

POLS 4499-05: Judicial Behavior & Process

Fall 2015

Department of Political Science
Idaho State University

1 Instructor Information

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Office Hours: Tuesdays: 1:00pm to 3:00pm,
Wednesdays 9:30am to 10:45am
and by appointment
Class Location: Rendezvous 113
Course Time: 6:00 to 8:30 W

2 Course Description and Purpose

In our republican system of government the courts are the guardians of the Constitution. As this past summer's recent decisions on same-sex marriage and health care demonstrate, courts and the often unelected judges that staff them, play an integral role in our daily lives. How then, do judges make their decisions? Does putting on a robe transform a judge into a legal computer? Do judges merely pursue their personal policy preferences? Perhaps something else like the institutional context or the resources at hand drives judicial decision-making? This course explores the determinants of judicial behavior and introduces you to the function and organization of the judicial system in the United States.

In this course, we will focus on the courts as both legal and political institutions, with an emphasis on the political nature of judicial decision-making, and the relationship between the courts and the other branches of government. While much of our time will be dedicated to the study of the Supreme Court, we will also address the role and function of trial and appellate courts, at the state and federal levels.

A key component of this class are your critical reading, writing, and organizational skills. Toward that end, we will read several scholarly articles over the course of the semester in addition to the more conventional textbook, to help build your critical thinking skills. Additionally, the emphasis in the exams is applying what we have covered in class to broader contexts. Since writing is a vital skill that is important regardless of your major or eventual career, you will produce a group research paper that explores an aspect of judicial behavior in greater depth. Feedback and direction will be provided on the research paper throughout the semester.

3 Course Format

This course is heavily readings based, from both the text book and supplemental materials available on Moodle. While the class is technically lecture based, I find class is more fun when we have a seminar discussion rather than me talking for 150 minutes. Please come prepared to discuss the readings and with any questions you might have. It is okay if you don't understand them fully, but please come to class prepared to discuss the readings and with any questions you might have.

4 Requirements

Text

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

The books are 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. 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. Miller, Mark C. 2008. *Exploring Judicial Politics*. Oxford University Press: New York.
ISBN: 9780195343076
2. Williams, Kristen. 2013. *Research and Writing Guide for Political Science*. Oxford University Press: New York.
ISBN: 9780199890545

Assessment¹

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

- Exams: 40 points
 - Research Paper Assignment: 40 points
 - Quizzes: 10 points
 - Participation: 10 points
1. **Exams (40 points)**—There are two exams, each is worth 20 points. This is to say each exam is worth two letter grades. Exams will consist of short identification terms and essays. The first exam will be take-home, but the final exam is bluebook/greenbook based. **You must bring a bluebook/greenbook to the final exam.** I suggest you go to the bookstore and buy a few bluebooks/greenbooks at the start of the semester so you are not in any danger of not having one on exam day this semester or in future semesters (They cost about 50 cents each). At least one week before the final exam I will give you a study guide which lists several possible questions for the exam. A subset of those questions will appear on the actual exam. 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.
 2. **Research Project (40 points)**— You will write a research paper addressing some aspect of judicial behavior. The writing assignment will be broken up over several smaller assignments. For more information on the writing assignment please see the writing assignment handout which will be passed out on the first day of class and will also be available on Moodle.

¹This assessment scale only applies to undergraduates. Graduate students, please see the POLS 5599-02 Supplement for additional 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. Quizzes will be passed out at exactly 6:00PM and no quizzes will be passed out after that time, so it is important to arrive to class on time. There will be a total of five quizzes; I will take your top four quizzes over the course of the semester to compile your total quiz score (with each worth 2.5% 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. **Participation (10 points)**– Class is more fun when it is not just me talking and I will accordingly call on students to provide summaries of the readings. I am aware, however, that not everyone is an outgoing person that enjoys talking. To this end, I consider active listening to be participation.

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

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 view the readings, but 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 a one point bonus on each writing assignment for going to the writing center. Since the research paper is split over multiple assignments, you can potentially increase your letter grade. 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.

Disclaimer

Since the law is a reflection of the society in which we live, we will cover several topics which some might consider disturbing. You have my assurance that I will do everything reasonably related to keeping these discussions academic, though the very subject matter may be disturbing to some.

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:

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

Course Introduction

Wednesday August 26– Introduction to the Course & Basics of Judicial Behavior

- *No readings*

Judicial Behavior Basics

Wednesday September 2– The Myth of the Robe?

