

POLS 4370 – INDEPENDENT STUDY IN PUBLIC LAW

Fridays: 2:00 – 4:00pm or TBA

INSTRUCTOR: Dr. Rebecca Reid
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OFFICE: 307 Benedict Hall
OFFICE HOURS: TR 11:00 am-1:00 pm and 3:00-5:00 pm, or by appointment

COURSE DESCRIPTION

This course provides advanced undergraduate students a survey of the literature in judicial politics. The class focuses on judge decision-making and will survey the U.S. Supreme Court, lower federal courts, and state supreme courts. This class is reading intensive and formatted as a seminar to enable students to explore and analyze judicial institutions and behavior through discussion and dialogue. Students will be expected to write an original research paper on judicial politics in addition to several short papers evaluating and synthesizing the readings for selected weeks.

This is not a course on constitutional law, and the focus will not be on the development of legal doctrines or close readings of landmark cases. Instead, we will evaluate law and courts as political institutions and judges as political actors and policy-makers.

LEARNING OUTCOMES

Over the course of the semester students will have:

- An understanding of the key elements of judicial institutions and legal systems as well as understand how institutions shape behavior of judges and the legal community.
- Developed a comprehensive understanding of the fundamental theories related to judicial behavior and decision making.
- Developed critical and analytical thinking skills necessary to adapt and apply theoretical arguments to specific institutional and environmental contexts.
- Demonstrated the ability to synthesize and evaluate specific arguments into cogent arguments and explanations.
- Prepared a conference level, original research paper related to judicial politics.

REQUIRED READING

- Baum, Lawrence. 1997. *The Puzzle of Judicial Behavior*. Ann Arbor: University of Michigan Press.
- Baird, Vanessa A. 2007. *Answering the Call of the Court: How Justices and Litigants Set the Supreme Court Agenda*. Charlottesville, VA: University of Virginia Press.

- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.
- Geyh, Charles Gardner. 2011. *What's Law Got to Do With It? What Judges Do, Why They Do It, and What's at Stake*. Stanford University Press.
- Hansford, Thomas G. and James F. Spriggs. 2006. *The Politics of Precedent on the U.S. Supreme Court*. Princeton: Princeton University Press.
- Bailey, Michael A., and Forrest Maltzman. 2011. *The Constrained Court: Law, Politics, and the Decisions Justices Make*. Princeton University Press.
- Corley, Pamela C., Amy Steigerwalt, Artemus Ward. 2013. *The Puzzle of Unanimity: Consensus on the United States Supreme Court*. Stanford, CA: Stanford Law Books.
- Baum, Lawrence. 2006. *Judges and Their Audiences: A Perspective on Judicial Behavior*. Princeton University Press.
- Bowie, Jennifer Barnes, Donald R. Songer, and John Szmer. 2014. *The View from the Bench and Chambers*. The University of Virginia Press.
- Rowland, C. K. and Robert A. Carp. 1996. *Politics and Judgment in Federal District Courts*. Lawrence: University of Kansas Press.
- Langer, Laura. 2002. *Judicial Review in State Supreme Courts: A Comparative Study*. Albany: State University of New York Press.
- Bonneau, Chris W. and Melinda Gann Hall. 2009. *In Defense of Judicial Elections*. Routledge.
- Haire, Susan B., and Laura P. Moyer. 2015. *Diversity Matters: Judicial Policy Making in the U.S. Courts of Appeals*. University of Virginia Press.

Students are required to locate and read each article and book. Required articles and other readings can be accessed from the UTEP library (which includes JSTOR, Sage, or Heinonline (among other sources). Access is free on UTEP campus or at home via proxy. Occasionally, Google Scholar and author websites may similarly provide access to these articles. In no situation is a student expected to or required to purchase an article.

COURSE REQUIREMENTS AND GRADING

Evaluation in this course will be based on the following components:

Critical Evaluation Papers (5)	50%
Research Paper	50%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

Participation: Attendance and participation are essential. Students are responsible for offering their thoughts, opinions, and questions without solicitation from the instructor. Needless to say, these thoughts should have merit and be based upon the readings.

Critical Evaluations: Each week for the five selected weeks*, students are responsible to turn in a critical evaluation essay that must critique the readings due that week. These papers should address the strengths and weaknesses of the readings, discuss common and disparate themes, how the scholarship is advanced (or not) by these readings, the limitations of the readings, how the research can be improved, etc. **This is not a summary of the readings.** Rather, the essay is an assessment of the readings, addressing the theoretical and methodological issues. These papers should be **3-5 pages long, typed, and are due at 5 pm Thursdays** (the day before class each week). References and citations are mandatory, and the works cited pages do not count toward the page limitations.

