

POLI 4023 JUDICIAL POLITICS/PROCESS

Fall 2022

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Office Hours: Tuesday/Thursday 10:30am - 12:00 pm and by appointment
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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:

Neubauer, David W and Stephen S. Meinhold. 2017. *Judicial Process: Law, Courts, and Politics in the United States*. 7th Edition. Cengage Learning.

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 8-10 page research paper (2,250 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 **two appropriate additional sources**. Peer-reviewed articles, scholarly research monographs (**NOT** textbooks) are 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 **Thursday, September 8 (5 points)**, the four additional sources must be posted by 11:55PM **Thursday, September 22 (5 points)**, and the outline and introductory paragraph must be posted by 11:55PM **Tuesday, October 18 (5 points)**. An initial draft of the research paper must be posted by 11:55PM **Thursday, November 3 (40 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 November 29 (65 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 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**. Quizzes and discussion will be used to assess attendance, but attendance is not the only consideration. Participation is based on regular and **punctual** attendance, preparation and participation. 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

Date	Topic	Reading Assignment
August 23-25	Introduction/Overview	Neubauer & Meinhold, Chapter 1
August 30-September 1	Law and Legal Systems	Neubauer & Meinhold, Chapter 2
September 6-13	Federal Courts	Neubauer & Meinhold, Chapter 3
September 8	<u>RESEARCH TOPIC DUE</u>	
September 15-20	State Courts	Neubauer & Meinhold, Chapter 4
September 22	<u>ADDITIONAL SOURCES DUE</u>	
September 22-27	Lawyers	Neubauer & Meinhold, Chapter 5
September 29	Judges	Neubauer & Meinhold, Chapter 6
October 4-6	Mobilizing the Law	Neubauer & Meinhold, Chapter 7
October 11	<u>MIDTERM EXAMINATION</u>	
October 13	<u>FALL HOLIDAY</u>	
October 18-25	Criminal Trial Courts	Neubauer & Meinhold, Chapter 8, 9
October 18	<u>INTRODUCTORY PARAGRAPH & OUTLINE DUE</u>	
October 27-Nov 17	Civil Trial Courts/Trials & Juries	Neubauer & Meinhold, Chaps 10, 11, 12
November 3	<u>DRAFT RESEARCH PAPER DUE</u>	
November 22	Appellate Courts	Neubauer & Meinhold, Chapter 13
November 24	<u>THANKSGIVING HOLIDAY</u>	
November 29-Dec 1	Supreme Court	Neubauer & Meinhold, Chapter 14, 15
November 29	RESEARCH PAPERS DUE	
December 7 10:00am	FINAL EXAM – 10:00am-noon	

Topics for Research Papers POLI 4023

Plea Bargaining

- Casey, Cameron. 2020. "Lost Opportunity: Supreme Court Declines to Resolve Circuit Split on Brady Obligations During Plea-Bargaining." *Boston College Law Review*. 61:73-92.
- Gross, Samuel R., Kristen Jacoby, Daniel J. Matheson, Nicholas Montgomery and Sujata Patil. "Exonerations in the United States 1989 through 2003." *Journal of Criminal Law and Criminology*. 95:523-560.
- Leipold, Andrew D. 2018. "Criminal Dockets, Sentencing, and the Changing Role of Federal Prosecutors." *Federal Sentencing Reporter*. 30:177-185.
- Steffensmeier, Darrell, Noah Painter-Davis, and Jeffrey Ulmer. 2017. "Intersectionality of Race, Ethnicity, Gender, and Age on Criminal Punishment." *Race, Ethnicity, and Social Policy*. 60:810-833.
- Vick, Karcin, Kimberly J. Cook and Meghan Rogers. 2021. "Lethal Leverage: False Confessions, False Pleas, and Wrongful Homicide Convictions in Death-Eligible Cases." *Contemporary Justice Review*. 24:24-42
- Wilson, John Paul and Nicholas O. Rule. 2015. "Facial Trustworthiness Predicts Extreme Criminal-Sentencing Outcomes." *Psychological Science*. 26:1325-1331.

Prosecutorial Discretion

- Burke, Alafair S. 2007. "Prosecutorial Passion, Cognitive Bias, and Plea Bargaining." *Marquette Law Review*. 91:183-211.
- Haynie, Stacia L. and Ernest Dover. 1994. "Prosecutorial Discretion and the Decision to Try the Case." *American Politics Quarterly*. 22:370-381.
- Lynch, Mona, Matt Barno, and Marisa Omori. 2021. "Prosecutors, Court Communities, and Policy Change: The Impact of Internal DOJ Reforms on Federal Prosecutorial Practices." *Criminology*. 59:480-519.
- McMurtrie, Jacqueline. 2015. "The Unindicted Co-Ejaculator and Necrophilia: Addressing Prosecutors' Logic-Defying Responses to Exculpatory DNA Results." 105:853-879.
- Ulmer, Jeffery T., Gary Zajac and John H Kramer. 2020. "Geographic arbitrariness? County court variation in capital prosecution and sentencing in Pennsylvania." *Criminology & Public Policy*. 19:1073-1112.
- 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.

