

## CIVIL LIBERTIES-WB

The University of Texas at Austin  
Government 357D (Unique #38060)  
CTI 326L (Unique # 30020)

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Spring, 2021 Office Hours: TBA

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### **General Description of the Course**

This course is primarily a course in Constitutional interpretation that focuses on some of the rights and liberties guaranteed by the U.S. Constitution. Most of the attention is given to the First and Fourteenth Amendments, which involve issues of freedom of expression, freedom of religion, equal protection, and fundamental liberties. Little attention is given to other rights.

The course is designed to familiarize students with constitutional approaches and concepts related to certain liberties. Presidents, governors, legislators, law enforcement officials and many others engage in constitutional interpretation. The primary participants for our purposes, however, have been judges; therefore, the course concentrates on what judges have said the Constitution means, and how they came to such conclusions. One objective of the course is for the student to learn what the Supreme Court has said about certain parts of the Constitution and to examine the implications of the rulings for the American polity. The student should become comfortable with legal analysis and doctrine so that she or he can evaluate intelligently the interpretations of the justices and ask the questions that a student of politics should ask. Prominent among such questions are those concerned with the proper role of courts and judges in the American political system. Also, one should begin to develop one's own beliefs about the protected liberty.

Another objective of this course is to improve reasoning and communication skills. As in most courses, good writing is demanded, but it is also important to develop the capacity to think and speak on one's feet. Engaging in constitutional reasoning can assist in developing intellectual precision and political persuasiveness. Mastering the use of language, orally and in writing increases the ability to think and communicate clearly. Moving toward such mastery is a vital part of education.

The course requires a substantial time commitment. The time required varies greatly over the course of the semester, and it varies for reasons described below. As such, it is hard for the student to plan ahead.

### **Warning**

Many readings and discussions will involve words or scenarios that are offensive or hurtful because that is often what civil liberty debates are often about. For example, the First Amendment is seen to protect speech and behavior that is offensive to many. I believe that it is important not to intellectualize or make our discussion so academic that we can avoid coming to terms intellectually and emotionally with language or situations that some people argue the First Amendment or Fourteenth Amendment should protect. We will confront words or actions in all their ugliness so as not to allow us to dodge the implications of protecting such speech. For

example, students will see videos such as “Eyes on the Prize” and read material where epithets are used to demean others based on their race, gender, sexual orientation, religion, and other factors. Likewise, we cannot discuss the constitutional debates about what constitutes obscenity by simply saying “you know it when you see it.” Discussions about topics such as abortion, religion, and other areas also may cause discomfort.

### **Format of the Course**

I am seeking to make this class as similar to an in-class experience as possible. Constitutional interpretation lends itself to dialog between professor and student and among students. There are few lectures. I use a combination of the Socratic and case methods. This requires students to come to class prepared and to listen to one another. Too often, students do not benefit from this style of teaching because they ignore the comments of fellow students. The method assumes that, instead of lecturing, I am making points through discussion with students. When your colleagues are making important points, I do not have to. It is also an important skill to be able to learn to separate the wheat from the chaff.

Students are required to attend class and participate. I call on students and expect them to be well-prepared. Lack of preparation or repeated absences will hurt one's grade. If a student is not prepared, he or she must send me a note by email before class and cc: the TA. Being prepared does **not** mean that one must fully understand the material or have the “right” answers; it means that one has read and thought carefully about the material. It is in one's long-term interest to prepare thoroughly for each class because the material is cumulative, and the workload in this course increases dramatically as the semester proceeds.

You must bring your casebook to the virtual class. You are **required to have your video on at all times showing your face** unless you have to step away momentarily, or I have given permission in advance. If you are absent, you must send the TA an email within 24 hours of your absence noting the date that you did not attend. Failure to do so will constitute academic dishonesty. If you miss a class, you must listen to the recording. Getting someone's notes is not sufficient. The teaching method presumes that students heard prior discussions. When a student did not hear earlier discussions and then participates, it often wastes the time of others.

***Computers may only be used during the virtual class for the purpose of connecting to the virtual classroom.*** Other uses are not compatible with the teaching method. This includes not taking notes on the computer or using a computer for other purposes during the class. It also means not glancing at cell phones or other distractions

Exceptions to the policies denoted in this syllabus are rare and must be approved by me in advance unless there is an emergency. We will discuss this more on the first day of class.

### **Prerequisites**

Set by the Government Department: 6 hours lower division government courses.

### **Readings**

- *Constitutional Law, 20th ed.*, Noah Feldman and Kathleen Sullivan eds., Foundation Press  
Earlier editions are permitted, but using them will require some extra effort to read material that is not included in the latest edition.
- Additional readings will be required that will be on reserve or posted on Canvas.

