SPRING 2019
POLITICAL SCIENCE 104D: JUDICIAL POLITICS
Visiting Professor Glenn Smith (gsmith@cws1.edu)
Tuesday, 5 P.M. to 7:50 P.M.
Mandeville, Room B-210

OVERALL COURSE APPROACH

This course provides an introduction to many of the major theoretical and practical issues flowing from the reality that in modern America substantial power and discretion is exercised by judicial officials

--whose legitimacy as policy-makers remains controversial,
--who are not always subject to the “usual” methods of electoral and political accountability in a majoritarian democracy,
--and whose subjection to some electoral accountability may strongly conflict with the expectation that these judges will rise “above politics” in providing equal justice under law!

The course examines the politics of judicial policy-making in both state and federal courts, and at both the trial and appellate levels.

The class is conducted “modified law school” style: I will regularly lecture, especially when background information about judicial structure and organization, and about major facets of the American legal system, needs to be sketched in. And, class sessions will also regularly feature discussion among class members – as a whole or in smaller groups -- of questions based on assigned materials. The success of the class depends to a significant degree on the willingness of prepared and interested students to participate actively in discussions. Student volunteers may at times play the roles of advocates for pre-assigned positions.

You are expected to do the assigned reading for each session and come to each class prepared to engage in a lively discussion.¹ We will have FUN.

READINGS AND SYLLABI

You are required to purchase one text for the class: Carp, Stidham, Manning & Holmes, JUDICIAL PROCESS IN AMERICA (2017 10th Ed. CQ Press)²

¹ Given the interactive nature of the course, you will get more out of it through live attendance. However, in the event that illness or other unavoidable problem prevents you from attending a particular class, class sessions will be recorded for podcast through podcast.ucsd.edu.
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Please bring the assigned text and materials to each class.

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**EXAMINATIONS**

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You will also take a **final exam**, whose coverage will be cumulative, **ON THURSDAY, JUNE 13TH, FROM 7 to 10 PM**.

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For EACH CLASS WEEK starting with the second week (April 8-14) and continuing through the tenth week (June 3-9) – except for 1) the week before the midterm exam (May 6-12) and 2) another week of your choosing -- you are assigned to post 3 different items, as follows:

(A) 2 postings must RESPOND to postings by me, the TAs or other class members
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FIRST SYLLABUS FOR PHASES I & IIA through IIH
(Assignments for first six classes, covered on the in-class midterm in Week Seven, Tuesday, May 14th)

--References in regular font to “Carp” are to Carp, Stidham & Manning, JUDICIAL PROCESS IN AMERICA (2017 10th Ed. CQ Press). Unless page numbers are given, the reference to a Chapter is to the entire Chapter. (For one assignment within a single chapter, page number equivalents to the previous 9th and 8th editions are given in italicized parentheticals.) For all Carp assignments, PLEASE PAY CAREFUL ATTENTION TO THE “FURTHER THOUGHT AND DISCUSSION QUESTIONS” AT THE END OF EACH CHAPTER.

--References to “Smith” are to documents prepared by Professor Smith and available via the P Sc 104D webpage on TED.

I. AN OVERVIEW OF THE COURSE & THE STATE AND FEDERAL JUDICIAL SYSTEMS: History, Background and Key Functions

A. An Introduction to the Course and the Importance of Its Subject
   Introductory Lecture

B. The Rule and Role of Law in America: An Overview
   Introductory Lecture (covering portions of Carp, Chap. 1) [ASSIGNMENT: “HIGHLIGHT-READ” THIS CHAPTER AFTER THE APRIL 2ND CLASS]

C. The History and Organization of the Federal and State Judicial Systems: An Overview
   Introductory Lecture (covering portions of Carp, Chaps. 2 & 3)
   [ASSIGNMENT: HIGHLIGHT-READ THESE CHAPTERS AFTER THE APRIL 2ND CLASS]

D. A Bit More on Procedures and Dynamics at the United States Supreme Court

11“Highlight-read” means, at a minimum, to read any portions of a Chapter that you need to read to understand fully the points from that Chapter that I covered in class. In many cases, the points may be self-explanatory, so that no additional reading within the Chapter is needed.
Introductory Lecture (which will continue at the first part of class on April 9th)

**[READ THE FOLLOWING FOR APRIL 9th]**

II. KEY FACETS OF JUDICIAL POLITICS: An In-depth Look

   Carp, Chap. 15

B. The Importance of, and Limits on, Judicial Politics and Policy-Making: An Initial Assessment
   Smith, “Additional Discussion Questions for 2nd Week Class” (available on class website)
   Carp, Chap. 4

**[PLEASE READ THE FOLLOWING FOR APRIL 16th:]**

C. A Closer Look at State Judicial Backgrounds, Selection and Other “Personnel” Matters
   Carp, Chap. 5
   Smith, pp. JE-1 through JE-__ (excerpts from Williams-Yulee v. Florida Bar (Sup. Ct. 2015) and French v. Jones (9th Cir. 2017))
   [This class will also highlight portions of Carp, Chap. 9. YOU ARE ASSIGNED TO “HIGHLIGHT-READ” THESE PAGES AFTER THE APRIL 9TH CLASS, and you might want to read]

**[PLEASE READ THE FOLLOWING FOR APRIL 23rd:]**

D. A Closer Look at Federal Judicial Backgrounds, Selection and Other “Personnel” Matters
   Carp, Chap. 6
   Carp, Chap. 7

E. Other Players in the Judicial Systems: How Judges Interact with Other System Participants, Policy-Makers, and the Public
   Carp, Chap. 8
   [This class will also highlight portions of Carp, Chap. 10. PLEASE “HIGHLIGHT-READ” THESE PAGES AFTER THE APRIL 15TH CLASS]

**[PLEASE READ THE FOLLOWING FOR APRIL 30th:]**
F. Decision-Making Patterns and Dynamics, Part 1: Trial Courts
   Carp, Chap. 12

   [This class will also highlight portions of Carp, Chap. 11. PLEASE “HIGHLIGHT-READ” THESE PAGES AFTER THE APRIL 23rd CLASS]

   [PLEASE READ THE FOLLOWING FOR MAY 6TH:]

G. Decision-Making Patterns and Dynamics, Part 2:
   Appellate Courts
   Carp, Chap. 13
   Smith, pp. DP-1 through DP-__ (excerpts from Caperton v. A.T. Massey Coal Co.)

   In-class midterm on TUESDAY, MAY 14TH 5 P.M. to 6:30ish P.M; After a 15-minute break, class will reconvene for a lecture on this ADDITIONAL ASSIGNMENT.

H. Implementation, Political-Branch Influences, and the Impact of Judicial Policies
   Carp, Chap. 14
   Smith, pp. JS-1 through JS-12 (highlighted excerpts from a trio of post-Civil-War jurisdiction-stripping decisions, McCardle, Yerger & Klein)