POLITICAL SCIENCE 4284
JUDICIAL PROCESS AND POLITICS

Department of Political Science
University of Central Florida

Fall 2011

Class Time and Place: MWF 12:30-1:20 (CL1 308)	**Office Hours**: M-R, 09:00-11:00, or by appt.
Professor: Dr. Drew Lanier	
Office: Phillips Hall 302	**Credit Hours**: three (3)
Phone: (407) 823-3753 or 823-2608	
Email: drew.lanier@ucf.edu	*"There is hardly a political question in the United States which does not sooner or later turn into a judicial one."* Alexis de Tocqueville, *Democracy in America* (1848)

Tocqueville's observation remains apt today. Courts decide such issues as abortion, flag burning, death penalty, drug testing, criminal rights and free expression. The judiciary plays an important role in American life, making it an exciting branch of government to study. Witness the center-stage role that the Florida Supreme Court and the U.S. Supreme Court played in the Election 2000 controversy.

Judicial Process and Politics examines the role of the judiciary in American society. In this course, we will primarily be concerned with the *process* of law, rather than the product of legal processes. The law is not simply a collection of outcomes, policies, decisions and decrees. Law is also a method for transforming contentious issues into enforced solutions. But this process is far from simple or mechanical. Abstract rules and general principles provide some guidance in this transformation of contentiousness, but social norms, broader public understanding, and strategies of legal interpretation also play a role in this process.

A number of important questions will concern us throughout this course. Beyond understanding the mechanics of how courts function, the players who are involved and their role in society, we want to form opinions on how the judicial process *ought* to function. How *should* judges interpret decisions? How *should* the Supreme Court decide cases? If the current process is flawed, then what should replace it?

This course provides information so that you will be able to form your own responses to those questions. Political scientists often do not agree on how those queries should be answered; this course will present some of their theories. Then you will evaluate the merits of any particular answer compared to other possibilities.

Web Resources

WebCourse Site (https://webcourses.ucf.edu/webct/logon/11219886885161)

The Course has a WebCourse site associated with it. It is an innovative technology that allows the students to interact with each other, post messages to a common bulletin board, take anonymous quizzes, and many other tasks that facilitate comprehension of the course material and collaborative learning among the course's students in a student-centered context. This site, however, is a password-protected domain. A more thorough discussion of this course tool as well as how to navigate through it will be offered in class. Click on the above link to log-in.

Course Goals

The most fundamental goal of this course is to enhance and improve your critical thinking skills. The ability to critically analyze concepts or programs and then present your conclusions and criticisms well will be one of the most valuable skills you learn at the University. The subject matter on which you will practice these critical thinking skills will be the judicial process. In order to effectively develop your analytic abilities, you will find that you need a great deal of specific knowledge about the judiciary. This course will fill that gap. Specifically, you should learn the following from this course:

1. How various actors interact in the legal process, including jurors, lawyers and lower court and appellate judges.

2. How the Supreme Court makes decisions, beginning from the certiorari process and continuing to the final decision.

Finally, you will gain an awareness of the pervasiveness of politics, as we will come to know it, even in the judicial branch.

Required Books

American Political Science Association, Committee on Publications. 2006. *Style Manual for Political Science*. Rev. ed. Washington, DC: APSA (ISBN 1-87814-733-1) (available at http://www.apsanet.org).

Kirszner, Laurie G., and Stephen R. Mandell. 2010. *The Brief Wadsworth Handbook*. 6th ed. Boston: Thomson/Wadsworth (ISBN 1-4282-3142-0).

Neubauer, David W., and Stephen S. Meinhold. 2010. *Judicial Process: Law, Courts, and Politics in the United States*. 5th ed. Belmont, CA: Thomson/Wadsworth (ISBN 0-495-56933-X). [hereafter "N&M"].

Stern, Gerald M. 2008. *The Buffalo Creek Disaster*. 2d ed. New York: Vintage Books (ISBN 0-307-38849-0).

Turow, Scott. 1977. *One L: The Turbulent True Story of a First Year at Harvard Law School*. New York: Warner Books (ISBN 0-446-67378-1).

