

## **DEATH PENALTY CLINIC: SYLLABUS FALL 2020**

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The Texas Innocence Network (TIN) office is located at Krost Hall 203. As long as students are permitted to work on-campus, they may work in the office and use the phone/copier/scanner/fax machine located in the office lobby at their convenience. Any student working at the TIN office must adhere to all UH guidelines regarding Covid-19 (e.g. – wearing a mask, social distancing, etc.). A key to the TIN office lobby can be found outside the Krost Hall office door, and lockbox code will be given to enrolled class members after classes begin. Students using the lockbox key to open the door must immediately return the key to the lockbox.

With respect to office hours, clinic instructors are always available by email and phone. However, unless students have scheduled a specific appointment, we reserve the right to be out of the office at any time. Scheduled in-person meetings with TIN staff will follow UH Covid-19 guidelines. Moreover, the TIN office may be closed at any time if directed by UH.

### **COURSE INFORMATION**

Death Penalty Clinic explores the substantive law, appellate procedure, investigative techniques, and post-conviction appellate remedies applicable in criminal cases. Lectures will cover topics such as: Texas criminal statutes, state/federal habeas law and procedure, clemency proceedings, investigative techniques, mitigation evidence, and trial strategy.

In addition to attending lectures, students work on actual death penalty cases. Students investigate claims related to the guilt-innocence and punishment phases of capital murder trials and assist attorneys in researching and drafting appellate legal claims. Death Penalty Clinic students work solely on cases where a criminal defendant has been convicted of capital murder and sentenced to death. Students' work in this class becomes a part of defendants' court filings. These filing deadlines are strictly set by rules and statutes. Consequently, it is vital that students in this class adhere to deadlines set by the course instructor. *In the event a student has an issue that might interfere with an assignment deadline (e.g. – personal illness, family issues, computer problems, etc.), the student should inform Professor Newberry as soon as possible so that the work can be reassigned, if needed.*

## TEXT/SUPPLEMENTAL MATERIALS

Class and case materials will be made available online via email and Dropbox.

## CLASS MEETINGS AND ATTENDANCE

Death Penalty Clinic is a synchronous distance learning class that will be held via Zoom on Tuesdays from 4:00–6:00. As an alternative, students can attend live lectures in BLB 213. Watching lectures in-person is completely optional and at students' personal discretion. In addition to being available in-person and via Zoom, class lectures will be recorded and made available to students for later viewing. Students participating in a Zoom class must turn on their video; attendance via audio-only is not permitted. Watching recorded Zoom lectures after the regularly scheduled class time does not towards attendance.

Regardless of how students attend the lecture (in-person or on Zoom), they must log into to a Zoom weekly case meeting with Professor Newberry immediately following the lecture. Students who are unable to attend the weekly case meeting via Zoom must contact Professor Newberry (jrnewber@central.uh.edu) in order to set up a separate, individual case meeting to take place at a mutually amenable time. Attendance will be kept and enforced in accordance with UHLC policy. In the event a make-up class is necessary, it will be scheduled in accordance with UHLC policy.

## LEARNING OUTCOMES

Through and as a result of this course, students will: (1) demonstrate understanding of substantive and procedural law regulating lawyers' conduct in death penalty trials and appeals; (2) analyze fact-based investigations that led to criminal convictions and perform fact-based investigations to further post-conviction claims; (3) engage in legal analysis and reasoning, legal research, problem-solving, and written and oral communication related to death penalty appeals; (4) evaluate proper professional and ethical responsibilities to clients and the legal system; (5) reflect upon conceptions of professionalism and the lawyer's role in the criminal justice system and society; and (6) recognize trends that will influence the future of criminal lawyers' work and the delivery of legal services.

## CONFIDENTIALITY AND ATTORNEY/CLIENT PRIVILEGE

As a reminder, students work on actual legal cases in Death Penalty Clinic. Consequently, all case discussions and all work performed during the course of the semester are confidential and covered by Attorney/Client Privilege. Students are absolutely forbidden from: talking about cases with anyone who is not associated with the case or who is currently taking the class; posting anything about their work/the cases on social media; allowing people outside the class to view case materials; etc. To ensure confidentiality while attending case meetings via Zoom, students must take whatever action is necessary to ensure that no other individuals are able to overhear the case meeting. *If there are any questions regarding confidentiality and/or Attorney/Client Privilege, please contact Professor Newberry immediately.*

## CLASS REQUIREMENTS

A total of 120 hours (including class time, meetings, etc.) must be spent on work performed for Death Penalty Clinic. As part of the required 120 hours, students must watch class lectures, complete case assignments/work, submit a timesheet in Excel format that specifically details the work performed during the semester and the amount of time worked, pass a quiz (70% or above) based on the information covered in class lectures, and return all case files/materials. “Billing” takes place in .25/hour increments.

