

# POS 4931: SPECIAL TOPICS (JUDICIAL POLITICS)

Fall 2024

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<b>Instructor:</b>	J.S. Truscott	<b>Email:</b>	<a href="mailto:jaketruscott@ufl.edu">jaketruscott@ufl.edu</a>
<b>Class Time:</b>	MWF 11:45-12:35	<b>Class Location:</b>	Anderson 0101
<b>Office:</b>	Anderson 317	<b>Office Hours:</b>	W 2:00-4:00

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## Course Description

This course serves to answer an important question: *How do we empirically examine judicial actors and institutions in the United States and globally?* Perhaps the best place to start is by acknowledging a few important concepts:

1. Judges are policy-oriented actors whose positions grant them considerable political power.
2. Judicial decision-making hardly exists in a vacuum and can serve to uphold or upend social and political understandings of *what the law is*.
3. A critical understanding of legal actors and institutions is about more than just the caselaw.

Rather than focus on caselaw, this course will largely view judicial processes, behaviors, and institutions through the lens of empirical social science. In particular, we will explore how a multitude of competing elements shape the American judiciary, particularly as it relates to the federal system and the United States Supreme Court. Upon successful completion of this course, students will retain a critical understanding of, among other things:

- Origins and Structures of American Legal Institutions.
- Core theories of Judicial Decision-Making.
- Judicial Selection and Retention.
- How Judicial Institutions Coexist in a *Separation of Powers* System.
- The Role of Extra-Judicial Groups and Actors (e.g., Lawyers, Clerks, Interest Groups, etc.).
- How Courts Influence Public Discourse and Perceptions of Legal Actors and Institutions.
- Contemporary Empirical Strategies for Studying Judicial Behavior.

## Required Readings

- Carp, R. A., Manning, K. L., Holmes, L. M., & Stidham, R. (2019). *Judicial process in America*. 11th Edition. CQ Press (**JPA**)
- McGuire, K. T. (Ed.). (2012). *New directions in judicial politics*. New York: Routledge. (**NDJP**)

*Note:* I will be teaching from the **11th Edition** of **JPA** – It is *not* the most recent version but will fit our purposes nicely. Please do *not* feel compelled to purchase the most recent version.

## Recommended Readings

- Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.
- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press.

**Any other required readings indicated in the *Course Schedule* will be provided on Canvas. Please have each week's readings completed before arriving for our class period.**

## Grading Policy

Midterm Exam .....	25%
Final Exam .....	25%
Participation .....	10%
Critical Response Essay .....	20%
Quizzes .....	20%

## Grading Scale

100-93 A	79-77 C+	63-60 D-
92-90 A-	76-74 C-	59-0 F
89-87 B+	73-70 C-	
86-83 B	69-67 D+	
82-80 B-	66-64 D	

## Evaluation

### *Examinations*

The Midterm and Final examinations will encompass using a combination of critical analysis skills for responding to multiple-choice and short written prompts relating to the content we have covered to that point. More instructions will be provided closer to the examination periods.

### *Quizzes*

There will be two short quizzes administered during the semester at the (approximate) midpoint intervals between the larger midterm and final examinations. More instructions will be provided closer to the examination periods.

### *Critical Response Essay*

You are required to complete one critical response essay prompt that will be submitted via Canvas. There will be (2) prompts posted to Canvas with individual due dates – I would highly recommend that you consider which of the prompts interest you more, or which fits better with your broader schedule. You are only required to complete **one** – *however*, if you complete both, only the submission with higher marks will count towards your final grade.

A general rubric and essay tips will be made available in the Course Materials section of Canvas. Your responses should be approximately 6-8 pages double-spaced (12 pt font, Times New Roman). I have no preference for which citation style you use, so long as it is consistent and present. All I ask is that you only use reputable sources (i.e., no *Wikipedia*, *Encyclopedia Britannica*, etc.). If you have specific essay questions, please don't hesitate to ask!

## ***Participation***

Your participation will be gauged primarily by your attendance and participation in the weekly meeting periods. ***This definitely considers whether you have done the reading(s)***. You will be given (2) free absences before it begins impacting your participation grade.

## **Communication with Instructor**

If you need to contact me for any reason, I do ask that you aim to primarily use your UF email address rather than Canvas. I am generally very good about responding to emails quickly, but please understand that I likely will not respond until the next day if the message is sent late in the night.

Email: [jaketruscott@ufl.edu](mailto:jaketruscott@ufl.edu)

## **Attendance Policy**

If you need to miss class because of a legitimate reason that would accompany an excused absence (e.g., sickness, family or personal emergency, etc.), that is entirely fine. I just ask that you keep an open line of communication with me as things happen. I have much greater flexibility to help you if I am made aware of outlying circumstances as early as possible. However, I will only be taking attendance at random throughout the semester and you will be given (2) free absences before it starts impacting your participation grade.