Income, Media and Other Effects in Crime Disposition

- Becket, Katherine and Lindsey Beach. 2021. "Understanding the Place of Punishment: Disadvantage, Politics, and the Geography of Imprisonment in 21st Century America." *Law & Policy*. 43:5-29.
- Haynie, Stacia L. and Ernest Dover, "Prosecutorial Discretion and the Decision to Try the Case." *American Politics Quarterly*. 1994. 22:370-381.
- Helms, Ronald and David Jacobs. 2002. "The Political Context of Sentencing: An Analysis of Community and Individual Determinants." *Social Forces*. 81:577-604.
- Kassin, Saul M., Daniel Bogart and Jacqueline Kerner. 2012. "Confessions That Corrupt: Evidence From the DNA Exoneration Case Files." *Psychological Science*. 23(1):41-45.
- Loquercio, Haley. 2022. "How Free is Free Speech: Media Bias, Pretrial Publicity, and Defendants' Need for a Universal Appellate Rule to Combat Prejudiced Juries." *Pennsylvania State Law Review*. 126:875-908.
- Smith, Earl and Angela J. Hattery. 2011. "Wrongful Conviction and Exoneration." *Journal of African American Studies*. 15(1):79-94.

Juries

- Anwar, Shamena, Patrick Bayer and Randi Hajalmarsson. 2014. "The Role of Age in Jury selection and Trial Outcomes." *Journal of Law & Economics*. 57:1001-1030.
- Denove, Chris F. and Edward J. Imwinkelried. 1995. "Jury Selection: An Empirical Investigation of Demographic Bias." *American Journal of Trial Advocacy* 19: 285-341.
- Dumas, Tao L. 2016. "Contextualizing the 'Black Box'." *Journal of Law and Courts*. 4:291-312.
- 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.
- Simpler, Miland F. III. 2012. "The Unjust "Web" We Weave: The Evolution of Social Media and Its Psychological Impact on Juror Impartiality and Fair Trials." *Law and Psychology Review*. 36:275-296.
- Vawwar, Matthew and Jacob P. Deere. 2018. "Effects of Jury Selection on Trial Outcome." Meltzoff, Julian and Harris Cooper, Eds. *Critical Thinking About Research: Psychology and Related Fields*. Washington, DC: American Psychological Association.

Judicial Selection

- Bonneau, Chris W. 2007. "The Effects of Campaign Spending in State Supreme Court Elections." *Political Research Quarterly*. 60:489-499
- Boyd, Christina L, Lori A. Ringhand and Paul M. Collins Jr. 2018. "The Role of Nominee Gender and Race at U.S. Supreme Court Confirmation Hearing." *Law & Society Review*. 52:871-901.
- Kimel, T. J. and Kirk A. Randazzo. 2012. "Shaping the Federal Courts: The Obama Nominees." *Social Science Quarterly*. 93:1243-1250.
- Kourlis, Rebecca Love. 2009. "America's Judicial Selection Wars." 36(1):507. American Bar Association.
- Nownes, Anthony J. and Colin Glennon. 2016. "An Experimental Investigation of How Judicial Elections Affect Public Faith in the Judicial System." *Law and Social Inquiry*. 41:37-60.
- Schoenherr, Jessica A., Elizabeth A. Lane and miles T. Armaly. 20

Resources, Courts and Winners and Losers

- Dumas, T., S. Haynie, and D. Daboval. 2015. "Does Size Matter? The Influence of Law Firm Size on Litigant Success Rates." *Justice System Journal*. 36: 341-354.
- Farole, Donald J. 1999. "Reexamining Litigant Success in State Supreme Courts." *Law and Society Review*. 33:1043-1058.
- Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." *Law and Society Review* 9:95-160.
- Haynie, Stacia L. 1994. "Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court." *Journal of Politics*. 56:752-772.
- 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.
- Szmer, J., D. Songer, and J. Bowie. 2016. "Party Capability and the US Courts of Appeals: Understanding Why the 'Haves' Win". *Journal of Law and Courts*. 4: 65-102.

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.
- 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.
- Corley, Pamela C. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly*. 61:468-478.
- Epstein, Lee and C. K. Rowland. 1991. "Debunking the Myth of Interest Group Invincibility in the Courts." *American Political Science Review*. 85:205-217.
- Larsen, Alison and Neal Devins. 2016 "The Amicus Machine." *Virginia Law Review*. 1901-1967
- 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.

Supreme Court Decision-Making

- Corley, Pamela C. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly*. 61:468-478.
- Gibson, James L. and Michael J. Nelson. 2016. "Change in Institutional Support for the US Supreme Court: Is the Court's Legitimacy Imperiled by the Decisions It Makes?" *Public Opinion Quarterly*. 80:622-641.
- Johnson, Timothy R. and Maron W. Sorenson. 2016. "The U.S. Supreme Court's Strategic Decision-Making Process." In Ralf Rogowski and Thomas Gawron, Eds. *Constitutional Courts in Comparison*. Berghahn Books.
- Songer, Donald R. 2012. "The Dog that Did Not Bark: Debunking the Myths Surrounding the Attitudinal Model of Supreme Court Decision Making." *Justice System Journal*. 33:340-362.
- 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.
- Unah, Isaac, Kristen Rosano and K. Dawn Milam. 2015. "US Supreme court Justices and Public Mood." *Journal of Law and Politics*. 30:293-340.