

## POLITICAL SCIENCE 516: JUDICIAL POLITICS

Summer Quarter 2004

Tuesdays and Thursdays, 5:30 – 7:18

Townsend Hall, Room 248

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Course webpage: <http://psweb.sbs.ohio-state.edu/grads/bartels/judicial516.htm>

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Welcome to *Judicial Politics*. In this course, we will study law and courts from a variety of perspectives, including normative, theoretical, and empirical (of both the qualitative and quantitative varieties) approaches. The course attempts to instill in students a deeper, more conceptual understanding of law and courts, judges, and judicial process. In particular, we will give in-depth consideration to the following areas: (1) conceptions of law and jurisprudence, (2) the history and organization of state and federal courts, (3) the role of courts in the American political system, (4) judicial selection processes, (5) litigants and access to courts, (6) judicial agenda setting, (7) models of judicial decision-making on the Supreme Court and other courts, (8) analysis of judicial policy outputs, (9) judicial impact, and (10) courts and public opinion. Importantly, the course strives to give students a broad conceptual and analytical foundation for understanding and studying law, courts, and judicial process. That is, I strive to present students with the analytical tools necessary for understanding all aspects of judicial processes and behavior—both those covered in the class and beyond. In this sense, the course attempts to impart in students the skills necessary for critical and analytical thinking about law and courts. The study of judicial politics involves many complicated issues and questions, and this course presents various theoretical and conceptual frameworks for the processing and understanding of the issues and questions central to judicial politics.

### BOOKS

The following books are required for the course and are available for purchase at SBX Bookstore.

- Baum, Lawrence. 2004. *The Supreme Court* (Eighth Edition). Washington DC: CQ Press.
- Murphy, Walter F., C. Herman Pritchett, and Lee Epstein. 2002. *Courts, Judges, and Politics: An Introduction to Judicial Process* (Fifth Edition). New York: McGraw-Hill.

You can also, of course, purchase these books at various online outlets, including Amazon, Barnes & Noble, Half.com, etc. As you may know, Half.com and Amazon often have used copies of books at discounted prices. *Note:* Be sure to get the *fifth edition* of Murphy, Pritchett, and Epstein! On the Baum book, while I would prefer that everyone purchase the eighth edition, if you happen to find a used and cheaper version of the *seventh edition*, you can purchase that.

## ASSIGNMENTS AND GRADING

Course grades will be based on the following:

- *Class participation and attendance* (10%)

While I will not take attendance, per se, I expect students to attend each class (with some exceptions). I expect students to come to class prepared and ready to engage in dialogue with class members; this means having read and thought about the readings for the day. Part of each session will consist of lecture, but I want to ensure that there is enough time each session for class discussion of the issues at play. I know that some people are naturally bashful about class participation, and for others, participation is second nature. My hope is that we can maintain an atmosphere of openness where every class member feels comfortable enough to speak freely in class. Most importantly, I'm a strong believer that the classroom should be an environment where students and instructors can take risks in the exploration and discussion of ideas. After all, the free flow exchange of ideas is the hallmark of the academic experience.

- *Two short (3-4 page) discussion papers* (20%)

In these short papers, students will write about the highlights of the reading material for a particular class session. Papers will be due at the *beginning* of class on the day we discuss the material on which you have written. **LATE PAPERS WILL NOT BE ACCEPTED!** Also, one of the papers should be turned in *before* the midterm exam and the other one should be turned in sometime *after* the midterm.

Those who write a paper for each session will have an opportunity to share their ideas on the topic and thus enhance class discussion. The purpose of the papers is to discuss, critique, and analyze the questions posed by the reading material for a particular day. As well as writing about the required readings (including the readings in Murphy et al.) for the class session, students should read one or more of the suggested readings and integrate those into the paper (see course webpage for recommended readings). A good discussion paper will do the following:

- Pick a *research question* or *idea* from the readings that you find compelling, and *briefly* summarize the issues at play.
- Discuss what the readings (including some of the suggested readings) have to say about the research question. In other words, provide an integrated discussion about the various perspectives on the topic.
- Discuss your own ideas on the topic. What do you think is missing from the perspectives on the question? What do you think is really going on in the process being examined? Feel free to "theorize" about what you think is really going on. *Note: this is what I'm most interested in.* That is, I want to read *your* ideas and thoughts on the topic.

- *Midterm exam* (20%); Week 6, Tuesday, July 27

I don't expect or intend this exam to be grueling. Students who have come to class prepared each day should have no problem. I will discuss the format of the exam as the time approaches. You can expect there to be some short answer, an essay, and perhaps some multiple choice or matching.

- *Final paper* (30%); 10-15 pages; due Thursday, August 19 (last day of class).

I will give more details about the paper a couple weeks into the course. As of now, I plan on giving you the option of doing one of three different formats:

1. Book review. See recommended books in the recommended readings (on course webpage) for suggestions. All books need to be approved by the instructor.
2. A research paper that develops a research question, discusses what others have had to say about it, and provides your own view on the topic and how you would investigate the question. *Note*: this paper can be an expansion of one of your short discussion papers that you've already written.
3. A research paper on a legal issue on which the courts (either federal or state) have ruled. You can trace the development of the issue, discuss how the ruling affects the state of the law, and then take and defend a position on the case.

- *Final exam* (20%); Tuesday, August 24, 5:30-7:30.

The final exam will be comprehensive. **\*\*IMPORTANT NOTE:** As of now, I plan on having a final exam. *However*, if class performance is exemplary throughout the quarter—based on class attendance and participation, the midterm, and discussion papers—I will make the final *optional*. I will make an official announcement about the final sometime after the midterm exam.

