**UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**

**Federal Sentencing – January 2020 – Tentative Syllabus – Final Syllabus will be post on TWEN by Dec. 31st, 2019.**

Professor: Hon. Mark W. Bennett, retired U.S. District Judge, N.D. of Iowa and Director, Drake University Law School Institute for Justice Reform & Innovation

Office Location: Will be announced on the first day of class.

Cell # 515-414-1186

Email: mark.bennett@drake.edu

Office hours: Monday Jan. 6th - Friday. Jan. 10th from 8:00-8:45 and by appointment.

**MEETING TIME AND LOCATION**

Monday – Thursday 9:00 am – noon and Friday 9:00 am – 11:00 am in Holland Hall 359.

**REQUIRED TEXTS**

2018 United States Sentencing Commission Guideline Manual which may be found free at <https://guidelines.ussc.gov/home> - only selected parts of it will be used and are identified in this Syllabus.

**COURSE OBJECTIVES**

This course will provide students with an introduction to federal sentencing law including major U.S. Supreme Court, Circuit, and District court opinions; the U. S. Sentencing Guideline Manual; U.S. Probation Office Presentence Reports and significant law review articles. The course will examine the role of federal judges, Assistant U.S. Attorneys, defense counsel and U.S. Probation Officers in federal sentencing. The course will include major concepts in federal sentencing including: computing an accurate U.S. Sentencing Guideline Range, upward and downward departures, variances from Guideline Ranges and judicial policy disagreements with the Guidelines.

**LEARNING OUTCOMES**

After completing this course, students should be able to:

* Understand major policy issues in the evolution of federal sentencing
* Correctly identify and analyze many current and significant legal issues that arise in federal sentencing
* Correctly compute an offender’s guideline sentencing range by applying the Federal Sentencing Guideline Manual
* Understand the differences between departures and variances
* Understand the role of Federal prosecutors, defense lawyers, U.S. Probation Officers and judges in federal sentencing

**TWEN – IMPORTANT NOTICE ABOUT ASSIGNMENTS AND COURSE MATERIALS**

**Please register as a participant in the course on The West Education Network (TWEN). The course is listed as Federal Sentencing under my name.**

I will use TWEN to post all reading assignments that you need to download. The only exception are the portions of the United States Sentencing Commission Guideline Manual which are cited to in the Syllabus and available free online. I encourage you to download them as well because we will be discussing them in class. Be sure to read the **Commentary** and **Application Notes**, if any in addition to the Guideline, because they explains how the Guideline applies. I have provided the complete cases on TWEN but to save time and cover more ground, you need only read the non-highlighted portion of the cases that have highlighting. Some of the Supreme Court cases have yellow highlighting and that portion of the case **is not** required reading. For some odd reason the yellow highlighting only shows up if the cases are actually downloaded. Of course, you will obtain a better grasp of federal sentencing if you read the entire case.

**CLASS PARTICIPATION**

Twenty-five percent (25%) of your final grade will be based on your class participation. Each day I expect that you will have read the assigned materials and that you will be prepared to discuss those materials.

**OFFICE HOURS & CONTACTING ME**

My office hours are 8:00 to 8:45 am Monday – Friday and most afternoons during the first 4 days of the class. You may also schedule an appointment to meet with me at another time that is convenient to you. If you want to plan ahead, you may make an appointment during my office hours and therefore have priority over those who drop in. My email address is [mark.bennett@drake.edu](mailto:mark.bennett@drake.edu) and my cell phone # is 515-414-1186. Do not hesitate to contact me.

**COMMON COURTESY**

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. I reserve the right to deduct points from your final grade if you engage in behavior that disrupts the learning environment for your classmates.

**CLASS ATTENDANCE POLICY**

Attendance in class is required by both the ABA and the Law School. I will pass around an attendance sheet at the beginning of each class period. Because there are only five classes any missed class will result in a one grade lowering per miss. If you have a medical reason for missing class, you should contact me before or soon after class for your absence to be excused. Students who miss class for religious holidays must contact me beforehand by email to be excused from class. I will consider it a violation of the honor code if you have someone else sign you in and you are not present, and I reserve the right to lower your final grade.