Optional Books

Strunk, William, Jr., and E.B. White. 2000. *The Elements of Style*. 4th ed. New York: Longman (ISBN 0-205-30902-X).

Required Materials

In addition, students **must** purchase a pack of scantrons (Form No. 209161), which are strawberry in color and bear the UCF logo. These will be used during the three exams administered across the term. No other form is acceptable. If you nevertheless attempt to submit an exam with another form of scantron, your exam WILL BE REFUSED. This is a course requirement as the UCF Test Scoring Center will accept no other form.

GRADING

Exams (300 points)

Each of the three exams in the course is worth 100 points. Although they are each *non-comprehensive*, they will be composed entirely of *very challenging* multiple choice items. They will seek to test your understanding of both factual and conceptual ideas in a tightly controlled timed environment.

Internet Assignments (100 points (4 @ 25 points each))

In addition to the in-class tests and quizzes, you are required to complete four Internet assignments across the term. Do not put these off until the last minute. *You should do them as they are assigned, since you cannot control for the internet being down, or the site that you must access being temporarily unavailable. I will have little sympathy for you if this circumstance befalls you and you are unable to turn-in your assignment. Assignments do not count until they are RECEIVED, not sent.* I customarily send a brief email message indicating its receipt if you submit it to me via email. IF YOU DO NOT RECEIVE SUCH A MESSAGE, THE ASSIGNMENT HAS NOT BEEN RECEIVED AND YOU WILL NOT RECEIVE FULL CREDIT FOR THE ASSIGNMENT. In that case, contact me by other means (such as the telephone) to determine if I have received the assignment. If not, resubmit it ASAP. Computers seem to know when humans are working on deadlines and will maniacally crash as the deadline approaches. Thus: **DO NOT WAIT UNTIL THE LAST MINUTE TO COMPLETE YOUR ASSIGNMENT.** If you come to me with an exotic tale of woe about your not having turned in your assignment on time, I will nod relatively sympathetically and point to this warning.

These assignments are designed to make you more familiar with the Internet and the sites relevant to the study of the American judiciary. They are due at THE BEGINNING OF CLASS (12:30 pm) for each of the due dates. **I PENALIZE LATE ASSIGNMENTS ONE LETTER GRADE PER DAY LATE, OR PART THEREOF. THUS, IF YOUR ASSIGNMENT IS SUBMITTED FIVE MINUTES LATE, FOR EXAMPLE, YOU WILL HAVE A FULL DAY'S POINTS REDUCED FROM YOUR EARNED GRADE.**

Furthermore, note the following rules regarding the internet assignments:

- **You may NOT use Wikipedia** (or its variants) as *any* source in your internet assignments. Doing so will substantially reduce your grade, even to an "F."
- **You must follow APSA style** when composing your internet assignments. Failure to do so will result in at least one letter grade reduction of the grade earned.
- **Double space between paragraphs**, even in a document that is otherwise single-spaced.
- **Provide in-text citations** to the SPECIFIC SOURCE FROM WHICH YOU ARE TAKING THE INFORMATION. Otherwise, the reader does not know to what source you attribute your information. Failure to do so will result in a least a one letter grade reduction in the grade earned. See the APSA Style Manual for examples.
- **Case names must be italicized** as per the APSA Style Manual.
- **Attaching printouts to an internet assignment does not magically satisfy the cite and reference requirements of APSA style.**

Class Participation (50 points)

Since most of you would like to go to law school someday, class topics are discussed using the Socratic Method typical of most law schools. You are expected to **very carefully read and prepare for discussions**. Class attendance is not mandatory. However, to insure that the class participation part of your grade accurately reflects your attendance, I pass around a sign-up sheet at the beginning of each class. This information is solely for the purpose of knowing whether you regularly attended class, even if you are not frequently called on to answer questions. In the event that your grade is "borderline" at the end of the semester, students who have regularly attended throughout the semester may be given the benefit of the doubt and assigned a higher final course letter grade. Students who regularly miss class will find that their course grades are adversely affected.

