The American Judiciary and
Controversial Topics in the Law Today
Political Science 904
Tuesdays 3:30-5:25
Location: TBA

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Class Description

This seminar has three purposes: (1) To introduce students to current controversies in law and politics; (2) to provide a systematic examination of state and federal courts; and (3) to prepare graduate students for their preliminary exams. Students will come away from this class with an advanced understanding of law in America, a host of legal institutions, and broader themes in law and politics today.

Readings

Each week, you must read a number of required articles or books. I expect everyone to read and reflect on the required reading prior to class. All readings should be available online through JSTOR or the university’s library links. In addition, there are a handful of books required for the class. (See the schedule of classes.) These books may be purchased through most online booksellers. Used (i.e., cheap) versions are fine. I don’t think any of the books have multiple editions but if they do, any version will be fine.

Grades and Expectations

I will base your grade on (1) weekly research memos, (2) your discussion in class, (3) a final research paper, (4) a final paper presentation, and (5) your role as a discussant on another person’s paper.


Each student will be responsible for a one-page memo to be turned in to me (via email) by noon the Monday before each class. Each memo will begin with a key question that you would ask if you were to run that day’s discussion; it should also include observations about why the/a question addressed in the readings is important, what points you would hope to elicit during the discussion, and how the question is connected with that week’s (and possibly previous weeks’) readings. At the end of each class session, be prepared to state
orally what you would do if you were to develop a research project on the topic of that week’s readings and discussion. *You should include this statement in your memo.* Bottom line: I would like well thought out questions and points that trigger discussion.

Your research memos count for 20% of your grade. There are 13 substantive classes, which amounts to 13 memos. Your grade will be based on the quality of thought (insightful questions and comments) and the quality of your writing. You are going to be professional writers; you must start writing for that purpose now. Each memo will receive a score of 0-3. Zero means you did not turn in the memo or you turned in something awful. Three means you nailed it.

2. Attendance and Class Discussion.

Since the success of any seminar depends on the participation of its members, you must attend class and participate in the class discussions. I strongly urge you to participate actively. I do not want wallflowers in class. You need to mix it up and discuss what you’ve learned (or thought about). Your grade depends on it!

Your class discussion counts for 20% of your grade. For each of the 13 substantive classes (that is, every class but the final presentation day), I will record a grade of 0-3 for you. Zero means you did not attend class (without permission) or attended but said nothing. Three means you participated actively.


You will write a research paper on a topic of your choice. It is important for graduate students to be able to conduct original research. As such, I expect you to write a paper that could be presented at a professional conference. This should be some type of paper that targets an interesting topic in the field and answers it in a way heretofore ignored or overlooked. I expect you to gather some data for this paper. For an example of one way to start what might be your first research paper, consider reading Gary King’s article, “Publication, Publication.”

You must provide me with a hard copy of your paper proposal, describing your research question, the basic hypotheses, and the data you intend to use, on October 16. The final paper is due the last day of class, on December 11. Please do not ask for an extension. I will only grant one under extreme circumstances.

The final paper accounts for 40% of your grade. I will base it on quality of thought and effort. *Failure to complete the paper will trigger an automatic F in the course.*


You must present a conference style final presentation to the class on our final day (December 11). I will record a grade of 0-3 for you. Zero means you delivered a terrible presentation. Three means you delivered an excellent presentation. The final presentation accounts for 10% of your grade. Failure to make a presentation will trigger an automatic C in the course.
5. **Discussant Duties.**

Finally, I will grade you on your abilities as discussants during the final class presentation. You will play the role of discussant for one of your colleagues’ papers. After they present their papers to the class, you will take 5-10 minutes to discuss the strengths and weaknesses of their papers. I will record a grade of 0-3 for you. Zero means you did not provide a discussion or offered up a terrible commentary. Three means you provided an excellent commentary and raised solid questions. The discussant role accounts for 10% of your grade. *Failure to act as a discussant will trigger an automatic C in the course.*

**Academic Integrity**

All students are held to the university's academic integrity standards. For more on those, please see: http://students.wisc.edu/saja/integrity.html.

**Students Requiring Need-Based Accommodations**

Students who are requesting any accommodations on the basis of disability should schedule an office appointment with me within the first three weeks of the semester. Please schedule this office appointment by email. To maintain the confidentiality of your request, please do not approach me before or after class to discuss your accommodation needs. The McBurney Disability Resource Center (263-2741) provides resources for students with disabilities (http://www.mcburney.wisc.edu). You will need to provide documentation of disability to them in order to receive official university services and accommodations.

**Course Learning Outcomes.** At the conclusion of the semester, students will be experts on some of the most interesting questions of law and politics today. More broadly:

- Each student will learn how to read and critically analyze Supreme Court opinions.
- Each student will learn how to write and speak compelling legal arguments based in law.
- Each student will learn how to debate legal concepts in a civil and logical manner.
- Each student will write a complex graduate school research paper.

**Credit Hours.** This class is a three-credit course. The credit standard for this course is met by an expectation of a total of 135 hours of student engagement with the course learning activities (at least 45 hours per credit), which include regularly scheduled instructor-student meeting times during class and office hours, reading, writing, problem sets, studio time, labs, field trips, and other student work as described in this syllabus. The time commitment for this 3-credit course is consistent with expectations of other political science graduate student courses.
Class Schedule

Part One: Current Controversies

September 11: Judicial Recusal and Legitimacy

4. 17-01 In re Rule for Recusal.

September 18: Federalism and Dual Sovereignty

2. Tocqueville, Democracy in America, "Characteristics which Distinguish the Federal Constitution" and “In what Respects the Federal…”


NOTE: Class will meet at the law school for lunch with Judge Sutton. He will then hold a talk at the law school that afternoon which you all should attend.

October 2: Interpreting the Law


**October 9: The Separation of Powers and Agency Deference**


**October 16: The Declaration of Independence and Natural Law in Constitutional Interpretation**


**Part Two: State Courts**

**October 23: Controversies with State Judicial Selection**


**October 30: Voting and Political Competition in State Judicial Elections**

### November 6: Money in State Court Races


### November 13: State Court Decision Making


### Part Three: Federal Courts

### November 20: Judicial Selection—the Federal System


### November 27: Circuit Court Decision Making


### December 4: Supreme Court Decision Making


### December 11: Final Presentations and Discussions