

CIVIL RIGHTS PROSECUTIONS (SPRING 2022)
PROFS. WAGSTAFF, TREPEL, MILLER

SYLLABUS

Description: This class will first cover a general history and background of civil rights prosecutions, which will include Reconstruction-era Klan violence, the history of peonage statutes and prosecutions, combatting lynching in the Jim Crow South, and cases from the Civil Rights era. After covering these historical perspectives, we will move into an in-depth analysis of three areas of modern civil rights prosecutions—(1) hate crimes; (2) human trafficking; and (3) color of law violations.

Disclaimer and Trigger Warning: Civil rights prosecutions are a serious and sensitive topic, where offensive, hateful, and violent conduct and speech will be covered and discussed extensively. The topics we will cover involve issues and incidents of sexual violence, racial violence, and violence at the hands of government officers and officials. In discussing these legal issues and the relevant cases, we will frequently encounter vulgar, traumatizing, and offensive language, descriptions of violent conduct, and graphic videos depicting violence. Students must determine before attending the first session whether they will be able to both read and listen to this material and discuss these sensitive and often triggering topics in an academic setting and that they can do so with the utmost respect and sensitivity.

Class Schedule & Location: Class meets Tuesdays and Thursdays from 6:05 PM to 7:30 PM. Classroom location TBD.

Course Materials & Reading Assignments: There is no textbook for this class. All readings will be made available on TWEN or can be accessed through Westlaw/Lexis.

Grading: Your grade will be based on one take-home exam at the end of the semester and class participation. You will have 24 hours to complete the exam once it is “checked out,” and the exam will be essay format and short answer and will have a page limit. While your final grade will be based on your exam performance, we can also raise or lower your final grade one step based on the quality of class participation.

Attendance & Class Participation: Attendance will be taken at every class. If you know that you will be late to a class, or have to leave early, please let us know via email as soon as you reasonably can. Students are expected to be prepared for class. While we will take volunteers for class discussion, we also reserve the right to call on students. Students are expected to only use their computers or tablets for taking notes.

Office Hours: We do not hold regular office hours, but are available by appointment. We answer all emails within 24 hours. Email is the preferred method of communication outside the classroom, but we are available to speak to students via Zoom or telephone upon request. When sending an email, please include all three professors on the email. Our preferred email addresses: brandy.wagstaff@gmail.com; strepel@gmail.com; angiemac.va@gmail.com.

Learning Outcomes: By the end of the course students should:

- Be able to identify the constitutional and/or statutory authority for hate crimes, human trafficking, and color of law legislation.
- Be able to identify the elements and applicability of hate crimes, human trafficking, and color of law statutes.

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- Be able to identify the reach and limitations of current hate crimes, human trafficking, and color of law statutes.
- Be able to identify when sentencing enhancements and related statutes may apply to a particular hate crimes, human trafficking, and color of law violation.

Academic Policies & Honor Code: Unless students have been otherwise specifically informed in class, this course follows the standard policies adopted by the Law School, as they are amended from time to time. You can find more information about those policies here:

- <http://www.law.gmu.edu/academics/regulations>
- http://www.law.gmu.edu/academics/honor_code

Schedule: The following assignments may change as the semester progresses. We will notify you of any changes in advance. Be sure to refer to the selected statutes as applicable for each assignment.

Week	Date	Topic	Assignment
1	Tues. 1/18	History of Civil Rights Prosecutions: Pt. 1	Complete Discussion Board Introduction Post Before Jan. 18.
	Thurs. 1/20	History of Civil Rights Prosecutions: Pt. 2	
2	Tues. 1/25	Hate Crimes: Introduction	Statement by Attorney General Loretta E. Lynch on the Sentencing of Dylann Roof, Office of Pub. Affairs, U.S. Dep't of Justice (Jan. 10, 2017); <i>Virginia v. Black</i> , 538 U.S. 343 (2003); <i>Burrage v. United States</i> , 571 U.S. 204 (2014); <i>United States v. Miller</i> , 767 F.3d 585 (6th Cir. 2014)
	Thurs. 1/27	Hate Crimes: Constitutional/statutory authority for hate crime legislation	U.S. Const. amend. XIII (13th Amendment); U.S. Const. Art. I, § 8, Cl. 3 (Interstate Commerce Clause); <i>Jones v. Alfred H. Meyer</i> , 392 U.S. 402 (1968); <i>Heart of Atlanta Motel v. United States</i> , 379 U.S. 241 (1964); 18 U.S.C. § 7; Indictment, <i>United States v. Mangampat</i> , 3:19-cr-68 (D.V.I.)
3	Tues. 2/1	Hate Crimes: The first federal hate crime statutes of the modern era	42 U.S.C. § 3631; 18 U.S.C. § 245; <i>United States v. Dunnaway</i> , 88 F.3d 617 (8th Cir. 1996); <i>United States v. McInnis</i> , 976 F.2d 1226 (9th Cir. 1992); <i>United States v. Nelson</i> , 277 F.3d 164 (2d Cir. 2002)

