

INNOCENCE INVESTIGATIONS: SYLLABUS FALL 2021

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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 the 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

Innocence Investigations 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 cases involving non-death penalty inmates. Students assess the viability of inmates' claims of actual innocence, investigate the claims by locating new, exculpatory evidence, and assist in providing post-conviction relief once innocence claims are verified.

LEARNING OUTCOMES

Through and as a result of this course, students will: (1) demonstrate understanding of substantive and procedural law regulating lawyers' conduct in criminal trials and appeals; (2) analyze the fact-based investigations that led to criminal convictions and perform fact-based investigations pertaining to inmates' claims of actual innocence; (3) engage in legal analysis and reasoning, legal research, problem-solving, and written and oral communication related to post-conviction claims of actual innocence; (4) evaluate proper professional and ethical responsibilities to clients and the legal system by all stakeholders in the criminal justice 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.

TEXT/SUPPLEMENTAL MATERIALS

Class and case materials will be made available online via email and Dropbox. At the instructors' discretion, original case documents might be made available to students. These original case documents *must* be returned at the end of the semester and students are forbidden to mark on them in any way (*e.g.* – writing, highlighting, etc.).

CLASS MEETINGS AND ATTENDANCE (GENERAL POLICIES)

Innocence Investigations will be held on Tuesdays from 4:00pm – 6:00pm. At this time, UHLC cannot determine whether this course will be distance education, or will have physical rooms assigned, and if so the extent to which the instructors might use the rooms during the semester. In other words, this class may be an entirely in-person class or it might be a distance education class taking place via Zoom with no use of a physical classroom. Class meeting and attendance general policies for both types of modalities are listed below.

If Innocence Investigations is an in-person class: Innocence Investigations will be held on Tuesdays from 4:00–6:00 in a classroom TBA. Pursuant to UHLC policy, you must attend at least eleven (11) of the fourteen (14) regularly scheduled classes (80%). In the highly unlikely event further a further make-up class is necessary, it will be scheduled in accordance with UHLC policy.

If Innocence Investigations is a synchronous distance learning class: Innocence Investigations will be held via Zoom on Tuesdays from 4:00–6:00. Pursuant to UHLC policy, you must attend at least eleven (11) of the fourteen (14) regularly scheduled classes (80%). Although class lectures will be recorded and made available to students for later viewing, watching recorded Zoom lectures after the regularly scheduled class time does not towards attendance.

ATTENDANCE VIA ZOOM/WEBCAMS (RELEVANT ONLY IF THIS IS A DISTANCE LEARNING CLASS)

If Innocence Investigations is a synchronous distance learning class, it will be taught via Zoom. The Zoom link will be emailed to the students prior to the first class meeting. Students must adhere to the following policies:

- Access to a webcam is required for students participating remotely in this course.
- You must be logged in with a computer with your video camera turned on and microphone muted, unless you are speaking (note: the class will be set up to mute you automatically upon entry).
- Webcams must be turned on for the duration of every class in order to ensure that students are present and engaged in the class.
- You must take whatever action is necessary to ensure that no other individuals are able to overhear the case meeting (*e.g.* – listening to case meetings on headphones so that only the student can hear the meeting discussion).
- You must identify yourself with your first and last name in the Zoom videoconferencing software.
- You must present yourself professionally in the video stream, both in attire and in conduct.

RECORDING OF CLASSES

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.

CLASS REQUIREMENTS

A total of 120 hours (including class time, meetings, etc.) must be spent on work performed for Innocence Investigations. As part of the required 120 hours, students must attend/watch classes, complete case assignments/work, submit a timesheet in Excel format, pass a quiz (70% or above) based on information contained 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 will work with the student and UHLC Student Services on reaching a mutually amenable situation that adheres to university requirements. Failure to complete 120 hours will result in an incomplete or failing grade. In addition to attending class and performing casework, students must adhere to the end-of-semester procedures found in this syllabus. ***Students' timesheets and all assignments are due by 12:00 pm on Monday, December 20, 2021.***

GRADING AND ASSESSMENT

Grades in Innocence Investigations will be based on the quality of student casework performed during the semester. The quality of a student's investigation presentations, screener memos, investigation memos, and investigation assignments combine to determine a student's overall grade. 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.

