

POS 6933: JUDICIAL POLITICS (SPECIAL TOPICS)

Fall 2024

Instructor:	J.S. Truscott	Email:	jaketruscott@ufl.edu
Class Time:	M 3:00-6:00	Class Location:	Matherly 0002
Office:	Anderson 317	Office Hours:	W 2:00-4:00

Course Description

This course serves to answer an important (though admittedly broad) question: *How do we empirically examine judicial actors and institutions in the United States and globally?* Perhaps the best place to start is by acknowledging a few important concepts:

1. Judges are policy-oriented actors whose positions grant them considerable (*political*) power.
2. Judicial decision-making hardly exists in a vacuum and can serve to uphold or upend social and political understandings of *what the law is*.
3. A critical understanding of legal actors and institutions is about more than just the caselaw.

We will engage in a comprehensive overview of broad topics and academic literature concerning legal actors, institutions, and behaviors in the United States – as well as (to a lesser extent) from a comparative perspective globally. Upon successful completion of this course, students will retain a critical understanding of, among other things:

- Core Theories of Judicial Decision-Making.
- Judicial Selection and Retention.
- How Judicial Institutions Coexist in a *Separation of Powers* System.
- The Role of Extra-Judicial Groups and Actors (e.g., Lawyers, Clerks, Interest Groups, etc.).
- How Courts Influence Public Discourse and Perceptions of Legal Actors and Institutions.
- Contemporary Empirical Strategies for Studying Judicial Behavior.

Required Readings

- Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.
- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press.

We will also have readings consisting of academic articles related to that week's topic(s) of discussion, which will be made available on the course's Canvas page. **Please have each week's readings completed before arriving to class.**

Prerequisites

An introductory understanding of graduate-level empirical methods is assumed – e.g., the ability to read and interpret coefficient estimates and corresponding measures of model fit and significance, as well as a comfortable understanding of the R Programming Language (or Stata) for any assignments.

Please Note: I do not expect you to fully grasp all of the empirical strategies demonstrated in our weekly readings on day one. Part of this course, I hope, is to familiarize you with empirical strategies that you may not already be accustomed.

Grading Policy

Written Midterm	30%
Original Research	35%
Participation	15%
Critical Response Essay	20%

Grading Scale

100-94 A	79-77 C+	63-60 D-
93-91 A-	76-74 C-	59-0 F
89-87 B+	73-70 C-	
86-84 B	69-67 D+	
83-80 B-	66-64 D	

Evaluation

Midterm Examination

The Midterm examination will encompass a combination of empirical and critical analysis skills for responding to a selection of written prompts concerning the content we have covered to that point. You will have 1 week to complete the examination and submit it to the course's Canvas page. More instructions will be provided closer to the examination period.

Original Research Paper

By the end of the semester, you will complete an original submission that critically analyzes a major area of judicial politics from the American or Comparative perspective. The topic is entirely at your discretion – subject to the approval of the instructor. The paper should be the length and style of a journal article, complete with a review of the relevant literature, an appropriate research design, and execution of that design. In most instances, this will mean an empirical analysis or the formalization of a logical argument.

Please note that you are not limited to a topic covered in the syllabus. There are several topics in judicial politics we won't be able to cover. If you're interested in exploring a paper in one of these areas, please talk to me.

Regardless of the area you choose to analyze, you must submit a brief note explaining the choice with a general outline, as well as provide a sample bibliography of **at least 10 sources** that you plan to employ in your report (in a proper citation format). You are not tied to these 10 sources, nor do I expect them to be *all* that you use in your final submission, but you must submit the topic and sample bibliography by Sunday, **September 15** as proof you have devoted the necessary time and resources to constructing the project. If you have any questions, please don't hesitate to ask!

Once you have received approval to proceed with your self-selected topic, you will need to submit a first draft to the instructor on Canvas by Sunday, **November 17**. Please note that your submission needs to be a completed draft that you would feel comfortable submitting for review. The **final** draft will be submitted by **5:00pm** on **Friday December 6**.