Daily Survey (50 points)

You should become familiar with all of your colleagues, even those who do not speak during every class. Your usage of the WebCourse tool will be assessed at the end of the term to distribute this portion of

the course grade. Specific assignments for you will be posted on the WebCourse site. You, thus, must check the site regularly. I WILL remove assignments after they have been posted for a significant period, thereby preventing you from completing the assignment if you wait until the last minute. Once again, don't allow yourself to get into that bind! It is made a component of the course so as to facilitate communication between you as members of the class. Of the 50 points available for this component of the course, all of them are earned based on the proportion of surveys that you complete across the term.

The following are regulations regarding the daily surveys that must be followed:

- If you do not attend class on a particular day FOR ANY REASON IMAGINABLE, you may NOT complete the survey for that day as you cannot logically answer the questions posed. If you nevertheless attempt to do so, I will mark it as if you did not.

- Failing to complete even a small number of the daily surveys will negatively affect your final course grade.

- The survey responses are anonymous in that I know who has submitted responses to the survey, but I do not know whose responses are whose. Accordingly, be honest and forthcoming in your responses as they are designed to deepen your understanding of the course content and its significance.

- After the due date for the Surveys has passed, I will collate and collect the most pertinent and relevant questions and read answers to them in class for the entire class to consider and from which to benefit. They are good ways to prepare for the exams, and not "busy work." Use them for your benefit. Ignore them at your own peril.

- Once the deadline for the Surveys has passed, I will reset the Survey so that students may then answer for the next module's topic. If you have already answered the Survey prior to my doing so, however, WebCourse will not allow you to complete the Survey.

- Do NOT send blank responses through for the Survey. Repeated violation of this rule will result in the entire class's being required to send survey responses to me through my UCF email account. Past classes have, sadly, tested me on this requirement. Please do not make me implement this requirement.

Best Allies

The professor is **not your friend**. He cannot be your friend, as he is charged with the weighty responsibility of assessing your understanding of the course material and work in an objective manner. He may act in a courteous, kind and helpful manner, but do not mistake that for friendship or laxness.

You will find that your colleagues have similar backgrounds and experiences and that they can be your best allies in making it through this course, just as you will discover in later life.

Course Point Allocation

Component	Weight
Exam I	100 Points
Exam II	100 Points
Exam III	100 Points
Internet Assgn.	100 Points
Daily Survey	50 Points
Class Participation	50 Points
TOTAL	500 Points

Grading Scale (as a Percentage of Total Points)

GRADE	PERCENTAGE
A	94-100
A-	93-90
B+	89-87
B	86-84
B-	80-83
C+	79-77

C	74-76
C-	70-73
D+	69-67
D	66-64
D-	60-63
F	59 or less

In calculating averages, the only rounding will be up from 0.5 below the grade required in the professor's sole professional discretion. For example, 89.5 *may* earn an "A-," 79.5 *may* earn a "B-," and so on. ***I give you the opportunity to earn extra credit points all semester long. Do not expect that I will give you any more points at the end of the term. I interpret this clause very stringently.***

COURSE POLICIES

There are several points you should note.

Laptops and Audiotaping

I have this semester decided to prohibit the use of laptops in class. Laptops, while useful in some contexts, represent a barrier between professor and student and actually may make student understanding more difficult as students are transformed from learners into typists. Also, other students' use of laptops may represent a distraction from lecture and class discussion. If you have concerns about this policy, please see me.

If you have disabilities regarding handwriting notes, I encourage you to tape record the lectures, which is allowed. Students who miss class should see me before requesting your notes, and the student who has missed must make all reasonable accommodations to meet your scheduling limitations for conducting the exchange. The student providing the notes is not responsible for providing any materials and should not incur any expenses associated with the exchange. Students providing the notes are not required to provide notes for more than three (3) lecture periods that have been missed. If you feel that you are being coerced about providing your notes to someone who is not attending class, please see me immediately. I reserve the right to revoke the privilege of using the above devices.

