

POLS 4443: Civil Rights & Liberties

Spring 2018

Department of Political Science
Idaho State University

1 Instructor Information

Shane A. Gleason, PhD
Email: gleashan@isu.edu
Office: Gravely Hall 310
Phone: 208.282.2530

Office Hours: Tuesdays: 3:00-4:30,
Wednesdays: 1:30-3:00
and by appointment
Class Location: Rendezvous 117
Course Time: 9:30 to 10:45 TR

Teaching Assistant

Alden Allen
Email: allealde@isu.edu
Office: Gravely Hall 314

Office Hours: Tuesdays: 2:00-3:00,
Fridays: 10:00-11:00,
and by appointment

2 Course Description and Purpose

American politics plays by certain basic rules. For instance, we cannot censor unpopular political speech. The police cannot question a suspect without advising him/her of his/her rights. But what about when someone shouts “Bomb!” in an airport and induces a panic? What is someone utters hate speech? Can speech be punished then? What if a suspect refuses to acknowledge the police advising him/her of the right to an attorney? May the police then proceed with questioning? Through addressing these difficult questions over the past 225 years the U.S. Supreme Court has developed the contours of civil rights & liberties. These rights & liberties form the bedrock groundrules of American political life on what the government may not do and what it must do. We will spend a majority of the semester on the First and Fourteenth Amendments, though we will also discuss other amendments, such as the Fourth and Eighth Amendments. Special emphasis will be placed on evaluating how the United States Supreme Court defines, establishes, and protects these liberties through its interpretation of the Constitution.

I expect that when you have completed this course you will have a strong understanding of the role the Bill of Rights plays in American political and social consciousness. You will emerge with a clearer picture of how Supreme Court interpretations of key provisions of the Constitution affect our political structure and social relationships.

Another primary purpose of this course is to improve your critical reading, writing, and organizational skills. Toward that end, this course will emphasize writing succinctly in the form of legal briefs. You will learn to brief Supreme Court cases, and exams will evaluate your ability to extrapolate from the cases themselves and construct arguments that demonstrate a knowledge of the concepts behind the cases. In addition, emphasis is placed on classroom participation and critical discussion of the readings.

3 Course Format

This course is largely centered on decisions of the U.S. Supreme Court. We will read summaries of issue areas, along with a handful of landmark cases from each issue area. Class will consist of a combination of lecture and discussion of the readings and the legal reasoning of the Court. Toward the end of the semester we will also conduct a “mock” Supreme Court. In order for this format to work, it is imperative that you read the material in advance.

4 Requirements

Text

There is one required book, which the majority of our readings will come from. Other readings are posted on Moodle and are noted on the course schedule.

The book is available at the campus bookstore, although it is available at a *substantially* lower rate online. To this end, I provide the ISBN for the book below and have placed all of the first week’s readings on Moodle to allow for shipping time. After the first week I expect you to have the book and bring it with you to class. Unfortunately, I will not be able to place the book on course reserve at the library.

1. Epstein, Lee and Thomas Walker. 2016. *Constitutional Law for a Changing America: Civil Rights and Liberties*. 9th edition. Congressional Quarterly Press: Washington.
ISBN-13: 9781483384016

Assessment¹

This course is worth 100 points which are broken up over several different items

- Exams: 40 points
 - Mock Supreme Court: 20 points
 - Case Briefs: 20 points
 - Participation & Attendance: 10 points
 - Quizzes: 10 points
1. **Participation and Attendance (10 points)**– As a 4000 level class, participation is vital for you to grasp the material. You are expected to come to class, actively participate in the discussion, comment on the readings, and engage the comments other students make. However, coming to class is only half the battle. You also have to participate in class. Of course, asking informed questions or joining the classroom discussion is a part of participation, but so too is actively listening (ie: Are you taking notes and paying attention or are you sleeping and texting?).

¹This assessment scale only applies to undergraduates. Graduate students, please see the POLS 5443 Supplement for additional information.

