

## PLSC 541: American Political Institutions

Spring 2022

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### Course Description

As the title suggests, this is a course on the politics of courts and judiciaries, with a specific focus on those institutions in the United States.<sup>1</sup> It is a graduate-level course in political science; that means that the primary purpose of the course is to bring students up to speed on current theoretical and empirical developments in research on judicial politics, and to begin to enable them to conduct research in that area.

The assumption throughout the course is that students in the course are beginning their careers as researchers and educators at the college/university level, and the course content, structure, and evaluative processes are based on that assumption. The course thus assumes a working knowledge of the “facts” of the American legal and political systems, including their history, institutions, and operation. Hot links are highlighted in [Penn State blue](#).

### Texts

I ask that you buy only one book for this course:

Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press (hereinafter abbreviated *SCAMR*).

Order the paperback copy on-line; it is not available in the bookstores. Additional readings will be available either on ANGEL™ or via JSTOR, ProQuest™, or similar services through the PSU library. Readings are organized topically, and divided into required and recommended lists. The vast majority of readings in the course are books and articles which present empirical research on aspects of the American legal, judicial, and political systems. Some of the readings will be technical in nature; students are expected to master the technical material as they go along.

All students should come to class having read the required readings; recommended readings should be thought of as optional, and are designed to provide more depth on the topic. The latter will be especially

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<sup>1</sup>In the past, I’ve taught this course as a cross-subfield class with both an American and a comparative politics focus. That course can “count” in either the American politics or comparative politics Ph.D. subfields at Penn State. This is not that course.

useful for students writing papers on that (or a related) topic. Note that this syllabus does not begin to exhaust the scholarly literature in this area; the recommended readings at the end of this syllabus are a start towards that. In addition, the syllabus reflects my own perspectives on and biases about this topic and its associated literature.

## Grading

Grading will be based on a total of 1000 points, divided as follows:

- Three class-based assignments, worth 150 points each:
  - A data-based assignment, analyzing existing multi-user databases on U.S. judicial politics;
  - An NSF-style review of a grant proposal;
  - A journal-style review of a current working paper by junior scholar(s) in the field.
- An individual final paper/project, worth 550 points.

Details for the course assignments and the final project will be announced in class at a later date. “Class participation” credit will not be assigned.

## Office Hours

As a rule, I do not maintain regular office hours; meetings are by appointment only. If you need to contact me please do so via e-mail (preferred) or telephone/text. I am also happy to meet via [Zoom](#), if you would prefer to do so.

## Other Policies

- *Absences*. You can be absent from class if you choose to be. You’re welcome to inform me if that is the case, but you need not do so.
- *Incompletes*. Try not to put us in a position where an “incomplete” is necessary.
- *Cheating, Plagiarism, and Academic Misconduct*. See below. If you are unfamiliar with standards regarding plagiarism, **learn them**; a good place to start is [here](#). The professor is not responsible for students’ lack of understanding of standards regarding academic misconduct.

## Some Other Useful Resources

The [APSA’s Law and Courts Organized Section](#) is the relevant professional organization for most of the people taking this class. Other organizations to which you may want to belong / pay attention include the [Law and Society Association](#), the [American Judicature Society](#), and the [American Society for Criminology](#). Much research on judicial politics (including many Ph.D. dissertations) is funded by the [Law and Social Sciences Program](#) of the [National Science Foundation](#).

If you are reading this, then it's likely the [Center for Empirical Research in the Law](#) (CERL) at Washington University in St. Louis has lots of stuff of interest to you. More concretely, the [Songer Project](#) (JuRI) at the University of South Carolina archives databases on many things judicial, including Spaeth's Supreme Court Database, Songer's Court of Appeals Database, and data on the personal attributes of Article III judges. Similarly, Georgetown's [Erik Voeten](#) maintains a web portal with extensive data on various [international courts](#). And, of course, the [Inter-University Consortium for Political and Social Research](#) (ICPSR), at the University of Michigan, maintains an extensive archive of data in the social and behavioral sciences.

### **Obligatory Statement on Academic Integrity**

Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, the University's Code of Conduct states that all students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts.

