <p><b>Grossman</b>, Sections I and II, all chapters therein</p> <p><b>Kappeler</b>, Chapter 1, The Scope and Impact of Police Civil Liability; Chapter 2, The Fundamentals of State Tort Law</p> <p><b>Aitchison</b>, <b>Chapter 1, Introduction; Chapter 5</b>, Law Enforcement Officer Bills of Rights; Chapter 16, The Enforcement of Officers Rights</p> <p><b>Cripe, Pearlman and Kosiak</b>: Chapter 1, Introduction to the Law and Legal Aspects of Corrections Management; Chapter 4 Going to Court; Paying Up</p> |
| 19   | <p><b>Grossman</b>, Sections III, all chapters therein</p> <p><b>Cripe, Pearlman and Kosiak</b>: Chapter 1, Introduction to the Law and Legal Aspects of Corrections Management; Chapter 2 Corrections and the Criminal Justice System; Chapter 3 Habeas, Torts, and Section 1983<br/> Chapter 5 A General View of Prisoners' Rights Under the Constitution</p>  |
| 26   | <p><b>Grossman</b>, Sections IV, all chapters therein</p> <p><b>Cripe, Pearlman and Kosiak</b>: Chapter 6 Access to Courts; Chapter</p>  |



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|         | 7 First Amendment: Inmate Mail; Chapter 8 First Amendment: Inmate Association Rights and Visiting; Chapter 9 First Amendment: Religion; Chapter 10 Fourth Amendment: Search and Seizure, and Privacy  |
| Feb 2   | <b>Cripe, Pearlman and Kosiak:</b> Chapter 11 Fifth and Fourteenth Amendments: Due Process—Inmate Discipline; Chapter 12 Fifth and Fourteenth Amendments: Due Process—Classification, Transfers, Personal Injuries, and Property Loss; Chapter 13 Fourteenth Amendment: Equal Protection—Female Offenders and Others; Chapter 15 Eighth Amendment: Conditions of Confinement—Cruel and Unusual Punishment; Chapter 16 Eighth Amendment: Health Care |
| 9       | <b>Kappeler</b> Chapter 3, The Fundamentals of Federal Liability Law; Chapter 4, Civil Liability for Police Use of Excessive Force; Chapter 5, Police Civil Liability for High-Risk Drug Enforcement Operations   |
| 16      | <b>Kappeler</b> Chapter 6, Police Liability for Failure to Protect: Abandoning Citizens in Dangerous Places and Situations; Police Civil Liability for Negligent Pursuits; Chapter 8, Police Liability for Failure to Arrest Intoxicated Drivers  |
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| 23      | <b>Court Observation</b>  |
|         |   |
| March 1 | <b>Kappeler</b> Chapter 9 – The Liability of Traffic Officers: Negligence at Accident Scenes; Chapter 10 – Police Liability for Failure to Prevent Detainee Suicide; Chapter 11 – Shifting Conceptions of Police Civil Liability and Law Enforcement  |
|         |   |
| 8       | <b>Aitcheson</b> - Chapter 2, law enforcement officers and collective-bargaining; Chapter 3 disciplinary standards and law enforcement officers; Chapter 4 procedural rights in the disciplinary process<br><br>1 <sup>st</sup> draft for peer review - Research Paper due  |
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| 15      | SPRING BREAK!!!   |
|         |   |
| 22      | <b>Aitcheson</b> -chapter 6, the right to privacy and the regulation of off-duty conduct; Chapter 7, law enforcement officers freedom of speech rights  |
|         |   |
| 29      | <b>Aitcheson</b> -Chapter 8, law enforcement officers freedom of association rights; Chapter 9-the right to engage in political activities; Chapter 10, religion and the law enforcement workplace; Chapter 11 rights of law enforcement officers to bring civil lawsuits   |
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| April 4 | <b>Aitcheson</b> -Chapter 12, workers compensation and the right to a safe working environment; Chapter 13, law enforcement officers and  |

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|    | employment discrimination; Chapter 14, the employment rights of disabled officers; Chapter 15 the fair labor standards act |
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| 11 | Presentations<br>Research Paper due  |
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| 18 | Presentations & Last Day of Class  |

## CRIMINAL JUSTICE

### HONOR CODE

As members of the University community and as future members of the criminal justice profession, we recognize the need to set and to maintain the highest standards of conduct. The University of Louisville has set minimum standards of conduct in various policy statements including, but not limited to, the Code of Student Conduct and the Code of Student Rights and Responsibilities. The standards of academic conduct established by the University of Louisville, as well as those established by this document, shall constitute the Honor Code and shall be applicable to all students in the Department of Criminal Justice at the University of Louisville.

### STANDARDS OF CONDUCT

A student who violates any standard of academic conduct established by the University of Louisville policy may be disciplined under this Honor Code. The Department of Criminal Justice will take action against students who violate any standard of academic conduct. This shall include a determination of whether the student is fit to continue as a Justice Administration major and to receive a recommendation for future criminal justice employment, University policies governing non-academic conduct normally are administered by the Vice President for Student Affairs. However, the Department of Criminal Justice also retains the right to determine whether a student who has violated non-academic conduct standards is fit to continue as a Criminal Justice major and to receive a recommendation for future criminal justice employment.

Any student who commits or attempts to commit any of the following violations of academic honesty will be disciplined under this code using the conditions set forth in the Student Handbook Code of Student Rights and Responsibilities, which sets a maximum sanction of expulsion from the University.

**NOTE:** The term academic exercise in the following definition include all forms of work submitted for academic

credit hours.

- **Cheating:** Intentionally using or attempting to use unauthorized materials, information, or study aids in academic exercise.
- **Fabrication:** Intentional and unauthorized falsifications or invention of any information or citation in any information or citation in an academic exercise.
- **Facilitating Academic Dishonesty:** Intentionally or knowingly helping or attempting to help another violate a provision of the University or school code of academic integrity or failure to report a violation of the Honor Code.

- **Plagiarism:** The deliberate adoption or reproduction of ideas or words or statements of another person as one's own without acknowledgement.
- **Vandalism and Theft:** Intentionally mutilating, defacing, destroying, removing, or unlawfully taking University property to include library materials and computer hardware and software.

Students knowing of a violation of this Honor Code shall:

- Report the violation to the instructor if the violation is limited to acts within a specific course.
- Report the violation to the chair of the department if the violation(s) involve(s) multiple courses, or the vandalism of University property, or activities that have implications and consequences beyond the scope of a single course.