

# Marshall University

## Course Syllabus

Course Title/Number	<b>CJ 424/524: Computer Crime</b>
Semester/Year	Fall, 2018
Days/Time	TR 2:00 – 3:15 pm
Location	SH 418
Instructor	Margaret Phipps Brown
Office	Smith Hall 735, Marshall University, One John Marshall Drive, Huntington, WV 25755
Phone	304-696-3086
E-Mail	<a href="mailto:brownmp@marshall.edu">brownmp@marshall.edu</a>
Office/Hours	Tuesday & Thursday 9:00 – 11:00 am; 1:00-2:00 pm. Appointments at other days/hours are available by request.
University Policies	By enrolling in this course, you agree to the University Policies listed below. Please read the full text of each policy by going to <a href="http://www.marshall.edu/academic-affairs">www.marshall.edu/academic-affairs</a> and clicking on “Marshall University Policies.” Or, you can access the policies directly by going to <a href="http://www.marshall.edu/academic-affairs/?page_id=802">http://www.marshall.edu/academic-affairs/?page_id=802</a>  Academic Dishonesty/ Excused Absence Policy for Undergraduates/ Computing Services Acceptable Use/ Inclement Weather/ Dead Week/ Students with Disabilities/ Academic Forgiveness/ Academic Probation and Suspension/ Academic Rights and Responsibilities of Students/ Affirmative Action/ Sexual Harassment

### Course Description: From Catalog

Students will identify and define criminal acts committed with computers or directed toward computer systems, electronic search and seizure and electronic evidence.

### Required Texts, Additional Reading, and Other Materials

Kerr, Orin S. (2014). *Computer Crime Law* (4th ed.), St. Paul, MN: Thompson/West.

The Marshall University Library and the University College have implemented a Textbook Loan Program. Under this program, textbooks for courses are placed on reserve at the Circulation Desk at the Drinko Library. This program is intended to help students who don't have access to textbooks, especially at the beginning of the semester. I have provided the textbook information to the Textbook Loan Program, so the text for this course should be reserved at the Circulation Desk. More information on the loan program, along with a link to a listing of the textbooks offered, is available by visiting University College's website at [www.marshall.edu/uc/textbook-loan-program](http://www.marshall.edu/uc/textbook-loan-program).

### Program Learning Outcomes

1. Students will *identify* the components, roles, and practices that are integral to the criminal justice system using specialized terminology.
2. Students will *interpret* scholarly research in the field of criminal justice/criminology and *describe* the limitations and/or potential policy implications.
3. Students will *examine* the principles of substantive, procedural, and evidentiary criminal law that regulate and guide the criminal justice system and its primary actors.

4. Students will <i>explain</i> the nature, extent, causation, and prevention of crime using theoretical foundations in criminal justice/criminology.
5. Students will <i>incorporate</i> information from relevant media sources to support a written product with citations that follow the <i>APA Publication Manual</i> .

The table below shows the following relationships: How each student learning outcomes will be practiced and assessed in the course.

<b>Course Student Learning Outcomes</b>	<b>How students will practice each outcome in this Course</b>	<b>How student achievement of each outcome will be assessed in this Course</b>
Students will be able to describe and explain the basic concepts of computer crime, including <ul style="list-style-type: none"> <li>• Crimes committed with the use of computers, including computer misuse crimes and traditional crimes committed with the use of a computer</li> <li>• Sentencing issues in computer crimes</li> <li>• Electronic search and seizure issues</li> <li>• Introduction and use of electronic evidence in court</li> <li>• Statutory privacy protections related to computers</li> <li>• National security issues related to computer use</li> </ul>	<ul style="list-style-type: none"> <li>• Readings in the textbook</li> <li>• Classroom discussion</li> <li>• Case Briefs</li> <li>• Homework Assignments</li> </ul>	<ul style="list-style-type: none"> <li>• Exam questions</li> <li>• Case Briefs</li> </ul>
Students will be able to read, interpret, and brief appellate court opinions	Case Briefs	<ul style="list-style-type: none"> <li>• Case Briefs</li> <li>• Exam questions</li> </ul>
Students will be able to describe the types of arguments made by both sides in computer criminal cases	<ul style="list-style-type: none"> <li>• Readings in the textbook</li> <li>• Class discussion</li> <li>• Case Briefs</li> <li>• Homework assignments</li> </ul>	<ul style="list-style-type: none"> <li>• Case Briefs</li> <li>• Exam questions</li> </ul>

