

# PLSC 481K: The US Executive and Judiciary

Day/Time: Thursdays 6PM-9PM

Location: Classroom Wing Room 104

Instructor: Michael Catalano

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Office: Library North Ground Room 98

Office Hours: Fridays 930AM-1130AM

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# Course Description

Over the past century, the executive and judicial branches in the United States have grown substantially in their power and propensity to establish policy in ways normally reserved for the legislative branch.

In this course, we explore the dynamic relationship between these two branches of government to understand how changes in institutions and rules influence behavior and the ability to create and maintain policy.

We take a separation-of-powers approach to delineate shared and exclusive powers for each branch. Furthermore, we consider the interdependence between the executive and judicial branches and how this interdependence constrains or empowers these branches to continue to make policy.

# Course Goals

- 1) Develop and practice critical thinking skills regarding the interactions between the US executive branch and the US judiciary.
- 2) Explore the role judicial independence plays in the US political system and how institutions structure judicial independence.
- 3) Delineate the checks that the executive branch exercises on the judicial branch and vice versa.
- 4) Understand how the executive branch and judicial branch interact with each other and other elements of government in the US.
- 5) Apply a social science lens to analyze contemporary political phenomena.

# Required Texts/Readings

Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.

Goelzhauser, Greg. 2019. *Judicial Merit Selection Institutional Design and Performance for State Courts*. Philadelphia, PA: Temple University Press.

**The United States Constitution** (available for free online)

**The Federalist Papers** (available for free online)

Articles/book chapters listed on the schedule at the end of this syllabus.

# Grading Structure

## Basis of Grade Calculation

<u>Item</u>	<u>% of Overall Grade</u>
Quizzes	15%
Participation	15%
Paper – Outline	10%
Paper – Rough Draft	10%
Paper – Presentation	20%
Paper – Final Draft	30%

## Grading Scale

A	94-100
A-	90-93
B+	87-89
B	83-86
B-	80-82
C+	77-79
C	73-76
C-	70-72
D	65-69
F	<65

# Academic Integrity

Faculty and students have a responsibility to abide by and vigorously promote the highest standards of academic integrity.

Students CANNOT use ChatGPT (or AI-equivalent) in the process of completing assignments for this course.

Students must carefully review the Student Academic Honesty Code, which can be found on-line in the University Bulletin.

Have questions? Ask me!!

Violations will receive a grade of 0.00 (F) for the class and likely proceedings before the Academic Honesty Committee.

# Notes on Class Paper

- This class concludes with a scholarly paper and presentation.
- There are four required/graded components of the class paper: including the outline, rough draft, final draft, and presentation.
- Students will work in groups (assigned by me) on the paper and presentation.
- All students in the group are expected to take an equal share of the work.
- More information will come throughout the semester.
- **THE FINAL PAPER IS DUE ON 12/14/23 BY 1159PM.**



# Students with Special Circumstances

Students who have a disability requiring accommodation (as documented by Services for Students with Disabilities) should be sure to contact me in the first week or so of classes so that we can discuss the logistics of providing any accommodation(s) to which they are entitled.

Student athletes and students who are in the military should also be sure to contact me in the first week or so of classes so that we can develop a plan (if necessary) to help students simultaneously meet their academic obligations for this class and their athletic or military responsibilities.

I am also happy to discuss any other special circumstances that students are experiencing so that we can plan accordingly to permit students to navigate both their academic and other obligations.

# Schedule

Date	Topic	Readings
Week 1	Course Introduction	Federalist Papers No. 10, No. 51, No. 78;
8/24/23	Constitutional Foundations	US Constitution Articles II and III
Week 2	Role of Courts and Judicial Review	Dahl, Robert. 1957. "Decision-Making in a Democracy: The Supreme Court as National Policy-Maker." <i>Journal of Public Law</i> 6(2): 279–295.
8/31/23		Epstein, Knight, and Shvetsova. 2001. "The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government." <i>Law and Society Review</i> 35: 117-163.
		Ginsburg, Thomas. 2003. <i>Judicial Review in New Democracies</i> . Cambridge University Press, Ch. 1-2.
		Harris, Allison, and Maya Sen. 2019. "Bias in Judging." <i>Annual Review of Political Science</i> . 22:41-59.
Week 3	Strategic Courts	Epstein, Lee, and Jack Knight. 1998. <i>The Choices Justices Make</i> . Washington D.C.: CQ Press.
9/7/23		Epstein, Lee, and Olga Shvetsova. 2002. "Heresthetical Maneuvering on the U.S. Supreme Court." <i>Journal of Theoretical Politics</i> 14 (January): 93-122.

