# Marshall University
# Course Syllabus

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| Course Title/Number | **CJ 424/524: Computer Crime** |
| Semester/Year | Spring, 2017 |
| Days/Time | TR 12:30 – 1:45 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; 304-696-3085 (fax) |
| E-Mail | brownmp@marshall.edu |
| Office/Hours | Tuesday & Thursday 11:00 am – 12:00 noon; 2:00 – 4:00 pm. Appointments at other 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 be going to www.marshall.edu/academic-affairs and clicking on "Marshall University Policies." Or, you can access the policies directly by going to http://www.marshall.edu/academic-affairs/?page_id=802<br>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**

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| 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**

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| Kerr, Orin S. (2013). *Computer Crime Law* (3d ed.), St. Paul, MN: Thompson/West, with 2016 Statutory and Case Supplement. |

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

| **Course Student Learning Outcomes** | **How students will practice each outcome in this Course** | **How student achievement of each outcome will be assessed in this Course** |
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| Students will be able to describe and explain the basic concepts of computer crime, including<br>• Crimes committed with the use of computers, including computer misuse crimes and traditional crimes committed with the use of a computer<br>• Sentencing issues in computer crimes<br>• Electronic search and seizure issues<br>• Introduction and use of electronic evidence in court<br>• Statutory privacy protections related to computers<br>• National security issues related to computer use | • Readings in the textbook<br>• Classroom discussion<br>• Case Briefs<br>• Homework Assignments | • Exam questions<br>• Case Briefs |
| Students will be able to read, interpret, and brief appellate court opinions | Case Briefs | • Case Briefs<br>• Exam questions |
| Students will be able to describe the types of arguments made by both sides in computer criminal cases | • Readings in the textbook<br>• Class discussion<br>• Case Briefs<br>• Homework assignments | • Case Briefs<br>• Exam questions |

**Course Requirements / Due Dates**

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.
2. Homework assignments are due on the day the assignment is covered in class. Late assignments may not be made up and will not be accepted, without university excuse.
3. Exam 1 will take place on **March 1, 2017**.
4. Final exam for Section 101 will take place on **Tuesday, May 2, 2017 @ 12:45 pm**.

**Grading Policy**

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| 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 100 points | 60-69% = D |
| TOTAL POINTS POSSIBLE – up to 400 | 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**

Class attendance is not required. However, those students who want and/or expect to do well in the class should attend class regularly. If a student misses a class other than for a university excused absence, that student cannot make up any assignments completed in class or due on that day.

**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**

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| Please note: This is a tentative outline. We may not cover every page of the reading on the date projected. This is a guess at the rate we will cover the material. EXAMS WILL BE GIVEN on the dates scheduled, unless at least one weeks' notice is given in class. | |
| Week 1- 1/9/17 | |
| Chapter 1 - Introduction<br>**ASSIGNMENT # 1** | pp. 1-7 |
| *Jan 11-15 Late Registration and Schedule Adjustment* | |
| Week 2 – 1/16/17 | |
| Chapter 2 - Computer Misuse Crimes<br>§ A. Why Punish Computer Misuse?<br>**ASSIGNMENT # 2**<br>§ B. Property Crimes as a Response to Computer Misuse<br>BRIEF: ***United States v. Seidlitz***<br>***United States v. McGraw***<br>§ C. Unauthorized Access Statutes<br>1. Introduction to Unauthorized Access Statutes<br>**ASSIGNMENT # 3**<br>2. What is "Access"?<br>BRIEF: ***State v. Riley***<br>3. What is Authorization? The Case of Code-Based Restrictions<br>BRIEF: ***United States v. Morris*** | pp. 8-51<br>Supp. 111-116 |
| *Jan 16 Martin Luther King, Jr. Holiday, University Closed*<br>*Jan 17-Mar 17 "W" Withdrawal period (for individual classes)* | |
| Week 3 – 1/23/17 | |
| Chapter 2 - Computer Misuse Crimes (continued)<br>§ C. Unauthorized Access Statutes (continued)<br>4. What is Authorization? The Case of Contract-Based Restrictions<br>BRIEF: ***United States v. Drew***<br>5. What is Authorization? The Case of Norms-Based Restrictions<br>BRIEF: ***United States v. Nosal***<br>§ D. 18 U.S.C. § 1030(a)(2) and Its Felony Enhancements<br>1. 18 U.S.C. § 1030(a)(2) Misdemeanor Liability<br>2. 18 U.S.C. § 1030(a)(2) Felony Liability<br>BRIEF: ***United States v. Batti***<br>§ E. 18 U.S.C. § 1030(a)(4) and Computer Fraud Statutes<br>BRIEF: ***United States v. Czubinski***<br>§ F. 18 U.S.C. § 1030(a)(5)<br>1. 18 U.S.C. § 1030(A)(5) Misdemeanor Liability<br>BRIEF: United States v. Carlson<br>2. 18 U.S.C. § 1030(a)(5) Felony Liability<br>BRIEF: ***United States v. Middleton***<br>***United States v. Sablan***<br>**ASSIGNMENT # 4** | pp. 51-135<br>Supp. 116 |
| Week 4 – 1/30/17 | |
| Chapter 3 - Traditional Crimes<br>§ A. Economic Crimes<br>1. Property Crimes<br>BRIEF: ***People v. Johnson*** | pp. 136-201<br>Supp. 117-120 |