Academic integrity includes a commitment by all members of the University community not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

In cases of any violation of academic integrity it is the policy of the Department of Political Science to follow procedures established by the College of the Liberal Arts. More information on academic integrity and procedures followed for violation can be found [here](#).

### **Obligatory Statement on Accommodations for Disabilities**

Penn State welcomes students with disabilities into the University's educational programs. Every Penn State campus has an office for students with disabilities. Student Disability Resources (SDR) website provides contact information for every Penn State campus ([here](#)). For further information, please visit the Student Disability Resources website ([here](#)).

In order to receive consideration for reasonable accommodations, you must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: See documentation guidelines [here](#). If the documentation supports your request for reasonable accommodations, your campus disability services office will provide you with an accommodation letter. Please share this letter with your instructors and discuss the accommodations with them as early as possible. You must follow this process for every semester that you request accommodations.

### **Obligatory Statement on Counseling and Psychological Services**

Many students at Penn State face personal challenges or have psychological needs that may interfere with their academic progress, social development, or emotional wellbeing. The university offers a variety of

confidential services to help you through difficult times, including individual and group counseling, crisis intervention, consultations, online chats, and mental health screenings. These services are provided by staff who welcome all students and embrace a philosophy respectful of clients' cultural and religious backgrounds, and sensitive to differences in race, ability, gender identity and sexual orientation.

Counseling and Psychological Services at University Park (CAPS)  
(<http://studentaffairs.psu.edu/counseling/>): 814-863-0395

Counseling and Psychological Services at Commonwealth Campuses  
(<http://senate.psu.edu/faculty/counseling-services-at-commonwealth-campuses/>)

Penn State Crisis Line (24 hours / 7 days/week): 877-229-6400. Crisis Text Line (24 hours / 7 days/week): Text LIONS to 741741.

### **Obligatory Statement on Educational Equity and Reporting Bias**

Penn State takes great pride to foster a diverse and inclusive environment for students, faculty, and staff. Consistent with University Policy AD29, students who believe they have experienced or observed a hate crime, an act of intolerance, discrimination, or harassment that occurs at Penn State are urged to report these incidents as outlined on the University's Report Bias webpage (<http://equity.psu.edu/reportbias/>).

### **Course Schedule**

Required readings for each week are below. I have placed recommended readings for each week in a separate section at the end of the syllabus; the latter will be useful when working on your research paper. A long list of recommended readings begins on p. 11. While I try to be thorough, the latter are by no means exhaustive; moreover, they reflect my own biases and predilections. Apologies to those who were inadvertently omitted.

#### **January 10: NO CLASS**

#### **January 17: Introduction**

No readings assigned. If you are not already familiar with the operation of the U.S. federal judicial system, consider quickly reading one or more of the following:

- Baum, Lawrence. 2007. *The Supreme Court*, 9th ed. Washington: CQ Press.
- Carp, Robert A., Ronald Stidham, and Kenneth L. Manning. 2008. *Judicial Process in America*, 8th Edition. Washington: CQ Press.
- Neubauer, David W., and Stephen S. Meinhold. 2009. *Judicial Process: Law, Courts, and Politics in the United States*, 5th Ed. New York: Wadsworth.
- Tarr, G. Alan. 2009. *Judicial Process and Judicial Policymaking*, 5th Ed. New York: Wadsworth.
- SCAMR, Chapters 1 and 4.

## January 24: Theories of Judicial Behavior

### Required:

- Baum, Lawrence. 1997. *The Puzzle of Judicial Behavior*. Ann Arbor: University of Michigan Press. Chapters 1 and 2.
- Epstein, Lee. 2017. "Some Thoughts on the Study of Judicial Behavior." *William & Mary Law Review* 57:2016-2073. (read quickly)
- Gibson, James L. 1978. "Judges' Role Orientations, Attitudes and Decisions: An Interactive Model." *American Political Science Review* 72:911-24.
- SCAMR, Chapters 2-3.
- Whittington, Keith, R. Daniel Keleman, and Gregory A. Caldeira. 2008. "The Study of Law and Politics." In *The Oxford Handbook of Law and Politics*, Whittington, Keleman and Caldeira, editors. New York: Oxford University Press.