*At any point in the semester, if a student foresees having difficulty reaching 120 hours, the student must contact Professor Jeu immediately.* She and Professor Newberry will work with students and UHLC Student Services on reaching a mutually amenable solution that adheres to university requirements. Failure to complete the 120 hours will result in an incomplete or failing grade.

***Student timesheets and all assignments are due by 3:00 pm on Monday, December 21, 2020.***

## GRADING AND ASSESSMENT

Grades in Death Penalty Clinic will be based entirely on the quality of student work performed during the semester. Although students must pass a quiz (70% or above) covering the information covered in class lectures in order to complete the course, the quiz grade will not count towards students’ final grades. Death Penalty Clinic contains a Pass/Fail option. Grading will take place in accordance with UH and UHLC policies. For additional information regarding UHLC’s official policies with respect to grading in general, please refer to the UHLC student handbook and/or official announcements that may occur throughout the semester.

This course offers formative assessment during the semester during the weekly breakout sessions in order to provide feedback on student performance and competence. Upon request, individual feedback is available upon request at any time.

## COUNSELING AND PSYCHOLOGICAL SERVICES (“CAPS”)

CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus ([http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)).

The Texas Lawyers’ Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP’s website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

## PREFERRED NAME(S)/PRONOUN(S)/PREFIX STATEMENT

If you have preferred name(s)/pronoun(s) and/or would favor a particular prefix, we will gladly honor your request. Please advise Professor Jeu early in the semester, so we may make appropriate changes to our records. Any lapses should be attributed to failings of memory and/or honest mistake, as your preferences are respected in this class.

## CENTER FOR STUDENTS WITH DISABILITIES

The University of Houston, when possible and in accordance with 504/ADA Guidelines, will attempt to provide reasonable academic assistance to students who request and require it. Please contact the Center for Students with Disabilities at 713-743-5400 for more information.

## UH ANTIDISCRIMINATION AND SEXUAL MISCONDUCT POLICIES

UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 ([https://uhsystem.edu/compliance-ethics/\\_docs/sam/01/1d7.pdf](https://uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf)) and Sexual Misconduct Policy SAM 01.D.08 ([https://uhsystem.edu/compliance-ethics/\\_docs/sam/01/1d8.pdf](https://uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf)).

Please be aware that under the sexual misconduct policy, SAM.01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in this policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

## RECORDING OF CLASS

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Center for Students with DisABILITIES (<https://uh.edu/csd/>). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students office and may result in disciplinary action.

## SYLLABUS CHANGES

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through email and through the UHLC course catalog website.

<i>Class Date</i>	<i>Class Discussion *</i>	<i>Assignment Due</i>
August 25, 2020	<ul style="list-style-type: none"> <li>• Class introduction</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>
September 1, 2020	<ul style="list-style-type: none"> <li>• AEDPA</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
September 8, 2020	<ul style="list-style-type: none"> <li>• State Habeas</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
September 15, 2020	<ul style="list-style-type: none"> <li>• Clemency</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
September 22, 2020	<ul style="list-style-type: none"> <li>• Physical Evidence – Part I</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
September 29, 2020	<ul style="list-style-type: none"> <li>• Chapter 64</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
October 6, 2020	<ul style="list-style-type: none"> <li>• Physical Evidence – Part II</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
October 13, 2020	<ul style="list-style-type: none"> <li>• Eighth Amendment &amp; Sentencing</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
October 20, 2020	<ul style="list-style-type: none"> <li>• Fifth Amendment &amp; Sixth Amendment</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
October 27, 2020	<ul style="list-style-type: none"> <li>• Fourth Amendment</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
November 3, 2020	<ul style="list-style-type: none"> <li>• Criminal procedure: Arrest to trial</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
November 10, 2020	<ul style="list-style-type: none"> <li>• Capital versus Non-Capital Trials</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
November 17, 2020	<ul style="list-style-type: none"> <li>• Causes of Wrongful Convictions</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>
November 24, 2020	<ul style="list-style-type: none"> <li>• Quiz</li> <li>• End of semester procedures</li> <li>• Case meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Case assignments TBA</li> </ul>

\* - Class lectures subject to change