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| ***United States v. Aleynikov***<br>2. The Economic Espionage Act<br>BRIEF: ***United States v. Genovese***<br>3. Identity Theft and Access Device Fraud<br>BRIEF: ***United States v. Barrington***<br>4. Copyright Law<br>BRIEF: ***United States v. Moran***<br>***United States v. Armstead***<br>***United States v. Shabazz*** | |
| *Feb 3 Applications for May Graduation due in Academic Dean's office* | |
| Week 5 – 2/6/17 | |
| Chapter 3 - Traditional Crimes (continued)<br>§ B. Crimes against Persons<br>1. Threats and Harassment<br>BRIEF: ***United States v. Alkhabaz***<br>***United States v. Carmichael***<br>***United States v. White***<br>2. Invasion of Privacy Crimes<br>§ C. Vice Crimes<br>1. Internet Gambling<br>BRIEF: ***United States v. Cohen***<br>2. Obscenity<br>BRIEF: ***Miller v. California***<br>***United States v. Extreme Associates, Inc.*** | pp. 201-267<br>Supp. 121-127 |
| *February 10 Last Day to Drop 1st 8 Weeks Course* | |
| Week 6 – 2/13/17 | |
| Chapter 3 - Traditional Crimes (continued)<br>§ D. Child Exploitation Crimes<br>1. Child Pornography<br>BRIEF: ***United States v. Shaffer***<br>***Barton v. State***<br>***Ashcroft v. Free Speech Coalition***<br>***United States v. Marchand***<br>2. Traveler Cases and Entrapment<br>BRIEF: ***State v. Davies***<br>**ASSIGNMENT # 5** | pp. 267-327<br>Supp. 127-130 |
| Week 7 – 2/20/17 | |
| Chapter 4 - Sentencing<br>§ A. Are Computer Crimes Different?<br>**ASSIGNMENT # 6**<br>BRIEF: ***United States v. Lee***<br>§ B. Sentencing in Child Pornography Cases<br>§ C. Sentencing in Computer Misuse Cases<br>DO NOT BRIEF: ***United States v. Dihn***<br>BRIEF: ***United States v. Stratman (Supp)***<br>**ASSIGNMENT # 7**<br>§ D. Supervised Release and Probation Restrictions<br>BRIEF: ***United States v. Paul***<br>***United States v. Safsky*** | pp. 328-375<br>Supp. 131-135 |

