

## **POLI 4023 JUDICIAL POLITICS/PROCESS**

Spring 2014

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### **COURSE DESCRIPTION:**

This course will introduce students to the judicial process within the American governmental system. Students will study the organization of courts, the individuals involved in the judicial arena, and the structure of the legal system, including trial and appellate courts. The course will focus on the relationship of politics to the behavior of judges, and to the structure and functioning of courts.

### **COURSE OBJECTIVES:**

Students will learn most importantly that judges are political actors and that courts are policy-making bodies. Students will gain an understanding about the structures and processes of court systems. Students will be able to critically evaluate the American judicial system and will demonstrate analytical skills through both written and spoken communication exercises.

### **REQUIRED TEXTS:**

Baum, Lawrence. 2013. American Courts: Process and Policy, 7th Edition. Cengage Learning. ISBN-13: 9780495916376.

Baum, Lawrence. 2013. The Supreme Court, 11<sup>th</sup> Edition. Sage. ISBN: 978-1-4522-2096-3.

### **STUDENTS MUST OBTAIN AND REGISTER A CLICKER FOR THE COURSE**

### **COURSE REQUIREMENTS:**

Students are required to read the assignments, be prepared for discussion, attend class **on time and for the duration of the class** and **participate** in class discussions. Two examinations will be given. The exams will be some combination of multiple choice, short answer and essay. The second (final) exam will not be a cumulative examination. Makeup examinations will be **only** for university excused absences or for those absences necessitated by a **legitimate** and **documented** illness. Students must adhere to the Code of Student Conduct.

Students will also be required to complete a 10-12 page research paper (3,250 word minimum) posted in Word to Moodle. Attached is a list of nine topics with associated bibliographies. Each student must select **one** of the topics and find at least **four appropriate additional sources**. Scholarly research monographs (**NOT** textbooks) are also acceptable. Students may use material from the textbooks in class, but these **DO NOT** count as additional sources. Students must post their topic on Moodle by 11:55PM **Tuesday, February 4 (5 points)**, the four additional sources must be posted by 11:55PM **Tuesday, February 11 (5 points)**, and the introductory section must be posted by 11:55PM **Thursday, February 26 (5 points)**. An initial draft of the research paper

must be posted by 11:55PM **Thursday, April 10 (25 points)**. Feedback will be provided on the drafts that can be incorporated into the final version of the paper. The final revised paper must be posted by 11:55PM **Tuesday May 1 (80 points)**. Students who turn in the Topic, Sources, and/or Draft late will receive no credit. Late papers will be penalized 10 points for **each 24-hour (or less) period** beyond the deadline. The research paper will be addressed further in class. The two exams are worth **100 points** each. Participation is worth **30 points**. Clickers will be used to assess attendance, but attendance is not the only consideration. Participation is based on regular and **punctual** attendance, preparation and participation (including pop quizzes if necessary). Grades are based on the following scale:

314-350=A  
 279-313=B  
 244-278=C  
 209-243=D  
 Below 208=F

### TENTATIVE COURSE OUTLINE

<b>Date</b>	<b>Topic</b>	<b>Reading Assignment</b>
January 14-16	Introduction/Overview	Baum, <i>American Courts</i> , Chapter 1
January 21-23	Court Organization	Baum, <i>American Courts</i> , Chapter 2
January 28-February 2	Lawyers	Baum, <i>American Courts</i> , Chapter 3; Tamanaha, Chapters 8, 9
February 4	<b><u>RESEARCH TOPIC DUE</u></b>	
February 4-6	Selection of Judges	Baum, <i>American Courts</i> , Chapter 4
February 11	<b><u>ADDITIONAL SOURCES DUE</u></b>	
February 11-18	Judges	Baum, <i>American Courts</i> , Chapter 5
February 20-March 11	Criminal Trial Courts	Baum, <i>American Courts</i> , Chapter 6
February 26	<b><u>INTRODUCTORY SECTION DUE</u></b>	
March 4	<b><u>MARDI GRAS HOLIDAY</u></b>	
March 13	<b><u>MIDTERM EXAMINATION</u></b>	
March 18-April 3	Civil Trial Courts	Baum, <i>American Courts</i> , Chapter 7
April 8-10	Appellate Courts	Baum, <i>American Courts</i> , Chapter 8
April 10	<b><u>DRAFT RESEARCH PAPER DUE</u></b>	
April 14-18	<b><u>SPRING BREAK HOLIDAY</u></b>	
April 22-24	Supreme Court	Baum, <i>Supreme Court</i> , Chapters 1-3
May 1	<b><u>RESEARCH PAPERS DUE</u></b>	
April 29 – May 1	Supreme Court	Baum, <i>Supreme Court</i> , Chapters 4-6 Baum, <i>American Courts</i> , Chapter 9
May 6	<b><u>FINAL EXAM</u></b> – 7:30am	

