

## **DEATH PENALTY & CRIMINAL APPEALS CLINIC (COURSE 6240 / SECTION 15728) SPRING 2024 SYLLABUS**

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The Texas Innocence Network (TIN) office is located at the John O'Quinn Law Building Clinic space on the first floor. Students may work in the Clinics space and use the phone/copier/scanner/fax machine/materials located in the Clinics space at their convenience.

Clinic instructors are always available by email or phone; emails and voice messages and will be returned as soon as possible. Students can schedule phone calls, Zoom meetings, and/or in-person meetings at a mutually amenable day/time. With respect to in-person meetings, unless students have scheduled a specific appointment, clinic instructors reserve the right to be out of the office at any time.

### **CLASS MEETINGS/ATTENDANCE (GENERAL POLICIES) AND MODE OF INSTRUCTION**

Death Penalty & Criminal Appeals Clinic is a face-to-face class that will be held on Tuesdays from 4:00pm – 6:00pm in a room TBA. Pursuant to UHLC policy, students must attend at least 80% of all classes (*ie.* – students may miss three classes without a penalty). Attendance will be kept by a weekly sign-in-sheet. Nonadherence to UHLC's attendance policy will be reported to the Office of Student Affairs and may result in a lowering of a student's final grade, an incomplete in the class, or a failing grade. Any needed make-up classes will be scheduled in accordance with UHLC policy.

Students who are unable to attend the weekly case meeting must contact Professor Newberry ([jrnewber@central.uh.edu](mailto:jrnewber@central.uh.edu)) in order to set up a separate, individual case meeting to take place at a mutually amenable time.

### **CLASS PREREQUISITE**

Completion of two semesters of law school plus completion of or current enrollment in Criminal Law and instructor permission. To receive permission, students must conduct a pre-registration interview with the course instructor (email [ccjeu@central.uh.edu](mailto:ccjeu@central.uh.edu) for scheduling).

## CONFIDENTIALITY AND ATTORNEY/CLIENT PRIVILEGE

As a reminder, students work on actual legal cases in Death Penalty & Criminal Appeals 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, students must take whatever action is necessary to ensure that no other individuals are able to overhear the case meeting or any case-related discussions (*e.g.* – making case-related phone calls in private, so that nobody can overhear the conversation). *If there are any questions regarding confidentiality and/or Attorney/Client Privilege, please contact Professor Newberry immediately.*

## COURSE INFORMATION

Death Penalty & Criminal Appeals 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 cases. Students investigate claims related to the guilt-innocence and punishment aspects of death-penalty cases; and research/draft direct appeals, post-conviction appeals, and/or clemency petitions.

Given the fact that criminal appeals have strict filing deadlines, it is vital that Death Penalty & Criminal Appeals Clinic students 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.*

## COURSE OBJECTIVES AND LEARNING OUTCOMES

Through and as a result of this course, students will: (1) demonstrate knowledge and understanding of substantive and procedural law regulating lawyers' conduct in criminal trials and appeals; (2) analyze fact-based investigations that led to criminal convictions and perform fact-based investigations to further post-conviction claims; (3) develop skills in legal analysis and reasoning, legal research, problem-solving, and written and oral communication related to criminal appeals; (4) understand the 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; (6) recognize trends that will influence the future of criminal lawyers' work and the delivery of legal services; and (7) increase professional self-development.

## ASSIGNED BOOKS AND/OR SUPPLEMENTAL MATERIALS

This course does not have a required casebook. Class and case materials will be made available online via email and Dropbox.

## GRADING AND ASSESSMENT

Grades in Death Penalty & Criminal Appeals Clinic will be based entirely on the cumulative, summative quality of student work performed during the semester. Grading is non-anonymous. Death Penalty & Criminal Appeals 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 case meetings in order to provide feedback on student performance and competence. Upon request, individual feedback is available upon request at any time.

## 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 Justin Dart, Jr. Student Accessibility Center. 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 100 hours (including class time, meetings, etc.) must be spent on work performed for Death Penalty & Criminal Appeals Clinic. "Billing" takes place in .1 hour increments. As part of the required 100 hours, students must attend 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, and return all case files/materials.