*Students will select 5 weeks for which they will write these critical evaluation papers. Hence, there will be a total of 5 papers due for each student. Students are responsible for successfully completing and submitting each paper and staying on schedule. **Students are under no circumstances able to make up these papers, and I do not accept late work.**

Research paper: Students must complete an original research paper that offers conference-level work. Early in the semester, each student must submit a 1-2 page research proposal that includes a detailed research question(s). The goal of the research paper is to explore a topic in judicial politics beyond that covered in assigned readings and class discussion. All topics must be approved by me; hence, I recommend brainstorming research ideas early in the semester as it is rare to find a viable idea on the first try.

The final research paper is **due the last day of class** and should be approximately **10-25 pages long**. **Students must submit their paper in hard copy format during class.** Students are encouraged to meet with me periodically throughout the semester for feedback and discuss their

progress. **I will not give incompletes for the class (except in the gravest of circumstances) and late papers will not be accepted.**

SPECIAL ACCOMMODATIONS

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to cass@utep.edu, or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at www.sa.utep.edu/cass. *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.*

ACADEMIC DISHONESTY

Absolutely no form of academic dishonesty will be tolerated. The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

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, and any act designed to give unfair advantage to a student or the attempt to commit such acts. Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at www.utep.edu/dos, may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

GENERAL EXPECTATIONS

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the textbooks, articles, and the class discussions. If you miss a class, you are still responsible for the content of that day's information. I will not tolerate disruptive behavior. Additionally, I expect all students to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. I allow the use of laptops for class purposes only; however, should laptop usage become disruptive, I reserve the right to prohibit laptops and other electronic devices.

This class is designed to challenge students with new, sometimes controversial, ideas and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. This class is designed to initiate an open discussion based upon the required readings, encourage critical thinking and application to current events, and enable students to digest difficult material through these discussions. This class DOES NOT give you knowledge—i.e. knowledge and understanding is not transfused to students by simply sitting in class. Learning is an interactive process and one that is the primary responsibility of each student.

Late assignments will receive no credit.

All grades are earned and reflect your reflect the mastery of material through the adequate completion of assignments by their deadline. As such, they do not reflect level of effort, interest, or intention. **I will not change final grades for the course under any circumstances,** with the single exception of cases where an error occurred on my end. As general policy, I do not offer incompletes for this course. Finally, no assignments or materials are accepted after the last day of class or its scheduled due date.

COURSE SCHEDULE

The following is a list of topics to be covered at each class meeting, and the readings which should be completed in order to fully participate in class that day. I **require** you to read the material prior to the class since you will be expected to participate in the discussion. While I give specific days/weeks on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. As a general rule, the course will follow this order of topics, regardless of date changes, unless otherwise announced.

WEEK 1: INTRODUCTION TO JUDICIAL BEHAVIOR

Baum, Lawrence. 1997. *The Puzzle of Judicial Behavior*. Ann Arbor: University of Michigan Press.

WEEK 2: AGENDA SETTING

Baird, Vanessa A. 2007. *Answering the Call of the Court: How Justices and Litigants Set the Supreme Court Agenda*. Charlottesville, VA: University of Virginia Press.

Owens, Ryan J. 2010. "The Separation of Powers and Supreme Court Agenda Setting." *AJPS* 54: 412-427.

WEEK 3: U.S. SUPREME COURT: ATTITUDINAL MODEL

Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.

Epstein, Lee, Andrew D. Martin, Jeffrey A. Segal, and Chad Westerland. 2007. "The Judicial Common Space." *JLEO* 23: 303-325.

Martin, Andrew D. and Kevin M. Quinn. 2007. "Assessing Preference Change on the US Supreme Court." *JLEO* 23: 365-385.

WEEK 4: U.S. SUPREME COURT: LEGAL MODEL

Geyh, Charles Gardner. 2011. *What's Law Got to Do With It? What Judges Do, Why They Do It, and What's at Stake*. Stanford University Press.

Hansford, Thomas G. and James F. Spriggs. 2006. *The Politics of Precedent on the U.S. Supreme Court*. Princeton: Princeton University Press.

Bartels, B., & O'Geen, A. 2015. "The Nature of Legal Change on the U.S. Supreme Court: Jurisprudential Regimes Theory and Its Alternatives." *American Journal of Political Science* 59 (4), 880-895.

WEEK 5: U.S. SUPREME COURT: STRATEGIC MODELS AND SOP

Bailey, Michael A., and Forrest Maltzman. 2011. *The Constrained Court: Law, Politics, and the Decisions Justices Make*. Princeton University Press.

Hall, M. 2014. "The Semiconstrained Court: Public Opinion, the Separation of Powers, and the U.S. Supreme Court's Fear of Nonimplementation." *American Journal of Political Science* 58 (2), 352-366.

WEEK 6: OPINION ASSIGNMENT AND CONSENSUS

RESEARCH TOPIC PROPOSAL DUE

Corley, Pamela C., Amy Steigerwalt, Artemus Ward. 2013. *The Puzzle of Unanimity: Consensus on the United States Supreme Court*. Stanford, CA: Stanford Law Books.