### **Course Requirements / Due Dates**

<ol style="list-style-type: none"> <li>1. Case Briefs are due at the end of the class period on the day the case is discussed. In class work may be assigned. Late case briefs or in class assignments may not be made up and will not be accepted, without university excuse.</li> <li>2. Homework assignments are due on the date indicated in the assignment. Late assignments may not be made up and will not be accepted, without university excuse.</li> <li>3. Exam 1 will take place on <b>October 9, 2018</b>.</li> <li>4. Final exam for Section 101 will take place on <b>Thursday, May 13, 2018 @ 12:45 pm</b>.</li> </ol>
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## Grading Policy

Exam 1 - 100 points	90-100% = A
Exam 2 (Final) – 100 points	80-89% = B
Case Briefs – 100 points	70-79% = C
Homework, in class assignments, participation – up to 125 points	60-69% = D
TOTAL POINTS POSSIBLE – up to 425	Below 60% = F

Graduate students will be required to complete an additional assignment, agreed upon between the student and the instructor, worth an additional 100 points, resulting in up to 500 points possible for graduate students.

Once assignments/exams are returned to students, it is the responsibility of the students to maintain those documents in case there is a discrepancy between my grade book and your actual grade. Please maintain your graded papers until you receive your final grade.

### Academic Dishonesty

All students must be familiar with the university's policy concerning academic dishonesty. Academic dishonesty includes cheating, fabrication and falsification of data or information, plagiarism, bribes/favors/threats, and complicity with any of these activities. Students who violate this policy face sanctions included in the Academic Dishonesty Policy, including lowering of a grade on an assignment, lowering of a final grade, or failing the course.

## Attendance Policy

You are not required to attend this class. However, if you want to do well in the class, you should attend each class session.

Assignments and case briefs are due on the date we discuss them in class. If you miss class for an unexcused reason, you cannot hand in assignments/case briefs late. If you miss an exam without notifying me before the exam that you have a university excused absence, you will not be permitted to make up the exam.

## Classroom Rules

1. Be on time.
2. Be prepared.
3. Respect each other.
4. Never, ever cheat.
5. Put your cell phones away. This includes earphones.
6. Do not sleep in my class.

Violation of any of these rules will result in you being asked to leave the classroom for the remainder of the class period.

## Course Schedule

Please note: This is a tentative outline.	
Week 1- 08/20/18	
Chapter 1 - Introduction <b>ASSIGNMENT # 1</b>	pp. 1-7
<i>Aug. 20-24 Late registration and schedule adjustment</i>	
Week 2 – 08/27/18	
Chapter 2 - Computer Misuse Crimes § A. Why Punish Computer Misuse? <b>ASSIGNMENT # 2</b> § B. Property Crimes as a Response to Computer Misuse BRIEF: <b><i>United States v. Seidlitz</i></b> <b><i>United States v. McGraw</i></b> § C. Unauthorized Access Statutes 1. Introduction to Unauthorized Access Statutes <b>ASSIGNMENT # 3</b> 2. What is "Access"? BRIEF: <b><i>State v. Riley</i></b> 3. What is Authorization? The Case of Code-Based Restrictions BRIEF: <b><i>United States v. Morris</i></b>	pp. 9-54
<i>Aug. 27 – "W" Withdrawal period begins</i>	
<i>Sept. 1-3 – University computing services unavailable</i>	
Week 3 – 09/03/18	
Chapter 2 - Computer Misuse Crimes (continued) § C. Unauthorized Access Statutes (continued) 4. What is Authorization? The Case of Contract-Based Restrictions 5. What is Authorization? The Case of Norms-Based Restrictions BRIEF: <b><i>United States v. Nosal</i></b> <b>ASSIGNMENT # 4</b> BRIEF: <b><i>EF Cultural Travel BV v. Zefer Corp.</i></b> <b>ASSIGNMENT # 5</b> § D. 18 U.S.C. § 1030(a)(2) and Its Felony Enhancements 1. 18 U.S.C. § 1030(a)(2) Misdemeanor Liability 2. 18 U.S.C. § 1030(a)(2) Felony Liability BRIEF: <b><i>United States v. Batti</i></b> § E. 18 U.S.C. § 1030(a)(4) and Computer Fraud Statutes BRIEF: <b><i>United States v. Czubinski</i></b> § F. 18 U.S.C. § 1030(a)(5) and Computer Damage Statutes 1. 18 U.S.C. § 1030(A)(5) Misdemeanor Liability BRIEF: <b><i>United States v. Carlson</i></b> 2. 18 U.S.C. § 1030(a)(5) Felony Liability BRIEF: <b><i>United States v. Middleton</i></b> <b>ASSIGNMENT # 6</b> BRIEF: <b><i>United States v. Sablan</i></b> <b>ASSIGNMENT # 7</b> § G. Hacking Back <b>ASSIGNMENT # 8</b>	pp. 54-144
<i>Sept. 3 – Labor Day – University Closed</i>	

