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Political Science 326  
Winter 2007  
Office Hours: Tues 11 a.m. -12 p.m.  
& Wed 1:30-2:30 pm.

### ***Judicial Process and Politics***

*“There is hardly a political question in the United States which does not soon or later turn into a judicial one.”*

Alexis De Tocqueville

The primary focus of this course is the federal and state appellate systems and their participants. Although the trial courts of both levels of our government are equally worthy of examination, the duration of one term prevents an all but cursory investigation of only one aspect of the process—either trial or appellate. As this is a course in Political Science, the more immediate effect that an appellate court can have on a larger segment of our government demands our attention. Without a good understanding of the appellate courts, a good understanding of American politics is unattainable. To this end, we will spend a good deal of our time evaluating the role of the courts and the law within the American political system. To do this well, we must not only examine the structure of the judiciaries, but its processes and the actors within the system—who they are and how did they get there. We begin our term by examining the structure of the federal and state judiciaries, and their processes. Then, we tackle the main players in the system—judges. How are judges selected? Then, we will investigate the other players—lawyers, clerks and interest groups. With this groundwork complete, we can begin to discuss how judges make their decisions. What factors are most influential when judges and justices are deciding a case? How does the institution or rules of the court affect judicial decision-making? To answer these questions, we will need to understand a bit about the theories of judicial decision-making. We will end the term by evaluating how the decisions of appellate courts affect politics and policy. By the end of the term, students will be able to make their own assessment about the role of the courts within the United States, and the appropriateness of this role for our democratic republic.

Student Learning Outcomes: The course seeks to develop in students:

- Knowledge of the structure, and operation of the appellate federal and state courts systems.
- Comprehension of terminology associated with the judiciary and the actors that work within that institution.
- Awareness of the role of courts and law within the American political system.
- Recognition of the role of politics and strategy in the operation and impact of the appellate judiciary.
- Awareness of the actors within the judiciary and how their roles intersect, compete, and complement each other.

- An understanding of the general theories of judicial decision-making.
- The ability to analyze and evaluate the various theories regarding judicial selection, and judicial decision-making to determine which theories are more persuasive.
- The ability to synthesize the material from the course to develop their own opinion regarding the proper role of the courts in our society.

Our efforts and discussions this term will be aided by reading several books (listed below). **THERE IS A HEAVY WORKLOAD FOR THIS COURSE.** Please examine the syllabus carefully to be sure that you are prepared to meet these requirements. The readings are designed to be complementary to lecture; do not expect that lectures or readings can substitute for one another. In other words, failure to attend class or to attend to the readings will make it difficult to do well in this course. All reading assignments, listed below, are required and should be completed at the beginning of each week. I expect all students to be prepared to engage in discussions and debates based on the reading material. If it becomes apparent that students are not keeping up with their assigned reading, I will conduct **unannounced quizzes** on the readings. **ALL reading assignments, regardless of whether they are discussed in class, are fair game for examination questions.**

Assessment in this course is computed from participation, examinations, oral presentations, and writing assignments. Class participation is expected in an upper level course and the instructor reserves the right to call on students during class if participation is not forthcoming voluntarily. There will be multiple opportunities for all students to participate throughout the term. Additionally, there will be two mid-terms. The mid-terms will likely consist of short answer and essay questions. Dates are tentative. Any schedule changes will be announced at least one week before the original exam date. **There is no final examination.**

The first paper is a combination of a research and analysis paper. The paper will present a detailed analysis of one of Bill Clinton's or George Bush's nominees or new appointees to the federal bench and as such the paper will require significant outside research. The final product will describe the nominee or judge as well as analyze why this person was selected. Additionally, you will present your findings to the class during dead week in a formal oral presentation. Given the large number of judges appointed by Presidents Clinton and Bush, no duplications will be allowed. Students will select their nominee by the second Wednesday of class.

The second paper will be an analysis of the ability of the courts to affect public policy. The paper is an analytical one. In other words, there will be no outside research necessary. Based upon the reading assigned for the final week of class, you will take and defend a position regarding this extremely debatable proposition. **Please note: this paper is due at the end of dead week.**

Make-up Assignments:

ALL students are expected to take exams at the scheduled times. Makeup will be allowed only under EXCEPTIONAL circumstances and with PRIOR consent of the instructor. Exceptional

circumstances will require documentation of that circumstance. Makeup exams will be essay exams without the benefit of choice among questions.

#### Grading:

Participation:	10%
Exam one:	20%
Selection Paper:	25%
Selection Presentation:	10%
Exam two:	25%
Analytical Paper:	10%

#### Advisories:

I am required to advise students of certain policies:

1. Plagiarism: This concept causes many students confusion, so I will try and put it plainly. Academic work must be your own work. It is plagiarism to claim work (such as writing, exams, or presentations) done by anyone other than the author named. Plagiarism also includes cutting and pasting information from internet websites without attribution or paraphrasing someone else's ideas or writing without attribution. It is not sufficient to re-arrange or re-state someone else's writing or ideas. Plagiarism unacceptable. Any plagiarized writing or work turned in for this course will result in a course grade of "F." Link to Statement of Expectations for Student Conduct, i.e., cheating policies <http://oregonstate.edu/admin/stucon/achon.htm>
2. Disrespectful behavior: In the university we are all students, seeking truth and understanding. Skin color, gender, age, or other characteristics over which individuals have no choice are irrelevant to that pursuit, as are religious preference or sexual orientation. Students will be expected to treat all others with the same respect as they would want afforded themselves. Disrespectful behavior to others in the course is unacceptable and can result in a course grade of "F."
3. Disabilities: Accommodations are collaborative efforts between students, faculty and Services for Students with Disabilities (SSD). Students with accommodations approved through SSD are responsible for contacting the faculty member in charge of the course prior to or during the first week of the term to discuss accommodations. Students who believe they are eligible for accommodations but who have not yet obtained approval through SSD should contact SSD immediately at 737-4098."

Required Texts:

Neubauer, David W. and Stephen S. Meinhold. 2007. *Judicial Process: Law, Courts and Politics in the United States*. 4th Edition (NM)

Slotnick, Elliot E. 2005. *Judicial Politics: Readings From Judicature*. 3rd Edition. (ES)

Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. (E&K)

Course Outline and Reading Assignments

I refer to assigned books by the initials of the author or editor.

TOPIC	DAYS	READING
Introduction: The Courts as Political Institutions	1/9 & 1/11	N&M Chaps 1 & 2
Structure of the Judiciary	1/16	N&M Chaps 3 & 4
Appellate Court Processes	1/18 & 1/23 Choice of Judge due on 1/18	N&M Chaps 13 & 14 ES pp 122-138; 338-50; 361-387
Judges	1/25	N&M Chap 6 pp 191-end of chap
Exam	1/30	
Judicial Selection	2/1, 2/6 & 2/8	N&M Chap 6 pp 173- 191 ES 50-52; 69-72; 266-285; 529-578
Lawyers, Interest Groups & the Media	2/13 & 2/15	N&M Chap 5, pp 252-256; 275-284 ES pp 146-165
Lawyers, Interest Groups & the Media	2/15 & 2/20 Selection Paper due	N&M Chap 7 pp 225-end ES 167-209; 462-471; 500-507
Judicial Decision-Making	2/20, 2/22, & 2/27	N&M Chap 15 ES 405-424;
Exam	3/1	
Courts and Policy Change	3/6 & 3/8	Readings TBA
Selection Presentations	3/8, 3/13, & 3/15	
Analytical paper	<b>Due by 2 p.m. on 3/16</b>	