# Schedule

Date	Topic	Readings
Week 4	<b>Judicial Independence Legitimacy</b>	C. Herman Pritchett. 1948. "The Roosevelt Court: Votes and Values." <i>American Political Science Review</i> 42(1): 53-67.
9/14/23		Gerald Rosenberg. 1992. "Judicial Independence and the Reality of Political Power." <i>Review of Politics</i> 54:369-88.
		Ramseyer, J. Mark. 1994. "The Puzzling (In)dependence of Courts: A Comparative Approach." <i>Journal of Legal Studies</i> 23.
		Helmke, Gretchen. 2002. "The Logic of Strategic Defection: Court-Executive Relations in Argentina under Dictatorship and Democracy." <i>American Political Science Review</i> 96: 305-20.
Week 5	<b>Pick Me! Pick Me!</b>	Epstein, Lee, and Jeffrey Segal. 2011. "Nominating Federal Judges and Justices." (Oxford Text).
9/21/23		Black, Ryan, and Ryan Owens. 2016. "Courting the President: How Circuit Court Judges Alter Their Behavior for Promotion to the Supreme Court." <i>American Journal of Political Science</i> 60(1): 30-43.
		Campbell, Tom, and Nathaniel Wilcox. 2020. "Younger Federal District Court Judges Favor Presidential Power." <i>Journal of Law and Economics</i> 63(February): 181-202.

# Schedule

Date	Topic	Readings
Week 6	<b>The Nomination Game</b>	Moranski, Bryon, and Charles Shipan. 1999. "The Politics of Supreme Court Nominations: A Theory of Institutional Constraints and Choices." <i>American Journal of Political Science</i> 43: 1069-1095.
9/28/23		Cameron, Charles M. and Jonathan Kstellec. 2016. "Are Supreme Court Nominations a Move-the-Median Game?" <i>American Political Science Review</i> 110(4): 778-97.
		Cottrell, David, Charles Shipan, and Richard Anderson. 2019. "The Power to Appoint: Presidential Nominations and Change on the Supreme Court." <i>Journal of Politics</i> 81(3): 1057-1068.
Week 7	<b>Presidential Strategy</b>	Johnson, Timothy, and Jason Roberts. 2004. "Presidential Capital and the Supreme Court Nomination Process." <i>Journal of Politics</i> 66: 663-83.
10/5/23		Derouen, Karl, Jeffrey Peake, and Kenneth Ward. 2005. "Presidential Mandates and the Dynamics of Senate Advice and Consent, 1885-1996." <i>American Politics Research</i> 33: 106-31.
		Holmes, Lisa. 2007. "Presidential Strategy in the Judicial Appointment Process: Going Public in Support of Nominees to the U.S. Courts of Appeals." <i>American Politics Research</i> 35: 567-94.
		Graves, Scott and Robert Howard. 2010. "Ignoring Advice and Consent? The Uses of Judicial Recess Appointments." <i>Political Research Quarterly</i> 63:640-53.