Week 4 – 09/10/18	
Chapter 3 - Traditional Crimes § A. Economic Crimes 1. Property Crimes BRIEF: <b><i>People v. Johnson</i></b> <b><i>United States v. Aleynikov</i></b> 2. The Economic Espionage Act <b>ASSIGNMENT # 9</b> BRIEF: <b><i>United States v. Genovese</i></b> <b><i>United States v. Agrawal</i></b> 3. Identity Theft and Access Device Fraud BRIEF: <b><i>United States v. Barrington</i></b> 4. Copyright Law BRIEF: <b><i>United States v. Moran</i></b> <b><i>United States v. Armstead</i></b> <b><i>United States v. Shabazz</i></b>	pp. 145-214
Sept. 14 – Applications for December 2018 graduation due in academic dean's office	
Week 5 – 09/17/18	
Chapter 3 - Traditional Crimes (continued) § B. Crimes against Persons 1. Threats and Harassment BRIEF: <b><i>Elonis v. United States</i></b> <b><i>United States v. Carmichael</i></b> <b><i>State v. VanBuren</i></b> 2. Invasion of Privacy Crimes § C. Vice Crimes 1. Internet Gambling BRIEF: <b><i>United States v. Cohen</i></b> 2. Obscenity BRIEF: <b><i>Miller v. California</i></b> <b><i>United States v. Extreme Associates, Inc.</i></b>	pp. 214-283
Sept. 21 – Last day to drop 1 <sup>st</sup> 8 weeks course	
Week 6 – 09/24/18	
Chapter 3 - Traditional Crimes (continued) § D. Child Exploitation Crimes 1. Child Pornography BRIEF: <b><i>United States v. Shaffer</i></b> <b><i>Barton v. State</i></b> <b><i>Ashcroft v. Free Speech Coalition</i></b> <b><i>United States v. Marchand</i></b> 2. Traveler Cases and Entrapment <b>ASSIGNMENT # 10</b> BRIEF: <b><i>State v. Davies</i></b>	pp. 283-344
Week 7 – 10/01/18	
Review - Catch Up	

Week 8 – 10/08/18	
<b>Exam # 1 (10/09/18)</b> Chapter 4 - Sentencing § A. Are Computer Crimes Different? <b>ASSIGNMENT # 11</b> BRIEF: <i>United States v. Lee</i> § B. Sentencing in Child Pornography Cases <b>ASSIGNMENT # 12</b> § C. Sentencing in Computer Misuse Cases BRIEF: <i>United States v. Stratman</i> <b>ASSIGNMENT # 13</b> § D. Supervised Release and Probation Restrictions BRIEF: <i>United States v. Duke</i>	pp. 345-388
Oct. 8 – Freshmen/sophomore midterm grades due Oct. 10 – Mid-semester, 1 <sup>st</sup> 8 weeks courses end Oct. 11 – 2 <sup>nd</sup> 8 weeks courses begin	
Week 9 – 10/15/18	
Chapter 5 - The Fourth Amendment §A. The Requirement of Government Action BRIEF: <i>United States v. Jarrett</i> § B. Defining Searches and Seizures 1. Searches BRIEF: <i>United States v. David</i> <i>United States v. Forrester</i> <i>United States v. Warshak</i> 2. Seizures BRIEF: <i>United States v. Jefferson</i> § C. Exceptions to the Warrant Requirement 1. Search Incident to Arrest BRIEF: <i>Riley v. California</i> 2. Exigent Circumstances BRIEF: <i>United States v. Trowbridge</i>	pp. 389-477
Week 10 – 10/22/18	
Chapter 5 -The Fourth Amendment (continued) § C. Exceptions to the Warrant Requirement (continued) 3. Consent BRIEF: <i>United States v. Al-Marri</i> <b>ASSIGNMENT # 14</b> BRIEF: <i>United States v. Buckner</i> <i>United States v. Andrus</i> 4. Border Searches BRIEF: <i>United States v. Cotterman</i> <b>ASSIGNMENT # 15</b> 5. Government Workplace Searches BRIEF: <i>Leventhal v. Knapek</i> <b>ASSIGNMENT # 16</b>	pp. 477-528
Oct. 22 – Students should schedule appointments with advisors to prepare for advance registration Oct. 26 – Last day to drop a full semester individual course Oct. 29 – Dec. 7 – Complete withdrawals only	