Critical Response Essays

During the term, you will be required to complete one critical response essay prompt that will be submitted via Canvas. A general rubric and essay tips will be made available in the Course Materials section of Canvas.

There will be (2) prompts posted to Canvas with individual due dates, but you are free to choose which to complete. I would highly recommend that you consider which you will be completing early based on your personal schedule. The paper will be submitted to Canvas. I would also (highly) recommend tailoring your responses to the critical essays to match the topic you're exploring in your original research paper.

The response paper should be approximately 6-8 pages double-spaced (12 pt font, Times New Roman). The structure of the paper will ultimately depend on which you select, but they should follow general guidelines for grammar, syntax, etc. I have no preference for which citation style you use, so long as it is consistent and present. All I ask is that you only use reputable sources (i.e., no *Wikipedia*, *Encyclopedia Britannica*, etc.). If you have specific essay questions, please don't hesitate to ask!

Participation

We will be conducting the course as close to a Socratic format as possible – meaning that the bulk of our weekly meetings will be guided by two students chosen to lead that day's discussion on the assigned readings. Depending on the number of enrolled students, you will be required to participate as a discussion leader at least once during the semester. This grade item will be gauged primarily by your successful completion of this role, as well as your attendance and general participation in the weekly meeting periods. ***This definitely considers whether you have done the reading(s).***

Please Note: Not being selected to guide a week's discussion does **not** excuse you from reading that week's material.

Communication with Instructor

If you need to contact me for any reason, I do ask that you aim to primarily use your UF email address rather than Canvas. I am generally very good about responding to emails quickly, but please understand that I likely will not respond until the next day if the message is sent late in the night.

Email: jaketruscott@ufl.edu

Attendance Policy

As noted, since the course is structured to be normal and face-to-face, it is expected that you arrive for the class periods when they are scheduled. However, I will only be taking attendance at random throughout the semester.

If you need to miss class because of a legitimate reason that would accompany an excused absence (e.g., sickness, family or personal emergency, etc.), that is entirely fine. I just ask that you keep an open line of communication with me as things happen. I have much greater flexibility to help you if I am made aware of outlying circumstances as early as possible.

Academic Honesty (General & AI)

I recognize the importance and benefits of using generative artificial intelligence (AI) tools and large language models (LLMs) like ChatGPT, which is why my position is to embrace and integrate them into certain

course activities with full transparency about their use. However, using any AI tools during an exam or quiz is never permitted. It is also important to note that algorithmic structures of generative AI tools – particularly ChatGPT – are built to return responses to queries. **However**, this does not mean that they are always correct. Be sure to pay special consideration to the information returned from queries – there are several recent examples of individuals finding themselves in messy situations after assuming these tools are infallible.

You are responsible for knowing and complying with the policy and procedures relating to academic honesty. To understand what constitutes dishonest work, as defined by the University, please carefully review the policy here: <https://teach.ufl.edu/resource-library/academic-integrity-at-uf/>

Syllabus Policy

I reserve the right to make changes to the syllabus, if necessary. I will give you fair notice (at least a week) if something, such as a reading assignment, is to change.

Disability Resource Center

If you anticipate needing accommodations due to the impact of a disability or medical condition, you must register for services with the Disability Resource Center. Additional information can be found here: <https://disability.ufl.edu/>

Withdrawal Policy

Undergraduate students can only withdraw from four courses and receive a withdrawal-passing (WP) grade while enrolled at the University. Students can drop any class without penalty during the drop/add period at the beginning of every semester. Dropped courses during the drop/add period do not qualify as withdrawals. Instructors have the ability to withdraw a student from the class due to excessive absences (see course attendance policy). Please review the policy here: <https://catalog.ufl.edu/UGRD/academic-regulations/dropping-courses-withdrawals/>

Course Evaluation Process

Per University guidelines, students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>

