

## JUDICIAL PROCESS

GOV357L AT UNIVERSITY OF TEXAS

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### Syllabus

#### Required Books:

1 *Judicial Process and Behavior Cases*, a compilation available at Co-op and now online. This contains cases and readings assigned during the semester. This compilation includes many cases that were decided by Courts other than the U.S. Supreme Court, e.g. NY Court of Appeals or a British Court. It also includes much of D'Amato's book **Introduction to Law and Legal Thinking** and many pages from a textbook I have used in the past, **Court Judges and Politics**, which has been out of print for 15 years.

#### Supplementary Books:

2. Benjamin Cardozo, *The Nature of the Judicial Process* 32. Clarence Thomas, *My Grandfather's Son*

4. Charles Murray, *By The People, Rebuilding Liberty Without Permission*

4. Milton Mayer, *They Thought They Were Free: The Germans 1933-1945*

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## **Course Goals (promises)**

### **A. Increase Students Understanding of:**

1. The operation of the U.S. civil and criminal justice system
2. How judges go about making decisions and writing opinions as well as how we think judges should go about this task, e.g. both normative and empirical approaches to judicial behavior.
3. Some of the legal and constitutional doctrines that affect or frame the operation of the civil and criminal justice system.

### **B. Expand Students Ability:**

1. To understand, comprehend and critique textual materials
2. To think logically, analytically and creatively(out side the box)
3. To draw useful information from empirical data about judicial behavior
4. To create cogent arguments on two or more sides of the issues we cover. (see discussion of tensions and crosscutting purposes below)
5. To use words more precisely (e.g. Holocaust, murder, law, )

## C. Do A and B above in a challenging and interesting environment

*We will find many tensions and cross cutting purposes in the institutional structures on which the judicial process is built. We will analyze the “who”, “how” and “why” of their resolution. Here are some examples:*

### 1. Judges

- A. Making the law versus interpreting the law
- B. Policy makers versus disinterested weighers, recall the statute of a blind justice holding a set of assayers scales
- C. Justice vs. law

### 2. Adversary system

- A. Fight theory vs. truth theory
- B. Lawyers responsibility to client vs responsibility to society

### 3. Juries

- A. Public participation by “competent” citizens versus alleged “lemmings and day time T.V. viewers”
- B. “Fair” versus “efficient” juries

### 4. Prosecutors

- A. Protecting the public welfare versus protecting their personal position
- B. Justice v. law

### 5. Types of punishment and theories of punishment.

## **In Addition:**

The [Assignments Page](#) contains Supreme Court cases that can be read on the web as well as tables, graphs and figures you will be assigned to read and study

## **Briefing Cases:**

For each case assigned in class you should prepare a brief, a summary of the case according to a form I have created. It is similar to but not exactly like what might be required in other classes where cases are to be read and briefed. For a full discussion of how to brief a case for this class([click here](#))

Brief Example: Craig v. Boren ([click here](#))

Note: This brief is based on the entire case as it appears in the official reports. It is more extensive than what would be expected for most cases. All of the issues are noted in the issues and holding section. Normally, we are reading cases for one or two issues. Also there is more detail in the legal reasoning section than would usually be needed, especially especially for the concurrences and dissents.

Papers 2-4 pages.

1. Brief of a recent Supreme Court case most likely on constitutional criminal procedures.

This paper will be due early in the semester and will be assigned at class 5 or 6.

2. A 3-4 page voting analysis of your case which will be due late in the semester.

## **Daily Course Assignments**

**Note:Stay up with the assignments even if the class discussion falls behind.**

**The exams will cover everything up to the date of the exam whether we have covered it in class or not.**

## Movies:

There will be 4 movies assigned for this course:

1. **The Ox-bow Incident.** This is a 1940's western about the hanging of an innocent man. It was also created to cover much broader issues of the time. The book was also made into a comic book in a series called Classic Comic books.
2. **Judgement at Nuremberg** This is a 1950's movie about the trial of German Judges and members of the Reich Justice Ministry(their Department of Justice) for a number of crimes including crimes against humanity. This movie is based on the case entitle U.S. v. Aloestetter which we will read. Most people associate Nuremberg with the trial of major Nazi leaders like Goebels and others. Few know about the trials of lower level officials. This movie is about those trials in the American Sector of Berlin. Others groups like doctors and civil offices were tried in the British and Russian sectors. This movie runs 3 hours and 6 minutes so don't wait till the end to view it. Given what is happening in the world today, it is more and more relevant. i have assigned this movie for at least the past 26 years or so/
3. **The Trial.** Most of you probably read this short book in high school. This movie is an interesting take on the book. It is about due process and administrative bureaucracies, topics that are related to this course and to Murray's book. If you have read book and recall much of it no need to watch movie.
4. **12 Angry Men** a 1957 legal drama, From wikipedia: "The film tells the story of a jury of 12 men as they deliberate the conviction or acquittal of a teenager charged with murder on the basis of reasonable doubt; disagreement and conflict among them force the jurors to question their morals and values."

## **Course Requirements and Grading**

**Grades will be based on a plus and minus system.**

1. 3 hours exams approximately 65%(40% objective,60% essay)
2. 2 short papers 3-4 pages approximately 20
3. Class attendance and participation approximately 15%

**Office Hours and Location My Monday Office**

**Hours: Texas Union 1:30-2:30**

**Wednesday Office Hours: Texas Union 1:30-2:30**

**Wednesday After Class Office Hours: Cactus**

**Cafe 4:00(after class) until around 5:30 p.m.**

**If per chance Cactus is closed for a special event, an alternate site will be announced**

**I may also have after class office hours on Mondays if there is demand. These may be at one of pubs across Guadalupe from campus**

**Available by appointment at other times via zoom. Generally only on campus Mon and Wed afternoons**