Lax, Jeffrey R. and Charles M. Cameron. 2007. "Bargaining and Opinion Assignment on the US Supreme Court." *JLEO* 23: 276-302.

WEEK 7: U.S. SUPREME COURT: OTHER INFLUENCES

Baum, Lawrence. 2006. *Judges and Their Audiences: A Perspective on Judicial Behavior*. Princeton University Press.

Casillas, C., Enns, P., and Wohlfarth, P. 2011. "How Public Opinion Constrains the U.S. Supreme Court." *American Journal of Political Science* 55 (1), 74-88.

Johnson, Timothy R., Paul J. Wahlbeck, and James F. Spriggs, II. 2006. "The Influence of Oral Arguments on the U.S. Supreme Court." *APSR* 100: 99-113.

Bailey, Michael A., Brian Kamoie, and Forrest Maltzman. 2005. "Signals from the Tenth Justice: The Political Role of the Solicitor General in Supreme Court Decision Making." *AJPS* 49(Jan.): 72-85.

Collins, Paul M. Jr. 2004. "Friends of the Court: Examining the Influence of Amicus Curiae Participation in U.S. Supreme Court Litigation." *LSR* 38(4): 807-832.

WEEK 8: U.S. COURTS OF APPEALS

Bowie, Jennifer Barnes, Donald R. Songer, and John Szmer. 2014. *The View from the Bench and Chambers: Examining Judicial Process and Decision Making on the U.S. Courts of Appeals*. The University of Virginia Press.

Black, R. C. and Owens, R. J. 2016. "Courting the President: How Circuit Court Judges Alter Their Behavior for Promotion to the Supreme Court." *American Journal of Political Science* 60: 30-43.

Glynn, A. N. and Sen, M. 2015. "Identifying Judicial Empathy: Does Having Daughters Cause Judges to Rule for Women's Issues?." *American Journal of Political Science* 59: 37-54.

Songer, Donald R., Reginald S. Sheehan, and Susan Brodie Haire. 1999. "Do the 'Haves' Come Out Ahead over Time? Applying Galanter's Framework to the U.S. Courts of Appeals, 1925-1988." *LSR* 33(4): 811-832.

WEEK 9: U.S. DISTRICT COURTS

Rowland, C. K. and Robert A. Carp. 1996. *Politics and Judgment in Federal District Courts*. Lawrence: University of Kansas Press.

Collins, Paul M. Jr., Daniel A. Norton, Kenneth L. Manning, and Robert A. Carp. 2008. "International Conflicts and Decision Making on the Federal District Courts." *The Justice System Journal* 29 (2): 121- 144.

WEEK 10: HIERARCHICAL INFLUENCES ON FEDERAL COURTS

Beim, D., Hirsch, A., and Kastellec, J. 2014. "Whistleblowing and Compliance in the Judicial Hierarchy." *American Journal of Political Science* 58 (4), 904-918.

Benesh, Sara C. and Malia Reddick. 2002. "Overruled: An Event History Analysis of Lower Court Reaction to Supreme Court Alteration of Precedent." *JOP* 64(May): 534-550.

Luse, Jennifer K., Geoffrey McGovern, Wendy L. Martinek, and Sara C. Benesh. 2009. "Such Inferior Courts...Compliance by Circuits with Jurisprudential Regimes." *APR* 37(Jan.): 75-106.

Songer, Ginn & Sarver (2003). "Do Judges Follow the Law When There is No Fear of Reversal?" *Justice System Journal* 24:137-161

WEEK 11: U.S. STATE COURTS

Langer, Laura. 2002. *Judicial Review in State Supreme Courts: A Comparative Study*. Albany: State University of New York Press.

Bonneau, Chris W. and Melinda Gann Hall. 2009. *In Defense of Judicial Elections*. Routledge.

WEEK 12: DIVERSITY, IDENTITY, AND DECISION MAKING

Haire, Susan B., and Laura P. Moyer. 2015. *Diversity Matters: Judicial Policy Making in the U.S. Courts of Appeals*. University of Virginia Press.

Boyd, Christina L., Lee Epstein, and Andrew D. Martin. 2010. "Untangling the Causal Effects of Sex on Judging." *American Journal of Political Science* 54: 389- 411.

Collins, Paul M., Jr., Kenneth L. Manning, and Robert A. Carp. 2010. "Gender, Critical Mass, and Judicial Decision Making." *Law & Policy* 32: 260-281.

WEEK 13: RESEARCH IN PUBLIC LAW IN PRACTICE

WEEK 14: RESEARCH IN PUBLIC LAW IN PRACTICE

WEEK 15: CONCLUSIONS

RESEARCH PAPER DUE