*At any point in the semester, if a student foresees having difficulty reaching 100 hours, the student must contact Professor Jeu and/or Professor Newberry immediately.* We will work with students and UHLC Student Services on reaching a mutually amenable solution that adheres to university requirements. Failure to complete the 100 hours will result in an incomplete or failing grade. ***Student timesheets and all assignments are due by 3:00 pm on Monday, May 13, 2024.***

## WEBCAMS

In the event that a remote option is permitted at any point during the semester, access to a webcam is required for students participating remotely in this course. Webcams must be turned on at all times to ensure that the student is participating in the class and, more important, that nobody else can listen to the case meetings, in order to protect attorney-client privilege.

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

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) are respected in our classroom. Please feel free to reach out at any time 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 made by your instructors should be attributed to failings of memory and/or honest mistake, as your chosen names and preferred pronouns are respected in this class.

#### MENTAL HEALTH AND WELLNESS RESOURCES

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit [uh.edu/caps](http://uh.edu/caps), call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat [988lifeline.org](https://988lifeline.org).

#### REASONABLE ACADEMIC ADJUSTMENTS/AUXILIARY AIDS

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing [jdcenter@Central.UH.EDU](mailto:jdcenter@Central.UH.EDU).

#### HONOR CODE

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

## AI GENERATED TEXT

The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This applies to AI Generated Text from yourself or others. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/other in applying the plagiarism policy to this course. The term “assessment” means any work product generated for this course that is submitted to the instructor or presented in a class session, regardless whether it is graded content or not. Assessments include mid-terms and final exams. AI Generated Text may not be used in the development or drafting of any assessments created by you in a non-proctored environment, such as a “take-home” final examination unless specified as an exception below. The parts of the Honor Code that refer to unauthorized materials or aid are specifically prohibited from any use of AI Generated Text in this course.

AI may be used for general research queries, with the express provision that entering any case-specific information (including but not limited to: names, dates, places) is expressly prohibited. Failure to comply may result in a breach of attorney-client privilege. A violation of this policy will result in severe penalties, such as failing the class and/or reporting the student violation to the Texas State Bar. If a student has any question or reservation about whether a specific search will violate this policy, please email Professor Newberry with the proposed search language prior to entering it into an AI program.

## UH ANTIDISCRIMINATION AND SEXUAL MISCONDUCT POLICIES

UHLIC and the University are committed to maintaining and strengthening an educational, working, and living environment in which 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 webpage](#), [Anti-Discrimination Policy](#), [Sexual Misconduct Policy webpage](#), and [Sexual Misconduct Policy](#).

## TITLE IX/SEXUAL MISCONDUCT

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

## SYLLABUS CHANGES

Please note that the instructors may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible through email.

## CLASS DISCUSSION AND ASSIGNMENT SCHEDULE

<b><i>Class Date</i></b>	<b><i>Class Discussion *</i></b>	<b><i>Assignment Due</i></b>
January 16, 2024	<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>
January 23, 2024	<ul style="list-style-type: none"><li>• PowerPoint presentation about our current clients</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
January 30, 2024	<ul style="list-style-type: none"><li>• Non-capital and capital trials</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
February 6, 2024	<ul style="list-style-type: none"><li>• Motions for new trials</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
February 13, 2024	<ul style="list-style-type: none"><li>• Direct appeals</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
February 20, 2024	<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>
February 27, 2024	<ul style="list-style-type: none"><li>• Federal habeas</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
March 5, 2024	<ul style="list-style-type: none"><li>• Crisis litigation</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
March 12, 2024	<ul style="list-style-type: none"><li>• n/a – Spring Break Holiday</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
March 19, 2024	<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>
March 26, 2024	<ul style="list-style-type: none"><li>• Eighth Amendment</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
April 2, 2024	<ul style="list-style-type: none"><li>• Sixth Amendment</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
April 9, 2024	<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>
April 16, 2024	<ul style="list-style-type: none"><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>
April 23, 2024	<ul style="list-style-type: none"><li>• End of semester procedures</li><li>• Case meeting</li></ul>	<ul style="list-style-type: none"><li>• Case assignments TBA</li></ul>

**May 13, 2024**

**All Assignments and Case Files are due by 3:00pm**