JUDICIAL PROCESSES & POLICIES
POS 4284
FALL 2012

ADJUNCT PROFESSOR DEREK B. BRETT, ESQ.

GENERAL INFORMATION

(1) Office Location & Office Hours:

I do not maintain a UCF-office location. All messages should be referred either through the Political Science Department; via email to derek@tatelawfl.com, or by telephoning me directly at 407-781-2392. Alternatively, my associate, Jon Suh, will be assisting me throughout the semester, and can be reached at jsuh@tatelawfl.com. ***Email contact is the preferred method***.

(2) Required Texts:

Judicial Process: Law, Courts, and Politics in the United States, Edition 5th ed., by David W. Neubauer, Stephen S. Meinhold

(3) Grading System:

Course Project: **75%**
Class Participation and Attendance: **25%**

The student will observe the potential significance of classroom attendance and participation. Ultimately, **25%** of the overall course grade will rely upon these factors. Therefore, it is highly recommended that serious effort be dedicated to participating in any and all interactive review of reading assignments, in-class discussion topics, and mock trials. **I am serious** – your final grade will be impacted by your class participation or lack thereof.

The course project, which must be a minimum of twelve (12) pages, and no more than fifteen (15) pages in length (double-spaced, twelve-point type) will involve the student submitting a proposal for a subject impacting the judicial system. The breadth of potential subjects will be discussed in the future, as will details on the limitations of any submission. In the past, such course projects have involved, but were certainly not limited to, student presentations on abortion, death penalty, gay adoption, gun control, marijuana legalization, and plea bargaining. Only one topic can be selected by any one student, so please anticipate having at least three (3) options ready when called upon in class to indicate your selection.

Additional requirements for course project include the use of at least seven (7) references, of which a maximum of three (3) can stem from websites. Wikipedia.org, or similar websites will not count as a reference for purposes of this project. The due date and time is – well – the due date and time. No late papers will be accepted absent good-cause provided alongside verifiable proof. The Golden Rule applies on this examination, and

plagiarism (much more easily confirmed in the Age of Internet) will result in a failing grade.

Bottom line: the subject of the student project will need to obviously involve some issue of continuous impact on the judicial system. Particular attention by the student should be paid not only to content of the assignment, but to the organizational and grammatical aspects of any submission. As in my previous courses, critical thinking skills are key to success in on this assignment, and in this course.

I do award grades based upon a +/- scale. However, I do so in a way that I believe will benefit the individual student. I will generally award plus (+) grades (e.g., B+, C+), when students meet those particular averages. I will only give minus (-) grades when a student falls (by perhaps a few-tenths of a percentage point) to the next lower grade but perhaps merits consideration for something more. For example, if a student averages 79.8 for his/her course grade, I am willing to consider 'bumping' the grade up from a C+ to a B-.

COURSE DESCRIPTION & OBJECTIVES

Within this course, students are introduced to the various groups, subcultures, organizations and structures, organizations and structures found within the legal system and its associated governmental and social structures. The analytic focus is upon the judge, the judicial process itself, and the factors that impinge upon both. Several theories and models of that decisional process will be presented along with some discussion of the extent to which court decisions are obeyed by those supposedly bound to obey the court's decision. The traditional view is that courts need not concern themselves with such issues as to whether compliance with court decisions are often ignored or subverted into something very different from the court's original decision. Law is seen here as one of the several competing pressures upon participants before the court and the judges themselves. In fact, in some circumstances, the law may not be the major influence upon the process.

Court systems are politically created, their task is social control which means the question of what courts do and who the judges are remain controversial questions. Deciding what court system is best has been a much debated question over the years. The question becomes one of balancing off the demands for public involvement in the courts and the need to preserve judicial independence. The difficulties of legal reform will be explored using Florida as one example of that process. The State of Florida has been a major player in national judicial reform issues – a fact that has caused some difficulty when the public has rejected these efforts. For example, in November 2000, a proposed change in how Florida's state trial court judges are selected was overwhelmingly rejected by Florida voters. Later, in 2001, the Republican-led Florida Legislature changed the process of judicial section due to anger over the Florida Supreme Court's opinion in *Gore v. Harris*, the case that would mutate into *Bush v. Gore* before the United States Supreme Court.

The United States Supreme Court will be examined in depth in order to identify the exercise of judicial discretion in making decisions and the possibilities for court leadership by the Chief Justice and the Associate Justices. In addition, much energy is expended on the important question of who should become a federal judge. In some instances, confirmation hearings have turned into ordeals as interested parties clashed

over the question of qualifications and fitness to serve. The reason for all of this commotion is simple: Americans do believe it matters who becomes a federal judge. The Court will be one vehicle through which social science and legal perspectives are used to explain why and on what basis members of the judiciary make decisions. Finally, we will look at the law and the courts as mechanisms through which social and political change occurs. Courts do impact the development of the law and the trends inside society, but their influence is normally indirect and long-term.