Key Dates

- Sun 9/15 - Original Research Topic Submission Due
- Sun 9/22 - Critical Response Essay Opportunity (1) Due
- Sun 10/13 - Midterm Examination Submission Due
- Sun 10/27 - Critical Response Essay Opportunity (2) Due
- Sun 11/17 - Original Research Draft Due

- Friday 12/6 - Original Research Final Due

Course Schedule

Week 1 (8/26): Introduction

Readings:

- Federalist No. 78
- Rehnquist, W. H. (1976). Sunshine in the Third Branch. *Washburn LJ*, 16, 559.
- Dahl, R. A. (1957). Decision-making in a democracy: The Supreme Court as a national policy-maker. *J. Pub. L.*, 6, 279.

Other:

- Visit [Supreme Court Database](#)
- Skim [Overview of Federal Court System \(DOJ\)](#)

Notes: This week's meeting will not be as long as our usual class periods. We will introduce the course and review the syllabus, briefly discuss the readings, become acquainted with the Supreme Court Database, and make sure everyone has installed R (or Stata).

Week 2 (9/2): No Class – Holiday

Week 3 (9/9): Models of Judicial Decision-Making (Attitudinal & Legal Models)

Readings:

- Segal, J. A., & Spaeth, H. J. (2002). The Supreme Court and the attitudinal model revisited. Cambridge University Press (**Pages 44-96 & Skim Ch. 7-8**)
- George, T. E., & Epstein, L. (1992). On the nature of Supreme Court decision making. *American Political Science Review*, 86(2), 323-337.
- Baum, L. (1994). What judges want: Judges' goals and judicial behavior. *Political Research Quarterly*, 47(3), 749-768.
- Hinkle, R. K. (2015). Legal constraint in the US Courts of Appeals. *The Journal of Politics*, 77(3), 721-735.
- Bailey, M. A., & Maltzman, F. (2008). Does legal doctrine matter? Unpacking law and policy preferences on the US Supreme Court. *American Political Science Review*, 102(3), 369-384.
- Richards, M. J., & Kritzer, H. M. (2002). Jurisprudential regimes in Supreme Court decision making. *American Political Science Review*, 96(2), 305-320.

Notes: Original Research Topic Submission Due (9/15).

Week 4 (9/16): Models of Judicial Decision-Making (Strategic Model & Misc.)

Readings:

- Epstein, L., & Knight, J. (1997). The choices justices make. Sage. (**Read All**)
- Epstein, L., Knight, J., & Martin, A. D. (2001). The Supreme Court as a strategic national policy-maker. *Emory LJ*, 50, 583.
- Driscoll, A., & Nelson, M. J. (2023). The Costs of Court Curbing: Evidence from the United States. *The Journal of Politics*, 85(2), 609-624.
- Boyd, C. L., Epstein, L., & Martin, A. D. (2010). Untangling the causal effects of sex on judging. *American journal of political science*, 54(2), 389-411.
- Glynn, A. N., & Sen, M. (2015). Identifying judicial empathy: does having daughters cause judges to rule for women's issues?. *American Journal of Political Science*, 59(1), 37-54.

Notes: Critical Response Essay 1 Due Sunday (9/22).

Week 5 (9/23): Judicial Selection & Departure (US Federal)

Readings:

- Yoon, A. (2006). Pensions, politics, and judicial tenure: An empirical study of federal judges, 1869–2002. *American Law and Economics Review*, 8(1), 143-180.
- Vining Jr, R. L. (2009). Politics, pragmatism, and departures from the US courts of appeals, 1954–2004. *Social Science Quarterly*, 90(4), 834-853.
- Deschler, J., & Sen, M. (2024). The Role of Judge Ideology in Strategic Retirements in US Federal Courts. *Journal of Law and Empirical Analysis*, 1(1), 2755323X241246849.
- Black, R. C., & Owens, R. J. (2016). Courting the president: how circuit court judges alter their behavior for promotion to the Supreme Court. *American Journal of Political Science*, 60(1), 30-43.
- Smelcer, S. N., Steigerwalt, A., & Vining Jr, R. L. (2012). Bias and the Bar: Evaluating the ABA Ratings of Federal Judicial Nominees. *Political Research Quarterly*, 65(4), 827-840.
- Epstein, L., Lindstädt, R., Segal, J. A., & Westerland, C. (2006). The changing dynamics of Senate voting on Supreme Court nominees. *The Journal of Politics*, 68(2), 296-307.
- Boyd, C. L., Lynch, M. S., & Madonna, A. J. (2015, December). Nuclear fallout: Investigating the effect of senate procedural reform on judicial nominations. In *The Forum* (Vol. 13, No. 4, pp. 623-641). De Gruyter.
- Truscott, J. S. (2023). Analyzing the Rhetoric of Supreme Court Confirmation Hearings. *Journal of Law and Courts*, 1-22.

Week 6 (9/30): Measurement & Data in Judicial Politics

Readings:

- Segal, J. A., & Cover, A. D. (1989). Ideological values and the votes of US Supreme Court justices. *American Political Science Review*, 83(2), 557-565.
- Martin, A. D., & Quinn, K. M. (2002). Dynamic ideal point estimation via Markov chain Monte Carlo for the US Supreme Court, 1953–1999. *Political analysis*, 10(2), 134-153.

- Bailey, M. A. (2007). Comparable preference estimates across time and institutions for the court, congress, and presidency. *American Journal of Political Science*, 51(3), 433-448.
- Epstein, L., Martin, A. D., Segal, J. A., & Westerland, C. (2007). The judicial common space. *The Journal of Law, Economics, & Organization*, 23(2), 303-325.
- Bonica, A., & Sen, M. (2017). A common-space scaling of the american judiciary and legal profession. *Political Analysis*, 25(1), 114-121.
- Bonica, A., & Sen, M. (2021). Estimating judicial ideology. *Journal of Economic Perspectives*, 35(1), 97-118.
- Brace, P., Langer, L., & Hall, M. G. (2000). Measuring the preferences of state supreme court judges. *The Journal of Politics*, 62(2), 387-413.
- Windett, J. H., Harden, J. J., & Hall, M. E. (2015). Estimating dynamic ideal points for state supreme courts. *Political Analysis*, 23(3), 461-469.

Week 7 (10/7): American Carceral State

Readings:

- Cohen, E., Gunderson, A., Jackson, K., McLachlan, P., Clark, T. S., Glynn, A. N., & Owens, M. L. (2019). Do officer-involved shootings reduce citizen contact with government?. *The Journal of Politics*, 81(3), 1111-1123.
- Weaver, V. M., & Lerman, A. E. (2010). Political consequences of the carceral state. *American Political Science Review*, 104(4), 817-833.
- Boldt, E. D., & Boyd, C. L. (2018). The political responsiveness of violent crime prosecution. *Political Research Quarterly*, 71(4), 936-948.
- Gunderson, A. (2022). Descriptive representation and prosecutorial discretion: Race, sex, and carceral disparities. *American Politics Research*, 50(6), 823-836.
- Taylor, T. N. (2021). Judicial selection and criminal punishment: trial court elections, sentencing, and incarceration in the States. *Journal of Law and Courts*, 9(2), 305-335.

Notes: Midterm Exam Submission Due (10/13).

Week 8 (10/14): Supreme Court (Agenda Setting, Lawyers, Amicus, & SG)

Readings:

- Caldeira, G. A., & Wright, J. R. (1988). Organized interests and agenda-setting in the US Supreme Court. *American Political Science Review*, 82(4), 1109-1127.
- Black, R. C., & Owens, R. J. (2009). Agenda setting in the Supreme Court: The collision of policy and jurisprudence. *The Journal of Politics*, 71(3), 1062-1075.
- Black, R. C., & Boyd, C. L. (2012). US Supreme Court agenda setting and the role of litigant status. *The Journal of Law, Economics, & Organization*, 28(2), 286-312.
- McGuire, K. T. (1995). Repeat players in the Supreme Court: The role of experienced lawyers in litigation success. *The Journal of Politics*, 57(1), 187-196.
- Black, R. C., & Owens, R. J. (2013). A built-in advantage: The office of the Solicitor General and the US Supreme Court. *Political Research Quarterly*, 66(2), 454-466.