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	Thurs. 2/3	Hate Crimes: The Church Arson Statute	18 U.S.C. § 247; <i>United States v. Ballinger</i> , 395 F.3d 1218 (11th Cir. 2005) (en banc); <i>United States v. Roof</i> , 10 F.4th 314, 380-387 (4th Cir. 2021)
4	Tues. 2/8	Hate Crimes: The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act	18 U.S.C. § 249; 24 U.S.C. § 30501; <i>United States v. Hatch</i> , 722 F.3d 1193 (10th Cir. 2013); <i>United States v. Metcalf</i> , 881 F.3d 641 (8th Cir. 2018); Indictment, <i>United States v. Roof</i> , 2:15-cr-472 (D.S.C.); Indictment, <i>United States v. Fields</i> , 3:18-cr-11 (W.D. Va.)
	Thurs. 2/10	Hate Crimes: Shepard-Byrd (cont'd)	<i>United States v. Jenkins</i> , 909 F. Supp. 2d 758 (E.D. Ky. 2012); <i>United States v. Hill</i> , 927 F.3d 188 (4th Cir. 2019)
5	Tues. 2/15	Hate Crimes: Hate crime conspiracies and sentencing enhancements	18 U.S.C. § 241; <i>United States v. Epley</i> , 52 F.3d 571 (6th Cir. 1995); <i>United States v. DiNome</i> , 954 F.2d 839 (2d Cir. 1992); <i>United States v. McDermott</i> , 29 F.3d 404 (8th Cir. 1994); United States Sentencing Guidelines § 3A1.1; <i>United States v. Horsting</i> , 204 F. App'x 441 (5th Cir. 2006)
	Thurs. 2/17	Hate Crimes: Non-hate crime statutes; Hate crime statutes review	18 U.S.C. §§ 844(i); 18 U.S.C. §§ 875(c) & 876; 18 U.S.C. § 113; and 18 U.S.C. § 1111(b)
6	Tues. 2/22	Human Trafficking: Introduction & Fundamentals	18 U.S.C. §§ 1589-1594; USA Human Trafficking Bulletin—Human Trafficking: Fundamentals & The Survivor-Centered, Trauma-Informed Approach (pp. 3-15 & 39-43); John Cotton Richmond, Human Trafficking: Understanding the Law and Deconstructing Myths, 60 St. Louis U. L.J. 1, 41 (2015); <i>United States v. Kozminski</i> , 487 U.S. 931 (1988)
	Thurs. 2/24	Human Trafficking: Coercion	<i>United States v. Dann</i> , 652 F.3d 1160 (9th Cir. 2011); <i>United States v. Purcell</i> , 967 F.3d 159 (2d Cir. 2020) (Background & Part II.C of Discussion); <i>United States v. Mack</i> , 808 F.3d 1074 (6th Cir. 2015)

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7	Tues. 3/1	Human Trafficking: Sex Trafficking	<i>United States v. Jungers</i> , 702 F.3d 1066 (2013); <i>United States v. Bazar</i> , 747 F. App'x 454 (9th Cir. 2018); <i>United States v. Evans</i> , 476 F.3d 1176 (11th Cir. 2007)
	Thurs. 3/3	Human Trafficking: Sex Trafficking (cont'd)	<i>United States v. Flanders</i> , 752 F.3d 1317 (11th Cir. 2014); <i>United States v. Whyte</i> , 928 F.3d 1317 (11th Cir. 2019); <i>United States v. Wearing</i> , 865 F.3d 553 (7th Cir. 2017); USA Human Trafficking Bulletin—Federal Rule of Evidence 412: Admissibility of Prior and Subsequent Prostitution Evidence in Sex Trafficking Prosecutions (pp. 67-78)
8	Tues. 3/8	Human Trafficking: Forced Labor	<i>United States v. Kaufman</i> , 546 F.3d 1242 (10th Cir. 2008); <i>United States v. Calimlim</i> , 538 F.3d 706 (7th Cir. 2008); <i>United States v. Callahan</i> , 801 F.3d 606 (6th Cir. 2015)
	Thurs. 3/10	Human Trafficking: Forced Labor (cont'd)	<i>United States v. Farrell</i> , 563 F.3d 364 (8th Cir. 2009); <i>Bistline v. Parker</i> , 918 F.3d 849 (10th Cir. 2019); <i>United States v. Toviave</i> , 761 F.3d 623 (2014); <i>United States v. Toure</i> , 965 F.3d 393 (5th Cir. 2020)
9	Tues. 3/22	Human Trafficking: Sentencing Issues	United States Sentencing Guidelines §§ 2G1.1, 2G1.3, 2H4.1, 3A1.1; USA Human Trafficking Bulletin—Understanding and Applying the Sentencing Guidelines for Trafficking and Related Convictions (pp. 105-114); <i>United States v. Carter</i> , 960 F.3d 1007 (8th Cir. 2020); <i>United States v. Royal</i> , 442 F. App'x 794 (4th Cir. 2011)
	Thurs. 3/24	Human Trafficking: Restitution; Review	USA Human Trafficking Bulletin—Mandatory Restitution: Complying with the Trafficking Victims Protection Act (pp. 105-114); <i>United States v. Anthony</i> , 942 F.3d 955 (10th Cir. 2019); <i>United States v. Edwards</i> , 995 F.3d 342 (4th Cir. 2021).

