

PSCI 4341: THE POLITICS OF THE JUDICIAL PROCESS
Spring 2010; SOM 2.106; T/TH 11:30-12:45

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Office Hours: Monday & Wednesday 2-3:30

Course Description

This is a class in judicial politics, a term which can have many meanings and cover a wide variety of topics. In this course we will cover topics such as judges, lawyers, litigants, criminal and civil procedure, state and federal courts, and theories of judicial decision making. We will analyze these concepts, actors and institutions from a variety of perspectives including theoretical, normative, and empirical approaches. The point of this course is to instill in you a greater understanding of how the American legal system and politics interact and to develop your ability to evaluate commentary on the American judiciary critically. In short, I aim to help you become a critical consumer of information about American courts.

We will begin by covering the basic descriptive information that will form the basis of your understanding of the American legal system. These basics include: (1) the structure of federal and state court systems, (2) the concept of jurisdiction, (3) how judges are selected, (4) the role of lawyers in the judicial system, and (5) civil and criminal procedure. Then, in the second half of the class, we will begin to use the knowledge base you have built in the first half of the course to discuss more complex concepts and theories about the American judiciary. The following are some of the topics we will cover in this part of the course: (1) judicial decision making, (2) implementation of court policy, and (3) the role of interest groups (and lawyers) in the judicial system. Further, I am open to covering other topics if you have special interests—please make me aware of these interests as soon as you can.

Student Learning Objectives

1. Become a critical consumer of information about American courts.
 2. Demonstrate a basic understanding of the theories of judicial decision making.
 3. Be able to apply the theories of decision making to determine the likely outcomes of cases.
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Course Material:

I have ordered the following required textbooks at the campus bookstore, although the off campus bookstores may have them as well:

1. *Judicial Process in America* (7th ed.). Robert Carp, Ronald Stidham and Kenneth Manning. CQ Press. ISBN: 9780872893412. Hereinafter referred to as CSM in the syllabus, this is our textbook and will provide the basic information for the course.
 2. *Judges on Judging: Views from the Bench* (3rd ed.). David M. O'Brien (editor). CQ Press. ISBN: 9780872899513. Hereinafter referred to as O'Brien in the syllabus, this is a collection of writings from judges about courts and the judicial process.
 3. *Class Action*. Clara Bingham and Laura Leedy Gansler. Anchor Books. ISBN: 9780385496131. Referred to as Class Action on the syllabus, we will read this book at the beginning of March as part of our exploration of the civil litigation process.
 4. Articles: throughout the course you will be assigned articles written by political scientists, sociologist, criminologist and others. These will be posted on the eLearning course website. They are referred to as Articles in the syllabus.
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Course Schedule:

Please note that all listed readings are required.

January 12th: Course Introduction

The Basics:

January 14th & 19th: Foundations and Sources of Law

CSM: Chapter 1

O'Brien: Chapter 14

January 21st: The Special Problem of Judicial Review

O'Brien: Introduction to Part 1 and Chapter 1

Article: Judicial review: the usurpation and democracy questions
(Melone and Mace)

January 26th & 28th: Structure of State and Federal Court Systems

CSM: Chapters 2 & 3

February 2nd: Selection of Judges in State Courts

CSM: Chapter 5

Article: Interest groups and state court elections: a new era and its
challenges (Thomas, Boyer, and Hrebenar)

February 4th & 9th: Selection of Judges in Federal Courts

CSM: Chapters 6 & 7

O'Brien: Chapter 3

February 11th: **Exam 1**

February 16th: Jurisdiction: State & Federal

CSM: Chapter 4

O'Brien: Chapter 33

February 18th & 23th: Criminal Procedure & Trials

CSM: Chapters 9 & 10

Article: Selective Empathy (Greenhouse)

February 25th: **Plea Bargaining Simulation**

March 2nd: Civil Trials and Procedure

CSM: Chapter 11

Article: The changing role of the trial judge (Ludwig)

March 4th: *Class Action*/Civil Procedure Continued

March 9th: Deciding to Decide: Appellate Review

O'Brien: Chapter 11

Article: Deciding what to decide: the Judge's Bill at 75 (Hartnett)

March 11th: **Exam 2**

March 16th & 18th: Spring Break

The Courts and Politics

March 23rd: Lawyers & Litigants

CSM: Chapter 8

Article: Contingency fee lawyers as gatekeepers in the civil justice system (Kritzer)

March 25th: Interest Groups

CSM: Chapter 8

Article: Friendly fire: *amici curiae* and *Webster v. Reproductive Health Services* (Behuniak)

March 30th & April 1st: Decision Making on Trial Courts

CSM: Chapter 12

O'Brien: Chapter 5

April 6th: Decision Making on Appellate Courts

CSM: Chapter 13

O'Brien: Chapter 7

April 8th & 13th: Decision Making on the Supreme Court

O'Brien: Chapter 20 & 21

April 15th: Courts, Public Opinion, & Institutional Legitimacy

Article: Supreme Court and public support for rights claimants (Marshall and Ignagni)

Article: The impact of *Bush v. Gore* on public perception and knowledge of the Supreme Court (Kritzer)

April 20th & 27th: The Implementation of Court Decisions—**Note: There is no class on April 22nd**

CSM: Ch. 14

Article: Arrogation of power or accountability: “judicial imperialism” revisited (Wasby)

April 29th: Course Review

CSM: Chapter 15

Final Exam: Tuesday, May 11th (11 a.m. to 1 p.m.)