## January 31: Measurement – Key Concepts

### Required:

- Bailey, Michael A. 2007. "Comparable Preference Estimates Across Time and Institutions for the Court, Congress, and the Presidency." *American Journal of Political Science* 51:433-48.
- Clark, Tom, Jeffrey Lax, and Douglas Rice. 2015. "Measuring the Political Salience of Supreme Court Cases." *The Journal of Law and Courts*, 3:36-65.
- Goelzhauser, Greg, Benjamin J. Kassow, and Douglas Rice. 2022. "Measuring Supreme Court Case Complexity." *The Journal of Law, Economics, and Organization* 38:92-118.
- Martin, Andrew D. and Kevin M. Quinn. 2002. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953-1999." *Political Analysis* 10:134-53.
- Ríos-Figueroa, Julio, and Jeffrey K. Staton. 2015. "An Evaluation of Cross-National Measures of Judicial Independence." *Journal of Law, Economics, and Organization* 30:104-137.
- Segal, Jeffrey A., and Albert Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83:557-65.

## February 7: Judicial Selection

### Required:

- Bonica, Adam, and Maya Sen. 2017. "The Politics of Selecting the Bench from the Bar: The Legal Profession and Partisan Incentives to Politicize the Judiciary." *The Journal of Law and Economics* 60:559-595.
- Boyd, Christina L., Paul M. Collins, Jr., and Lori Ringhand. 2018. "The Role of Nominee Gender and Race at U.S. Supreme Court Confirmation Hearings." *Law and Society Review* 52:871-901.

- Cameron, Charles M., and Jonathan Kstellec. 2016. "Are Supreme Court Nominations a Move-the-Median Game?" *American Political Science Review* 110:778-97.
- Cameron, Charles, John Kstellec, and Jee-Kwang Park. 2013. "Voting for Justices: Change and Continuity in Confirmation Voting 1937-2010." *Journal of Politics* 72:283-299.
- Hall, Melinda Gann. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." *American Political Science Review* 95:315-30.
- Lax, Jeffrey, Jonathan Kstellec and Justin Phillips. 2010. "Public Opinion and Senate Confirmation of Supreme Court Nominees." *Journal of Politics* 72:767-784.

## **February 14: Setting the Judicial Agenda**

### Required:

- Caldeira, Gregory A., John R. Wright, and Christopher Zorn. 1999. "Strategic Voting and Gatekeeping in the Supreme Court." *Journal of Law, Economics and Organization* 15(3):549-572.
- Cameron, Charles M., Jeffrey A. Segal, and Donald Songer. 2000. "Strategic Auditing in A Political Hierarchy: An Informational Model of the Supreme Court's Certiorari Decisions." *American Political Science Review* 94:101-116.
- Duck-Mayr, JBrandon, Thomas G. Hansford, and James F. Spriggs II. 2021. "Agenda Setting and Attention to Precedent in the U.S. Federal Courts." *Journal of Law and Courts* 9:233-260.
- Rice, Douglas. 2014. "The Impact of Supreme Court Activity on the Judicial Agenda: Calling to Action or Settling the Law." *Law and Society Review* 48(1):63-90.

## **February 21: Decision Making I**

### Required:

- Baum, Lawrence. 2013. "Linking Issues to Ideology in the Supreme Court: The Takings Clause." *Journal of Law and Courts* 1:89-114.
- George, Tracey, and Lee Epstein. 1992. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86:323-37.
- Glynn, Adam, and Maya Sen. 2015. "Identifying Judicial Empathy: Does Having Daughters Cause Judges to Rule for Women's Issues?" *American Journal of Political Science* 59:37-54.
- Spamann, Holger, and Lars Klohn. 2016. "Justice is Less Blind, and Less Legalistic, than We Thought: Evidence from an Experiment with Real Judges." *Journal of Legal Studies* 45:255-280.
- Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions." *American Political Science Review* 75(June):355-67.
- Zorn, Christopher, and Jennifer Bowie. 2011. "Ideological Influence in the Federal Judicial Hierarchy: An Empirical Assessment." *Journal of Politics* 72:1212-1221.