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10	Tues. 3/29	Color of Law: Introduction	18 U.S.C. §§ 241 & 242 <i>Screws v. United States</i> , 325 U.S. 91 (1945); <i>Griffin v. Maryland</i> , 378 U.S. 130 (1964); <i>United States v. Price</i> , 383 U.S. 787 (1966)
	Thurs. 3/31	Color of Law: Fourth Amendment	<i>Graham v. Connor</i> , 490 U.S. 386 (1989); <i>Tennessee v. Garner</i> , 471 U.S. 1 (1985); <i>DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.</i> , 489 U.S. 189 (1989); Indictment, <i>United States v. Slager</i> , No. 2:16-cr-378 (D.S.C.); Indictment, <i>United States v. Huntley</i> , 3:18-cr-08-WKW (M.D. Ala.)
11	Tues. 4/5	Color of Law: Fourth Amendment	<i>Soldal v. Cook Cnty.</i> , 506 U.S. 56 (1992); <i>Fontana v. Haskin</i> , 262 F.3d 871 (9th Cir. 2001); <i>Olsen v. Layton Hills Mall</i> , 312 F.3d 1304 (10th Cir. 2002); Indictment, <i>United States v. Kostopoulos</i> , No. 15-20459 (S.D. Fla.)
	Thurs. 4/7	Color of Law: Eighth Amendment	<i>Hudson v. McMillian</i> , 503 U.S. 1 (1992); <i>Farmer v. Brennan</i> , 511 U.S. 825 (1994); <i>Hope v. Pelzer</i> , 536 U.S. 730 (2002); Indictment, <i>United States v. Reynolds</i> , No. 1:18-cr-20953 (S.D. Fla.)
12	Tues. 4/12	Color of Law: Fourteenth Amendment	<i>Kingsley v. Hendrickson</i> , 576 U.S. 389 (2015); <i>Bell v. Wolfish</i> , 441 U.S. 520 (1979); <i>Alexander v. DeAngelo</i> , 329 F.3d 912 (7th Cir. 2003); Indictment, <i>United States v. Yates</i> , No. 5:20-cr-00075 (S.D.W.V.)
	Thurs. 4/14	Color of Law: First Amendment; Special Topics	<i>Houston v. Hill</i> , 482 U.S. 451 (1987); <i>Glik v. Cunniffe</i> , 655 F.3d 78 (1st Cir. 2011); <i>Garrity v. New Jersey</i> , 385 U.S. 493 (1967); <i>United States v. Mohr</i> , 318 F.3d 613 (4th Cir. 2003); <i>United States v. Cobb</i> , 905 F.2d 784 (4th Cir. 1990); Fed. R. Evid. 404
13	Tues. 4/19	Color of Law: Non-Color of Law Statutes; Sentencing Issues	18 U.S.C. §§ 1519, 1512, 1001; <i>Fowler v. United States</i> , 563 U.S. 668 (2011); United

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Week	Date	Topic	Assignment
	Thurs. 4/21	Color of Law: Civil Law Analogues and Issues; Review	States Sentencing Guidelines §§ 2H1.1, 2A2.2, 3A1.3, 3B1.1, 3B1.2 & 3C1.1 and application notes 42 U.S.C. § 14141; Find a news article representing a potential § 242 violation and be prepared to discuss *Take Home Exam: Due Tuesday, May 10, by 10:00 PM