- Box-Steffensmeier, J. M., Christenson, D. P., & Hitt, M. P. (2013). Quality over quantity: Amici influence and judicial decision making. *American Political Science Review*, 107(3), 446-460.
- Collins, P. M., Corley, P. C., & Hamner, J. (2015). The influence of amicus curiae briefs on US Supreme Court opinion content. *Law & Society Review*, 49(4), 917-944.

Week 9 (10/21): Supreme Court (Oral Arguments, Opinions, & Clerks)

- Johnson, T. R., Wahlbeck, P. J., & Spriggs, J. F. (2006). The influence of oral arguments on the US Supreme Court. *American Political Science Review*, 100(1), 99-113.
- Feldman, A., & Gill, R. D. (2019). Power dynamics in supreme court oral arguments: The relationship between gender and justice-to-justice interruptions. *Justice System Journal*, 40(3), 173-195.
- Maltzman, F., & Wahlbeck, P. J. (2004). A conditional model of opinion assignment on the Supreme Court. *Political Research Quarterly*, 57(4), 551-563.
- Dietrich, B. J., Enos, R. D., & Sen, M. (2019). Emotional arousal predicts voting on the US supreme court. *Political Analysis*, 27(2), 237-243.
- Dietrich, B. J., & Sen, M., & Truscott, J. S. (2024). Idea Diffusion and Coalition Building: How Oral Arguments Influence the Language of U.S. Supreme Court Opinions (Working Paper)
- Bonica, A., Chilton, A., Goldin, J., Rozema, K., & Sen, M. (2019). Legal Rasputins? Law clerk influence on voting at the US Supreme Court. *The Journal of Law, Economics, and Organization*, 35(1), 1-36.

Notes: Critical Response Essay 2 Due Sunday (10/27).

Week 10 (10/28): Collegial Courts & Judging

Readings:

- Kastellec, J. P. (2011). Hierarchical and collegial politics on the US courts of appeals. *The Journal of Politics*, 73(2), 345-361.
- Hinkle, R. K. (2017). Panel effects and opinion crafting in the US courts of appeals. *Journal of Law and Courts*, 5(2), 313-336.
- Epstein, L., Segal, J. A., & Spaeth, H. J. (2001). The norm of consensus on the US Supreme Court. *American Journal of Political Science*, 362-377.
- Moyer, L. P., Szmer, J., Haire, S., & Christensen, R. K. (2021). 'All eyes are on you': Gender, race, and opinion writing on the US Courts of Appeals. *Law & Society Review*, 55(3), 452-472.
- Szmer, J., Moyer, L. P., Haire, S. B., & Christensen, R. K. (2023) Who Shapes the Law? Gender and Racial Bias in Judicial Citations. *American Political Science Review*, 1-8.
- Tiede, L. B. (2016). The political determinants of judicial dissent: evidence from the Chilean Constitutional Tribunal. *European Political Science Review*, 8(3), 377-403.
- Gleason, S. A., & Smart, E. (2023). You Think; Therefore I Am: Gender Schemas and Context in Oral Arguments at the Supreme Court, 1979-2016. *Political Research Quarterly*, 76(1), 143-157.