No Excuses

First, this class operates under a "No-Excuse" policy. It is incumbent upon you to be responsible for the notes given in the unlikely event that you miss class. If you miss class, you NEED NOT inform me about it. If you do inform me of your impending absence, you are NOT thereby immunized from the terms of the syllabus Because this course is an upper division class, you will quickly learn that if you intend to pass, you should plan on regularly attending class, keeping up with the lecture, and completing the assignments as they are given.

Seating Chart

Second, shortly after the course begins, I send around a seating chart to facilitate the professor's learning student names and the Socratic method. Please decide where you would like to sit within the first few days of class. If you have vision difficulties, please situate yourself accordingly, as I use the visual display extensively.

Accommodations for Physically Challenged Students

Third, if you are physically challenged, every attempt is made to accommodate your learning needs. See me by the end of the first week of class so that we can make appropriate arrangements. This class operates in accordance with the Office of Student Disability Services here at the University and federal guidelines governing the *Americans with Disabilities Act* (1990).

Plagiarism and Cheating: Don't Let it Happen to You!

Fourth, please consult the policy regarding plagiarism and cheating which is attached. Each of you must review the University policy on the penalties for plagiarism. Almost every semester, one or more students appropriates the published work of someone else, and I have had the unfortunate responsibility of failing those students and seeking disciplinary action against them. You are on notice that I have failed students because they decided to risk their academic careers by choosing the easy way out.

Conceptual Understanding Key

Fifth, this is an upper division course with correspondent responsibilities for you. I expect that you will devote **at least 15 *hours per week outside* of class** for this course alone studying, reading, and meeting with other students to discuss and review the course material. This is a difficult course. If you are not at least a Junior, you should seriously consider withdrawing from the course and taking it once you attain that status. Former students who did not heed this warning received a much lower than expected final course grade.

Socratic Method as a Pedagogical Modality

Sixth, class topics are discussed using the Socratic Method. This means that you are expected to answer questions about the text and material that we have covered in class AND TO HAVE THOUGHT ABOUT ITS IMPLICATIONS. You will quickly learn that one of my favorite questions is, "what does that mean?." You are expected to read and prepare for discussions. I assume that the reading for the day will be done for the day that it is assigned. LEARN TO PACE YOURSELF ACCORDINGLY!

Respect for Colleagues and Their Comments

Additionally, you are on notice that this course engages in difficult discussions about our political leaders. Hopefully we will have intelligent arguments regarding the concepts involved in the course. Above all, everyone will have the right to express their opinions freely and openly without fear of reprisal from other students or myself.

Attendance

Seventh, I do not have a mandatory attendance policy. However, I send around attendance sheets at the beginning of each class so I know who has attended class, and so I can gauge your class participation even if you do not speak in class. Persons who are "borderline" in their grades *may* receive the "benefit of the doubt" in the final computation of grades if they have frequently attended class. It is YOUR responsibility to sign the attendance sheet. The sheet is sent around at the beginning of each class. If you are late, you must see me after class to sign it; otherwise, I will not give you the "benefit of the doubt." You are responsible for announcements made in class and changes to the course syllabus and expectations even if you are absent when such announcements are made.

Extra Credit

Ninth, throughout the session there may be several opportunities for you to earn extra credit points. Prior assignments have included registering to vote, pop quizzes on current events, or looking up specific questions that other students or myself may ask about the subject material. This extra credit is announced in class on a sporadic basis. If you miss class, you should check with classmates about missed opportunities. I reserve the right to NOT give you the extra credit option should you miss the class period that the extra credit was assigned. All extra credit assignments are due the next class period after they have been announced in class.

Word Processing Required

Tenth, all assignments (with the exceptions of exams and quizzes done in class) must be typewritten or word processed, including internet assignments. If you do not know how to use a computer or word processor, it is strongly recommended that you learn to do so. If you are concerned about this, please see me. Numerous tutorials are available on campus to assist you. You should allocate enough time for printer cartridges to run dry and dogs to eat papers and computer disks! You laugh, but trust me: I have heard every excuse in the book! Late assignments will receive reduced grades at the rate of one letter grade per day late or part thereof.