- Miller: Chapter 1
- Baum: Chapter 2 (M)
- Martin, Andrew D., and Kevin M. Quinn, Theodore W. Ruger, and Pauline T. Kim. 2004. “Competing Approaches to Predicting Supreme Court Decision Making.” *Perspectives on Politics* 2(4):761-767 (M)

Wednesday September 9– Judicial Decision-Making

- Miller: Chapter 12
- Miller Chapter 13
- Maltzman, Forest, James F. Spriggs II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. Cambridge University Press: New York. Chapter 1. (M)

The Institutional Context

Wednesday September 16– Getting to the Court

- Baum: Chapter 3 (M)
- Goetzhauser, Greg and Nicole Vouvalis. 2013. "State Coordinating Institutions and Agenda Setting on the U.S. Supreme Court." *American Politics Research*. XX:1-20. (M)
- Williams: Chapter 1

Wednesday September 23– State Courts

- Miller: Chapter 2
- Miller: Chapter 8
- Rice, Douglas. 2014. "On Courts and Pocketbooks." *Journal of Law & Courts*. 2(2):327-347 (M)

Wednesday September 30– The Lower Federal Courts

- Miller: Chapter 7
- Miller: Chapter 9
- Williams: Chapter 2

Other Legal Actors

Wednesday October 7– Attorneys

- Miller Chapter 4
- McGuire, Kevin T. 1995. "Repeat Players in the Supreme Court: The Role of Experienced Lawyers in Litigation Success." *Journal of Politics*. 57:187-196. (M)
- Ringsmuth, Eve, Amanda C. Bryan, and Timothy R. Johnson. 2013. "Voting Fluidity and Oral Arguments on the U.S. Supreme Court." *Political Research Quarterly*. 66:429-440. (M)

Wednesday October 14— Interest Groups

- Miller Chapter 3
- Collins, Paul M. 2007. "Lobbyists Before the U.S. Supreme Court." *Political Research Quarterly*. 60:55-70. (M)
- Provost, Colin. 2011. "When to Befriend the Court? Examining State *Amici Curiae* Participation Before the U.S. Supreme Court." *State Politics & Policy Quarterly*. 11:4-27. (M)

Wednesday October 21– The Solicitor General

- Waxman, Seth. 2001. "In the Shadow of Daniel Webster: Arguing Appeals in the Twenty-First Century." *Journal of Appellate Practice and Process*. 3:521-531. (M)
- Miller Chapter 10
- Curry, Todd. 2014. "A Look at the Bureaucratic Nature of the Office of the Solicitor General." *Justice System Journal* XX:1-12. (M)

Wednesday October 28– **MIDTERM EXAM**

- *Exam is take-home. No class this week, work on your outline*

What Goes into an Opinion?

Wednesday November 4– Opinion Writing

- Carp et al. ch. 13 (M)
- Spriggs, James. F. and Paul J. Wahlbeck. 1997. “Amicus Curiae and the Role of Information at the Supreme Court.” *Political Research Quarterly*. 50:365-386. (M)
- Corley, Pamela C. 2008. “The Supreme Court and Opinion Content.” *Political Research Quarterly*. 61:468-478. (M)

Wednesday November 11– Public Opinion

- McGuire Chapter 13 (M)
- Hall, Melinda Gann. 2014. “Representation in State Supreme Courts: Evidence from the Terminal Term.” *Political Research Quarterly*. 67:335-346. (M)
- Boddery, Scott S. and Jeff Yates. 2014. “Do Policy Messengers Matter? Majority Opinion Writers as Policy Cues in Public Agreement with Supreme Court Decisions.” *Political Research Quarterly*. 67:851-863. (M)

Wednesday November 18– Implementation

- Dahl, Robert A. 1957. “Decision-making in a Democracy: The Supreme Court as a National Policy-Maker.” *Journal of Public Law*. 6:279-295. (M)
- Carp et al. ch 14 (M)
- McGuire ch 14 (M)

Wednesday November 25– **NO CLASS: FALL RECESS**

Courts and Other Actors: At Home and Abroad

Wednesday December 2– The Court and the Other Branches

- Miller ch. 19
- McGuire chapter 11 (M)
- Ringsmuth, Eve and Timothy R. Johnson. 2013. “Supreme Court Oral Arguments and Institutional Maintenance.” *American Politics Research*. 41:651-673. (M)

Wednesday December 9– Courts Beyond the U.S. & Graduate Student Presentations

- Ginsburg, Tom. 2012. “Courts and New Democracies: Recent Works.” *University of Chicago Law School Public Law and Legal Theory Working Papers Series*. (M)
- Graduate student research presentations (counts as final quiz for undergraduates)

Final Exam: Wednesday December 16: 6:00 to 8:30pm in our normal classroom