2. **Case Briefs (20 points)**— This course does not have a research paper; instead you will brief, which is to say write a legal summary, of select cases throughout the semester. Additionally, briefing will help you better understand the cases, and make studying for the exams easier. Early in the semester I will go over the proper format for briefs as well as provide examples. All briefs must be typed and turned in as a hard copy *and* be uploaded to Turnitin.com. **I do not accept briefs via e-mail.** All briefs must be stapled, with your name on each page. **Late briefs will not be accepted.** On most weeks, there is a brief specified for completion on Thursday. I will not collect every brief, but I will randomly choose six briefs over the course of the semester which I will grade. Each brief is worth 4% of your final grade, meaning you can safely skip one brief- or do all six briefs for extra credit. Please see the separate “Brief How-to” guide for more information.
3. **Quizzes (10 points)**— Periodically throughout the semester I will administer unannounced quizzes. These quizzes will be given at the start of class and will consist of multiple choice, true or false, fill in the blank, and/or short answer items. They can cover anything previously discussed in class or anything from that day’s readings. If you do the readings and pay attention in class, it should be easy to obtain full credit on all the quizzes. Quizzes will be passed out at the start of class and no quizzes will be passed out after that time, so it is important to arrive to class on time. I will administer seven quizzes and take your top five quizzes over the course of the semester to compile your total quiz score (with each worth 2% of your final grade). Quizzes cannot be made up, therefore it is imperative you attend class regularly, read for class, and are on time for class.
4. **Exams (40 points)**—There are two exams, none of which are cumulative, though some concepts will stay with us the entire semester. The two exams will only cover material from the last exam until the current exam. Each exam is worth 20 points, which is to say two letter grades. All exams will be blue book based and can consist of short identification terms, hypothetical cases which you will be asked to decide based on the case law we have discussed in class, or essays. **You must bring a bluebook to the exam.** I suggest you go to the bookstore and buy a few bluebooks at the start of the semester so you are not in any danger of not having one on exam day (They cost about 50 cents each). You should note that if you are unable to take the exam at the scheduled time, the make-up exam will be a separate research paper.
5. **Mock Supreme Court (20 points)**—Toward the end of the semester, we will conduct a moot court. Each person will be assigned a different role, ranging from attorney to member of the Court. What precisely you do will vary. For instance, if you are one of the attorneys, you and your team must prepare a brief for the Court and present oral arguments. If you are a justice, you must ask questions of the attorneys during oral arguments and help your fellow justices write the opinion or dissent. If you are a reporter, you must report on the legal proceedings in a way accessible to the lay person, while still retaining all of the legal nuance. Please see the separate “Mock Supreme Court” handout.

Assessment Scale

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

An Important Note About Grades

I do not post grades to Moodle; instead, I maintain an offline gradebook. Since the course is worth 100 points, you can keep track of your performance in the class by noting your scores on exams and assignments. Because of federal student privacy laws, I cannot discuss grades via e-mail. If you need a grade check for whatever reason, please let me know via e-mail the day before you want that check.

Disclaimer

Since politics is a reflection of the society in which we live, we will cover several topics which touch on topics which might be sensitive. Some examples include same-sex marriage, hate speech, and abortion rights. These topics are included because we cannot adequately study civil rights & liberties without covering them. My personal policy is to remain neutral (I'm a political scientist, emphasis on the second word). I encourage disagreement, but it must be done in a respectful way. You have my assurance that I will do everything reasonably related to keeping these discussions academic.

5 Course Policies

Contacting the Instructor

I am happy to help you via e-mail, telephone, and in person. I have several office hours posted, if my office hours do not fit your schedule let me know and we can schedule a meeting at a time that is more convenient. If you come to office hours you should come prepared; bring your book and notes and read the material in advance. You can call me on my office phone if you like, but e-mail may be faster if I am away from my desk. If you contact me via e-mail, I will respond within 48 hours, though in most cases it will be less than six hours. However, in any e-mail you must identify yourself and use proper format which consists of an opening (As simple as the recipient's name), a closing (as simple as your name), and a descriptive message subject. If you do not follow that convention or if you use Internet shorthand (ie: "u" instead of "you,") I will not reply to the message.