## **February 28: Decision Making II**

### Required:

- Black, Ryan C., Sarah A. Treul, Timothy R. Johnson, and Jerry Goldman. 2011. "Emotions, Oral Arguments, and Supreme Court Decision Making." *Journal of Politics* 73:572-581.
- Brace, Paul, and Melinda Gann Hall. 1997. "The Interplay of Preferences, Case Facts, Context, and Rules in the Politics of Judicial Choice." *Journal of Politics* 59:1206-31.
- Canes-Wrone, Brandice, Tom S. Clark, and Jason P. Kelly. 2014. "Judicial Selection and Death Penalty Decisions." *American Political Science Review* 108:23-39.
- Hettinger, Virginia, Stefanie Lindquist, and Wendy Martinek. 2004. "Comparing Strategic and Attitudinal Accounts of Dissenting Behavior on the United States Courts of Appeals." *American Journal of Political Science* 48:123-37.
- Hinkle, Rachael K., Michael J. Nelson, and Morgan L.W. Hazelton. 2020. "Deferring, Deliberating, or Dodging Review? Examining the Mechanisms Behind Panel Effects." *Journal of Law and Courts* 8:1-32.
- Huber, Gregory A., and Sanford C. Gordon. 2004. "Accountability and Coercion: Is Justice Blind When It Runs for Office?" *American Journal of Political Science* 48:247-63.

## **March 7: No Class – Spring Break**

## **March 14: No Class (retroactively)**

## **March 21: More Decision Making – The Law**

### Required:

- Duck-Mayr, JB. 2022. "The Force of Law." Working paper, Washington University - St. Louis.
- Hinkle, Rachael K. 2015. "Legal Constraint in the U.S. Courts of Appeals." *The Journal of Politics* 77:721-735.
- Jurisprudential Regimes:
  - Richards, Mark J., and Herbert M. Kritzer. 2002. "Jurisprudential Regimes in Supreme Court Decision Making." *American Political Science Review* 96(June):305-20.
  - Lax, Jeffrey R., and Kelly R. Rader. 2010. "Legal Constraints on Supreme Court Decision Making: Do Jurisprudential Regimes Exist?" *Journal of Politics* 71:273-84.
- Knight, Jack, and Lee Epstein. 1996. "The Norm of Stare Decisis." *American Journal of Political Science* 40:1018-35.
- Lax, Jeffrey. 2011. "The New Judicial Politics of Legal Doctrine." *Annual Review of Political Science* 14:131-157.

## March 28: Judicial Hierarchies

### Required:

- Beim, Deborah, Alexander V. Hirsch, and Jonathan P. Kastellec. 2016. "Signaling and Counter-Signaling in the Judicial Hierarchy: An Empirical Analysis of En Banc Review." *American Journal of Political Science* 60:490-508
- Beim, Deborah, and Jonathan P. Kastellec. 2014. "The Interplay of Ideological Diversity, Dissents, and Discretionary Review in the Judicial Hierarchy: Evidence from Death Penalty Cases." *Journal of Politics* 76:1074-1088.
- Carrubba, Clifford J., and Tom S. Clark. 2012. "Rule Creation in a Political Hierarchy." *American Political Science Review* 106:622-643.
- Songer, Donald R., Jeffrey A. Segal, and Charles M. Cameron. 1994. "The Hierarchy of Justice: Testing a Principal-Agent Theory of Supreme Court-Circuit Court Interactions." *American Journal of Political Science* 38:673-96.
- Westerland, Chad, Jeffrey A. Segal, Lee Epstein, Charles M. Cameron, and Scott Comparato. 2010. "Strategic Defiance and Compliance in the U.S. Courts of Appeals." *American Journal of Political Science* 54:891-905.
- Wofford, Claire B. 2019. "The Structure of Legal Doctrine in a Judicial Hierarchy." *The Journal of Law and Courts* 7:263-280.

