

## SYLLABUS

### Advanced Criminal Procedure: Trial and Post-Trial

#### I. Purpose

The purpose of the course is to conduct an advanced study of federal and state criminal procedure in the trial and post-trial phases. The overwhelming majority of the course time will be spent on the trial phase under Illinois criminal procedure. The course description is set forth, *infra*. The Instructor will attempt NOT to repeat materials covered in the Criminal Procedure course, i.e. there will be no in-depth examination of search and seizure, the right to counsel, *Miranda*, coerced confessions, line-ups or other substantive matters of procedural law that were likely discussed in previous course work. The emphasis will be on Constitutional and Illinois law, though important federal cases and procedural differences will also be covered.

#### II. Materials

- 1) **REQUIRED:** Cohen, Hall & Adelman, *Criminal Procedure: The Post-Investigative Process, Cases and Materials*, Lexis/Nexis (3<sup>rd</sup> Ed.)
- 2) **REQUIRED:** *Illinois Criminal Law and Procedure* (West- 2008 ed.) which includes Chapter 720, 725, Supreme Court Rules and other statutes
- 3) **REQUIRED:** Bogira, Steve, *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse*, Knopf, 2005. [available in paperback]
- 4) **RECOMMENDED:** Cavise, Leonard, "Trial Rights and Procedures" in *Illinois Criminal Procedure, 4th Ed.* (Ruebner, ed.). Only Volume 2 is recommended for this course but the two-volume set will be useful in practice.

Students will also be required to read a large number of cases and various other publications or articles as assigned by the Instructor.

#### III. Procedure

The class will meet twice a week as scheduled. Attendance is required. Students may also be required to attend any additional programs as scheduled by the Instructor, such as a class visit to a correctional institution or attendance at a particular bar association or other program relevant to criminal justice.

The professor reserves the right, in accordance with DePaul student regulations, to exclude any student from taking the final examination where the student has not regularly attended class or where the student has not regularly prepared for class.

Failure to regularly attend is defined as an unexcused absence from three or more class meetings. A student who is not prepared for class should so advise the professor before the beginning of class. Preparation includes but is not limited to a close and careful reading of all cases and notes assigned.

#### IV. Format

The course will be conducted on the lecture/discussion method. This is NOT a skills course. Students will be required to make presentations and respond to questioning about the assigned materials. Both the case method and the problem method will be used. Although it is not contemplated that the simulation method will be extensively used, students may, on occasion, be required to simulate particular procedural problems. At the Instructor's option, outside speakers may be invited to make presentations.

At the end of the course, a written, closed-book, in-class ESSAY AND MULTIPLE CHOICE final examination will be given. The final grade shall be determined by performance on the final examination along with any adjustment of one-half to one letter grade that the Instructor may wish to make for classroom participation.

#### Course Description

The Instructor will make specific assignments during each class period. The Instructor will also assign outside readings (not included in this listing) in addition to the pages assigned from the text.

#### Cohen pages

- |     |   |                  |
|-----|---|------------------|
| I.  | Overview of the Trial and Post-trial phase  |                  |
| A.  | The Ideology of the Criminal Justice System | 1-21             |
| B.  | Rules structure: FRCrP and Chap. 720        |                  |
| C.  | Some ethical considerations                 |                  |
| II. | Stages of the Jury Trial                    |                  |
| A.  | Preliminary: The Right Described            | 544-557          |
| B.  | Jury Selection                              |                  |
| 1.  | Waiver of jury                              | 557-563          |
| 2.  | Mechanics, content of Voir Dire             | 564-578, 605-612 |
| 3.  | Challenges                                  | 578-582, 586-588 |
| 4.  | <i>Batson</i> and its progeny               | 589-604          |
| 5.  | Death-qualification                         | 582-586          |
| C.  | Opening Statement                           | 515 plus cases   |
| D.  | Prosecution's Case                          | 513-516          |

	1. Ethical issues	302-304
	2. Prosecution function	ABA standards
	3. <u>Brady</u> issues/general conduct of trial discovery	277-288,302-347
	4. Preservation of Evidence	295-301
	5. Cross-examination	527-544
	6. Motion directed verdict	515-516
E.	Defense Case	
	1. Ethical issues	cases
	2. Defense function	ABA standards
	3. Defense pleadings:	
	a. reverse discovery	288-295
	b. sanctions	345-347
	c. joinder, severance, <i>Bruton</i>	225-247
	4. Defendant as Witness	518-527
	5. Right to appear; shackling	502-513
F.	Closing Argument	624-627
G.	Jury Instructions	614-616, 621-624
	1. Pattern Instructions	See IPI
	2. Deadlocked jury; jury questions	613-614, 636-638
	3. Jury nullification	639-643
H.	Verdict	627-631
	1. Unanimity	631-636
	2. Inconsistent verdicts; lesser included	643-645, 616-621
I.	Motion for New Trial	645-652
III.	Guilty Pleas	
	A. Types	353-354
	B. Policy, Constitutional issues	358-363, 366-379, 390-400
	C. Procedure	354-358, 402-406
	D. Ethics	407-412
IV.	Conduct of the Judge	500-502
V.	Double jeopardy	653-686
VI.	Sentencing	
	A. Constitutional limits	687-698
	B. Sentencing hearing	706-715
	C. Guideline categories	720-733
	D. Alternatives to incarceration	699-706
VII.	Appeal	749-770
VIII.	Post-Conviction/Habeas Corpus	770-779