**EVALUATION**

75% of your grade will be based on a final examination administered on Thursday, January 24th, a series of short essay questions. The other 25% will be based on class participation. During the exam you may use any notes or outlines that you have prepared or helped prepare, any of the materials posted on the TWEN page and anything else you can find online including Westlaw and Lexis or any other source. It is completely open materials.

**INFORMATION ON UF LAW GRADING POLICIES**

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website, and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

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| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

**ACADEMIC HONESTY**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**POLICY RELATED TO MAKE-UP EXAMS**

The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form>

**STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES**

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

**ONLINE COURSE EVALUATION PROCESS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**COURSE WORKLOAD AND CLASS PREPARATION**

Students should expect to spend at least two hours outside of class reading and preparing for every hour of class.

**TOPICAL OUTLINE OF SUBJECTS TO BE COVERED (TENATIVE) – Additional reading materials will be added to the TWEN page**

**Please register as a participant in the course on The West Education Network (TWEN). The course is listed as Federal Sentencing under my name. I realize there is a lot of material for the first two days but we have a very short time for me to help impart four decades of federal sentencing experience as a lawyer and federal judge. I assure you the considerable effort will be well worth it and will prepare you for both federal defense and prosecution as it relates to sentencing.**

**Monday, Jan. 6– Overview & Introduction to Federal Sentencing**

**Articles**: Mark W. Bennett, *Addicted to Incarceration: A Federal Judge Reveals Shocking Truths About Federal Sentencing,* 87 U.M.K.C. L. Rev. 3 (2018).

Mark W. Bennett, *Hard Time: Reflections on Visiting Federal Inmates*, 94 Judicature 304 (2011).

**Cases**: Mistretta, Booker, Gall, & Rita

**United States Sentencing Guidelines** (U.S.S.G.) found in the Guideline Manual: 1B1.1; 1B1.3; 1B1.4; 1B1.11, 3B1.1; 3B1.2; 3B1.3; 3B1.4; 3C1.1; 4A1.1; 4A1.2; 4A1.3 Chapter 5 Sentencing Table

**Tuesday, Jan 7 – The Role of Presentence Reports, Mass Incarceration, Drugs & Improving Federal Sentencing**

**Articles:** Shon Hopwood, *Improving Federal Sentencing*, 87 U.M.K.C. L. Rev. 79 (2018).

Nancy Gertner, *Against These Guidelines*, 87 U.M.K.C. L. Rev. 49 (2018).

**Presentence Report: Nawanna**

**Cases**: Kimbrough, Spears (all of the Spears cases) Williams, Hayes, Young, & Nawanna

**U.S.S.G.’s**: 2D1.1; 2D1.2; 2D1.10

**Wednesday, Jan. 8 – White Collar Offenses; Firearms**

**Article**:

Mark W. Bennett, Justin D. Levinson & Koichi Hioki, *Judging Federal White-Collar Fraud Sentencing: An Empirical Study Revealing the Need for Further Reform*, 102 Iowa L. Rev. 939 (2017).

**Cases: To be assigned will be on TWEN**

**U.S.S.G.’s:**  2B1.1 (Fraud); 2K2.1(Firearms)

**Statute:** 18 U.S.C. §922(g)

**Thursday, Jan. 9** – **Catch-Up Day &** **Child Pornography** & **Career Offender**

**Article:** Melissa Hamilton, *Sentencing Adjudication: Lessons from Child Pornography Policy Nullification*, 30 Ga. St. U.L. Rev. 375 (2014)

**Cases**: Beiermann (Child porn); Newhouse (Career Offender)

**Guidelines: 2G2.1; 2G1.2; 4B1.1**

**Friday, Jan. 9 – Panel discussion with Assistant Federal Defender, Assistant U.S. Attorney, and U.S. Probation Officer, from the Northern District of Florida**

**Articles:**

Mark Osler & Mark W. Bennett, *A “Holocaust in Slow Motion?”*: *America’s Mass Incarceration and the Role of Discretion*, 7 DePaul J. Soc. Justice 117 (2014).

Mark W, Bennett, *Slow Motion Lynching? The War on Drugs and Mass Incarceration: Reflections on Doing Kimbrough Justice and a Response to Two Third Circuit Judges*, 66 Rutgers L. Rev. 873 (2014).

Stefan R. Underhill, *Everyday Sentencing Reform*,87 U.M.K.C. L. Rev. 159 (2018).