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| Week 8 – 2/27/17 | |
| Review/Catch Up<br>**Exam # 1** (3/1/17) | |
| *Feb 17 Deadline for submitting Freshman/Sophomore Mid-term Grades*<br>*Mar 1 Mid-Semester, 1st 8 Weeks Courses End*<br>*Mar 2 2nd 8 Weeks Courses Begin* | |
| Week 9 – 3/6/17 | |
| Chapter 5 - The Fourth Amendment<br>§A. The Requirement of Government Action<br>BRIEF: ***United States v. Jarrett***<br>§ B. Defining Searches and Seizures<br>1. Searches<br>BRIEF: ***United States v. David***<br>2. Seizures<br>BRIEF: ***United States v. Jefferson***<br>§ C. Exceptions to the Warrant Requirement<br>1. Exigent Circumstances<br>BRIEF: ***United States v. Trowbridge***<br>2. Consent<br>BRIEF: ***United States v. Al-Marri***<br>**ASSIGNMENT # 8**<br>***United States v. Buckner***<br>***United States v. Andrus*** | pp. 376-445<br>Supp. 137-140 |
| Week 10 – 3/13/17 | |
| Chapter 5 -The Fourth Amendment (continued)<br>§ C. Exceptions to the Warrant Requirement (continued)<br>3. Search Incident to Arrest<br>DO NOT BRIEF: ***Schlossberg v. Solesbee***<br>BRIEF: ***Riley v. California (Supp)***<br>4. Border Searches<br>DO NOT BRIEF: ***United States v. Arnold***<br>BRIEF: ***United States v. Cotterman (Supp)***<br>5. Government Workplace Searches<br>BRIEF: ***Leventhal v. Knapek***<br>§ D. Searching and Seizing Computers with a Warrant<br>1. Probable Cause and Particularity<br>BRIEF: ***United States v. Adjani***<br>**ASSIGNMENT # 9**<br>2. The Physical Search Stage<br>BRIEF: ***United States v. Hill***<br>**ASSIGNMENT # 10** | pp. 452-504<br>Supp. 140-164 |
| *Mar 17 Last day to drop a full semester individual course*<br>*Mar 27 – Apr 28 Complete Withdrawals only* | |
| Week 11 – 3/20/17 | |
| ***SPRING VACATION – CLASSES DISMISSED*** | |
| Week 12 – 3/27/17 | |
| Chapter 5 - The Fourth Amendment (continued)<br>§ D. Searching and Seizing Computers with a Warrant (continued)<br>3. The Electronic Search Stage | pp. 504-573<br>Supp. 164-189 |

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| BRIEF: ***United States v. Williams***<br>4. *Ex Ante* Restrictions on Computer Warrants<br>BRIEF: ***In re Application for Search Warrant . . . Edward Cunnius***<br>5. Encryption<br>BRIEF: *In re Supboena Duces Tecum*<br>§ E. The Fourth Amendment and Computer Networks<br>1. Analogies to Speech, Letters, and Telephone Calls<br>2. Non-Content Information<br>BRIEF: ***United States v. Forrester***<br>***United States v. Skinner (Supp)***<br>3. Content Information<br>BRIEF: ***United States v. Warshak***<br>BRIEF: ***United States v. Arhndt (Supp)*** | |
| *Mar 27 – Mar 31 Advance Registration for Summer Session for currently enrolled students*<br>*Mar 27 Students should schedule appointments with advisors to prepare for advance registration for Fall 2017 semester* | |
| Week 13 – 4/3/17 | |
| Chapter 6 - Statutory Privacy Protections<br>§ A. The Wiretap Act<br>1. The Basic Structure<br>BRIEF: ***O'Brien v. O'Brien***<br>2. The Consent Exception<br>BRIEF: ***Griggs-Ryan v. Smith***<br>**ASSIGNMENT # 11**<br>3. The Provider Exception<br>BRIEF: ***United States v. Auler***<br>***United States v. McGrath***<br>4. The Computer Trespasses Exception<br>**ASSIGNMENT # 12** | pp. 574-618<br>Supp. 191-195 |
| Week 14 – 4/10/17 | |
| Chapter 6 - Statutory Privacy Protections (continued)<br>§ B. The Pen Register Statute<br>BRIEF: ***In re Application of the United States of America***<br>§ C. The Stored Communications Act<br>1. The Basic Structure<br>2. Compelled Disclosure Under § 2703<br>BRIEF: ***United States v. Weaver***<br>3. Voluntary Disclosure Under § 2703<br>BRIEF: ***Anderson Consulting LLP v. UOP***<br>***Jayne v. Sprint PCS***<br>**ASSIGNMENT # 13**<br>§ D. Problems<br>**ASSIGNMENT # 14** | pp. 618-648 |
| *Apr 10 – 21 Advance Registration for Fall Semester for Currently Enrolled Students*<br>*Apr 11 Last Day to Drop 2nd 8 Weeks Courses* | |
| Week 15 – 4/17/17 | |
| Chapter 8 - National Security<br>§ A. The Fourth Amendment<br>BRIEF: ***United States v. United States District Court***<br>§ B. The Foreign Intelligence Surveillance Act | pp. 648-684 |

