GOVT 357L

The American Legal System: Judicial Process & Behavior Prof. John P. McIver

Spring Semester 2011 Monday/Wednesday/Friday 10:00-11:00 MEZES 1.306

The purpose of this course is to introduce you to the American legal system with a particular emphasis on the role of its key actors. The political nature of many legal disputes will be explored as will the legal aspects of many political disputes. This course will also examine the potential (as well as actual) impact of citizen participation at all levels of the legal system.

BOOKS

* The primary (required) textbook is:

Robert Carp, Ronald Stidham and Kenneth Manning (2007) *Judicial Process in America*. Washington, DC: CQ Press. 7th Edition

* Web-based and supplemental readings - See the "Syllabus" section of these web pages. (Check the syllabus regularly for updates and new supplemental materials)

COURSE WEB SITES

https://webspace.utexas.edu/jm59399/www/357L/357L_idx.html. This site includes a detailed copy of the syllabus, class announcements and other necessary course materials. Please look at the site at least once per week during the semester.

COURSE REQUIREMENTS

Two examinations will be given - a midterm worth 30% of your grade and a comprehensive final exam worth 30%. Two short papers (chosen from a set of 5 assignments) are also be required. They are worth 30% of your final grade. Additional assignments and class participation will be worth 10%. Papers must be completed to receive a passing grade in the course.

Midterm Exam. Wednesday, March 9th.

This examination will cover the readings and lectures. It will be a multiple-choice and short answer exam. Please bring a #2 pencil (with an eraser).

Final Exam. Friday, May 13th. 9:00AM-12:00Noon

The final examination will be comprehensive. It will be a multiple-choice exam.

GRADING POLICIES

No makeup exams will be given unless I am notified IN ADVANCE and the reason you cannot attend is valid. (That you've already purchased a plane ticket to go home or on vacation is not a valid excuse.)

There is NO excuse for late papers - a letter grade will be deducted for each day your paper is late.

Extra Credit will NOT be given for projects not generally assigned. (Complete the assigned work and you will not need "extra credit".)

To complete this class and receive a final grade you must turn in all papers and take each of the exams.

Attendance: Attendance will not be taken but attendance COUNTS. That is, you will probably not perform well on the exams without attending class.

UNIVERSITY POLICIES

Academic Honesty

The University of Texas operates under an "Honor Code":

The core values of the University of Texas at Austin are learning, discovery, freedom, leadership, individual opportunity, and responsibility. Each member of the University is expected to uphold these values through integrity, honesty, trust, fairness, and respect toward peers and community.

Please review the following to learn your rights and obligations:

What is Academic Dishonesty? (UT Dean of Students)

http://deanofstudents.utexas.edu/sjs/scholdis_whatis.php

Students with Disabilities

Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for Students with Disabilities, 471-6259, http://www.utexas.edu/diversity/ddce/ssd/

If you have a disability that may have some impact on your work in this class, please see me or a TA, after class or during office hours, so we may accommodate your needs. We are willing to work with any student who needs additional help, but please let us know of any problems in a timely manner.

Religious Observances

The University of Texas acknowledges an obligation to accommodate all students who must be absent from classes or miss scheduled exams in order to observe religious holidays.

By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

Emergency Evacuation Policy

In the event of a fire or other emergency, it may be necessary to evacuate a building rapidly. Upon the activation of a fire alarm or the announcement of an emergency in a university building, all occupants of the building are required to evacuate and assemble outside. Once evacuated, no one may re-enter the building without instruction to do so from the Austin Fire Department, University of Texas at Austin Police Department, or Fire Prevention Services office.

Students should familiarize themselves with all the exit doors of each room and building they occupy at the university, and should remember that the nearest exit routes may not be the same as the way they typically enter buildings.

Students requiring assistance in evacuation shall inform their instructors in writing during the first week of class.

About the Instructor:

Prof. John P. McIver Office: Batts Hall 3.134

Office Hours: MW 11:00-12:00 and by Appt.

Telephone: 512-232-7271

E-mail: mciver@austin.utexas.edu

About the Teaching Assistant:

All TAs will meet students in BATTS 1.118.

Jeremy Kushner

Office Hours: T 11:00-12:30, F 11:00-12:30, and by Appt.

E-mail: kushnerj5000@gmail.com

WEEKLY SYLLABUS

Week 1 - American Legal History

Carp, Stidham & Manning, Chapter 1 US Constitution& Bill of Rights

Week 2 - Structure of the Legal System (Courts, Legislatures, Agencies)

Carp, Stidham & Manning, Chapters 2, 3 & 4

Week 3 - Lawyers

Carp, Stidham & Manning, Chapter 8

Week 4 - Judges

Carp, Stidham & Manning, Chapters 5-7

Week 5 - Lower Court Process - Civil

Carp, Stidham & Manning, Chapter 11 Frank (1950) "The Fight Theory vs the Truth Theory" from Courts on Trial. Wile E. Coyote vs. Acme Class Action Fairness Act

Week 6 - Lower Court Processes - Criminal Variations

Carp, Stidham & Manning, Chapter 9-10 "Certiorari" aka Tomayto/Tomahto

******* PAPER I DUE ********

******** Friday,February 25th *******

Week 7

Legal Reasoning

Carp, Stidham & Manning, Chapters 12 & 13 Llewellyn (1930) The Bramble Bush, New York: Oceana, pp. 70-76 (excerpts).

