ADVANCED CRIMINAL PROCEDURE

SECTION 1

FALL 2020

PROFESSOR

DANNYE HOLLEY
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THE PROFESSOR

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LOCATION: 221H

OFFICE HOURS: Monday, Wednesday, Friday
3-4:30 p.m.
(All other times by appointment only)

CURRICULUM VITAE: Click Here
COURSE BOOKS & MATERIAL


2. Texas Code of Criminal Procedure (West 2020)

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

1. This Advanced Criminal Law/Criminal Procedure Course is about enhancing basic lawyering skills of persons preparing to practice law generally, but most particularly it is detailed guidance on entry level practice of criminal law.

   The skills most emphasized are CURRENCY, DEPTH, & INTEGRATION OF CRIMINAL SUBSTANTIVE, PROCEDURAL, AND EVIDENCE RULES, AND POLICIES.
   This is a survey course. It covers fifteen major topics.
   It takes a macro look at these subjects via the course book.
   It takes two brief micro looks at many of these subjects via the current federal and Texas rules on the topic.

   Conceptual organization and mastery of these topics is the first goal students should achieve in this course. Classes will focus on this organization and synthesis process. Attendance is taken and a grade reduction may result if you exceed the maximum number of absences. More importantly, substantial credit can be earned by class participation.

   The course will provide you with the opportunity to refine the skills and knowledge you need to pass the multi-state bar examination section on criminal law and procedure, and will facilitate your passing the portion of the Texas and other state Bar admission standards devoted to criminal procedure and evidence. The course will also provide you with the opportunity to acquire many of the foundation skills and knowledge required to competently practice criminal law.
COURSE COMPETENCIES – A NARRATIVE

Criminal Procedure is the study of the law at work - how criminal cases are actually processed in the State and Federal Criminal Justice Systems. In this class, the primary focus of our study will be on how the criminal justice process operates under the national constitution, and in the Texas State and Federal Courts. When the information is provided by the casebook, you should also note the approach to a specific criminal process issue taken by most states.

Our goal is for each of you to learn the major steps in the processing of a criminal case. In both the state and the federal criminal justice systems, the courts and the legislatures must abide by the rules and protections provided by the United States Constitution as interpreted by the United States Supreme Court. Your first criminal procedure course should have provided you with insight with regard to the national constitution's fourth, fifth, and sixth amendment protections. We will not comprehensively retrace that ground. You should learn for each key step in the processing of a criminal case, whether there is a national constitution provision that specifically regulates that step, the nature of that regulation, and the key United States Supreme Court cases providing that regulation.

Second, you should learn how to lawyer with the fact that each state, including Texas, has its own constitution, and that a state constitution may provide protection to citizens being processed in the criminal justice system beyond that provided by the United States Constitution. Therefore, your key lawyering skill to be mastered at this stage is to determine and use for each topic studied whether a state constitutional provision provides greater protection to criminal defendants than that provided by the federal constitution.

Next for each key step in the processing of criminal cases in Texas and the Federal System, your inquiry should focus upon the statutory regulation of this step. We will focus our attention on the regulation of each key step in the criminal process by the Texas Code of Criminal Procedure, and the Federal Rules of Criminal Procedure.

Next for each key step in the processing of a criminal case in Texas and the Federal System, your inquiry should focus upon the common law and statutory interpretation appellate case law. Of greatest significance in Texas are the opinions of the Texas Court of Criminal Appeals. Finally, any relevant professional standards regulating the key step under study should be reviewed.
GRADING

1. Class participation constitutes twenty percent of the grade in the course. An element of that participation will be presentations of key sequential points in the topics under discussion. A second element of that participation are bar exam exercises; many of which will reflect lawyer skills and issues tested on the Texas and other state bar examinations.

2. Thirty percent of the grade will be based on a take-home mid-term exam.

3. Fifty percent of the grade will be based upon your performance on a final examination.
ACCOMMODATIONS

PLEASE REFER TO THE STUDENT ACCOMMODATIONS HANDBOOK FOR SPECIFIC PROCEDURES.
1. Students are expected to continuously self-screen for the symptoms of COVID-19. The Center for Disease Control has a list of COVID-19 symptoms: https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html. If you begin to show symptoms, notify your professor and leave the classroom. Limit contact with other individuals on campus and contact your healthcare provider for further guidance.