## Topics for Research Papers POLI 4023

### Plea Bargaining

- Brereton, David and Jonathan D. Casper. 1981. "Does It Pay to Plead Guilty?," *Law and Society Review* 16:45-69.
- Valdes, Stephen. 2005. "Frequency and Success: An Empirical Study of Criminal Law Defenses, Federal Constitutional Evidentiary Claims, and Plea Negotiations." *University of Pennsylvania Law Review*. 153:1709-1814.
- LaFree, G. D. 1985. "Adversarial and Nonadversarial Justice: A Comparison of Guilty Pleas and Trials." *Criminology*, 23, 289-312.
- Viljoen, Jodi, Jessica Klaver, and Ronald Roesch. 2005. "Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals." *Law and Human Behavior*. 29:253-277.
- Starr, Sonja B and Rehavi M. Marit. 2013. "Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of *Booker*." *Yale Law Journal*. 123-2-80.
- Sherod, Thaxton. 2013. "Leveraging Death." *Journal of Criminal Law and Criminology*. 103:475-552.

### Prosecutorial Discretion

- Ball, Jeremy D. 2006. "Is It a Prosecutor's World? Determinants of Count Bargaining Decisions." *Journal of Contemporary Criminal Justice*. 22:241-260.
- Frohmann, Lisa. 1997. "Convictability and Discordant Locales: Reproducing Race, Class, and Gender Ideologies in Prosecutorial Decisionmaking." *Law and Society Review* 31:531-555.
- Engen, Rodney L. and Sara Steen. "The Power to Punish: Discretion and Sentencing Reform in the War on Drugs." *American Journal of Sociology* 105:1357-1395.
- Wilmot, K. A., & Spohn, C. (2004). "Prosecutorial discretion and real-offense sentencing: An analysis of relevant conduct under the federal sentencing guidelines." *Criminal Justice Policy Review*. 15: 324-343.
- Haynie, Stacia L. and Ernest Dover. 1994. "Prosecutorial Discretion and the Decision to Try the Case." *American Politics Quarterly*. 22:370-381.
- Burke, Alafair S. 2007. "Prosecutorial Passion, Cognitive Bias, and Plea Bargaining." *Marquette Law Review*. 91:183-211.

### Income, Media and Other Effects in Crime Disposition

- Albonetti, Celesta A. 1997 "Sentencing Under the Federal Sentencing Guidelines: Effects of Defendant Characteristics." *Law and Society Review* 31:789-822.
- Steffensmeier, Darrell and Stephen Demuth. 2000. "Ethnicity and Sentencing Outcomes in U.S. Federal Courts: Who is Punished More Harshly?" *American Sociological Review*. 65:705-729.
- Mustard, David B. 2001. "Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts." *Journal of Law and Economics*. 44:285-314
- Helms, Ronald and David Jacobs. "The Political Context of Sentencing: An Analysis of Community and Individual Determinants." *Social Forces*. 81:577-604.
- Haynie, Stacia L. and Ernest Dover, "Prosecutorial Discretion and the Decision to Try the Case." *American Politics Quarterly*. 1994. 22:370-381.
- Schneider, Sydney. 2013. *Journal of Criminal Law & Criminology*. 103:279-308.

## Juries

- York, Erin and Benjamin Cornwell. 2006. "Status on Trial: Social Characteristics and Influence in the Jury Room." *Social Forces*. 85:455-477.
- Denove, Chris F. and Edward J. Imwinkelried. 1995. "Jury Selection: An Empirical Investigation of Demographic Bias." *American Journal of Trial Advocacy* 19: 285-341.
- Garvey, Stephen P. Sheri Lynn Johnson and Paul Marcus. 2000. "Correcting Deadly Confusion: Responding to Jury Inquiries in Capital Cases." *Cornell Law Review* 85:627-655.
- Hastie, Reid, David A. Schkade, and John W. Payne. A Study of Juror and Jury Judgments in Civil Cases: Deciding Liability for Punitive Damages." *Law and Human Behavior*. 22:287-314.
- Oppenheimer, David B. 2003. "Verdicts Matter: An Empirical Study of California Employment Discrimination and Wrongful Discharge Jury Verdicts Reveals Low Success Rates for Women and Minorities?" *University of California Davis Law Review*. 37:511-566.
- Bowers, William J. 1996. "The Capital Jury: Is It Tilted Toward Death?" *Judicature*. 79:220,222-223.

## Judicial Selection

- Songer, Donald R. and Mratha Humphries Ginn. 2002. "Assessing the Impact of Presidential and Home State Influences on Judicial Decisionmaking in the United States Courts of Appeals." 55:299-328.
- Bonneau, Chris W. 2007. "The Effects of Campaign Spending in State Supreme Court Elections." *Political Research Quarterly*. 60:489-499.
- Hall, Melinda Gann. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." 95:315-330.
- Sheldon, Charles H., and Nicholas P. Lovrich, Jr. 1999. "Voter Knowledge, Behavior and Attitudes in Primary and General Elections." *Judicature*. 82:216-223.
- Ashenfelter, Orley, Theodore Eisenberg, and Stewart J. Schwab. 1995. "Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes." *Journal of Legal Studies*. 24:257-281.
- Kimel, T. J. and Kirk A. Randazzo. 2012. "Shaping the Federal Courts: The Obama Nominees." *Social Science Quarterly*. 93:1243-1250.

