

POLS 3358: Judicial Behavior
100D Michael J. Cemo Hall , TTh 10am - 11:30am
Fall 2020

Instructor: Dr. Alex Badas

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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 essay 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. All exams will be completed online and submitted to Blackboard. Exams will be posted at 10am on the day of the exam and students must upload their exams by 11:35am on exam day. Exams will be open note, but you are required to cite your sources and use your own words. Do not directly copy from the text. You are not permitted to work in groups on the exams.
 - Essay Exam 1: September 17
 - Essay Exam 2: October 22
 - Essay Exam 3: December 3
- Three multiple choice exams: 5% each
 - o Students will complete three multiple choice exams. Exams will not be cumulative. Exams are designed to test student' ability to identify key course concepts. Each exam will have roughly 25-30 questions. Students will have 35 minutes to complete the multiple choice exam. The exams will be posted at 10am on the day of the exam and close at 11:30am on the day of the exam. Exams will be open note. You are not permitted to work in groups on the exams.
 - MC Exam 1: September 15

- MC Exam 2: October 20
- MC Exam 3: December 1
- Final exam 20%
 - Cumulative final exam will given. The exam will consist of 75 multiple choice questions. The final will be open note. You are not permitted to work in groups on the exams.
 - December 15, 11-2
- Supreme Court case prediction paper 25%
 - 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 8 pages in length. A helpful guide will be posted to Blackboard. Upload your prediction paper to Blackboard by the due date.
 - Due date November 19
- Discussion Forum Posts 10%
 - For each lecture, I will post a set of discussion questions to the Blackboard forums. At minimum, students are expected to post once a week to the discussion forums. Your comments should address the questions I posted or issues raised by other students in their replies. You may also pose clarifying questions or pose your own discussion questions. Each Monday at 10am the forums will be checked for the previous week. If you do not post by this time, you will receive no credit.
- Attendance
 - There is no attendance policy in this class. If you are enrolled in the in-person section of the class, please stay home if you at all feel sick.

Course Schedule and Readings

August 25 - Introduction to the course

Readings:

- The Syllabus and the FAQ. Seriously.

August 27 - Judges as Policymakers

Readings:

- Hume, Chapter 1

September 1 - The Legal Model of Judicial Decision-Making

Readings:

- Hume, Chapter 3

September 3 - The Attitudinal Model of Judicial Decision-Making

Readings:

- Hume, Chapter 2

September 8 - The Strategic Model of Judicial Decision-Making

Readings:

- Hume, Chapter 4

September 10 - 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. L., and Segal, J. A. (2018). Do justices defend the speech they hate? an analysis of in-group bias on the us supreme court. *Journal of Law and Courts*, 6(2):237–262
- Sood, A. M. (2014). Cognitive cleansing: Experimental psychology and the exclusionary rule. *Geo. LJ*, 103:1543 (skim findings and theory)
- Collins Jr, P. M. (2011). Cognitive dissonance on the us supreme court. *Political Research Quarterly*, 64(2):362–376

September 15 - Multiple Choice Exam 1

Assignment:

- Multiple choice exam. Complete on Blackboard during allocated time.

September 17 -Essay Exam 1

Assignment:

- Essay exam. Complete on Blackboard during allocated time.

September 22 - 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
- 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 24- The Congress and the Courts

Readings:

- 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
- 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*, page 1065912918798501
- 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

September 29- 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

October 1 - 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

October 6 - 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 8 - 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
- Kestellec, 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
- Blake, W. (2012). God save this honorable court: Religion as a source of judicial policy preferences. *Political Research Quarterly*, 65(4):814–826

October 13 - Prediction Paper Advice Session

Assignments:

- Come to class with questions you have about completing your prediction papers. This class session will provide you with tips for completing your prediction paper.

October 15 - 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

October 20 - Multiple Choice Exam 2

Assignment:

- Complete multiple choice exam 2 on Blackboard within the allocated time.

October 22 - Essay Exam 2

Assignment:

- Complete essay exam 2 on Blackboard within the allocated time.

October 27 - 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
- Badas, A. and Stauffer, K. E. (2018). Someone like me: Descriptive representation and support for supreme court nominees. *Political Research Quarterly*, 70(1):127–142

October 29 - 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

November 3 - 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 response to supreme court decision-making. *Justice System Journal*, 37(4):318–330

November 5 - 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
- Glennon, C. and Strother, L. (2019). The maintenance of institutional legitimacy in supreme court justices public rhetoric. *Journal of Law and Courts*, 7(2):241–261

November 10 - 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

November 12 - Comparative Judicial Behavior : Guest Lecture by Eugenia Artabe

Readings:

- Garoupa, N. and Ginsburg, T. (2011). Building reputation in constitutional courts: Political and judicial audiences. *Ariz. J. Int'l & Comp. L.*, 28:539
- Carrubba, C. J., Gabel, M., and Hankla, C. (2008). Judicial behavior under political constraints: Evidence from the european court of justice. *American Political Science Review*, pages 435–452
- Staton, J. K. and Romero, A. (2016). Clarity and compliance in the inter-american human rights system
- Voeten, E. (2012). Does a professional judiciary induce more compliance? evidence from the european court of human rights. *Evidence from the European Court of Human Rights (March 27, 2012)*
- Stiansen, Ø. and Voeten, E. (2018). Backlash and judicial restraint: Evidence from the european court of human rights. *Available at SSRN 3166110*

November 17 - The Supreme Court and Voting Rights

Readings:

- *Shelby County v. Holder* (2013)
- Feder, C. and Miller, M. G. (2020). Voter purges after shelby. *American Politics Research*, page 1532673X20916426
- *Rucho v. Common Cause* (2019)
- Stephanopoulos, N. O. and Warshaw, C. (2019). The impact of partisan gerrymandering on political parties. *Legislative Studies Quarterly*

November 19 - The Supreme Court and Political Protests

Readings:

- Gillion, Daniel. “The Political Power of Protest: Minority Activism and Shifts in Public Policy” chapter 5

Assignments:

- Supreme Court Prediction Paper due. Upload to TurnItIn by 11:30am.

November 24 - Judicial Elections

Readings:

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

November 26 - Holiday Break

December 1: Multiple Choice Exam 3 Assignment

- Complete essay exam 3 on Blackboard within allocated time.

December 3 - Essay Exam 3 Assignment:

- Complete essay exam 3 on Blackboard within allocated time.

December 15 - Final Exam

Exam time: 11am-2pm

Covid-19: Those who are enrolled in the in-person class are expected to follow all university guidelines and procedures dealing with covid-19. This includes maintaining social distancing in the classroom and wearing a facial covering while on campus (including in class). Outside of class, I hope that students will engage in responsible behaviors (i.e., avoid large gatherings, maintaining social distancing, and wearing a mask). If you do not foresee yourself being able to able follow university guidelines in class and engaging in responsible behavior outside of class, please opt into the online version of this class. Further, I ask that students **do not** approach me after lecture to engage in discussion. If you would like to have a discussion, email me and we can setup a Microsoft Teams meeting.

Late Assignments:

Late assignments will not be accepted. Students who do not submit work on time will receive zero credit for the assignment.

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. Please be aware that having knowledge of academia dishonesty and not reporting it is a violation of the university's academic dishonesty policies.

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 August 6, 2020