TENTATIVE COURSE OUTLINE

**** Scheduling is Subject to Change at Professor's Sole Discretion ****

FIRST WEEK

Chapter 1 – "Law, Courts & Politics"

SECOND WEEK

SELECTIONS BY STUDENTS OF COURSE PROJECT TOPIC DUE *****

Chapter 2 – "Law & Legal Systems"

THIRD WEEK

Chapter 3 – "Federal Courts"

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FOURTH WEEK

Chapter 4 – "State Courts"

FIFTH WEEK

Chapter 5 – "Lawyers & Legal Representation"

SIXTH WEEK

Chapter 6 – "Judges"

SEVENTH WEEK

Chapter 7 – "Mobilizing the Law"

EIGHTH WEEK

DUE DATE: COURSE PROJECT – ROUGH DRAFTS

Chapter 8 – “Trial Courts: Preliminary Stages of Criminal Cases”

NINTH WEEK

Chapter 9 – “Trial Courts: How Criminal Cases End: Bargaining & Sentencing”

Criminal Mock Trial

TENTH WEEK

Chapter 10 – “Trial Courts: How Civil Cases Begin”

ELEVENTH WEEK

Chapter 11 – “Trial Courts: How Civil Cases End”

Civil Mock Trial

TWELFTH WEEK

Chapter 12 – “Trials & Juries”

THIRTEENTH WEEK

Chapter 13 – “The Appellate Process”

FOURTEENTH WEEK

Chapter 14 & 15 – “The Supreme Court”

FIFTEENTH WEEK

***** DUE DATE – FINAL DRAFT OF COURSE PROJECT *****

JUDICIAL PROCESSES STUDENT'S CODE OF PERSONAL RESPONSIBILITY

Above all, this course encompasses the following fundamental aspects of personal responsibility:

· **Commitment:** the level of dedicated action(s) you continue to take after your enthusiasm for an enterprise stops.

· **Accountability:** taking full responsibility for your actions by owning up to the negative or failed results, taking action to make up for it to the person(s) you let down, and learning what you did wrong so that it doesn't occur again.

· **Maturity:** how well you are able to resist an irresistible impulse and instead have and exercise judgment and do the reasonable thing. In the brain we refer to this as exercising one's executive function.

· **Honesty:** this is simply telling the truth according to the facts as you understand them. You know honesty best, when you tell a lie. Pathological liars lie whenever they are trying to get their way and take advantage of a situation. Compulsive liars lie both when the are trying to get their way and when they are trying to get out of facing the consequences of their actions.

· **Forthrightness:** this is coming forward and telling the truth and revealing untruths that you become aware of. It is believing and following Justice Louis Brandeis words: "Sunlight is the greatest disinfectant."

· **Character:** what you do when you are frustrated, angry, annoyed, afraid and/or bored and nobody is watching and your chance of getting caught is close to nil.

· **Sacrifice:** what you do unto others who will not (immediately) be able to pay you back by doing unto you.

· **Compassion:** what you *feel* unto others who will not be able to do more than say, "Thank you."

· **Thinking ahead and planning:** overcoming the aversion to anything that causes you to forego immediate gratification.

· **Listening:** and then pausing to consider what you've heard before rejecting it, tuning out or competing with it (a skill every generation needs to learn).

FINAL COURSE NOTES:

I AM REASSURING YOU, IN THE BODY OF THIS SYLLABUS, OF MY REASONABLE AVAILABILITY THROUGHOUT THE SEMESTER. I MAKE GREAT EFFORTS TO BE CONTINUOUSLY AVAILABLE FOR STUDENT QUESTIONS AND CONCERNS. IT IS INCUMBENT UPON YOU TO ASK QUESTIONS. IT IS INCUMBENT UPON YOU TO SEEK ASSISTANCE. THIS COURSE IS ABOUT SELF-RESPONSIBILITY AND LEARNING TO EXERCISE CRITICAL THINKING AND ADVANCED WRITING SKILLS.

I DO NOT NEGOTIATE GRADES. I COMMIT TO GRADING EACH PAPER FAIRLY. I AM UNIMPRESSED BY STUDENTS WHO ATTEMPT TO PERSUADE ME TO AWARD CERTAIN GRADES. YOUR GRADE WILL BE CONTINGENT UPON YOUR ASSESSED EFFORTS.

FINALLY, I RESERVE THE ABSOLUTE RIGHT TO CHANGE THE SCHEDULE (AND DIRECTION) OF THE COURSE, WITHOUT NOTICE. ANY CHANGES TO THE SCHEDULE WILL BE COMMUNICATED TO YOU BY ME (OR MY DESIGNATED REPRESENTATIVE) PROMPTLY DURING CLASS. YOUR CONTINUED ENROLLMENT IN THIS COURSE CONSTITUTES YOUR IMPLICIT CONSENT TO ALL TERMS AND CONDITIONS STATED HEREIN.