Week 11 (11/4): No Class - Holiday**Week 12 (11/11): Courts, the Public, and Legitimacy**

Readings:

- Hoekstra, V. J. (2000). The Supreme Court and local public opinion. *American Political Science Review*, 94(1), 89-100.
- Gibson, J. L., & Nelson, M. J. (2015). Is the US Supreme Court's legitimacy grounded in performance satisfaction and ideology?. *American Journal of Political Science*, 59(1), 162-174.
- Mishler, W., & Sheehan, R. S. (1993). The Supreme Court as a countermajoritarian institution? The impact of public opinion on Supreme Court decisions. *American Political Science Review*, 87(1), 87-101.
- Epstein, L., & Martin, A. D. (2010). Does Public Opinion Influence the Supreme Court-Possibly Yes (But We're Not Sure Why). *U. Pa. J. Const. L.*, 13, 263.
- Kesteleck, J. P., Lax, J. R., & Phillips, J. H. (2010). Public opinion and senate confirmation of Supreme Court nominees. *The Journal of Politics*, 72(3), 767-784.
- Franklin, C. H., & Kosaki, L. C. (1989). Republican schoolmaster: The US Supreme Court, public opinion, and abortion. *American Political Science Review*, 83(3), 751-771.
- Casillas, C. J., Enns, P. K., & Wohlfarth, P. C. (2011). How public opinion constrains the US Supreme Court. *American Journal of Political Science*, 55(1), 74-88.

Notes: Original Research Draft Due (11/17)

Week 13 (11/18): No Class - Holiday**Week 14 (11/25): Courts & Media**

Readings:

- Vining Jr, R. L., & Marcin, P. (2014). An economic theory of Supreme Court news. *Political Communication*, 31(1), 94-111.
- Linos, K., & Twist, K. (2016). The Supreme Court, the media, and public opinion: Comparing experimental and observational methods. *The Journal of legal studies*, 45(2), 223-254.
- Hitt, M. P., & Searles, K. (2018). Media coverage and public approval of the US Supreme Court. *Political Communication*, 35(4), 566-586.
- Spill, R. L., & Oxley, Z. M. (2003). Philosopher kings or political actors-how the media portray the Supreme Court. *Judicature*, 87, 22.
- Sill, K. L., Metzgar, E. T., & Rouse, S. M. (2013). Media Coverage of the US Supreme Court: How do journalists assess the importance of court decisions?. *Political Communication*, 30(1), 58-80.
- Strother, L. (2017). How expected political and legal impact drive media coverage of Supreme Court cases. *Political Communication*, 34(4), 571-589.
- Badas, A., & Justus, B. (2023). Media attention and deliberation on the Supreme Court. *Political Research Quarterly*, 76(2), 757-769.
- Truscott, J. S. (2024). A Social Media Platform Model of Supreme Court News. *Political Research Quarterly*, 10659129241248586.

Week 15 (12/2): Comparative and International Courts

Readings:

- Powell, E. J., & Mitchell, S. M. (2007). The International Court of Justice and the world's three legal systems. *The Journal of Politics*, 69(2), 397-415.
- Helmke, G. (2002). The logic of strategic defection: Court-executive relations in Argentina under dictatorship and democracy. *American Political Science Review*, 96(2), 291-303.
- Carrubba, C. J., Gabel, M., & Hankla, C. (2008). Judicial behavior under political constraints: Evidence from the European Court of Justice. *American Political Science Review*, 102(4), 435-452.
- Gibson, J. L., Caldeira, G. A., & Baird, V. A. (1998). On the legitimacy of national high courts. *American Political Science Review*, 92(2), 343-358.
- Gibler, D. M., & Randazzo, K. A. (2011). Testing the effects of independent judiciaries on the likelihood of democratic backsliding. *American Journal of Political Science*, 55(3), 696-709.
- Arrington, N., Bass, L., Glynn, A., Staton, J. K., Delgado, B., & Lindberg, S. I. (2021). Constitutional reform and the gender diversification of Peak Courts. *American Political Science Review*, 115(3), 851-868.
- Krehbiel, J. N., & Cheruvu, S. (2022). Can international courts enhance domestic judicial review? Separation of powers and the European court of justice. *The Journal of Politics*, 84(1), 258-275.

Notes: Original Research Final Due (12/6)