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| § C. Use of FISA Evidence in Criminal Cases<br>BRIEF: ***United States v. Squillacote*** | |
| Week 16 – 4/24/17 | |
| Review/Catch Up | |
| *Apr 24 – Apr 28 Dead Week Last Class Day and Last Day to Completely Withdraw for Spring Semester*<br>*April 28 Last Class Day* | |
| Week 17 – 5/1/17 | |
| **FINAL EXAM: Tuesday 5/2/17 @ 12:45 pm** | |

**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.

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| 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: | Provide a reason (or reasons) to punish the offenders described in Problem 1 and Problem 2 on pp. 9-10 of your textbook. You may refer to the theories of punishment described on pp. 8-9, or other valid theories of punishment. Explain your reasoning. |
| Assignment # 3: | Review the provisions of 18 U.S.C. § 1030, starting on pp. 6-9 of the text supplement, 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: | Respond to the hypothetical cases described in note 3 on p. 130 of your textbook and explain your response. |
| Assignment # 5: | Answer the question contained in note # 3 on page 324 of your textbook and explain your answer. |
| Assignment # 6: | Read the excerpt of the Law Review article contained in your textbook on pp. 328-330. Then respond to the question contained in note # 2 on p. 331 of your textbook and explain your answer. |
| Assignment # 7: | Answer the question contained in note # 4 on p. 364 of your textbook and explain your answer. |
| Assignment # 8: | Answer the questions contained in note # 6 on pp. 429-430 of your textbook and explain your answers. |
| Assignment # 9: | Read the attached fact situation. Then, describe the premises to be searched. |
| Assignment # 10: | Read the attached fact situation. Then, describe the property to be seized. |
| Assignment # 11: | Answer the question contained in note # 5 on pp. 598 of your textbook and explain your answer. |

Assignment # 12: Respond to the hypothetical situation and questions contained in note in # 5 on pp. 617-618 of your textbook.

Assignment # 13: Answer the questions contained in note # 11 on p. 671 of your textbook and explain your answer.

Assignment # 14: Consider whether the investigations described in Problems 1, 2, and 3 on pp. 671-673 of your textbook violated any statutory privacy laws or the Fourth Amendment.

**Assignments # 9 and #10**
**Bag and Tag Affidavit Exercise**

Introduction of Affiant

Summary of Case

Beginning in approximately mid-December, 2012, the Smallville Police Department (SPD) has noticed an increase in the number of burglaries where high technology items have been stolen. The following burglaries in the city of Smallville have been reported to SPD:

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| Date/ Time | Address | Items Reported Stole |
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| 12/14/03 0400 | 123 Pine St | Desktop computer, DVD writer, software |
| 12/17/03 2330 | 201A Spruce St. | Notebook computer, personal digital assistant |
| 12/17/03 1735 | 112 Maple Ave. | Desktop computer, digital camera |
| 12/20/03 0800 | 425 Poplar St. | 2 desktop computers, 1 notebook, 2 digital cameras |
| 12/24/03 0100 | 156 Main St. | 3 Personal digital assistants, 3 desktop and 2 notebook computers |

On December 18, 2012, your affiant Det. Jones, was assigned to conduct an investigation into this series of thefts. The following investigation was conducted by your affiant, within the City of Smallville, except where noted.

