

**POLS 3358: Judicial Behavior**  
**Roy C. Cullen Hall 111, TTh 1:00 - 2:30**  
**Fall 2018**

**Instructor:** Dr. Alex Badas

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**Office Hours:** Monday 11-2 and by appointment

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**Office Hours:** PGH 426 Tuesday and Thursday 3-4

**Course Description:** This course introduces students to the factors that influence judicial decision-making, with special attention given to decision-making on the United States Supreme Court. At the end of this course, students will have a better appreciation and understanding of political science concepts, theories, and methodologies and will be able to apply them to contemporary political events.

**Required texts:** The following textbooks are required for this course. Additional readings will be posted to the course site.

- Hume, R. J. (2018). *Judicial Behavior and Policymaking: An Introduction*. Rowman & Littlefield

**Course Requirements:**

- Three exams: 15% each
  - o Students will complete three exams. Exams will not be cumulative. Exams will be a mixture of multiple choice and short response. Exams are designed to test students' underlying understanding of the concepts discussed. A review session will be held before each exam.
    - Exam 1 date September 13
    - Exam 2 date October 25
    - Exam 3 date December 11, 2-5pm
- Two Article Summaries 5% each
  - o Part of what I hope you take away from this class is an understanding of what political scientists do when they are not teaching. To this end, you will find and summarize two academic journal articles related to judicial decision-making. These articles **cannot** be articles that are assigned for the course. If you summarize an article that has been assigned for course reading, you will receive a zero. A good starting point in your search for articles will likely be the *Journal of Law & Courts*, which is available electronically through the library. A handout will be distributed with further details and other acceptable journals. You must select articles from the list of acceptable journals.
    - Article Summary 1 due date September 6

- Article Summary 2 due date October 2
- Supreme Court case prediction paper 10%
  - You will be asked to predict the votes of three Justices in a pending Supreme Court. You should predict whether the Justice will affirm or reverse the lower court's decision. You should draw upon course material to justify your predictions. You should include a brief summary of the case and the lower court's decision. Prediction papers should be roughly 6 pages in length. A handout of acceptable cases will be distributed early in the semester.
    - Due date November 20
- Research Design Paper 20%
  - Students will write a research design paper. This paper must be between 8-10 pages. The paper should identify a research question related to the judicial behavior and put forth a hypothesis which answers this research question. Further, the paper should explain why the question is relevant to our understanding of judicial politics. Students are allowed to work in groups of up to three for their research design papers.
    - Due date November 29
- Presentation of Research Design 5%
  - Students will be required to present their research designs. You should give a brief overview of your project and discuss the broader implications of your project. Presentations should be about five minutes long. Your presentation requires the use of slides.
    - Due date November 27
- Participation 10%
  - Students are expected to be active participants in class discussion. Active participation does not simply mean “talking a lot.” Participation means reading the materials, coming to class prepared to ask and answer questions about the reading, and offering your opinion on the material when appropriate.
- Attendance
  - Students are expected to attend each class session. However, I understand things do come up. Therefore, each student will be granted three excused absences for the semester. After your three excused absences, for each class you miss your final grade will be reduced by 1%. If you make an appointment to meet with me during office hours and do not show up, this is counted as an absence. If you leave class early, this is counted as an absence. I will pass out an attendance sheet at the start of each class. It is your responsibility to sign the attendance sheet if you are in class. Signing the attendance sheet for another student is a form of academic dishonesty and will be reported.

**Late Assignments:**

Late assignments will not be accepted. Students who do not submit work on time will receive zero credit for the assignment. Students who are absent on a day on which we have an exam and do not have a university approved excuse will receive zero credit for the exam.

**Academic Integrity:**

I strictly enforce all of the policies regarding academic integrity such as cheating and plagiarism as determined by University of Houston. A copy of these regulations is available through the University's [website](#). Ignorance of these policies is not an excuse for violations. All assignments will be processed through plagiarism detection software.

**Disabilities:**

The University of Houston is committed to providing reasonable accommodations for eligible students with disabilities, including students who have learning disabilities, health impairments, psychiatric disabilities, and/or other disabilities. If you believe you have a disability that requires accommodation, please contact the Center for Students with Disabilities (CSD) at 713-743-5400 voice or 713-749-1527 (TTY).

## Course Schedule and Readings

### **August 21 - Introduction to the course**

Readings: The Syllabus. Seriously.