Innocence Investigations is entirely graded; there is no pass/fail option available. 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 at any time during the semester upon student request to provide feedback on student performance and competence. There is not a single summative assessment to evaluate overall performance at the end of the semester; rather, assignments throughout the semester provide a cumulative assessment of student work.

SYLLABUS CHANGES

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

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

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in our classroom. Please feel free to reach out to Professor Jeu at any time if you want to make us aware of your chosen name, preferred pronoun, and/or a favored prefix; or if you have concerns about how we or your classmates address you. Any lapses should be attributed to failings of memory and/or honest mistake, as your preferences are respected in this class.

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).

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>.

UH ANTIDISCRIMINATION AND SEXUAL MISCONDUCT POLICIES

The University is 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, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

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.

CONFIDENTIALITY AND ATTORNEY/CLIENT PRIVILEGE

As a reminder, Innocence Investigations students work on actual cases in a clinical setting. Students must remember that although confidentiality applies to their work, TIN instructors generally are not the defendants' attorney-of-record. All communications and work-product made during the intake, screening, and investigation process is akin to initial meetings/notes/work-product between a *potential* attorney and a *potential* client, performed *prior to* the parties entering into an official attorney/client relationship. Unless/until TIN locates/verifies evidence of actual innocence and agrees in writing to represent a defendant for the sole purpose of litigating an innocence claim, TIN and its agents do *not* have an attorney/client relationship with a defendant. This means that under *no circumstances* should students ever refer to inmates whose cases they are working on as "clients." Nor should students ever say that TIN "represents" an inmate. These words (and any derivatives thereof) contain an implication that an attorney/client relationship exists, which is not the case.

Regardless, any communications and work-product made during the intake, screening, and investigation process is covered by confidentiality. *Potential* clients have an expectation of and right to confidentiality during initial meetings with a *potential* attorney. Consequently, 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 discussing cases via Zoom, students must take whatever action is necessary to ensure that no other individuals are able to overhear discussions regarding individuals' innocence claims (*e.g.* – listening to case meetings on headphones so that only the student can hear the meeting discussion). *If there are any questions regarding confidentiality and/or Attorney/Client Privilege, please contact Professor Jeu immediately.*

FACE COVERING POLICY

To reduce the spread of COVID-19, the University requires face coverings (<https://uh.edu/covid-19/guidelines-protocols/face-coverings-on-campus/>) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn if working at the TIN office. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see Face Covering FAQs (<https://uh.edu/covid-19/faq/face-covering-faqs/>). Failure to comply with the requirement to wear a face covering while working in the TIN office will result in your being asked to leave the office immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the Center for Students with DisABILITIES (CSD) (<https://uh.edu/csd/>).

REQUIRED DAILY HEALTH SELF-ASSESSMENT

Your in-person presence on campus means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any Coronavirus Symptoms (<https://www.uh.edu/covid-19/information/coronavirus-symptoms/>)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to campus. Please see COVID-19 Diagnosis/Symptoms Protocols (<https://www.uh.edu/covid-19/guidelines-protocols/diagnosis-symptoms/>) for what to do if you experience symptoms and Potential Exposure to Coronavirus (<https://www.uh.edu/covid-19/guidelines-protocols/potential-exposure/>) for what to do if you have potentially been exposed to COVID-19.