2. If, before coming to campus, a student starts exhibiting any symptoms of COVID-19 or does not feel well, the student should not attend class in person. The student should immediately notify the Assistant Dean for Student Development (virgie.mouton@tmslaw.tsu.edu) and attend classes online.

3. Students who have been sick with COVID-19 symptoms, tested positive for COVID-19, or have been potentially exposed to someone with COVID-19 should attend classes online until they are cleared by their healthcare provider. The following is taken from the TSU & Coronavirus FAQs, http://www.tsu.edu/about/administration/marketing-and-communications/coronavirus/faqs.html:

Those who have recently traveled internationally or believe they have been exposed to the virus and are experiencing influenza-like illness, with fever greater than 100.3, and symptoms, including cough, body aches, severe sore throat or runny nose, should seek medical attention, especially if symptoms worsen.

**Students should contact TSU Health Services (713-313-7173) and identify themselves as having flu-like symptoms to obtain further recommendations and guidance.** Students should also consult with their regular health care provider or seek treatment at a local health center if they are overseas. Please call ahead to your health care provider to notify them of the reason for your visit.

For additional information about COVID-19, including signs and symptoms, transmission and risk of exposure, and what to do if you are exhibiting symptoms, please refer to the resources section. The CDC’s website and Texas Department of State Health Services (DSHS) will also issue guidance for those planning to travel or who have recently returned.
4. While on campus and in classrooms, students should observe the rules for social distancing, social health etiquette, and general cleanliness.
   a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
   b. Students should maintain at least 6 feet separation in all directions from other individuals.
   c. Face coverings (over the nose and mouth) are required for all students. Students without a face covering will not be allowed to enter the classroom. Students with an approved exemption and who notify their professor before the start of class may be allowed to wear a face shield instead of a face mask.
   d. Students should wash or disinfect their hands before each class and after any physical interaction with other persons in the classroom.
   e. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
   f. Students should not expect to enter the Law Building on a day other than the designated day for in-person attendance for an enrolled course. Entry will be permitted only if administration can determine that the maximum occupancy for COVID-19 social distance protocol has not been exceeded.
   g. Students who do not comply with the rules for social distancing, social health etiquette, and general cleanliness may be subject to discipline up to expulsion from law school.

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ATTENDANCE POLICY

5. Students are required to attend classes consistent with the format of the enrolled course.
   a. Hybrid – instruction for courses in this format is delivered in person and simultaneously online. Enrolled students are divided into groups and required to attend weekly in-person classes on the weekday(s) predetermined by administration for the designated group. Students may only attend in-person classes on the administration-determined day to ensure that all enrolled students are guaranteed a physical seat for the class. Other class days for the week are to be attended online. Students who have COVID-related health and safety concerns in attending in-person classes must obtain a remote-instruction waiver from the Office of Student Affairs. The waiver can be requested for the entire semester or temporary, based upon the personal circumstance of the affected student.
   b. Online – instruction for courses in this format is delivered 100% online.
   c. For the 100% online course and the hybrid course online instruction component, both the American Bar Association and the Law School rules obligate the professor to
obtain assurance that the person who logs into the course online, participates in class, takes quizzes and exams, and engages in collaborative exercises, is the student enrolled in the course. Without being limited to the following methods of attendance verification, professors may require attendance to be contingent upon confirmation of identity via webcam or require webcams to remain on for the entire class period.
PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Class Attendance:

The class sessions will be held at the time(10:10-11:40 M.& W.) identified in the law school course schedule. The class will be conducted on blackboard. The content for the class discussions will be provided prior to class on TWEN.

Class Preparation:

Class Participation:
POLICIES & PROCEDURES

Student Rules:

It is the responsibility of each student to know the rules and regulations of Thurgood Marshall School of Law. You can access the Rules and Regulations Handbook on TMSL’s website, www.tsulaw.edu, and clicking on the “Students” tab, then “Student Affairs,” “Student Rules and Regulations,” and finally “Student Rules and Regulations 2018-2019.”

