

## GOVT 357L

### The American Legal System: Judicial Process & Behavior

Unique #: 38695

Prof. John P. McIver

Spring Semester 2021  
MWF 1:00-2:00  
Internet

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, Kenneth Manning & Lisa Holmes (2020) *Judicial Process in America*. Washington, DC: Sage/CQ Press. 11<sup>th</sup> Edition

(You can buy this from the publisher Sage or on Amazon as a paperback or as an ebook. I think the Kindle edition is actually cheaper from Sage vs Amazon. But you'll get the paperback quicker from Amazon if you're a Prime member.)

\* Web-based and supplemental readings - See the "Syllabus" section on Canvas. (Check the syllabus regularly for updates and new supplemental materials)

#### COURSE WEB SITES

- Canvas: Additional supplemental materials will be available on Canvas. You may also use Canvas to communicate with the instructors or with classmates. This site includes detailed descriptions of required papers and the necessary course materials to complete the paper assignments.

## **COURSE REQUIREMENTS**

Several extended “take-home” quizzes (worth 30% of your grade) and a comprehensive final exam worth 30% will be required. Two additional short papers (chosen from a set of 5-6 optional assignments) are also required. They are worth 30% of your final grade. Additional assignments, “attendance” (see below), and class participation will be worth 10%.

### **Midterm Quizzes.**

1. Friday, February 19<sup>th</sup>. During class time.
2. Friday, April 9<sup>th</sup>. During class time.

These extended quizzes will cover the readings and lectures.

**Final Exam.** THURSDAY, May 13<sup>th</sup>, 9:00AM-12:00PM (Subject to change)

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

**Papers.** You must write two short papers to be chosen from the THREE sets of topics listed below. These topics focus attention on examples of how the law and legal system operate. You will have a choice on each paper. (For \* Topics, initial research is provided in the form of newspaper coverage of events plus multiple opinions and comments about those events from all political perspectives.) These assignments are staggered through the semester so that you can choose when to turn in your work. (You may only write 1 paper for each deadline.)

**Paper 1.** Due MONDAY, March 1<sup>st</sup>

- \*Law and Society – The Case of Terry Schiavo (The Case of Baby Tinslee)
- \*Law and Justice in the Community – Adverse Possession

**Paper 2.** Due WEDNESDAY, March 31<sup>st</sup>

Judicial Appointments to Federal Courts: Kavanaugh & Barrett  
Court Reforms: Structural Changes or Term Limits for Judges?

**Paper 3.** Due MONDAY, May 5<sup>th</sup>

- \*Police Shootings – The Paul Childs Story
- \*Broken Windows – The Eric Garner Chokehold Death
- Stop & Frisk – Good Police Work or Racial Profiling?
- Defund the Police – a New Model or a Public Safety Mistake?

## GRADING POLICIES

Letter grades and Plus/Minus grading will be used this semester for all assignments and for final grades. Final grades are a weighted average of all letter grades.

No makeup exams will be given unless I am notified IN ADVANCE and the reason you cannot participate is valid.

There is NO excuse for late papers - a letter grade will be deducted for each day your paper is late. Please talk to me in advance if you are having difficulty with these assignments

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 by the professor each day but attendance certainly COUNTS. That is, you will probably not perform well on the exams without attending class. (FYI - Zoom identifies who is on-line during the class and records the number of minutes you attend.)

## SHARING OF COURSE MATERIALS IS PROHIBITED

No materials used in this class, including, but not limited to, lecture hand-outs, videos, assessments (quizzes, exams, papers, projects, homework assignments), in-class materials, review sheets, and additional problem sets, may be shared online or with anyone outside of the class unless you have my explicit, written permission. Unauthorized sharing of materials promotes cheating. It is a violation of the University's Student Honor Code and an act of academic dishonesty. I am well aware of the sites used for sharing materials, and any materials found online that are associated with you, or any suspected unauthorized sharing of materials, will be reported to Student Conduct and Academic Integrity in the Office of the Dean of Students. These reports can result in sanctions, including failure in the course.

## CLASS RECORDINGS

Class recordings are reserved only for students in this class for educational purposes and are protected under FERPA. The recordings should not be shared outside the class in any form. Violation of this restriction by a student could lead to Student Misconduct proceedings.

## **ADDITIONAL 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\\_what\\_is.php](http://deanofstudents.utexas.edu/sjs/scholdis_what_is.php)

Please understand you are responsible for your actions and that presenting the work of others as your own may subject you to penalties ranging from an F on an assignment to expulsion from the University.

### 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 the instructor or the 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 the instructor 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 (NOT Relevant this fall for this class but if you are on campus...)

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 should inform their instructors in writing during the first week of class.

**About the Instructor:**

Prof. John P. McIver  
Office: Batts Hall 3.134  
No in-person office hours  
Office Hours: On Zoom as announced &  
by Appt.  
Please send me an email to schedule.  
E-mail: [mciver@austin.utexas.edu](mailto:mciver@austin.utexas.edu)

This syllabus is subject to change.

Students who miss class are responsible for learning about any changes to the syllabus.

## WEEKLY SYLLABUS

### **Week 1** – Law, The Rule of Law, American Legal History

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

Assignment #1: Rule of Law

### **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

Assignment #2: Law Careers

### **Week 4** - Judges

Carp, Stidham & Manning, Chapters 5-7

Assignment #3: Term Limits for Supreme Court Judges

### **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

### **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)

### **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)  
Obergefell v. Hodges (576 US \_\_\_\_)

### **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

Harlow v. Fitzgerald (1982) Qualified Immunity  
Tennessee v. Garner (1985) Deadly Force  
Katz v. US (2000) Non-Lethal Force

## **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 Controls/Supervision: Racial Profiling

**Weeks 14-15** - Rehabilitation/Decriminalization/Punishment (Prison & Capital Punishment)

The Queen v. Dudley & Stephens

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

Capital Punishment

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)

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)

**Final Exam.** THURSDAY, May 13<sup>th</sup>, 9:00 AM - 12:00 PM