

## **POLS 3315: JUDICIAL PROCESS**

Quinn Hall 203

Tues. & Thurs., 1:30pm to 2:50pm

Brent McCune

Office: Miners Hall 108

Phone: 915.747.8842

E-mail: [bgmccune@utep.edu](mailto:bgmccune@utep.edu)

CRN: 27938

Term: Spring 2020

Office Hours: By Appointment

### **COURSE DESCRIPTION**

This class introduces students to the judicial system and the judicial process in the United States. We will examine judicial organization and administrative processes at the federal and state levels. The structure, influence, and processes of the American legal system will be reviewed. Topics covered will include: classical theories of jurisprudence, judicial decision making, criminal and civil litigation, trial and appellate courts, and the scope and limits of judicial power.

### **UTEP EDGE**

This course will help you develop the following UTEP Edge skills: (1) *critical thinking* through the analysis of difficult readings and complex arguments; (2) *communication* through classroom discussions and the case study; (3) *problem-solving* through an understanding of how judges frame and resolve legal issues; and (4) *social responsibility* through an appreciation of how the law influences controversial social policies.

### **LEARNING OUTCOMES**

This course has two primary objectives: (1) to provide an understanding of the American judicial system, and (2) to help increase your critical reading and problem solving skills.

At the end of this course you will be able to:

- *Understand* the American judicial system;
- *Recognize* the legal issues and developments found in the common law;
- *Explain* the scope and limits of judicial power;
- *Construct, Deconstruct, and Reconstruct* complex arguments; and
- *Appreciate* the multi-faceted legal and social complexities before the courts.

### **REQUIRED MATERIALS**

Banks, C. P., & O'Brien, D. M. (2016). *Judicial Process: Law, Courts, and Judicial Politics*. Los Angeles, CA: CQ Press. (ISBN: 978-1-4833-1701-4)

Additional required readings will be made available on the Blackboard course site, which may be accessed at <https://my.utep.edu/>.

## ASSESSMENTS AND GRADING

Your grade will be based upon the following assignments:

Assessment	Percent of Grade
Class Participation	25%
Midterm Exam	25%
Case Study	20%
Final Exam	30%
<b>Total</b>	<b>100%</b>

### CLASS PARTICIPATION

Attendance will be taken each class. Missing class will adversely affect your final grade. Students are expected to be on time. Students are also expected to be prepared for, and to participate during, each class. As such, reading assignments must be completed *prior* to class. Contributions to the class discussion are expected and should be germane to the topic at hand. Students should strive to provide meaningful and insightful contributions to the class discussion. Class Participation also includes periodic quizzes that will be administered via the iClicker Classroom Response System.

### MIDTERM EXAM

The midterm exam will take place on **Thursday, March 12th**. The midterm exam will consist of multiple choice and short answer questions. Specific information regarding the midterm exam will be provided as we progress through the course.

### CASE STUDY

A case study will be due on **Tuesday, April 14th** at the beginning of class. *Barring exigent circumstances, late submissions will not be accepted.* The case study will involve a short paper analyzing the developments in a specified area of the common law. More information regarding the case study, including the grading rubric, will be provided as we progress through the course.

### FINAL EXAM

The final exam will take place on **Thursday, May 14th, 1:00 pm - 3:45 pm**. Like the midterm exam, the final exam will consist of multiple choice and short answer questions. Specific information regarding the final exam will be provided as we progress through the course.

### QUALITY OF WORK

You are expected to produce quality work. Quality work requires being prepared and encompasses both substance and presentation (style, organization, grammar, etc.). Poor presentation distracts from what it is you are trying to communicate. Producing quality work requires more than a minimum effort. In all cases, quality trumps quantity.