Computers and Cell Phones:

The use of laptops, tablets, cell phones, or any other internet access/electronic device during a class session is strictly prohibited. Any student violating this policy will receive a letter grade reduction.
THURGOOD MARSHALL SCHOOL OF LAW
TEXAS SOUTHERN UNIVERSITY
ACADEMIC CALENDAR 2020 – 2021

FALL SEMESTER 2020 (Modified 13-Week Schedule)
Orientation                           Mon-Fri        August 3 – 7, 2020
First Day of Class                 Monday         August 10, 2020
Last Day to ADD/DROP               Wednesday      August 12, 2020
Labor Day (NO CLASSES)             Monday         September 7, 2020
Purge of all unpaid course selections Monday         September 14, 2020
Mid Term Examinations              Mon – Fri          October 5-9, 2020
Last Day to Drop a Class with grade of “W”     Friday          October 30, 2020
Last Day of Classes                 Wednesday      November 4, 2020
First Year Professors’ Grades due       Wednesday      November 4, 2020
Reading Period (NO CLASS)           Thurs- Sun       November 5-8, 2020
Final Examinations                  Mon – Thu          Nov 9 – 19, 2020
Commencement Exercises             Saturday        November 21, 2020

SPRING SEMESTER 2021
**TBA**
READING ASSIGNMENTS

Chapter 1 overview – Please review prior to class day 1.

1. Assistance of Counsel/Effective Assistance of Counsel
   a. c.b.: Chapters 4 & 5 + supp.
   b. class days 2-3; August W. 12, & M. 17 2020
   d. Federal Rules of Criminal Procedure: Rule 44

2. Pretrial Detention and Bail
   a. c.b.: Chapter 13 – Pre-trial Release + supp.
   b. Class days 4-5 --- W. August 19 & M. 24 2020
   c. Texas Constitution Re Pre-Trial Right to Bail
      Texas Code of Criminal Procedure: Arts. 11.08-11.13, Ch. 17, Art. 22.01, & Art. 44.04
   d. Federal Bail Reform Act of 1984

3. The Decision to Prosecute
   a. c.b.: Chapter 14 + supp.; 899-945 + supp.
   b. Class day 6 --- W. August 26, 2020

4. Charging Instruments --- Indictments/Informations & Complaints
   a. c.b. Chapter 17 + supp.; 983-1015
   b. Class days 7-8 – M. August 31 & W. September 2, 2020
   c. Texas Code of Criminal Procedure: Ch. 21 & Arts. 27.03, 27.08, 28.07-28.11

5. The Grand Jury
   a. c.b.: Chapter 16 + supp.; 945-982
   b. Class days 9 – W. September 9, 2020
   c. Texas Code of Criminal Procedure: Chapters. 19-20

6. The Preliminary Hearing
   a. c.b.: Chapter 15 + supp.; 917-946
   b. Class day 10 – M. September 14, 2020
   c. Texas Code of Criminal Procedure: Ch. 16
   d. Federal Rules of Criminal Procedure: Rule 5.1

7. Joinder and Severance re Charges and Defendants
   a. c.b.: Chapter 19 + supp.; 1030-1070
   b. Class day 11 - W. September 16, 2020
   c. Texas Penal Code: Ch. 3
   d. Federal Rules of Criminal Procedure: Rule 8
8. Speedy Trial Right
   a. c.b.: Chapter 20 + supp.; 1071-1089
   b. class day 12 – M. September 21, 2020
   c. Texas Code of Criminal Procedure: Chp. 12 & 32 A
   d. Federal Speedy Trial Act

9. Discovery and Disclosure
   a. c.b.: Chapter 21 + supp.
   b. class days 13 - W., September 23, 2020
   c. Texas Code of Criminal Procedure: Ch. 39, focus on 39.14

TAKE HOME EXAM - Weekend of Friday, September 25, 2020

Remaining Topics

10. Guilty Pleas and Plea Bargaining

11. The Impartial Tribunal: Impartial Judge and Jury

12. Double Jeopardy

13. The Trial

14. Sentencing

15. Appeal and Collateral Attack