Grading

1. There are two midterm exams in the course, each covering aspects of the material from both assignments and lecture. Each exam will be worth 25% of your grade.
2. There will be a final exam, given during the final exam period, which will also cover material from both the assignments and lecture. This final exam may or may not be cumulative depending on class performance throughout the semester. I will let you know well ahead of time whether or not the final exam will be cumulative. This exam will be worth 35% of your final grade.
3. The final component of your assessment in the class involves a plea bargaining simulation in late February. You will be assigned to groups for this activity and will be assessed a group grade. Group assignments will be random. More information on this assignment will be made available as we approach the date of the simulation. If you are absent on the day of the simulation you will receive no credit for that portion of the course. The plea bargaining simulation is worth 15% of your final grade.

Therefore, your final grade in this class will be calculated as follows:

25% (2x) Midterm Exams

35% Final Exam

15% Plea Bargaining Simulation

The grading scale is as follows and is based on the percentage of total available points earned:

A = 94% or greater

A- = 90-93%
B+ = 87-89%
B = 84-86%
B- = 80-83%
C+ = 77-79%
C = 74-76%
C- = 70-73%
D+ = 67-69%
D = 63-66%
D- = 60-62%
F = < 60%

Course & Instructor Policies

I will make special arrangements for students who must miss a test for very good reasons, but you must give me a note describing the reasons that you have to miss the test and must obtain my permission to do so prior to the test. If I give you permission to miss an exam, you must check with me on the first class day after the examination to find out the time for the makeup examination, and you must take the examination at that time. If you miss an examination without prior permission, ordinarily you will receive a score of zero on that examination. If you have very good reason for missing the examination without prior permission, I will allow you to take the makeup with a penalty of five points for each day after the exam before you notified me (including the examination day itself).

I don't care if you eat or drink in the room, as long as you do so quietly. Also, please be sure to silence your cell phones before coming to class. If ringing cell phones become an issue, then I reserve the right to impose a small penalty on the final grade of those whose phones continue to ring.

Technical Support

If you experience any problems with your UTD account you may send an email to: assist@utdallas.edu or call the UTD Computer Helpdesk at 972-883-2911.

Field Trip Policies

Off-campus Instruction and Course Activities

Off-campus, out-of-state, and foreign instruction and activities are subject to state law and University policies and procedures regarding travel and risk-related activities. Information regarding these rules and regulations may be found at the website address http://www.utdallas.edu/BusinessAffairs/Travel_Risk_Activities.htm. Additional information is available from the office of the school dean. Below is a description of any travel and/or risk-related activity associated with this course.

Student Conduct & Discipline

The University of Texas System and The University of Texas at Dallas have rules and regulations for the orderly and efficient conduct of their business. It is the responsibility of each student and each student organization to be knowledgeable about the rules and regulations which govern student conduct and activities. General information on student conduct and discipline is contained in the UTD printed publication, *A to Z Guide*, which is provided to all registered students each academic year.

The University of Texas at Dallas administers student discipline within the procedures of recognized and established due process. Procedures are defined and described in the *Rules and Regulations, Series 50000, Board of Regents, The University of Texas System*, and in Title V, Rules on Student Services and Activities of the university's *Handbook of Operating Procedures*. Copies of these rules and regulations are available to students in the Office of the Dean of Students, where staff members are available to assist students in interpreting the rules and regulations (SU 1.602, 972/883-6391) and online at <http://www.utdallas.edu/judicialaffairs/UTDJudicialAffairs-HOPV.html>

A student at the university neither loses the rights nor escapes the responsibilities of citizenship. He or she is expected to obey federal, state, and local laws as well as the Regents' Rules, university regulations, and administrative rules. Students are subject to discipline for violating the standards of conduct whether such conduct takes place on or off campus, or whether civil or criminal penalties are also imposed for such conduct.

Academic Integrity

The faculty expects from its students a high level of responsibility and academic honesty. Because the value of an academic degree depends upon the absolute integrity of the work done by the student for that degree, it is imperative that a student demonstrate a high standard of individual honor in his or her scholastic work.

Scholastic Dishonesty, 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.