Week 11 – 10/29/18	
Chapter 5 - The Fourth Amendment (continued) <ul style="list-style-type: none"> <li>§ D. Searching and Seizing Computers with a Warrant <ul style="list-style-type: none"> <li>1. Probable Cause BRIEF: <i>United States v. Griffith</i></li> <li>2. Particularity BRIEF: <i>United States Ulbricht</i></li> </ul> </li> <li><b>ASSIGNMENT # 16</b></li> <li>3. The Physical Search Stage BRIEF: <i>United States v. Hill</i></li> <li>4. The Electronic Search Stage BRIEF: <i>United States v. Williams</i></li> <li>5. <i>Ex Ante</i> Restrictions on Computer Warrants BRIEF: <i>In re Application for Search Warrant . . . Edward Cunniss</i></li> <li>5. Encryption BRIEF: <i>In re Supboena Duces Tecum</i> <i>United States v. New York Telephone Company</i></li> </ul>	pp. 528-619
Week 12 – 11/05/18	
Chapter 6 - Statutory Privacy Protections <ul style="list-style-type: none"> <li>§ A. The Wiretap Act <ul style="list-style-type: none"> <li>1. The Basic Structure BRIEF: <i>O'Brien v. O'Brien</i></li> <li>2. The Consent Exception BRIEF: <i>Griggs-Ryan v. Smith</i></li> </ul> </li> <li><b>ASSIGNMENT # 17</b></li> <li>3. The Provider Exception BRIEF: <i>United States v. Auler</i> <b>ASSIGNMENT # 18</b> BRIEF: <i>McClelland v. McGrath</i></li> <li>§ B. The Cybersecurity Act of 2015 <b>ASSIGNMENT # 19</b></li> </ul>	pp. 621-661
Week 13 – 11/12/18	
Chapter 6 - Statutory Privacy Protections (continued) <ul style="list-style-type: none"> <li>§ B. The Pen Register Statute BRIEF: <i>In re Application of the United States of America</i> <b>ASSIGNMENT # 14</b></li> <li>§ C. The Stored Communications Act <ul style="list-style-type: none"> <li>1. The Basic Structure</li> <li>2. Compelled Disclosure Under § 2703 BRIEF: <i>United States v. Weaver</i> <b>SPECIAL ASSIGNMENT: <i>Carpenter v. United States</i> (2018)</b></li> <li>3. Voluntary Disclosure Under § 2703 BRIEF: <i>Anderson Consulting LLP v. UOP</i> <i>Jayne v. Sprint PCS</i> <b>ASSIGNMENT # 15</b></li> </ul> </li> <li>§ D. Problems <b>ASSIGNMENT # 16</b></li> </ul>	pp. 661-720
Nov. 5 – Nov. 16 – Advance registration for Spring semester	
Week 14 – 11/19/18	
THANKSGIVING BREAK – CLASSES DISMISSED	