## **Academic Honesty (General & AI)**

I recognize the importance and benefits of using generative artificial intelligence (AI) tools and large language models (LLMs) like ChatGPT, which is why my position is to embrace and integrate them into certain course activities with full transparency about their use. However, using any AI tools during an exam or quiz is never permitted. It is also important to note that algorithmic structures of generative AI tools – particularly ChatGPT – are built to return responses to queries. ***However***, this does not mean that they are always correct. Be sure to pay special consideration to the information returned from queries – there are several recent examples of individuals finding themselves in bad situations after assuming these tools are infallible.

You are responsible for knowing and complying with the policy and procedures relating to academic honesty. To understand what constitutes dishonest work, as defined by the University, please carefully review the policy here: <https://teach.ufl.edu/resource-library/academic-integrity-at-uf/>

## **Syllabus Policy**

I reserve the right to make changes to the syllabus, if necessary. I will give you fair notice (at least a week) if something, such as a reading assignment, is to change.

## **Disability Resource Center**

If you anticipate needing accommodations due to the impact of a disability or medical condition, you must register for services with the Disability Resource Center. Additional information can be found here: <https://disability.ufl.edu/>

## Withdrawal Policy

Undergraduate students can only withdraw from four courses and receive a withdrawal-passing (WP) grade while enrolled at the University. Students can drop any class without penalty during the drop/add period at the beginning of every semester. Dropped courses during the drop/add period do not qualify as withdrawals. Instructors have the ability to withdraw a student from the class due to excessive absences (see course attendance policy). Please review the policy here: <https://catalog.ufl.edu/UGRD/academic-regulations/dropping-courses-withdrawals/>

## Key Dates

- Fri 9/20 (Quiz 1)
- Sun 9/29 (Critical Response Essay 1 Due)
- Fri 10/11 (Midterm Exam)
- Fri 11/8 (Quiz 2)
- Sun 11/17 (Critical Response Essay 2 Due)
- Wed 12/11 (Final Exam)

## Course Schedule

### Week 1

Date(s): 8/23

Subject: Introduction & Syllabus

Readings:

- Syllabus

### Week 2

Date(s): 8/26, 8/28, 8/30

Subject: Origins & Structure of the American Judiciary

Readings:

- Declaration of Independence
- Federalist No. 78
- US Constitution (Pre-Amendments)
- [Overview of Judiciary Act of 1789](#)
- **JPA** Ch. 2-4
- *Skim* Baum, L. (2023). The Supreme Court. CQ press. (**Chapter 1**)
- *Skim* [Overview of Federal Court System \(DOJ\)](#)

### Week 3

Date(s): 9/4, 9/6

Subject: Intro to the Legal Process

Readings:

- **JPA** Ch. 1, 9-11

### Week 4

Date(s): 9/9, 9/11, 9/13

Subject: The Legal Process (Cont.)

Readings:

- **JPA** Ch. 1, 9-11

### Week 5

Date(s): 9/16, 9/18, 9/20

Subject: Empirical Research in Judicial Politics

Readings:

- Dahl, R. A. (1957). Decision-making in a democracy: The Supreme Court as a national policy-maker. *J. Pub. L.*, 6, 279.
- Martin, A. D., & Quinn, K. M. (2002). Dynamic ideal point estimation via Markov chain Monte Carlo for the US Supreme Court, 1953–1999. *Political analysis*, 10(2), 134-153. (**SKIM...**)
- Krewson, C. N., & Owens, R. J. (2017). Historical development of Supreme Court research. In *Routledge Handbook of Judicial Behavior* (pp. 97-113). Routledge.
- Epstein, L., & Segal, J. A. (2000). Measuring issue salience. *American Journal of Political Science*, 66-83.
- Clark, T. S., Lax, J. R., & Rice, D. (2015). Measuring the political salience of Supreme Court cases. *Journal of Law and Courts*, 3(1), 37-65.

*Quiz 1 (Friday 9/20)*

### Week 6

Date(s): 9/23, 9/25, 9/27

Subject: Judicial Nominations, Confirmations, and Retirements

Readings:

- **JPA** Ch. 5-7
- **NDJP** Ch. 1-3
- Cameron, C. M., & Kastellec, J. P. (2023). *Making the Supreme Court: The Politics of Appointments, 1930-2020*. Oxford University Press. (**Chapter 1**)
- Epstein, L., Lindstädt, R., Segal, J. A., & Westerland, C. (2006). The changing dynamics of Senate voting on Supreme Court nominees. *The Journal of Politics*, 68(2), 296-307.
- Vining Jr, R. L. (2009). Politics, pragmatism, and departures from the US courts of appeals, 1954–2004. *Social Science Quarterly*, 90(4), 834-853.

Recommended:

- Truscott, J. S. (2023). Analyzing the Rhetoric of Supreme Court Confirmation Hearings. *Journal of Law and Courts*, 1-22.

*Critical Response Essay 1 Due (Sun 9/29)*

## Week 7

Date(s): 9/30, 10/2, 10/4

Subject: Theories of Judicial Decision-Making

Readings:

- **JPA** Ch. 13
- Bonica, A., & Sen, M. (2021). Estimating judicial ideology. *Journal of Economic Perspectives*, 35(1), 97-118. (**SKIM**)
- George, T. E., & Epstein, L. (1992). On the nature of Supreme Court decision making. *American Political Science Review*, 86(2), 323-337.
- Segal, J. A., & Cover, A. D. (1989). Ideological values and the votes of US Supreme Court justices. *American Political Science Review*, 83(2), 557-565.