Duplicates of Assignments

Eleventh, while I have never lost an assignment, I require that you make copies of all work submitted to me in the unlikely event that something should happen. In the event that I should need a copy of the assignment, and you are not able to provide it, you will not receive credit. Even after I have returned materials to you, please hold on to the work until after you have received your grade from the Registrar. This protects you from any possibility that you might receive an erroneous grade.

Technological Tools

Twelfth, I require that everyone learn how to use e-mail and the technological tools associated with the course. They can facilitate your **comprehension** of the course material. I have found that this encourages students to communicate with me about questions you may have regarding the material discussed in class. You are responsible for any assignments or other information that I distribute on the course's associated web sites or via email. If you already have an e-mail account (through knights.ucf.edu), please do not sign-up for an additional account, but give me your address. You should check your email on a regular basis as I post any changes about class assignments to your account and/or to the course-associated web site. **If your email address changes during the semester, you MUST NOTIFY ME. This is a course requirement.**

Classroom Decorum

Please note the following rules for classroom decorum:

- Because it is disruptive to everyone to have students arrive late and/or leave early, *you must be on time for every class and you are expected to remain in class until the period is completed*, unless there are extraordinary circumstances (*e.g.*, you are about to become ill on the person in front of you) or you have informed me of your *urgent need* to leave before the period ends. How would you act in a court of law? Would you arrive late or leave early? Act in a disruptive manner? Begin to act professionally now.

- Do not talk (even in a whisper) with any of your neighbors. It disturbs them and it disturbs me. If you are talking, I presume you have a question about the material and I will ask you about it.

- Do not listen to an i-Pod, read a newspaper or other material not previously assigned for class. If you do so, you will be counted ABSENT FOR THE DAY. Repeated violation of this rule will result in a grade of WF or F.

- PLEASE SILENCE YOUR CELL PHONES AND/OR BEEPERS. Repeated violation of this rule constitutes "continuous unruly behavior." (*See* Classroom Decorum Policy No. 5 below).

- Continuous unruly behavior will result in a grade of WF or F. An example of this is the persistent discourtesy of talking in class while someone else (including the instructor) is doing so. The classroom is not a living room, in which one talks during a television show. If you wish to talk, absent yourself from class with the appropriate diminution of your class grade.

Time-Sensitive Communications and Assignments

In past semesters, some students have had difficulty submitting assignments to me by the due date and time. This difficulty arises, in part, from their reliance on email and other technologies beyond their control. Accordingly, for time-sensitive communications, send me a message through the WebCourse email tool, contact me on the telephone, or see me in person during office hours.

Syllabus NOT a Contract

Finally, this syllabus is not deemed to be a contract. I reserve the right to change any of the exam times or assignments by providing you with a forty-eight hour notice of such changes. Such changes are either announced in class, or sent on e-mail. Therefore, you are responsible for any changes that may occur during the course of the session. If you are late, you should check to be sure you did not miss anything. As such, your absence in class is not deemed a sufficient excuse as to why work is incomplete. In the event that the University administration closes

school for any reason (*e.g.*, hurricane), any assignments or examinations that were scheduled on the day of the canceled class will be due at the next regularly scheduled class meeting.

