

# **ADVANCED CRIMINAL PROCEDURE**

SECTION 1

FALL 2021

**PROFESSOR**

**DANNYE HOLLEY**

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## THE PROFESSOR

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**LOCATION:** 236F

**OFFICE HOURS:** Monday, Wednesday, Friday  
2:30-4:00 p.m.  
(All other times by appointment only)

**CURRICULUM VITAE:** [Click Here](#)

## **COURSE BOOKS & MATERIAL**

1. CASEBOOK: Kamisar & LaFave, Et. Al.: Advanced Criminal Procedure, 15<sup>TH</sup> Edition 2018(West, soft cover) & 2020 supp.
2. Texas Code of Criminal Procedure (West 2021)
3. Federal Rules of Criminal Procedure (2021)(in casebook supp.)

## **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.

# STUDENT LEARNING OUTCOMES

## 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, state and federal statutes, and 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, the 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 identified and 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 tested on the Uniform(and Texas) 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.**





# THURGOOD MARSHALL SCHOOL OF LAW

## COVID-19 INFORMATION SHEET

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### HEALTH AND SAFETY ON CAMPUS

1. The University does not require COVID-19 vaccination as a condition for attending school. As a protective measure, students are encouraged to get vaccinated. The St. Luke's vaccination clinic, located on campus in the Nabrit Science Building, is open and accessible to the entire University community, Monday-Friday, 9 a.m. – 7 p.m. There is no cost for the vaccination.
2. Students are expected to continuously self-screen for the symptoms of COVID-19. If you have symptoms and are not fully vaccinated, you should call the Student Health Center at (713) 313-7173. Please remember to exercise caution and be courteous of your fellow students.
3. Students who experience a medical emergency on campus should call (713) 313-7000. If off campus, call 911. Please inform the dispatch operator if you are experiencing shortness of breath, difficulty breathing, coughing, or have a fever.
4. Students who are unable to attend classes for health reasons, including those relating to COVID-19, should immediately contact the Associate Dean of Student Services, Amy Ratra (miami.ratra@tsu.edu ), for further guidance.
5. Students who contract the COVID-19 virus must report the information to the Associate Dean of Student Services, Amy Ratra, and the Student Accessibility Services Office (SASO), by phone at 713-313-4210 or by email at disabilityservices@tsu.edu.
6. Students who contract the COVID-19 virus will be required to quarantine under the advice of Student Accessibility Services Office (SASO). Such students are required to submit Release of Care documentation from a licensed health care professional to SASO and notify the Associate Dean of Student Services, Amy Ratra, before they return to the law school.
7. While on campus and in classrooms, students are encouraged to conduct themselves in a manner conducive to the health and safety of the entire TSU community.
  - a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
  - b. Face coverings (over the nose and mouth) are not required as per the guidelines from the State of Texas. However, students are strongly encouraged to wear face coverings (over the nose and mouth) while in the law school building.

- c. Students should wash or disinfect their hands before each class and after physical interaction with other persons in the classroom.
  - d. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
  - e. Students who do not conduct themselves on campus in a manner conducive to the health and safety of those with whom they come in contact may be subject to discipline up to expulsion from law school.
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## ATTENDANCE POLICY

8. Law school classes will be fully in-person this fall. The law school attendance policy will be strictly enforced.
  9. Students who contract the COVID-19 virus will be barred from attending in-person classes until submitting Release of Care documentation from a licensed health care professional to Student Accessibility Services Office (SASO). Such students will be required to study and keep up with the prescribed readings.
  10. Students that are excused from in-person class attendance because they contracted the COVID-19 virus should designate a student in each of their classes to make audio recordings of the lectures. Professors are required to allow such recordings to be made. Furthermore, professors are required to meet with such students to answer questions about the materials covered during their COVID-19-related absence.
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## UNIVERSITY RESOURCES

11. COVID-19 TESTING  
Location: H&PE 109  
Hours of Operation: No appointments are necessary. Tuesday – Thursday 8 a.m. – 11:30 p.m.  
Results will be available within 24 hours if the test is taken by 11:30 a.m.
12. The St. Luke's vaccination clinic is open and accessible to all University personnel and community, Monday – Friday, 9 am – 7 pm in the Nabrit Science Building.
13. STUDENT HEALTH SERVICES
  - a. Student Health Services is open 8:00 a.m. – 5:00 p.m. Monday – Friday by appointment only.

- b. A nurse is available at (713) 313-7173, Monday – Friday, from 8:00 a.m. – 5:00 p.m. to schedule appointments.
- c. Appointments will be scheduled virtually and in-person, as needed.
- d. If you are currently enrolled and need a copy of your immunization record go to <https://tsu.medicatconnect.com>.
- e. If you are off campus but in the local area and need assistance contact the Harris County Health Department COVID-19 hotline: [www.ReadyHarris.org](http://www.ReadyHarris.org). If you don't have the internet, call (832) 927-7575 or Houston Health Department COVID-19 Call Center: (832) -393-4220.

#### 14. UNIVERSITY COUNSELING CENTER

- a. The University Counseling Center (UCC) is providing convenient Telemental Health Services to all students.
- b. Students may call 713-313-7800 to request an appointment. If someone does not answer, please leave your T-Number, name, and a contact number. Students may also complete this form to request an appointment, and someone will contact them during business hours:  
[https://forms.office.com/Pages/ResponsePage.aspx?id=ViJL72KUK0Su4urH7Z-1ZFNJ2YNoWsVPstLk4r8W\\_X1UOUk2SUxMRVoyVEdQTVkzV09YRVBLNU5OTy4u](https://forms.office.com/Pages/ResponsePage.aspx?id=ViJL72KUK0Su4urH7Z-1ZFNJ2YNoWsVPstLk4r8W_X1UOUk2SUxMRVoyVEdQTVkzV09YRVBLNU5OTy4u).
- c. Students may receive a call from a blocked or private number, please answer, as it may be your counselor trying to contact you.
- d. If a student experiences a crisis outside of regular business hours, the student can call 833-848-1765.
- e. Other resources for support outside of the UCC include:
  - i. Crisis text line – Text Steve to 741-741.
  - ii. National Suicide Hotline - 800-273-TALK (8255).