## April 4: Parties and Interests

### Required:

- Collins, Paul M. Jr. 2004. "Friends of the Court: Examining the Influence of Amicus Curiae Participation in U.S. Supreme Court Litigation." *Law and Society Review* 38(4):807-32.
- Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculation on the Limits of Legal Change." *Law and Society Review* 9:95-160.
- Nelson, Michael, and Lee Epstein. 2022. "Human Capital in Court: The Role of Attorney Experience in U.S. Supreme Court Litigation." *Journal of Law and Courts* 10:61-85.
- Sheehan, Reginald S., William Mishler, and Donald R. Songer. 1992. "Ideology, Status, and the Differential Success of Direct Parties Before the Supreme Court." *American Political Science Review* 86(2):464-71.
- Szmer, John, Donald R. Songer, and Jennifer Bowie. 2016. "Party Capability and the U.S. Courts of Appeals: Understanding Why the 'Haves' Win." *The Journal of Law and Courts* 4:65-102.
- Wedeking, Justin. 2010. "Supreme Court Litigants and Strategic Framing." *American Journal of Political Science* 54:617-631.



## April 11: Courts and their Publics

### Required:

- Caldeira, Gregory A. 1986. "Neither the Purse Nor the Sword: Dynamics of Public Confidence in the Supreme Court." *American Political Science Review* 80:1209-26.
- Gibson, James L., and Gregory A. Caldeira. 2009. "Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court." *Journal of Politics* 71:429-441.
- McGuire, Kevin T., and James A. Stimson. 2004. "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences." *Journal of Politics* 66:1018-35.
- Mishler, William, and Reginald Sheehan. 1993. "The Supreme Court as a Countermajoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions." *American Political Science Review* 87:87-101.
- Schorpp, Susanne, and Rebecca Reid. 2017. "The Differential Effect of War on Liberal and Conservative Judges on the U.S. Courts of Appeals." *Journal of Law and Courts* 5:1-31.
- Ura, Joseph Daniel. 2014. "Backlash and Legitimation: Macro Political Responses to Supreme Court Decisions." *American Journal of Political Science* 58:110-126.

## April 18: Judicial Legitimacy

### Required:

- Caldeira, Gregory A., and James L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36:635-664.
- Christenson, Dino P., and David M. Glick. 2015. "Chief Justice Roberts's Health Care Decision Disrobed: The Microfoundations of the Supreme Court's Legitimacy." *American Journal of Political Science* 59:403-418.
- Exchange:
  - Bartels, Brandon L., and Christopher D. Johnston. 2013. "On the Ideological Foundations of Supreme Court Legitimacy in the American Public." *American Journal of Political Science* 57:184-199.
  - Gibson, James L., and Michael J. Nelson. 2015. "Is the U.S. Supreme Court's Legitimacy Grounded in Performance Satisfaction and Ideology?" *American Journal of Political Science* 59:162-174.
- Gibson, James L. 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New-Style' Judicial Campaigns." *American Political Science Review* 102:59-75.
- Nelson, Michael J., and Patrick Tucker. 2021. "The Stability and Durability of the U.S. Supreme Court's Legitimacy." *Journal of Politics* 83:767-771.

## **April 25: Courts and the Separation of Powers**

### Required:

- Clark, Tom. 2009. "The Separation of Powers, Court-Curbing and Judicial Legitimacy." *American Journal of Political Science* 53:971-89.
- Johnson, Gbemende. 2015. "Executive Power and Judicial Deference: Judicial Decision Making on Executive Power Challenges in the American States." *Political Research Quarterly* 68:128-141.
- Landes, William, and Richard Posner. 1975. "The Independent Judiciary in an Interest Group Perspective." *Journal of Law and Economics* 18:875-901.
- Vanberg, Georg. 2001. "Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review." *American Journal of Political Science* 45:346-61.
- Whittington, Keith E. 2005. "'Interpose Your Friendly Hand': Political Supports for the Exercise of Judicial Review by the United States Supreme Court." *American Political Science Review* 99:583-96.

## **Bonus Content: Implementation and Impact**

### Required:

- Baird, Vanessa, and Debra Javeline. 2007. "The Persuasive Power of Russian Courts." *Political Research Quarterly* 60:429-42.
- Hall, Matthew. 2014. "The Semi-Constrained Court: Public Opinion, the Separation of Powers, and the U.S. Supreme Court's Fear of Nonimplementation." *American Journal of Political Science* 58:352-366.
- McGuire, Kevin T. 2009. "Public Schools, Religious Establishments, and the U.S. Supreme Court: An Examination of Policy Compliance." *American Politics Research* 37:50-74.
- Rosenberg, Gerald. 1993. *The Hollow Hope*. Chicago: University of Chicago Press. Chapters 1-5.
- Staton, Jeffrey K., and Georg Vanberg. 2008. "The Value of Vagueness: Delegation, Defiance, and Judicial Opinions." *American Journal of Political Science* 52:504-19.