# Schedule

Date	Topic	Readings
Week 8	<b>Voting Outcomes on Courts</b>	Segal, Jeffrey, Richard Timpone, and Robert Howard. 2000. "Buyer Beware? Presidential Success through Supreme Court Appointments." <i>Political Research Quarterly</i> 53: 557-573.
10/12/23	<i>Paper Outlines – DUE!!!</i>	Lindquist, Stefanie, David Yalof, and John Clark. 2000. "The Impact of Presidential Appointments to the U. S. Supreme Court: Cohesive and Divisive Voting within Presidential Blocs." <i>Political Research Quarterly</i> 53: 795-814.
		Kastellec, Jonathan. 2011. "Panel Composition and Voting on the U.S. Courts of Appeals over Time." <i>Political Research Quarterly</i> 64: 377-91.
Week 9 10/19/23	<b>Fall Break – NO CLASS</b>	
Week 10	<b>Ex Ante and Ex Post Controls</b>	Goelzhauser, Greg. 2019. <i>Judicial Merit Selection: Institutional Design and Performance for State Courts</i> . Philadelphia, PA: Temple University Press.
10/26/23		Caldeira, Gregory. 1987. "Public Opinion and the U.S. Supreme Court: FDR's Court-Packing Plan." <i>American Political Science Review</i> 81: 1139-1153.
		Johnson, Gbemende. 2014. "Judicial Deference and Executive Control Over Administrative Agencies." <i>State Politics &amp; Policy Quarterly</i> 14(2):142-164.

# Schedule

Date	Topic	Readings
Week 11	<b>Judicial Gatekeeping on Executive Action</b>	Whittington, Keith. 2011. "Judicial Checks on the President." (Oxford Text).
11/2/23		Rowland, C.K. and Bridget Jeffery Todd. "Where You Stand Depends on Who Sits: Platform Promises and Judicial Gatekeeping in the Federal District Courts." <i>Journal of Politics</i> 53: 175-85.
		Johnson, Gbemende. 2019. "Adjudicating Executive Privilege: Federal Administrative Agencies and Deliberative Process Privilege Claims in U.S. District Courts." <i>Law &amp; Society Review</i> 53(3): 823-850.
		Schoenherr, Jessica, and Nicholas Waterbury. 2022 "Confessions at the Supreme Court: Judicial Response to Solicitor General Error." <i>Journal of Law and Courts</i> 10(1): 13-36.
Week 12	<b>Executive Policy Outcomes in Court</b>	Ducat, Craig, and Robert Dudley. 1989. "Federal District Court Judges and Presidential Power During the Postwar Era." <i>Journal of Politics</i> 51: 98-118.
11/9/23		Yates, Jeff, and Andrew Whitford. 1998. "Presidential Power and the United States Supreme Court." <i>Political Research Quarterly</i> 51: 539-50.
		King, Kimi, and James Meernik. 1999. "The Supreme Court and the Powers of the Executive: The Adjudication of Foreign Policy." <i>Political Research Quarterly</i> 52: 801-824.

# Schedule

Date	Topic	Readings
Week 13	<b>Collaboration Between Branches</b>	Curry, Brett, Richard Pacelle, and Bryan Marshall. 2008. "An Informal and Limited Alliance: The President and the Supreme Court." <i>Presidential Studies Quarterly</i> 38: 223.
11/16/23	<i>Paper Rough Draft – DUE!!!</i>	Owens, Ryan J. 2010. "The Separation of Powers and Supreme Court Agenda Setting." <i>American Journal of Political Science</i> 54(2): 412-427.
		Thrower, Sharece. 2017. "The President, the Court, and Policy Implementation." <i>Presidential Studies Quarterly</i> 47: 122-45.
		Lane, Elizabeth. 2022. "A Separation-of-Powers Approach to the Supreme Court's Shrinking Caseload." <i>Journal of Law and Courts</i> 10(1): 1-12.
Week 14 11/23/23	<i>Thanksgiving Break</i>	<i>NO CLASS</i>
Week 15	<i>The Friendly Solicitor General</i>	Bailey, Michael, Brian Kamoie, & Forrest Maltzman. 2005. "Signals From the Tenth Justice: The Political Role of the Solicitor General in Supreme Court Decision Making." <i>American Journal of Political Science</i> 49: 72.
11/30/23		Wohlfarth, Patrick C. 2009. "The Tenth Justice? Consequences of Politicization in the Solicitor General's Office." <i>Journal of Politics</i> 71(1):224-237.
		Black, Ryan and Ryan Owens. 2012. "A Built-In Advantage: The Office of the Solicitor General and the Supreme Court." <i>Political Research Quarterly</i> 66: 454-66.
Week 16 12/7/23	<i>Paper Presentations</i>	{{FINAL PAPER DUE ON 12/14}}