Make-up Exams and Assignments

To qualify for a make-up test a student must notify me of the absence in advance via e-mail and provide documentation. Make-up exams will be a written research paper.

Papers are due in hard copy at the beginning of the class on the date indicated in the schedule. I will not accept e-mail copies or papers placed under my door. Please do not be afraid to print multiple rough drafts and revise them before turning them in. I am happy to look at drafts and help you with crafting your final paper. I do not accept excuses about dogs, computers, or traffic. Be responsible.

Technology in the Classroom

I understand that laptops and tablets have become the primary means of note taking for many of you. To this end, you are welcome to bring those devices to class. *However*, I ask that you only use them for class purposes. So, you can take notes and pull up cases. Please do not browse the Internet or update Facebook in class. The screens are distracting to those around you and takes away from learning. No cell phones are permitted to be out in class without first notifying me of a valid reason (i.e.: You're waiting on a phone call/ your kids are home alone).

Particularly with new technology, some students opt to record lectures to compliment their notes. If you wish to do so, please let me know before you record me. You are more than welcome to record, I just want to know when/if I am being recorded.

Extra Credit

The only extra credit I offer is the “extra” brief. It is a good idea to get in the habit of briefing every case (even those you don't have to turn in). If you do so, you can potentially get a 4% bump in your final grade.

Academic Honor Code

Academic integrity is the expected norm for all academic activity at ISU, and all members of the ISU community are expected to act in accordance with this principle. Academic integrity is the pursuit of scholarly activity in an open, honest, and responsible manner. Consistent with this expectation is an ISU code of conduct that all students should act with personal integrity, respect other students dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts. Academic integrity includes a commitment not to engage in or tolerate acts of deception, falsification, or misrepresentation. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of the work completed by others.

Plagiarism is an act of academic dishonesty and shall be dealt with according to ISU policy. Plagiarism is any misrepresentation of another's work as your own. For example, copying portions of articles, papers, web pages, etc, or using portions of another person's work (either word for word or paraphrasing) without proper citations. If you have questions about plagiarism, please come talk to me, or refer to Plagiarism Statement written by the ISU Department of English and Philosophy: (<http://www.isu.edu/english/DeptDocs/PlagiarismStatement.pdf>).

I adhere to the University policy regarding academic misconduct and expect academic integrity. Academic misconduct will result in an “F” for the assignment, a possible “F” for the course, and the filing of charges with the University against the student involved. Academic misconduct includes, but is not limited to, taking credit for work done by others, cheating, and helping others to cheat. I encourage students to study together and exchange ideas and information, but you must do your own work when taking exams and completing writing assignments. If you are unclear on this topic, please let me know. I am happy to discuss it further.

Students with Disabilities

ISU is committed to providing equal opportunity in education for all students. If you have a diagnosed disability or if you believe you have a disability (physical, learning, hearing, vision, psychiatric etc.) that might require reasonable accommodation in this course, please contact the Disability Services Center, Rendezvous Building, Room 125 (282-3599) or on the web at <http://www.isu.edu/ada4isu>. It is the responsibility of students to contact instructors during the first week of each semester to discuss appropriate accommodations. Of course any communication with me about disabilities remains strictly confidential.

Classroom Courtesy

Classroom courtesy is an essential component of creating an effective learning environment. All students have the right to learn without unnecessary distractions. These distractions include: cell phones, talking during lectures (unless recognized by the instructor), reading newspapers, falling asleep, etc. If you need a cell phone for emergency purposes, leave it on vibrate. Entering and leaving are also significant sources of distraction. It is your responsibility to be on time and to stay for the entire period. In circumstances where you need to leave early, tell the instructor beforehand. Repeated disruptions of class will lead to a reduction in your final grade.

Most importantly, class discussions of law will include several sensitive topics which can lead to strong feelings and heated debate. Because this is a college classroom, all discussion must be respectful and scholarly. This is to say you must be respectful, in both content and tone, of diverse opinions and not make personal or partisan attacks.

