Criminal Defense Investigation and Discovery - Fall 2010

Friday 9:00 AM, Room 105

Week 1 - 8/27 Brainstorming the Theory of Defense

*Actual Innocence*, Preface and Chapters 1, 2.

*Themes and Theories Outline*


*If you Build It, They Will Come*, by Stephen P. Lindsay

NCDC Theory of the Case Worksheet

Prepare to brainstorm and develop a Theory of Defense for the *Lewis* and *Sage* cases.

Week 2 - 9/3 Initial Client Interview

*Actual Innocence*, Chapter 3, 4.

*Client in Crisis Initial Interview with the Detained Client*, by Andrea Lyon.

*Improve Your Client Interview*, Denise De LaRue

Using hypos from week 1, plan your interview of the client in each. What is your goal(s)? What type of approach would you take? What problems can you anticipate may present themselves? Resolution?
**Week 3 - 9/10**  
Reality Checking Your Facts: Controlling the Evidence


**Week 4 - 9/17**  
The Right to Counsel and Zealous Advocacy

*Actual Innocence*, Chap. 5.


*RFK Statement*

Avoid Balancing Rights

*Criminal Defense Attorney Duty*

Prepare Ethics Hypos on TWEN

Recommend you **skim** the following articles, but not required:


**Week 5 - 9/24**  
Right to Counsel and Zealous Advocacy, continued.

*Actual Innocence*, Chap. 6


In re Burns, 42 Ohio Misc.2d 12, 536 N.E.2d 1206 (1988).

In Strickland, what was the basis of the claim of “ineffective assistance” of trial counsel? What is required of trial counsel in order to be constitutionally “effective”? Is this the minimum or maximum level of effectiveness you should aspire to achieve, or would you want an attorney representing you to perform at a higher level? Review Week One Hypos in light of last week’s discussion. Be prepared to discuss the rights of each defendant with respect to your representation.

Week 6 - 10/1  Discovery

Actual Innocence, Chap. 7.

Discovery Documents - TWEN


Ohio Crim. R. 16.

Prepare Discovery problems for class.

Week 7 - 10/8  Discovery, continued.

Actual Innocence, Chap. 8.

Finish Discovery questions from last week. Review Brady and Kyles.
Week 8 - 10/22    Investigating the Case

*Actual Innocence*, Chap. 9.

Investigative Documents - TWEN

Witness Statement of John Smith - TWEN

O.R.C. §149.43 et seq.

Ohio R. Evid. 607, 608.

Ohio Crim. R. 17.


*State ex rel. Rasul-Bey v. Onunwor*, 94 Ohio St.3d 119 (2002).

Week 9 -10/29    Investigation - cont’d

*Actual Innocence*, Chap. 10.


*Story Telling, Why We Do It.* - Lindsay

*Some Thoughts on Opening Statements and Closing Arguments* - Glass

Week 10 - 11/5    Investigating for Cross in the Digital Age

*Actual Innocence*, Chap. 11.

Pa. Ethics Opinion
Week 11 - 11/12  Cross Examination

_Actual Innocence_, Chap. 12.

_Selected Portions of Pozner and Dodd_

_Look Good Cross Examination_ - McCarthy

_Why Johnny Can’t Lead_ - Dantzler

Week 12 - 11/19  Impeachment

_Actual Innocence_, Chap. 13, review App. 1 & 2.

Impartialment Chart and related evidence rules.

_Paper Training Puppies_ - Dantzler

_Using the Rules_ - Charlie Daniels

Prepare the impeachment exercises on TWEN

Week 13 - 12/3  Pretrial Motions & Last Class


Review, answer any questions, and hand out problem for Final Exam project.