

POLITICAL SCIENCE 516: JUDICIAL POLITICS  
Autumn Quarter; Tuesday and Thursday, 1:30-3:18  
Derby Hall 0080

Instructor: Banks Miller  
Office: Derby Hall 3081  
Office Hours: Monday 1-3 and by appointment  
Course Webpage: [carmen.osu.edu](http://carmen.osu.edu)

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This is a class in judicial politics, a term which can have many meanings and cover a wide variety of topics. In this course we will cover topics such as judges, lawyers, litigants, criminal and civil procedure, state and federal courts, and theories of judicial decision making. We will analyze these concepts, actors and institutions from a variety of perspectives including theoretical, normative, and empirical approaches. The point of this course is to instill in you a greater understanding of how the American legal system and politics interact and to develop your ability to evaluate commentary on the American judiciary critically. In short, I aim to help you become a critical consumer of information about American courts. We will begin by covering the basic descriptive information that will form the basis of your understanding of the American legal system. These basics include: (1) the structure of federal and state court systems, (2) the concept of jurisdiction, (3) how judges are selected, (4) the role of lawyers in the judicial system, and (5) civil and criminal procedure. Then, in the second half of the class, we will begin to use the knowledge base you have built in the first half of the course to discuss more complex concepts and theories about the American judiciary. The following are some of the topics we will cover in this part of the course: (1) judicial decision making, (2) implementation of court policy, and (3) the role of interest groups (and lawyers) in the judicial system. Further, I am open to covering other topics if you have special interests—please make me aware of these interests as soon as you can.

**Course Materials:**

I have ordered both of the books at SBX (I believe they are also available at Long's), but you are, of course, free to purchase the texts online.

Carp, Robert A., Ronald Stidham and Kenneth Manning. *Judicial Process in America* (Seventh Edition). Washington, D.C.: Congressional Quarterly Press.

-This will be our textbook for the class. Please make sure that you have the 7<sup>th</sup> edition. Readings from this book are listed as CSM on the syllabus.

O'Brien, David. 2004. *Judges on Judging* (Second Edition). Washington, D.C.: Congressional Quarterly Press.

-This book contains edited writings by judges themselves on many of the subjects that we will cover in the course. Straight from the horses' mouths, so to speak. Please be sure you purchase the 2<sup>nd</sup> edition. Readings from the text are listed as O'Brien on the syllabus.

Carmen Readings: You should also note that several required readings will be posted on Carmen. They will be posted at least one week prior to when I expect you will have read them. If you have difficulty accessing the readings on Carmen let me know as soon as possible. These readings are noted as Articles on the syllabus.

### **Classroom Behavior:**

I don't care if you eat or drink in the room, as long as you do so quietly. Also, please be sure to silence your cell phones before coming to class. If ringing cell phones become an issue, then I reserve the right to impose a small penalty on the final grade of those whose phones continue to ring.

### **Assignments and Grading:**

1. Two midterms covering the basic aspects of the course, each offered after 4-5 topics have been covered. The first midterm will be worth 20% of your grade and the second midterm will be worth 25% of your grade. As with the final, any assigned reading and anything discussed in class is fair game for the midterm.
2. A final on the more advanced aspects of the class covered in the final weeks (45%). The final will not be cumulative, so long as performance on the midterms is satisfactory. We will discuss this more after the second midterm. I will provide study guides with examples of the types of questions I am likely to ask.

3. Attendance and participation (10%). Some of you are no doubt bashful about in-class participation and I will not call on anyone in class who does not volunteer. However, I will take attendance. I will automatically excuse up to 3 absences over the course of the term, but beyond that I will deduct points from your attendance and participation grade. I reserve the right to reward those students who have contributed particularly well to in-class discussion with a slight “bump” on the final grade. Thus, if you earned a final grade of B+, but also participated well throughout the quarter, then I may enter an A- as the final grade.

