

DRAFT

PS 275: Legal Process: An Introduction to the American Judiciary

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Summer 2017 DRAFT SYLLABUS

This class explores the nature of the American judiciary—its structure, its players and its impact on American public policy. We will start from the premise that the American judicial system displays a unique set of characteristics, specifically a focus on what some scholars refer to as “adversarial legalism.” During the first half of the class we will analyze the components of the American judicial system. How did American law develop? What is the role of law in American culture? What contributions have lower courts, state courts and the Supreme Court made to American public policy and the functioning of government? What is the impact of professional legal culture on the practice of law? How do plaintiffs experience the American legal system? The second half of the course explores the role of the courts in adjudicating over issues regarding civil rights, civil justice, criminal rights, and politics.

Class will be a mixture of lecture and discussion. Students are expected to attend and to be prepared to contribute to class discussions. Grades will be assessed according to the following:

- Class participation: 10%
 - Attendance
 - Participation
 - Current Events Assignments
- Weekly quiz: 15% (4 total) (every Thursday)
- Simulation: 10%
- Final 7-page Analytical Paper: 20% (Due Last Day of Class)

Books: Students should purchase *American Law in the Twentieth Century, Third Edition* (2004) and *Below the Radar: How Silence Can Save Civil Rights* (2015). Additional readings will be made available on reserve and through Canvas.

Current Events Assignment: Every other day beginning on Tuesday of Week 1 students will be required to come prepared to discuss a current news story pertaining to an issue that will be discussed during that week’s classes. I will call on these students to provide a brief synopsis of the story and its relevance to the day’s topic. We will then open the class up to discussion about the story. Students with last names A-M will present on Tuesdays and Thursdays. Students N-Z will present on Mondays and Wednesdays.

Policy on Academic Dishonesty and Plagiarism

Plagiarism and other forms of academic dishonesty are not tolerated in this class and will result in an F on the assignment and, potentially, the course. Any test, paper, or report submitted by you that bears your name is presumed to be your own original work that has not previously been submitted for credit in another course unless you have obtained my prior written approval.

In all of your assignments, including your homework or drafts of papers, you may use words or ideas written by other individuals in publications, Web sites, or other sources, but only with proper attribution. "Proper attribution" means that you have fully identified the original source and extent of your use of the words or ideas of others that you reproduce in your work for this course, usually in the form of a footnote or parenthesis. However, the bulk of your written work should be your own original thoughts. Published or web-based information should only be used to supplement your own ideas.

As a general rule, if you are citing from a published source or from a Web site and the quotation is short (up to a sentence or two), place it in quotation marks; if you employ a longer passage from a publication or Web site, please indent it and use single spacing. In both cases, be sure to cite the original source in a footnote or in parentheses.

Be warned, I conduct periodic web searches for language from student papers. If you have used language from publications or websites without giving them proper attribution I will find out.

Handing in Assignments

Instructions for handing in assignments will be included on all written assignments and exams. Students are expected to hand in their assignments on time and in accordance with the instructions provided, unless alternate arrangements have been made prior to the assignment's due date. Students will lose a half grade on the assignment each day that the assignment is late.

Grading Disputes

If you want to dispute a grade on a paper or exam, please submit *in writing* a description of your concerns at least 24 hours after you have received the grade in question. The 24 hours should be used as a cooling off period. Please note, however, that if I review your work, I will be reviewing the entire exam or paper. This could result in a lower grade.

Receiving an Incomplete

In general incompletes will only be permitted under extenuating circumstances (health, family issues, emergency). Students who have outstanding assignments at the time that grades are due and who have not received preapproval for an incomplete will receive an "F" for the assignments they have not completed. In order to receive a passing grade in the class you must hand in all assignments.

Grading Policy

This course follows the larger Political Science Grading Standards

- An **A+** means the student has completed advanced and exceptional performance on all course objectives.
- An **A** means the student has completed proficient work on all course objectives and advanced work on some objectives.
- A **B** means the student has completed proficient work on all course objectives.
- A **C** means the student has completed proficient work on the most important objectives, although not all objectives.
- A **D** means the student has completed proficient work on at least one-half of the course objectives but is missing some important objectives and is at significant

risk of failing the next course in the sequence. The student should repeat the course if it is a prerequisite for another course

- An **F** means the student has completed proficient work on fewer than one-half of the course objectives and cannot successfully complete courses for which this course is a prerequisite.

Learning Outcomes: The goal of the course is to help students build a basic understanding of the ways in which American legal institutions influence American public policy. Students who complete the coursework will gain an understanding of the workings of American political systems at the local, state and national levels and across varying institutional arrangements. They will be introduced—through the lens of American legal institutions—to significant political concepts such as justice, natural law and obligation. Finally, students will gain critical skills in identifying, describing and utilizing facts and will develop fundamentals in analysis and argumentation.

Reading Assignments

Day 2: American Exceptionalism and the Development of American Law

The Federalist No. 78 Blackboard

Marbury v. Madison Blackboard

Day 3: How Government Structures Law

Friedman, *A History of American Law* p. 93-117.

Melnick, *Between the Lines*: Chapter One, 3-22. Blackboard

Day 5: Federalism/Inter-Branch Coordination

Baum, Chapter 2.

Andrew Koppelman, “The Power in the Facts,” *The New York Times*, August 4, 2010.

McCloskey, *The American Supreme Court*, Chapter 6

Day 6: Federalism/Inter-Branch Coordination

Barnes and Miller: *Making Policy, Making Law*, excerpts

Day 7: Lawyers

Below the Radar, excerpts

Day 8: Judges

Atiyah and Summers, “Judges”

M. Levin, “Urban Politics and Judicial Behavior,” *The Journal of Legal Studies*, Vol. 1, No. 1, 1972.

Day 9: How Law Structures Society

Rosenberg, “The Impact of Courts on American Life” in *The Judicial Branch*.

Day 10: How Law Structures Society

McCann “Reform Litigation on Trial,” *Law and Social Inquiry*, Vol. 17, No. 4, 1992.
(excerpts)

Keck, "Beyond Backlash: Assessing the Impact of Judicial Decisions on LGBT Rights"
Law & Society Review, Vol. 43, No. 1, 2009 (excerpts)

Day 11: Law and Politics

Citizens United (readings from SCOTUSBlog)
Silverstein, *Law's Allure*, excerpts
Barnes and Burke, *How Policy Shapes Politics*

Day 12: Civil Rights

Friedman, *Chapter 10*
Grutter v. Bollinger (excerpts)
Fisher v. University of Texas at Austin (readings from SCOTUSBlog)

Day 13: Civil Rights

Windsor v. United States (readings from SCOTUSBlog)
Hobby Lobby

Day 14: Civil Justice

Friedman, Chapter 11.
Kagan, *Adversarial Legalism*, excerpt

Day 15: Criminal Justice

Friedman, Chapter 8.
J. Langbein, *Money Talks, Clients Walk*," *Newsweek*, April 17, 1995, 32-34.

Day 16: Death Penalty

Furman v. Georgia 408 U.S. 238 (1972)
Baze v. Rees 553 U.S. 35 (2008)
Judge Reinhardt, *The Supreme Court, the Death Penalty, and the Harris Case*, 102 Yale
L.J. 205 1992-1993