

## PS116 Judicial Politics, Spring 2010

Tuesday and Thursday, 1:30 p.m. to 2:45 p.m.

Professor Kent E. Portney

This Judicial Politics course is designed as an introduction to the court systems in America. It assumes that you have no particular knowledge of the judicial system.

As an introductory course, its main mission will be descriptive. In other words, we will spend most of our time trying to build a fairly detailed picture of how the courts are organized and how they function. To do this we will focus on what I call the "mechanics of justice." This includes topics such as court jurisdictions, formal court organization, the selection of court personnel, and so on.

As we address these basics, we will examine numerous aspects of the judicial process that are "political." We will look at the role of partisan politics in the selection of judges and the implications of different selection practices. We will also look at some of the more subtle aspects of interpersonal politics that often exert major influences on the processes and their results. We will also take a focused look at the Supreme Court - its history, functions, and role in American society. We will examine recent and not so recent Presidential nominations, and study the kinds of impacts the Court has on society when it makes its decisions.

Finally, we will attempt to address some major questions of the role of the courts in contemporary America. We will look at questions which require us to interpret the information we have learned, such as whether judicial policy making has interceded too far, whether the courts can ever have the capacity to bring about major social change, and so on.

The books we will use to cover these topics are:

G. Alan Tarr. *Judicial Process and Policymaking*. 5<sup>th</sup> edition, Belmont, CA: Wadsworth, 2010.

Lawrence Baum. *The Supreme Court*. 10<sup>th</sup> ed., Washington, D.C.: CQ Press, 2010.

Bradley C. Canon and Charles A. Johnson. *Judicial Policies: Implementation and Impact*. 2<sup>nd</sup> edition, Washington, D.C.: CQ Press, 1999.

James Eisenstein, Roy B. Flemming, and Peter F. Nardulli. *The Contours of Justice*. Baltimore: University Press of America, 1999.

We will have a take-home mid-term essay exam which, given out in class on Tuesday, March 9, which must be returned in class on Tuesday, March 16.

We will also have a short take-home final exam, which will be given out in class on Thursday April 29, and will be due on Friday, May 7, the first day of final exams, no later than 12:00 noon in the Political Science Department. No extensions will be granted.

Remember, it is your responsibility to make sure the mid-term and final exams are received, and it is always advisable for you to make a backup copy of a photocopy of all of your work before you turn it in. Written assignments may be submitted via e-mail, provided that they are sent directly to Professor Portney at [kent.portney@tufts.edu](mailto:kent.portney@tufts.edu) as an attachment in MSWord (doc) format. Assignments submitted via e-mail must be received by the due date and time. As with written submissions, the responsibility for ensuring that your materials have been received remains yours. If you do not receive e-mail confirmation of receipt of your assignment, then you should assume it was not received.

Class attendance is mandatory. The midterm and final exams will be graded on the basis of performance in three areas or categories of equal importance (usually a maximum of 33.3 points each): 1) Writing quality and organization of material; 2) factual accuracy and completeness; and 3) synthesis of ideas and creativity. Although the midterm and final exams are of the "take-home" variety, this is not an invitation to collaborate with others in the class. It is never acceptable to in any way present someone else's work as your own. Consistent with the University's policy on Academic Honesty, the policy here is that multiple papers which appear to be extraordinarily similar in content, style, and/or structure may each be awarded the same grade, usually a total of 60 points, which carries a grade of "F."

The final grade will be a straightforward average of the mid-term and final exams. Each exam will count 50% of the final grade. The grade may be adjusted upward or downward based on class participation and attendance. Late exams or assignments will not be accepted, and exams or assignments not received on time will automatically receive numerical grades of 60. In general, extensions on assignments and incompletes at final grading time are not granted.

My office hours are 9:30 a.m. to 11:00 a.m. on Tuesdays and Thursdays. If these hours are not convenient, just let me know and we can make alternative arrangements. Due to other commitments, I will not generally be available on campus during Fridays. My e-mail address is: [kent.portney@tufts.edu](mailto:kent.portney@tufts.edu).

My office is located in Packard Hall, Room 206. I can be reached there by telephone at extension 73465 (627-3465 from off-campus).