## CLASSROOM RESPONSE SYSTEM

We will use a cloud-based student response software by iClicker to take attendance and to administer the quizzes. There is no extra cost for using this software application. You are required to bring a device to check-in for class attendance and to participate in the iClicker Cloud quizzes. You can participate with a smartphone, tablet, or laptop. It is your responsibility to set up your iClicker Reef account in a timely fashion, and to make sure your device is working properly. If you

do not have an existing iClicker Reef student account then you will need to create one. You will also need to connect to either UTEP's Wi-Fi (UTEPSecure) or to your mobile data plan while using iClicker Reef.

## COURSE POLICIES

### CLASSROOM ENVIRONMENT

I will strive to provide a classroom environment appropriate for academic instruction and discussion. For this to occur, make sure you read the assignments, as scheduled; *silence cell phones*; and *arrive on time*. We will welcome and encourage different ideas and viewpoints. Some topics are controversial and students should feel comfortable expressing their thoughts. We will respect what others have to say – we do not have to agree with them – and avoid personal insult, interrupting, and rudeness. We will avoid becoming politically charged when discussing sensitive topics. We will be civil.

### COMMUNICATION

Important course information will be communicated either in class or via email. Students who are absent from class are responsible for obtaining any important information they may have missed. Students are also responsible for regularly checking their official “utep.edu” account as this account is the only email address I will use when communicating important information via email. It is not a valid excuse to say that “I missed class” or that “I did not receive the email.”

### ACCOMMODATIONS

If you have or suspect a disability and need accommodations, you should contact UTEP's Center for Accommodations and Support Services (CASS) at 747-5148 or at [cass@utep.edu](mailto:cass@utep.edu) or stop by Union Building East Room 106.

### WITHDRAWAL POLICY

To be withdrawn from the class, students must take appropriate actions on or before UTEP's deadlines. Automatic withdrawals will not be made by the instructor. A student may officially withdraw from this class with an automatic 'W' at any time **before April 3, 2020**. According to UTEP policy, no withdrawals will be allowed after this date. You will receive a failing grade if you simply stop coming to class and do not take appropriate actions to withdraw from the course.

## SCHOLASTIC DISHONESTY

### **Scholastic Dishonesty will not be tolerated.**

I am required by the Handbook of Operating Procedures for The University of Texas at El Paso to report “all alleged acts of scholastic dishonesty...to the Dean of Students for disposition.” (See Section III of the Handbook of Operating Procedures for UTEP (Academic Policies and Faculty Personnel Matters 4.14a.))

As stated in Section II of the Handbook of Operating Procedures for UTEP (Student Conduct and Discipline 1.2.2.1): “Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes but is not limited to cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts.”

Please refer to UTEP's Office of Student Conduct and Conflict Resolution at <https://www.utep.edu/student-affairs/osccr/student-conduct/academic-integrity.html>. You should read the *Avoiding Plagiarism* handout available on their site. The handout will also be available on the Blackboard site for this course.

## COURSE SCHEDULE

The schedule below outlines what will be covered in this course. It will be followed to the extent possible in meeting the instructional goals and needs of the course. Aside from the required textbook, other readings will be made available on Blackboard. You are required to complete the assigned readings *before* class. *I reserve the right to alter this schedule as needed.*