Recommended Readings:

- Epstein, L., & Knight, J. (1997). *The choices justices make*. Sage.
- Segal, J. A., & Spaeth, H. J. (2002). *The Supreme Court and the attitudinal model revisited*. Cambridge University Press.

## Week 8

Date(s): 10/7, 10/9, 10/11

Subject: Certiorari & Agenda Setting

Readings:

- **JPA** Ch. 9
- **NDJP** Ch. 6-8
- Black, R. C., & Boyd, C. L. (2012). US Supreme Court agenda setting and the role of litigant status. *The Journal of Law, Economics, & Organization*, 28(2), 286-312.
- Black, R. C., & Owens, R. J. (2009). Agenda setting in the Supreme Court: The collision of policy and jurisprudence. *The Journal of Politics*, 71(3), 1062-1075.

Recommended Readings:

- Lane, E. A. (2022). A Separation-of-Powers Approach to the Supreme Court's Shrinking Caseload. *Journal of Law and Courts*, 10(1), 1-12.

*Midterm Exam (Fri 10/11)*

**Week 9**

Date(s): 10/14, 10/16

Subject: Oral Arguments

Readings:

- Truscott, J. S. (2022). The Supreme Spectacle: An Analysis of Public Attendance at the Supreme Court. *Justice System Journal*, 43(3), 470-481.
- Johnson, T. R., Wahlbeck, P. J., & Spriggs, J. F. (2006). The influence of oral arguments on the US Supreme Court. *American Political Science Review*, 100(1), 99-113.
- Dietrich, B. J., Enos, R. D., & Sen, M. (2019). Emotional arousal predicts voting on the US supreme court. *Political Analysis*, 27(2), 237-243.

**Week 10**

Date(s): 10/21, 10/23, 10/25

Subject: Briefs, Attorneys, and Interest Groups

Readings:

- **NDJP** Ch. 12
- Collins Jr, P. M. (2018). The use of amicus briefs. *Annual Review of Law and Social Science*, 14, 219-237.
- Bailey, M. A., Kamoie, B., & Maltzman, F. (2005). Signals from the tenth justice: The political role of the solicitor general in Supreme Court decision making. *American Journal of Political Science*, 49(1), 72-85.
- Galanter, M. (1974). Why the haves come out ahead: Speculations on the limits of legal change. *Law & Soc'y Rev.*, 9, 95.
- Collins Jr, P. M. (2018). The use of amicus briefs. *Annual Review of Law and Social Science*, 14, 219-237.

**Week 11**

Date(s): 10/28, 10/30, 11/1

Subject: Opinion Writing

Readings:

- Kerr, O. S. (2007). How to read a legal opinion: a guide for new law students.
- Rohde, D. W. (1972). Policy goals, strategic, choice and majority opinion assignments in the US Supreme Court. *Midwest Journal of Political Science*, 652-682.
- **NDJP** Ch. 9-10

**Week 12**

Date(s): 11/4, 11/6, 11/8

Subject: Public Opinion &amp; Legitimacy

Readings:

- **NDJP** Ch. 13

- Jaros, D., & Roper, R. (1980). The US Supreme Court: Myth, diffuse support, specific support, and legitimacy. *American Politics Quarterly*, 8(1), 85-105.
- Caldeira, G. A., & Gibson, J. L. (1992). The etiology of public support for the Supreme Court. *American journal of political science*, 635-664.

Recommended Readings:

- King, J. M., & Schoenherr, J. A. (2024). A Matter of Opinion? How Unexpected Opinion Authors Influence Support for Supreme Court Decisions. *Journal of Law and Courts*, 1-21.

*Quiz 2 (Fri 11/8)*

**Week 13**

Date(s): 11/13, 11/15

Subject: The Courts in Popular Media

Readings:

- Strother, L. (2017). How expected political and legal impact drive media coverage of Supreme Court cases. *Political Communication*, 34(4), 571-589.
- Hitt, M. P., & Searles, K. (2018). Media coverage and public approval of the US Supreme Court. *Political Communication*, 35(4), 566-586.
- Sill, K. L., Metzgar, E. T., & Rouse, S. M. (2013). Media Coverage of the US Supreme Court: How do journalists assess the importance of court decisions?. *Political Communication*, 30(1), 58-80.
- Vining Jr, R. L., & Marcin, P. (2014). An economic theory of Supreme Court news. *Political Communication*, 31(1), 94-111.

*Critical Response Essay 2 Due (Sun 11/17)*

**Week 14**

Date(s): 11/18, 11/20, 11/22

Subject: Impact of Judicial Decision-Making & Contemporary Issues

Readings

- **JPA** Ch. 14-15

**Week 15**

Date(s): No Class – Thanksgiving

**Week 16**

Date(s): 12/2, 12/4

Subject: Final Exam Review

**Week 17**

Date(s): 12/11

**Final Exam (Wed 12/11)**