## CLASS BY CLASS TOPICS AND READINGS

<u>Date</u>	<u>Topic and Reading</u>
January 21	Introduction to Judicial Politics: Our approach versus others.
January 26	How the Courts are supposed to work. The rules, organization, procedures and principles which "objectify" the system <b>Read: Tarr, Chapters 1 and 2.</b>
January 28	Lawyers, judicial personnel and legal practitioners. <b>Read: Tarr, Chapter 4.</b>
February 2	Judges: Who are they and where do they come from? Judicial selection systems: How Do They Work in Theory? <b>Read: Tarr, Chapter 3;</b>
February 4	Judicial Selection Systems, judge characteristics and Judicial Behavior: Do Selection Systems Make a Difference? <b>Read: Tarr, Chapter 3, especially pp. 52-61;</b>
February 9	Judicial selection and political campaigns/campaign finance (We will view the PBS special <i>Justice for Sale</i> today)
February 11	The Civil Courts: Who Sues Whom, Why, and to What Effect? <b>Read: Tarr, Chapters 5 and 7.</b>
February 16	The Politics of "Tort Reform" <b>Read: Tarr, pp. 321-332.</b>
February 18	The Criminal Courts, their processes and "communities;" The prosecution in criminal cases <b>Read: Tarr, Chapters 5 and 6;</b> <b>Eisenstein, Flemming, and Nardulli, whole book.</b>
February 23	Judges and prosecutors in the criminal courts <b>Continue reading: Tarr, Chapter 6;</b> <b>Eisenstein, Flemming, and Nardulli.</b>
February 25	Defending the Criminally Accused: How does plea bargaining work? What are the implications of plea bargaining for "justice?" <b>Continue reading: Tarr, Chapter 6, esp. pp. 168-174;</b> <b>Eisenstein, Flemming, and Nardulli</b>

- March 2 Sentencing Convicted Offenders in Criminal Courts:  
Who Gets Treated Better and Worse, and Why?  
**Continue reading: Tarr, Chapter 6, esp. pp. 183-187;  
Eisenstein, Flemming, and Nardulli.**
- March 4 Theories of Sentencing as explanations for sentence severity  
**No class today**  
**Read: Handout given out in class.**
- March 9 Expanding our explanations; race and socio-economic status  
in sentencing; the role of sentencing guidelines  
**Read: Handout given out in class.**  
(MID-TERM WILL BE GIVEN OUT IN CLASS)
- March 11 The Special Case of Capital Punishment  
**Read: Materials handed out in class.**
- March 16 The State and Federal Appellate Process; The Supreme  
Court in the Federal System  
**Re-read: Tarr, Chapter 5, esp. pp. 153-175.**  
**Read: Baum, Chapter 1.**  
(MID-TERM IS DUE IN CLASS ON THIS DAY)
- March 18 No class – Monday Schedule
- March 30 The Selection of U.S. Supreme Court Justices  
**Re-read: Tarr, Chapter 3, pp. 71-78.**  
**Read: Baum, Chapter 2.**
- April 1 The Ginsburg and Thomas nominations compared to other  
recent Supreme Court appointments (We will view excerpts  
from three or four Senate Judiciary Committee hearings)
- April 6 The Supreme Court and Its Cases  
(We will view the Supreme Court's Visitor's Film)  
**Read: Baum, Chapter 3.**
- April 8 Supreme Court Decision Making: Multiple Decisions  
(We will view the film *Gideon's Trumpet* today in class).  
**Read: Baum, Chapter 4.**
- April 13 The Influences on Supreme Court Decisions  
**Read: Baum, Chapter 4.**
- April 15 Justices and their Ideological Positions:  
Patterns of Voting in the Supreme Court: 1953-1988.  
**Read: Baum, pp. 121-125.**

April 20                    The Inner-Dynamics of the Supreme Court  
**Re-read: Baum, Chapter 4.**

Judicial Policy Making, Impact and Implementation: The Factors to be Considered

April 22                    Judicial Decisions as Policy Impacts: Types of judicial policy making and impact: Compliance and Implementation; Short video on the impact of court decisions on the people who bring suit.  
**Read: Baum, Chapters 5 and 6;**  
**Tarr, Chapters 9 and 11;**  
**Canon and Johnson, Chapter 1.**

April 27                    The Impact Populations  
**Read: Canon and Johnson, Chapters 2, 3, 4, 5, 6, and 7.**

April 29                    Some Impact Analysis Examples  
Now what do we do? Proposals for reform  
Course summary; What We've Learned about Judicial Politics  
**Continue Reading: Canon and Johnson, Chapters 2, 3, 4, 5, 6, and 7;**  
**Read: Tarr, Chapters 10 and 11.**

(TAKE-HOME FINAL EXAM WILL BE GIVEN OUT IN CLASS, AND IS DUE ON FRIDAY MAY 7 NO LATER THAN 12:00 NOON IN THE POLITICAL SCIENCE DEPARTMENT OR VIA EMAIL)

May 7  
(Friday)                    FINAL EXAM IS DUE BY 12:00 NOON.  
(This is the first day of final exams)