Assignments will be given each class period from the reading list. The next day's assignment depends upon how far we get in any given day; therefore, it is impossible to know specific daily assignments in advance. If you have to miss class, it is your responsibility to find out what was covered and what has been assigned *from a classmate*. **Do not contact me or the TA for this purpose. Get to know your fellow students.** Study groups are encouraged.

## **Evaluation**

- Midterm examination ( $\approx 25\%$ ). March 11th. Multiple Choice and Essay
- Group Project ( $\approx 25\%$ ). Students will participate in moot courts. A hypothetical situation will be given and each group will prepare a brief and participate in an oral argument. **The courts will be held during the week of April 5<sup>th</sup>. 7:00-10 p.m. Attendance is mandatory all evenings. Exceptions are rarely granted.** More details will be given in class.
- Final examination ( $\approx 50\%$ ). Multiple Choice and Essay. Check official exam schedule for date and time. Early or late exams are rarely allowed.
- Class attendance and participation are required and may affect a grade positively or negatively. (See attendance and participation statements above)
- Plus and minus grades will be used.

## **Communications**

I encourage students to come by my Zoom office hours. I like getting to know you. Students should **not** use e-mail as a way of having a conversation with me about substantive issues; that is what office hours and class discussion are for. E-mail may be used for administrative reasons, but when possible, I prefer that you speak to me after class rather than e-mail me. **Though I will often contact you via Canvas, always send emails directly to me rather than via Canvas.** I have 2 email addresses but they go to the same account. Therefore you may always reply or initiate an email to either address: hwperry@mail.utexas.edu or h Perry@law.utexas.edu

## **Miscellaneous**

The following sections come from official university policy statements.

### *Academic Dishonesty*

Academic dishonesty will lead to failure of the course and other University disciplinary action. See *General Information Catalog*:

Scholastic or academic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, falsifying academic records, and misrepresenting facts. More information about *academic dishonesty* is given in Appendix C.: Sec 11. Note particularly: (d) "Plagiarism" includes, but is not limited to, the appropriation of, buying, receiving as a gift, or obtaining by any means material that is attributable in whole or in part to another source, including words, ideas, illustrations, structure, computer code, and other expression or media, and presenting that material as one's own academic work being offered for credit.

The U.T. Honor code is as follows: 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.

#### *Accommodation for 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

#### *Disabilities*

The University of Texas at Austin provides upon request appropriate academic accommodations for qualified students with disabilities. For more information, contact the Division of Diversity and Community Engagement, Services for Students with Disabilities, 512-471-6259; <http://www.utexas.edu/diversity/ddce/ssd/>.

#### *Title IX Reporting*

Title IX is a federal law that protects against sex and gender based discrimination, sexual harassment, sexual assault, sexual misconduct, dating/domestic violence and stalking at federally funded educational institutions. UT Austin is committed to fostering a learning and working environment free from discrimination in all its forms. When sexual misconduct occurs in our community, the university can:

1. Intervene to prevent harmful behavior from continuing or escalating.
2. Provide support and remedies to students and employees who have experienced harm or have become involved in a Title IX investigation.
3. Investigate and discipline violations of the university's [relevant policies](#).

Faculty members and certain staff members are considered "Responsible Employees" or "Mandatory Reporters," which means that they are required to report violations of Title IX to the Title IX Coordinator. **I am a Responsible Employee and must report any Title IX related incidents** that are disclosed in writing, discussion, or one-on-one. Before talking with me, or with any faculty or staff member about a Title IX related incident, be sure to ask whether they are a responsible employee. If you want to speak with someone for support or remedies without making an official report, see more information about reporting options and resources, at [titleix.utexas.edu](http://titleix.utexas.edu) or contact the Title IX Office at [titleix@austin.utexas.edu](mailto:titleix@austin.utexas.edu).

#### *Emergencies*

Links to information regarding emergency evacuation routes and emergency procedures can be found at: <http://www.utexas.edu/emergency> .

The following recommendations regarding emergency evacuation from the Office of Campus Safety and Security, 512-471-5767, <http://www.utexas.edu/safety/>:

Familiarize yourself with all exit doors of each classroom and building you may occupy. Remember that the nearest exit door may not be the one you used when entering the building.

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

In the event of an evacuation, follow the instruction of faculty or class instructors. Do not re-enter a building unless given instructions by the following: Austin Fire Department, The University of Texas at Austin Police Department, or Fire Prevention Services office.

Behavior Concerns Advice Line (BCAL): 512-232-5050