Probable Cause Statement

Between December 18 and December 30, 2012 your affiant contacted each of the reporting parties involved in the above listed thefts. Each victim provided a list of the items stolen and, where possible, a more exact description and serial number. Each was interviewed concerning possible connections to the other thefts. Four of the victims recalled either purchasing at least one item from Smallville Computer Sales (SCS) located at 250 Main St. Smallville, PA.

On or about January 1, 2013, Detective Wallace, SPD, contacted a confidential source of proven reliability, hereafter referred to as “CS1”. CS1 advised as follows:

An individual known to CS1 as Roger Marks, has described a way in which CS1 could obtain a computer at a very good discount. Marks suggested to CS1 that he go onto E-Bay, an Internet online auction site and look for items being sold by an E-bay user named “marko13”. If CS1 would tell Marks what items he wanted, CS1 could make sure that “marko 13” had it in stock. A very short deadline for bidding would be set and CS1 could likely get the merchandise for “pennies on the dollar”. Marks said that he could

guarantee the quality and price of the merchandise purchased online and that "everybody would be protected" by such a purchase arrangement.

Between January 2 and January 10th, 2013, CS1, with the approval of the District Attorney's Office, purchased a Sony digital camera from "marko 13". The camera was received via UPS the following day.

Your affiant and Detective Wallace were present when CS1 opened the package received from "marko 13". It contained a Sony Mavica camera, serial number 23460001. This camera matched the description and serial number of a camera stolen from 112 Maple St. on December 17, 2012.

On December 11, 2012, your affiant served, via facsimile, a subpoena upon E-Bay. This subpoena requested subscriber information concerning the identity of user "marko 13". In response to this subpoena, E-Bay advised that "marko 13" provided the following information when he registered as an E-Bay user:

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| Name: | Roger Marks |
| Address: | 256 Railroad Ave. |
| | Smallville, PA |
| Credit Card: | 5555 4444 3455 9999 |
| Email address: | marko13@aol.com |

E-Bay also advised that they maintain a listing of items sold by vendors on E-Bay and would make that available upon receiving a subpoena or search warrant.

On December 11, 2012, your affiant served, via facsimile, a subpoena upon America Online for subscriber information concerning marko13@aol.com. The information provided was identical with that provided by E-Bay. AOL also provided information concerning the way in which "marko13" was connecting to AOL. All of "marko 13"'s connections were through a single internet protocol (IP address) connection with the address of: 164.201.1.169. This number represents fixed address, similar to that of a street address. This number is assigned to Verizon DSL, Inc.

On January 19, 2012 your affiant served E-Bay with an additional subpoena requesting a listing of property sold and/or listed by "marko 13". A review, by you affiant of the items sold or listed by "marko 13" include items which match all but one of the burglaries listed above and additional computers, digital cameras and personal organizers for which the Smallville Police do not have reports.

On January 19, 2013 your affiant served Verizon DSL with a subpoena concerning the subscriber whose IP address is 164.201.1.169. Verizon advised that that IP address has been assigned to Roger Marks, 256 Railroad Ave., Smallville, PA since June 30, 2012.

On January 18, 2013, your affiant checked the Pennsylvania Department of motor vehicles and verified that Roger Marks, a white, male, DOB XXXX resides at 256 Railroad Ave., Smallville. A further check of utilities confirmed this information.

Conclusion

Based on the forgoing, your affiant believes that: an individual, whose online identity is “marko 13”, is selling items of stolen property in violation of Pennsylvania law, that the identity of “marko 13” is Roger Marks, who has utilized a computer to facilitate the sale of said stolen property, from his home at 256 Railroad Ave., Smallville, PA, and that there is therefore probable cause to search for computers located at 256 Railroad Ave., Smallville, PA.

(Exercise borrowed from Mark Pollett, retired FBI agent.)

**Assignment # 9:** Your Assignment is to provide information that would be used in a search warrant to describe the location of the premises to be seized.

**Assignment # 10:** Your assignment is to provide a detailed list of the property to be seized.