## **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 content for the class discussions will be provided prior to class on TWEN.

### **Class Preparation:**

**Class preparation includes completion of the assigned reading and review of the Class Discussion for that class prior to class. The review will often include answering problems and questions posed among the Points in the Class Discussion.**

### **Class Participation:**

**See the Basis of the Grade for discussion of Class Participation.**

### **Title IX Information**

Texas Southern University is committed towards encouraging and supporting a welcome inclusive university community where all community members enjoy a community free from sex discrimination, harassment and violence. As a result, you should know that university faculty members and staff are required to notify the University Title IX Coordinator of any instances of sex discrimination and harassment, sexual violence, dating violence, domestic violence, or stalking. Sharing this information ensures that those harmed are provided support resources. What this means is that as your professor, I am required to report any incidents that are directly disclosed to me, or of which I am somehow made aware. The University's Counseling Center is available to you if you want to speak with someone confidentially. Please visit the University's Counseling Center's website [www.tsu.edu/ucc](http://www.tsu.edu/ucc) for additional information.

## **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](http://www.tsulaw.edu), and clicking on the **"Students" tab, then "Student Affairs," "Student Rules and Regulations,"** and finally **"Student Rules and Regulations 2021-2022."**

### **Computers and Cell Phones:**

The use of laptops, tablets, cell phones, or any other internet access/electronic device during a class session is prohibited, except when expressly authorized by the professor in conjunction with work on a specific Class Day Discussion. Any student violating this policy will receive a letter grade reduction.



# THURGOOD MARSHALL SCHOOL OF LAW

## TEXAS SOUTHERN UNIVERSITY ACADEMIC CALENDAR 2021 – 2022

### FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)

Orientation	Mon-Fri	August 9 – 13, 2021
<b>First Day of Class</b>	<b>Monday</b>	<b>August 16, 2021</b>
Last Day to ADD/DROP	Wednesday	August 18, 2021
<b>Labor Day (NO CLASSES)</b>	<b>Monday</b>	<b>September 6, 2021</b>
<i>Purge of all unpaid course selections</i>	Monday	September 15, 2021
<b>Mid Term Examinations</b>	<b>Mon – Fri</b>	<b>October 11-15, 2021</b>
Last Day to Drop a Class with grade of “W”	Friday	November 5, 2021
<b>Last Day of Classes</b>	<b>Tuesday</b>	<b>November 23, 2021</b>
First Year Professors’ Grades due	Tuesday	November 23, 2021
Reading Period (NO CLASS)	Wednesday	November 24, 2021
Thanksgiving Holiday	Thurs – Fri	November 25-26, 2021
Reading Period	Sat – Sun	November 27-28, 2021
<b>Final Examinations</b>	<b>Mon – Fri</b>	<b>Nov 29 – Dec. 10, 2021</b>
Commencement Exercises	Saturday	December 11, 2021

## READING ASSIGNMENTS

Chapter 1 overview – Please review prior to class day 1; c.b. pp. 1-18.

1. Assistance of Counsel/Effective Assistance of Counsel
  - a. c.b.: Chapters 4 & 5 + supp., Day 2 – 64-121; Day 3 –122-167; Day 4 – 167-207 & 40-51
  - b. class days 2-4; August W. 18<sup>th</sup>, M. 23<sup>rd</sup>, and W. 25<sup>th</sup> 2021
  - c. Texas Code of Criminal Procedure: Art. 26.01-26.06
  - d. Federal Rules of Criminal Procedure: Rule 44
  
2. Pretrial Detention and Bail
  - a. c.b.: Chapter 13 – Pre-trial Release + supp.; pp. 843-868
  - b. Class days 5-6 --- M. August 30 & W. September 1<sup>st</sup> 2021
  - 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 7 - W. September 8<sup>th</sup> 2021
  
4. Charging Instruments --- Indictments/Informations & Complaints
  - a. c.b. Chapter 17 + supp.; 983-1015
  - b. Class days 8-9 – M. Sept. 13<sup>th</sup> & W. September 15<sup>th</sup> 2021
  - c. Texas Code of Criminal Procedure: Ch. 21 & Arts. 27.03, 27.08, 28.07-28.11
  - d. Federal Rules of Criminal Procedure: Rules 3 & 7.
  
5. The Grand Jury
  - a. c.b.: Chapter 16 + supp.; 945-982
  - b. Class day 10 – M. September 20, 2021
  - c. Texas Code of Criminal Procedure: Chapters. 19-20
  - d. Federal Rules of Criminal Procedure: Rules 6.
  
6. The Preliminary Hearing
  - a. c.b.: Chapter 15 + supp.; 917-946
  - b. Class day 11 – W. September 22, 2021
  - 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 12 - M. September 27, 2021
  - 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 13 – W. September 29, 2021
  - 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 day 13 - M., October 4<sup>th</sup> 2021
  - c. Texas Code of Criminal Procedure: Ch. 39, focus on 39.14
  - d. Federal Rules of Criminal Procedure: Rules 12, 15-16.

**TAKE HOME EXAM - Weekend of Friday, October 8<sup>th</sup> 2021**

**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**