Acceptable Comments

- are respectful of diverse opinions and open to follow up questions and/or disagreement
- are related to class and/or the course material
- focus on advancing the discussion about issues related to the course and/or course material rather than personal beliefs, and
- are delivered in normal tones and a non-aggressive manner.

Unacceptable Comments

- are personal in nature. This includes attacks on a person's appearance, demeanor, or political beliefs.
- include interrupting the instructor or other students. Raise your hand and wait to be recognized.
- often use the discussion to argue for political positions and/or beliefs. If political discussions arise, they must be discussed in a scholarly way (see above).
- may include using raised tones, yelling, engaging in arguments with other students and being threatening in any manner.
- include ignoring the instructor's authority to maintain the integrity of the classroom environment.

Syllabus Change Policy

This syllabus is a guide for the course and is subject to change with advanced notice. These changes may come via e-mail. Make sure to check your university supplied email regularly. You are accountable for all such communications.

6 Tentative Course Schedule

A few notes about reading the course schedule:

- “*Epstein*” refers to the required Epstein & Walker book
- “(M)” means that reading can be found on Moodle

Course Introduction & Supreme Court Basics

Tuesday, January 9– Introduction to the Course

- *No readings*

Thursday, January 11– Supreme Court Basics

- Epstein: 3-44

Tuesday, January 16– Judicial Review

- Epstein: 45-65. **Cases:** *Marbury v. Madison* (1803), *Ex Parte McCordle* (1869)

- *How to brief a case*

The First Amendment: The Religion Clauses

Thursday, January 18– Free Exercise

- Epstein: 91-115. **Cases:** *Cantwell v. Connecticut* (1940), *Sherbert v. Verner* (1963), *Wisconsin v. Yoder* (1972)

Tuesday, January 23– Recent Developments in Free Exercise

- Epstein: 115-131. **Cases:** *Employment Division v. Smith* (1990), *City of Boerne v. Flores* (1997), *Holt v. Hobbs* (2015) (M)

Thursday, January 25– The Establishment Clause

- Epstein 131-151 **Cases:** *Everson v. Board of Education* (1947), *Abington v. Schempp* (1963), *Lemon v. Kurtzman* (1971)

Tuesday, January 30– Who’s Impressionable?

- Epstein 151-162, 168-177 **Cases:** *Zelman v. Simmons-Harris* (2002), *Lee v. Weisman* (1992) (M). *Town of Greene v. Galloway* (2014)

Thursday February 1– State Religious Displays & Endorsements

- Epstein 177-217, 224-227 **Cases:** *Santa Fe v. Doe* (2000) (M), *Van Orden v. Perry* (2005), *Hosanna-Tabor Evangelical Lutheran Church v. EEOC* (2012)

The First Amendment: The Speech Clause

Tuesday, February 6– Speech in Times of Crisis

- Epstein 191-209, 216-221 **Cases:** *Schenck v. United States* (1919), *Abrams v. United States* (1919), *Gitlow v. New York* (1925), *Brandenburg v. Ohio* (1969)

Thursday, February 8– Offensive Speech

- Epstein 221-235 **Cases:** *United States v. O'Brien* (1968), *Texas v. Johnson* (1989), *Chaplinsky v. New Hampshire* (1942)

Tuesday February 13– Symbolic Speech & The Limits of Free Speech

- Epstein 235-254 **Cases:** *Cohen v. California* (1971), *McCullen v. Coakley* (2014)

Thursday February 15– Speech in Schools

- Epstein 258-276 **Cases:** *Tinker v. Des Moines* (1969), *Morse v. Fredrick* (2007), *West Virginia v. Barnette* (1943), *Rumsfeld v. Forum for Academic and Institutional Rights* (2006)

Tuesday February 20– Commercial Speech & The Freedom of Association

- Epstein 276- **Cases:** *Bates v. Arizona* (1977), *Central Hudson Gas & Electric v. Public Service Commission* (1980), *Boy Scouts of America v. Dale* (2000)