## **Postscript: The Big Picture**

### Recommended:

- Baum, Lawrence. 2003. "The Supreme Court in American Politics." *Annual Review of Political Science* 6:161-80.
- Friedman, Barry. 2006. "Taking Law Seriously." *Perspectives on Politics* 4:261-76.
- Dyevre, Arthur. 2010. "Unifying the Field of Comparative Judicial Politics: Towards a General Theory of Judicial Behaviour." *European Political Science Review* 2:297-327.
- Stone Sweet, Alec. 1999. "Judicialization and the Construction of Governance." *Comparative Political Studies* 31:147-84.

## Recommended Readings

Recommended readings are just that; things that are related to the week's topic but that didn't make the cut for the required reading list. They're mostly here as a handy reference for you for your class project, and/or for any work you might decide to do in the future. I make absolutely no claim that the list is thorough, let alone comprehensive; it's my list, that's all.

For additional readings beyond this list on the topic of law, courts, and judicial politics, do some Googling, or check out:

- *The Journal of Law and Courts*
- *The Journal of Law, Economics, and Organization*
- *The Journal of Empirical Legal Studies*
- *Law & Society Review*
- *The Journal of Legal Studies*
- *Justice System Journal*
- *Law and Human Behavior*
- *The Annual Review of Law and Social Science*
- *Law & Policy*
- *The Journal of Law and Economics*
- *Law & Social Inquiry*
- *Behavioral Sciences & the Law*
- *Judicature* (especially older issues)
- *Psychology, Public Policy, and Law*
- *Jurimetrics, The Journal of Law, Science, and Technology*
- *The Journal of Law and Society*
- *Law, Probability and Risk*

### January 24: Theories of Judicial Behavior

#### Recommended:

- Epstein, Lee, and Jack Knight. 2000. "Field Essay: Toward a Strategic Revolution in Judicial Politics: A Look Back, A Look Ahead." *Political Research Quarterly* 53:625-61.

- Gillman, Howard. 1999. "The Court as an Idea, Not a Building (or a Game): Interpretive Institutionalism and the Analysis of Supreme Court Decision-Making." In Cornell Clayton and Howard Gillman (Eds.), *Supreme Court Decision-Making: New Institutional Approaches*. Chicago: University of Chicago Press, pp. 65-87.
- Quattrone, George A., and Amos Tversky. 1988. "Contrasting Rational and Psychological Analyses of Political Choice." *American Political Science Review* 82:719-36.
- Shapiro, Martin. 1993. "Public Law and Judicial Politics." In *Political Science: The State of the Discipline II*, Ada W. Finifter, Ed. Washington: American Political Science Association.
- Smith, Rogers. 1988. "Political Jurisprudence, the 'New Institutionalism,' and the Future of Public Law." *American Political Science Review* 82:89-108.

### **January 31: Measurement – Key Concepts**

#### Recommended:

- Abbott, Kenneth O. W., Robert Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal. 2000. "The Concept of Legalization." *International Organization* 54:401-419.
- Baum, Lawrence. 1988. "Measuring Policy Change in the U.S. Supreme Court." *American Political Science Review* 82:905-12.
- Baum, Lawrence. 1989. "Comparing the Policy Positions of Supreme Court Justices From Different Periods." *Western Political Quarterly* 42:509-21.
- Brace, Paul, Laura Langer, and Melinda Gann Hall. 2000. "Measuring the Preferences of State Supreme Court Judges." *Journal of Politics* 62:387-413.
- Braman, Eileen. 2006. "Reasoning on the Threshold: Testing the Separability of Preferences in Legal Decision Making." *Journal of Politics* 68:308-21.
- Clark, Tom. 2009. "Measuring Ideological Polarization on the U.S. Supreme Court." *Political Research Quarterly* 62:146-57.
- Clark, Tom S., and Benjamin E. Lauderdale. 2012. "The Genealogy of Law." *Political Analysis* 20(3):329-350.
- Coppedge, Michael, John Gerring, with David Altman, Michael Bernard, Steven Fish, Allen Hicken, Matthew Kroenig, Staffan I. Lindberg, Kelly McMann, Pamela Paxton, Holli A. Semetko, Svend-Erik Skaaning, Jeffrey K. Staton, and Jan Teorell. 2011. "Conceptualizing and Measuring Democracy: A New Approach." *Perspectives on Politics* 9(2): 247-267.
- Epstein, Lee, Valerie Hoekstra, Jeffrey A. Segal, and Harold J. Spaeth. 1998. "Do Political Preferences Change? A Longitudinal Study of U.S. Supreme Court Justices." *Journal of Politics* 60:801-18.
- Epstein, Lee, Andrew D. Martin, Kevin M. Quinn, and Jeffrey A. Segal. 2007. "Ideological Drift Among Supreme Court Justices: Who, When, and How Important?" *Northwestern University Law Review* 101:1483-1542.