I will make special arrangements for students who must miss a test for very good reasons, but you must give me a note describing the reasons that you have to miss the test and must obtain my permission to do so prior to the test. If I give you permission to miss an exam, you must check with me on the first class day after the examination to find out the time for the makeup examination, and you must take the examination at that time. If you miss an examination without prior permission, ordinarily you will receive a score of zero on that examination. If you have very good reason for missing the examination without prior permission, I will allow you to take the makeup with a penalty of five points for each day after the exam before you notified me (including the examination day itself).

The grading scale is as follows and is based on the percentage of total available points earned:

A = 93% or greater  
A- = 90-92%  
B+ = 87-89%  
B = 84-86%  
B- = 80-83%  
C+ = 77-79%  
C = 74-76%  
C- = 70-73%  
D+ = 67-69%  
D = 63-66%  
D- = 60-62%  
F = < 60%

**Academic Honesty:**

All of the work you do in this class must be your own. Cheating and plagiarism will not be tolerated. All cases of cheating and plagiarism will be handled according to university policies as outlined in the *Code of Student Conduct*.

### **Students with Disabilities:**

If you need an accommodation based on the impact of a disability, you should contact me to arrange accommodations. I rely on the Office for Disability Services for assistance in verifying the need for accommodations and developing accommodation strategies. If you have not previously contacted the Office for Disability Services, I encourage you to do so.

### **Course Schedule:**

NOTE THAT ALL LISTED READINGS ARE REQUIRED.

Class 1: Course Introduction

#### The Basics:

Topic 1: Foundations and Sources of Law

CSM: Ch. 1

O'Brien: Ch. 3

Topic 2: The Special Problem of Judicial Review

O'Brien: Ch. 1

Article: Judicial review: the usurpation and democracy questions (Melone and Mace)

Topic 3: Structure of State and Federal Court Systems

CSM: Ch. 2 & Ch. 3

Topic 4: Selection of Judges in State Courts

CSM: Ch. 5

Article: Interest groups and state court elections: a new era and its challenges (Thomas, Boyer, and Hrebentar)

Topic 5: Selection of Judges in Federal Courts

CSM: Ch. 6 & Ch. 7  
O'Brien: Ch.4

## **Midterm Exam I**

Topic 6: Jurisdiction: State and Federal  
CSM: Ch. 4  
O'Brien: Ch. 29

Topic 7: Criminal Trials and Procedure  
CSM: Ch. 9 & Ch. 10

Topic 8: Civil Trials and Procedure  
CSM: Ch. 11  
Article: The changing role of the trial judge (Ludwig)

Topic 9: Deciding What to Decide—Appellate Review  
O'Brien: Ch. 10  
Article: Deciding what to decide: the Judge's Bill at 75 (Hartnett)

## **Midterm Exam II**

### The Courts and Politics:

Topic 10: Lawyers and Litigants  
CSM: Ch. 8  
Article: Contingency fee lawyers as gatekeepers in the civil justice system (Kritzer)

Topic 11: Interest Groups  
CSM: Ch. 8  
Article: Friendly fire: *amici curiae* and *Webster v. Reproductive Health Services* (Behuniak)

Topic 12: Decision Making on Trial Courts  
CSM: Ch. 12  
O'Brien: Ch. 5

Topic 13: Decision Making in Appellate Courts  
CSM: Ch. 13

O'Brien: Ch. 6

Topic 14: Decision Making on the Supreme Court

O'Brien: Ch. 17

O'Brien: Ch. 18

Topic 15: The Supreme Court, Public Opinion and Institutional Legitimacy

Article: Supreme Court and public support for rights claimants  
(Marshall and Ignagni)

Article: The impact of *Bush v. Gore* on public perception and  
knowledge of the Supreme Court (Kritzer)

Topic 16: Implementation of Court Decisions

CSM: Ch. 14

Article: Arrogation of power or accountability: “judicial imperialism”  
revisited (Wasby)

**Final Exam: Wednesday, December 5<sup>th</sup>.**