### **August 23 - Judges as Policymakers**

Readings:

- Hume, Chapter 1

### **August 28 - The Legal Model of Judicial Decision-Making**

Readings:

- Hume, Chapter 3

### **August 30- The Attitudinal Model of Judicial Decision-Making**

Readings:

- Hume, Chapter 2

### **September 4 - The Strategic Model of Judicial Decision-Making**

Readings:

- Hume, Chapter 4

### **September 6 - Social Psychology and Judicial Decision-Making**

Readings:

- Braman, E. and Nelson, T. E. (2007). Mechanism of motivated reasoning? analogical perception in discrimination disputes. *American Journal of Political Science*, 51(4):940–956
- Epstein, L., Parker, C., and Segal, J. (2013). Do justices defend the speech they hate? in-group bias, opportunism, and the first amendment
- Kahan, D. M., Hoffman, D., Evans, D., Devans, N., Lucci, E., and Cheng, K. (2015). Ideology or situation sense: An experimental investigation of motivated reasoning and professional judgment. *U. Pa. L. Rev.*, 164:349 (skim)

Assignment:

- First article summary due. Upload to canvas before class.

### **September 11 -Exam 1 Review**

Come to class with your questions.

### **September 13 -Exam 1**

## **September 18 - Agenda Setting on the US Supreme Court**

Readings:

- Black, R. C. and Owens, R. J. (2009). Agenda setting in the supreme court: The collision of policy and jurisprudence. *The Journal of Politics*, 71(3):1062–1075
- Owens, R. J. and Simon, D. A. (2011). Explaining the supreme court’s shrinking docket. *Wm. & Mary L. Rev.*, 53:1219
- Boucher Jr, R. L. and Segal, J. A. (1995). Supreme court justices as strategic decision makers: Aggressive grants and defensive denials on the vinson court. *The Journal of Politics*, 57(3):824–837
- Blake, W. D., Hacker, H. J., and Hopwood, S. R. (2015). Seasonal affective disorder: Clerk training and the success of supreme court certiorari petitions. *Law & Society Review*, 49(4):973–997

## **September 20- The Congress and the Courts**

Readings:

- Rice, D. (2015). Placing the ball in congress court: Supreme court requests for congressional action. *American Politics Research*
- Blackstone, B. (2013). An analysis of policy-based congressional responses to the us supreme court’s constitutional decisions. *Law & Society Review*, 47(1):199–228

## **September 25- The Executive and the Courts**

Readings:

- Epstein, L. and Posner, E. A. (2016). Supreme court justices loyalty to the president. *The Journal of Legal Studies*, 45(2)(2):401–436
- Yates, J. and Whitford, A. (1998). Presidential power and the united states supreme court. *Political Research Quarterly*, 51(2):539–550
- Ho, D. E. and Quinn, K. M. (2010). Did a switch in time save nine? *Journal of Legal Analysis*, 2(1):69–113

## **September 27 - Decision-Making in the District and Circuit Courts**

Readings:

- Zorn, C. and Bowie, J. B. (2010). Ideological influences on decision making in the federal judicial hierarchy: An empirical assessment. *The journal of politics*, 72(4):1212–1221
- Klein, D. E. and Hume, R. J. (2003). Fear of reversal as an explanation of lower court compliance. *Law & Society Review*, 37(3):579–581

## **October 2 - Consensus, Dissentious, and Recusals**

### Readings:

- Epstein, L., Segal, J. A., and Spaeth, H. J. (2001). The norm of consensus on the us supreme court. *American Journal of Political Science*, pages 362–377
- Salamone, M. F. (2014). Judicial consensus and public opinion: conditional response to supreme court majority size. *Political Research Quarterly*, 67(2):320–334
- Hume, R. J. (2014). Deciding not to decide: the politics of recusals on the us supreme court. *Law & Society Review*, 48(3):621–655
- Black, R. C. and Bryan, A. C. (2014). Explaining the (non) occurrence of equal divisions on the us supreme court. *American politics research*, 42(6):1077–1095

### Assignment:

- Second article summary due. Upload to canvas before class.

## **October 4 - Oral Arguments and Amicus Briefs**

### Readings:

- Collins, P. M. (2004). Friends of the court: Examining the influence of amicus curiae participation in us supreme court litigation. *Law & Society Review*, 38(4):807–832
- Johnson, T. R., Wahlbeck, P. J., and Spriggs, J. F. (2006). The influence of oral arguments on the us supreme court. *American Political Science Review*, 100(1):99–113

## **October 9 - Race, Gender, and Judicial Decision-Making**

### Readings:

- Boyd, C. L., Epstein, L., and Martin, A. D. (2010). Untangling the causal effects of sex on judging. *American Journal of Political Science*, 54:389–411
- Kastellec, J. P. (2013). Racial diversity and judicial influence on appellate courts. *American Journal of Political Science*, 57(1):167–183
- Moyer, L. P. and Haire, S. B. (2015). Trailblazers and those that followed: Personal experiences, gender, and judicial empathy. *Law & Society Review*, 49(3):665–689
- Glynn, A. and Sen, M. (2015). Identifying judicial empathy: Does having daughters cause judges to rule for women’s issues? *American Journal of Political Science*, 59(1):37–54

## **October 11 - Research Design and Prediction Paper Advice Session**

### Assignment:

- Come to class with questions you have about completing your research design and prediction papers. This class session will give you an introduction to research design and provide you with tips for completing your prediction paper.