- Epstein, Lee, Andrew D. Martin, Jeffrey A. Segal, and Chad Westerland. 2007. "The Judicial Common Space." *Journal of Law, Economics, and Organization* 23:303-25.
- Epstein, Lee, and Carol Mershon. 1996. "Measuring Political Preferences." *American Journal of Political Science* 40:261-94.
- Grimmer, Justin. 2010. "A Bayesian Hierarchical Topic Model for Political Texts: Measuring Expressed Agendas in Senate Press Releases." *Political Analysis* 18(1):1-35.
- Habel, Philip, and Kevin Scott. 2014. "New Measures of Judges' Caseload for the Federal District Courts, 1964-2012." *Journal of Law & Courts* 2:153-170.
- Hitt, Matthew P. 2016. "Measuring Precedent in a Judicial Hierarchy." *Law & Society Review* 50:57-81.
- Hollyer, James R., B. Peter Rosendorff, and James Raymond Vreeland. 2014. "Measuring Transparency." *Political Analysis* 22(4):413-434.
- Lauderdale, Benjamin E., and Tom S. Clark. 2012. "The Supreme Court's Many Median Justices." *American Political Science Review* 106:847-866.
- Martin, Andrew D., and Kevin M. Quinn. 2005. "Can Ideal Point Estimates be Used as Explanatory Variables?" Working paper: CERL, Washington University – St. Louis.
- McGuire, Kevin T. 2004. "The Institutionalization of the U.S. Supreme Court." *Political Analysis* 12:128-42.
- McGuire, Kevin T., Georg Vanberg, Charles E. Smith and Gregory A. Caldeira. 2009. "Measuring Policy Content on the U.S. Supreme Court." *Journal of Politics* 71:1305-21.
- Nardulli, Peter F., Buddy Peyton, and Joseph Bajjalieh. 2013. "Conceptualizing and Measuring Rule of Law Constructs, 1850-2010." *Journal of Law and Courts* 1:139-192.
- Owens, Ryan J., and Justin Wedeking. 2012. "Predicting Drift on Politically Insulated Institutions: A Study of Ideological Drift on the United States Supreme Court." *Journal of Politics* 74:487-500.
- Owens, Ryan J. and Justin Wedeking. 2012. "Some (Potential) Applications of Computer Content Analysis to the Study of Law & Courts." *Law & Courts: Newsletter of the Law & Courts Section of The American Political Science Association*. 22:26-32.
- Peress, Michael. 2009. "Small Chamber Ideal Point Estimation." *Political Analysis* 17:276-90.
- Segal, Jeffrey A., Lee Epstein, Charles M. Cameron, and Harold J. Spaeth. 1995. "Ideological Values and the Votes of U.S. Supreme Court Justices Revisited." *Journal of Politics* 57:812-23.
- Skaaning, Svend-Erik. 2010. "Measuring the Rule of Law." *Political Research Quarterly* 63:449-60.
- Staton, Jeffrey. 2012. "Rule of Law Concepts and Rule of Law Models." *The Justice System Journal* 33:235-241.
- Treier, Shawn. 2010. "Where Does the President Stand? Measuring Presidential Ideology." *Political Analysis* 18(1):124-136.

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## **April 25: Courts and the Separation of Powers**

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