Nov. 13 – Last day to drop 2 <sup>nd</sup> 8 weeks courses	
Week 15 – 11/26/18	
Chapter 8 - National Security § A. The Fourth Amendment BRIEF: <b><i>United States v. United States District Court</i></b> <b><i>United States v. Mohamud</i></b> § B. The Foreign Intelligence Surveillance Act § C. Use of FISA Evidence in Criminal Cases BRIEF: <b><i>United States v. Squillacote</i></b>	pp. 835-877
Week 16 – 12/03/18	
Review/Catch Up	
Nov. 26 - Dead Week	
May 29 Last Class Day and Last Day to Completely Withdraw for Spring Semester	
Week 17 – 12/10/18	
<b>FINAL EXAM: Thursday 12/13/18 @ 12:45 pm</b>	
*Class presentations may vary from schedule due to student interest or comprehension.	



## **Assignments:**

GENERAL INSTRUCTIONS FOR ASSIGNMENTS: Assignments are due as we cover the material in class (just like your case briefs). Late assignments will not be accepted, unless the student misses class due to a University excused absence. Unless otherwise noted, assignments should be typewritten, in 12 font, with 1 inch margins, and double spaced on 8½ by 11” white paper and should be approximately one page in length. Please be sure your name and the assignment number are in the upper right hand corner of your assignment.

- Assignment # 1: Compare and contrast the physical crime and the computer crime described on pp. 3-4 of your textbook. What, if anything, changes from the physical crime to the computer crime?
- Assignment # 2: Read the summary of *United States v. Swartz* on pp. 10-11 and address (1) whether either theory described above the summary justifies punishment and (2) address Question 1 on p. 12. Explain your reasoning.
- Assignment # 3: Review the provisions of 18 U.S.C. § 1030, described on pp. 31-32 of your textbook, and list the crimes defined in that section of the federal criminal code. You do not need to include the definitions of those crimes.
- Assignment # 4: Read the scenarios contained in note 1 on pp. 64-65 of your textbook and answer the question whether each scenario should be a crime. Explain your answers.
- Assignment # 5: Review the statute contained in Note 8 on pp. 82-83 of your textbook and respond to the question. Explain your answer.
- Assignment # 6: Read the scenarios contained in note 2 on pp. 127-128 of your textbook and determine whether each scenario is covered by 18 U.S.C. § 1030(e)(11). Explain your answers.
- Assignment # 7: Respond to the hypothetical cases described in note 3 on p. 137-138 of your textbook and explain your response.
- Assignment # 8: Read the proposed statutory language (Active Cyber Defense Certainty Act 2.0, § 3) on p. 142 of your textbook and answer the questions contained in note 1 on p. 143. Explain your answer.
- Assignment # 9: Read the scenarios contained in note 3 on p. 157 of your textbook and determine whether each should qualify as interstate transportation of stolen property. Explain.
- Assignment # 10: Answer the question in note 3 on pp. 341-342 of your textbook. Explain your answer.
- Assignment # 11: Read the excerpt of the Law Review article contained in your textbook on pp.

- 345-347. Then respond to the question contained in note 2 on p. 348. Explain your answer.
- Assignment # 12: Answer the question contained in note 4 on p. 358 of your textbook. Explain your answer.
- Assignment # 13: Read the problem contained in note 6 on p. 380 of your textbook and answer the questions. Explain your answers.
- Assignment # 14: Answer the question contained in note 7 on pp. 487-488 of your textbook and explain your answer.
- Assignment # 15: Read the scenarios contained in note 1 on p. 514 of your textbook and determine whether each is a forensic or manual search. Explain your answers.
- Assignment # 16: Read note 1 on pp. 560-561 of your textbook and respond to the questions. Explain your answers.
- Assignment # 17: Respond to the hypothetical situation and questions contained in note 4 on pp. 644-645 of your textbook.
- Assignment # 18: Read note 1 on pp. 652-653 and respond to the questions. Explain your answers.
- Assignment # 19: Read note 3 on p. 661 of your textbook and respond to the questions, based on information about the Cybersecurity Act on pp. 659-661. Explain your answers.
- Assignment # 20: Read the problem contained in note 10 on pp. 674-675 of your textbook and respond to the questions. Explain your answers.
- Assignment # 21: Consider whether the investigations described in Problems 1, 2, & 3 on pp. 718-720 of your textbook violated any statutory privacy laws or the Fourth Amendment. Explain your answers.