CLASS PRESENTATIONS AND ASSIGNMENTS

Under NO CIRCUMSTANCES should a student ever write, highlight, or otherwise mark on any physical case files, transcripts, and/or other materials. Students may make copies (to write/highlight/mark on) in the Texas Innocence Network offices in Krost Hall. However, students must shred or turn in all copies at the end of the semester with the original case file. ***Failure to comply with this rule will result in severe grade penalties.***

Unless otherwise instructed:

- Screener memos and files are due by 4pm the week after they are assigned;
- Investigation presentations (or investigation presentation memos) are due by 4pm the week after they are assigned;
- Specific assignments regarding open investigation files are due by 4pm two weeks after they are assigned;
- Investigation memos and files regarding terminated investigation case files are due at any time before 12pm on Monday, December 20, 2021; and
- Investigation memos and files regarding open investigation case files are due between 4pm on November 30, 2021 and 12pm on Monday, December 20, 2021.

If you are assigned to draft a letter or e-mail, you should draft the correspondence and then e-mail it to Professor Jeu at ccjeu@central.uh.edu. Do not send the drafted correspondence yourself. Professor Jeu will review, edit, and mail out the correspondence, then place an initialed copy of the final correspondence in the case file. Your e-mail provides documentation that you turned in the assignment on time.

If you are assigned to scan/copy/fax any case materials, you may use the scanner/copier/fax machine in the TIN office. If you are assigned to make a phone call, you may do so from the TIN office. You may instead use your home phone/cel phone to make calls. However, unless you are calling courts, law enforcement agencies, or attorneys, we strongly suggest that block your phone number when using

your personal phone. You must thoroughly document any calls you make in your investigation memo for that specific case (*ie.* – Who you called, when you called, what number you called, what was said during the call, etc.).

Professor Jeu is available via email to answer case-related questions until 11:59pm on the Monday before class. She will not answer questions regarding a case on the day a student's memo/presentation/assignment/etc. is due.

To complete Innocence Investigations, students must do the following:

- E-mail Professor Jeu your timesheet in Microsoft Excel format.
- Complete all assignments with respect to screeners and investigations.
- Write an investigation memo for each assigned investigation and place a hard copy in the file.
- Turn in all case files to Professor Jeu. Files may be returned in person to Krost 204 or sent via Fedex using the TIN account (to be provided by Professor Jeu).

If you have any questions regarding this section, please e-mail Professor Jeu ASAP to resolve any issues. ***All class assignments and case files are due by 12:00 pm on Monday, December 20, 2021.***

CLASS LECTURE SCHEDULE

<i>Class Date</i>	<i>Class Discussion *</i>	<i>Assignment Due</i>
August 24, 2021	<ul style="list-style-type: none"> • Class introduction • Confidentiality / TDCJ forms • Case meeting 	<ul style="list-style-type: none"> • n/a
August 31, 2021	<ul style="list-style-type: none"> • AEDPA • Investigation presentations 	<ul style="list-style-type: none"> • Case assignments TBA
September 7, 2021	<ul style="list-style-type: none"> • State Habeas – drafting & claims • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
September 14, 2021	<ul style="list-style-type: none"> • Clemency • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
September 21, 2021	<ul style="list-style-type: none"> • Physical Evidence – Part I • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
September 28, 2021	<ul style="list-style-type: none"> • Chapter 64 Motions • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
October 5, 2021	<ul style="list-style-type: none"> • Physical Evidence – Part II • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
October 12, 2021	<ul style="list-style-type: none"> • 5th, 6th, and 8th Amendment Overview • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
October 19, 2021	<ul style="list-style-type: none"> • 4th Amendment Overview • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
October 26, 2021	<ul style="list-style-type: none"> • Appellate Advocacy – Part I • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
November 2, 2021	<ul style="list-style-type: none"> • Appellate Advocacy – Part II • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
November 9, 2021	<ul style="list-style-type: none"> • Criminal procedure: Arrest to trial • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
November 16, 2021	<ul style="list-style-type: none"> • Capital vs. Non-Capital Trials • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA
November 23, 2021	<ul style="list-style-type: none"> • End of Semester Procedures • Quiz • Case meeting 	<ul style="list-style-type: none"> • Case assignments TBA

December 20, 2021

All Class Assignments and Case Files are due by 12pm

* - Class lectures subject to change