The First Amendment: The Press Clause

Thursday February 22– Prior Restraint & Libel

- Epstein: 293-309 **Cases:** *Near v. Minnesota* (1931), *New York Times v. Sullivan* (1971), *Hazelwood School District v. Kuhlmeier* (1988), *Hustler Magazine v. Falwell* (1988)

Tuesday February 27– Obscenity

- Epstein 335-354 **Cases:** *Roth v. U.S.* (1957), *Miller v. California* (1973), *New York v. Ferber* (1982)

Thursday March 1 – **MIDTERM EXAM**

- *Be sure to bring a blue book to class.*

Civil Rights

Tuesday March 6– From *Plessy* to *Brown*

- Epstein 601-626 **Cases:** , *Plessy v. Ferguson* (1896), *Sweatt v. Painter* (1950), *Brown v. Board I* (1954), *Brown v. Board II* (1955), *Shelley v. Kraemer* (1948) (p. 707-710)

Thursday March 8– Claims of Racial Discrimination After *Brown*

- Epstein 644-669 **Cases:** *Loving v. Virginia* (1967), *Regents v. Bakke* (1978), *Grutter v. Bollinger* (2003)

Tuesday March 13– Women & Intermediate Scrutiny Sexual Orientation, & Economic Status

- Epstein 669-688 **Cases:** *Reed v. Reed* (1971), *Craig v. Boren* (1976), *U.S. v. Virginia* (1996), *Romer v. Evans* (1996), *San Antonio Independent School District v. Rodriguez* (1973)

Thursday March 15– Discrimination Based on Sexual Orientation, Economic Status & Citizenship

- Epstein 688-706 **Cases:** *Romer v. Evans* (1996), *San Antonio Independent School District v. Rodriguez* (1973), *Plyer v. Doe* (1982)

Tuesday March 20– **SPRING BREAK: NO CLASS**

Thursday March 22– **SPRING BREAK: NO CLASS**

The Right to Privacy

Tuesday March 27– From Private Sexual Conduct & Abortion

- Epstein 390-402, 415-448 **Cases:** *Griswold v. Connecticut* (1965), *Planned Parenthood v. Casey* (1992), *Lawrence v. Texas* (2003), *Obergefell v. Hodges* (2015)

Thursday March 29– **MOCK SUPREME COURT ORAL ARGUMENTS**

The Rights of the Criminally Accused

Tuesday April 3– Search and Seizure

- Epstein 468-470, 479-498 **Cases:** *Illinois v. Gates* (1983), *Florida v. Jardines* (2013), *Safford v. Redding* (2009), *Terry v. Ohio* (1968)

Thursday April 5– **NO CLASS: MIDWEST POLITICAL SCIENCE ASSOCIATION MEETING**

Tuesday April 10– The Exclusionary Rule

- Epstein 498-514 **Cases:** *Mapp v. Ohio* (1961), *U.S. v. Leon* (1984), *Hudson v. Michigan* (2006)

Thursday April 12– Guest Speaker

- *Judge N. Randy Smith, United States Court of Appeals for the Ninth Circuit*

Tuesday April 17– Self Incrimination & The Right to Counsel

- Epstein 514-530, 536-547 **Cases:** *Escobedo v. Illinois* (1964), *Miranda v. Arizona* (1964), *Powell v. Alabama* (1932), *Gideon v. Wainwright* (1963)

Thursday April 19– The Sixth Amendment: A Fair & Impartial Jury

- Epstein 548-565 **Cases:** *Batson v. Kentucky* (1986), *Sheppard v. Maxwell* (1966), *Richmond Newspapers v. Virginia* (1980)

Tuesday April 24– Cruel & Unusual Punishment

- Epstein 569-593 **Cases:** *Gregg v. Georgia* (1976), *McCleskey v. Kemp* (1987) (M), *Atkins v. Virginia* (2002)

Voting Rights

Thursday April 26– Voting Rights

- Epstein 717,723-741 **Cases:** *South Carolina v. Katzenbach* (1966), *Shelby County v. Holder* (2013), *Crawford v. Marion County* (2008)

Final Exam: Thursday May 3, 7:30am to 9:30am in our normal classroom