

POLS 3358: Judicial Behavior
Roy G. Cullen Hall 111, TTh 1:00 - 2:30
Spring 2019

Instructor: Dr. Alex Badas

Email: abadas@uh.edu

Office Hours: Monday 11-2 and by appointment

Teaching Assistant: Calvin Liao

Email: yliao6@uh.edu

Office Hours: PGH 426 Tuesday and Thursday 11:30-1

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: 10% each
 - o Students will complete three exams. Exams will not be cumulative. Exams will be short essay. Exams are designed to test students' underlying understanding of the concepts discussed.
 - Exam 1 February 7
 - Exam 2 March 26
 - Exam 3 April 18
- Lecture Quizzes 10%
 - o There will be 12 lecture quizzes throughout the semester. They will typically be held on Thursday. The quizzes will include 5 multiple choice questions that covers the reading and lecture content. Each exam will be worth 1% of the students grade. If you are not in class and you do not have a university approved excuse, you will receive no credit for that quiz.
- Final exam 15%
 - o Cumulative final exam will given. The exam will consist of 60 multiple choice questions.
 - May 9 2-5pm

- 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. Students are required to submit a hardcopy and submit a copy of their papers on Blackboard. Students who fail to provide both will have their grade reduced by 1.5 points.
 - Due date March 21
- 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. Students are required to submit a hardcopy and submit a copy of their papers on Blackboard. Students who fail to provide both will have their grade reduced by 3 points.
 - Due date April 25
- 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 April 23
- 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 alone is not sufficient to earn a high score for participation.
- 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.

Course Schedule and Readings

January 15 - Introduction to the course

Readings: The Syllabus. Seriously.

January 17 - Judges as Policymakers

Readings:

- Hume, Chapter 1

Assignment:

- Lecture quiz #1

January 22 - The Legal Model of Judicial Decision-Making

Readings:

- Hume, Chapter 3

January 24- The Attitudinal Model of Judicial Decision-Making

Readings:

- Hume, Chapter 2

Assignment:

- Lecture quiz #2

January 29 - The Strategic Model of Judicial Decision-Making

Readings:

- Hume, Chapter 4

January 31 - 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. M., and Segal, J. (2013). Do justices defend the speech they hate? in-group bias, opportunism, and the first amendment. In *American Political Science Association 2013 Annual Meeting*
- Collins Jr, P. M. (2011). Cognitive dissonance on the us supreme court. *Political Research Quarterly*, 64(2):362–376

Assignment:

- Lecture quiz #3

February 5 -Exam 1 Review

Come to class with your questions.

February 7 -Exam 1

February 12 - 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

February 14- The Congress and the Courts

Readings:

- Mark, A. and Zilis, M. A. (2018a). The conditional effectiveness of legislative threats: How court curbing alters the behavior of (some) supreme court justices. *Political Research Quarterly*
- Mark, A. and Zilis, M. A. (2018b). Restraining the court: Assessing accounts of congressional attempts to limit supreme court authority. *Legislative Studies Quarterly*, 43(1):141–169
- Rice, D. (2015). Placing the ball in congress court: Supreme court requests for congressional action. *American Politics Research*, page 1532673X17752321
- 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

Assignment:

- Lecture quiz #4

February 19- 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
- Hitt, M. P. (2013). Presidential success in supreme court appointments: Informational effects and institutional constraints. *Presidential Studies Quarterly*, 43(4):792–813

February 21 - 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
- Black, R. C. and Owens, R. J. (2016). Courting the president: How circuit court judges alter their behavior for promotion to the supreme court. *American Journal of Political Science*, 60(1):30–43

Assignment:

- Lecture quiz #5

February 26 - 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

February 28 - 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

Assignment:

- Lecture quiz #6

March 5- Identity 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

March 7 - 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.

Assignment:

- Lecture quiz #7

March 12 and March 14 - Spring Break

March 19 - Lawyers and Law Clerks

Reading:

- Hume Chapter 6, 180-187
- Kromphardt, C. (2017). Evaluating the effect of law clerk gender on voting at the united states supreme court. *Justice System Journal*, 38(2):183–201
- Bonica, A., Chilton, A. S., Goldin, J., Rozema, K., and Sen, M. (2017). Influence and ideology in the american judiciary: Evidence from supreme court law clerks
- 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

March 21 - Judicial Confirmation and Retirement

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
- 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

Assignment:

- Lecture quiz #8
- Supreme Court Prediction paper due. Submit a hardcopy and upload to turnitin

March 26 - Exam 2

March 28 - 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
- Hoekstra, V. J. (2000). The supreme court and local public opinion. *American Political Science Review*, 94(1):89–100

Assignment:

- Lecture quiz #9

April 2- Public Perception of Supreme Court Decision-Making

Readings:

- Bartels, B. L. and Johnston, C. D. (2012). On the ideological foundations of supreme court legitimacy in the american public. *American Journal of Political Science*, 57:184–199
- Gibson, J. L., Lodge, M., and Woodson, B. (2014). Losing, but accepting: Legitimacy, positivity theory, and the symbols of judicial authority. *Law & Social Review*, 48(4):837–866
- Badas, A. (2016). The public's motivated reponse to supreme court decision-making. *Justice System Journal*, 37(4):318–330

April 4- 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
- Johnston, C. D. and Bartels, B. L. (2010). Sensationalism and sobriety differential media exposure and attitudes toward american courts. *Public Opinion Quarterly*, 72(2):260–285

Assignment:

- Lecture quiz #10

April 9 - 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
- McGuire, K. T. (2009). Public schools, religious establishments, and the us supreme court: An examination of policy compliance. *American Politics Research*, 37(1):50–74
- Grossmann, M. and Swedlow, B. (2015). Judicial contributions to us national policy change since 1945. *Journal of Law and Courts*, 3(1):1–35

April 11- Decision-Making on State Courts Pt 1

Readings:

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

Assignment:

- Lecture quiz #11

April 16 - 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:

- Lecture quiz #12

April 18 - Exam 3

April 23 - Student Presentations

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

April 25 - Student Presentations

Come to class with your questions. Assignments:

- Research Design due. Upload to Blackboard **and** submit a hardcopy

May 9- Final Exam

Exam time: 2-5pm

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).

Technology:

Many studies have demonstrated that using electronic device (laptops, tablets, etc) to take notes has a negative influence on student performance. Further, studies show that students who do not use electronic devices but sit near those who do have negative outcomes as well. For this reason, I **highly recommend but do not ban** the use of electronic devices for note taking. If you do plan to use an electronic device, I do ask that you sit in the back of the room to minimize the number of students potentially distracted by its use.

Recording lectures is without permission is **strictly prohibited**—this includes video, audio, or photo recording. If you are caught recording lecture, I will ask you to leave class and you will be marked absent.

Last updated December 28, 2018