Date	Readings and Assignments
Week 1 1/21, 1/23	<i>Law and Courts in Society</i> <ul style="list-style-type: none"> <li>✓ Ch. 1, pp. 2-25</li> <li>✓ U.S. Constitution</li> <li>✓ <i>Federalist</i> #78</li> </ul>
Week 2 1/28, 1/30	<i>Law and Jurisprudence</i> <ul style="list-style-type: none"> <li>✓ Ch. 2, pp. 30-48</li> <li>✓ H.L.A. Hart, <i>Positivism &amp; the Separation of Law &amp; Morals</i>, 71 HARV. L. REV. 593 (1957)</li> </ul>
Week 3 2/4, 2/6	<i>Law and Jurisprudence</i> <ul style="list-style-type: none"> <li>✓ Continuation of H.L.A. Hart article (if needed)</li> <li>✓ Ronald M. Dworkin, <i>The Model of Rules</i>, 35 U. CHI. L. REV. 14 (1967)</li> </ul>
Week 4 2/11, 2/13	<i>Law and Jurisprudence</i> <ul style="list-style-type: none"> <li>✓ Continuation of Ronald M. Dworkin article (if needed)</li> <li>✓ Lon L. Fuller, <i>The Case of the Speluncean Explorers</i>, 62 HARV. L. REV. 616 (1949)</li> </ul>
Week 5 2/18, 2/20	<i>Judicial Organization and Administration</i> <ul style="list-style-type: none"> <li>✓ Ch. 3, pp. 56-89</li> <li>✓ Mitchell, Jonathan F., <i>Judicial Review and the Future of Federalism</i>, 49 ARIZ. ST. L.J. 1091 (Fall 2017)</li> </ul>
Week 6 2/25, 2/27	<i>Judicial Selection and Removal</i> <ul style="list-style-type: none"> <li>✓ Ch. 4, pp. 99-130</li> <li>✓ Congressional Research Service. <i>Supreme Court Appointment Process: President's Selection of a Nominee</i> (R44235), Prepared by Barry J. McMillion. Washington: Library of Congress, June 27, 2018.</li> </ul>
Week 7 3/3, 3/5	<i>The Practice of Law</i> <ul style="list-style-type: none"> <li>✓ Ch. 5, pp. 142-167</li> </ul>
Week 8 3/10, 3/12	<i>Catch-Up and Midterm Review</i> <b>Midterm Exam - March 12th</b>

<b>Date</b>	<b>Readings and Assignments</b>
Week 9 3/17, 3/19	<b>Spring Break</b>
Week 10 3/24, 3/26	<i>Access to Courts and Justice</i> <ul style="list-style-type: none"> <li>✓ Ch. 6, pp. 177-190</li> <li>✓ <i>Nixon v. United States</i>, 506 U.S. 224 (1993)</li> <li>✓ <i>Bush v. Gore</i>, 531 U.S. 98 (2000)</li> <li>✓ <i>Hollingsworth v. Perry</i>, 570 U.S. 693 (2013)</li> </ul>
Week 11 3/31, 4/2	<i>The Adversarial Process and Criminal Cases</i> <ul style="list-style-type: none"> <li>✓ Ch. 7, pp. 196-223</li> <li>✓ <i>Roper v. Simmons</i>, 543 U.S. 551 (2005)</li> </ul>
Week 12 4/7, 4/9	<i>Civil Cases and Litigation</i> <ul style="list-style-type: none"> <li>✓ Ch. 8, pp. 232-256</li> <li>✓ <i>Katko v. Briney</i>, 183 N.W.2nd 657 (Iowa 1971)</li> <li>✓ <i>Minns v. United States</i>, 155 F.3d 445 (4th Cir. 1998)</li> <li>✓ <i>Tenet v. Doe</i>, 544 U.S. 1 (2005)</li> </ul>
Week 13 4/14, 4/16	<b>Case Study Due at Beginning of Class - April 14th</b>  <i>Appellate Courts and Decision Making</i> <ul style="list-style-type: none"> <li>✓ Ch. 9, pp. 264-292</li> <li>✓ Justice Breyer and Justice Scalia</li> </ul>
Week 14 4/21, 4/23	<i>The Scope and Limit of Judicial Power</i> <ul style="list-style-type: none"> <li>✓ Ch. 10, pp. 301-314</li> <li>✓ Global War on Terrorism and Habeas Corpus</li> </ul>
Week 15 4/28, 4/30	<i>The Scope and Limit of Judicial Power</i> <ul style="list-style-type: none"> <li>✓ Ch. 10, pp. 315-328</li> <li>✓ <i>Obergefell v. Hodges</i>, 576 U.S. ____ (2015)</li> </ul>
Week 16 5/5, 5/7	<i>The Trump Impeachment and Final Exam Review</i>
<b>May 14</b>	<b>Final Exam (1:00 pm - 3:45 pm)</b>