- *Grading scheme:*

93-100%:	A
90-92:	A-
87-89:	B+
83-86:	B
80-82:	B-
77-79:	C+
73-76:	C
70-72:	C-
67-69:	D+
63-66:	D
60-62:	D-
<60:	F

## **EXTRA CREDIT**

You will have an opportunity to receive extra credit in exchange for your participation in an experimental study. You will receive details about this the first day of class. Participation will result in 1.5% being added to your final grade. For example, if your final course grade were an 89%, receipt of extra credit would give you a final grade of 90.5%.

## **CLASS OUTLINES AND STUDY GUIDES**

In order to give students a preview of what we'll be talking about on a particular day, I will post an outline of each class session on the course webpage by about noon on the day of class.

Students are encouraged to print out a copy of these before coming to class. *Note:* The outlines are *not* substitutes for coming to class! They simply provide a general blueprint for the class so students can see where we're going and what we'll be talking about.

I will also provide a study guide for the midterm and final exam that will include terms, concepts, and ideas that I expect the students to know. These will also be posted on the course webpage.

## **ACADEMIC HONESTY**

All of the work you do in this class is expected to be your own. Cheating and plagiarism are the grandest offenses an academic can commit. Therefore, I will handle cases of cheating and plagiarism according university policy as outlined in the *Code of Student Conduct*. The bottom line: *Don't cheat!* It's simply not worth risking your academic career for!

## **STUDENTS WITH DISABILITIES**

Any student who feels that they may need assistance should inform the instructor at the beginning of the quarter so that adequate arrangements can be made.

## **SCHEDULE AND READINGS**

### **WEEK 1**

Tuesday, June 22. *Introduction: Law, Courts, and the Study of Judicial Politics*

Thursday, June 24. *Conceptions of Law and Schools of Jurisprudence*

*Required:* Murphy et al., Ch. 1 (read all of the readings)

### **WEEK 2**

Tuesday, June 29. *The History, Organization, and Function of State and Federal Courts*

*Required:* Murphy et al., Ch. 3. (pick two or three of the readings at the end of the chapter that interest you); Baum, Ch. 1

Thursday, July 1. *Courts in the Political System: Judicial Independence and the Counter-majoritarian Difficulty*

*Required:* Murphy et al., Ch. 2 (be sure to read *Marbury v. Madison*, *Eakin v. Raub*, and the Dahl and Casper readings. Read Federalist 78 from ch. 1 again, too); Baum, Ch. 1.

### **WEEK 3**

Tuesday, July 6. *Judicial Selection in the Federal Courts*

*Required:* Murphy et al., Ch. 4 (read all of the federal courts readings); Baum, Ch. 2.

Thursday, July 8. *Judicial Selection and Retention on State Courts*

*Required:* Murphy et al., Ch. 4 (read all of the state courts readings).

### **WEEK 4**

Tuesday, July 13. *Lawyers and the Bar*

*Required:* Murphy et al., Ch. 5 (read all of the readings); Baum, Ch. 3 (pp. 72-90).

Thursday, July 15. *Access to Courts*

*Required:* Murphy et al., Ch. 6 (read all of the readings).

### **WEEK 5**

Tuesday, July 20. *Cases, Agenda Setting, and "Deciding to Decide"*

*Required:* Murphy et al., Ch. 7 (read Caldeira and Wright, reading 6.6, and the readings in ch. 7); Baum, Ch. 3 (pp. 90-106).

Thursday, July 22. *Statutory and Constitutional Interpretation*

*Required:* Murphy et al., Ch. 11 and 12 (from ch. 11, read 2 or 3 readings, particularly Frankfurter, *Smith v. U.S.*, Posner, Easterbrook, Dworkin, and Eskridge; from ch. 12, read 2 or 3 readings, particularly Scalia, Bork, *U.S. v. Leon*, Tribe, Easterbrook, Rehnquist, Dworkin).

### **WEEK 6**

Tuesday, July 27. *MIDTERM EXAM*

Thursday, July 29. *Supreme Court Decision-Making I*

*Required:* Murphy et al., Ch. 10, & 13 (*Note:* we'll spread the required reading out over the three sessions on SC Decision Making; I'll also tell you what readings in Murphy et al. to read before class); Baum, Ch. 4.

### **WEEK 7**

Tuesday, August 3. *Supreme Court Decision-Making II*

*Required:* Murphy et al., Ch. 10, & 13; Baum, Ch. 4.

Thursday, August 5. *Supreme Court Decision-Making III*

*Required:* Murphy et al., Ch. 10, & 13; Baum, Ch. 4.

### **WEEK 8**

Tuesday, August 10. *Judicial Decision-Making on Lower Federal Courts and State Courts*

*Required:* Murphy et al., Ch. 9, 10, & 13 (*Note:* I'll fill you in on what parts to read and what readings to read before this session).

Thursday, August 12. *The Nature of Judicial Policymaking: Assessing Policy Outputs Produced by Courts*

*Required:* Baum, Ch. 5.

### **WEEK 9**

Tuesday, August 17. *Judicial Impact*

*Required:* Murphy et al., Ch. 14 (read Canon and Johnson, *Baker v. Carr*, Fisher, Rosenberg, McCann; and reading 12.1, *US v. Nixon*); Baum, Ch. 6.

Thursday, August 19. *The Supreme Court, Public Opinion, and Institutional Legitimacy*

*Required:* Murphy et al., reading 8.12 (Gibson et al.); reading 14.2 (Slotnick and Segal); reading 14.7 (Hoekstra and Segal).

### **WEEK 10**

Tuesday, August 24. FINAL EXAM, 5:30-7:30

### **RECOMMENDED READINGS**

See the course webpage for recommended readings, including both books and articles.