Plagiarism, especially from the web, from portions of papers for other classes, and from any other source is unacceptable and will be dealt with under the university's policy on plagiarism (see general catalog for details). This course will use the resources of turnitin.com, which searches the web for possible plagiarism and is over 90% effective.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials, including music and software. Copying, displaying, reproducing, or distributing copyrighted works may infringe the copyright owner's rights and such infringement is subject to appropriate disciplinary action as well as criminal penalties provided by federal law. Usage of such material is only appropriate when that usage constitutes "fair use" under the Copyright Act. As a UT Dallas student, you are required to follow the institution's copyright policy (Policy Memorandum 84-I.3-46). For more information about the fair use exemption, see <http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm>

Email Use

The University of Texas at Dallas recognizes the value and efficiency of communication between faculty/staff and students through electronic mail. At the same time, email raises some issues concerning security and the identity of each individual in an email exchange. The university encourages all official student email correspondence be sent only to a student's U.T. Dallas email address and that faculty and staff consider email from students official only if it originates from a UTD student account. This allows the university to maintain a high degree of confidence in the identity of all individual corresponding and the security of the transmitted information. UTD furnishes each student with a free email account that is to be used in all communication with university personnel. The Department of Information Resources at U.T. Dallas provides a method for students to have their U.T. Dallas mail forwarded to other accounts.

Withdrawal from Class

The administration of this institution has set deadlines for withdrawal of any college-level courses. These dates and times are published in that semester's course catalog. Administration procedures must be followed. It is the student's responsibility to handle withdrawal requirements from any class. In other words, I cannot drop or withdraw any student. You must do the proper paperwork to ensure that you will not receive a final grade of "F" in a course if you choose not to attend the class once you are enrolled.

Student Grievance Procedures

Procedures for student grievances are found in Title V, Rules on Student Services and Activities, of the university's *Handbook of Operating Procedures*.

In attempting to resolve any student grievance regarding grades, evaluations, or other fulfillments of academic responsibility, it is the obligation of the student first to make a serious effort to resolve the matter with the instructor, supervisor, administrator, or committee with whom the grievance originates (hereafter called "the respondent"). Individual faculty members retain primary responsibility for assigning grades and evaluations. If the matter cannot be resolved at that level, the grievance must be submitted in writing to the respondent with a copy of the respondent's School Dean. If the matter is not resolved by the written response provided by the respondent, the student may submit a written appeal to the School Dean. If the grievance is not resolved by the School Dean's decision, the student may make a written appeal to the Dean of Graduate or Undergraduate Education, and the dean will appoint and convene an Academic Appeals Panel. The decision of the Academic Appeals Panel is final. The results of the academic appeals process will be distributed to all involved parties.

Copies of these rules and regulations are available to students in the Office of the Dean of Students, where staff members are available to assist students in interpreting the rules and regulations.

Incomplete Grade Policy

As per university policy, incomplete grades will be granted only for work unavoidably missed at the semester's end and only if 70% of the course work has been completed. An incomplete grade must be resolved within eight (8) weeks from the first day of the subsequent long semester. If the required work to complete the course and to remove the incomplete grade is not submitted by the specified deadline, the incomplete grade is changed automatically to a grade of **F**.

Disability Services

The goal of Disability Services is to provide students with disabilities equal educational opportunities. Disability Services provides students with a documented letter to present to the faculty members to verify that the student has a disability and needs accommodations. This letter should be presented to the instructor in each course at the beginning of the semester and accommodations needed should be discussed at that time. It is the student's responsibility to notify his or her professors of the need for accommodation. If accommodations are granted for testing accommodations, the student should remind the instructor five days before the exam of any testing accommodations that will be needed. Disability Services is located in Room 1.610 in the Student Union. Office hours are Monday – Thursday, 8:30 a.m. to 6:30 p.m., and Friday 8:30 a.m. to 5:00 p.m. You may reach Disability Services at (972) 883-2098.

Guidelines for documentation are located on the Disability Services website at <http://www.utdallas.edu/disability/documentation/index.html>

Religious Holy Days

The University of Texas at Dallas will excuse a student from class or other required activities for the travel to and observance of a religious holy day for a religion whose places of worship are exempt from property tax under Section 11.20, Tax Code, Texas Code Annotated.

The student is encouraged to notify the instructor or activity sponsor as soon as possible regarding the absence, preferably in advance of the assignment. The student, so excused, will be allowed to take the exam or complete the assignment within a reasonable time after the absence: a period equal to the length of the absence, up to a maximum of one week. A student who notifies the instructor and completes any missed exam or assignment may not be penalized for the absence. A student who fails to complete the exam or assignment within the prescribed period may receive a failing grade for that exam or assignment.

If a student or an instructor disagrees about the nature of the absence [i.e., for the purpose of observing a religious holy day] or if there is similar disagreement about whether the student has been given a reasonable time to complete any missed assignments or examinations, either the student or the instructor may request a ruling from the chief executive officer of the institution, or his or her designee. The chief executive officer or designee must take into account the legislative intent of TEC 51.911(b), and the student and instructor will abide by the decision of the chief executive officer or designee.

These descriptions and timelines are subject to change at the discretion of the Professor.