## **October 16 - Lawyers and Law Clerks**

Reading:

- Hume Chapter 6, 180-187
- Kromphardt, C. D. (2015). Us supreme court law clerks as information sources. *Journal of Law and Courts*, 3(2):277–304
- McAtee, A. and McGuire, K. T. (2007). Lawyers, justices, and issue salience: When and how do legal arguments affect the us supreme court? *Law & Society Review*, 41(2):259–278

## **October 18- Deciding to Retire**

Reading:

- Zorn, C. J. and Van Winkle, S. R. (2000). A competing risks model of supreme court vacancies, 1789–1992. *Political Behavior*, 22(2):145–166
- Hansford, T. G., Savchak, E. C., and Songer, D. R. (2010). Politics, careerism, and the voluntary departures of us district court judges. *American Politics Research*, 38(6)(6):986–1014

## **October 23 - Exam 2 Review**

Come to class with your questions.

## **October 25 - Exam 2**

## **October 30 - Judicial Appointments and Confirmation**

Reading:

- Ringhand, L. A. and Collins Jr, P. M. (2010). May it please the senate: An empirical analysis of the senate judiciary committee hearings of supreme court nominees, 1939-2009. *Am. UL Rev.*, 60:589
- Epstein, L., Lindstädt, R., Segal, J. A., and Westerland, C. (2006). The changing dynamics of senate voting on supreme court nominees. *Journal of Politics*, 68(2)(2):296–307
- Hitt, M. P. (2013). Presidential success in supreme court appointments: Informational effects and institutional constraints. *Presidential Studies Quarterly*, 43(4):792–813

## **November 1 - The Influence of Public Opinion**

Readings:

- Hume Chapter 6, 171-175 and 187-200
- Epstein, L. and Martin, A. D. (2010). Does public opinion influence the supreme court? yes (but we're not sure why). *University of Pennsylvania Journal of Constitutional Law*, 13
- Bryan, A. C. and Kromphardt, C. D. (2016). Public opinion, public support, and counter-attitudinal voting on the us supreme court. *Justice System Journal*, 37(4):298–317

## **November 6 - Public Perception of Supreme Court Decision-Making**

Readings:

- Badas, A. (2016). The public's motivated response to supreme court decision-making. *Justice System Journal*, 37(4):318–330
- Scheb, J. M. I. and Lyons, W. (2000). The myth of legality and public evaluations of the supreme court. *Social Science Quarterly*, 81:928–40

## **November 8- Media Coverage of Supreme Court Decision-Making**

Readings:

- Slotnick, E. E. and Segal, J. A. (1994). Supreme court decided today..., or did it. *Judicature*, 78:89
- Baird, V. A. and Gangl, A. (2006). Shattering the myth of legality: The impact of the media's framing of supreme court procedures on perceptions of fairness. *Political Psychology*, 27(4):597–614
- Strother, L. (2017). How expected political and legal impact drive media coverage of supreme court cases. *Political Communication*, 34(4):571–589

## **November 13 - The Impact of Supreme Court Decision-Making**

Readings:

- Hume Chapter 7 (besides 215-218)
- Rosenberg, G. N. (2005). Courting disaster: Looking for change in all the wrong places. *Drake L. Rev.*, 54:795
- Hall, M. E. (2014). The semiconstrained court: Public opinion, the separation of powers, and the us supreme court's fear of nonimplementation. *American Journal of Political Science*, 58(2):352–366
- Grossmann, M. and Swedlow, B. (2015). Judicial contributions to us national policy change since 1945. *Journal of Law and Courts*, 3(1):1–35

## **November 15- Decision-Making on State Courts Pt 1**

Readings:

- Hume Chapter 7, 215-218
- Hume Chapter 5

## **November 20 - Decision-Making on State Courts Pt2**

Readings:

- Canes-Wrone, B., Clark, T. S., and Kelly, J. P. (2014). Judicial selection and death penalty decisions. *American Political Science Review*, 108(1):23–39
- Hazelton, M. L., Montgomery, J. M., and Nyhan, B. (2016). Does public financing affect judicial behavior? evidence from the north carolina supreme court. *American Politics Research*, 44(4):587–617
- Hume Chapter 6, 178-180

Assignment:

- Supreme Court prediction paper due

## **November 22 - NO CLASS**

## **November 27 - Student Presentations**

Assignment: Email me a PDF of your presentation slides before noon

## **November 29 - Student Presentations and Exam 3 Review**

Come to class with your questions. Assignments:

- Research Design due. Upload copy and submit a hardcopy

## **December 11 - Final Exam**

Exam time: 2-5pm

Last updated August 17, 2018