## Resources, Courts and Winners and Losers

- Atkins, Burton M. 1991. "Party Capability Theory as an Explanation of Intervention Behavior in the English Court of Appeal." *American Journal of Political Science* 35:881-903.
- Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." *Law and Society Review* 9:95-160.
- Dumas, Tao L. and Stacia L. Haynie. 2012. "Building an Integrated Model of Trial Court Decision Making: Predicting Success and Awards Across Circuits." *State Politics and Policy Quarterly*. 12:103-126.
- Farole, Donald J. 1999. "Reexamining Litigant Success in State Supreme Courts." *Law and Society Review*. 33:1043-1058.
- Songer, Donald, R., Reginald S. Sheehan, and Susan Brodie Haire. 1999. "Do the 'Haves' Come out Ahead over Time? Applying Galanter's Framework to Decisions of the U.S. Courts of Appeals, 1925-1988." *Law and Society Review*. 33:811-832.
- Sheehan, Reginald S., William Mishler and Donald R. Songer. 1992. "Ideology, Status, and the Differential Success of Direct Parties Before the Supreme Court." *American Political Science Review*. 86:464-471.

## Courts and Interest Groups

- Collins, Paul. 2007. "Lobbyists before the U.S. Supreme Court: Investigating the Influence of Amicus Curiae Briefs." *Political Research Quarterly*. 60:55-70
- Epstein, Lee and C. K. Rowland. 1991. "Debunking the Myth of Interest Group Invincibility in the Courts Debunking the Myth of Interest Group Invincibility in the Courts." *American Political Science Review*. 85:205-217.
- O'Connor, Karen and Lee Epstein. 1983. "The Rise of Conservative Interest Group Litigation." *Journal of Politics*. 45:479-489.
- Segal, Jeffrey A., Charles M. Cameron and Albert D. Cover. 1992. "A Spatial Model of Roll Call Voting: Senators, Constituents, Presidents, and Interest Groups in Supreme Court Confirmations." *American Journal of Political Science* 36: 96-121.
- Songer, Donald R. and Reginald S. Sheehan. 1993. "Interest Group Success in the Courts: Amicus Participation in the Supreme Court." *Political Research Quarterly* 46:339-354.
- Collins, Paul and Wendy L. Martinek. 2010. "Friends of the Circuits: Interest Group Influence on Decision Making in the U.S. Courts of Appeals." *Social Science Quarterly*. 91:397-414.

## Policy Impact of Court Decisions

- Patton, Dana. 2007. "The Supreme Court and Morality Policy Adoption in the American States: The Impact of Constitutional Context." *Political Research Quarterly*. 60:468-488.
- Berry, Christopher and Charles Wysong. 2012. "Making Courts Matter: Politics and the Implementation of State Supreme Court Decisions." *University of Chicago Law Review*. 79:1-30.
- Songer, Donald and Reginald S. Sheehan. 1990. "Supreme Court Impact on Compliance and Outcomes: Miranda and New York Times in the United States Courts of Appeals." *Western Political Quarterly*, 43: 297-316.
- McGuire, Kevin T. 2009. "Public Schools, Religious Establishments, and the U. S. Supreme Court: An Examination of Policy Compliance." *American Politics Research*. 37:50-74.
- Stoutenborough, James W., Donald P. Haider-Markel, Mahalley D. Allen. "Reassessing the Impact of Supreme Court Decisions on Public Opinion: Gay Civil Rights Cases." *Political Research Quarterly*. 59:419-433.
- Thomas, George C. III and Richard A. Leo. 2002. "The Effects of Miranda v. Arizona: 'Embedded' in Our National Culture?" *Crime and Justice*. 29:203-271.

## Supreme Court Decision-Making

- Lindquist, Stefanie A and Rorie Spill Solberg. "Judicial Review by the Burger and Rehnquist Courts: Explaining Justices' Responses to Constitutional Challenges." *Political Research Quarterly*. 60:71-90.
- Corley, Pamela C. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly*. 61:468-478.
- Acker, James R. 1993. "A Different Agenda: The Supreme Court, Empirical Research Evidence, and Capital Punishment Decisions, 1986-1989." *Law and Society Review*. 27:65-88.
- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model*, Chapter 2. NY: Cambridge University Press. (See me for this.)
- Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of US Supreme Court Justices: Liberalism in Civil Liberties and Economic Decisions, 1946-1978." *American Political Science Review*. 75:355-367.
- Wahlbeck, Paul J., James F. Spriggs and Forrest Maltzman. 1998. "Marshalling the Court: Bargaining and Accommodation on the United States Supreme Court." *American Journal of Political Science* 42:294-315.