Cases:

State v. Pendergrass (19 NC 365, 1837) Joyner v. Joyner (59 NC 322, 1862) State v. Black (60 NC 266, 1864) State v. Rhodes (61 NC 453, 1868) State v. Mabrey (64 NC 592, 1870) State v. Oliver (70 NC 60, 1874)

Judicial Decision Making

Walker v. Birmingham Statement criticizing civil rights protest in Birmingham Martin Luther King, "Letter from a Birmingham Jail"

Week 8

The Public and the Legal System (Litigants/Witnesses/Juries)
Alternative Dispute Mechanisms (Arbitration, Mediation, Community)

******* MIDTERM EXAM ********

********* March 9th **********

Spring Break (March 12-March 20)

Week 9

Impact of the Courts on the Political/Legal System

Carp, Stidham & Manning, Chapter 14 & 15

Cases:

Marbury v. Madison, (5 US 137) Brown v. Board of Education (347 US 483) Gideon v. Wainwright (372 US 335) White v. Texas (310 US 530)

Week 10 - Introduction to the Criminal Justice System

Carp, Stidham & Manning, Chapters 9 & 10 (again)

Week 11

Policing America

Wilson & Kelling (1982) "Broken Windows" Atlantic Monthly, 29-38.

Policing - Discretionary Authority I Reich (1966) "Police Questioning of Ordinary Citizens", Yale Law Journal 75: 1161-1172 Policing - External Controls/Judicial Intervention I

The US Supreme Court & Search & Seizure Law Mapp v. Ohio (1961) Brown v. Texas(1979) Hiibel v. 6th Judicial District Court (2000)

Week 12

Policing - Discretionary Authority II

The Use of (Deadly) Force

FBI/Uniform Crime Reports: Police Officers Killed and Assaulted

Police Views of Abuse of Authority

Adams, et al. (1999) The Police Use of Deadly Force. Washington DC: National Institute of Justice Chapter 4 "Measuring the Amount of Force Used by and Against Police..."

Chapter 5 "The Force Factor: Measuring and Assessing Police Use of Force
Fox Butterfield: "When the Police Shoot, Who's Counting?" (New York Times, April 29, 2001)

Policing - External Controls/Judicial Intervention II - Use of Force

Tennessee v. Garner (1985) Katz v. US (2000)

Week 13

Policing - Internal Controls/Supervision, Training, IAD

Houston PD Training Bulletin: Use of Firearms Houston PD Training Bulletin: Fresh Pursuit

Ft. Lauderdale PD Policy: Treatment of the Homeless

Internal Controlls/Supervision: Racial Profiling

****** PAPER II DUE *******

******* Wednesday, April 20th *******

Week 14 - Rehabilitation/Decriminalization/Punishment/The Death Penalty

The Queen v. Dudley & Stephens

Supplemental Materials

State Execution Methods

Executions 1977 - 2010

Robert Blecker: "Among Killers, Searching For the Worst of the Worst" (Washington Post, December 3. 2000)

Robert Blecker: "When Do Killers Deserve to Die?" (Washington Post, December 10, 2000) Sara Rimer: "Sounds of the Georgia Death Chamber Will Be Heard on Public Radio" (New York Times, May 2, 2001)

Ray Suarez (Host) The Execution Tapes

"Text of Gov. George Ryan's Speech (commuting the Illinois death penalty)" (Rocky Mountain News. January 11, 2003)

Brian Crecente: "Owens Blasts Death Row Move On TV" (Rocky Mountain News, January 14, 2003)

Jodi Wilgoren: "Leaving Death Row Is Blessing and Curse" New York Times, January 17, 2003)

Scott Turow: "Clemency Without Clarity" (New York Times, January 17, 2003)

Amnesty International - Letter to President Clinton

American Bar Association - The Death Penalty: A Scholarly Forum

ABA Journal - Capital Punishment: Deadly Choices Freeman - Does America Need a Death Penalty?

Sharp - Pro Death Penalty arguments Bedau - Anti Death Penalty arguments

Radelet- Wrongful Convictions

Martha W. Barnett: "President's Message: Call to Action on Executions" (ABA Journal October 2000)

Bob Grant: "Capital Punishment A Valid Option" (Denver Post, March 18, 2001)
David Lane: "Stop Murder Sanctioned By The State" (Denver Post, March 18, 2001)

Bob Herbert: "Pull the Plug" (New York Times, April 24, 2003)

Week 15 - Prisons

Johnson (1987) The Punishing Decade

Supplemental Materials:

Dept. of Justice - Trends in Prisons NPR - Prison Diaries 360 Degrees - Stories Prison Law Prison Lingo Prison Brutality