TENTATIVE COURSE SCHEDULE, TOPICS AND ASSIGNMENTS

PROJECTED DATE	TOPIC	READINGS	ASSIGNMENT
Aug. 22–Sept. 9	Course requirements The Structure of American Law and the American Court System Judicial Federalism - The Federal Courts	Syllabus and attachments N&M, Chapts. 1, 2 and 3	Self Intro (due **Fri, Sept. 2** by 17:00 on WebCourses)
MON., SEPT. 5	**NO CLASS–LABOR DAY HOLIDAY**		
Sept. 12–Sept. 23	Judicial Federalism - The State Courts The Players in the Judicial Process The Impact of the Selection Process	N&M, Chapts. 4, 5, 6 and 7 Stern, pp. 1-90	Internet Assgn. 1 (due **Monday, Sept. 19** by 12:30)
MON., SEPT. 26	**FREY INSTITUTE SYMPOSIUM**		Attend Symposium
Sept. 28–Sept. 30	Trial Court Policy-Making: The Criminal Process (Part I)	N&M, Chapts. 8 and 9	
MON., OCT. 3	***** TEST I *****		
Oct. 5-Oct. 12	Trial Court Policy-Making: The Criminal Process (Part II) The Police	N&M, Chapts. 8 and 9	Internet Assgn. 2 (due **Monday, Oct. 10** by 12:30)
Oct. 12–Oct. 19	Trial Court Policy-Making: The Civil Process	N&M, Chapts. 10 and 11	
FRI., OCT. 21	**NO CLASS – INSTRUCTOR AT CONFERENCE**		
THUR., OCT. 27	**WITHDRAWAL DEADLINE** (must be completed by 11:59 pm)		
Oct. 24–Oct. 31	Trials: Lawyers, Judges and Juries Legal Ethics (Not an Oxymoron) Law School—The Crucible Legal Profession	Finish Stern N&M, Chapts. 12 and 13 Turow, All Curtis and Frank (WebCourse Reserve)	Internet Assgn. 3 (due **Monday, Oct. 24** by 12:30)
WED., OCT. 26	**NO CLASS – INSTRUCTOR OUT OF TOWN**		
Oct. 31–Nov. 2	The Appellate Process United States Supreme Court Agenda-Setting	N&M, Chapts. 13 and 14 Pacelle (WebCourse Reserve) Rehnquist (WebCourse Reserve)	
FRI., NOV. 4	***** TEST II *****		
Nov. 7–Nov. 28	Are Judges Priests or Laypersons? Behavioral Models of Supreme Court Decision-Making Neo-Institutionalism: Influence of Other Branches on Supreme Court Decision-Making *Note: No Class on 11/25 (Thanksgiving)*	N&M, Chapts. 14 and 15 Spaeth (WebCourse Reserve) Kozinski (WebCourse Reserve) Harlan (WebCourse Reserve)	Internet Assgn. 4 (due **Monday, Nov. 14** by 12:30)
Nov. 30–Dec.2	"Do Courts Make A Difference?": Impact and Implementation Reform and Evaluation Catch-Up, Summary and Conclusions	N&M, Epilogue (WebCourse Reserve)	
FRIDAY, DEC. 9	***** TEST III (10:00–11:15) *** – No exceptions to this date and time. Do not ask, as I cannot grant them.**		

Policy on Cheating and Plagiarism

The Golden Rule: A Handbook for Students (University of Central Florida) defines academic dishonesty as including cheating and plagiarism. Cheating is defined as "unauthorized assistance; communication to another through written, visual or oral means. The presentation of material which has not been studied/learned, but obtained through someone else's efforts and used as part of an examination, course assignment or project constitutes a violation. The unauthorized possession or use of examination or course related material may also constitute cheating" (p. 6). Plagiarism is defined as the deliberate use of another's work, whether directly quoted or paraphrased, "without any indication of source, thereby attempting to convey the impression that such work is the student's own. Any student failing to properly credit ideas or materials taken from another is plagiarizing. Any student who knowingly helps another violate academic behavior standards is also in violation of the standards (p.6-7)." The current version of the Golden Rule may be located by navigating to http://www.ucf.edu/goldenrule/. You are responsible for knowing it and abiding by it in ALL of the elements of this course.

Normally, the penalty for a violation of this policy is an "F" in the course.

Statement of ADA Compliance

I cooperate with the Office of Disability Services to make reasonable accommodations for qualified students with disabilities. Please present your written accommodation request on or before the sixth class day (beginning of the second week of classes).

[Portions of this policy were adapted from the University of North Texas Department of Political Science Policy on Cheating and Plagiarism]

Notice of Use of Turnitin.com

In this course, I may utilize turnitin.com, an automated system that instructors may use to quickly and easily compare each student's written assignment with billions of websites, as well an enormous database of student papers that grows with each student submission. Accordingly, student assignments may be subject to this additional check. After the assignment is processed, I receive a report from turnitin.com that states if and how another person's work was used in the assignment. For more detailed information about this process, visit http://www.turnitin.com.

[Portions of this policy were adapted from "Sample Wording for Syllabus," UCF Office of Student Rights and Responsibilities, Patricia A. MacKown, Director].